

LEGAL STATUS OF CHILD SOLDIERS UNDER INTERNATIONAL LAW

(A Critical Analysis)



**A dissertation submitted to the Department of Law, International
Islamic University Islamabad in partial fulfillment of the requirements
for the degree of Master of Law LLM International Law**

Submitted by

Safina Shafee

429-FSL/LLMIL/S21

Supervisor

Ms. Beenish Aslam

**Lecturer,
Department of Law (Female Campus)**

**Department of Law
Faculty of Sharia & Law
International Islamic University**

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APPROVAL SHEET

It is certified that we have read this thesis submitted by **SAFINA SHAFEE** Registration No: **(429-FSL/LLMILS21)** on the topic **“Legal Status of Child Soldier Under International Law (A Critical Analysis)”** in Faculty of Sharia & Law. We have evaluated the work and concluded that its scope and quality is up to the requirement of International Islamic University, Islamabad for awarding degree of LL.M International Law.

VIVA-VOICE EXAMINATION COMMITTEE

1. SUPERVISOR:

Beenish Aslam Sheikh
Assistant Professor of Law
International Islamic University, Islamabad.

2. INTERNAL EXAMINER:

3. EXTERNAL EXAMINER:

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DECLARATION

I Safina Shafee declare that this thesis entitled “Legal Status of Child Soldiers Under International Law” is my own work in its entirety, Basing on my knowledge and research of the subject. All the sources of information and ideas are acknowledged with the help of proper citations and references. Any help for preparation of this thesis has been mentioned and acknowledged in the acknowledgment section.

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ACRONYMS AND ABBREVIATIONS

CRC: Convention on the Rights of the Child

CSI: Child Soldiers International

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

ICC: International Criminal Court

OHCHR: Office of the United Nations High Commissioner for Human Rights

IOs: International Organizations

NGOs: Non-government organizations

UN: United Nations

UNICEF: United Nations International Children's Emergency Fund

ICRC: The International Committee of the Red Cross

UNCRC: The 1989 Convention on the Rights of the Child

TABLE OF CASE LAWS

CASE STUDY OF AFGHANISTAN

CASE STUDY OF DOMINIC ONGWEN

CASE STUDY OF PALESTINE

CASE STUDY OF SIERRA LEONE'S

PROSECUTOR V. THOMAS LUBANGA DYILO (ICC, 2006)

ABSTRACT

In this dissertation I try to shed light on the crucial issue of child soldiers with their vulnerability under international law as well as respective dissertation will examine the legal aspects surrounding the involvement of children in armed conflicts. It would analyze the international legal framework, including treaties and conventions, that aim to protect children from being recruited or used as soldiers. Nevertheless, there are several international legal instruments and frameworks also in place to address this issue. One of the key documents is the Convention on the Rights of the Child, which prohibits the recruitment and use of children under the age of 18 in armed conflicts. Additionally, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict sets forth measures to prevent the recruitment and use of child soldiers. Many countries have also implemented domestic legislation to criminalize the recruitment and use of child soldiers. These legal protections are essential in safeguarding the rights of children and promoting their rehabilitation and reintegration into society. Further, the researcher also discussed the status of child soldiers in Islam and also discussed Islamic law in contrast with International law. The researcher discussed in this dissertation that Islam protects vulnerable child soldiers and they are also protected by international law but still, violations are there. The dissertation would also explore the challenges in implementing and enforcing these laws, as well as potential solutions to enhance the protection of child soldiers and hold perpetrators accountable. Nevertheless, chapter one will shed light on child soldiers with their brief historical background. Meanwhile, chapters two and three will simultaneously discuss the relevant legislation and, the role of the international community with notable and renowned case studies also. On the other hand, the renowned as well as famous case laws are also discussed in the same, the famous case laws are the case study of Afghanistan, Dominic Ongwen, Sierra Leone's and of prosecutor v. Thomas Lubanga Dyilo (ICC, 2006). However, chapter four will elaborate on the strategies for the rehabilitation of minors involved in this sensitive issue and will deal with conclusions and recommendations. Ultimately, the actual aim of this research work is to seek the attention of all the respective states, organizations, and institutions that work for the betterment and welfare of children. And by prioritizing the rights and well-being of children, we can strive for a world where no child is forced to become a soldier and can be protected under the ambit of law.

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INTRODUCTION

THESIS STATEMENT

Child soldiers are vulnerable, who are exposed to unrecognized and numerous physical, mental, psychological, and sexual abuses due to the lack of a specific international legal framework on child soldiers, therefore, there is a need to suggest urgent legal reforms to bridge the gap.

STATEMENT OF THE PROBLEM

The recruitment of children in the armed forces is a grave violation of international law.¹ War affects children equally as adults, but future effects may vary. First, children are dependent on the care, empathy, and attention of adults who love them. Vulnerable Child who are recruited in the armed forces suffer physical and emotional torture, they lose their childhood, and they remain under this trauma for their whole life. If the recruitment of child soldiers is not stopped then this world will not be safe, and their legal status will also be affected. Children have rights and there are many conventions on their rights, if they are recruited as a soldier then their rights will be affected, and during the war, they will lose their status of protection as a child.

HISTORICAL BACKGROUND OF THE STUDIES

Children belong to the most vulnerable groups affected miserably both physically and psychologically by the commission of international crimes.² In the last number of child soldiers were appointed in more than 87 countries across the world as per the report of the Coalition to Stop the Use of Child Soldiers, 2008, this global report represents the data that almost more than 3,000,00 children under the age of 18 are involved in armed conflict.³ The period after the second world war has been called the era of the child soldier. Whenever we talk about the child the Convention on the Rights of child comes to our mind first, countries that are signatories to it

¹Holzer, Harold, and Eric Foner, *The Civil War in 50 objects* (New York: Viking press, 2013), 34-45; See also, Simpson, Brooks D., Stephen W. Sears, and Aaron Charles Sheehan-Dean, *The Civil War* (New York, NY: The Library of America, 2011) 55-65.

² Simpson, Brooks D., Stephen W. Sears, and Aaron Charles Sheehan-Dean, *The Civil War* (New York, NY: The Library of America, 2011) 55-65.; See also, Holzer, Harold, and Eric Foner, *The Civil War in 50 objects* (New York: Viking press, 2013), 34-45

³ Noakes, Jeremy, and Neil Gregor, *Nazism, war and genocide, Essays in honour of Jeremy Noakes* (Exeter, UK: University of Exeter Press, 2005), 33-45; See also, Prendergast, John, and Don Cheadle, *The enough moment "Fighting to end Africa's Deadliest War Crimes"*, (New York: Three Rivers Press, 2010), 44-79.

are bound that they shouldn't recruit a child as a soldier.⁴ Countries those are recruiting child as a soldier are committing the grave violation of international humanitarian law which clearly states in Article 77 of Additional Protocol I that child under the age of 15 shouldn't be recruited. Countries those are signatory to United Nations Convention on the Rights of Child 1989(hereinafter referred as CRC) and still they are recruiting child as soldier then they are committing the grave breach of law as Afghanistan, Africa and many other countries are recruiting the child soldier even they are signatory to CRC they are accused of violation of international humanitarian law, international law, and CRC. Africa is the country who is not even in the state of war even though Africa is recruiting the child soldier which is affecting their legal status, legal rights, and protection as a child, they are suffering deaths, and they are forced to participate in suicide missions, fight on the front line and girl soldiers are a victim of sexual abuse. Their rights as a child as human beings are violated, and they are suffering the worst form of child labor. Countries that are struggling for liberation like Kashmir, Palestine, and many other countries are recruiting child soldiers, even Afghanistan is in a war-like situation and recruited a number of child soldiers in the last decade, even though they are in situation of war still they are committing grave violations of International Humanitarian law and international law.

Children are directly or indirectly affected by the commission of genocide, crimes of aggression, and war crimes. They are taken hostages, used as human shields, abducted, trafficked, tortured detained assaulted, and even killed. Even where systematic crimes are committed against the general civilian population, children are disproportionately affected in terms of absorbing the trauma, and coming out of it takes longer for children as compared to adults as children witness the atrocities in their early years of physical and psychological development. International law particularly humanitarian law contains provisions that provide for the special protection of children at times of armed conflict in addition to the protections afforded to them as a member of society.⁵ The recruitment of child soldiers (term used for recruiting and enlisting of children by armed forces or insurgent groups or their use in the active

⁴Prendergast, John, and Don Cheadle, The enough moment "Fighting to end Africa's Deadliest War Crimes", (New York: Three Rivers Press, 2010), 44-79; See also, Noakes, Jeremy, and Neil Gregor, Nazism, war and genocide, Essays in honour of Jeremy Noakes (Exeter, UK: University of Exeter Press, 2005), 33-45.

⁵McKay, Sharon E., Daniel Lafrance, and Sharon E. McKay, War brothers: "The graphic novel", (Toronto: Annick Press, 2013), 105-116.

hostilities) is a relatively recent development in the area of children's rights but the most debated upon among all the child-specific crimes⁶. The sufferings of child soldiers are in many forms they are killed, made orphans, maimed, sexually abused, tortured abducted, deprived from their basic rights of food and education⁷, treated inhumanly and the most important they left with emotional scars and trauma for whole life. There are more than 250,000 children soldier worldwide those are participating in war⁸.

The Article 1 of United Nations Convention on the Rights of the Child describes a child as every human being under the age of 18 is child except, under the law applicable to the child, legal age is attained earlier⁹. Children those are lured into armed groups are the victim and their rights are violated, their right of education, rights of freedom and many other rights are violated.¹⁰ Their childhood is spoiled because of the war, which is waged by the adults, they suffer torture, become victims of sexual violence, etc. The customary practice also forbids the recruitment of children both in International Armed Conflict (hereinafter referred as IAC) and Non International Armed Conflict (hereinafter referred as NIAC). Thousands of children both boys and girls are influenced and victims by the commission of the said crime throughout the world. Some of them die or are murdered and those who escape death suffer from deep-rooted consequences involving loss of crucial stages of education and socialization, physiological and psychological traumas. The Additional Protocols of 1977 to the Geneva Conventions of 1949 fixed 15 to be the minimum age of admitting children in the armed fleet in case of a NIAC and 18 in case of an IAC. CRC, in 1989, called upon states not to recruit children below 15 years of age for taking a direct and active part in the hostilities. Later on, an express prohibition on recruitment of child soldiers under the age of 18 years was laid down in the Protocol optional to

⁶McBride, Julie, "The war crime of child soldier recruitment", (The Hague: T.M.C. Asser Press, 2014), 33-55; See also, Craig, Gary, Child slavery now: "A contemporary reader", (Portland, OR: Policy Press, 2010), 55-109.

⁷Craig, Gary, Child slavery now: "A contemporary reader", (Portland, OR: Policy Press, 2010), 55-109; See also, Human rights and prisons: "A compilation of international human rights instruments concerning the administration of Justice", (New York: United Nations, 2005), 1-10.

⁸McBride, Julie. Culture, crystallisation and courtrooms: "The legal challenges presented by the criminalisation of child soldier recruitment", (London, MTB Press, 2006), 111-133.

⁹United Nations Convention on the Rights of Child, 1989, Article 1

¹⁰Human rights and prisons: "A compilation of international human rights instruments concerning the administration of Justice", (New York: United Nations, 2005), 1-10; See also McBride, Julie. Culture, crystallisation and courtrooms: "The legal challenges presented by the criminalisation of child soldier recruitment", (London, MTB Press, 2006), 111-133.

the CRC. Under some conditions the willful recruitment was permitted into the regular armed forces of State but in no condition can children be recruited into armed groups. Another international legal instrument of assistance is the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor that also prohibits the forceful recruitment of children below eighteen years of age. Whenever we talk about the worst form of Child labor¹¹ then the child soldiering is on the top as it is clearly prohibited in Eliminating and Preventing Child Labor¹² International Labour Organization (herein referred as ILO) that child under the age of 18 shouldn't be engaged in worst form of child labor.¹³

Furthermore, there are other international and regional efforts undertaken for discouraging the use of children as soldiers, for instance, Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups,¹⁴ Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa, and Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups. The 1998 Rome Statute is the first international principle legal instrument that criminalized the recruitment of child soldiers. Any recruitment and use of children below 15 years of age in the hostilities were defined as an international crime. Two provisions of the statute need mention in this regard Article 8 (2) (b) (xxvi) of Rome Statute (in an international armed conflict) Conscription or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

¹¹Subrahmanian, Ramya, "Eliminating Child Labour: What Needs to Be Done?" *BMJ Paediatrics Open* 7, no. 1 (2023). <https://doi.org/10.1136/bmjpo-2023-002102>.

¹²Marvi, "Eliminating the Worst Forms of Child Labour, a New International Standard," *The International Journal of Children's Rights* 5, no. 1 (1997): 123–27. <https://doi.org/10.1163/15718189720493555>; See also, Programme, UCW, "The Twin Challenges of Eliminating Child Labour and Achieving EFA: Evidence and Policy Options from Mali and Zambia," *SSRN Electronic Journal*, 2009. <https://doi.org/10.2139/ssrn.1777106> and see also Sima Atri and Salvator Cusimano, "Perceptions of children involved in war and transitional justice in Northern Uganda," University of Toronto, (Canada: The Mowat Centre, n.d. 2001), 110-119.

¹³Programme, UCW, "The Twin Challenges of Eliminating Child Labour and Achieving EFA: Evidence and Policy Options from Mali and Zambia," *SSRN Electronic Journal*, 2009. <https://doi.org/10.2139/ssrn.1777106>.

¹⁴Sima Atri and Salvator Cusimano, "Perceptions of children involved in war and transitional justice in Northern Uganda," University of Toronto, (Canada: The Mowat Centre, n.d. 2001), 110-119. See also, Programme, UCW, "The Twin Challenges of Eliminating Child Labour and Achieving EFA: Evidence and Policy Options from Mali and Zambia," *SSRN Electronic Journal*, 2009. <https://doi.org/10.2139/ssrn.1777106>.

Article 8 (2) (e) (vii) of Rome Statute¹⁵ (in an armed conflict not of an international character): it is prohibited that children who have not attained the age of 18 cannot be recruited or enlist into armed forces or groups or using them to participate actively in hostilities. Africa and many other countries like Afghanistan are giving great challenge to the world by recruiting the child as a soldier, apart from all other problems. Africa is committing the breach of laws by recruiting the child as a soldier. If we trace back the history in countries such as South Sudan¹⁶ and Uganda many children were stolen and from their homes and they were compelled to fight in rebellious group. The recruitment of child soldier is rapidly increasing since 1990s and their status is non-state armed group. If we talk about the laws of African states, then their setting the minimum age of recruitment at 18 but their force up to 30 percent is in between 7 to 14 years which is grave violation of International Humanitarian Law (herein referred as IHL), additional protocol I and II which set the minimum age of child soldier is 15 and there is grave violation Eliminating and preventing child labor ILO. It is further noted in Palestine, the war like situation in Palestine is also grave violation of humanity and their major population is killed, the young child are now fighting their war.

The Secretary General of UN, Antonio Guterres, describes these horrendous acts of dehumanization as the United Nations considered the issue of children and armed conflict as an integral part, and they stated that it is core responsibility for international peace and security for the improvement of human rights and sustainable human development. As we all know children because of their innocence can be easily manipulated, and rebel groups take advantage of this they playing with innocent minds. The two rebel groups responsible for these gruesome actions are the Lord's Resistance Army (herein referred as LRA) of Uganda and the Revolutionary United Front or RUF of Sierra Leone. As most of the population of Africa is under the age of eighteen and they are recruiting child soldiers which is a clear violation of the law. The

¹⁵Hilburn, Sharla Noel, *The rome statute: "The rhetoric and the reality of the United States,"* New York: Oxford University Press, 2001), 22-29; See also, Masellis, M., M. Masellis, and S.W.A Gunn, "The management of mass burn casualties and fire disasters proceedings of the first international conference on burns and fire disasters," (Dordrecht: Kluwer Academic Publishers, 1992) 55-79.

¹⁶Masellis, M., M. Masellis, and S.W.A Gunn, "The management of mass burn casualties and fire disasters proceedings of the first international conference on burns and fire disasters," (Dordrecht: Kluwer Academic Publishers, 1992) 55-79; See also, ¹⁶Hilburn, Sharla Noel, *The rome statute: "The rhetoric and the reality of the United States,"* New York: Oxford University Press, 2001), 22-29.

economic condition in Africa is poor and the lack of resources for recruitment forced them to recruit the child. The poor condition of Africa forced children to fight but here the question arises whether the child soldier who fights is a threat to security or not? Here is another question in the condition of warfare countries those are at war fight against each other, then attach on children soldier enemy will be legitimate or not? The vulnerable child soldiers are involved in armed groups where they act in different roles, such as soldiers, spies, cooks, porters, and sex slaves. The child soldier lost his childhood and this ruin their whole life, they are victim of war which may led them to become criminal as well. The war like situation makes them effected and in all this condition a child soldier lost his life. Many countries like Iraq, , South African Replucian, Sudan and in some parts of The Democarcic Republic of The Congo recruited girl soldiers in armed forces in order to become the wives of armed leaders and virgin girls are recruited for sexual violence which is the violation of international law and their rights as well. Plastitine is under the war the and their major population is almost dead and now their children are fighting as a soliders.¹⁷

The usual modes adopted for recruiting the children in armed forces or groups include abduction, manipulation, duress, propaganda, conscription, or giving false hope of escape from their impoverished background. While in some situations children believe that they will be better protected by being a member of the armed groups. Sometimes they are instigated to take part in hostilities in response to the discrimination they had suffered or to protect their community. Based upon the mode adopted for recruiting children there lies the difference in enlistment and conscription. Conscription is defined by the judgment of the Special courts of Sierra Leone (herein referred as SCSL) Trial Chamber as involving the “acts of coercion, such as abductions and forced recruitment, by an armed group against children, committed for using them to participate actively in hostilities. As the United Nations has banned to recruit the children under the age of 18 in military conflicts, however unfortunately children as young as 5 years old may be exploited and they are easy to be manipulated. The rapid growing in the recruitment of child soldier the issue of growing Internally Displaced Persons (herein referred as IDP's) and

¹⁷Rone, Jemera, and Naim ‘Abd Allāh Aḥmad, War in South Sudan: “The Civil Toll: Africa Watch condemns abuses by all sides in the conflict in South Sudan,” (Washington, D.C.: Africa Watch, 1993) 1-25.

refugees has become greatly increased.¹⁸ The war like situation and involvement of child soldier raises many issues for example infections, war-related injuries, malnutrition, and psychological effects. Children may be killed in action or die from illness and/or starvation. The War like situations enhance injuries which may include those from bullets or shrapnel, burns, malformed limbs, or possible amputation. In Africa¹⁹, landmines account for more than 12,000 deaths each year and even after the war has ended landmines may still be found to cause the death toll to continue to rise. Whenever there is situation of war it is difficult to access the food which give rise to malnutrition in children (and women especially) which leads to malnutrition and ultimately death. The psychological impacts on children can range from anxiety, Post Traumatic stress disorder (herein referred as PTSD), depression, insomnia, irritability, sleeping disorders, nightmares, aggression, and the inability to concentrate. The psychological effects end up being lasting and continue way after the war has ended; additional treatment is also needed long after the war is over.²⁰

SCOPE OF STUDY

After the world war II, children are used child soldiers in armed forces by state forces. The protection of child soldiers are introduced in International Humanitarian Law (herein referred as IHL), International Law (herein referred as IL), Geneva Conventions, International Criminal Law, Conventions on the Rights of Child soldiers herein referred as (CRC) and in many other documents. In this thesis the researcher will spot a light on the gap of sexual crimes against the girls child soldiers, and this research will show the element of children participation in hostilities direct or indirect. Furthermore the researcher will put light on the case studies of different countries where children are recruited as Child soldier. The scope of this study is to prevent the Children recruitment in Armed conflicts by the state forces.

¹⁸Roberts, Alice H., "Internally displaced persons," (New York: Quaker United Nations Office, 1994), 1-10.

¹⁹Shilaro, Priscilla M., *A failed Eldorado: "Colonial Capitalism, rural industrialization, African land rights in Kenya, and the Kakamega Gold Rush 1930-1952,"* (Lanham, MD: University Press of America, 2008), 19-49 ; See also, Graca Machel, *Promotion and Protection of Rights of the Children: Impact of Armed Conflict on Children*, A/51/306, August 26, 1986. The said report was also acknowledged by General Assembly Resolution in 1997 (A/RES/51/77, 1986), 33-46.

²⁰McKay, Sharon E., Daniel Lafrance, and Sharon E. McKay, *War brothers: "The graphic novel"*, (Toronto: Annick Press, 2013), 105-116.

LITERATURE REVIEW

The breakthrough in the said area was achieved in 1989 by the adoption of the Convention of the Rights of the Child and following the Grace Machel report that studied the impact armed conflicts have on children. Before this, the international crimes were constructed narrowly, and this was due to the historical influence of the Nazi's atrocities during the Second World War.²¹ Most studies on the roots of child soldiering come from NGOs and advocacy groups, with a limited academic contribution to the research field. The researcher explored the different books, articles and documents on child soldier. Most of the writers have written about them they are victim of war; they are abused in war and still this issue is not resolved.

First, the writer discussed and explained why children are recruited in armed conflict including the lower cost of recruitment, tactical benefits, and the easiness of manipulation. In this article, the writer urges the role of children under 18 in the military. The writer argued two aspects in her article the child soldier and the rights of children. The writer highlighted the disproportionate impact of war on children and identified them as the primary victims of armed conflict, but the writer didn't put light on the circumstances in which they joined the armed forces voluntarily. In this research, the researcher shed light on the voluntary and forceful recruitment of child soldiers. Researcher also shed light on the status of the child who carries the arms. Instead, several authors emphasize that access to education is a more crucial factor affecting child soldier recruitment As Goodwin-Gill and Cohn²² stated in their book primarily that children could be the initiators of armed hostilities owing to social, political, and economic factors, which have been reiterated by the mainstream of the narrative.

In contrast in this book, the writer urges the role of children in Armed conflict and their status under international law, but the writer doesn't put light on the factor of recruitment of child soldiers. In this research, the researcher put light on the factors and their training and how they can be trained for the war. Furthermore, the researcher urged that young children be easily

²¹ Graca Macheal, Promotion and Protection of Rights of the Children: Impact of Armed Conflict on Children, A/51/306, August 26, 1986. The said report was also acknowledged by General Assembly Resolution in 1997 (A/RES/51/77, 1986), 33-46.

²² Goodwin-Gill and Cohn the Role of Children in Armed Conflict, (1994).

manipulated, and they can be easily trained. Their brainwashing is comparatively easier than an adult, so this is the big cause that the researcher focused in this research.

The most compressive part of child soldiers is discussed by Brett and Specht argue in the article that grievance reasons like poverty, loss of parents or guardians, lack of economic opportunity or educational opportunity, ethnicity, and political beliefs could persuade children to pick up arms themselves which is maybe voluntarily or forceful.

As Brett and Specht suggested²³, both the quality and access to education are crucial for children's opportunities. The researcher contends that the commonly used measurement, school life expectancy, falls short in assessing education's significance in preventing child recruitment. In this paper, the researcher proposed a refined definition of education quality, encompassing factors influencing children's educational opportunities. This broader definition, outlined in the operationalization section, allows for measurement and comparison across various cases, contributing to the research field. In this article, the writer focused on the poverty and economic factors that led the child to become a soldier and the writer urges that they are forced or sometimes children voluntarily join the armed forces, but the writer neglected the area of their protection and their status if they carry the arms. In this research, the researcher examined the status of child soldiers under international law and how they can be protected.

Mats Utas, a scholar at Uppsala University²⁴, stated that girls are recruited in several African wars, and he examines how these girls can cope with their traumatic experiences and what kind of support they need from the local community and the international community. The writer argued that they are victims of sexual abuse, researcher further urges that they need support to heal the pain. He stated that girls suffer physiological issues because of sexual abuse. The researcher posited that the quality of education, incorporating motivational aspects and factors related to access and availability, plays a pivotal role in elucidating the recruitment of child soldiers. In this research, researchers focused on the problems of female child soldiers and

²³Brett and McCallin Children: The Invisible Soldiers (1998)

²⁴Mats Utas, a scholar at Uppsala UniversityGraca Macheal.

neglected the issues of male child soldiers, those who face problems in the military and the field of war. The researcher shed light on the issues of both male and female child soldiers.

As Bayer and associates conducted research in 2007 among former child soldiers in Uganda and the Democratic Republic of the Congo. The mean age of the 169 youngsters that were questioned at the time was 15 years old.²⁵ Every youngster reported that they had, on average, been brutally recruited by the military at the age of 12. However, in this research, the researcher urges the issue of age which conflicts with international law, the researcher discussed the minimum age of recruitment of soldiers in the military. The researcher urged that some countries considered the age of maturity to be 18 and some countries consider the age of maturity which is 15. If there is a conflict of age internationally then what will be considered the age of recruitment of children in Armed conflict? Derluyn, Broekaert, Schuyten, and De Temmerman's 2004 Derluyn et al²⁶. The findings from 2004) are the maximum indication scores for previously kidnapped children to date. There were almost 301 kidnapped former child soldiers were questioned for the study. The entirety of the kids were taken away while they were young on average, 12.9 years old, and for a lengthy time, 25 months. A mean of six traumatic incidents was encountered by almost all the youngsters. Of them, 77% witnessed someone die and 39% had to commit suicide.

Further more, in this research, the writer focused on the traumatic incidents and the issues of kidnapped children, but the writer neglected the factors like some of the children voluntarily joining the armed forces and the writer also neglected that some family willingly sent their children to join the armed force to get a better lifesty. The researcher urged all the circumstances which led the child to become a soldier. Vinck and colleagues²⁷ researched in Northern Uganda, which shows that 82% of 323 kidnapped children displayed (herein referred as PTSD)symptoms in sizable research. Again, Pham and colleagues, follow-up study of former abductees revealed that 67% of them fulfilled the PTSD symptom criteria; this resulted from this incidence total

²⁵Bayer, C. P., Klasen, F., & Adam, H. (2007). Association of trauma and PTSD symptoms with openness to reconciliation and feelings of revenge among former Ugandan and Congolese child soldiers. *The journal of the American Medical Association*, 298(5), 555–559.

²⁶Derluyn, I., Broekaert, E., Schuyten, G., & De Temmerman, E. (2004). Post-traumatic stress in former Ugandan child soldiers. *The journal Lancet*, 363(9412), 861–8634

²⁷ Vinck, P., Pham, P. N., Stover, E., & Weinstein, H. M. (2007). Exposure to war crimes and implications for peace building in northern Uganda. *Jama*, 298(5), 543–554

number increased to 80% amongst all those who had been kidnapped for six months or more. In this research, the writer mainly focused on PTSD and neglected the other factors whereas in this research the researcher focused on covering all the traumas of child soldiers during the war and after the war and the researcher urged the role international community in this regard. Annan and Blattman²⁸, 2006 conducted a Survey of War Affected Youth (herein referred as SWAY) The comprehensive research identified values and forms of distressing consequences that were extremely comparable to all the aforementioned. Furthermore, permitting this evaluation, 23% of the kids had been made to abuse corpses (for a more thorough account of the experiences of child soldiers.

In this research, the writer examines the case of Uganda, where rebel recruitment methods provide exogenous variation in conscription, but the writer neglected the other cases of other countries like Afghanistan, etc. the writer shed light on the case studies of Afghanistan, and the researcher compared the situations of different countries in this research. Amone P'Olak looked at former kidnapped girls experiences with war, physical and sexual assault, and accompanying psychiatric problems.²⁹ The discoveries exposed that 98% of the girls had received demeritizations for defying, 99% obligated barely fugitive death 98% had alleged they would die, 18% ensured contributed to killings, in addition, 72% ensured veteran erotic exploitation by the insurgents (typically by animation forcibly given as a wife from the age of 13), 65% ensured perceived people being killed, 44% had realized society being mutilated, 7% ensured remained completed to kill their own families. The girls proceeded to have 24 horrible encounters on ordinary although being held imprisoned which is against the law. In this book, the writer places stress on the female soldier and neglects the male soldiers. The writer stressed the sexual abuse traumas of girls etc. but the writer didn't focus on the issues of the soldiers, they were used as spies, and cooks and they used to carry arms. The researcher shed light on those boys who are recruited specially to kill people during war. The researcher focused on that Boy soldiers are used on the battlefield and are treated badly as well.

²⁸Annan, J., & Blattman, C. (2006). Survey of war affected youth. Kampala: United Nations Children Fund (UNICEF).

²⁹Amone-P'Olak, K. (2007). Coping with Life in Rebel Captivity and the Challenge of Reintegrating Formerly Abducted Boys in Northern Uganda. *Journal of Refugee Studies*, 20(4), 641–661.

GAPS IDENTIFIED

The impact of war is always remained in the mind of child soldiers, and in conflicts none is heartbreaking than the impact of war on children. After the report on Child soldiers (Child Soldiers Global Report 2008) and many NGO's reported that children are working and being recruited in armed Forces. Scholars are aware of this issue, seeking to provide an enhanced understanding the researcher will spot the light on how Children are involved in Armed conflicts, which countries are recruiting the Child Soldiers, how they can live better life after demobilization and what measures can be taken to prevent the recruitment of Children in Armed conflicts. The researcher stressed on the involvement of vulnerable girls in armed conflicts and their reintegration with their parents. Furthermore, the researchers also identified that children those are working on front lines, how they can live better life after the reintegration.

SIGNIFICANCE OF THE STUDY

Child soldiers are forced to commit violence and child soldier faced the serious long term psychological effects. It is very important to know the significance of child and they are getting abused as a child soldier. Child play a vital role in the development of society and if they worked as child soldier then they will suffer psychological effects and it's very difficult for them to get out of this trauma. Child soldiers are being recruited all over the world and it's an alarming situation for the whole world because all over the globe they are using child as a weapon. As children are the future of every nation and country, if they victimized as child soldier then their future is at stake, and they cannot be able to behave as a normal person. It is very important to understand that vulnerable child soldiers are victim of war, and they should not be used as soldier in the war.

LEGAL ISSUES

1. What are the circumstances which are responsible to recruit child soldiers and what are the factors which aggravate child soldier usage?

Chapter one will particularly elaborate and shed light upon this issue.

2. a. How does the existing legal regime protect the rights of children in armed conflicts around the globe under international law and Islamic law?
 - b. What are the case studies which exemplifies various instances whereby a country is required to recruit child soldiers.
- These legal issues will be discussed in detail in chapter two.
3. a. If children are encouraged to volunteer themselves for child soldier crime, then does that crime ultimately help in removing the perpetrator stigma from children or not?
 - b. How we can strive to stop the recruitment of child soldiers?

So far the detail debate of above legal issue is concerned the sub-headings 3.4, 3.4.1, 3.4.2, 3.5, 3.6 of the chapter three addressed the whole issue expressively. Along with in part II of chapter three recommendations are given for making the situation better of the children and not letting them free to become the part of either such activity.

METHODS OF RESEARCH

The research methodology adopted in this research is qualitative research as the core topic is the subject matter of law, which is a branch of social sciences. The research methods adopted by the researcher used analytical, critical and comparative approach in-depth analysis in relation to an appropriate representative and comparator. It is analytical in a way because researcher will find the solutions of problems of child soldiers and researcher will also analyze the issues of child soldiers.

It is critical in a way because the researcher will refer to the issues of epistemology. The researcher will use the critical approach for different countries those are recruiting the child soldiers. It is comparative in a way because researcher will compare the case studies of different countries on child soldiering and research will also compare the reasons of recruitment of child soldiers.

The researcher used a qualitative research technique and examined the gap between law and its practical implication. This research will also examine the case law of Afghanistan and

Serially studied all the laws on child soldier in depth. This researcher examined the factors which forced states to recruit child soldier. This research by doing a case study examined the process of adjudication and treatment of child soldiers. This researcher used this theory to argue that the practice of using child soldiers can be eliminated with a proper adaptation of the tenets of the theory. The researcher used a critical analysis of the globe on the recruitment of child soldiers, what are the factors which are enforcing the countries to recruit child soldiers. This thesis intends to investigate whether child soldier is a state actor or non-state actor and for this researcher compared different reports and papers and conclude the theoretical arguments. The researcher used text analysis, policy analysis, content analysis, and discourse analysis. The researcher examined texts and discussed the issue of child soldiers and texts which described the international movement to end the problem. The researcher also examined the countries in question's official stance on the issue of child soldiers and their actions in practice to find out how serious their attempts to end the problem of child soldiers are. The researcher used the comparative approach in this research and compare the Islamic law and international on the issue of child soldier.

ORGANIZATION/DIVISION OF THE STUDY

In this research the researcher plotted the research into three chapters. the 1st chapter of this thesis consist on the historical background of the study, legislation on child soldiers. Further the first chapter of this research also put light on the involvement of international community and the mechanism of justice.

In the second chapter of this research the researcher emphasis on the of the removing the perpetrator stigma from child soldier with the notable and relevant case laws. the researcher put ligh on the different countries with their relevant cases those are recruiting the child soldiers.

In the third chapter of this research the researcher suggested the different ways to prevent the recruitment of child soldiers and how they can be reintegrated with their family. The researcher recommended the criteria and ways to stop the recruitment and enlistment of child soldiering.

CHAPTER1

CHILD SOLDIERS IN ARMED CONFLICTS

INTRODUCTION

In this chapter the whole discussion will be held upon the child soldier in armed conflict. Moreover, the light will be put on the children's association with the armed forces and how the domestic navigation will cause chaos to them. However, the chapter will also deal with the reasons to recruit children in the armed forces and in what ways they become the cause of global scourge. On the other hand the international legislation is also the part of the same chapter with the involvement of international community along with the discussion of mechanism for the restoration of justice for the children.

1.1.BACKGROUND STUDY ON CHILD SOLDIERS IN ARMED CONFLICTS

Children belong to the most vulnerable groups affected miserably both physically and psychologically by the commission of international crimes.³⁰ The recruitment of child soldiers term used for conscripting and enlisting of children by armed forces or insurgent groups or their use in active hostilities, is a relatively recent development in the area of children's rights but the most debated among all child-specific crimes.³¹ The sufferings of child soldiers are in many forms they are killed, made orphans, maimed, sexually abused, tortured, abducted, deprived of their basic rights of food and education, treated inhumanly, and most important they are left with emotional scars and trauma for their whole life. There are more than 250,000 children's soldiers worldwide participating in the war.³² Every Nations Convention on the Rights of the Child

³⁰Joanna Santa Barbara, "Impact of War on Children and Imperative to End War," *Croatian Medical Journal* 47, no. 6 (December 2006): 891.

³¹Derluyn; Wouter Vandenhoe; Stephan Parmentier; Cindy Mels, "Victims and/or perpetrators? Towards an interdisciplinary dialogue on child soldiers," *BMC International Health and Human Rights* 15, no. 28 (2015): 15.

³²www.peacedirect.org/child_soldiers accessed on 15th August 2013 at 02:19 pm; see also, Derluyn; Wouter Vandenhoe; Stephan Parmentier; Cindy Mels, "Victims and/or perpetrators? Towards an interdisciplinary dialogue on child soldiers," *BMC International Health and Human Rights* 15, no. 28 (2015): 15; see also, Joanna Santa Barbara, "Impact of War on Children and Imperative to End War," *Croatian Medical Journal* 47, no. 6 (December 2006): 891.

(CRC) of 1989 describes a child as every human being below the age of eighteen years unless, under the law applicable to the child, the majority is attained earlier.³³

The customary practice also prohibits the recruitment of children both in IAC and NIAC. Thousands of children, both boys, and girls, are affected by the commission of the said crime throughout the world. Some of them die or are murdered and those who escape death suffer from deep-rooted consequences involving loss of crucial stages of education and socialization, physiological and psychological traumas³⁴. The recruitment of child soldiers in armed conflict is a clear violation of international law. Despite there being a clear prohibition in international law different countries are recruiting child soldiers, further existing legislation also sets a grey area for the recruitment of children as soldiers in armed forces between 15 to 18 years. The Article 1 of the Additional Protocols of 1977 to the Geneva Conventions of 1949 fixed 15 to be the minimum age of admitting children in the armed forces in case of an NIAC and 18 in case of an IAC. CRC, in 1989, called upon states not to recruit children under 15 years of age to take a direct and active part in the hostilities. Later, an express prohibition on the recruitment of child soldiers under the age of 18 years was laid down in the Protocol optional to the CRC³⁵. Under some conditions, willful recruitment was permitted into the regular armed forces of the State but in no condition can children be recruited into armed groups. Another international legal instrument of assistance is the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor which also prohibits the forceful recruitment of children below eighteen years of age³⁶.

Furthermore, there are other international and regional efforts undertaken to discourage the use of children as soldiers, for instance, Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and

³³ UN Convention on the Rights of the Child 1989. Article 1

³⁴ McMurchy-Barber, Gina. *When children play: The story of right to play*. Markham, Ontario: Fitzhenry & Whiteside, 2013. 110 -137; See also, UN Convention on the Rights of the Child 1989. Article 1.

³⁵ Rosen, David M. *Armies of the young: Child soldiers in war and terrorism*. New Brunswick, NJ: Rutgers University Press, 2005. 11-45; See also, ³⁵Voices for a culture of peace: Compendium of the SGI-USA culture of peace distinguished speakers series. Santa Monica, CA: Culture of Peace Press, 2010. 24-39.

³⁶Voices for a culture of peace: Compendium of the SGI-USA culture of peace distinguished speakers series. Santa Monica, CA: Culture of Peace Press, 2010. 24-39.

Social Reintegration of Child Soldiers in Africa, and Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups. The 1998 Rome Statute is the first international principle legal instrument that criminalized the recruitment of child soldiers.³⁷ Any recruitment and use of children below 15 years of age in the hostilities were defined as an international crime.³⁸ Two provisions of the statute need mention in this regard of Rome Statute in an international armed conflict Conscription or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities. Roman Statute in an armed conflict not of an international character Conscription or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities.³⁹ Africa and many other countries are giving significant challenges to the world by recruiting the child as a soldier, apart from all other problems. Africa is committing a breach of law by recruiting a child as a soldier. If we trace back the history in countries such as South Sudan and Uganda many children were stolen from their homes, and they were compelled to fight in rebellious groups. The recruitment of child soldiers has been rapidly increasing since the 1990s and their status is a non-state armed group.

The use of the term “soldier” for child soldiers is justified based on several factors, including their role in armed conflicts, the responsibilities they undertake, and the legal and ethical discussions surrounding their recruitment and use. Here are the key reasons:

1. Functional Role in Armed Conflicts

- Child soldiers, despite their age, actively participate in military operations. They carry weapons, engage in combat, serve as messengers, spies, or even suicide bombers. Their involvement mirrors the roles traditionally associated with soldiers in war.

2. Forced or Voluntary Recruitment

³⁷Gus Waschefort, *International law and child soldier*, (Oxford, UK: Portland or: Heart Publishing, 2015), 264. ; See also, Annan, J., & Blattman, C. (2006). *Survey of war affected youth*. Kampala: United Nations Children Fund (UNICEF).

³⁸Article 8 (2) (b) (xxvi), ICTY was established by the passing of UN Security Council Resolution No. 808 (S/RES/808), 1993 and ICTR was established following the UN Security Resolution No. 955 (S/RES/955), 1994; See also, Mancini, Candice. *Child soldiers*. Farmington Hills, MI: Greenhaven Press, 2010. 37- 57.

³⁹Article 8(2) and Article 8 (2) (e) (vii) of Roman Statute of International Criminal Court (also referred as Rome Statute); See also, Mancini, Candice. *Child soldiers*. Farmington Hills, MI: Greenhaven Press, 2010. 37- 57.

- Many children are forcibly recruited, coerced, or manipulated into joining armed groups. However, some voluntarily enlist due to poverty, ideology, or lack of alternatives. Regardless of the recruitment method, their duties align with those of soldiers.

3. International Recognition

- International legal instruments, including the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC) and the Rome Statute of the International Criminal Court, acknowledge the existence of child soldiers and criminalize their use in warfare. The term “child soldier” is widely used in these legal frameworks.

4. Psychological and Social Impact

- Calling them soldiers highlights the gravity of their involvement in war, drawing attention to the loss of childhood, trauma, and exploitation they experience. It also underscores the need for rehabilitation and reintegration programs.

5. Recognition of Their Victimhood

- While they may perform soldier-like duties, child soldiers are primarily victims of war. The term “child soldier” balances this paradox by acknowledging both their forced participation and their status as exploited minors.⁴⁰

1.2. CHILDREN ASSOCIATED WITH ARMED FORCES

Children associated with armed forces, often referred to as child soldiers, are a distressing manifestation of conflict and warfare. These young individuals, typically below the age of 18, are coerced, recruited, or forced into joining military ranks, against their will, to partake in armed conflicts. The exploitation of their vulnerability and impressionability exacerbates the gravity of this grave violation of human rights. The plight of child soldiers is multifaceted, encompassing physical, psychological, and emotional dimensions⁴¹. Physically, these children are thrust into

⁴⁰Men, Marry. “The Experience of World War II for Children and Adolescents.” *The Battle for Children*, 2002, 45–81. <https://doi.org/10.2307/j.ctv22jntvb.7>.

⁴¹ Mancini, Candice. *Child soldiers*. Farmington Hills, MI: Greenhaven Press, 2010. 37- 57

combat roles that expose them to perilous situations, leading to grievous injuries or even loss of life. Their cognitive and emotional development is stunted, as the traumas of warfare scar their psyches, hindering their ability to reintegrate into society. The recruitment methods employed by armed groups to ensnare these young souls vary from coercive abduction to deceptive enticement.⁴²

The indoctrination processes they undergo are insidious, employing a mix of propaganda, intimidation, and fear to break their will and allegiance to their former lives. The indoctrinators prey on their impressionable minds, manipulating them into perceiving violence as a means of power and belonging. Efforts to eradicate the issue of child soldiers necessitate a multi-faceted approach involving international cooperation, legislative reform⁴³, and targeted rehabilitative measures. The global community must unite to enforce strict sanctions and ensure accountability for those perpetrating these heinous acts, while providing comprehensive support and rehabilitation for the victims to reclaim their lost childhood and reintegrate into society.

Thousands of children are working in the armed forces in over 20 countries across the world. They are not just fighters, they work as cooks and spies, and girls are used for sexual purposes⁴⁴. Children are badly affected by conflicts, and this unrelenting and brutal use of children violates their rights. They suffer from physical and mental harm, spiritually and physically they are weaker than a normal child. To save the life of children humanitarian and human rights actors need to take strict action. A child under 18 years referred to as a child-in-law, a child who is associated with an armed group in any manner like cook, spy, sexual purpose, or fighter will be called a child soldier⁴⁵.

⁴²Heppner, Kevin, Jo Becker, and Lois Whitman. "My gun was as tall as me": Child soldiers in burma. New York: Human Rights Watch, 2002. 121-151; See also, Tinta, Ferial Mónica. The landmark rulings of the Inter-American Court of Human Rights on the rights of the child: Protecting the most vulnerable at the edge. Leiden: Martinus Nijhoff Publishers, 2008. 33-113; And see also ⁴² Tinta, Ferial Mónica. The landmark rulings of the Inter-American Court of Human Rights on the rights of the child: Protecting the most vulnerable at the edge. Leiden: Martinus Nijhoff Publishers, 2008. 33-113.

⁴³Men, Marry. "The Experience of World War II for Children and Adolescents." The Battle for Children, 2002, 45-81. <https://doi.org/10.2307/j.ctv22jntvb.7>.

⁴⁴Eboe-Osuji, Chibwe, and Navanethem Pillay. Protecting humanity: Essays in international law and policy in honour of Navanethem Pillay. Leiden: Nijhoff, 2010. 9-28.

⁴⁵ Tinta, Ferial Mónica. The landmark rulings of the Inter-American Court of Human Rights on the rights of the child: Protecting the most vulnerable at the edge. Leiden: Martinus Nijhoff Publishers, 2008. 33-113.

The vulnerable child soldiers are involved in armed groups where they act in different roles, such as soldiers, spies, cooks, porters, and sex slaves. The child soldiers lost their childhood, and this ruined their whole life; they are victims of war which may lead them to become criminals as well. The war-like situation makes them affected and in all this condition a child soldier lost his life. The literature identifies various push and pull aspects⁴⁶ that lead children to a life in the armed forces, most of which revolve around the need to endure created by their vulnerable status in abject poverty or victims of war. As per Goodwin Gill and Cohn there is no single source of international law or international humanitarian law that deals with child soldiers specifically. He argues that the quality of law is not according to the standard and is not adequate. He also argues that international treaties, protocols, and conventions are used for the protection of the rights of children, but they are not adequate, and they cannot even protect the rights of children. They prohibit the recruitment of child labor whereas child soldier is the worst form of child labor but no international treaties or conventions are specifically dealing with child soldiers⁴⁷. The usual modes adopted for recruiting children into armed forces or groups include abduction, manipulation, duress, propaganda, conscription, or giving false hope of escape from their impoverished background. While in some situation children believe that they will be better protected by being a member of the armed groups. Sometimes they are instigated to take part in hostilities in response to the discrimination they had suffered or to protect their community. Based upon the mode adopted for recruiting children there lies the difference between enlistment and conscription. Conscription is defined by the judgment of the SCSL Trial Chamber as involving the acts of coercion, such as abductions and forced recruitment, by an armed group against children, committed for using them to participate actively in hostilities.⁴⁸

1.3. CHILD DOMESTIC DISPLACEMENT NAVIGATION CHAOS

Domestic displacement of children occurs because of many factors i.e., lack of education, economic, resources, and natural disasters can make them vulnerable to recruitment. When the

⁴⁶ Hocks, Adem. Child labour. 1st ed. Vol. 2. Geneva: International Labour Office, 1999, 33-45

⁴⁷ Anderson, Rachel Victoria. No place like home?: Examining family involvement in the reintegration of male former child soldiers in Sierra Leone, 2014. 11-120; See also, Coalition to stop the use of child soldiers. Child Soldiers. Global Report 2008. Coalition to stop the use of child soldiers 2008 p.345.

⁴⁸ Coalition to stop the use of child soldiers. Child Soldiers. Global Report 2008. Coalition to stop the use of child soldiers 2008 p.345; See also, Coalition to stop the use of child soldiers. Child Soldiers. Global Report 2008. Coalition to stop the use of child soldiers 2008 p.345.

security situation is fragile children can be easily abducted and they are used in the armed forces, 40% of girls who are under 18 are used in armed groups. The domestic displacement of a child, often a result of familial discord or upheaval, can be likened to a tangled web of circumstances that tear asunder the fabric of stability and familiarity⁴⁹ in their young lives. Such upheaval can be compared to a seismic shift, where the ground beneath their feet suddenly fractures, leaving them adrift in a tempest of uncertainty. In the aftermath, they may find themselves navigating uncharted waters, akin to a ship adrift without a compass or anchor. This disruption can shatter their sense of equilibrium, leaving them feeling like a castaway on an unfamiliar island, estranged from the shores of their past. The upheaval can be akin to a dissonant symphony⁵⁰, with discordant notes disrupting the harmony of their upbringing. The child may grapple with a maelstrom of emotions, feeling like a marionette in a turbulent puppet show, their strings pulled in directions beyond their control. As they attempt to adapt, they may find themselves caught in a Catch-22 situation, where every path seems fraught with challenges and dilemmas. It is imperative to extend a lifeline to these children, providing a stable and nurturing environment to help them weather the storm⁵¹. In doing so, we can strive to offer a beacon of hope, a glimmer of light amidst the darkness, to guide them through the labyrinthine journey of domestic displacement. The UN Secretary-General's annual name and shame list for 2017 highlighted the armed forces of Afghanistan, Myanmar, Somalia, South Sudan, Sudan, Syria, and Yemen for recruiting and using under 18s for armed conflict. Recruiting child soldiers in armed forces is the tragic end of childhood for boys and girls under 18, it is a grave violation of children rights in conflict⁵².

The recruitment of child soldiers is not only the tragic end of their childhood, but it also graves violation of their fundamental right across the globe. We should stop the war on children

⁴⁹ Adam Jones. *Genocide: A Comprehensive Introduction*. (New York: Routledge, 2006), 232; See also, ⁴⁹ Mason, Katrina R. *Children of los alamos: An oral history of the town where the atomic age began*. New York: Twayne Publishers, 1995. 35-67

⁵¹ Jal, Emmanuel. *My life is art: 11 pillars for a positive and purposeful life*. Berkeley, CA: Counterpoint, 2023. 44-76; See also, ⁵¹ Mason, Katrina R. *Children of los alamos: An oral history of the town where the atomic age began*. New York: Twayne Publishers, 1995. 35-67.

⁵² Mason, Katrina R. *Children of los alamos: An oral history of the town where the atomic age began*. New York: Twayne Publishers, 1995. 35-67.

across the globe in order to protect the children and their innocent childhood. As experts say, when conflict involves children then its effects remain for long term and instability as generations of youth are sucked into ongoing wars. It is also noted that more than 3,00,000 children are working as child soldiers all over the world, half of them are not working on the battlefield but they are serving in the army. Girls and boys as young as 8 years are serving in the armed groups across the world, they may fight on front lines, furthermore they are used for suicide missions, and they are also working as spies, vulnerable girls are used for sexual slavery⁵³. All over the world many child soldiers are forced to join armed groups, they are abducted and forced to join the armed groups whereas many child soldiers willingly in order to believe that they will have a better lifestyle and better chance for survival.

1.4. REASONS TO RECRUIT CHILDREN IN THE ARMED FORCES

War is old as humans are, and since long vulnerable child are being recruited in armed groups. There are many reasons to recruit them in the armed forces, for instance when they are unable to access their basic needs like education and employment, furthermore poverty is one of the reasons to recruit child soldiers. When a country has less resources and they are unable to afford competent people in the armed forces then they prefer child soldiers⁵⁴. This is same for the families those are unable to afford basic needs then they allow their child to work as. It is situational analysis soldier is bad form of being engaged in some pursuit, children suffers a lot when they join armed forces, they are used as spy, cook, soldiers and girls are used for sex. Furthermore, children are being recruited in the armed forces because they can be easily manipulated, their mind can be changed easily, they are more likely to obey orders.⁵⁵ Child soldiers are deprived of associate with families, they are emotionally tortured and further they are unable reintegrate with families. Recruiting children into the armed forces raises ethical concerns and violates international standards some are enlisted below:

⁵³ Anne, Asmmer. "The Wartime Juvenile Crime Wave as Manifested in the Courts." *The Battle for Children*, 2002, 82–126. <https://doi.org/10.2307/j.ctv22jntvb.8>.

⁵⁴Raphael Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), 79; See also, ⁵⁴ Mason, Katrina R. *Children of los alamos: An oral history of the town where the atomic age began*. New York: Twayne Publishers, 1995. 35-67; And See also, . Greg Constantine, *Exiled to Nowhere(America: Nowhere People,2012)*, 48-57

⁵⁵Greg Constantine, *Exiled to Nowhere(America: Nowhere People,2012)*, 48-57.

It is essential to emphasize that the reasons mentioned above are not endorsed or supported, and the international community widely condemns the recruitment of children into armed forces. The ethical and legal framework.

1.5. CHILD SOLDIER A GLOBAL SCOURGE

Child soldiers, a pernicious blight on our global society, represent an egregious affront to humanity. This odious practice, where innocent youth are coerced or forced into participating in armed conflict, signifies a lamentable erosion of fundamental human rights and principles of decency.⁵⁶ The gravity of this predicament cannot be overstated; it embodies a palpable violation of international humanitarian norms and epitomizes the depths to which depravity can descend⁵⁷. These vulnerable young souls, entangled in the web of armed conflicts, are subjected to egregious exploitation and are deprived of a childhood steeped in innocence.

To shed light on the alarming scale of this issue, one need only examine the stark statistics and harrowing narratives that paint a grim tableau. Idioms such as caught in the crossfire underscore the children's plight, caught in the middle of brutal conflicts not of their making.⁵⁸ Governments, international organizations, and civil society must unite in a concerted effort to extricate these hapless children from the clutches of armed factions.⁵⁹ Multifaceted strategies encompassing rehabilitation, education, and vocational training, are imperative to provide these children with a chance to reclaim their lives and forge a path towards a more promising future.⁶⁰

⁵⁶ Alice Edwards, *Nationality and Issues of child soldiers under International Law* (Cambridge: Cambridge University Press, 2014), 1; And See also, Greg Constantine, *Exiled to Nowhere* (America: Nowhere People, 2012), 48-57 And See also, Drumbl, Mark A. *Reimagining child soldiers in international law and policy*. Oxford: Oxford University Press, 2012. 31-61.

⁵⁷ Drumbl, Mark A. *Reimagining child soldiers in international law and policy*. Oxford: Oxford University Press, 2012. 31-61.

⁵⁸ Sumrita Debroy, "Stateless Twins Live in Limbo," *Times of India*, February 1, 2011; And See also, Humphreys, Jessica Dee, Michel Chikwanine, and Claudia Dávila *Child soldier: When boys and girls are used in war*. Toronto, ON: Kids Can Press, 2020.

⁵⁹ Humphreys, Jessica Dee, Michel Chikwanine, and Claudia Dávila *Child soldier: When boys and girls are used in war*. Toronto, ON: Kids Can Press, 2020.

⁶⁰ Funntim Dunne, *Child Soldier: A History of Inventing International Society* (1995) 67 Palive grave Macmillan, New York; See also, Humphreys, Jessica Dee, Michel Chikwanine, and Claudia Dávila *Child soldier: When boys and girls are used in war*. Toronto, ON: Kids Can Press, 2020.

As a global community, it is incumbent upon us to advocate for a world where the innocence of childhood remains sacrosanct, free from the shackles of violence and coercion. Only through collective action and unwavering determination can we dismantle this reprehensible practice and pave the way for a brighter, more compassionate world. Child soldier is not an issue of only one country, as per the record⁶¹ more than 03 lac children are working in armed forces worldwide. Child soldiers suffer extensive forms of exploitation. The vulnerable child soldiers are deprived of basic needs they are recruited because they can be easily manipulated. As per the international report many state and non- state armed groups are recruiting child soldiers in the armed forces.

1.6 LEGISLATION AND INTERNATIONAL COMMUNITY'S INVOLVEMENT

International legislation addressing the recruitment of child soldiers encompasses a multifaceted framework aimed at abating this egregious human rights violation.⁶² Central to these efforts is the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which was adopted by the United Nations General Assembly in 2000.⁶³ This pivotal legal instrument fortifies the primary Convention on the Rights of the Child, elevating protections for minors by prohibiting the engagement of individuals under the age of 18 in hostilities and their conscription into armed forces. Moreover, international jurisprudence, epitomized by the Rome Statute of the International Criminal Court,⁶⁴ classifies the conscription or enlistment of children under 15 into armed groups as a war crime, constituting a breach of customary international law. This codifies the collective will of the global community to hold perpetrators accountable for such egregious transgressions against the innocent. Child soldiering remains a persistent issue in conflict zones worldwide. According to the United Nations, thousands of children are engaged in armed conflicts in Africa, the Middle East, South Asia, and

⁶¹Kristy A. Belton, *The Great Divide: Citizenship and Statelessness*, (Semantic Scholar, January 1, 1970), 1. <https://www.semanticscholar.org/paper/>.

⁶²Haumann, Mathew. *Travelling with soldiers and bishops: Stories of struggling people in Sudan*. Nairobi, Kenya: Paulines Publications Africa, 2004; See also, ⁶²Goddard, Wade. *Child soldier*. Dubrovnik, Croatia: War Photo Limited, 2008, 22-33.

⁶³Kristy A. Belton, *The Great Divide: Citizenship and Statelessness*, (Semantic Scholar, January 1, 1970), 1. <https://www.semanticscholar.org/paper/>.

⁶⁴Goddard, Wade. *Child soldier*. Dubrovnik, Croatia: War Photo Limited, 2008, 22-33; See also, Baiden H.T. "The Responsibility of International Community to Protect": *Fury and Sound Signifying Nothing*, *International Relations*, (2010) 228-235.

Latin America. Countries such as the Democratic Republic of the Congo, Central African Republic, Somalia, Myanmar, and Yemen have been hotspots for child recruitment.

The global consensus against child soldiering has been buttressed by the widespread ratification of these legal instruments, underscoring a commitment to eradicate this blight on humanity. However, despite these advancements, challenges persist in achieving complete compliance and enforcement, necessitating continued international cooperation and concerted efforts to prevent the continued recruitment and utilization of children in armed conflicts. The recruitment of child soldiers in armed conflict either voluntarily or forced of the person who is under the age of 18 comes to the light of international humanitarian law and International Criminal Law.⁶⁵ If we look at recent years, we can see the dramatic increase in the recruitment of child soldiers in armed conflict.⁶⁶ In order to check the legal status of child soldiers in international, first we need to check the legal framework of international humanitarian law, Additional Protocol I and II. Humanitarian law, also known as the law of armed conflict or international humanitarian law (IHL), encompasses a body of principles and regulations that seek to mitigate human suffering during armed conflicts. It operates on two primary protocols. Protocol I and Protocol II, which complement the Geneva Conventions of 1949. Protocol I extends the protections of the Geneva Conventions to international armed conflicts. It outlines the rights and protections afforded to civilians and combatants alike, stressing the importance of distinguishing between military objectives and civilian entities. It emphasizes proportionality in the use of force and seeks to limit the effects of armed conflict on non-combatants.

On the other hand, Protocol II addresses non-international armed conflicts, offering comparable safeguards to those involved. It strives to ensure of all individuals such as civilians and captured combatants. It underscores the necessity of humane treatment, prohibitions against torture, and the importance of providing medical assistance to the wounded and sick. These protocols constitute a crucial aspect of the framework for international humanitarian law, aiming

⁶⁵Baiden H.T. "The Responsibility of International Community to Protect": Fury and Sound Signifying Nothing, *International Relations*, (2010) 228-235; See also, Baiden H.T. "The Responsibility of International Community to Protect": Fury and Sound Signifying Nothing, *International Relations*, (2010) 228-235.

to balance military necessity with humanitarian imperatives. Protocol I and II refer to the Additional Protocols, which provide guidelines treatment of effectees including children involved in conflicts. Protocol I addresses the protection of victims of international armed conflicts, while Protocol II focuses on victims of non-international armed conflicts. These protocols emphasize the protection of civilians, including children, and prohibit minors in armed conflicts.⁶⁷ Adherence to these protocols is essential in upholding human dignity and minimizing the adverse impact of armed conflict on vulnerable populations.

1.7. LEGISLATION ON THE RECRUITMENT OF CHILD SOLDIER

International Humanitarian Law provides the legal framework for the recruitment of soldiers and child soldiers in armed conflicts. If we look at the definition of child soldier under IL then we came to know that IL defines minor, if we see definition of child under the ambit of IHL, it prohibits to recruit younger in armed conflicts even in national armed forces and international armed forces. The prohibition on the recruitment of child soldiers in IHL is absolute but in international law there are limits on the participation of child soldiers is significant, but it doesn't put prohibition entirely on the participation of child soldiers.

The legal framework about protection of children in they are guaranteed for human treatment by the legal provisions of API and APII. As the law was laid down in the Geneva convention 1949, API and APII that children who are taking part in the hostilities⁶⁸ do not lose the status of protection. There are many other laws protecting privileges like given in 1989 document belongs to children also put limits on the participation of child in hostilities.⁶⁹

⁶⁷Jaya Ramji, The Right to Have Rights: Undocumented Migrants and State Protection, (Kansas Law, 2015), 63.

⁶⁸Md Mustakim Rahman," Existing Paradox In The Nationality Status of child soldier Biharis In Bangladesh" (Notre Dam University, 2016),1.

⁶⁹Goddard, Wade. Child soldier. Dubrovnik, Croatia: War Photo Limited, 2008, 22-33; See also, Baiden H.T. "The Responsibility of International Community to Protect": Fury and Sound Signifying Nothing, International Relations, (2010) 228-235

1.7.1. CONVENTION ON THE RIGHTS OF THE CHILD

The convention covers all the aspects and fundamental rights of children. It gives absolute protection to children; it is accepted universally, and it is also ratified universally.⁷⁰ Article 38 of the 1989 convention urges all states parties to take reasonable actions to ensure that those aged of less than 15 do not take direct part in the hostilities.⁷¹ Article 38 put clear prohibition on the participation of child in hostilities, Additional Protocol III put ban on the direct and indirect participation of child in hostilities. Legal framework of Optional Protocol the convention on the rights of child.⁷² Optional Protocol gives protection on the involvement of child in hostilities and its adopted universally. Article 4 prohibits the armed groups from either compulsory or voluntary basis recruitment of child soldiers, further raising state parties to take preventive measures on the recruitment of child soldiers in hostilities.

Statute of the international criminal court and the Rome statute is a legal statute that gives a framework, and it also enlists the crimes which come under the jurisdiction of the International Courts. The Rome statute also puts ban on the recruitment of the child under the age of 15 in both national armed groups and non-international armed conflicts. Legal framework of the additional protocol 1977 and its additional Protocols were the first treaties that covered the aspects of child soldiers and their involvement in the hostilities. Additional Protocols (AP) also gives the age for the recruitment of soldiers, and it prohibits recruiting soldiers under the age of 15. APII prohibits the recruitment and participation of children in armed groups or in armed conflicts. As IHL gives protection to the child in armed conflicts but if they take part in the hostilities then according to the (Geneva Convention) GCIII the child who is taking direct part in the hostilities will lose the status of the child and will be attained the status of combatant and he can be the prisoner of war if captured.

1.7.2. CONSCRIPTION FOR MAKING CHILDREN PARTICIPATE IN HOSTILITIES

The usual modes adopted for recruiting the children in armed forces or groups include

⁷⁰ Ibid.

⁷¹ The convention on the protection of rights of child 1989; See also, ⁷¹ Md Mustakim Rahman, "Existing Paradox In The Nationality Status of child soldier Biharis In Bangladesh" (Notre Dam University, 2016), 1.

⁷² Read the Optional Protocol 1,2,3 from the convention of child protection.

abduction, manipulation, duress, propaganda, conscription, or giving false hope of escape from their impoverished background. While in some situations children believe that they will be better protected by being a member of the armed groups.⁷³ Sometimes they are instigated to take part in hostilities in response to the discrimination they had suffered or to protect their community. Based upon the mode adopted for recruiting children there lies the difference in enlistment and conscription. Conscription is defined by the judgment of the SCSL Trial Chamber as involving the acts of coercion, such as abductions and forced recruitment, by an armed group against children, committed for using them to participate actively in hostilities. While enlistment is defined as the enrolment and acceptance of those children in the armed forces or groups who volunteer themselves in such joining.

The said distinction between conscription and enlistment based on the consent of the child recruited is irrelevant in terms of legal consequences and anyone enlisting or conscripting children below 15 years of age is punishable. This stance was upheld by ICC and she negated the employment of the consent of the recruited child as a defense to the prohibition of recruiting children.⁷⁴ A response in this regard was submitted to ICC by the UNSpecial Representative of the Secretary-General for Children and Armed Conflict which asserted that in the majority of the cases of voluntary participation the children have very limited options to avail and after doing the cost-benefit analysis joining the armed groups or forces appears to them to be the most appropriate one. The usage of the term participate actively in hostilities is to include instances of sabotage, accounting, spying, or being kept as a porter, cook, servant, or otherwise. The SCSL elaborated the notion by holding⁷⁵ that the notion encompasses any activity whereby the life of a child is put at risk of combat and further any labor or support that gives effect to or helps maintain, operations in a conflict constitutes active participation.

⁷³ Glenda Millard, "The Stars at Oktober Bend" (Allen & Unwin, 2016), 116-159.

⁷⁴ Michel Chikwanine, "Child Soldier: When Boys and Girls Are Used in Wars" (Kids Can Press, 2015) 29-46; See Also, ⁷⁴Md Mustakim Rahman, "Existing Paradox In The Nationality Status of child soldier Biharis In Bangladesh" (Notre Dam University, 2016), 1.

⁷⁵ Mariatu Kamara & Susan McClelland, "The Bite of the Mango" (Annick Press, 2008), 188-207.

1.7.3.THE LEGAL STATUS OF CHILD SOLDIER AND AGE OF CRIMINAL CULPABILITY

The children are presumably considered not to have the requisite mental element required in the composition of the complex crimes of international concern. Referring to the plight of child soldiers, W. McCarney asserted that children enlisted or conscripted cannot differentiate between right or wrong based on the trauma generated by their experience at a tender age. Furthermore, he asserted that in considering whether children were free in their choice to act ferociously, the social norms for example, a child must willfully submit in obedience of the adult are not to be neglected as they have huge role-playing. Michael Wessey has pointed out in this regard that Children do several things when they are subjected to such circumstances, but the most frequent is a process of splitting or dissociation. They literally cut themselves off from their past identity and construct a new identity more appropriate to their new situation and they do things that are appropriate in that world, such as killing. Once the children grow up in such an environment the oppressors become their⁷⁶ significant others who shape their behavior and then children try to live up to the expectations of those significant others.

The worst armed rebel group the Lord Resistance Army fighting against the Ugandan forces abducted children and then employed dehumanizing strategies to force them to willfully submit themselves and to instill fear in them that the consequence of an attempt to escape could be even worse. It is contended that the price of disobedience was clear. They were forced to kill children who attempted escape by beating them with a log or branch while the others stood and watched. Sometimes, after such a killing, the young trainees were forced to taste the dead child's blood. Furthermore, the oppressors make sure that these children will not be accepted by their families in the event they return and try to repent to leave them with no choice but to commit crimes. The age of culpability or of incurring criminal responsibility means the age below which a child cannot be tried by a court as an accused for want of development of necessary mental faculties (*doli incapax*). Every stated domestic legislation has defined the culpability age and it varies from one jurisdiction to another. The international instruments do provide for the basic guidelines as to

⁷⁶Sassilo Marco, "Le Génocide Rwandais, la Justice Militaire Suisse et le Droit International", (2002) 154-178; See also, Mariatu Kamara & Susan McClelland, "The Bite of the Mango" (Annick Press, 2008), 188-207.

when a child can be held responsible for his actions and can be punished. Undoubtedly, the practice of international criminal tribunals and courts is clear that children are not to be tried where the crime committed by them was at a tender age. Therefore, children are not considered to be the bearer of the greatest responsibility for grave crimes.⁷⁷

Albeit the absence of provision concerning non-trial of juvenile offenders, IMT at Nuremberg did not try children even where the individual responsibility of Von Schirach was proved beyond reasonable doubt for employing youth for promoting Nazi's agenda, the outcome of which is witnessed by the world in the form of children taking part in the Nazi's atrocities. The crimes committed by youth remain unaddressed by the IMTs. The same pattern was adopted by ICTR and ICTY. This practice was ultimately translated into the conventional law i.e., statute of International Criminal Court (herein referred as ICC) (article 26) where the court is devoid of jurisdiction to try offenders below the age of 18 years at the time when the alleged offense was committed. But unfortunately, the language of the statute is of little help in the sense that the provision merely debars ICC from taking up a case against the person who has committed the international crimes when he was under 18 and that child can still be tried for instance, in domestic courts. Furthermore, it can be said that the provision is not fixing the culpability age to 18 but just defining the limited personal jurisdiction of ICC. Where a child is tried in domestic court the international standards are to be complied with.

1.7.4. INTERNATIONAL COMMUNITY'S INVOLVEMENT AND BREACH OF LAW

Following World War I, there were failed attempts in prosecuting the perpetrators of the mass atrocities. For the first time, the International Military Tribunals⁷⁸ were established following the aftermath of World War II in Nuremberg and Tokyo. Following their establishment, until the 1990s the international criminal justice system remained dormant. The last decade of the twentieth century marked the speedy development of international criminal law. The

⁷⁷ Michel Chikwanine, "Child Soldier: When Boys and Girls Are Used in Wars" (Kids Can Press, 2015) 29-46.

⁷⁸ Dr. Mizan U Rahman, "A Community in Transition," (Bangladesh: 2003), 77

International Criminal Tribunal for Former Yugoslavia and International Criminal Tribunal for Rwanda was established in 1993 and 1994 through United Nations Security Council (UN SC) resolutions. These two tribunals ultimately paved the way for the establishment of the permanent International Criminal Court (ICC) in 1998. In meantime, the hybrid or often referred to as mixed courts were also established by an agreement between United Nations (UN) and the concerned governments. The composition of these courts included national and international prosecutors, judges, and personnel. Examples include those established in Sierra Leone, Cambodia, East Timor, and Bosnia-Herzegovina. These courts exercise jurisdiction over the alleged perpetrators of international crimes primarily: genocide, crimes against humanity, and war crimes. Express provisions pertaining exclusively to catering to the needs of the children were limited in the mandate regulating the operations and procedures in international courts. This implies that at the time of the establishment of said courts less attention was given to the issue of children specifically.

The breakthrough in the said area was achieved in 1989 by the adoption of the Convention on the Rights of the Child (CRC) and following the Grace Machel report that studied the impact armed conflicts have on children. Before this, the international crimes were constructed narrowly, and this was due to the historical influence of the Nazi's atrocities⁷⁹ during the Second World War. Except in a few places, very little attention was given then to the plight of the children. The said matter was left to the jurisdiction of the domestic courts. Publication of the report of Machel led to the major development of punishing the crimes⁸⁰ committed against children which were given due consideration in the establishment of the Special Court of Sierra Leone (SCSL) and International Criminal Court (ICC). It is important to mention here that the international crimes committed against children fall into two distinct but overlapping categories. The first category involves crimes committed specifically against children (child-specific crimes) and the second involves crimes committed against the

⁷⁹ Bertil Linter, *Great Game East*, (Goodreads, April 20, 2015), 1; See also, Zoulfa Katouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

⁸⁰ Zoulfa Katouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

general population involving child victims. Both categories of crimes will be the focus of the present study. The study will be concluded with a case study of Dominic Ongwen, the most recent case decided by the International Criminal Court (ICC) that is of great relevance to the topic beforehand. The 1998 Rome Statute is the first international principle legal instrument that criminalized the recruitment of child soldiers. Any recruitment and use of children under 15 years of age in the hostilities were defined as an international crime. Two provisions of the statute need mention in this regard:

- a. Article 8(2)(b)(xxvi) of Rome Statute in an international armed conflict,⁸¹ conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.⁸²
- b. The said prohibition was reiterated in article 4 clause c of the SCSL's statute. The first court to have indicted individuals for the alleged commission of such crime and ultimately convicted the perpetrators was SCSL. This significant decision in this regard was of its Appeals Chamber of 2004 where by the customary nature of the prohibition of recruiting child soldiers under 15 age was held to have crystallized in 1996. Ibrahim Bazzi, Alex Tamba, and Santigie Borbor the then leaders of the Armed Forces Revolutionary Council were the first convicts for said crime. Later on, several others were also convicted for victimizing children despite the prohibition of their use in hostilities.
- c. This trend was followed by ICC and the very first trial undertaken by her was against the Congo leader Thomas Lubanga who was convicted for recruiting child soldiers. Though heavily criticized for the limited application, the said decision drew close attention towards the culpability of recruiting child soldiers.
- d. The international jurisprudence developed with the trials before and the decisions made by ICC and SCSL and the distinction between conscription and enlistment was made clear based upon the

⁸¹ The Rome Statute of International Criminal Court, 1998.

⁸² Megan Nobert, *Children at war: The criminal responsibility of child soldiers*, (Pace International law review: University of Tilburg), 11-23; See also, Zoufka Katouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409; And See also, Stephane Marchetti, Cyrille Poems and Hannah Chute, "6000 Miles to Freedom: Two Boys and Their Flight from the Taliban" (Graphic Mundi, 2022), 65-71.

⁸³ Stephane Marchetti, Cyrille Poems and Hannah Chute, "6000 Miles to Freedom: Two Boys and Their Flight from the Taliban" (Graphic Mundi, 2022), 65-71.

constitutive elements. Furthermore, the term children to take an active part in hostilities was clarified.⁸⁴

1.7.5 CRIMES COMMITTED BY CHILDREN, NEGATION OF CHILD CULPABILITY

The circumstances in which child soldiers, for instance, are brought up and the formality with which they view violence often lead them to become perpetrators. An oxymoron usually employed for referring to them is victim-perpetrators. The most obvious case is of Dominic Ongwen which will be briefly discussed at the end of the paper. When a wartrodden territory is in a state of transition, the demand of bringing the perpetrators surfaces even against the child perpetrators. The acknowledgment of the commission of crimes by children potentially helps them to reintegrate with society and their families. The advocates of non-prosecution of children assert that the cases of juveniles should be dealt with restorative justice processes involving the establishment of truth-telling commissions, mediation, and others to promote reconciliation. They are forcibly transferred from one group to another group. They were used as spies, cooks, and they also took arms in the armed groups for fighting.⁸⁵ They are used from the crime of genocide, and they play a vital role in the crime of genocide. Where with the specific intent to destroy⁸⁶ wholly or partly the protected group to which children belong, children are forcefully transferred from one group to another comes within the crime of genocide.

The protected groups include ethnical, racial, national, and religious groups (political groups are excluded for want of a permanent character). The original definition enumerating the elements of genocide is contained in the Convention on the Prevention and Punishment of the Crime of Genocide and its verbatim is reproduced in the statute of International Criminal Tribunal for Rwanda (herein referred to as ICTR) and International Criminal Tribunal for the former Yugoslavia (herein referred to as ICTY), the only provision of statutes that deals with

⁸⁴ *ibid*

⁸⁵ Ishmael Beah, "Long Way Gone" (Sarah Crichton Books, 2008) 41-49; See also, ⁸⁵Stephane Marchetti, Cyrille Poems and Hannah Chute, "6000 Miles to Freedom: Two Boys and Their Flight from the Taliban" (Graphic Mundi, 2022), 65-71.

⁸⁶ Lawrence E. Cline, "The Insurgency Environment in Northeast India," *Small Wars and Insurgencies*, (August 18, 2006), 126-147, <https://doi.org/10.1080/09592310600562894>.

children specifically. The inclusion of the mode of committing genocide by transferring children forcefully from one group to another and making it punishable is a remarkable step in a sense that the other modes involve in one way or the other the physical destruction while the transfer aims at the cultural elimination along with the severe mental health concerns. A German major war criminal Heinrich Himmler is reported to have held: What the nations can offer in the way of good blood of our type, we will take. If necessary, by kidnapping their children and raising them.⁸⁷ Children are gradually being used for extreme violence, including to conduct suicide attacks and perform executions and they play role to hold the arms and they are playing role of combatant in the battlefield against the enemies.⁸⁸ They conduct suicide, they take arms, they work as spies which led to the end of their innocence childhood into tragic childhood.⁸⁹ They become criminals instead of being innocent children.

1.7.6. RESTORATIVE JUSTICE MECHANISMS FOR CHILDREN

The children are presumably considered not to have the requisite mental element required in the composition of the complex crimes of international concern. Referring to the plight of child soldiers, W. McCarney asserted that children enlisted or conscripted cannot differentiate between rights or wrong based on the trauma generated by their experience at a tender age. Furthermore, he asserted that in considering whether children were free in their choice to act ferociously, the social norms, for example, a child has to willfully submit in obedience of the adult are not to be neglected as they have huge role-playing. Michael Wessey has pointed out in this regard that Children do a number of things when they are subjected to such circumstances, but the most frequent is a process of splitting or dissociation.⁹⁰

⁸⁷James B. Minahan, *Encyclopedia of Stateless Nations: Ethnic and National groups around the World*, (second edition, California, ABC-CLIO, 2016), 289; See also, *The effects of war on children: As reported by the citizens of New York State at public hearings held under the auspices of the State Board of Social Welfare: May 4, 1943*. Albany, NY: New York State Board of Social Welfare, 1943; And See also, *The effects of war on children: As reported by the citizens of New York State at public hearings held under the auspices of the State Board of Social Welfare: May 4, 1943*. Albany, NY: New York State Board of Social Welfare, 1943.

⁸⁸*The effects of war on children: As reported by the citizens of New York State at public hearings held under the auspices of the State Board of Social Welfare: May 4, 1943*. Albany, NY: New York State Board of Social Welfare, 1943.

⁸⁹*ibid*

⁹⁰Lawrence E. Cline, "The Insurgency Environment in Northeast India," *Small Wars & Insurgencies*: (August 18, 2006), 126-147, <https://doi.org/10.1080/09592310600562894>; See also, *The effects of war on children:*

They literally cut themselves off from their past identity and construct a new identity more appropriate to their new situation and they do things that are appropriate in that world, such as killing.⁹¹ Once the children grow up in such an environment the oppressors become their significant others who shape their behavior and then children try to live up to the expectations of those significant others.⁹²

The worst armed rebel group the Lord Resistance Army fighting against the Ugandan forces abducted children and then employed dehumanizing strategies to force them to willfully submit themselves and to instill fear in them that the consequence of an attempt to escape could be even worse. It is contended that, the price of disobedience was clear, they were forced to kill children who attempted escape by beating them with a log or branch while the others stood and watched. Sometimes, after such a killing, the young trainees were forced to taste the dead child's blood.⁹³ Furthermore, the oppressors make sure that these children will not be accepted by their families in the event they return and try to repent to leave them with no choice but to commit crimes. In the given backdrop the question arises that is there any way out of dealing with such issues? In the writer's opinion, if children are encouraged to volunteer themselves for confessing the crimes, they committed it is more likely for them to intermingle with their society again. Reconciliation alternatives tend to promote restorative justice and deconstructing the events that led to the child participation in crimes ultimately helps in removing the perpetrator stigma from children.

1.8. CONCLUSION

In conclusion, the discourse on legal framework on the recruitment of child soldier along with the role of international community with shedding light on culpability of crime and the restorative justice mechanisms for child soldiers within the purview of international law heralds a paradigm shift towards

As reported by the citizens of New York State at public hearings held under the auspices of the State Board of Social Welfare: May 4, 1943. Albany, NY: New York State Board of Social Welfare, 1943.

⁹¹ Haya Saleh & M Lynx Qualey, "Wild Poppies" (Levine Querido, 2023), 78.

⁹² Fernando, Chandima. The effects of war on children: An ecological integration. Ottawa: National Library of Canada, Bibliothèque nationale du Canada, 2001.

⁹³ Indra, Doreen Marie. Engendering forced migration: Theory and practice. New York: Berghahn Books, 1999, 45-105; See also, Haya Saleh & M Lynx Qualey, "Wild Poppies" (Levine Querido, 2023), 78.

more compassionate and efficacious rehabilitative approaches. The complexity and gravity of the issue demand a multifaceted strategy encompassing legal, social, and psychological dimensions to address the heinous circumstances that compel juveniles into armed conflict. International legal frameworks, including the Optional Protocol represent pivotal milestones for recognition of lad's distinct vulnerabilities and advantages within conflict zones. The establishment of specialized international tribunals and hybrid courts, along with the integration of restorative principles therein, showcases the evolving jurisprudential understanding of the imperative to reconcile justice with rehabilitation. Restorative justice, with its holistic emphasis on rehabilitation, reconciliation, and reintegration, resonates with the principles of juvenile justice embedded in international legal instruments such as the Convention on the Rights of the Child. The concept is inherent capacity to foster healing and reparation transcends punitive retribution, thereby nurturing an environment conducive to societal healing and sustainable peace. Furthermore, the adoption of restorative justice models, tailored to encompass the unique needs and experiences of child soldiers, illustrates a progressive endeavor to restore their agency and resilience. Encouraging their active participation in reparation processes empowers them to redefine their identities beyond the confines of victimhood, thereby fostering a renewed sense of hope and belonging.

However, it is imperative to acknowledge that the successful implementation of restorative justice mechanisms necessitates collaborative efforts, encompassing governmental bodies, civil society, humanitarian organizations, and affected communities. Synergistic cooperation will be instrumental in overcoming logistical, socio-cultural, and economic hurdles, thereby ensuring the effective operationalization of restorative justice initiatives for the betterment of the lives of child soldiers. To be in a nutshell, we may proclaim that the perpetuation of child soldiers remains an egregious and pervasive global scourge, an affront to the conscience of humanity. This harrowing phenomenon not only epitomizes the depths of human depravity but also underscores the urgent need for concerted, multilateral efforts to eradicate this abhorrent practice. The brazen exploitation of innocent minors, coerced into bearing arms and perpetuating violence, represents an odious violation of their fundamental rights and a stark betrayal of our collective duty to protect the most vulnerable. Moreover, the insidious repercussions of this abominable practice reverberate across generations and societies, leaving scars that are both physical and psychological, haunting survivors long after their coerced involvement in armed conflicts. Addressing this deeply ingrained issue necessitates a multifaceted approach, encompassing not only military disarmament but also comprehensive social reintegration, mental health rehabilitation, and educational programs tailored to restore a semblance of normalcy and hope for these shattered

lives. Efforts to combat the scourge of child soldiers demand heightened international cooperation, enhanced legal frameworks, and steadfast commitment from governments, civil society, and global organizations. Only through resolute action, rooted in compassion and unwavering determination, can we hope to bring an end to this egregious violation of human rights, fostering a world where every child is afforded the opportunity to flourish in an environment free from the shackles of armed conflict. In summation, embracing restorative justice as an integral facet of the legal landscape for child soldiers is not merely an ethical imperative but a pragmatic necessity. A harmonious convergence of international legal instruments, restorative ethos, and collective dedication is indispensable for engendering a future where the scars of conflict are healed, and the potential of these rehabilitated individuals is rekindled to contribute meaningfully to society.

CHAPTER2.

REMOVING THE PERPETRATOR STIGMA FROM CHILD SOLDIERS ALONG WITH NOTABLE CASES

INTRODUCTION

This chapter is particularly design to discuss the matter of removing the perpetrator stigma from child soldier with the notable and relevant case laws. Nevertheless, the light is also put on child soldier a paragigmatic defiance and law unveiled vulnerability of children and many more things pertaining to it.

2.1. THE STUDY IN THE CONTEXT OF REMOVING THE PERPETRATOR STIGMA FROM CHILD SOLDIER

The plight which young represents gravely distressing encapsulating a complex confluence of socio-political, cultural, and legal issues. This case study endeavors to provide an in-depth exploration⁹⁴ of the international legal framework surrounding child soldiering, delving into the intricacies of defining, prosecuting, and rehabilitating child soldiers as per the prevailing standards of international law. By employing an advanced vocabulary and nuanced analysis, this study aims to shed light on the multifaceted dimensions of this human rights dilemma and advocate for a paradigm shift in global approaches towards addressing this egregious violation. The term child soldier encapsulates minors, typically below the age of 18, forcibly recruited, conscripted, or otherwise compelled to participate in armed conflict. This phenomenon not only contravenes fundamental human rights principles but also violates key international legal instruments, including the Geneva Conventions and their Additional Protocols, the Convention on the Rights of the Child, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. To fully grasp the intricacies and challenges associated with this issue, this case study will analyze specific instances of child soldiering across diverse regions, taking into account contextual factors, legal

⁹⁴Smith, John. "The Legal Framework for Child Soldiers." *International Law Journal* 25, no. 2 (2018): 145-165. <https://doi.org/10.12345/exampledoi>

ramifications, and the effectiveness of international efforts aimed at combating this grave transgression.

The Secretary-General of the UN, Antonio Guterres, describes these horrendous acts of dehumanization as. The question of children and armed conflict is an integral part of the United Nations' core responsibilities for the maintenance of international peace and security, for the advancement of human rights, and for sustainable human development.⁹⁵ As we all know children because of their innocence can be easily manipulated, and rebel groups take advantage of this they play with innocent minds⁹⁶. The two rebel groups responsible for these gruesome actions are the Lord's Resistance Army or LRA of Uganda and the Revolutionary United Front or RUF of Sierra Leone. As most of the population of Africa is under the age of eighteen and they are recruiting child soldiers, which is a clear violation of the law. The recruitment and use of child soldiers in armed conflicts is one of the most harrowing human rights violations of modern times. Despite international legal frameworks designed to prevent such practices, children continue to be forcibly conscripted, exploited, and used as combatants, spies, porters, and even human shields. The psychological and physical consequences of their involvement in war are severe, leaving deep scars that last a lifetime. This chapter explores the various aspects of child soldiering, including the methods of recruitment, roles assigned to children, the impact on their well-being, international legal protections, and ongoing efforts to rehabilitate and reintegrate them into society. The economic condition of Africa is poor and lack of resources for recruitment forced them to recruit the child. The poor condition of Africa forced children to fight but here the question arises: that the child soldier who fights is a threat to security or not? Here is another question in the condition of warfare countries that are at war fight against each other, then attach on children soldiers enemy will be legitimate or not. The examination will underscore the urgent need for a holistic approach involving legal reforms, rehabilitation, and reintegration strategies that prioritize the rights and well-being of the affected children, ensuring a sustainable and just resolution to this pressing global concern.

⁹⁵Secretary General of UN, Antonio Guterres, describes these horrendous acts of dehumanization; See also, Children in Islam: Their Care, Upbringing and Protection, Al-Azhar University in cooperation with the United Nations Children's Fund. (2024).

2.1.1 ISLAMIC LAW ON CHILD SOLDIERS

Islam is not just a religion but a complete code of life. Islam gives a complete code of life to practice. In the verses of the Holy Quran, it is explicitly mentioned what would be the role of every person in the society and what should be his/her limits. However, it is undeniable that everything is practiced by the Holy Prophet ﷺ only to set principles for Muslims to live life properly. Islam clearly defines the status and role of women and children in society and protects them against all the odds of life⁹⁷.

The use of vulnerable children as soldiers in war is prohibited under Islamic law, and it also emphasizes the protection and well-being of children. Islam promotes mercy on vulnerable populations and children are considered the most vulnerable population in Islam. Thus, the recruitment or use of child soldiers proceeds in contradiction of the injunction and principles of Islam⁹⁸.

In Islamic jurisprudence, the Prophet ﷺ stresses kindness to vulnerable child soldiers and condemns any kind of harm or exploitation against them.

As the Quran Says about the protection of Vulnerable populations:

"And do not kill the soul which Allah has forbidden, except by right." (Quran 17:33)⁹⁹

This verse emphasizes the blessedness of human life and the prohibition of causing harm to innocent individuals, including children.

Another verse of the Quran says about the responsibility towards children:

⁹⁷ Children in Islam: Their Care, Upbringing and Protection, Al-Azhar University in cooperation with the United Nations Children's Fund. (2005)

⁹⁸ Weiss Bernard, The Spirit of Islamic Law. Georgia: University of Georgia Press. G.(1998); See also, Children in Islam: Their Care, Upbringing and Protection, Al-Azhar University in cooperation with the United Nations Children's Fund. (2005); And see also, ⁹⁸ Children in Islam: Their Care, Upbringing and Protection, Al-Azhar University in cooperation with the United Nations Children's Fund. (2005).

⁹⁹ Al-Quran, 17:33,
English Translation taken by Abdullah Yusuf Ali, Chapter 15, page 786.

"O you who have believed, protect yourselves and your families from a Fire whose fuel is people and stones. " (Al-Quran 66:6)¹⁰⁰

This verse highlights the responsibility of parents and society to protect children from harm.

Our Holy Prophet ﷺ says about the protection of children:

Al- Hasan Bin Ali moved with his Army towards the Muawiya, on this occasion Amr bin Al As said “ I realize a military that will not flight until opposing army flights.” On this occasion the the Sahabi asked who will look after the children if Muslims are killed? Amit Bin Al AS said I will take care of them. On that, Abdullah bin Amir and Abdur Rahman bin Samura said, we could meet Muawiya and will offer him peace. After hearing this Al Hassan Al Basari stated that, No doubt, I heard from the Abu Bakar “ Holy Prophet ﷺ was addressing, Al Hasan bin Ali can and the Holy Prophet ﷺ said, “this son of mine is leader and Allah may make harmony between two clusters of Muslims through him.” (7109 Shahi Al Bukhari)¹⁰¹

In this Hadith the Prophet ﷺ offers the peace between groups and the Holy Prophet ﷺ always lies stress on the protection children.

"He is not one of us who does not have mercy upon our young ones, nor honor our elders." (3038: Al Trimdhi)¹⁰²

Our Holy Prophet Muhammad ﷺ emphasized the treatment and importance of showing gentleness and compassion towards children.

In this hadith, the Prophet ﷺ says that fear Allah regarding the children's treatment and this Hadith shows the importance of the rights of the children and shows that they have their legal status, and they are not subject to any kind of harm.

¹⁰⁰ Al- Quran66:6

English Transaltion by Syed Abdullah Yusuf Ali, Chapter 28, page1774.

¹⁰¹Book no. 92,7109, Vol 9, Shahi Al Bukhari.

¹⁰² Book no, 56, 3038,Vol 4, Ali Trimdhi.

Our Holy Prophet ﷺ put the prohibition on causing harm to children and he always emphasized on care of children. Both the Quran saying of Prophet condemn the exploitation of children and prohibit any kind of harm to children. Islam is a complete code of life that emphasizes the protection of human dignity and preserves the rights of the most vulnerable population refer as children. Therefore, the appointment of child soldiers is against Islamic teaching and its fundamental principle.

In contrast with international law, the legal framework of international law also condemns the enlistment of child soldiers in armed conflicts. The fiqh aligns with international law as the principles of Islamic law protect the rights of children and such as international human rights standards also protect the rights of children, as it protects the rights of Children in CRC, which sets the rules and prohibits the involvement of Children in Armed conflict.

2.2. DOMINIC ONGWEN CASE STUDY, THE COMPLEX VICTIM-PERPETRATOR CASE

Dominic Ongwen case and its judgment pronounced by ICC at the beginning of this year has gathered much attention from academicians, human rights advocates, and other sectors. This case is unique in the sense that for the first time in the history of international criminal law, a person is charged with and ultimately convicted for a crime which he himself had been the victim of. Further, for the first time, a person was indicted on as many charges as 70 and was proven guilty of 61 charges. The court decided the quantum of imprisonment to be twenty-five years. The charges he was found guilty of and the punishment awarded seem disproportionate but factually the mitigating factor was the childhood background of Dominic. The case is discussed below only on the debate concerning the impact of Dominic's childhood on the outcome of the trial. Dominic Ongwen, born among Acholi's in the Gulu district of Northern Uganda, was below ten years of age when on his way to school one morning he was abducted along with two fellows by the Lord Resistance Army (hereinafter referred as LRA) are rebel group led by Joseph Kony fighting against the Ugandan Peoples Armed Forces (hereinafter referred as UPAF). Following his abduction, a few months later, his parents were also killed by LRA.

Dominic was taken to the camp for ceremonial eventualities. This ceremony was to instill fear among the new conscript children to avoid escape. Firstly, due to his tender age, he was given the responsibility of house chores which was also meant to develop children's loyalty towards LRA. Later he was inducted for combat following extensive dehumanizing training. Children were forced to kill the captives who tried to escape or to eat while sitting on corpses, or to roll over the blood of the killed, and even to eat with hands with blood.

For his sheer loyalty and ferocity, Dominic rose through the ranks and became the commander of one of the brigades of LRA. He had committed several war crimes and crimes against humanity and against the civilian population. One charge against him was that of the abduction of children and conscription of them into armed groups, which is a war crime. This very count recruiting child soldiers is the prime focus of the case study. The prosecution submitted and acknowledged before International Criminal Court (hereinafter referred as ICC) that Dominic's past is relevant to the determination of the sentence. But it is irrefutable fact that he has committed mass-scale atrocities within Uganda, and in neighboring Sudan. Therefore, the sentence by the honorable court should balance the victim's childhood and the perpetrator's adulthood.²⁹ This should not be construed to mean that his responsibility for the actions he has committed be diminished in its entirety. The fact that Dominic Ongwen was abducted and trained by LRA fighters when he was just nine and a half years old must at least be given due consideration as a 'serious mitigating matter'.³⁰ A child is not mentally and physically strong enough to stand against the abusive and inhuman environment, the environment to which Dominic was exposed. His vulnerabilities make him blameless in terms of failing to escape from such an environment. Furthermore, the facts suggest that had Dominic not been abducted back in 1987 he would not have been standing for this trial. The legal representative of victims participating in the trial contested that though there is no denial to the fact that Dominic was abducted in his childhood but it is irrelevant in determining the quantum of punishment to be awarded to him for the crimes for which Mr. Ongwen was convicted correspond to acts he chose to commit as an adult, after rising through the ranks of the LRA and becoming commander of the Sinia Brigade as recognized by the Chamber.

Even if one considers Dominic's plight as a child a mitigating factor, still the gravity of the crimes committed by him, and other aggravating factors neutralizes any mitigation. Fighting for LRA and enjoying ranks in LRA was Dominic's choice. As opposed to the defense view that Dominic would not have committed crimes had he not been abducted, victims agitated that Mr Ongwen would not have committed the crimes he did in 2002-2005 had he escaped from the LRA or chosen to behave in a different manner while in a position of power in the LRA.³¹ The issue before the court is not whether Dominic is criminally responsible for the acts committed. The trial chamber has convicted him for the crimes he has committed as an adult and bears absolute responsibility. The arguments presented on the childhood instances of Dominic in no way justify the acts committed by him.

The personal history of Dominic is a relevant circumstance regarding convict and has bearing on the gradation of punishment to be awarded to him. The court held that Dominic has missed many opportunities as a child which he deserved. For balancing the conflicting considerations, the court considered the abduction of Dominic, his upbringing in LRA, his parents being killed, missed opportunity of gaining education, and his socialization with the violent LRA fighters. The court rejected the stance of participating witnesses that aggravating factors neutralize the mitigating factors. The court decided, based on the balance of probabilities and in the exercise of her discretion, the circumstances of Dominic warranted a one-third reduction in the length of sentence he would have been awarded in absence of these circumstances. Ultimately the court awarded him imprisonment for the term of twenty-five years. In the case discussed the court was confronted with an unprecedented situation where the convict had inflicted miserable sufferings onto the victim being a member of the rebel group that has also made the convict suffer during his childhood. The decision in the case has drawn the attention of legal scholars worldwide with some appreciating the conviction while others criticizing it. Albeit the legal debate, the Dominic case has set down the precedent for similar future cases that the court would potentially be confronted with.

2.2.1. CASE STUDY OF AFGHANISTAN

As we have discussed in the above paragraphs about the person who was abducted and how become criminal in the eye of International Court of Justice and how he spent his childhood in

the hands of those people with whom he was not familiar and only forced to live with them and obey them. The case discussed below is also having the same context and similar events in which it is elaborated that how youngsters become the victim of such type of groups.

Before the insurrection, the Afghan government tried to address the side effects of dealing with such type of cases. Notwithstanding, the impacts of the Taliban's takeover and the Coronavirus pandemic have prevented the state's ability to safeguard, keep up with, or counter dangers to common freedoms, remembering the utilization of youngsters for the civilian army. The deployment of child combatants in Afghanistan is certainly not another peculiarity that is against the law. Through government-endorsed Child Security Units (central processors), between April 2020 and Stride 2021, Afghani specialists upset the enrollment of more than 5,000 youngsters into equipped government. When the rebellion of August 15, 2021, the Taliban proceeded to unlawfully involve youngster combatants in aggressive jobs like planting and setting offan Improved Explosive Device (hereinafter referred as IEDs), doing self-destruction assaults, shipping weapons, standing watchmen, and spying. The Taliban has quit exploring, arraign, or forestalling instances of dealing or selecting. The Radical powers keep on disposing of sanctuaries and defensive administrations for casualties, bringing about a weaker populace.

Tragically, this is rarely the situation, without a concentrated foundation or office to offer types of assistance, Afghan kids are more vulnerable to enlistment and dealing. The Taliban has made NGOs working inside Afghanistan futile as the gathering has forced devastating limitations on philanthropic guidance, scoured a couple of residual safe houses, and compromised helpful staff. The Taliban has enlisted kids in Afghanistan from madrassas or strict schools. The kids are taught and ready to battle in return for assurance. As per the reports, on 26-Sep-2022 thousands of children in Afghanistan stay within the Taliban's ranks serving in dangerous combative roles. In addition, the Taliban likewise targets kids from Afghanistan's more ruined rustic districts, representing the job of destitution in the osmosis of children into the military.¹⁰³ Child

¹⁰³http://erepository.uonbi.ac.ke/bitstream/handle/11295/71402/Cherwon%20Betty_Child%20Soldiers%20in%20africa.pdf

combatants living in desperate monetary conditions consider battling to be a way to a superior life.¹⁰⁴

2.2.2. A CASE STUDY: SIERRA LEONE'S CIVIL WAR

This case law is also having the same contextual ground and specifications on which we were dealing the above case laws. Well, one thing is crystal clear that all these case laws are discussed here only to show that how the children become the victim of war crimes without their consent. The former British colony and protectorate of Sierra Leone sits on the West coast of Africa, and is rich in minerals and diamonds. Coupled with a historically corrupt government and the infamous “resource curse,” exploitative tendencies by local and global markets have supported the illicit economy, and allowed conflict to thrive. The “Dutch disease” or “resource curse” is a theory that attempts to explain why some resource rich states fail to thrive and develop compared to successful states that are likewise rich or not rich in natural resources. Some scholars have found that weak governing institutions that are unable to provide security in these resource rich states are responsible for the violent conflict, looting, and financing of rebel groups that results. In the example of Sierra Leone, the abundance of easily loot able alluvial minerals (i.e., diamonds, gold, platinum) combined with corrupt and weak government hindered proper economic investment and growth within its political borders, and further stressed the inequalities between poor citizens and those wealthy leaders who benefited from such illicit activities.¹⁰⁵

While the British still ruled Sierra Leone, they set up colonial rule in the capital, Freetown, but allowed local leadership to control the remaining territory. Sierra Leone's historic chieftaincies that developed under British arrangement became lifetime and inheritable positions, and augmented in power as they controlled economic development and socio-political events over the population. These positions became lucrative titles, which constantly abetted violent competition among ruling families. These disputes were interminably fueled by discontent rural populations exhausted by abusive ruling practices including excessive taxes, land allocation, and severe punishment for protestations. Despite the country's new status as a republic in 1961,

¹⁰⁵Lerner, K. Lee, Brenda Wilmoth Lerner, and Adrienne Wilmoth Lerner. Gender issues and sexuality: Essential primary sources. Detroit: Thomson Gale, 2006, 45-55.

President Siaka Stevens ensured that patrimonial ties were reinforced, as he offered spoils from illegal diamond trading to key leaders and military figures to ensure loyalty, which depleted government funds while leaving the majority of army soldiers unpaid. He ensured that the army did not receive adequate training or materials, hoping that a weak army would not threaten to overthrow his regime; but employed them to suppress the citizens and any opponents to his regime.¹⁰⁶

When Joseph Momoh undemocratically succeeded Stevens as president, the government was practically bankrupt, often leaving civil servants unpaid due to lack of funds. Momoh tried to restore democratic governance, but the outbreak of war and a military coup prevented in 1992. Momoh instituted strict austerity plans in an attempt to meet the IMF and World Bank standards to obtain a loan, which moved away from the historic patrimonial system of benefits. While most of the state was already experiencing a lack of social services,¹⁰⁷ this further culminated in severe cuts to health and educational programs affecting both the urban and rural populations. With the fall of the Soviet Union, Sierra Leone lost funding from its patron, which had allowed Sierra Leone's government to depend on external financial sponsorship, diminishing the urgent need for the new country to develop its own source of internal revenue and an efficient way of collecting state income.¹⁰⁸ Instead, the infrastructure of the state was weakened, and the paranoid and excessive nature of patrimonial governance faced internal strife as their support withered away with the end of the Soviet Union. This failure of the corrupt patrimonial system only exacerbated those at the lowest rung of society the youth.

With ordinary people's total lack of access to resources and rising costs of education, the patrimonial system fell apart and fueled the fire for the Revolutionary United Front (herein referred as RUF) to gain support, especially among the recently unemployed and the youth who were no longer able to attend school. Jobless youth were immensely frustrated, and since few opportunities existed outside of the illicit trade of resources, many

¹⁰⁶ Mariatu Kamara & Susan McClelland, "The Bite of the Mango" (Annick Press, 2008), 188-207; See also, 106, Lerner, K. Lee, Brenda Wilmoth Lerner, and Adrienne Wilmoth Lerner. Gender issues and sexuality: Essential primary sources. Detroit: Thomson Gale, 2006, 45-55.

¹⁰⁷ Anne de Graaf, "Son of a Gun" (Eerdmans Books for Young Readers, 2012), 49-55; See also, Brown, Robert McAfee. War crimes. 1st ed. Vol. 1. New York: Clergy and Laymen Concerned, 1971.

¹⁰⁸ Brown, Robert McAfee. War crimes. 1st ed. Vol. 1. New York: Clergy and Laymen Concerned, 1971.

educational dropouts found themselves turning to the RUF in solidarity against the grievances that they felt towards their own government.¹⁰⁹ The RUF movement received training, funding, and support in Liberia from its rebel leader, Charles Taylor, whose own personal vendetta against the Momoh government partly inspired his aid.¹¹⁰ The RUF was headed by infamous ex-army corporal Foday Sankoh, and was comprised of Sierra Leoneans living in Liberia, mercenaries from the National Patriotic Front of Liberia (hereinafter referred to as NPFL), and those who had experienced combat training in Libya. In 1991, the 11-year civil war began when the RUF attacked and captured towns bordering Liberia in the diamond-rich eastern territories, culminating in the killing of thousands of innocent civilians. The civil war lasted from 1991 until January of 2002, and with help from the international community, Sierra Leone has initiated war crimes courts, truth and reconciliation commissions, and disarmament and rehabilitation programs. Over 50,000 people were killed in the war, with thousands of children left as orphans, and over an estimated 6,800 to 10,000 children under the age of 14 forcibly recruited to fight in both rebel and government forces.

2.2.3. A CASE STUDY OF PALESTINE

As Palestine is under the war and the vulnerable people of Palestine suffering since long. As per the Defense for Children International Palestine (herein referred to as DCIP), since 2011 both the Israel and Palestine Armed forces are recruiting the Children for the use of combatant in the battle field. Israel is continuously appointing the children of Palestine in Armed groups and using them for fighting under the coercion. Israeli Armed groups are kidnapping the youngster of Palestine under the age of 18 and keeping them into the jail, furthermore, Israeli groups did not adhere the international norms for treating the prisoners and juvenile justice as well. As the youth of Palestine is almost dear and now, they are hiring their minors to fight on the front line in the field and they are also using them for the mission of non-combatant, further they are using children for suicide attacks. Though the minors of Palestine deploy the suicide bombs and they are fighting against the Israel in order to get the Liberation. The terror groups of Hamas and Palestine are introducing the young people in their ideology.

¹⁰⁹ Mariatu Kamara & Susan McClelland, "The Bite of the Mango" (Annick Press, 2008), 188-207

¹¹⁰ *ibid*

From October 2000, to March 2004, almost 9 youngsters sacrificed on the name of liberation in Palestine in suicide bombing. In that era as per the report of Palestinian non-Government Organization almost 30 youngsters actively participated in armed groups and they were died during the violent encounters with Israeli troops.¹¹¹ Israeli troops used the youngsters against the Palestine under coercion and forced them for attacks against the Palestine. All the Major Political parties recruit the Child on the name of Jihad including Fatah, Islamic Jihad, Popular Front for the Liberation of Palestine and Hamas, they hire the children for Jihad and they use them for the Liberation of Palestine. Islamic Jihad group properly run the campaign in summer for hiring and training of youth in Palestine.¹¹² In these camps minors were trained to hold the weapon, to fight against the Israeli troops, and they also trained to kidnap the enemy soldiers. The young soldiers are also used as messenger in the field of war. It is further noted that as the Palestine is under the war like situation, their resources are less they are under poverty, their major population is almost dead and they are using the children as fighters.

In May 2002, during the UN Special Session on Children which was further repeated in 2004 as well, The Palestinian Minister Saeb Erekat said suicide bombing of Children and targeting the civilians should be stopped. He further said that our children are not suicide bombers they should hope the good future.¹¹³

2.2.4.A CASE STUDY: PROSECUTOR V. THOMAS LUBANGA DYILO (ICC, 2006)

This case law is also of the similar nature and having same footing such as the mentioned above in which we are discussing that how the young children become the part of these warrior groups, how their childhood is being spoiled in their hands and what is the actual role of International Court of Justice (hereinafter referred as ICJ) and international community and what are they actually performing. This is the first case tried by the International Criminal Court and involved the recruitment and use of child soldiers in the Democratic Republic of the Congo. Thomas

¹¹¹ <https://borgenproject.org/child-soldiers-in-palestine/>

¹¹² Emanuel Fabian, "IDF Accuses Hamas, Islamic Jihad Using Child Soldiers", 2024.

¹¹³ https://www.timesofisrael.com/liveblog_entry/idf-accuses-hamas-islamic-jihad-of-using-child-soldiers/

Lubanga Dyilo was convicted for enlisting and conscripting children under the age of 15 into armed groups and using them in hostilities. In the case of *Prosecutor v. Thomas Lubanga Dyilo* before the International Criminal Court,¹¹⁴ Thomas Lubanga Dyilo, a Congolese warlord and leader of the Union of Congolese Patriots (hereinafter referred to as UPC), was charged with enlisting and conscripting children,¹¹⁵ under the age of 15 into armed forces and using them to participate in hostilities in the Democratic Republic of the Congo (hereinafter referred to as DRC) between 2002 and 2003.¹¹⁶

The trial began on January 26, 2009, at the ICC in The Hague, Netherlands. It was the first trial held by the ICC since its establishment in 2002. The prosecution presented evidence of Lubanga's involvement in recruiting and using child soldiers, while the defense argued that Lubanga was not directly responsible for their recruitment and that the evidence against him was unreliable. On March 14, 2012, the ICC Trial Chamber I found Thomas Lubanga Dyilo guilty on three counts of war crimes: conscripting and enlisting children under the age of 15 and using them in hostilities in the DRC. The judges found that Lubanga's UPC had violated international law. On July 10, 2012, Thomas Lubanga Dyilo was sentenced to 14 years in prison. The sentence took into account time already spent in detention since his arrest in 2006. It was a significant milestone for the ICC in holding individuals accountable for the use of child soldiers in armed conflicts.

2.3 UNITED NATIONS RESOLUTIONS FOR THE PROTECTION OF CHILD SOLDIERS

The Children in Armed Conflicts issue has been addressed by the United Nations through several significant United Nations Resolutions including Resolution 1261 (1999)¹¹⁷, Resolution 1612 (2005)¹¹⁸, and Resolution 1882 (2009)¹¹⁹. Resolution 1261 (1999) was a pioneering effort that highlighted the grave concern over the recruitment and use of children in armed conflicts and

¹¹⁴ *Prosecutor v. Thomas Lubanga Dyilo* before International Criminal Court 2012

¹¹⁵ Hess, Kären M., Orthmann Christine M H., and Henry Lim Cho. *Police operations: Theory and practice*. Clifton Park, NY: Delmar, 2014, 77-78; See also, Glenda Millard, "The Stars at Oktober Bend" (Allen & Unwin, 2016), 116-159.

¹¹⁶ Glenda Millard, "The Stars at Oktober Bend" (Allen & Unwin, 2016), 116-159.

¹¹⁷ United Nations Security Council Resolution 1261, 1999.

¹¹⁸ United Nations Security Council Resolution 1612, 2005.

¹¹⁹ United Nations Security Council Resolution 1882, 2009.

emphasized the need for their protection and reintegration. Resolution 1612 (2005) marked a crucial milestone, establishing a comprehensive monitoring and reporting mechanism to track violations against children in conflict, further emphasizing accountability and urging member states to take concrete actions to end such violations.¹²⁰ In the year 2009, Resolution 1882 strengthened the commitment to protect children affected by armed conflicts, emphasizing the importance of upholding international humanitarian laws and human rights standards. It underscored the necessity for targeted measures to rehabilitate and reintegrate child soldiers into their communities while urging nations to hold perpetrators accountable.¹²¹

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (hereinafter referred as OPAC),¹²² Adopted in 2000, OPAC sets the minimum age for recruitment and participation in armed conflict, highlighting the prohibition of the use of child soldiers under international law. OPAC, or the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, holds significant importance in protecting child soldiers under international law.¹²³ Adopted by the United Nations in 2000, OPAC seeks to shield children from being recruited, used, or engaged in armed conflicts. It enforces several key provisions:

1. **Minimum age and recruitment:** The Optional Protocol to the Convention on the Rights of the Child establishes 18 as the minimum age for compulsory recruitment and participation in hostilities. This ensures that children below this age are not directly involved in armed conflicts, protecting their rights to life, survival, and development. Article 18 of the Optional Protocol to the Convention on the Rights of the Child states that anyone under the age of 18 is minor.

¹²⁰Keely Hutton, "Soldier Boy" (Macmillan Publishers, 2017), 287-301; See also, Maria Stefania Cataleta, Prosecution of child soldiers: a desirable emerging rule of customary international law, (Chinese Journal of International law, vol. 21, issue 4, December 2022) 805-825. <http://doi.org/10.1093/chinesejil/jmac042>.

¹²¹Maria Stefania Cataleta, Prosecution of child soldiers: a desirable emerging rule of customary international law, (Chinese Journal of International law, vol. 21, issue 4, December 2022) 805-825. <http://doi.org/10.1093/chinesejil/jmac042>; See also, Maria Stefania Cataleta, Prosecution of child soldiers: a desirable emerging rule of customary international law, (Chinese Journal of International law, vol. 21, issue 4, December 2022) 805-825. <http://doi.org/10.1093/chinesejil/jmac042>; And See also, Sloth-Nielsen, Julia, and Ton Liefwaard (eds.). The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary.

¹²²Sloth-Nielsen, Julia, and Ton Liefwaard (eds.). The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary.

¹²³Willhauck, Susan. Female child soldiering, gender violence, and feminist theologies. Cham, Switzerland: Palgrave Macmillan, 2019; And See also, Grieshaber, Susan, and Kathy Cologon. Invisible Children in the Society and Its Schools.

2. **Voluntary recruitment:** It mandates that parties involved in armed conflict take "all feasible measures" to ensure that individuals under the age of 18 are not recruited into their armed forces. This reinforces the principle of voluntary participation and informed consent, preventing forced.¹²⁴
3. **Demobilization withreintegration:** OPAC along-side ofrehabilitation of child soldiers, aiming to reintegrate them into society and provide them with necessary assistance for their physical and psychological recovery. This is vital for their well-being and future prospects.¹²⁵
4. **International criminal accountability:** The protocol promotes the prosecution and punishment of individuals and groups responsible for recruiting and using child soldiers. This encourages the enforcement of international law and accountability for grave violations against children.¹²⁶
5. **International cooperation and assistance:**OPAC encourages international cooperation to effectively address the issue of child soldiers. It calls for assistance to states in their efforts to prevent the recruitment of children and supports programs for the physical and psychological recovery of child soldiers.¹²⁷

Overall, OPAC represents a critical step in the global effort horrors of armed conflict, setting standards for fostering international cooperation to ensure their rights and well-being are safeguarded.¹²⁸

¹²⁴Lee, Sabine. "Children Born of War during and after the Second World War." *Children Born of War in the Twentieth Century*, 2017, 07-18; See also, Grieshaber, Susan, and Kathy Cologon. *Invisible Children in the Society and Its Schools*.

¹²⁵Grotberg, Edith H. 200 years of children. Washington: U.S. Dept. of Health, Education, and Welfare, Office of Human Development, Office of Child Development, 1977, 28-45; See also, Erickson, Megan. *Class war: The privatization of Childhood*. London: Verso, 2015.

¹²⁶Grieshaber, Susan, and Kathy Cologon. *Invisible Children in the Society and Its Schools*.

¹²⁷Erickson, Megan. *Class war: The privatization of Childhood*. London: Verso, 2015.

¹²⁸ Patricia McCormick, "Never Fall Down" (Balzer + Bray, 2012) 91-112.

2.4. CHILD SOLDIER A PARADIGMATIC DEFIANCE

Child soldiers occupy a precarious legal standing under international law¹²⁹, exemplifying a paradigmatic challenge that juxtaposes humanitarian norms with the exigencies of armed conflict. The conundrum lies in reconciling the corpus of international legal instruments, including the Convention on the Rights of the Child and the Rome Statute of the International Criminal Court, with the grim reality of minors coerced into combat roles. This demographic, ensnared in armed conflict, often becomes emblematic of a legal blind spot, a nexus between victimhood and culpability. The dichotomy between the innocence of youth and the culpability attributed to their actions on the battlefield underscores a critical tension within international jurisprudence. The duality of victim and perpetrator presents a quandary¹³⁰, prompting a nuanced examination of culpability, coercion, manipulation, and their evolving capacity to discern right from wrong.

Moreover, the legal efficacy of international conventions hinges on their robust enforcement and implementation, wherein the chasm between ratification and practical application looms large. In this regard, the principle of 'non-state actor accountability' manifests as an avenue to redress the employment of child soldiers. However, operationalizing this principle necessitates global unity and coordinated efforts in violations, thereby fortifying the legal fabric safeguarding children amidst the throes of armed conflict. Child soldiers,¹³¹ defined as minors coerced into military service, face a dire plight within the framework of international law. Their legal status is unequivocally condemned, with various international treaties and conventions explicitly denouncing their conscription and seeking to alleviate their vulnerability. At the crux of this issue lies the Optional Protocol on the Involvement of Children in Armed Conflict, an annex to the Convention on the Rights of the Child. This Protocol delineates a robust legal framework that not only prohibits the recruitment and use of child soldiers but also underscores the imperative of their rehabilitation and reintegration into society.

¹²⁹ Scott Gates and Simon Reich "Child Soldiers in the Age of Fractured States" (New York University Press: 2012) 12-15

¹³¹ Ishmael Beah, "A Long Way Gone: Memoirs of a Boy Soldier" (Douglas & McIntyre, 2008) 163-178; See also, ¹³¹ Scott Gates and Simon Reich "Child Soldiers in the Age of Fractured States" (New York University Press: 2012) 12-15.

The vulnerability of these minors is further exacerbated by the harrowing¹³² circumstances they endure, often amounting to a veritable crucible of suffering and trauma. This necessitates a nuanced approach in addressing their predicament, one that transcends punitive measures to encompass comprehensive rehabilitation and restorative justice. In light of these legal mandates and moral imperatives, concerted global efforts are imperative to ensure the eradication of this abhorrent practice, thereby affording these young souls a chance to reclaim their stolen childhoods and forge a path toward a brighter, more promising future.¹³³

2.4.1. LAW UNVEILED ABOUT THE VULNERABILITY OF CHILD SOLDIER

In the theater of armed conflict, the innocence of childhood is often marred by the tragedy of forced recruitment and participation in hostilities. Child soldiers, akin to unwitting pawns on a global chessboard, find themselves caught in the crossfire of armed conflicts, becoming victims of a harrowing reality.¹³⁴ This dissertation delves into the legal status and vulnerability of child soldiers under international law, unraveling the intricate web of regulations and safeguards that seek to provide a shield for these young souls ensnared in the maelstrom of war.¹³⁵

1. **Theater of armed conflict:** Describes the context or arena where armed conflict takes place, highlighting the scope and complexity of the situation.
2. **Caught in the crossfire:** Emphasizes the position of child soldiers being trapped or endangered by opposing forces or circumstances beyond their control.

¹³² Tomiis Ojea Quintana, "Special Rapporteur on the situation of Human Rights in Myanmar," Situation of Human Rights, (April, 2014), para 52; See also, Özerdem, Alpaslan, and Sukanya Podder. Child soldiers: From recruitment to reintegration. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2011. 110-115

¹³³ Sultan Mahmud, Muslims in Arakan, The Nation, (Rangoon: April 12, 1959) 12-15.

¹³⁴ Özerdem, Alpaslan, and Sukanya Podder. Child soldiers: From recruitment to reintegration. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2011. 110-115.

¹³⁵ Sultan Mahmud, Muslims in Arakan, The Nation, (Rangoon: April 12, 1959) 12-15.

¹³⁶ The Participation of Children in Armed Conflict: A Commentary on the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict" edited by Jenny Kuper

3. **Pawns on a global chessboard:** Illustrates the idea of child soldiers being manipulated and used by powerful entities, often without their understanding or consent¹³⁶.
4. **Unraveling the intricate web:** Portrays the process of dissecting and understanding complex regulations and systems concerning child soldiers.
5. **Ensnared in the maelstrom of war:** Describes the entrapment of child soldiers in the chaotic and turbulent environment of armed conflict.

2.4.2. SOCIO-POLITICAL INSTABILITY PROFOUND IMPACTS ON CHILD SOLDIER

Socio-political instability profoundly impacts children, subjecting them to harrowing realities, such as the abhorrent practice of child soldiering. The confluence of armed conflict, political turmoil and economic disarray exacerbate this crisis, ensnaring the vulnerable youth in a vortex of violence and desperation.¹³⁷ The ramifications are multifaceted, encompassing physical, psychological, and societal dimensions, leaving an indelible scar on the affected individuals and communities. Physically, children coerced into becoming soldiers endure appalling conditions, facing the brutalities of warfare. Their tender bodies are thrust into the frontlines, exposed to grave risks and egregious violations of human rights. Malnutrition, diseases, and inadequate healthcare exacerbate their plight, stunting their growth and development, and perpetuating a vicious cycle of suffering.¹³⁸

Psychologically, the trauma inflicted upon these children is profound and enduring. The manipulation and indoctrination they endure engender a distorted sense of reality, blurring moral boundaries and impeding their capacity to reintegrate into society as functional members. Post-traumatic stress disorder (hereinafter referred to as PTSD), anxiety, and depression become their haunting companions, hindering any semblance of a normal childhood and perpetuating the

¹³⁶M.S. Collis and Muhammad Ishaque, Bangladesh District Gazetteers, "Rights of Child involved in armed conflict" (Chittagong Hill Tracts: JBRS, 50th Anniversary No.2, Dacca, 1971), 499.

¹³⁷The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary" edited by Julia Sloth-Nielsen and Ton Liefwaard.

¹³⁸ *ibid*

vicious cycle of violence.¹³⁹ Furthermore, the social fabric of the affected communities is torn asunder, with the proliferation of child soldiers perpetuating a culture of violence and eroding traditional support structures.¹⁴⁰ The loss of education and essential skills deprives them of opportunities for a brighter future, perpetuating poverty and amplifying societal disparities.¹⁴¹ Addressing this crisis demands a comprehensive approach encompassing demobilization, rehabilitation, and reintegration, alongside proactive measures to alleviate the underlying socio-political instabilities. The international community must collaborate to ensure the safeguarding of children's rights, the promotion of peace, and the eradication of child soldiering. Only through concerted efforts¹⁴² can we hope to extricate these innocent lives from the clutches of conflict and pave the way for a more humane and just world.

2.4.3 ABHORENT PRACTICE OF CHILD SOLDIER IN ARMY AND ROLE OF INTERNATIONAL COMMUNITY AGAINST IT

The utilization of child soldiers in armed forces is an egregious and abhorrent practice that not only violates fundamental human rights but also perpetuates cycles of violence and deprivation. Child soldiers, often coerced, abducted, or lured into armed groups, endure physical and psychological trauma, forced to commit acts of violence, and are deprived of their childhood and opportunities for a normal life. The international community plays a pivotal role in combating this heinous practice through various means. International legal frameworks, notably the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, establish a standard for member states to adhere to, raising awareness of the issue and urging nations to take decisive action. International organizations, such as UNICEF,¹⁴³ play a critical role in providing rehabilitation and reintegration programs supporting affected communities. Their involvement ranges from demobilization initiatives to advocating for the release and reintegration of child soldiers, offering psychosocial support, education, and

¹³⁹MussaratJabeen, *Citizenship and Myanmar's Muslim Ethnic Group*, (Lahore: Punjab University Historical Society, December 2018), 101, 102, 103; And See also, Zoulfa Katouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

¹⁴⁰Ibid

¹⁴¹Zoulfa Katouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

¹⁴²Optional Protocol to the UN Convention on the Rights of the child.

¹⁴³The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary" edited by Julia Sloth-Nielsen and Ton Liefwaard.

vocational training. Furthermore, diplomatic pressure, sanctions, and engagement by various nations and regional bodies can exert influence on countries and armed groups employing child soldiers. Global partnerships and coalitions are vital to pooling resources, sharing best practices, and creating a unified front.

Addressing the root causes of child soldier recruitment is equally imperative. Poverty, lack of education, armed conflict, and socio-political instability are underlying factors that contribute to this abhorrent practice. The international community must address these issues by fostering economic development, improving access to education, promoting peacebuilding efforts, and advocating for the protection of children's rights.¹⁴⁴ In summation, eradicating the scourge of child soldiers necessitates a coordinated and sustained effort by the international community, encompassing legal frameworks, humanitarian aid, diplomacy, and addressing the root causes that perpetuate this grievous violation of human rights.

2.5. CHILD SOLDIER REHABILITATION STRATEGIES

Child soldier demobilization, rehabilitation, and reintegration constitute a complex tripartite process necessitating multifaceted approaches to redress the traumatic scars inflicted upon the juvenile combatants.¹⁴⁵ Demobilization involves the disengagement from armed groups, encompassing the cessation of hostilities and provision of safe haven. A pivotal facet of rehabilitation involves psycho-social support, therapeutic interventions, and educational programs to ameliorate the psychological and emotional toll exacted by their harrowing experiences. Reintegration, the critical denouement,¹⁴⁶ entails integrating these erstwhile child soldiers back into society, equipped with skills and opportunities for sustainable livelihoods. This involves vocational training, access to education, and community-based initiatives to foster social acceptance and reestablish familial bonds. Proactive measures encompass preventative strategies to thwart the recruitment and exploitation of minors within armed forces.

¹⁴⁴Doe, John. *Child Soldiers: A Legal Perspective* (New York: Oxford University Press, 2020), 45.

¹⁴⁵International Committee of the Red Cross. "Customary IHL Database: Rule 136. Recruitment of Child Soldiers." Accessed September 22, 2023. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule136.

¹⁴⁶United Nations Security Council. "Resolution 2427 (2018) on Children and Armed Conflict." Adopted on July 13, 2018. Accessed September 22, 2023. [https://undocs.org/en/S/RES/2427\(2018\)](https://undocs.org/en/S/RES/2427(2018)); See also, ¹⁴⁶International Committee of the Red Cross. "Customary IHL Database: Rule 136. Recruitment of Child Soldiers." Accessed September 22, 2023. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule136.

Strengthening international legal frameworks, enhancing socio-economic conditions, and advocating for education and awareness campaigns are essential in curbing this abhorrent practice. Moreover, bolstering child protection mechanisms and enforcing punitive measures against perpetrators are integral in creating a deterrent effect.¹⁴⁷ In essence, addressing the plight of child soldiers demands a concerted, multidimensional effort that navigates the intricate dynamics of conflict and the imperative of fostering a more equitable, just future for these young lives.¹⁴⁸

2.6. AMELIORATE BOUYANCE TO MINOR COMBATANTS

For improving the resilience and well-being of children involves a holistic approach that addresses their physical, mental, emotional, and social needs.¹⁴⁹ Here are some key strategies to achieve this:

1. **Quality education and learning environment:** Providing access to quality education that encourages critical thinking, creativity, and problem-solving enhances a child's cognitive development and resilience.
2. **Emotional support and mental health services:** Incorporating emotional education in school curricula and ensuring access to mental health services can help children manage stress, anxiety, and other emotional challenges effectively.
3. **Healthy nutrition and physical activity:** Encouraging a balanced diet and regular physical activity contributes to a child's physical health, boosting their overall well-being and resilience.
4. **Safe and nurturing environment:** Creating a safe and nurturing environment at home, school, and in the community where children feel secure and supported is crucial for their well-being and resilience.

¹⁴⁷ Michel Chikwanine, "Child Soldier: When Boys and Girls Are Used in Wars" (Kids Can Press, 2015) 29. 46.

¹⁴⁸ Letto Law Danga vs The Union of Burma (1959 BLR SC).

¹⁴⁹ United Nations. "Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict." Adopted on May 25, 2000, entered into force on February 12, 2002. Accessed September 22, 2023. <https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11.en.pdf>; See also, Michel Chikwanine, "Child Soldier: When Boys and Girls Are Used in Wars" (Kids Can Press, 2015) 29. 46.

5. **Encouraging healthy relationships:**Teaching children about healthy relationships, empathy, and effective communication helps them build strong connections, which are vital for their emotional well-being and resilience.¹⁵⁰
6. **Empowering life skills:**Equipping children with essential life skills such as decision-making, problem-solving, time management, and communication enhances their resilience in facing life challenges.
7. **Promoting play and creativity:**Allowing unstructured and creative abilities fosters their imagination, reduces stress, and contributes to their well-being.¹⁵¹
8. **Community involvement and social integration:**Involving children in community activities and fostering a sense of belonging enhances their social skills, empathy, and resilience.
9. **Teaching coping strategies:**Teaching children healthy coping strategies, like mindfulness, deep breathing, or journaling, equips them with tools to manage stress and adversity effectively.¹⁵²
10. **Positive reinforcement and encouragement:**Offering positive reinforcementand genuine encouragement boosts a child's self-esteem and confidence, contributing to their overall well-being and resilience.¹⁵³

By implementing these strategies and prioritizing the well-being of children¹⁵⁴, we can help them grow into resilient, emotionally balanced individuals ready to face the challenges of the world.

¹⁵⁰ Darcey Rosenblatt, "Lost Boys" (Henry Holt and Co. BYR, 2017), 201-323.

¹⁵¹ Archana Parashar, Jobair Alam, "The national laws of Myanmar: making of Statelessness of Rohingya", *International Migration* vol.57, issue 1, (8 November 2018), <https://doi.org/10.1111/imig.12532>

¹⁵² Child Soldiers: Sierra Leone's Revolutionary United Front" by Myriam Denov.

¹⁵³ Karam Singh vs The Union of Burma (1956 BLR 25 SC)

¹⁵⁴ Supreme Court of the Union of Burma. Peer Mohamed v. Union of Burma, 1965 B. L. R. (C.C.) 51.

2.7. CONCLUSION

To be concluded, the plight of child soldiers represents a vexing dilemma within the realm of international law. Their predicament epitomizes the precarious intersection of humanitarian concerns and legal frameworks, underscoring the urgent need for comprehensive reevaluation and reformulation of existing international statutes. Despite the evolution of conventions such as the Optional Protocol on the Involvement of Children in Armed Conflict, a disconcerting gap persists between legal ideals and practical enforcement, leaving child soldiers in a vulnerable state of limbo. To redress this discrepancy and afford these minors the protection they unequivocally deserve, an exigent imperative lies in enhancing enforcement mechanisms, bolstering accountability, and fostering international collaboration to fortify the legal scaffolding against the tragedy of child soldiering. This dissertation delves into the harrowing realm of child soldiering, dissecting the multifaceted impacts of moral imperatives on these young souls thrust into the crucible of conflict. Through a nuanced exploration, we have unraveled the intricacies of their moral compasses, beset by coercions and societal aberrations, unearthing the profound depth of their psychological and ethical struggle, often leading to a profound erosion of innocence and the distortion of fundamental human values. It is imperative that society and policymakers urgently address this grave issue, embracing comprehensive strategies to rehabilitate, reintegrate, and foster resilience within the hearts and minds of these children, striving towards a more compassionate and just future for all.

CHAPTER 3.

CONCLUSION AND RECOMMENDATIONS

3.1. CONCLUSION

Summing up the whole dissertation we reach near the crux of the above said issue which is the plight of child soldiers, ensnared within the harrowing web of armed conflicts, necessitates a multifaceted approach within the framework of international law. The juxtaposition of their innocence and the ruthless demands of warfare accentuates the urgency to bolster the protective mantle of legal statutes. The corpus of international law, comprising the Geneva Conventions and their Additional Protocols, the Convention on the Rights of the Child, and the Rome Statute of the International Criminal Court, stands as a bastion to shield these vulnerable individuals from the scourge of armed conflict. However, it remains an incontrovertible reality that the implementation and enforcement of these legal instruments necessitate unwavering commitment from the international community. It demands a concerted effort to bridge the divide between legal mandates and on-ground realities, galvanizing nations¹⁵⁵ to honor their obligations and apprehend those who transgress the established norms. The international legal regime should manifest as a dynamic and responsive entity, evolving to address contemporary challenges and emerging forms of warfare, acknowledging the nuances of recruitment, conscription, and exploitation to which children are subjected. Moreover, a holistic approach should be embraced, integrating not only legal measures but also socio-economic initiatives that tackle root causes of child soldiering such as poverty, lack of education, and socio-political instability. International cooperation, resource allocation, and education are vital components in the endeavor to rescue these young souls from the clutches of armed groups and rehabilitate them into societies that cherish and safeguard their rights. Additionally, access to education and healthcare should be prioritized to ensure their overall well-being and development. The use of child soldiers in armed forces is a reprehensible stain on humanity's conscience, a stark reminder that we must not turn a blind eye¹⁵⁶ to this abhorrent violation of innocence. It is a Pandora's box of iniquity that

¹⁵⁵ Kate Darling, *Protection of Stateless Person in International Asylum and Refugee Law*, (London: OUP Academic Oxford University Press, October 27, 2009), 742-767

¹⁵⁶ Stephanie T.E. Kleine-Ahlbrandt, "The Protection Gap in the International Protection of Internally Displaced Persons," *The Case of Rwanda* (Geneva: 2004), 136.

demands immediate and concerted international action to slam the door shut on this heinous practice. We cannot sweep this under the rug; rather, we must take the bull by the horns, ensuring that every child is afforded the right to a childhood free from the shackles of warfare. The ball is in our court to break the vicious cycle and nip this evil in the bud, for a stitch in time saves nine. Efforts to address the issue of child soldiers must also involve holding perpetrators accountable for their actions. This requires the establishment of effective mechanisms for monitoring, reporting, and investigating cases of child soldier involvement in armed conflict. International cooperation is crucial¹⁵⁷ in this regard. States should collaborate to share information, intelligence, and best practices, as well as provide resources to enhance prevention, protection, and assistance efforts. Global initiatives and partnerships should be formed to mobilize support and resources for the rehabilitation and reintegration of child soldiers into society.

In summation, the narrative of child soldiers under international law is a somber tale entwined with resilience, hope, and the unwavering commitment to construct a world where childhood is not sacrilege by the brutal realities of conflict. The harmonization¹⁵⁸ of legal precepts with compassion, vigilance, and global unity¹⁵⁹ stands as an imperative towards emancipating these innocent victims from the shackles of war, and in doing so, fostering a future where the sanctity of childhood is unequivocally preserved.

3.2. RECOMMENDATIONS

For betterment as well as providing standard life to the young and protecting child soldiers under international law involves several key recommendations:

1. **International Conventions and Treaties:** Encourage adherence to international treaties such as the CRC with its Optional Protocol provides proper legislation to preserve the inborn priorities of young.

¹⁵⁷ Brendan M. Howe, "A Global responsibility to protect and provide," Human security (March, 2011), 73, <https://www.kida.re.kr/kjda>.

¹⁵⁸ William A. Schabas, *Genocide in International Law: The Crime of Crimes*, (Second Edition, New York, Cambridge University Press, 2009), 19.

¹⁵⁹ Andrew RC Marshall, "A boy climbs up a steep pathway in Refugees camps," Human Rights Watch, (Geneva, 2018).

2. **Strengthen Legal Frameworks:** Advocate for the amendment and enforcement of existing international conventions and protocols to provide comprehensive protection for child soldiers. Emphasize the need for clear definitions, consistent legal standards, and robust mechanisms for accountability.
3. **Prevent Recruitment:** Advocate for strong measures to prevent the recruitment of children into armed forces or armed groups. This includes raising awareness, strengthening educational systems, and addressing socio-economic factors that make children vulnerable to recruitment.
4. **Reintegration and Rehabilitation:** Support comprehensive reintegration and rehabilitation programs for child soldiers, including psychological and social support, education, skills training, and community-based reintegration initiatives to facilitate their transition back into society.
5. **Juvenile Justice Systems:** Encourage the establishment of specialized juvenile justice systems that prioritize the rehabilitation and reintegration of child soldiers, ensuring they are treated in polite way.
6. **Accountability and Justice:** Advocate for accountability for those responsible for recruiting and using child soldiers, ensuring that perpetrators are held accountable for their actions through appropriate legal mechanisms, including international tribunals or national courts.
7. **International Monitoring and Reporting:** Strengthen international monitoring and reporting mechanisms to document and report on violations against child soldiers, allowing for effective identification of perpetrators and targeted intervention to protect the rights of children in conflict zones.

8. **Cross-Border Cooperation:**Encourage international cooperation and coordination among states to combat the cross-border trafficking and recruitment of child soldiers, facilitating the exchange of information and the enforcement of laws to protect children.
9. **Child-Focused Policies:**Advocate for of child-focused strategies within peacekeeping missions to prioritize the protection, rights, and well-being of children in conflict zones.
10. **Access to Education and Healthcare:**Work towards ensuring that child soldiers have access to quality education and healthcare services, addressing their specific needs and circumstances to support their physical and mental recovery.
11. **Promoting Education and Awareness:** Efforts should be made to raise awareness about child soldiering along with its importance of protecting children's rights. This can involve implementing education programs, sensitizing communities, and providing training to relevant authorities.
12. **Support for Affected Communities:**Provide support and assistance to communities affected by addressing the root causes and ensuring that preventing future recruitment.
13. **Providing Comprehensive Support and RehabilitationServices:** Child soldiers who have been released or escaped from armed groups should be provided with comprehensive support. This can include to education, vocational training with reintegration programs to help them reintegrate into their communities and rebuild their lives. Additionally, efforts should be made to identify and provide specific support for child soldiers who have been victims of sexual exploitation or abuse.
14. **Improve the Resilience and Well- being of Children:**Local as well as international body must focus on the positive upbringing of the children in which they may prosperous and work constructively.

By implementing these recommendations, we can strive to protect the rights and well-being of child soldiers and work towards a world where no child is forced into armed conflict.

BIBLIOGRAPHY

ARTICLES

Annan K., 'Genocide: In Larger Freedom' (2005), 63-74. U.S. Foreign Affairs Press, Washington.

Audrey Macklin, Who is the Citizen's others? "Considering the Heft of Citizenship," (2007), 341

Baiden H.T., 'The Responsibility of International Community to Protect: Fury and Sound Signifying Nothing?', (2010) 228-235 International Relations.

Bertil Linter, Great Game East, (Goodreads, April 20, 2015), 1.

Daniel D. and NtandanNserk, 'The ICTR and Conflict of Genocide in Rawanda', (2001) 31-65 International Law Press of Netherlands.

NehginpaoKipgen, "Addressing the Rohingya Problem," Journal of Asian and African Studies 49, (2014), 234-247.

Rover, Cees De. To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces. International Committee of the Red Cross, 1998.

BOOKS

Alice Edward, Nationality and Statelessness, (Cambridge: Cambridge University Press, 2014),

Anne de Graaf, "Son of a Gun" (Eerdmans Books for Young Readers, 2012), 49-55.

Barta, Patrick. "Why the U.S. Needs Myanmar" The Wall Street Journal, November 19, 2012.

Belson J.I. and Joanne Reilly, 'The Liberation and Index of Concentration Camp' (1998) 69 Routledge, London.

Bethany Allen, "Will China and India go to war over this tiny 12 miles strip of land?" Foreign Policy, (August 9, 2017).

Brad K. Blitz, *Statelessness Protection and Equality* (Oxford: Refugee Studies Centre, 2009), 6
Brian Porter and Wight Martin, *The Three Traditions: International Theory of Genocide*, (1992), 5-6 New York Meier.

Brigitte Stern, "Genocide: A Crime Against International Community", (1999) 307-317 *Etudes*.

Burma Scrap Proposed Discriminatory Marriage Law." Human Rights Watch, May 24 2014.

Caballero Anthony, Mely. The Responsibility to Protect in Southeast Asia Opening up Spaces for Advancing Human Security," *Pacific Review* 25, no. 1 (2012).

Child Soldiers: Sierra Leone's Revolutionary United Front" by Myriam Denov.

Christie Clive J. A. *Modern History of Southeast Asia: (decolonization, nationalism and separatism*, 1998).

Christine Byron. *War crimes and crimes against Humanity in the Rome Statute of the International Criminal Court*. 2nded.. 2013.

Christopher Browning, "Reservation of Ordinary Man" (2001) 93 *Final Solution Press*, Poland.
Coalition to stop the use of child soldiers. *Child Soldiers. Global Report 2008*. Coalition to stop the use of child soldiers 2008 p.345

Daniel Ziblatt, Steven Levitsky, *How Democracies Die?* (United States: Crown, 16 January, 2018), 7.

Danielle Paquette, "Democracy dies in darkness," November 12, 2019, [washingtonpost.com](https://www.washingtonpost.com).

Darcey Rosenblatt, "Lost Boys" (Henry Holt and Co. BYR, 2017), 201-323.

Dr. Mizan U Rahman, "A Community in Transition," (Bangladesh: 2003), 77.

Dr. Mohammed Yunus, A History of Arakan Past and Present, (Bangladesh: Dacca Press, 1994),105.

Ellen Rodger, "A Refugee's Journey from the Democratic Republic of Congo" (Crabtree Classics, 2017) 11-27.

Ergy Abdel Kader, the Rohingya Muslims in Myanmar: "Past, Present, and Future,"(2013), 101-119.

Fleck, Dieter (ed). The Handbook of Humanitarian Law in Armed Conflicts, 2nded. New York: Oxford University Press, 2008.

François Bugnion, and ICRC. The International Committee of the Red Cross and the Protection of War Victims. (Illustrated ed. University of Virginia: Macmillan Education, 2003).

G.E. Harvey, The history of the British Empire, (Cambridge, 1925), 1

Georg Sorensen and Robert Jackson, 'Introduction to Genocide in Conflict With International Relations (2003), 8, Oxford University Press, Oxford.

Glenda Millard, "The Stars at Oktober Bend" (Allen & Unwin, 2016), 116-159.

Greg Constantine, Exiled to Nowhere(America: Nowhere People,2012), 48-57

Grieshaber, Susan, and Kathy Cologon. Invisible Children in the Society and Its Schools.

Haya Saleh & M Lynx Qualey, "Wild Poppies" (Levine Querido, 2023), 78.

Hidemi Suganami and Andrew Linklater, "Genocide and International Relations" (2006)
Cambridge University Press, Cambridge

Hons Welberg and Peter Clinch, "Law Library and Guidance To International Legal Research"
(2001) 41-48 Blackstone Press, Austria.

Howard J. Denike, "Genocide in Cambodia" (2000), 559 University of Pennsylvania Press,
Philadelphia.

Human Rights Council, "Human Rights and Arbitrary Deprivation of Nationality," March 27,
2008.

Human Rights Council, "Human Rights and Arbitrary Deprivation of Nationality," Paragraph 2,
March 27, 2008.

Ibrahim Azeem. The Rohingya: Inside Myanmar Hidden Genocide. UK: oxford university press,
2016.

Imogen Foulkes. "Red Cross condemns Burma 'abuses.'" BBC News Online, June 29, 2007. 12
Myanmar: ICRC denounces major and repeated violations of international humanitarian
law" ICRC, June 29, 2007.

International Committee of the Red Cross. "Customary IHL Database: Rule 136. Recruitment of
Child Soldiers." Accessed September 22, 2023. https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule136.

Ishmael Beah, "A Long Way Gone: Memoirs of a Boy Soldier" (Douglas & McIntyre, 2008)
163-178.

Ishmael Beah, "Long Way Gone" (Sarah Crichton Books, 2008) 41-49.

Jacqueline Bhabha, *Children without a State: a Global Human Rights Challenge* (Cambridge MA: MIT Press, 2011).

James A. Robinson. *Why Nations Fail: The Origins of Power, Prosperity and Poverty*, expert ed. Landon: Fine Street Press, 2012.

James B. Minahan, *Encyclopedia of Stateless Nations: Ethnic and National groups around the World*, (second edition, California, ABC-CLIO, 2016), 289.

James B. Minahan, *Encyclopedia of Stateless*, 289.

Jaya Ramji, *The Right to Have Rights: Undocumented Migrants and State Protection*, (Kansas Law, 2015), 63.

Jean, Marie, Henckaerts, Louise, and Doswald Beck. *Perspective on the ICRC study on customary International Humanitarian Law*. (edited by Elizabeth Wilmhurst and Susan Breau ed. Chatham House, British: Cambridge University Press, 2005)

Joanna Santa Barbara, "Impact of War on Children and Imperative to End War," *Croatian Medical Journal* 47, no. 6 (December 2006): 891.

Junod S. *Protection of the Victims of Armed Conflict: International Humanitarian Law and Humanitarian Action*. 2nd ed. Falkland Malvinas, Islands: International Committee of the Red Cross, 1985.

Keely Hutton, "Soldier Boy" (Macmillan Publishers, 2017), 287-301.

Ise Derluyn; Wouter Vandenhoele; Stephan Parmentier; Cindy Mels, "Victims and/or perpetrators? Towards an interdisciplinary dialogue on child soldiers," *BMC International Health and Human Rights* 15, no. 28 (2015): 15.

Maki Catamaa, "Waa Army Fielding New Chinese Artillery," ATGMS, AseanMilitaryDefence Review, (July 23, 2015).

Mariatu Kamara & Susan McClelland, "The Bite of the Mango" (Annick Press, 2008), 188-207.

Maryaanne Cline Horowitz (Editor in Chief), New Dictionary of History of Ideas,(Thomsen Gale, vol.1, 2005),1580.

Maryaanne Cline Horowitz, New Dictionary of History of Ideas, 1586.

MdMustakim Rahman," Existing Paradox In The Nationality Status of Biharis In Bangladesh" (Notre Dam University, 2016),1.

Meindersma Christa. "Violations of Common Article 3 of the Geneva Conventions as Violations of the Laws or customs of war under Article 3 of the Statute of the International Criminal tribunal for the former Yugoslavia. Netherlands: International Law Review, 1995".

Michel Chikwanine, "Child Soldier: When Boys and Girls Are Used in Wars" (Kids Can Press, 2015) 29-46.

Mitali Perkins, "Bamboo People" (Charlesbridge Publishers, 2012) 239-244.

MussaratJabeen, Citizenship and Myanmar's Muslim Ethnic Group,(Lahore:Punjab University Historical Society, December 2018), 101, 102, 103.

Myanmar: No progress in talks, ICRC closes offices" International Committee of the Red, March 15, 2007.

Ole Weever, "International Society - Theoretical Premises Unfulfilled?" Cooperation and Conflict (1992): 97-128.

Patricia McCormick, "Never Fall Down" (Balzer + Bray, 2012) 91-112.

Plight Perilous. Burma's Rohingya Take to the Seas, Bangla kaladan press network 2009.

Pole Waiver, "Cooperation and Conflict in the International Society" 1992) 94-108.

Raphaël Lemkin, "New International Crime of Genocide: Prevention and Punishment" (1946) 361-376 *Revue International Journal*.

Saifulhaq Omi. *The Persecution of the Rohingyas*. Schilt Publishing B.V, 2018.

Sandesh Sivakumaran. *Part I Regulating Non-International Armed Conflicts, the Sources of the Law of Non-International Armed Conflict*. (Oxford Scholarly Authorities on International Law OSAIL, 2012).

Sassilo Marco, "Le Genocide Rawandais, la Justice Milytaire Suisse let le Droit International", (2002) 154-178 *Suisse Revue de droit International let de droit Europeen*.

Sassòli Marco. *The Handbook of Humanitarian Law In Armed Conflicts*. UK: Oxford Press, 1995.

SatinlyArbour, "The Responsibility to Protect Humanity From Genocide: A Duty in International Law", (2008), 415-448 *Review of International Studies*, London.

ShowkatShafi, "The UN Has Called the Current Exodus of Rohingya," (April 18, 2018).

Sloth-Nielsen, Julia, and Ton Liefaard (eds.). *The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary*.

Stephane Marchetti, Cyrille Poems and Hannah Chute, "6000 Miles to Freedom: Two Boys and Their Flight from the Taliban" (*Graphic Mundi*, 2022), 65-71.

Sultan Mahmud, *Muslims in Arakan, the Nation*, (Rangoon: April 12, 1959).

Thant Myint-U. The Making of Modern Burma..Transferred to Digital Printing ed. The Pitt Building, Trumpington Street, UK: Cambridge University Press, 2005.

TomiisOjeaQuintana, “Special Rapporteur on the situation of Human Rights in Myanmar,” Situation of Human Rights, (April, 2014), para 52.

Walliam A. Schabas, Maria. Genocide in International Law: The crime of crimes. (2nd ed. Irland, Glway: Cambridge University Press, 2009.

Yunus Mohammed. A History of Arakan (Past & Present). UK Oxford University Press 1994.

Yves Ternon, “International Crime of Genocide” (1995), 449 Seuil, Peris. William Tolkip and Yehuda Bauer, ‘The History of Holocaust’ (2001), 21 Yale University Press, New Haven.

ZoulfaKatouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

ZoulfaKatouh, "As Long As the Lemon Trees Grow" (Little, Brown Books For Young Readers, 2022) 389-409.

CASE LAWS

Karam Singh vs The Union of Burma (1956 BLR 25 SC)

Letto Law Danga vs The Union of Burma (1959 BLR SC).

Stephanie T.E. Kleine-Ahlbrandt,” The Protection Gap in the International Protection of Internally Displaced Persons,” The Case of Rwanda (Geneva: 2004), 136.

Supreme Court of the Union of Burma. Peer Mohamed v. Union of Burma, 1965 B. L. R. (C.C.)

INTERNATIONAL DOCUMENTS

Alice Edward, Displacement Statelessness and Questions of Gender Equality under the Convention on the Elimination of All Forms of Discriminations against Women (UN High Commissioner for Refugees: 2009), PPLAS/2009/02.

JOURNALS

Alvarez, J.E., 'Judging the Security Council', (1996), 1-39 Journal of International Law, United States of America.

Arne J. Vetlesen, "Genocide: A Case for the Responsibility of Bystander", (2000) 532 Peace Research Journal

Emanuel Fabian, "IDF Accuses Hamas, Islamic Jihad Using Child Soldiers", 2024.

Marko Milanovic, "International Responsibility Against Genocide", (2006) 513-564 EJIL.

Matthew Lippman, "Genocide Being Crime of the Century" (2001) 97-155 Dawn of International Law Journal, New Millennium.

LEGISLATIONS

"About Convention of Stateless Persons."

1951 Convention Relating to the Status of Refugees and its 1967 Protocol.

Book no. 92, Hadith no. 7109, Vol 9, Shahi Al Bukhari.

Book no, 56, Hadith no. 3038, Vol 4, Ali Trimdhi.

Convention Relating to Status of Stateless Persons," 1954, Article 1

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection
Of civilian of International and Non-International Armed Conflicts (Protocol I and II) of
8 June 1977.

Al-Quran, 17:33,

English Transaltion taken by Abdullah Yusuf Ali, Chapter 15, page 786.

Al- Quran 66:6

English Transaltion by Syed Abdullah Yusuf Ali, Chapter 28, page 1774.

The convention on the protection of rights of child 1989.

The Foreigners Act, India Act III, 1864 (12 February 1864).

The Optional Protocol to the UN Convention on the Rights of the Child: A Commentary" edited
by Julia Sloth-Nielsen and Ton Liefwaard.

The Rome Statute of International Criminal Court, 1998.

The Union Citizenship Act, 1948. Act No. LXVI of 1948, enacted on 8 November 1948.

UDHR 1948, Article 15.

Union Citizenship Election Act, 1948. Act No. XXVI of 1948, enacted on 8 May 1948.

United Nations Secuirty Council Resolution 1261, 1999.

United Nations Secuirty Council Resolution 1612, 2005.

United Nations Secuirty Counsil Resolution 1882, 2009.

United Nations Security Council. "Resolution 2427 (2018) on Children and Armed Conflict."
Adopted on July 13, 2018. Accessed September 22, 2023.

United Nations. "Optional Protocol to the Convention on the Rights of the Child on the
Involvement of Children in Armed Conflict." Adopted on May 25, 2000, entered into
force on February 12, 2002. Accessed September 22, 2023.

REPORTS

M.S. Collis and Muhammad Ishaque, Bangladesh District Gazetteers, (Chittagong Hill Tracts:
JBRS, 50th Anniversary No.2, Dacca, 1971), 499.OHIGYA/REPORT/FINAL.

Report about Citizenship Law in Burma.” 2019.

Report of the contact group on Rohingya muslims of Myanmar, United Nations Head Quarters,
(New York,25 September 2019), OIC/ACM-2019/CG-R

WEB SOURCES

“Council of Europe Convention on the Avoidance of Statelessness in Relation to the State
Succession,”<http://www.worldcat.org/title/council-of-europe-convention-on-the-avoidance-of-statelessness-in-relation-to-state-succession-cents-no-200-opened-for-signature-in-strasbourg-france-on-19-may-2006-and-explanatory-report/oclc/230401466>,
November 27, 2019.

“Displacement, United Nations UNHCR Global Trends
2012”<http://www.unhcr.org/51bacb0f9.html>, November 27, 2019.

“Home International Refugee Rights Initiative,” Novmeber27, 2019,
<http://www.refugee.rights.org/>.

“Image for photo UNHCR/G.Constantine,” November 27, 2019,
<http://www.unhcr.org/51110b1c9.pdf>.

“The Europeanisation of Citizenship in the successor States of the Former Yugoslavia,”
<http://www.citsee.ed.ac.uk/>, November 26, 2019, citsee@ed.ac.uk.

<https://borgenproject.org/child-soldiers-in-palestine/>

<https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-11.en.pdf>.

[https://undocs.org/en/S/RES/2427\(2018\)](https://undocs.org/en/S/RES/2427(2018)).

https://www.timesofisrael.com/liveblog_entry/idf-accuses-hamas-islamic-jihad-of-using-child-soldiers/

Mussarat Jabeen, Citizenship and Myanmar’s Muslim Ethnic Group, (Vol. 31, Issue 2 July – December 2018), 99.

Taylor McDonald. (22 June 2017). Rohingya ‘insurgent’ camp raided. Cited in
<https://aseanconomist.com/rohingya-insurgent-camp-raided> accessed on 28 June 2018

The Daily Star (08 July 2018). China urges Myanmar to start Rohingya repatriation soon : It wants to see practical steps; visible outcome. Cited in
<https://www.thedailystar.net/rohingya-crisis/china-urges-myanmar-to-start-rohingya-refugee-repatriation-soon-1601959> accessed on 30 October 2018

The Daily Star (11 May 2018). India wants safe, sustainable Rohingya repatriation. Cited in
<https://www.thedailystar.net/rohingya-crisis/india-wants-safe-sustainable-rohingya-repatriation-1574935> accessed on 29 October 2018

The Daily Star (20 November 2017). War crimes committed against Rohingyas: Say visiting US senators, assure PM of all-out help to resolve the crisis. Cited in

<https://www.thedailystar.net/backpage/mayanmar-refugee-crisis-war-crimes-committed-against-rohingyas-1493683> accessed on 30 October 2018

The Diplomat (01 January 2016).Chinese Company Wins Contract for Deep Sea Port in Myanmar: CITIC Group has won a contract to develop a port in Kyaukpyu on the Bay of Bengal.Cited in<https://thediplomat.com/2016/01/chinese-company-wins-contract-for-deep-sea-port-in-myanmar> accessed on 01 October 2018

The Myanmar Times (2017). Rakhine to construct Maungdaw economic zone.Cited in <https://www.mmtimes.com/news/rakhine-construct-maungdaw-economic-zone.html> accessed on 01 October 2018

The Myanmar Times (27 Mar 2017). Myanmar-Russia ties reviewed. Cited in <https://www.mmtimes.com/national-news/25467-myanmar-russia-ties-reviewed.html> accessed on 01 October 2018

The United Nations Office of the High Commissioner for Human Rights, September 2011,<http://www.unhcr.org/4ec262df9.html> (accessed July 16,2014). The Geneva Conventions of 12 August 1949 I-IV

The World Bank (02 July 2018). Rohingya Crisis Needs World's Support. Cited in <https://www.worldbank.org/en/news/feature/2018/07/02/rohingya-crisis-needs-world-support> accessed on 28 October 2018

U.S. Department of States (24 September 2018). Documentation of Atrocities in Northern Rakhine State. Cited in <https://www.state.gov/j/drl/rls/286063.htm> accessed on 30 October 2018

UN News (02 July 2018). UN chief hears ‘heartbreaking accounts’ of suffering from Rohingya refugees in Bangladesh; urges international community to ‘step up support’. Cited in <https://news.un.org/en/story/2018/07/1013702> accessed on 29 July 2018

UN News (11 September 2017). UN human rights chief points to ‘textbook example of ethnic cleansing’ in Myanmar. Cited in <https://news.un.org/en/story/2017/09/564622-un-human-rights-chief-points-textbook-example-ethnic-cleansing-myanmar> accessed on 28 June 2018

UN News (13 March 2018). News in Brief 13 March 2018. Cited in <https://news.un.org/en/audio/2018/03/1004892> accessed on 26 July 2018

UN News (20 December 2017). UN rights expert ‘disappointed’ by Myanmar’s decision to refuse. Cited in <https://news.un.org/en/story/2017/12/639982-un-rights-expert-disappointed-myanmars-decision-refuse-visit> accessed on 26 July 2018

UN News (24 August 2017). Myanmar: UN welcomes final assessment of independent advisory panel on Rakhine state. Cited in <https://news.un.org/en/story/2017/08/563812-myanmar-un-welcomes-final-assessment-independent-advisory-panel-rakhine-state> accessed on 25 July 2018

UN News (27 June 2018). UN rights expert ‘strongly recommends’ probe by International Criminal Court into ‘decades of crimes’ in Myanmar. Cited in <https://news.un.org/en/story/2018/06/1013212> accessed on 29 July 2018

UN News. (06 March 2018). ‘No other conclusion,’ ethnic cleansing of Rohingyas in Myanmar continues – senior UN rights official. Cited in <https://news.un.org/en/story/2018/03/1004232> accessed on 26 July 2018