Children as Weapon of War: Child Soldiers – An Overview

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ABSTRACT

Involvement of children in armed conflicts as child soldiers have prompted worldwide condemnation by humanitarian advocates and child rights activists alike. It is seen as an international humanitarian and human rights crises. It occurs in various parts of the globe, extending from Asia to the United States. It is a common misconception that only non-state armed groups or rebel groups deploy child soldiers. Many governments have also been recruiting under-18 years old into national armed forces. Different reasons have been cited for children’s involvement in the armed conflicts. The truth remains that these child soldiers in armed and hostile situations have gone through tough times which have left a deep impact on them emotionally and psychologically. International instruments which support efforts to stop using children as soldiers do exist, the question is their effectiveness. This paper presents an initial study on the issue of child soldier via doctrinal analysis of provisions of international treaties and relevant government policies. It attempts to provide a general overview on the issue of children as child soldiers, the reasons for such occurrence and reviews the various international legal treatises that regulate the use of child soldiers.

Keywords: Armed conflict, child rights, child soldiers, humanitarian crisis, legal treatises

INTRODUCTION

Online and offline media has posted hundreds of disturbing images of children bearing arms and other military weapons in Liberia, El Salvador and Sri Lanka, which in turn had raised global awareness on the use of children in armed conflicts. These images depict the children in army uniform and in normal day clothing. It creates an irony of
the child’s life as Amnesty International rightly suggests, they are old enough to kill and be killed but too young to vote.

There is no recent authoritative statistics on the number of children who are involved in armed conflict, either as soldiers, survivors or victims. The United Nations Children’s Fund [UNICEF] estimated that in 2005, almost 250,000 children served as child soldiers around the globe (UNICEF, 2010). Though this was a slight decrease from figures found in the 2004 Human Rights Watch Report, it is possible the number of child soldiers active in current armed conflict worldwide is about 300,000 and remains constant at all times (Becker, 2004). According to Child Soldiers Global Report (2008) this cannot be taken as the correct global figure as the proper data on child soldiers are unknown for a number of reasons, such as lack of proper birth records or falsification of them in certain countries, and inadequate mechanism to verify the age of new recruits. As such, no one can precisely determine the exact number of child soldiers, as these groups tend to conceal the involvement of children in their ranks (Fox, 2005; Kessler, 2016; Tiefenbrun, 2007; Webster, 2007).

Who is a child soldier? The Paris Principles on the Involvement of Children in Armed Conflict (2007) defines a child soldier as:

“A child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes.”

The description by UNICEF includes any person under the age of 18 who becomes a member of “a regular or irregular armed group in any capacity” and who take part in combatant and non-combatant actions. A combatant action would involve the carrying of arms and being an active participant in a war-like situation for example as human mine detectors, whereas a non-combatant situation is where a child is employed as cooks, messengers, porters.
and other domestic tasks; this includes girls recruited for sexual purposes and forced marriages (Children Associated with Armed Groups, UNICEF). This definition includes activities, which are military related, any sort of preparation for ‘military preparedness training’ and other activities in support capacity - both direct and indirect participation in an armed conflict.

Child soldiers who are on active service encounter consequences equivalent to an adult soldier – possibility of being injured or maimed, captured or death itself. They are punished with imprisonment for desertion or upon capture. In fact, Maslen argues that their delicate age makes them more susceptible to sickness and malnutrition brought about by hardships of military life (Maslen, 1998). Their physical limitations compared with an adult become more apparent in military life resulting in their disproportionate misery and suffering. The fact that they receive little training or none at all before they are sent to the front line exposes them to dangers.

**Child Soldiers –Why Does it Happen?**

Collmer (2004) and Tiefenbrun (2007) pointed out that children involvement in wars or armed hostilities either direct or indirectly began from the time of the Middle Ages, where young boys were trained as squires assisting knights in preparation of battles, right up to World War II where children were recruited as active participants in military-like activities though not as an active combatant. They no longer became mere bystanders or civilian victims of the wars. However, the alarming rise in number of child soldiers post World War II, and especially after the end of Cold War, has taken on a new extreme dimension. Although child soldiers are a common sight in developing countries, for example in Rwanda, Myanmar, Columbia, Yugoslavia, it has become a trend in countries suffering from political, economic, and social instability and where approximately half of its population are young persons. Fox (2005) claims that this new trend promotes the notion those children are ‘fair game’ and ‘expendable commodities’ in war. This diminishes any requirement for special rights and protection for them. The term ‘armies of children’ can be aptly applied to armed conflicts globally.

**Root Causes for the Use of Child Soldiers**

In tackling the issue of child soldiers, we need to first ascertain the causes for the drastic increase in child soldiering. Collmer (2004) suggested two factors: the changing nature of warfare, and the increase and availability of weapons. According to Berry (2001), when a state’s legitimacy or power is under threat, it can lead to manifestation of intrastate wars rather than interstate conflicts.

Wars fought before World War II can be categorised as “traditional” or “conventional’ wars. These wars were fought between nation states where there were clear and distinguished ‘role’ between combatants and civilians. Troops were mobilised by a central state to march into another state for political
and territorial motives, targeting the armies of the opponents rather than just anybody crossing their path. The devastation and destruction inflicted on the life of civilians undoubtedly remains the same but children during these times were recognised as civilians who deserve special attention and protection along with women and the elderly (Collmer, 2004).

By the end of the 20th century and post-Cold War period, the nature of warfare went through a tremendous shift. New types of wars are now being fought. These contemporary wars are not confined only to some parts of continents but were widespread such as in Bosnia-Herzegovina, Chechnya, El Salvador, and Columbia. These ‘new wars’ as classified by the scholars are different from ‘traditional’ wars by their very nature. It blurs any distinctions between traditional concepts of wars and organised crimes which manifest in an organised and systematic use of violence and massive violations of human rights. Initiated always, in most cases, as an act of rebellion against a colonial or totalitarian state it can be termed as ‘anti-regime’ or ‘autonomous movements and secessionist wars. Among reasons cited for this new type of organised violence are the inequalities inherent in the economic and social structures that have resulted in rampant poverty among certain groups in a state. These new wars are further heightened if the armed forces in such states are divided in their loyalty and some join opposition rebel groups, resulting in a growth in organised crimes, paramilitary groups, and the availability of weapons and mercenaries (Collmer, 2004; Hughes, 2000; Webster, 2007). Collmer (2004) points out that these new types of wars present an ‘asymmetric structure of conflict’ between a ‘variety of non-state-actors’ and the law enforcement arm of the state. These actors, a mixture of fighters, with weak military capabilities employ techniques commonly used in guerrilla warfare to inflict massive violence and avoid direct confrontation with national armies. They also tend to retreat to their territorial sanctuaries to regroup and reinforce their forces resulting in prolonged warfare such as in Afghanistan, Sudan and Ethiopia.

How do these prolonged new wars relate to child soldiers? The new wars are not carried out in specific battlefields as in the traditional war but rather erupt in the middle of the city and disrupt a civilian daily life, without any warning. Creating a dangerous environment for children, these long and mass conflicts have separated children from parents or made them orphaned, fending for themselves. Faced between starvation or death and life in the militia or national armed forces, many children choose the latter as being the safer alternative. The child is promised protection in exchange for his commitment and loyalty to the group.

The long duration of these conflicts like that as evidenced in Sudan which had been in conflict since 1956, has resulted in thousands of casualties and shortages in adult manpower. Children are recruited to fill these gaps enabling these conflicts to perpetuate. The financial limitations of the actors in these wars is and the demand for
cheap fighters has led to an increase in child soldiers as they are perceived as the cheapest and expendable source of labour making them the ultimate target. Children who have been living in these war-torn zones all their life lack educational facilities that can equip them with other life skills besides soldiering or military training.

The second factor that contributes to the increase of child soldiers in the battle field is the availability and accessibility to small weapons and arms. In the era of advanced technology, weapons can be procured easily through illegal networks of international organised crimes. Collmer (2004) claims that the small weapons range from “simple handguns to armour-piercing bazookas” are relatively cheap. They are not new weapons but rather used goods that have saturated the global market, courtesy of post-Cold War period. Reports are circulating in these conflict areas, for example, that weapons used in Lebanese civil wars have found their way to Croatia. These weapons, which are light and easy to use, can be easily managed by these young children.

The Machel Report (1996) observed that even a small boy of 10 would have the strength to assemble and use an AK-47. The new wars make full use of these small arms rather than large scale military weapons as they require less logistical arrangement and are financially sustainable. The abundance of small weapons and their user-friendliness have facilitated and contributed to the growing number of child soldiers, as many are able to utilise them.

**Classification of Recruitments**

Recruitment of child soldier can be either voluntary (enlistment) or by forced (conscription). Recruitment includes accepting volunteers into armed forces but does not cover children studying in military schools. According to the United Nations Palermo Protocol (2001) voluntary and consensual enlistment of a child in any armed forces will preclude him or her from being protected as a victim of child trafficking under the trafficking statutes. Enlistment denotes a more acceptable act of recruitment in the sense it requires the child to agree to it rather than being forced. It also embraces the concept of voluntary enlistment by the government national army of children under the age of 18 years.

The Global Report on Child Soldiers (2008) compiled by the Coalition Group reported a decrease in number of countries enlisting children under-18 to front line combat. Even so, 14 countries still recruit children into auxiliary forces linked to their national armies or into local-level civilian defence groups established to support counter-insurgency operations, and militias and armed forces acting as proxies for government forces.

Children also have been trained as spies and other intelligence gathering purposes. The international community through the work of many NGOs and human rights activists have been advocating the ban on under-18 children from recruitment in any way into any armed forces, government and non-government alike. Some countries such as UK, US and Pakistan argue that
children as young as 16 should be allowed to volunteer as part of the national armed forces even though they are not allowed to be in the front line. The debate still rages as each country has its own reasons, economic, political, and social for such a stand.

Tiefenbrun (2007) argues the voluntary enlistment of a child in an armed force is doubtful as there is always an element of coercion, subtle or otherwise. She argues that the environment in which a child lives, plays an important part in ascertaining whether such a decision is made on a purely voluntary basis. Factors such as parental and family background, peer pressures, lack of intellectual capacity and maturity, lack of education, illiteracy and misinformation can influence a child to make a choice of which he/she is not well informed of neither fully understand.

The word conscription of child soldier connotes a bad image of children being forced into such a situation. Africa has been cited as ‘hot-spot’ for forced and abusive recruitments of young children into warfare, nonetheless the problem is actually a global one. Interviews with ex-child soldiers of Rwanda, Sierra Leone, Liberia and the Lord Resistance Army of Uganda testify to this, together with reported incidents in Kosovo, Sri Lanka and Myanmar. Tales of forced recruitment into armed forces include abduction and intimidation of young children or their immediate family members in case of refusal. Others are forced out of desperation, a survival tactic – join or be killed. Children, who try to escape but failed, are severely punished or even killed as a warning to others.

Factors Propelling Children Joining the Armed Forces

There are reports of children as young as 8 years old being recruited as child soldiers. The common age for recruitment is from the age of 10 and until adolescence. Human Rights Watch estimated one third of child soldiers in Uganda, El Salvador, and Ethiopia are girls (Human Rights Watch, 2015). Children are a target for physical, psychological, and social reasons.

Most of the reported occurrences of a child’s participation in armed forces are involuntary, usually either through force, kidnapping, abduction, coercion, deceit or intimidation. Nonetheless, there are also instances where children joined these forces on their own free will, technically.

These refer to situations where the children have to support themselves and their families. When there is scarcity of meal and work, the prospect of being given a small sum of salary and food is compelling enough for a child to be part of the armed group. This will at least ensure his family is not going to starve. Orphans, street children, and children separated from family members are also likely candidates. The desperation to live and survive makes them choose one evil over another.

Psychological reasons can be as compelling as physical needs. Children who have been subjected to violence and torture, living in uncertainty and fear desire to be in
control of situation rather than stay helpless. By joining a side and holding a weapon, being proactive instead of just waiting to be the next victim, it offers a feeling of greater safety to these young people. This is true in the case of youths joining rebel forces in El Salvador in the 1970s-1980s after being subjected to torture by government army. Being in the army also allows a young child to exert power and control to those in authority who have mistreated him/her. Revenge also motivates the child to inflict pain upon those who had done the same on his/her family member, and this is especially true in cases where government troops carry out rampant looting and massacre in their attempt to crush rebel forces. This would result in a young child with limited education and understanding of the reasons for such mistreatment, to support the rebel group.

Social structures may make a child feel that he/she is doing something worthwhile by joining the armed group. It brings honour and nobility not only to them but also to their family and community. Taking arms in protection of one own religion, ethnicity, and social groups signify loyalty and dedication to one’s cause. Such is the case of the Afghan war against the Russian, and the Palestinian youth attacking Israeli soldiers. In the Teso region of Uganda, young fighters take arms due to the destruction of their livestock and join the army to regain wealth and resources so that they could restore their social standing and start their own family.

Every child’s story and reason for joining the armed groups differ widely from one another all over the globe as the nature of armed conflicts. Their culture, family history, economic and social structures are different which influence their decision to join the armed groups. However, one common thread for their engagement with the armed groups is the breakdown of their community and hence their lack of protection. A failed state without a fully functioning central government and imbalance of power and wealth within the territory which lead to armed groups taking an opportunity to recruit these children and destroy their life.

International Laws Regulating Child Soldiers

Human rights (directed to the States) and humanitarian laws (applied to both state and non-state actors in certain circumstances) are the two main branches of international law governing the issue of child soldiers. The international legal framework for the protection of children is not condensed in one specific treaty but rather constituted in many specific and general treatises in all spheres of international humanitarian law. The law and practices of each state also plays a vital role in regulating protection of children at international level. Though the various treatises on general human right and humanitarian law explicitly talks about the rights and protection to be afforded to a child, no reference is made to the category of a child soldier (Convention on the Rights of the Child 1989). The two just do not go together. Provisions in the international regulations are for children who are victims
of war – those who are captured, not those who fought as soldiers.

As early as the 1970s, the international community has recognised the need to tackle this issue through the vaguely worded provision of the Additional Protocols to the Geneva Conventions of 1949. From then on, child rights supporters have worked tirelessly to prohibit recruiting children as members of any armed forces in whatever capacity they might be. The success of a group of NGOs, the Coalition to Stop the Use of Child Soldiers (predecessor to Child Soldiers International) in putting pressure on the international community to agree to a minimum age ban in recruitment of child soldiers can be considered as another winning milestone in efforts to eradicate this problem. This article will highlight a few of those treatises in regulating the issue of child soldiers, namely the Geneva Convention of 1949 and Additional Protocols, the Convention on the Rights of Children 1989, the International Labour Organisation Convention No. 182 and the Rome Statute of International Criminal Court 1998.

The Geneva Convention and Additional Protocols

The Geneva Conventions of 1949 and their Additional Protocols form the basis of international humanitarian law. The Conventions are now considered as customary international law regulating states relations in times of international armed conflicts. Geneva Conventions 1, 2 and 3 are an improvement on selected conventions concerning the treatments to be afforded to casualties and prisoners of wars and captured military personnel. Geneva Conventions 4 on the Protection of Civilian Persons in Time of War recognises the minimum protection for children as non-combatant regardless of their age and their rights, maintenance and entitlements. However, no mention is made to the prospect of armed minors (Fox, 2005). Geneva Additional Protocols I (AP1) and II (AP2) are supplements to Geneva Conventions, dealing with international and non-international armed conflicts.

The AP1 is more extensive in nature, consisting of 102 articles, and was formally adopted on 8 June 1977. It relates to the Protection of Victims of International Armed Conflicts, reaffirming and improving the protection provided to the victims. Of particular relevance is Article 77 of AP1, which went further than Geneva Conventions 4 by prohibiting recruitment of minors into national armed forces if they are less than 15 years of age and should not take a direct part in hostilities. Regardless of that, if those below the age of 15 do take part in such hostilities and they are captured, they are to be provided protection in accordance with Articles 77 (1), (4) and (5) of AP1 (Breen, 2007; Fox, 2005).

The AP2 consists only of 28 articles and is more limited in application. It clarifies the protection of victims in non-international armed conflicts. It encompasses all conflicts between well-organised and well-armed forces in state, meaning civil wars. Article 4(3) (c) stipulates clearly that no children under 15 years of age can be recruited in armed forces or groups nor take part in
hostilities. The provision in Article 4(3) (d) further reiterates the provisions in Article 77 of AP1. Though it seems as if AP2 laid down a stronger measure towards child protection in armed conflict, prohibiting all forms of direct and indirect participation of under 15-years old child, its application is restrictive to non-international armed conflict that fits the specific criteria. It has been argued that Article 77 has actually classified minors into two separate groups of under-18 and under-15, where only the latter are directly prohibited from directly involving themselves in any armed conflict. The phrase “feasible measures” used in Art 77 (1) limits the capability of the state - meaning the state or non-state can refrain from doing so if they are unable to carry out any measures. The word direct participation limited the applicability of the restriction earlier indicated (Breen, 2007; Fox, 2005).

**Convention on the Rights of Children (CRC) 1989**

This is the first significant international instrument that specifically protects the human rights of children and has been universally ratified to date by almost every country albeit with certain reservations on the terms. The CRC as a human rights document has limited application, whereby it is directed towards the States in an armed conflict excluding non-state armed groups. Article 38 of the CRC relates directly to the issue of children in armed conflict wherein it specifically prohibits an individual under-15 years of age from taking direct part in hostility. The state is to take all ‘feasible measures’ to ensure such compliance. This Article merely echoes the stand taken in AP 1 and AP2 and fails to address the same issue like in the previous protocols. Voluntary recruitment, indirect participation, and feasible manner – are the vague phrases that remain unsettled and subjected to too many interpretations (Berry, 2001).

Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict is currently the most specific international legal treaty that prohibits the employment of child soldiers. It is ratified by 120 states in 2007 and consisted of 13 articles. It raised the previous age limit of children’s involvement in hostilities from 15 years as set by the CRC and the Geneva Conventions 1949 and Additional Protocols of 1977 to 18 years. This includes extending the age bar on child soldier from 14 years to 18 years for compulsory recruitment and direct participation in conflict and raising the minimum age limit for voluntary recruitment to above 15 years (Global Report, 2008). It gives birth to the ‘straight-18’ policy whereby all methods of recruitment in all armed forces and all methods of participation of armed conflict are disallowed until an individual attains the age of 18 (Sheppard, 2000).

**International Labour Organisation Convention No. 182**

In 1999, the International Labour Organisation (ILO) adopted a Convention on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention 182). Article
3 of the Convention categorises four types of child labour that no government shall tolerate - which includes among others pornography, prostitution, and child soldiering. It thus prohibits the forced and compulsory recruitment of children but not voluntary recruitment of children under-18 into armed conflicts. Breen (2007) opines this Convention constitutes an elevation of current legal awareness on standards of human rights and may help states deal with the problem of recruitment of child soldiers by way of abduction, coercion or forced recruitment.

Rome Statute of International Criminal Court 1998

On July 2002, the Statute of International Criminal Court entered into force. It establishes a permanent court wherein persons charged with committing war crimes, crimes against humanity and genocide are tried. This legal development is important as it now makes the individuals responsible for recruiting minors in armed conflict to be accountable for their act. It makes the acts of conscription, enlistment, or use of children under age of 15 in hostilities either by the national armed forces or by non-state groups as a war crime. Article 8(2)(b)(xxvi) of the Statute constitutes such acts as violation of a customary international law norm and open to criminal sanctions. Article 26 of Rome Statute states that an adult recruiting an underage child to be in armed forces can face criminal sanctions but the Courts jurisdiction does not extend to persons under age of 18 at the time of alleged commission of such crime. Thus, any child soldiers between the ages of 15 to 18 years are considered as victims though they have committed acts of atrocities during wartime. The debate remains as to whether these groups of child soldier should be allowed to escape from their criminal acts unpunished.

Prior to 2000, the international legal framework set the standard age for legal recruitment of children in combat at 15 while CRC defines a child as any person under 18 to be entitled to special protection. The effort put forward by NGOs, especially the hard work of Coalition to Stop the Use of Child Soldiers, led to promulgation of important treaties that strengthened international legal norms regarding the use of child soldiers. All these are concerted endeavours to improve the life of children throughout the world.

Malaysian National Service Programme

The Malaysian National Service Training Program or Latihan Khidmat Negara was initiated in 2002 and implemented in 2004. This three-month programme was aimed at promoting patriotism and bonding among young generation Malaysians. The module includes basic military training. Failure to attend the National Service Training Programme may result in either fine or imprisonment or both on the defaulter. Similar punishments might be inflicted to any person who persuade another not to attend, abetting or causing another not to attend any National Training Service programmes (National Service Training Act 2003). Therefore, it is pertinent to ask if the
National Service Training Program is a type of armed forces training or for educational purposes only.

The *Latihan Khidmat Negara* was gazetted under the National Service Training Act 2003. According to Section 3 (a) of this Act, the Yang di-Pertuan Agong may require, through proclamation, that any person who is between the age of 16 and 35 years to attend and participate in this programme. All Malaysian youths who are within this age category will be selected randomly to join the programme. Some of them may be considered as a child and hence, minor due to their age at the time of recruitment. The Malaysian Age of Majority Act 1971 considers a person to be an adult when he has attained 18 years of age. In practicality, only youths above the age of 16 are enlisted. Nonetheless, the youths joining the National Service Training Programme is still a minor if he or she is to attend it at the age of 17.

The training consists of four modules: Physical, Nation Building, Character Building, and Community Service. All of these modules are implemented separately during the three-month period and supervised by National Service Department to ensure the effectiveness of the programme. In the Physical Module, all trainees will be exposed to several extreme outdoor activities such as marching, combating which might include hand to hand and weapon usage, obstacle course, and survival training. Character Building Module emphasises on encouraging good values and self-confidence, leadership and self-evaluation by participation in group and teamwork between the participants and their supervisors to develop good character among Malaysian youths. Nation Building Module is more class-room based, which attempts to create awareness among the younger generation on the importance of national security and defence. It also highlights the citizen’s responsibility to the nation, and loyalty towards the government. Lastly, in Community Service Module, trainees will be exposed to community awareness programmes by involving themselves in project which takes place within their communities. It is the government’s hope that, through this module, trainees will appreciate the diversity of the nation.

The modules cannot be seen as attempts to recruit or enlist child soldiers into government armed forces. This is because though the participants learn basics military training and combat tactics as well as usage of military of weapons in the Physical Module, they are not for actual combat training. Furthermore, the main objective of this programme is to develop good values among teenagers and create awareness on the importance of protecting national security. The program does not emphasise only on military combats and physical training but rather a wholesome programme combining spiritual awareness and community services.

**CONCLUSION**

Putting an end to the practice of child soldiers requires not only the existence of strong legal standards but also consistent international cooperation, regional and
national initiatives. Penal sanctions on recruiters of child soldiers as in the case of Sierra Leone portrays the seriousness of the international community to address this problem. It is recommended that the national as well as the international court system can further develop a systematic procedure for investigation and prosecution, in order to crack down on the usage of children as weapons of war. Funding and supporting demobilisation and rehabilitation of ex-child soldiers are also crucial to ensure that they will be able to lead a normal life and not revert to a life of violence. By providing educational opportunity and marketable life skills learning and assistance, the future of these young soldiers would be brighter. The captured ex-child soldier should not be treated as a criminal but rather be offered with psychological, socioeconomic, and educational opportunities for rehabilitation. The UN Security Council should impose sanctions on countries which facilitate the infiltration of illegal weapons used in small wars. This again requires not only negotiations but also criminal and economic sanction to be truly effective. It is unfortunately true that success will only be achieved by continued monitoring and advocacy, practical assistance for demobilisation and rehabilitation, and effective use of political and military leverage by international actors and uncompromising commitment by national, local and international authorities to hold the perpetrators accountable (Breen, 2007). To drive a point home, the most effective solution as succinctly stated by Machel (1996) in her UN Report in eradicating this phenomenon is by preventing the outbreak of armed conflicts.

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