



**Rethinking Child Soldiers:
Exploring Gendered Realities and Fragmented Protection**

8th March 2024

Post-graduate course in Armed Conflict and Human Rights

Word Count: 10,000 words

Abstract

In 2008, the United Nations estimated that the phenomenon of child soldiers concerned around 250,000 children throughout the world. While child soldiering has for long been recognised as a concern for the international community, the myopic fixation on a specific victim and storyline has hindered effective responses and obstructed the protection of children's rights.

Traditional representations of child soldiers have exclusively focused on boys and neglected the multiplicity of female involvement. The gendered binary between female victimhood and male aggression has condemned girls' agency and boys' experiences of violence to invisibility within discourse and policy. Subsequently, challenging misleading assumptions and unravelling the complex gendered dynamics that underpin child soldiering emerges as a crucial add-on to the international debate.

This dissertation proposes an additional international instrument which seeks to enhance child soldiers' protection through the recognition of the diverse forms of violence to which they are subjected. To ensure it contemplates the intricate realities of child soldiering and avoid reductionism that risks losing sight of the multiple ways in which the human category may be inhabited, it proposes the expansion of Firth and Mauthe's concept of "personhood". To reinvent our frame is to allow child protection to triumph as an instrument of hope capable of accommodating the multidimensional realities of child soldiers.

Acknowledgements

I dedicate this dissertation to my grandmother, parents and siblings for their unconditional encouragement and support. Without their love and patience, I would not be where I currently stand, always looking to identify and embrace new challenges and learning opportunities.

During the writing of this dissertation, I received invaluable assistance and insights. I would like to truly thank my supervisor, Professor Eduardo Malheiro de Magalhães, for his cherished guidance and availability throughout my research process. I am also grateful for the important insights provided by Ius Gentium Conimbrigae Centre for Human Rights throughout the course.

Finally, I would like to show my utmost gratitude to my friends, namely Leonor Abreu Coutinho and Francisca Pereira for their endless support and constant excitement to discover more regarding this work's topic.

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List of Abbreviations

API:	Additional Protocol I to the Four Geneva Conventions
APII:	Additional Protocol II to the Four Geneva Conventions
AU:	African Union
CRC	Convention on the Rights of the Child
DDR:	Disarmament, Demobilisation and Reintegration
DRC:	Democratic Republic of Congo
ELF:	Eritrean Liberation Front
FARC:	Revolutionary Armed Forces of Colombia
GBV:	Gender-Based Violence
ICC:	International Criminal Court
ICCPR:	International Covenant on Civil and Political Rights
ICL:	International Criminal Law
ICTR:	International Criminal Tribunal for Rwanda
ICTY:	International Criminal Tribunal for the former Yugoslavia
IHL:	International Humanitarian Law
IL:	International Law
ILO:	International Labour Organisation
LRA:	Lord's Resistance Army
RUF:	Revolutionary United Front

UN: United Nations

UNICEF: United Nations International Children's Emergency Fund

UPC-FLPC: Union des Patriotes Congolais - Forces Patriotiques pour la Libération du Congo

5. Introduction

“For far too long, the use of child soldiers has been seen as merely regrettable.

We are here to ensure it is recognised as intolerable!”.

- KOFI ANNAN, Former Secretary-General of the United Nations

...

In 2008, the United Nations (UN) estimated that the phenomenon of child soldiers concerned around 250,000 children throughout the world (see *Appendix 1*)². While this has for long been recognised as a concern for the international community, the number of children involved in armed conflicts across the globe has observed an increase with the termination of the Cold War and the proliferation of intra-state conflicts³. Child Soldiers International reveals a 159% rise of the number of children used in armed conflict across the globe from 2012 to 2017, signalling to a distinctive pattern in contemporary warfare: the intentional victimisation of children and the flagrant neglect of their human rights⁴.

To find adequate international, regional and domestic responses to the weaponization of children in the context of armed conflict, a comprehensive understanding of this phenomenon is required. However, the myopic fixation on a specific victim and storyline has resulted in a limited understanding of what is required to address this pressing issue⁵. Not only have traditional representations of child soldiers been exclusively focused on boys carrying guns,

¹ UNITED NATIONS, “‘Use of Child Combatants Will Carry Consequences”, Secretary-General Tells Event on Child Soldiers”, *United Nations* (blog), 7 May 2002, <https://press.un.org/en/2002/sgsm8226.doc.htm>.

² UNITED NATIONS, ‘Some 250,000 Children Worldwide Recruited to Fight in Wars – UN Official’, *United Nations* (blog), 30 January 2008, <https://news.un.org/en/story/2008/01/247322>.

³ A. VAUTRAVERS, ‘Why Child Soldiers Are Such a Complex Issue’ 27, no. 4 (2008): 96–107.

⁴ CHILD SOLDIERS INTERNATIONAL, ‘Child Soldier Levels Doubled since 2012 and Girls’ Exploitation Is Rising’, 11 February 2019, <https://reliefweb.int/report/world/child-soldier-levels-doubled-2012-and-girls-exploitation-rising>.

⁵ L HEATON, ‘The Risks of Instrumentalizing the Narrative on Sexual Violence in the DRC: Neglected Needs and Unintended Consequences’ 96, no. 894 (2014): 625–39.

resulting in a complete disregard to their subjection to multiple forms of violence, but female involvement in fighting forces has been neglected by the international community, despite 4 out of 10 child soldiers being girls (see *Appendix 2*)⁶. Rather than considering how gender might affect experiences of children in conflict, child soldiering has historically been portrayed as “uniquely male”⁷, overlooking the nuanced realities gendered dimensions of children’s involvement in combat.

Contrary to conventional associations of “soldier” with combat functions, child soldiers are also exploited by fellow commanders for sexual purposes. This disproportionately affects girls, who commonly endure sexual enslavement, rape, and coercion into roles such as “bush wives”⁸, complicating their participation in hostilities. Recognising that such an impingement upon girls’ sexual integrity is often systematic, the Cape Town Principles extend the definition of a “child soldier” to include “girls recruited for sexual purposes and for forced marriage”⁹. However, the deployment of girl soldiers for sexual services is not only underexplored and underreported, but lacks clear regulation by International Law (IL), creating a protection gap which reflects CHARLESWORTH and CHINKIN’s observation that women and girls’ specific concerns have been “obscured by and within the international legal order”¹⁰.

Stemming from traditional understandings of war as a masculine space wherein masculinity is associated with violence and femininity with passivity, the creation of the binary opposition between female victimhood and male aggression has condemned girls’ agency and boy soldiers’ subjection to violence to invisibility within discourse and policy,

⁶ UNITED NATIONS, ‘4 out of 10 Child Soldiers Are Girls’, *United Nations* (blog), n.d., <https://www.un.org/youthenvoy/2015/02/4-10-child-soldiers-girls/>.

⁷ M DENO, ‘Girl Soldiers and Human Rights: Lessons from Angola, Mozambique, Sierra Leone and Northern Uganda’ 12, no. 5 (2008): 813.

⁸ R GREY, ‘Sexual Violence against Child Soldiers’ 16, no. 4 (2014): 601.

⁹ UNICEF, ‘Cape Town Principles’ (1997), <https://openasia.org/en/wp-content/uploads/2013/06/Cape-Town-Principles.pdf>.

¹⁰ H CHARLESWORTH and C CHINKIN, *The Boundaries of International Law: A Feminist Analysis* (Manchester: Manchester University Press, 2000), 1.

obstructing the protection of children's rights¹¹. The fact that male victimisation has been defined as the "last human rights taboo¹²" sheds light on the importance of recognising boys' subjugation to various forms of aggression, including sexual abuse, and to the ways in which this disrupts traditional gendered assumptions of victim and aggressor. The intricacies of this issue are further compounded by the challenges of monitoring and documenting the use of child soldiers, coupled with the concealment of sexual violence due to social taboos and fears. Thus, exploring the complexity behind the gendered dynamics of the exploitation of child soldiers is required to rethink the parameters in which violence in the context of armed conflict is understood¹³.

Applying a multidisciplinary approach - comprised of law, jurisprudence, sociology and politics - to the realities of girl and boy soldiers in armed conflict, this research project aims to disrupt monolithic narratives on child soldiering to understand the ways in which gender norms and power structures affect their experiences of violence. It will explore protection gaps, defy traditional understandings of war, and attempt to comprehend what - if any - mechanisms should be utilised to rethink child soldiering, reinforce the protection of children's human rights and strengthen justice against sexual violence. The concept of child soldier is largely underexplored; there must be scope for disruption, dispute and reconstruction.

Consequently, throughout this investigation the following question is addressed: *How do gender dynamics intersect with the experiences of child soldiers, and how does this impact international efforts to prevent and rehabilitate child soldiering while promoting child protection?* This is deconstructed into three symbiotic research questions:

¹¹ C COULTER, M PERSSON, and M UTAS, *Young Female Fighters in African Wars: Conflict and Its Consequences* (Uppsala: ELanders Sverige, 2008).

¹² R KHAN, 'Child Soldiers Complicate Gender Roles of Victim and Perpetrator', *LSE* (blog), 10 January 2020, http://eprints.lse.ac.uk/103742/1/Child_soldiers_complicate_gender_roles_of_victim_and_perpetrator_Africa_at_LSE.pdf.

¹³ L ALFREDSON, 'Sexual Exploitation of Child Soldiers: An Exploration and Analysis of Global Dimensions and Trends' 1, no. 1 (2001): 1–13.

- What are the gendered dimensions of the violence confronted by child soldiers within armed groups in the several stages of participation?
- To what extent are approaches to reintegration and justice effective, and how do they address the gendered challenges faced by child soldiers?
- How can a space for protection be reimagined?

By challenging the long-held assumption that child soldiering is a male phenomenon and that only female victimisation exists, this research shifts attention to the different realities experienced by both boy and girl soldiers to better understand the unique needs and vulnerabilities that must be prioritised in efforts to prevent, release and reintegrate them. To address the complexity of these issues and avoid essentialisation, it rejects the idea that children are a monolithic entity; their experiences are influenced by elements including military structures and gendered hierarchies¹⁴.

Maintaining a critical voice throughout, this analysis acknowledges the concept of child soldier is a legally, sociologically and politically debated notion and does not expect to disregard the practical and theoretical gains that have been achieved. Rather, it seeks to build on previous insights from experts such as HENRIETTA FORE, Executive Director of the United Nations International Children's Emergency Fund (UNICEF), who claims "female child soldiers often go unseen but must not be forgotten"¹⁵. Above all, this study hopes to provide a stage for the multidimensional and heterogeneous experiences of child soldiers to engage in dialogue with the wider public and honour both their multifaceted experiences and the ways in which several thinkers have conceptualised their confrontations with violence. Only this way may the complicated subjugation of child soldiers to exploitation become a visible issue in an arena which has traditionally excluded it.

¹⁴ H RICE, 'Invisible Girls: The Role of Girls in Armed Conflict in Contemporary Africa', *The Historian Journal* (blog), 12 January 2019, <https://thehistorianjournal.wordpress.com/2019/01/12/invisible-girls-the-role-of-girls-in-armed-conflict-in-contemporary-africa/>.

¹⁵ H FORE, 'Female Child Soldiers Often Go Unseen but Must Not Be Forgotten', *News Trust* (blog), 12 February 2021, <https://news.trust.org/item/20210211143359-cpm3z>.

Accordingly, the first chapter reviews the academic debate surrounding child soldiering and international frameworks aiming at child protection. Methodological choices are explained in the second chapter and in chapter three, the violence experienced in the recruitment, deployment and rehabilitation of child soldiers is explored as well as relevant jurisprudence to reimagine a human-centric protection system. Lastly, the conclusion discusses wider implications and provides potential recommendations.

5. Literature Review

This section aims to understand the developments of the research landscape on child soldiering over the past forty years as well as the critical elements for the protection of the rights of the child. Firstly, it exposes the divergent manners in which key international instruments conceptualise the notion of child soldiers and seek to prohibit such practice; the former is politically significant as it determines who is worthy of protection, whereas the latter is crucial in understanding whether the international system provides complete or fragmented protection to children involved in fighting forces. Secondly, the ways in which the academic arena has delved into the phenomenon of child soldiering is explored, revealing the neglect of female participation and girl's unique vulnerabilities. Lastly, the debate on the criminal prosecution of violence enacted by and towards child soldiers is addressed as well as the effectiveness of the international criminal system in ensuring accountability.

The Concept and Protection of Child Soldiers in International Legal Frameworks

The 2007 Paris Principles and Guidelines on Children Associated in Armed Forces or Armed Groups define “child associated with an armed force or armed group” as:

“Any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities¹⁶”.

This comprehensive definition is key due to guidance on age, acknowledging girls' participation in armed combat and delineating the several roles they may undertake.

¹⁶ UNICEF, ‘Paris Principles’, UNICEF, *UNICEF* (blog), February 2007, para. 2.1, <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>.

However, divergent perceptions on child soldiering persist, potentially limiting discourse and hindering comprehensive responses. From a legal perspective, this might be because the multitude of documents available provide opposing norms for protection¹⁷. For instance, HONWANA believes the term “soldier” is mainly refers to people receiving training within military institutions¹⁸.

Table 1 - Evolution of International Protection of Child Soldiers Since End of Cold War (self-elaborated)

Instrument	Date of Entry into Force	Key Aspects
Additional Protocols to the Four Geneva Conventions	1989	Recognise children as objects of special respect and protection against any form of indecent assault (API) Ban recruitment and participation of children below the age of 15 in hostilities (Art. 77 API, Art. 4 APII)
Convention on the Rights of the Child	1990	Defines a child as every human being below the age of 18 years Prohibits the recruitment of children below the age of 15 For those recruited between 15 and 18, States Parties shall give priority to the oldest
Cape Town Principles	1997	Extend definition of child soldier to any person under 18 who is part of any type of armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups
Rome Statute of the International Criminal Court	1998	Defines conscription or enlisting children under 15 years of age as war crime
African Charter on the Rights and Welfare of the Child	1999	Only regional treaty to address child soldiering. Affirms States parties must take measures to ensure no child takes direct part in hostilities and to refrain from recruiting any child Defines child as anyone below 18 years of age
International Labour Organisation Forms	2000	Defines child as anyone under the age of 18

¹⁷ S DIAZ, ‘An Elusive Mandate: Enforcing the Prohibition on the Use of Child An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers’ 39, no. 3 (2019): 263–82.

¹⁸ A HONWANA, *Child Soldiers in Africa* (Philadelphia: University of Pennsylvania Press, 2006).

of Child Labour Convention		Commits States parties to take effective measures to prohibit and eliminate the worst forms of child labour, which includes forced recruitment of children for use in armed conflict
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	2002	<p>Minimum voluntary recruitment age of 18</p> <p>No requirement that such groups are involved in armed conflict, making the question of whether a situation amounts or not to armed conflict, irrelevant, as recruitment prior to conflict is covered</p> <p>Recognises children may be vulnerable to recruitment owing to gender</p> <p>Requires States to make declaration regarding minimum age at which national forces will permit voluntary recruitment</p>
Paris Principles	2007	<p>Move away from the concept of child soldier to child associated with an armed force or armed group</p> <p>Explicitly recognises female involvement and various roles</p> <p>Establishes that child soldier includes anyone up until the age of 18</p>

The UN (UN) Convention on the Rights of the Child (CRC), in force since 1990, was among the first international documents recognising children as rights-bearing subjects and addressing their participation in armed conflicts¹⁹. It asserts that adulthood commences at 18²⁰, and emphasises children's entitlement to distinctive status, protection and nurturing environments²¹. Nevertheless, it originally lacked additional protections for children in armed conflicts, referencing International Humanitarian Law (IHL) without addressing child soldiers' vulnerabilities (See *Table I*)²². Consequently, just like Articles 77(2) and 4(3)(c) of the Additional Protocol I to the Geneva Conventions, it establishes the minimum age for recruitment and participation in hostilities at 15²³.

¹⁹ I DERLUYN, W VANDENHOLE, and S PARMENTIER, 'Victims and/or Perpetrators? Towards an Interdisciplinary Dialogue on Child Soldiers' 15, no. 28 (2015).

²⁰ UNITED NATIONS, 'Convention on the Rights of the Child' (1989), art. 1.

²¹ UNITED NATIONS, Preamble.

²² DIAZ, 'An Elusive Mandate: Enforcing the Prohibition on the Use of Child An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers'.

²³ 'Additional Protocol I to the Geneva Conventions of 12 August 1949' (1977).

Contrarily, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), enforced in 2002, stands out as “the most specific prohibition of child soldiers under international law²⁴”. Ratified by 172 countries, its Article 1 prohibits the involvement of children under 18 in hostilities, without requiring recruiting groups to be engaged in conflict²⁵. Also, it mandates all States parties to adopt measures to prevent child recruitment and recognises recruited children’s special needs due to gender²⁶. Although OPAC’s substantive protections primarily focus on recruitment age and involvement, the establishment of positive State obligations indicates a global shift in the overall prohibition.

MACHADO states that the International Covenant on Civil and Political Rights (ICCPR) – adopted to strengthen the Universal Human Rights Declaration – have established customary norms that bind even those States that have not ratified it²⁷. Developed to support the realisation of the rights of the ICCPR, the Centre for Civil and Political Rights declared that “the right to special measures of protection belongs to every child because of his status as a minor²⁸”, but that the ICCPR establishes no age at which children attain majority. Contrastingly, while MACHADO portrays it as a fragile institution, the African Union (AU) stands out for creating the only regional treaty that addressed the plight of child soldiers²⁹. Adopted in 1990, the African Charter on the Rights and Welfare of the Child establishes that adulthood is initiated at 18 and obliges States to safeguard children from participating in hostilities³⁰. The International Labour Organisation’s (ILO) Worst Forms of Child Labour Convention, in force since 2000, highlights “forced or compulsory recruitment of children

²⁴ HUMAN RIGHTS WATCH, ‘Child Soldiers Global Report 2008’ (Human Rights Watch, 2008), 4, https://www.hrw.org/legacy/pub/2008/children/Child_Soldiers_Global_Report_Summary.pdf.

²⁵ UNITED NATIONS, ‘Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict’ (2000).

²⁶ UNITED NATIONS, Preamble.

²⁷ J MACHADO, *Direito Internacional*, 5th ed. (Coimbra: Gestlegal, 2019), 405.

²⁸ CENTRE FOR CIVIL AND POLITICAL RIGHTS, ‘CCPR General Comment No. 17: Article 24 (Rights of the Child)’ (United Nations Office of the High Commissioner for Human Rights, 1989), para. 4, <https://www.refworld.org/legal/general/hrc/1989/en/37603>.

²⁹ MACHADO, *Direito Internacional*, 445.

³⁰ AFRICAN UNION, ‘The African Charter on the Rights and Welfare of the Child’ (1990), art. 22(2).

for use in armed conflict³¹” as one of the “worst forms of child labour”, constituting the first legal recognition of child soldiering as such.

Regarding International Criminal Law, the Rome Statute of 1998 characterises the use of child soldiers as a war crime³², prohibiting the enlistment and use of children under 15 in national armed forces as this constitutes a violation of international laws and customs according to MEZMUR³³. Its initial drafting clarifies that children’s participation in hostilities includes direct and indirect participation such as spying, sabotage and scouting³⁴. Nevertheless, it falls short by constraining enforceability to actors deploying children under 15, granting immunity to those deploying older children or refraining from involving them in active hostilities.

Fundamental for the Paris Principles, the Cape Town principles broaden safeguards for children associated with armed groups. They define “child soldiers” as any person under 18 who is involved in any capacity with armed groups, beyond mere combat role, crucial for addressing gender-specific experiences, particularly of girls coerced into sexual exploitation or marriage³⁵. Despite these advancements, DENOVS suggests child soldiering continues to be portrayed as a male phenomenon, leaving girls in fighting forces overlooked³⁶.

³¹ INTERNATIONAL LABOUR ORGANISATION, ‘ILO Worst Forms of Child Labour Convention 182’ (n.d.), art. 3(a).

³² ‘Rome Statute of the International Criminal Court, 17 July 1998, Entered into Force 1 July 2002, UN Doc A/CONF.183/9’ (1998), art. 8(2)(b)(xxvi); 8(2)(e)(vii).

³³ B MEZMUR, ‘Children at Both Ends of the Gun: Child Soldiers in Africa’, in *Children’s Rights in Africa* (Routledge, 2008).

³⁴ MEZMUR.

³⁵ Cape Town Principles.

³⁶ DENOVS, ‘Girl Soldiers and Human Rights: Lessons from Angola, Mozambique, Sierra Leone and Northern Uganda’, 813.

2.2.Academic Landscape on Child Soldiering and Gender Dynamics

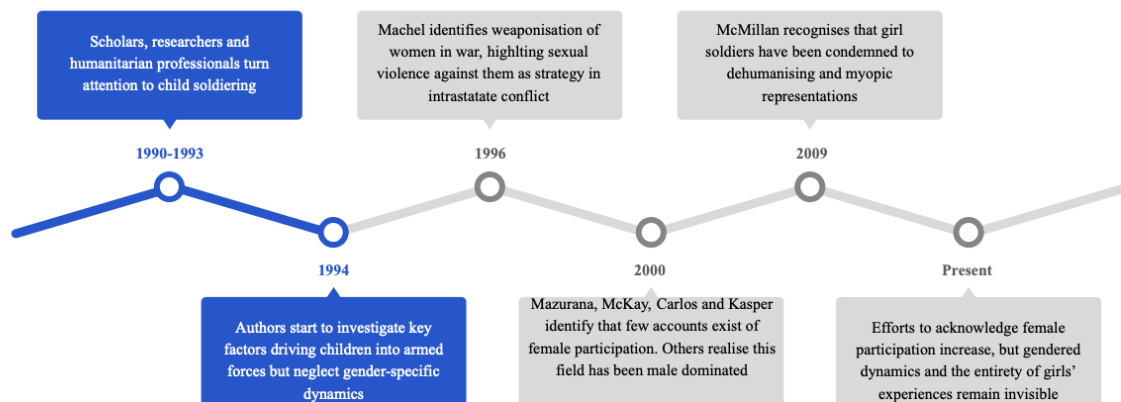


Figure 1 - Evolution of Gender Visibility in the Study of Child Soldiering (self-elaborated)

Since the 1990s, attention to child soldiering has grown among scholars, researchers and humanitarian professionals focusing on factors driving recruitment, participation in human rights violations, and post-association challenges (See *Figure 1*)³⁷. MACHEL's report explores conflicts' changing nature, characterising post-Cold War conflicts by irregular armed forces, rising violence towards civilians and intra-state fighting³⁸. Despite receiving vast criticism, contemporary research often employs the “new war³⁹” theory, linking access to small arms to increased child involvement⁴⁰. ENZENSBERGER terms this phenomenon “molecular civil war⁴¹”, depicting a state breakdown where children are both victims and perpetrators.

³⁷ L LÖFGREN, ‘Child Soldiers from a Legal Perspective A Literature Based Case Study of the Democratic Republic of Congo, Sierra Leone and Uganda’ (Uppsala University, 2013), <https://www.diva-portal.org/smash/get/diva2:718792/FULLTEXT01.pdf>.

³⁸ G MACHEL, ‘Report of the Expert of the Secretary-General, Ms. Graça Machel, Submitted Pursuant to General Assembly Resolution 48/157’ (United Nations, 1996), <https://www.onlinelibrary.iihl.org/wp-content/uploads/2021/04/Machel-Report-Impact-Armed-Conflict-Children-EN.pdf>.

³⁹ E MELANDER, M ÖBERG, and J HALL, ‘The “new Wars” Debate Revisited: An Empirical Evaluation of the Atrocity of ‘new Wars’’, Uppsala Peace Research Papers No.9, 2006, 3.

⁴⁰ R BRETT and I SPECHT, ‘Young Soldiers: Why They Choose to Fight’ (USA: Kynne Rienner Publishers, 2004).

⁴¹ H ENZENSBERGER, *Civil Wars: From L.A. to Bosnia* (New York: The New Press, 1995).

In 1994, COHN and GOODWIN-GILL proposed political, social and economic factors driving children into armed forces, a view which has been echoed by subsequent researchers⁴². BRETT and SPECHT claim grievances like loss of parents, lack of opportunities, poverty and political beliefs as motivators for children's participation⁴³. HONWANA indicates these factors are intertwined with the collapse of socioeconomic structures, impairing the capacity of households and communities to nurture and protect children⁴⁴. Accordingly, legal prohibitions on the recruitment and use of child soldiers are likely to be ineffective unless the realities in which children combat are considered⁴⁵.

Scholars have often approached child soldiering with a simplistic view⁴⁶, overlooking impact of warfare on girl soldiers who have been historically neglected in governmental, non-governmental and international schemes⁴⁷. In 2002, MAZURANA, MCKAY, CARLSON and KASPER noted that while historical accounts of girls' participation in warfare is scarce, it is inaccurate to view this as exclusive to the 20th and 21st century phenomenon⁴⁸. Bridger's research on girls' struggle against apartheid in South Africa highlights only men are interviewed in contexts of war, driving conclusions that no female involvement exists⁴⁹. Cultural norms also contribute to the invisibility of girls in hostilities, with some African countries considering girls as women after initiation rites, as opposed to western cultures where girls are only to be regarded as women at 18⁵⁰.

⁴² G GOODWIN-GILL and I COHN, *Child Soldiers. The Role of Children in Armed Conflicts* (Oxford: Clarendon Press, 1994).

⁴³ BRETT and SPECHT, 'Young Soldiers: Why They Choose to Fight'.

⁴⁴ HONWANA, *Child Soldiers in Africa*.

⁴⁵ LÖFGREN, 'Child Soldiers from a Legal Perspective A Literature Based Case Study of the Democratic Republic of Congo, Sierra Leone and Uganda'.

⁴⁶ HONWANA, *Child Soldiers in Africa*.

⁴⁷ HONWANA.

⁴⁸ D MAZURANA et al., 'Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilisation, and Reintegration' 8, no. 2 (2002): 101.

⁴⁹ E BRIDGER, *Young Women against Apartheid* (United Kingdom: James Currey, 2021).

⁵⁰ S MCKAY, 'Girls as "Weapons of Terror" in Northern Uganda and Sierra Leonean Rebel Fighting Forces' 28, no. 5 (2005): 385–97.

However, the erasure of women has been defied by gender and public health studies⁵¹. In 1996, MACHEL identified the weaponization of women in war - through crimes including sexual violence - as a strategy in intrastate conflict⁵². UTAS has not only been investigating the participation of girls in hostilities, but their status in post-conflict phases, examining both how they cope with trauma and the practices deployed for victims of sexual violence⁵³. Note that although the focus on girl soldiers as victims brings visibility to the challenges they confront, it shifts attention to victims rather than to the condemnation of aggressors, potentially resulting in the double victimisation of girl soldiers⁵⁴. Moreover, as argued by CARROLL, it fails to recognise girls as active participants in fighting forces⁵⁵.

Despite the rising efforts to acknowledge female participation in warfare by several schools of thought, little exists on the gendered dynamics to which girl soldiers are subjected. The few circumstances where girls have been represented, MCMILLAN argues this has been done in severely dehumanising ways, being depicted as suffering from humiliation, degradation and torture rather than as subjects acting under highly disproportionate power relations⁵⁶. Thus, although similarities might exist between the experiences of boy and girl soldiers, the differences between - them due to severe misogyny and sexism that characterises military structures⁵⁷ - justify an investigation of child soldiering through a gender perspective⁵⁸.

⁵¹ S MCKAY, 'The Effects of Armed Conflict on Women and Girls' 4, no. 4 (1998): 381–92.

⁵² MACHEL, 'Report of the Expert of the Secretary-General, Ms. Graça Machel, Submitted Pursuant to General Assembly Resolution 48/157'.

⁵³ COULTER, PERSSON, and UTAS, *Young Female Fighters in African Wars: Conflict and Its Consequences*.

⁵⁴ L PATIÑO-GASS and P GONZÁLEZ-ALDEA, 'Armed Conflicts and Gender Perspective: Media Representation of Girls' Soldiers' 12, no. 1 (2021): 235–52.

⁵⁵ S CARROLL, 'Catch Them Young: Participation and Roles of Girl Child Soldiers in Armed Conflicts', in *Female Combatants in Conflict and Peace* (London: Palgrave Macmillan, n.d.).

⁵⁶ L MACMILLAN, 'The Child Soldier in North-South Relations' 3, no. 1 (2009): 36–52.

⁵⁷ PATIÑO-GASS and GONZÁLEZ-ALDEA, 'Armed Conflicts and Gender Perspective: Media Representation of Girls' Soldiers'.

⁵⁸ M FOX, 'Human Security and Gendered Insecurity' 35, no. 4 (2004): 465–79.

2.3. Ethical and Legal Dilemmas in Justice for Child Soldiers

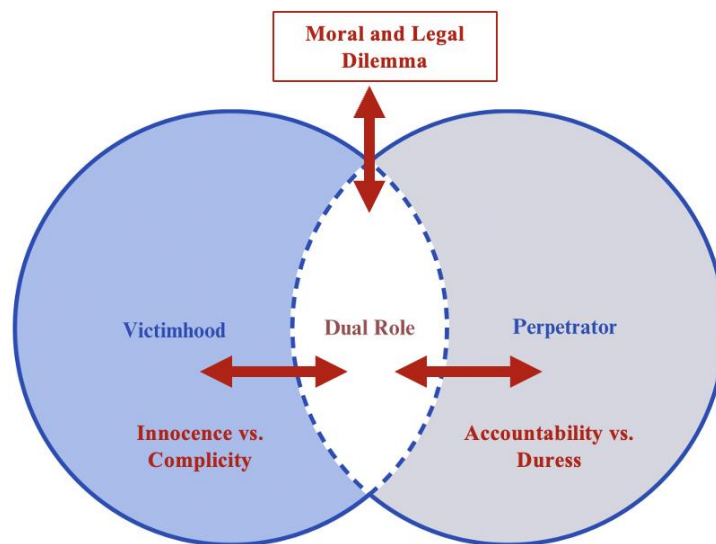


Figure 2 - Child Soldiers and the Criminal Responsibility Dilemma (self-elaborated)

The perpetration of war crimes by child soldiers raises complex regarding individual criminal responsibility. The dichotomy of perceiving them strictly as victims or perpetrators might oversimplify their reality; childhood innocence clashes with their integration into armed forces, where they wield lethal force⁵⁹. Two central questions emerge: *should child soldiers be held accountable for crimes committed under coercion, and should justice take a differentiated approach considering the heterogeneity of their experiences* (See Figure 2)? As child soldiers may commit crimes including rape, murder and torture, LEVEAU argues they must be prosecuted by international criminal tribunals by respecting specific standards⁶⁰, and NOBERT believes that without legal ramifications, no incentive exists for child soldiering to end⁶¹. However, their moral and psychological capacity to understand their actions under duress complicates accountability.

⁵⁹ C MARTINS, 'The Dangers of the Single Story: Child-Soldiers in Literary Fiction and Film' 18, no. 4 (2011): 434–46.

⁶⁰ F LEVEAU, 'Liability of Child Soldiers Under International Criminal Law' 4, no. 1 (2013): 36–66.

⁶¹ M NOBERT, 'Children at War: The Criminal Responsibility of Child Soldiers' 3, no. 1 (2011): 1–39.

Internationally, holding children criminally liable is hard for two reasons: (1) psychological maturity differs between children, hindering the determination of whether the element of *mens rea* exists, and (2) international law lacks a minimum age for criminal liability⁶². Regarding the first restraint, an accused can only be held liable when the *actus rea* is found to be committed with intent (*mens rea*). Researchers assert that children are unable to comprehend their actions nor their consequences – failing to demonstrate *mens rea* - up until a certain age which is not clearly determined⁶³. This highlights a significant problem: while some children should potentially be held liable under international criminal law, others should not. CAHN reinforces this idea, positing that early abuse may alter the structure of a child's brain so that “delinquent behaviour results from the brain using these early lessons of fear to defend itself⁶⁴”.

Regarding the lack of established minimum age for international criminal liability, international norms establish that an adult is someone who has attained 18 years of age, implying that a child's criminal liability is non-existent. Nevertheless, if liability is to exist, *how should the minimum age be determined*⁶⁵? This question has remained unanswered, with nations unable to reach consensus. Whereas in some Mexican states, 6-year-old children may be prosecuted for non-federal crimes, in Argentina this is fixed at 16⁶⁶. Nevertheless, international law attempts to provide guidance on the determination of a minimum age; the UN Standard Minimum Rules for the Administration of Juvenile Justice establishes that “the beginning of that age shall not be fixed at too low an age limit, bearing in mind the facts of emotional, mental and intellectual maturity⁶⁷”.

⁶² LEVEAU, ‘Liability of Child Soldiers Under International Criminal Law’.

⁶³ L KOHLBERG, *Child Psychology and Childhood Education - A Cognitive Developmental View* (New York: Longman, 1987).

⁶⁴ N CAHN, ‘Masculinities and Child Soldiers in Post-Conflict Societies’, 2011, 426.

⁶⁵ UNITED NATIONS, Convention on the Rights of the Child, art. 1.

⁶⁶ UNICEF, ‘The Progress of Nations 1997’ (UNICEF, 1997), <https://www.unicef.org/media/85591/file/Progress-For-Nations-1997.pdf>.

⁶⁷ UNITED NATIONS, ‘United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), GA Res 40/33’, *UNITED NATIONS* (blog), 1985, <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-standard-minimum-rules-administration-juvenile>.

Nevertheless, with the rise of extremist groups like ISIS and Boko Haram, countries have increasingly adopted radical counterterrorism steps, including a staggering increase in the prosecution of children involved in conflict⁶⁸. Since 2012, there has been a five-fold rise in their detention⁶⁹. This has generated a hazardous double standard: child soldiers involved in conventional armed conflicts are mainly perceived as victims in need of rehabilitation and reintegration assistance, but participating alongside so-called terrorist groups drives their criminal prosecution. As such, a UN working group has officially demonstrated concern regarding the punitive approach adopted by some States towards child soldiers, insisting their best interests to be prioritised⁷⁰.

Historically speaking sexual violence against both boys and girls has not taken central stage in IHL And ICL discussions⁷¹. This is significant given the particularly complex situation of girl soldiers, who in addition to participating in hostilities, are often raped, sexually enslaved and used as bush wives⁷². For instance, when exploring the case of Sierra Leone, BETANCOURT *ET AL.*⁷³ indicate that female child soldiers were often recruited not only to fight but more for sexual purposes. Mainly due to the rising participation of feminist activists in international discussions, the 1990s observed States' increasing preoccupation with conflict-related sexual violence⁷⁴. Both the International Criminal Tribunal for Rwanda (ICTR) and International Criminal Tribunal for the former Yugoslavia (ICTY) were vital in

⁶⁸ J BECKER, 'Some Child Soldiers Get Rehabilitation, Others Get Prison', *Human Rights Watch* (blog), 4 March 2019, <https://www.hrw.org/news/2019/03/04/some-child-soldiers-get-rehabilitation-others-get-prison>.

⁶⁹ BECKER.

⁷⁰ OHCHR, 'Improve Integration of Child Soldiers', *United Nations* (blog), 1 October 2018, <https://www.ohchr.org/en/stories/2018/09/improve-integration-child-soldiers>.

⁷¹ R COPELON, 'Gender Crimes as War Crimes: Integrating Crimes against Women into International Criminal Law' 46, no. 1 (2000): 217–40.

⁷² M DENO, *Child Soldiers: Sierra Leone's Revolutionary United Front* (Cambridge: Cambridge University Press, 2010); N JØRGENSEN, 'Child Soldiers and the Parameters of International Criminal Law' 11, no. 4 (2012): 657–88.

⁷³ T BETANCOURT et al., 'Sierra Leone's Child Soldiers: War Exposures and Mental Health Problems by Gender' 49, no. 1 (2011): 21–28.

⁷⁴ L CHAPPELL, 'Women, Gender and International Institutions: Exploring New Opportunities at the International Criminal Court' 22, no. 1 (2003): 3–25.

providing visibility to sexual violence in the context of ICL⁷⁵, with the inclusion of a diverse range of sexual violence crimes in the Rome Statute having built on such developments⁷⁶.

While the Rome Statute fails to explicitly acknowledge sexual violence perpetrated against child soldiers as a prosecutable crime within the ICC's authority, one may argue this crime may be prosecuted under the sexual violence crimes enumerated in the Statute⁷⁷. Article 7(1)(g) recognises "Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity⁷⁸" as a crime against humanity and further lists them as war crimes in both international and non-international armed conflict (Articles 8(2)(b)(xxii); 8(2)(e)(vi))⁷⁹. However, to qualify as a crime against humanity, acts of sexual violence must be committed as part of a "widespread or systematic attack against any civilian population", pursuant to a "State or organisational policy" (Articles 7(1) and 7(2))⁸⁰. Mandating that the act targets a "civilian population" hinders the ability to bring charges for sexual violence perpetrated against child soldiers, namely those actively engaged in combat. Moreover, the sexual exploitation of child soldiers in intra-party relations has only recently attracted scholarly and judicial attention⁸¹.

2.4. Conclusion

The same way that the typical image of a child soldier often wrongly portrays a young boy with a gun, female involvement has either been neglected or reduced to passive victimisation⁸². Despite the UN Reporting that "women and girls [suffer] disproportionately

⁷⁵ H BRADY, 'The Power of Precedents' 18, no. 2 (2012): 75–108.

⁷⁶ COPELON, 'Gender Crimes as War Crimes: Integrating Crimes against Women into International Criminal Law'.

⁷⁷ GREY, 'Sexual Violence against Child Soldiers'.

⁷⁸ Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9.

⁷⁹ Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9.

⁸⁰ Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9.

⁸¹ L ROSSETTI, 'Intra-Party Sexual Crimes against Child Soldiers as War Crimes in Ntaganda. "Tadić Moment" or Unwarranted Exercise of Judicial Activism?', 2019.

⁸² L SNOWDON, 'Girl Child Soldiers: The Relevance of Gender in Preventing and Responding to the Use of Child Soldiers', 2016, 1–19.

during and after war⁸³”, their experiences should not be confined to traditional gender stereotypes and international attention should also centre on the conflict-related violence against for comprehensive protection of children’s rights⁸⁴. This research aims to challenge mutually exclusive gender perceptions of child soldiering, depicting the ways in which violence against them complicates traditional views on gender roles. Only this way may our understanding of child soldiering shift away from rigidity towards fluidity and completeness (See *Figure 3*).

This examination will analyse the residual narratives excluded from traditional representations of child soldier experiences through case studies and academia. Given that child soldiers are frequently disregarded in contemporary discourse, exposing their testimonies may help discover ways to reimagine protection. Legal and policy language compels immediate action whereas first-hand experiences recount a broader story; they are complementary and add significantly to the wider discourse.

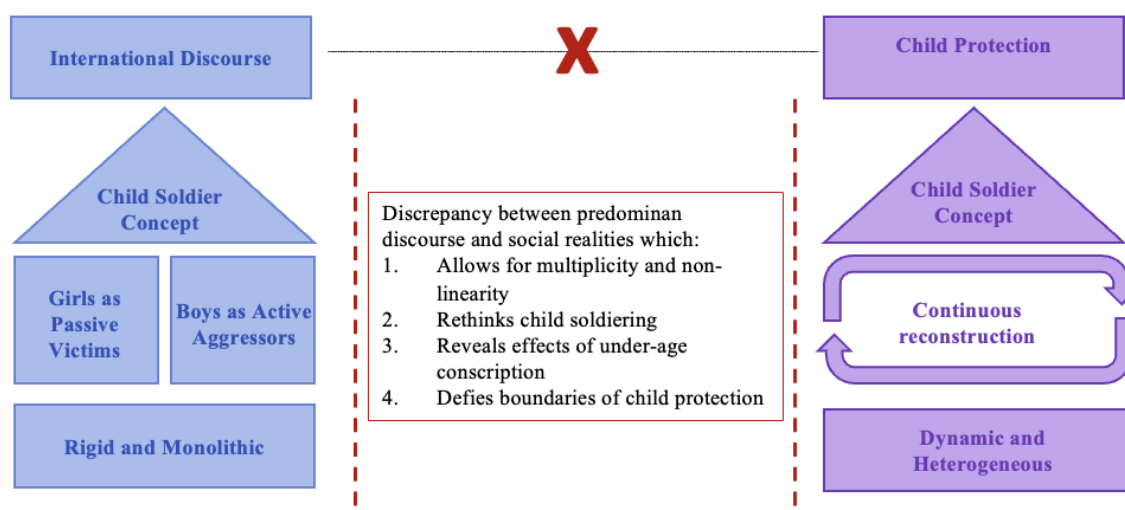


Figure 3 - Contribution of a Broader Understanding of Child Soldiering to Child Protection (self-elaborated)

⁸³ UNITED NATIONS, ‘Women Suffer Disproportionately during and after War, Security Council Told during Day-Long Debate on Women, Peace and Security, SC/7908’, *UNITED NATIONS* (blog), 29 October 2003, <https://press.un.org/en/2003/sc7908.doc.htm>.

⁸⁴ R AKHTAR, ‘The Neglected Boys of War: Trapped in a Vicious Cycle of Slavery and Sexual Abuse’ 3, no. 1 (2019): 179–206.

3. Methodology

This research comprehensively explores the following question: *How do gender dynamics intersect with the experiences of child soldiers, and how does this impact international efforts to prevent and rehabilitate child soldiering while promoting child protection?* The main objects of this inquiry are IL, academia, policy and case studies unravelling the gendered nuances of child soldiering, their subjection to several forms of violence and ability to access justice.

Table 2 - Methodological Framework, Resources and Rationale for Investigation (self-elaborated)

Resource	Description	Reasons for Use
International Legal Frameworks	Analysis of international instruments, including conventions, treaties and statutes on human rights and protection of the right of the child	Understanding protection gaps and compliance issues
Academic Research	Review of scholarly literature on child soldiering gender dynamics and international law	Provide diverse perspectives and nuanced insights
Policy Developments	Examination of policy documents and initiatives addressing child soldiering and sexual violence	Understand current approaches and gaps in policy
Case Studies	Analysis of real-life case studies depicting the experiences of child soldiers in various contexts	Illustrate real-world implications and challenges
Direct Quotes from Child Soldiers	Inclusion of direct quotes to highlight the heterogeneity of children's experiences	Amplify their often-neglected voices and include them in the broader dialogue
Critical Discourse Analysis	Analysis of texts and discourse surrounding child soldiering in relation to broader socio-political contexts, power dynamics and gendered hierarchies	Provide a critical lens and challenge dominant narratives when necessary

The methodology involves qualitative research using secondary sources due to time constraints and the impracticality of deploying quantitative methods. Research has focused particularly on soldiers' reintegration; through an in-depth examination of the recruitment, deployment and reintegration phase of child soldiering, this paper will focus on their realities

in divergent contexts to attain a thorough understanding and address this gap⁸⁵. Deploying international legal frameworks will identify protection gaps and aspects to consider for stronger child protection.

The selected methodological approach is Critical Discourse Analysis (CDA) due to the discursive nature of this investigation's theoretical framework. Differently from discourse analysis, it centres on how power, discourse and inequality intersect to shape social reality, and is unified by a common commentary: "hidden power structures should be revealed, inequality and discrimination have to be fought⁸⁶". As academic research often holds dominant narratives, CDA provides a critical lens through which widely held assumptions may be defied, meaning may be located, and more equitable forms of knowledge production attained⁸⁷.

The writer's original intention was to focus exclusively on the sexual violence confronted by girl soldiers. However, extensive research indicated that insufficient information is available, dangerous as this project aims to avoid overgeneralisations. As research exists on different forms of violence confronted by child soldiers but little on the specific experiences of girls, the underlying gendered dynamics in the use of child soldiers emerged as a gap that must be explored. Given the increased attention of the international community towards violence against women and girls in the context of war, this topic, coupled with a focus on boys, emerged as a crucial add-on.

To honour the often-neglected experiences of former child soldiers and bring them to dialogue, this research includes their direct quotes. For future research, conducting interviews with child soldier victims would help further inform academic and policy development. The next chapter will critically analyse the violence experienced by both boy and girl soldiers

⁸⁵ S MCKAY and D MAZURANA, 'Where Are Girls? Girls in Fighting Forces in Northern Uganda, Sierra Leone and Mozambique: Their Lives During and After War', 2004.

⁸⁶ B FORCHTNER, 'Jürgen Habermas' Language-Philosophy and the Critical Study of Language' 4, no. 1 (2010): 18–19.

⁸⁷ S AINSWORTH and C HARDY, 'Critical Discourse Analysis and Identity: Why Bother?' 1, no. 2 (n.d.): 225–59.

throughout the different phases of child soldiering, with a special focus on sexual violence and gendered dynamics. Through a multidisciplinary approach, this paper encourages fruitful engagement with a more human-centric international system for the protection of child soldiers.

4. Analysis and Discussion

4.1. From Victims to Warriors: Exploring Gendered Recruitment and Agency Among Child Soldiers

4.1.1. The Gendered Realities of Child Soldier Recruitment

The predominant discourse on child soldiers often characterises them as active combatants, with media channels saturated with images of boy soldiers holding AK-47s⁸⁸. However, their reality extends beyond combat, with many being recruited for supporting roles including human shields, spies, cooks and for sexual exploitation by state and non-state actors⁸⁹. In particular, girls serve not only as fighters but in other military functions, from cleaning to intelligence⁹⁰. They are also targeted for sexual services and coerced into pseudo marriages with commanders⁹¹, with groups preying on their vulnerability given their lack of a robust sense of danger⁹² and fearlessness, facilitating acceptance of more perilous roles⁹³.

Recruitment dynamics are visibly gendered, with UNICEF reporting that abducted girls confront a greater chance of victimisation, being coerced into forced marriage, sexual slavery or rape during their association with armed groups, as happened in the Democratic Republic of Congo (DRC) between 2018 and 2020⁹⁴. In Colombia, forced recruitment particularly

⁸⁸ R BRETT, 'Girl Soldiers: Challenging the Assumptions', 2002, <https://citeseerx.ist.psu.edu/document?repid=rep1&type=pdf&doi=30b7d6a22daa407421773b47dd485ebf89038561>.

⁸⁹ S SHAD, 'The Adverse Experiences of Child Soldiers', *Poverty Child* (blog), 5 June 2023, <https://povertychild.org/the-adverse-experiences-of-child-soldiers/>.

⁹⁰ W MORALES, 'The Other Face of Sexual Exploitation and Gender Violence' (Air University, 2011), https://www.airuniversity.af.edu/Portals/10/ASPJ_French/journals_E/Volume-02_Issue-1/morales_e.pdf.

⁹¹ MORALES.

⁹² 'Child Soldiers', *Their World* (blog), n.d., <https://theirworld.org/resources/child-soldiers/>.

⁹³ 'Understanding the Recruitment of Child Soldiers in Africa', *ACCORD* (blog), 16 August 2016, <https://www.accord.org.za/conflict-trends/understanding-recruitment-child-soldiers-africa/>.

⁹⁴ FORE, 'Female Child Soldiers Often Go Unseen but Must Not Be Forgotten'.

targets girls, as societal stereotypes perceive them as incapable of engaging in hostilities⁹⁵ or performing subversive activities, enhancing the element of surprise⁹⁶. In other locations such as South Sudan, the Central African Republic and Iraq, virgin girls are recruited as wives to fulfil purification rituals believed to provide combatants with protection⁹⁷. This underscores the deeply entrenched gender dynamics within the context of child soldier recruitment, highlighting the distinct vulnerabilities and roles imposed on girls.

Contrary to passive victimhood, research suggests many girls choose to join armed groups due to heightened risk of violence. In countries like Somalia, with high child recruitment rates, great gender inequality and gender-based violence (GBV) exist⁹⁸. Thus, girls frequently join to escape the sexual abuse they will likely endure as wartime civilians, to secure income, or to join family members⁹⁹. DENOVO declares that girls join the Revolutionary Armed Forces of Colombia (FARC) to escape domestic violence and further their skills, highlighting the intricate interplay of violence driving girls into armed conflict¹⁰⁰. In north-eastern Sri Lanka, the Liberation Tigers of Tamil Eelam (LTTE) insisted that joining was the best preventive measure against regime sexual abuse at checkpoints¹⁰¹.

When joining the guerrilla unit of the Biafran Organisation of Freedom Fighters, MUNDY-CASTLE affirmed that:

⁹⁵ F GOZZO, 'The Struggle of Child Soldiers in Colombia', *Borgen Project* (blog), 5 February 2022, <https://borgenproject.org/child-soldiers-in-colombia/>.

⁹⁶ J THOMAS and K BOND, 'Women's Participation in Violent Political Organizations' 109, no. 3 (2015): 488–506.

⁹⁷ 'Some 250,000 Children Worldwide Recruited to Fight in Wars – UN Official'.

⁹⁸ WORLD VISION, 'How Can We Best Help Girl Child Soldiers?', *WORLD VISION* (blog), n.d., <https://www.wvi.org/opinion/view/how-can-we-best-help-girl-child-soldiers>.

⁹⁹ FORE, 'Female Child Soldiers Often Go Unseen but Must Not Be Forgotten'.

¹⁰⁰ M DENOVO, 'Girls in Fighting Forces: Moving beyond Victimhood' (McGill University, n.d.), https://archive.crin.org/en/docs/CIDA_Beyond_forces.pdf.

¹⁰¹ DENOVO.

“a bullet was much more preferable than the constant pain our lives had been up to this point¹⁰²”.

She suggests that taking up guns is preferable to the discrimination faced previously to conflict and further argues that joining a militant group helped her “find a reason for [her] existence¹⁰³”, perceiving war as a space where female empowerment and safety from inequality could be attained. Indeed, Sierra Leone’s Revolutionary United Front (RUF) promised girls significant financial benefits and societal post-conflict status and girls also joined the Sierra Leonean Civil Defense Forces for the idea of empowerment¹⁰⁴. It thus becomes evident that socioeconomic and political pressure may encourage girls to join armed groups, demonstrating the multifaceted nature of their motivations¹⁰⁵.

Yet, as noted by HAER and BÖHMELT, some rebel groups recruit solely boys¹⁰⁶. Abduction, for instance, is not exclusively used to recruit girls but boys, with both Uganda’s Lord’s Resistance Army (LRA) and RUF using such method to recruit boys into their ranks¹⁰⁷. Furthermore, for boys, the perceived relationship between masculinity and the military that permeates social structures regularly leaves them with no choice but to sell their fighting capabilities. Boy soldiers are also frequently encouraged to join rebel groups by similar reasons to girls, including their lack of security, education and food resources as well as family pressure¹⁰⁸. Just like girls, they help reduce operational costs, as they are cheaper to feed and clothe, and limit the number of members eligible for revenue-sharing, allowing

¹⁰² T MUNDY-CASTLE, *A Mother’s Debt: The True Story of an African Orphan* (Bloomington: Author House, 2012), 51.

¹⁰³ MUNDY-CASTLE, 50.

¹⁰⁴ M DENOY and R MACLURE, ‘Engaging the Voices of Girls in the Aftermath of Sierra Leone’s Conflict: Experiences and Perspectives in a Culture of Violence’ 48, no. 1 (2006): 73–85.

¹⁰⁵ ‘Child Soldiers’.

¹⁰⁶ T BÖHMELT and R HAER, ‘The Impact of Child Soldiers on Rebel Groups’ Fighting Capacities’ 33, no. 2 (2016): 153–73.

¹⁰⁷ M DENOY, ‘Wartime Sexual Violence: Assessing a Human Security Response to War-Affected Girls in Sierra Leone’ 37, no. 3 (2006): 319–42.

¹⁰⁸ R TYNES and B EARLY, ‘Governments, Rebels, and the Use of Child Soldiers in Internal Armed Conflict: A Global Analysis, 1987–2007’ 21, no. 1 (2015): 79–110.

leaders to keep more for themselves¹⁰⁹. Thus, while it is urgent to untangle the nuanced gendered forces driving child soldiers into armed groups and to deconstruct gendered expectations under conflict, it is also important to recognise their commonalities.

While some argue that recruitment may be voluntary due to children's agency, the fact that child soldiers are regularly forcibly recruited and abducted into armed groups should not be disregarded as well as the fact that recruitment methods are influenced by gender and context-specific characteristics¹¹⁰. For example, 9,500 out of 10,000 girls were forcibly recruited by the RUF in Sierra Leone¹¹¹. Moreover, girls are often used to strengthen a group's cohesion by being used to create "war families¹¹²" within the group, and as a way to connect local families to a group's vision, as done by Al-Shabaab.

4.1.2. Taking up Arms to Defy Gender Norms

The brutal realities of violence experienced by girls reveal the rigid power structures that enforce their subjugation. However, it is deceiving to centre exclusively on their victimisation as this obscures the complexity behind their experiences; recognising girls' agency means understanding the ways through which they become active participants. In Sierra Leone, girls who were initially victimised by the RUF later became their commanders' allies, with their enemies transforming from those who first captured them, to those who fought against their groups. Significantly, clear distinctions between fighters and "wives", spies and prostitutes, or porters and mine sweeps become blurred, demanding a more nuanced understanding within the intricate web of the fighting force and the broader context of the conflict. A girl's testimony demonstrates how carrying arms gave her an intoxicating sense of power and control which they lacked in an unequal society:

¹⁰⁹ Z BAKAKI and R HAER, 'The Impact of Climate Variability on Children: The Recruitment of Boys and Girls by Rebel Groups' 60, no. 4 (2023): 634–48.

¹¹⁰ K BARSTAD, 'Preventing the Recruitment of Child Soldiers: The ICRC Approach' 27, no. 4 (2008): 152–149.

¹¹¹ K BAH, 'Rural Women and Girls in the War in Sierra Leone' 55, no. 5 (1997): 612–28.

¹¹² BAKAKI and HAER, 'The Impact of Climate Variability on Children: The Recruitment of Boys and Girls by Rebel Groups', 636.

“I was not very powerful in my own group, but I had a lot of power over civilians. The commander would give us each a civilian - he would say, “This one is yours” (...) and you would kill (...) At that time, I was quite enthusiastic about it (...) That was one way of building confidence in me that I am just like them¹¹³”.

DENOV and MACLURE describe the gun as a “recourse from utter powerlessness and victimisation¹¹⁴”; embarking in combat is not necessarily only a means for survival but for empowerment against cultures that have traditionally oppressed girls. Thus, taking up arms does not only become a preventive measure for potential abuse and victimisation but gains a symbolic power. The notion of warfare as a potential space of empowerment where girls are provided with the opportunity to challenge the subordinate status of femininity is explored by BRIDGER, who claims that by engaging in active combat in South Africa, girls were capable of defying gender norms¹¹⁵. She also observes that girls rejected conventional notions of femininity by adopting masculine conduct and dress as a “comrade¹¹⁶”.

In her recounting of experiences within the Eritrean Liberation Front (ELF), MEHARI describes Miret, as someone who “appeared more like a boy than a girl - which was the impression she sought to give¹¹⁷”. Miret perceived her role as a fighter as a chance to erase her femininity in attempts to blur gender boundaries within the context of armed conflict. For Miret, embracing the role of a fighter is not merely about engaging in combat; it represents a conscious effort to erase societal expectations of femininity and assert her equality alongside male soldiers.

¹¹³ M DENOV and R MACLURE, ‘Engaging the Voices of Girls in the Aftermath of Sierra Leone’s Conflict: Experiences and Perspectives in a Culture of Violence’ 48, no. 1 (2006): 78.

¹¹⁴ DENOV and MACLURE, ‘Engaging the Voices of Girls in the Aftermath of Sierra Leone’s Conflict: Experiences and Perspectives in a Culture of Violence’.

¹¹⁵ E BRIDGER, ‘Soweto’s Female Comrades: Gender, Youth and Violence in South Africa’s Township Uprisings, 1984-1990’, 2018.

¹¹⁶ BRIDGER, 1.

¹¹⁷ S MEHARI, *Heart of Fire: From Child Soldier to Soul Singer* (London: Profile Books, 2006), 79.

Thus, the experiences of girls cannot be reduced to passive victimhood. Just as their male counterparts challenge generational hierarchies through warfare, girls defy entrenched gender norms and disrupt gendered power dynamics. In this way, war becomes a platform for challenging and reshaping societal hierarchies, offering a glimpse into the complex interplay between gender, conflict and empowerment. This idea that emancipatory and egalitarian structures were sought after by armed groups extends to the ethos of the Eritrean People's Front, encapsulated in their slogan ““no liberation without women's participation¹¹⁸”.

¹¹⁸ V BERNAL, 'Equality to Die for? Women Guerrilla Fighters and Eritrea's Cultural Revolution' 23, no. 2 (2000): 71.

4.2. Gendered Violence and Power Dynamics in Armed Conflict

4.2.1. The Institutionalisation of Sexual Violence Against Child Soldiers

Notwithstanding girls' attempts to use conflict to assert gender equality, armed forces have regularly deployed sexual violence as strategies of war, exacerbating inequalities. Instances of sexual enslavement, rape and the imposition of "bush wives"¹¹⁹ roles, whereby girls are forced to marry fellow soldiers, intertwine coercion and power with gender dynamics. The commodification of sexual labour and bodies emanates strikingly in conflict zones including Sierra Leone, Uganda and Colombia, where male commanders were compensated with kidnapped girls forced into "wives" and sexual/ domestic slavery¹²⁰.

The ICC found Uganda's LRA leader Joseph Kony controlled every aspect of girls' abduction and rewarded them to commanders as sex slaves, with him fifty abducted girls in his household at one time for those purposes¹²¹. To mask their criminal behaviour, the LRA labelled enslaved girls "wives" or "sisters"¹²². This manipulation of language euphemises slavery and sexual abuse as familial or consensual relationships, perpetuating power, evading accountability and normalising such actions while obscuring girl soldiers' exploitation. Such characterisation shifts blame onto victims, exploiting power differentials through intimidation and perpetuating impunity.

The commodification of girls' bodies often stems from deeply entrenched gender norms and stereotypes. HYND holds that forced marriage is pervasive in societies "where cultural norms

¹¹⁹ GREY, 'Sexual Violence against Child Soldiers', 601.

¹²⁰ M SOMMERS, 'The Children's War: Towards Peace in Sierra Leone. A Field Report Assessing the Protection And Assistance Needs of Sierra Leonean Children and Adolescents' (Women's Commission For Refugee Women and Children, 1997), <https://files.eric.ed.gov/fulltext/ED419604.pdf>.

¹²¹ INTERNATIONAL CRIMINAL COURT, 'The Incidence of the Female Child Soldier and the International Criminal Court', 4 June 2012, <https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/316A88F6-86B4-488D-8FEB-526D0E515062/284579/04062012DPSpeechNYGirlChildSoldiers.pdf>.

¹²² INTERNATIONAL CRIMINAL COURT, 5.

support or allow early marriage¹²³”; conflicts perpetuate traditional gender norms, exacerbating vulnerability to violence in a conventional gendered order. Feminist scholars claim that armed groups’ militaristic culture legitimise violence to establish power; the instrumentalization of sexual violence not only serves to assert control over girls but entire communities¹²⁴.

As conflict exacerbates gender inequalities through sexual violence, girls are the “most insecure, disadvantaged and marginalised¹²⁵”. This extends beyond individual acts of violence to systematic sexual aggression, denounced as the most debilitating. As “protection against sexual demands¹²⁶”, MUNDY-CASTLE says that she and other girls had equipment that would enable them to pretend they were menstruating. Despite these moments of tactical agency, the testimony of a girl abducted by the RUF in Sierra Leone reveals the grim reality of girl soldiers’ experiences:

“We were used as sex slaves. Whenever they wanted to have sexual intercourse with us, they took us away forcefully and brought us back when they finished with us. Sometimes, other officers took us up as soon as we were being finished with and subsequent ones were particularly very painful... I don’t even know who might have been the father of my child¹²⁷”.

The intersectionality of gender, reproduction and conflict complicates girl soldiers’ experiences. Categorised as good breeders, girls are sequestered to produce fighters for future

¹²³ S HYND, ‘To Be Taken as a Wife Is a Form of Death’: The Social, Military and Humanitarian Dynamics of Forced Marriage and Girl Soldiers in African Conflicts, c. 1980-2010’, in *Forced Marriage in Contemporary and Historical Perspective* (Athens: Ohio University Press, n.d.), 304.

¹²⁴ L KELLY, ‘Wars against Women: Sexual Violence, Sexual Politics and the Militarised State’, in *States of Conflict: Gender, Violence and Resistance* (London: Palgrave Macmillan, 2000).

¹²⁵ DENO, ‘Wartime Sexual Violence: Assessing a Human Security Response to War-Affected Girls in Sierra Leone’, 320.

¹²⁶ MUNDY-CASTLE, *A Mother’s Debt: The True Story of an African Orphan*, 55–56.

¹²⁷ DENO and MACLURE, ‘Engaging the Voices of Girls in the Aftermath of Sierra Leone’s Conflict: Experiences and Perspectives in a Culture of Violence’, 77.

combat, as happened in the LRA special Camps in southern Sudan¹²⁸. In El Salvador and Cambodia, girls in fighting forces had to choose between abortion or giving children to peasants, who would raise them until armed forces reclaimed them¹²⁹. In Sierra Leone, the RUF adopted dangerous birthing practices which consisted in jumping on pregnant girls' abdomens when in labour to force birth, or tying their legs together to delay birth when the group was on the move¹³⁰. The violation of reproductive rights and instrumentalization of their bodies as strategic tactics of war underscores how sexual violence includes shaping their reproductive autonomy.

Though most sexual violence appears male-perpetrated, a girl reveals that women soldiers are perpetrators too:

“The females were even more wicked to us than the men (...) I was raped by a male officer [and he was] interested in having further relationship with me, but my female commander stopped him (...) She was a lesbian and each time we went very close to the men, she would punish us. We were four in her group and she slept with all of us. At night, she told us to “play love” with her¹³¹”.

This challenges traditional perceptions of sexual violence as solely perpetrated by males and highlights that sexual violence persists regardless of gender. It raises questions about sexual orientation, gender identity and violence in conflict, as commanders' sexual orientations influences behaviour and targets. It also prompts reflection on the vulnerabilities faced by child soldiers who may be navigating their sexual orientation amidst the trauma of armed

¹²⁸ MAZURANA et al., ‘Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilisation, and Reintegration’.

¹²⁹ MAZURANA et al.

¹³⁰ MAZURANA et al.

¹³¹ DENOV and MACLURE, ‘Engaging the Voices of Girls in the Aftermath of Sierra Leone’s Conflict: Experiences and Perspectives in a Culture of Violence’, 77.

conflict, or who may associate guilt and shame with same-sex relationships, as dictated by several societal norms¹³².

The fluidity of gender roles in armed conflict defies understandings of gender which associate girls with non-combat roles and boys with aggression. Since 1986, girls joined the frontline in Uganda and Liberia whereas boys were forced into providing sexual services¹³³. The entanglement of gender dynamics becomes even more intricate when groups such as Boko Haram instruct younger boys to commit rape, reflecting not only a distortion but a weaponization of traditional gender roles for strategic purposes¹³⁴. The RUF's demand of boys to commit sexual violence as an act of loyalty between 1991 and 2001 further showcases the ways in which military hierarchical structures shape the sexual violence experienced by child soldiers¹³⁵.

4.2.2. Child Soldiering Beyond Simplistic Gender Binaries

The dominant narrative establishes that sexual violence is almost exclusively perpetrated against women and girls. However, the labyrinthine interplay of gender, power and violence demands a comprehensive understanding that extends beyond binary categorisations, acknowledging the heterogeneous and intersectional ways in which sexual violence manifests in the lives of child soldiers. Amid Yemen's enduring civil war, which began in 2014, Yemen's boy soldiers face serious complications as they navigate the repercussions of the physical and sexual abuse suffered while under the Houthi militia's control¹³⁶. This disrupts traditional notions of masculinity and victimhood, demonstrating how gender norms

¹³² S SIVAKUMARAN, 'Male/Male Rape and the "Taint" of Homosexuality' 27, no. 4 (2005): 1274–1306.

¹³³ D MAZURANA and S MCKAY, 'Child Soldiers; What about the Girls?' 57, no. 5 (2001): 30–35.

¹³⁴ P OBAJJ, 'Boko Haram Teaching Child Soldiers to Rape', *Daily Beast* (blog), 27 December 2016, <https://www.thedailybeast.com/boko-haram-teaching-child-soldiers-to-rape>.

¹³⁵ ALFREDSON, 'Sexual Exploitation of Child Soldiers: An Exploration and Analysis of Global Dimensions and Trends'.

¹³⁶ H MCKAY, 'Yemen's Child Soldiers Face Long Road after Sexual, Physical Abuse.', *Fox News* (blog), 24 July 2018, <https://www.foxnews.com/world/yemens-child-soldiers-face-long-road-after-sexual-physical-abuse>.

can exacerbate the stigma and silence surrounding male victimisation¹³⁷. Recognising that vulnerability is not exclusive to one gender is thus central in delineating comprehensive responses that address the unique experiences of young boys in the context of armed conflict.

To be a male victim of sexual violence is to be defined as “soft and weak and incompetent¹³⁸” and thus in womanly terms; the taboo surrounding male victimisation clearly trickles down from the predominance of hegemonic masculinity in which to be a victim is equated to being domesticated. For many men, rape undermines their masculinity and questions their sexual identity; violent sexual attacks on men are viewed as an attack on a community's integrity - even more than on women - and thus are downplayed¹³⁹. Furthermore, SIVAKUMARAN demonstrates that several societies stigmatise homosexual involvements despite coercion being involved, resulting in them being widely under-acknowledged¹⁴⁰.

Through a western, neo-colonial viewpoint, African male bodies are frequently portrayed as a homogeneous mass, violent and in need of discipline¹⁴¹. The notion of boy soldiers as both victims and perpetrators thus emerges as a complex consequence of war, deeply rooted in militarised hegemonic masculinity¹⁴². Combined with the underreporting of male victimisation and the lack of data on sexual violence perpetrated against boy soldiers, a significant knowledge gap emerges¹⁴³. Nevertheless, it becomes evident that the universal binary oppositions of victim/perpetrator, male/female, passive/active, and childhood/adulthood are restrictive and in need of renegotiation if effective international and local action is to be implemented. Child soldiers exist within a nuanced realm that defines linear trajectories from victim to perpetrator, demanding a more comprehensive understanding of their experiences and challenges.

¹³⁷ BETANCOURT et al., ‘Sierra Leone’s Child Soldiers: War Exposures and Mental Health Problems by Gender’.

¹³⁸ C MACKINNON, ‘Feminism, Marxism, Method, and the State: An Agenda for Theory’ 7, no. 3 (1982): 515–44.

¹³⁹ SIVAKUMARAN, ‘Male/Male Rape and the “Taint” of Homosexuality’.

¹⁴⁰ SIVAKUMARAN.

¹⁴¹ LIISA MALKKI, ‘Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization’ 11, no. 3 (1996): 377–404.

¹⁴² KHAN, ‘Child Soldiers Complicate Gender Roles of Victim and Perpetrator’.

¹⁴³ KHAN.

Additionally, the misconception that women and girls are intrinsically peaceful conceals the possibility that they too may commit acts of sexual aggression against child soldiers, hindering the prosecution of girl soldiers committing acts of sexual violence. Several Ugandan boy soldiers in the Lord's Resistance Army, for example, were sexually abused by both female and male commanders¹⁴⁴. Nevertheless, the Special Court for Sierra Leone and the ICC opted to centre on sexual violence against women and girls only¹⁴⁵. This skewed discourse hinders effective disarmament, demobilisation, and reintegration programming and perpetuates the assumption that sexual violence is felt exclusively by girls. Challenging this belief and societal expectations around femininity is crucial for a more inclusive approach to the justice system and a nuanced policy design. In this regard, the idea that men are perpetrators and women are victims is reductive; rather than simplifying gender roles, war and conflict further complicates them and to acknowledge women as active agents and men as regularly feminised during acts of aggression indicates the ambiguity of the sexual identity construct¹⁴⁶.

¹⁴⁴ W NORTJE, 'The Sexual Abuse of African Boy Soldiers by Male and Female Offenders: The Need for an International Criminal Law Response' 34, no. 4 (2023): 604–25.

¹⁴⁵ NORTJE.

¹⁴⁶ R SANTOS et. al., 'RCCS Annual Review: A Selection from the Portuguese Journal Revista Crítica de Ciências Sociais #5' (RCCS, 2013), <https://journals.openedition.org/rccsar/519?file=1>.

4.3. Strengthening Justice: Legal Responses to Sexual Violence Against Child Soldiers

4.3.1. Landmark Legal Cases

The Lubanga case presents the first time the ICC heard evidence of the deployment of sexual violence towards girl soldiers by members of the same armed force. Here, the accused was not only charged with the war crimes of conscripting children under the age of fifteen, but using them to actively engage in hostilities¹⁴⁷. In its closing brief, the Prosecution argued that the sexual violence constituted part of “using [children] to participate actively in hostilities¹⁴⁸”, and Prosecutor Moreno Campo suggested that the issue of sexual violence was included in the charge of conscription¹⁴⁹. While the majority refused to decide whether charges could include the use of girl soldiers for sexual purposes, Judge Odio Benito claimed that “it is discriminatory to exclude sexual violence which shows a clear gender differential impact from being a bodyguard or porter which is mainly a task given to young boys¹⁵⁰”.

Nevertheless, several scholars claim the definition of the crime does not extend so far. Particularly, AMBOS¹⁵¹ posits that interpreting this crime to encompass the deployment of child soldiers for sexual reasons would violate the principle of legality, enshrined in Article 22 of the Rome Statute¹⁵². Hence, while Judge Odio Benito’s approach implies the war crime of using children to participate actively in hostilities may include the use of girl soldiers for sexual purposes, the legal and practical challenges confronted suggest it might not be the most effective way of prosecuting this crime.

¹⁴⁷ DENOV, *Child Soldiers: Sierra Leone’s Revolutionary United Front*.

¹⁴⁸ TRIAL CHAMBER I, ‘Lubanga, Prosecution’s Closing Brief, ICC-01/04-01/06-2748-Red’, 21 July 2011, paras 139–143.

¹⁴⁹ TRIAL CHAMBER I, ‘Lubanga, Transcript ICC-01/04-01/06-T-356-ENG’, 25 August 2011, ll. 15–21.

¹⁵⁰ CHAPPELL L, ‘Conflicting Institutions and the Search for Gender Justice at the International Criminal Court’ 67, no. 1 (2014): 189.

¹⁵¹ K AMBOS, ‘The First Judgment of the International Criminal Court (Prosecutor v. Lubanga): A Comprehensive Analysis of the Legal Issues’ 12, no. 2 (2012): 115–35.

¹⁵² Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9.

Differently, the Ntaganda case underscores the problem of sexual violence against child soldiers by utilising particular sexual violence crimes for prosecution. When applying for a second warrant regarding Ntaganda, Prosecutor Moreno Ocamp alleged he was responsible for 4 additional crimes against humanity and 5 war crimes, which include sexual slavery and rape¹⁵³. While the victims of such criminal conduct were pinpointed as “civilians¹⁵⁴”, “female civilians¹⁵⁵”, “women¹⁵⁶”, “women and men¹⁵⁷” and “men and boys¹⁵⁸”, the sexual abuse of child soldiers was not referred. Nevertheless, when the Pre-Trial Chamber issued the second arrest warrant, Prosecutor Bensouda charged Ntaganda for war crimes including rape and sexual slavery of the *Union des Patriotes Congolais-Forces Patriotiques pour la libération du Congo* (UPC-FLPC) child soldiers in addition to accusing him of committing the war of sexual slavery and rape against civilians¹⁵⁹. Despite counterarguments, the Prosecution claimed that charging the acts of sexual violence against girl soldiers as war crimes under Article 8(2)(e)(vi) did not violate the principle of legality, instead advancing a “teleological¹⁶⁰” interpretation of the article and Additional Protocol II of IHL. Accordingly, the Pre-Trial Chamber concluded that IHL protects child soldiers when sexual violence occurs, making such violence constitute war crimes under Article 8(2)(e)(vi) of the Rome Statute¹⁶¹. The legal basis for such condemnation is the following:

¹⁵³ PRE-TRIAL CHAMBER I, ‘Ntaganda, Public Redacted Version of Prosecutor’s Application under Article 59 Filed on 14 May 2012, ICC-01/04-611-Red’, 14 May 2012.

¹⁵⁴ para. 51;83;105.

¹⁵⁵ para. 13;100.

¹⁵⁶ para. 10;13;93;97;100;102;104;105;106;107;109;111.

¹⁵⁷ para. 53.

¹⁵⁸ para. 53;113.

¹⁵⁹ PRE-TRIAL CHAMBER II, ‘Ntaganda, Decision on the Prosecutor’s Application under Article 58, ICC-01/04-02/06-36-Red’, 13 July 2012.

¹⁶⁰ PRE-TRIAL CHAMBER II, ‘Ntaganda, Public Redacted Version of Prosecution’s Submissions on Issues That Were Raised during the Confirmation of Charges Hearing, ICC-01/04-02/06-276-Red’, 24 March 2014, paras 183–185.

¹⁶¹ PRE-TRIAL CHAMBER II, ‘Ntaganda, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, ICC-01/04-02/06-309’, 9 June 2014, para. 80.

“The rape and sexual enslavement of child soldiers by the UPC-FPLC commanders and soldiers constitute war crimes. Child soldiers are afforded general protections against sexual violence under the fundamental guarantees afforded to persons affected by non-international armed conflicts [AP II, Article 4; Common Article 3 of the 1949 Geneva Conventions]. They also have special protections because of their vulnerability as children [AP II, Article 4(3)]. Both of these levels of protection support the recognition of child soldiers as victims of sexual violence for the purposes of charges under article 8(2)(e)(vi) [of the Rome Statute]¹⁶².

4.3.2. Advancing Accountability

Regarding the specific accountability for crimes of sexual violence perpetrated against child soldiers, the Pre-Trial Chamber’s finding that the sexual slavery and rape of UPC-FLPC girl soldiers by members of the same group could amount to war crimes under the Rome Statute Article 8(2)(e)(vi) in the Ntaganda case is a significant development. This decision was the first to interpret that Article to prosecute sexual violence against child soldiers by members of their own group. Nevertheless, it is still important to question how far the Pre-Trial Chamber’s reasoning extends. While it was restricted to the war crimes of sexual slavery and rape, one may argue the same reasoning applies to all the sexual crimes enshrined in Article 8(2)(2)(vi) and Article 8(2)(b)(xxii). Interpreted even more broadly, one may hold that the Chamber’s reasoning implies that sexual slavery of participants of any age by members of the same group could amount to war crimes under Article 8(2)(e)(vi) and 8(2)(xxii), because “the sexual character of these crimes, which involve elements of force/ coercion or the exercise of rights to ownership, logically preclude active participation in hostilities at the same time¹⁶³”.

¹⁶² PRE-TRIAL CHAMBER II, ‘Ntaganda, Transcript ICC-01/04-02/06-T-10-Red-ENG, Public Document Containing the Charges’, 13 February 2014, para. 107.

¹⁶³ ‘Ntaganda, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, ICC-01/04-02/06-309’, para. 79.

Even if the interpretation is restricted to the sexual slavery and rape of child soldiers by soldiers of the same armed group as war crimes, it still signals progress. This is because it guarantees that the sexual exploitation of UPC-FLPC soldiers is to be prosecuted in the ICC - important given that this did not happen in the Lubanga case, where the Prosecution's efforts to prosecute sexual violence against these girl soldiers was unsuccessful. This may allow for the prosecution of sexual violence of child soldiers against fellow soldiers in contexts where elements of crimes against humanity cannot be fulfilled, particularly as these must be executed as part of a "widespread or systematic attack against any civilian population¹⁶⁴", pursuant to "State or organisational policy¹⁶⁵".

Radhika Coomaraswamy, UN Special Representative for Children and Armed Conflict, emphasises in her witness testimony in Lubanga that girls in combat "play multiple roles, sometimes involving conflict - combat, scouting and portering, but also including and being forced into sexual slavery or bush wives¹⁶⁶". While their participation in hostilities is widely neglected and misrepresented, the Ntaganda decision defies such a narrative by acknowledging girls as child soldiers and victims of sexual exploitation.

Nevertheless, one might argue that it oversimplifies the complex reality of sexual violence in armed groups. The Pre-Trial Chamber reasoned that "those subject to rape and/or sexual enslavement cannot be considered to have taken active part in hostilities during the specific time when they were subjects to acts of sexual nature¹⁶⁷". Whereas this may hold true for sexual violence that happens in a short period of time, such as when one is subjected to rape - notwithstanding its long-lasting effects -, this logic may be inverted when sexual slavery is committed, which is defined by the fact that the perpetrator exercises rights of ownership over the victim or imposes a similar deprivation of liberty, and forces the victim to engage

¹⁶⁴ Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9, art. 7(1).

¹⁶⁵ Rome Statute of the International Criminal Court, 17 July 1998, entered into force 1 July 2002, UN Doc A/CONF.183/9, art. 7(2).

¹⁶⁶ 'Lubanga, Transcript ICC-01/04-01/06-T-356-ENG', ll. 12-14.

¹⁶⁷ 'Ntaganda, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Bosco Ntaganda, ICC-01/04-02/06-309', para. 79.

in sexual acts (Article 8(2)(b)(xxii) and Article 8(2)(e)(vi)). If sexual slavery is to be understood in this way, the crime might continue when the victim takes active or direct part in hostilities¹⁶⁸. This raises the following critical questions: *at what point does sexual slavery commence and cease, and can individuals who are enduring sexual slavery also actively engage in hostilities?* It seems that the Ntaganda decision, which presumes that sexual slavery and participation in combat happen separately, fails to engage with these intricate questions.

¹⁶⁸ JØRGENSEN, 'Child Soldiers and the Parameters of International Criminal Law'.

4.4. Reimagining a Space for Effective Reintegration

4.4.1. Navigating the Gendered Challenges to Reintegration

The danger of recidivism or re-affiliation with an armed group poses distinct gendered obstacles for child soldiers. Where conventional gender norms are intricately embedded and female opportunities are limited, an experience with armed forces may paradoxically provide girls with leadership opportunities that would otherwise be unattainable, although this does not always unfold¹⁶⁹. For boys, the masculinity associated with militarised structures means their affiliation with armed groups is socially expected¹⁷⁰. Thus, it seems evident that as global efforts to promote gender equality increase, it is crucial to recognise that association with armed groups may provide a space for empowerment and to fulfil pressing social expectations that must be dismantled. Contrastingly, terminating their affiliation may lead to a “step back¹⁷¹” in child soldiers’ freedom and agency, complicating their reintegration process.

Gendered inequalities do not magically disappear when child soldiers leave the armed forces. Instead, their post-conflict experiences have been largely defined by stigmatisation and marginalisation, as summarised by a girl formerly abducted by LRA:

“It is difficult to cope with life. We [ex-combatants] are marginalised and abandoned. I keep thinking whether I should go back to the bush or just commit suicide¹⁷²”.

¹⁶⁹ WORLD VISION, ‘How Can We Best Help Girl Child Soldiers?’

¹⁷⁰ WORLD VISION.

¹⁷¹ WORLD VISION.

¹⁷² S OKIROR, ‘Abducted at Nine to Be a Girl Soldier for Kony: “Now People Call Me a Killer”’, *The Guardian* (blog), 8 January 2018, <https://www.theguardian.com/global-development/2018/jan/08/abducted-girl-soldier-joseph-kony-lra-lords-resistance-army-uganda>.

Girls attempting to reintegrate confront the “double trauma¹⁷³” of the lasting effects of GBV during their participation in hostilities. Contrary to boys, they often face the difficulty of reintegrating into society as new mothers, being left with a daily reminder of their participation in combat¹⁷⁴. Regularly conceiving children because of rape, girls not only undergo widespread ostracization from family members¹⁷⁵, but confront excessive shame upon return stemming from presumptions about their loss of virginity¹⁷⁶. As a 16-year-old girl adds, “Every girl from the bush, the community points to her and says: ‘Watch out: HIV¹⁷⁷’”. Moreover, their affiliation with armed forces may be viewed as defiance of social norms in ways that may be considered unacceptable, even when girls have joined the winning party¹⁷⁸. The troubles boys encounter are different, as their involvement in combat is traditionally viewed as a natural step, especially when armed groups offer protection to their families or communities¹⁷⁹.

Although the urgent need to support former girl soldiers is apparent, they have unfortunately been rendered invisible in several Disarmament, Demobilisation, Rehabilitation and Reintegration (DDRR) programmes. These regularly require individuals to give up their gun to be able to access them, unravelling the assumption that a child soldier is defined by carrying arms and thus overlooking the fact that many girls are deployed for different tasks¹⁸⁰. In Sierra Leone, over 20,000 former child soldiers were qualified for a DDR package; nevertheless, solely 4.2% of girl soldiers received any benefits¹⁸¹. Part of the issue emerges due to the ways in which DDR programs are calculated; much of their success stems from

¹⁷³ GOZZO, ‘The Struggle of Child Soldiers in Colombia’.

¹⁷⁴ M WORTHEN et al., ‘Facilitating War-Affected Young Mothers, Reintegration: Lessons from a Participatory Action Research Study in Liberia, Sierra Leone and Uganda’ 1, no. 1 (2013): 145–49.

¹⁷⁵ FORE, ‘Female Child Soldiers Often Go Unseen but Must Not Be Forgotten’.

¹⁷⁶ ALLIANCE et al., ‘Girls Associated with Armed Forces and Armed Groups’, *ALLIANCE* (blog), n.d., https://alliancecpa.org/sites/default/files/technical/attachments/tn_gaafag_eng.pdf.

¹⁷⁷ <https://reliefweb.int/report/democratic-republic-congo/what-girls-say-improving-practices-demobilisation-and-reintegration>

¹⁷⁸ GOZZO, ‘The Struggle of Child Soldiers in Colombia’.

¹⁷⁹ GOZZO.

¹⁸⁰ S MCKAY et al., ‘Girls Formerly Associated with Fighting Forces and Their Children: Returned and Neglected’, 2006.

¹⁸¹ C CLIFFORD, ‘The Forgotten Girl Soldier’, *Reliefweb* (blog), 4 August 2011, <https://reliefweb.int/report/world/forgotten-girl-soldier>.

the number of weapons that are decommissioned, but several girl soldiers do not possess active weaponry, thus being unaccounted for¹⁸². As stated by PHILLIP LANCASTER, former head of the UN DDR program in DRC, boys with guns are easier to see and fear and girls are assumed to not present the same threat¹⁸³. Moreover, people implementing DDR programmes often assume that girl soldiers are “following along, rather than having been recruited and used¹⁸⁴”. It is thus urgent that DDR programs avoid drawing on narrow categories around the notion of child soldiering.

4.4.2. Towards Gender-Inclusive and Socially Empowering Solutions for Child Soldiers

This analysis has made clear that prevention programs require a gender-specific approach that emphasises risk factors and dynamic of conflict with a focus on gender; girls and boys must be protected differently from GBV, domestic and societal violence must be combatted and harmful social norms challenged through gender-transformative schemes that aim to create a more supportive environment that discourages children’s association with armed forces¹⁸⁵. However, and strikingly, little has been invested in programs aimed at preventing child soldiers’ recruitment as opposed to reintegration schemes¹⁸⁶. The UN Office for the Coordination of Humanitarian Affairs’ Financial Tracking Service receives the less funding for its GBV prevention and response, accounting for less than 1% of total humanitarian funding¹⁸⁷. As the demand for GBV protection outpaces funding response, acknowledging

¹⁸² CLIFFORD.

¹⁸³ ‘Girl Soldiers Face Tougher Battle on Return to Civilian Life’, *The Guardian* (blog), n.d., <https://www.theguardian.com/global-development/2013/feb/18/girl-soldiers-battle-civilian-life>.

¹⁸⁴ ‘Girl Soldiers Face Tougher Battle on Return to Civilian Life’.

¹⁸⁵ ALLIANCE et al., ‘Girls Associated with Armed Forces and Armed Groups’.

¹⁸⁶ ALLIANCE et al.

¹⁸⁷ UNICEF, ‘Gender-Based Violence in Emergencies’, *UNICEF* (blog), 11 November 2022, <https://www.unicef.org/protection/gender-based-violence-in-emergencies>.

the pressing need for heightened investment is essential for sustainable prevention programs¹⁸⁸.

International legal instruments including the Paris Principles, Commitments on Children Associated with Armed Forces or Armed Groups, the Vancouver Principles, the Safe School Declarations and OPAC, seek to hold states accountable for child recruitment¹⁸⁹. Nevertheless, they are limited in scope, failing to call upon non-state actors to eliminate their recruitment. Action plans rebel groups and the UN are required; “The Platform¹⁹⁰” initiative in Mali is key in preventing child recruitment, establishing a coalition of armed forces signatory of the Agreement for Peace and Reconciliation in Mali, which subsequently signed action schemes with the UN to prevent and end children’s involvement in hostilities. Importantly, international requirements do not prohibit the use of 16- and 17-year-old volunteers in governmental armed forces, carving out space for the violation of children’s rights in warfare¹⁹¹. Hence, militaries require important safeguarding, such as comprehensive training on child protection and the strengthening of cooperation with humanitarian agencies¹⁹².

Equally as important as preventive measures is a solid framework for the rehabilitation and reintegration of child soldiers; these minimise re-recruitment and prevent the emergence of a lost generation highly susceptible to radicalisation¹⁹³. An initial step includes the identification and release of recruited children, namely girls who are usually

¹⁸⁸ PROTECTION CLUSTER et al., ‘Still Unprotected: Humanitarian Funding for Child Protection’, *Reliefweb*, 27 October 2020. <https://reliefweb.int/report/world/still-unprotected-humanitarian-funding-child-protection>.

¹⁸⁹ ‘Prevention of Recruitment of Child Soldiers in Conflict Situations. (2022, October 05). Amani Africa’, *Amani Africa* (blog), 5 October 2022, <https://amaniafrica-et.org/prevention-of-recruitment-of-child-soldiers-in-conflict-situations/>.

¹⁹⁰ ‘Prevention of Recruitment of Child Soldiers in Conflict Situations. (2022, October 05). Amani Africa’.

¹⁹¹ M LOREY, ‘Child Soldiers: Care & Protection of Children in Emergencies’ (Save the Children, 2011), <https://bettercarenetwork.org/sites/default/files/Child%20Soldiers%20-%20Care%20&%20Protection%20of%20Children%20in%20Emergencies%20A%20Field%20Guide.pdf>.

¹⁹² F SHEAHAN and S MOSKO, ‘Behind the Uniform : Training the Military in Child Rights and Child Protection in Africa’ (Save the Children, 2009), <https://www.refworld.org/pdfid/4cb55feb2.pdf>.

¹⁹³ ‘Prevention of Recruitment of Child Soldiers in Conflict Situations. (2022, October 05). Amani Africa’.

underrepresented in identification procedures and thus at risk of being trapped in cycles of violence¹⁹⁴. Furthermore, a critical consideration when designing efficient reintegration programs is that reintegration assumes that there was a degree of normalcy to which girl soldiers are to return. It must thus be remembered that they are returning to a gendered universe which must thus be understood as oppressive. If girls are to return to a society characterised by strong patriarchal regimes under which their rights are violated, the social disempowerment and political exclusion resulting from reintegration must be combatted¹⁹⁵.

In Nepal, child soldiers described their reintegration procedure as being withdrawn from the socio-political landscape¹⁹⁶. Labelled by the UN as “disqualified” - which in Nepali implies unworthiness and incompetency – and successively by media channels, a former boy soldier explained:

“[The media] left an impression and impact upon the general public that [child soldiers are] disqualified in each and every sector of [life] (...) they are not eligible to have a job. Young people like me could not study at schools, they could not use their skills for jobs¹⁹⁷”.

The social stigma associated with the notion of disqualification translated into obstacles to attain employment and to children’s feelings of self-worth, further coupled by the fact that they were directed to low-skilled labour jobs which failed to ensure career pathways. Employment options were also framed by gendered assumptions concerning the roles of men and women in society, with boys being directed towards driving and cooking, and girls towards beautician work and tailoring¹⁹⁸. Crucially, international stakeholders must consider

¹⁹⁴ RICE, ‘Invisible Girls: The Role of Girls in Armed Conflict in Contemporary Africa’.

¹⁹⁵ K STOUT, “‘Silences and Empty Spaces’ – The Reintegration of Girl Child Soldiers in Uganda: Gendering the Problem and Engendering Solutions’ (University of Toronto, 2013), https://tspace.library.utoronto.ca/bitstream/1807/42929/1/Stout_Krista_J_201311_LLM_thesis.pdf.

¹⁹⁶ K MACFARLANE, ‘Child Soldiers in Nepal: Re-Conceptualizing Reintegration and Identity’ 99, no. 3 (2023): 1211–30.

¹⁹⁷ MACFARLANE, 1225.

¹⁹⁸ MACFARLANE, ‘Child Soldiers in Nepal: Re-Conceptualizing Reintegration and Identity’.

cultural contexts when defining child soldiers as adopted terms may significantly hinder their reintegration into society.

Additionally, boys' and girls' experiences of reintegration are characterised by their transition into adulthood. Hence, international reintegration schemes must account for a more complicated experience of social identity formation which incorporates the fact that children's post-conflict identity encapsulates three multi-layered positions: as victim, participant and agent¹⁹⁹. This complexity is exacerbated by gendered experiences in armed forces and expectations upon return. Subsequently, children's post-conflict needs cannot be strictly categorised by childhood or adulthood; they occupy sites in diverse ways which must be accounted for.

¹⁹⁹ MACFARLANE.

5. Conclusion: Reimagining Protection for Child Soldiers

Child soldiers are currently enlisted in the ranks of at least 57 rebel armies and some government forces across the globe²⁰⁰. Despite challenges in gathering gender-specific data within armed groups, it is estimated that girls constitute 40% of the current child soldier population²⁰¹. This defies the traditional view of child soldiering as an exclusively male phenomenon, shedding light on the female involvement of girls in an arena that has traditionally sought to exclude them. Combined with the fact that children's participation in hostilities may vary from active combat to pursuing roles such as cooking, spies and for sexual slaves, the need to unveil the gendered dynamics and fragmented protection of child soldiering must be addressed for the international community to adequately safeguard child protection.

This dissertation has sought to present the reader with the various manners in which the violence confronted by child soldiers pushes beyond traditional perspectives on war, child soldiering and gender dichotomies. Not only does it unravel the dangers of creating a subjecthood that reduces humanity to a single ungended storyline, but it suggests that a comprehensive understanding of the nuanced realities of child soldiers must be attained to deconstruct myopic understandings - including that of girls as passive victims and boys as active attackers - that permeate current protection structures and international combat efforts. Child soldiers are not a monolithic entity; intricately entangled within gendered structures of conflict, power and violence, the reluctance to understand heterogeneous experiences of boy and girl soldiers must be combatted if we are to rebuild a system of justice that eliminates obstruction to protection.

²⁰⁰ UNITED NATIONS, 'Report of the Secretary-General: Children and Armed Conflict (A/69/926-S/2015/409)' (United Nations, 5 June 2015), <https://reliefweb.int/report/world/report-secretary-general-children-and-armed-conflict-a69926-s2015409>.

²⁰¹ FORE, 'Female Child Soldiers Often Go Unseen but Must Not Be Forgotten'.

While gender stereotypes not only predispose girls to become easy targets for recruitment or abduction, but produce accumulating difficulties during their reintegration into civilian life, considerations regarding the gender of child soldiers have not been adequately recognised by the international community in the plight to end this practice around the world²⁰². This also leads to the failure to understand the complexity behind the recruitment and use of boy soldiers, resulting in ineffective DDR programs that fail to incorporate their specific needs. The male dominance of positions of leadership in action groups may be one of the factors driving the neglect of girls in international efforts²⁰³. It might be that a larger involvement of women may help terminate the use of child soldiers and improve equality in communities worldwide. Importantly, the ICC's recent appointment of FATOU BENSouda for the role of Prosecutor might encourage future developments; she promised that "children, including girls, will not be invisible²⁰⁴".

The prevalence of child soldiers stands in stark opposition to the fundamental principles of safeguarding and promoting human rights that states are expected to uphold²⁰⁵. A critical proposition emerges: the necessity for the international community under the UN to craft an additional Protocol to the Convention on the Rights of the Child which recognises the diverse forms of violence to which children may be subjected and safeguards their inherent human rights (see *Figure 4*). This would not only constitute a pivotal step towards addressing the criminality of sexual violence perpetrated against them but raise global awareness and encourage the identification of criminal actors. Envisaged within the broader context of ICL, this would rectify existing gaps in legal frameworks, constitute an instrument of hope for countless children in the context of armed conflict and stand as a testament to the international community's commitment to children's rights.

²⁰² SNOWDON, 'Girl Child Soldiers: The Relevance of Gender in Preventing and Responding to the Use of Child Soldiers'.

²⁰³ SNOWDON.

²⁰⁴ INTERNATIONAL CRIMINAL COURT, 'Statement of ICC Prosecutor, Fatou Bensouda, on the International Day against the Use of Child Soldiers: "Children's Voices and Their Stories of Unspeakable Abuses during War and Conflict Must Not Go Unheard."', 12 February 2021, Child soldiers complicate gender roles of victim and perpetrator.

²⁰⁵ FOX, 'Human Security and Gendered Insecurity'.

FIRTH and MAUTHE's concept of "personhood"²⁰⁶ may play a critical role in ensuring that this proposed instrument contemplates the intricate realities of child soldiers. Seeking to avoid the essentialisation of refugee girls to reductive subjecthoods by asylum systems, they propose the concept of "personhood", affirming it encourages a complex and personalised understanding of their claims across divergent social realities. Thus, we suggest "personhood" to motivate a limitless understanding of human suffering and human experiences; the concept should be able to avoid reductionism that risks losing sight of the multiple ways in which the human category has been inhabited and claimed (see *Figure 4*). Additional research is necessary to broaden the scope of this approach and assess its potential strength. Nevertheless, it holds the potential to create a space where ideas that oppose conventional understandings of child soldiering may be articulated and a human-centric approach to their protection attained. To reinvent our frame is to allow child protection to triumph as an instrument of hope capable of accommodating the multidimensional realities of child soldiers.

Furthermore, child soldiers do not only experience multifaceted threats from their own states, communities and armed groups, but they continue to confront challenges upon reintegration and in the justice system. In 2021, BENSouda asserted that "Children's voices and their stories of unspeakable abuses during war and conflict must not go unheard"²⁰⁷. The current policy landscape often overlooks the voices of child soldiers; integrating their experiences in international dialogue is crucial for enhancing gender-sensitive programs and accountability instruments. Recognising that youth must play a part in the solution, The UN Youth, Peace and Security Agenda has emerged as a significant instrument that could potentially articulate girls' and boys' viewpoints and help transcend simplistic categorisations regarding child soldiering. This bottom-up approach holds the potential to bring authenticity and depth into discussions, allow for interventions to reflect unique and gendered experiences, and empower

²⁰⁶ G FIRTH and B MAUTHE, 'Refugee Law, Gender and the Concept of Personhood' 25, no. 3 (n.d.): 501.

²⁰⁷ INTERNATIONAL CRIMINAL COURT, 'Statement of ICC Prosecutor, Fatou Bensouda, on the International Day against the Use of Child Soldiers: "Children's Voices and Their Stories of Unspeakable Abuses during War and Conflict Must Not Go Unheard."'

child soldiers to shape policies that seek to protect their human rights (see *Figure 4*). Child soldiers are survivors of an unimaginable past, and so carry with them incredible resilience and strength that surpasses imagination.

Lastly, this investigation is only the tip of the iceberg for child soldiers, seeking to unravel the multidimensional ways in which they are subjected to violence, their gendered experiences during and in post-conflict phases, and the current state of fragmentation of child protection. It thus generates a dynamic site for new possibilities where human rights and legal boundaries are continuously disrupted, reconstructed and may be reimagined. Limited research on non-traditional understandings of child soldiering and its gendered dynamics means more is still to uncover.

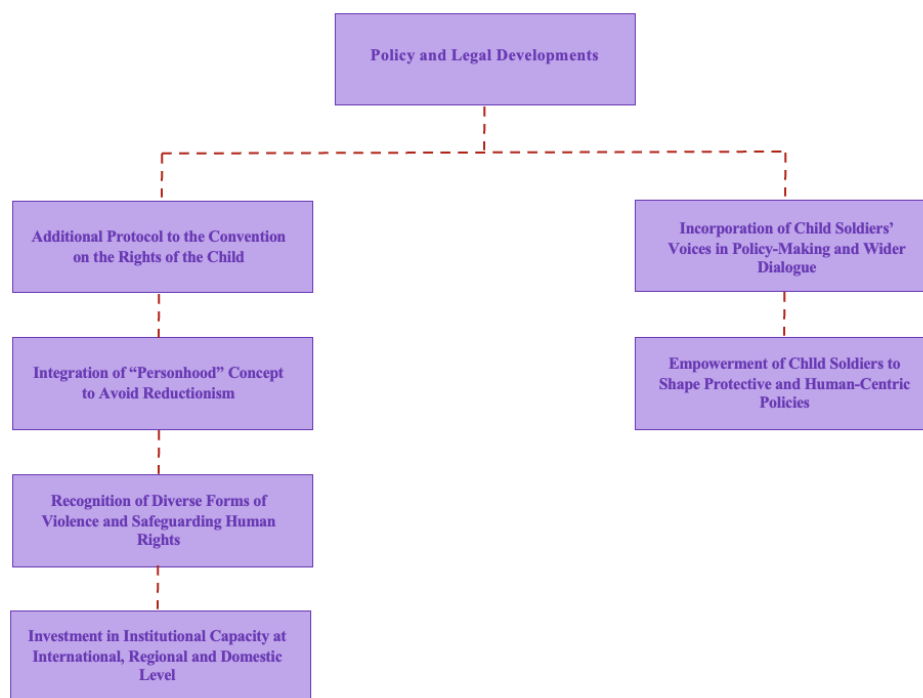


Figure 4 - Proposed Policy and Legal Framework for Child Soldier Protection (self-elaborated)

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7. Appendix

7.1 Appendix 1 – Top 10 countries in which child soldiers are recruited

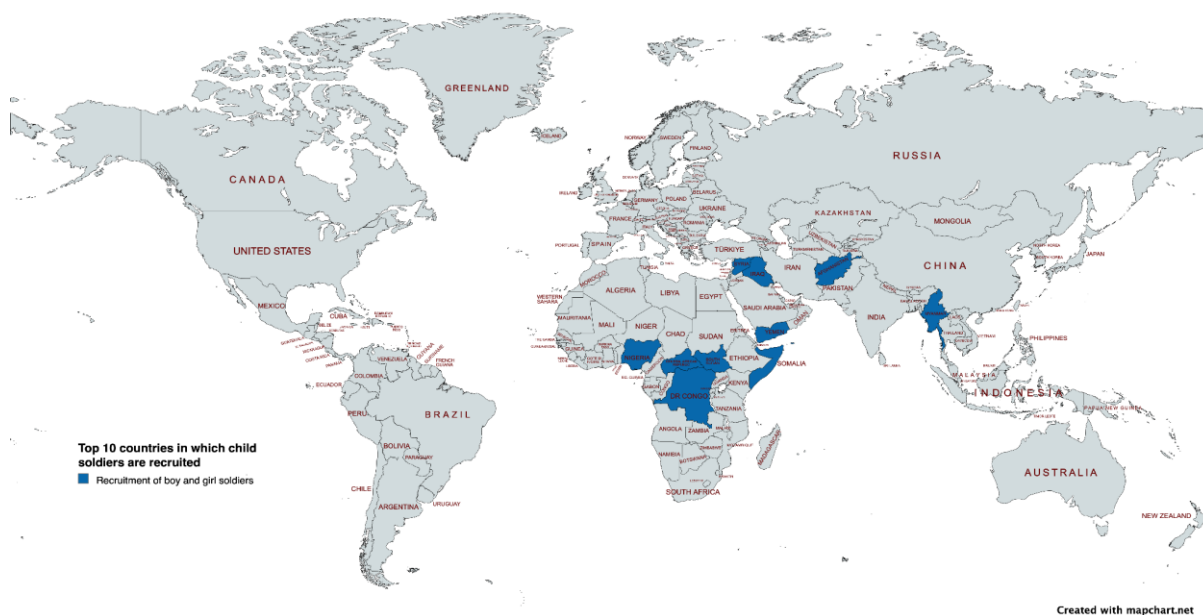


Figure 5 - Top 10 countries in which child soldiers are recruited (self-elaborated)²⁰⁸

²⁰⁸ THEIRWORLD, '10 Countries Where Child Soldiers Are Still Recruited in Armed Conflicts', *Reliefweb* (blog), 28 February 2017, <https://reliefweb.int/report/central-african-republic/10-countries-where-child-soldiers-are-still-recruited-armed>.

7.2. Appendix 2 – Top 7 countries in which girl soldiers are recruited

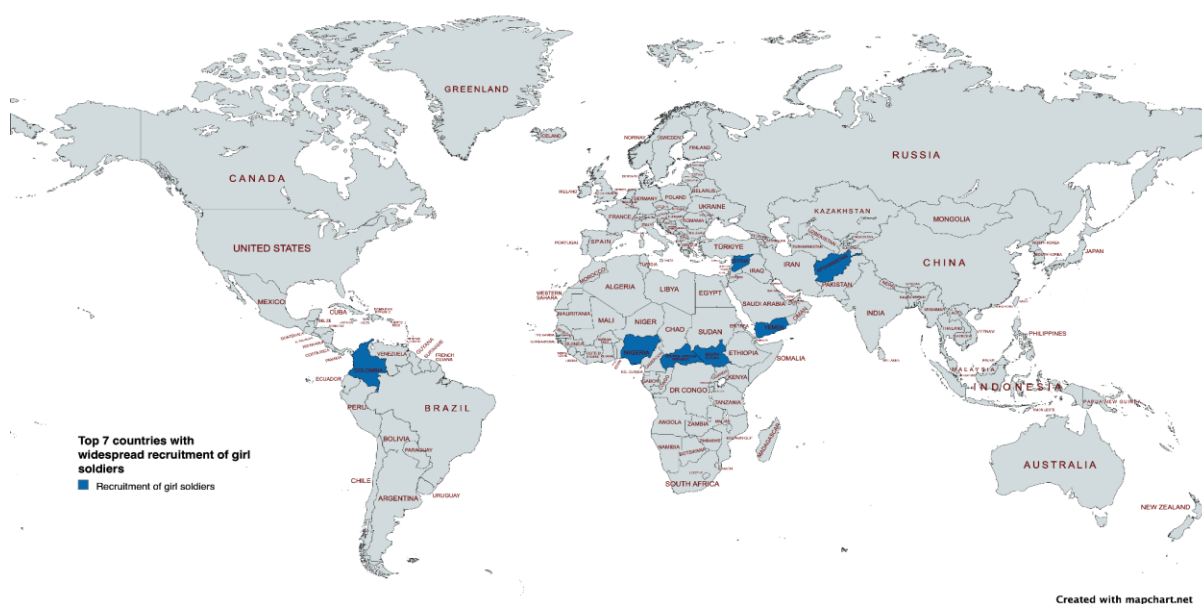


Figure 6 - Top 7 countries which observe the widespread recruitment and use of girl soldiers (self-elaborated)²⁰⁹

²⁰⁹ FORE, 'Female Child Soldiers Often Go Unseen but Must Not Be Forgotten'.