

A STOLEN CHILDHOOD: A LOOK INTO THE WORLD OF FEMALE CHILD SOLDIERS AND THE INITIATIVES TARGETING THE ENDING OF THE PRACTICE

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INTRODUCTION

Wars have been waged for as long as history has been written. Wars have been waged by kings and pharaohs, presidents and dictators. However, what history has failed to portray is the identities of the men and women behind those rulers: the soldiers that fought the grueling battles at the bequest of others. Even more telling is the failure of history to portray the age of the soldiers. Child soldiers have long since fought on the battlefield, but until recently, have gone virtually undetected in international law.

Child soldiers present unique challenges to the international community. Who are these children that are in the armed forces? What constitutes a “child soldier”? Can the practice be stopped? The United Nations took up these questions, and more, with the ratification of the Conventions on the Rights of the Child in 1990.¹ Since then, the international community has come together on a variety of initiatives to target the ending of the use of child soldiers. However, what the international community has not yet recognized is the specific challenges facing female child soldiers: from the distinct roles they play in the camps to the issues arising during reintegration. Research suggests that more needs to be done to protect these young girls before their childhood is completely taken away.

Part I of this paper will discuss the prevalence of child soldiers. Part II addresses the methods used to recruit the children into conflict. Part III will discuss the unique dynamics facing female child soldiers and the prominent dichotomy that exists between these young girls’ experiences. Part IV will conclude with the international initiatives that are currently in place and will address what more needs to be done in order to best protect the young girls.

I. THE PREVALENCE OF CHILD SOLDIERS

Estimates indicate:

[T]hat approximately 300,000 children participate in armed conflicts around the globe. In addition to the active participation of children in military conflicts, approximately half a million children have been “conscripted” into paramilitary organizations, guerilla

¹ Convention on the Rights of the Child, Sept. 2, 1990, 1577 U.N.T.S. 3.

groups and civil militias in over 85 countries.²

It is further estimated that of those children currently taking part in armed conflict, forty percent, or close to 120,000, are girls.³ These numbers, however, are only low estimates to the true number of children currently taking part in armed conflicts. Real statistics are often hard to obtain as many of the children are taken by rebel forces or are simply unaccounted for.⁴

Child soldiers can be found across the globe, in what has been estimated to be over thirty conflicts.⁵ The use of child soldiers is a global epidemic, but is most prevalent in the continents of Africa and Asia.⁶ Among those countries identified as practicing the use of child soldiers include: Afghanistan, Burma, Columbia, the Democratic Republic of Congo, Philippines, and Sudan.⁷ On more than one occasion, the United States military has found themselves in direct conflict with child soldiers. The first soldier killed in the War on Terror was Sergeant First Class Nathan R. Chapman in Afghanistan.⁸ While an unfortunate, but anticipated, toll of war, what shocked many was that the killer was a fourteen-year old boy.⁹ Therefore, while countries may

² Jordan A. Gilbertson, Comment, *Little Girls Lost: Can the International Community Protect Girl Soldiers?*, 29 U. LA VERNE L. REV. 219, 219 (2008). See also Timothy Webster, *Babes with Arms: International Law and Child Soldiers*, 39 GEO. WASH. INT'L L. REV. 227, 231 (2007) (suggesting the number of child soldiers to be between 250,000 and 500,000); *Factsheet: Child Soldiers*, UNICEF, <http://www.unicef.org/emerg/files/childsoldiers.pdf> (last visited Sept. 9, 2013) (estimating 300,000 child soldiers).

³ Waltraud Queiser Morales, *Girl Soldiers: The Other Face of Sexual Exploitation and Gender Violence*, 2 AIR & SPACE POWER J. AFR. & FRANCOPHONIE 62, 63 (2011) (basing such figures on the estimate that there are 300,000 child soldiers worldwide).

⁴ See generally WEBSTER, *supra* note 2, at 231–32.

⁵ *Factsheet: Child Soldiers*, *supra* note 2.

⁶ *Child Soldiers*, UNITED NATIONS CYBERSCHOOLBUS, <http://www.un.org/cyberschoolbus/childsoldiers/whatsgoingon/> (last visited Sept. 28, 2013).

⁷ *Child Soldiers Worldwide*, HUMAN RIGHTS WATCH (Mar. 12, 2012), <http://www.hrw.org/news/2012/03/12/child-soldiers-worldwide> (Human Rights Watch also lists Central African Republic, Chad, India, Iraq, Somalia, South Sudan, Thailand, and Yemen as countries using children as soldiers).

⁸ *About Nathan Chapman*, NATHAN CHAPMAN MEMORIAL FUND, <http://www.intra-focus.com/NATHANCHAPMAN/CE66D4C1-65BE-CC3C-19DA64DE869D2AF3.htm> (last visited Sept. 11, 2013).

⁹ Dan Collins, *An Army of Children*, CBS NEWS (Feb. 11, 2009), http://www.cbsnews.com/8301-18563_162-518973.html (citing that “‘Children are present in around three-fourths of the wars out there, including in many of the areas where we’re deploying troops now in the war on terrorism.’ Singer said . . . Not just in Afghanistan, where young boys go through al qaida training camps, but in the Philippines, where U.S. Special Forces are aiding in the hunt for members of the Abu Sayeff terrorist group. There are an estimated 300,000

“abide” by the practice of prohibiting child soldiers, it remains a possibility, if not a probability, that in conflict, the barrel of their gun will inadvertently be pointed at a child.¹⁰

II. RECRUITING CHILD SOLDIERS

With estimates ranging between 300,000 and 500,000 child soldiers currently taking part in armed conflicts,¹¹ many in the international community have been left to question how the children were brought in to the conflict in the first place. Scholars cite three methods by which children are recruited to the armed forces:

Abduction[s] . . . situations in which children have been taken forcibly or under threat of arms; Forced recruitment . . . cases in which the child did not have a choice . . . because of moral pressure or the obligation to enlist; [and] [a] personal decision whereby the child took the initiative to become a member of the armed group.¹²

In a study of child soldiers in Central Africa, it was found that recruitment by abduction occurred in twenty-one percent of the population of child soldiers.¹³ Abductions take the form of both group and individual abductions, with forces taking children directly from school, in the countryside, or during raids on the villages.¹⁴ Children are also forced to join the conflict through the use of threats against themselves and/or their family.¹⁵

Of particular interest to international organizations is the reasoning behind voluntary, or “personal decision,” recruitment.

child soldiers worldwide”).

¹⁰ This paper will not discuss the tactical advantage and disadvantage of using a child soldier in such conflicts. For more information on such, see Collins, *supra* note 9.

¹¹ *Life After Death: Helping Former Child Soldiers Become Whole Again*, HARVARD SCH. PUB. HEALTH MAGAZINE (Madeline Drexler ed. 2011), <http://www.hsph.harvard.edu/news/magazine/child-soldiers-betancourt/>.

¹² *Wounded Childhood: the Use of Children in Armed Conflict in Central Africa*, INT'L LABOUR OFFICE 27 (2003), http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---ifp_crisis/documents/publication/wcms_116566.pdf [hereinafter *Wounded Childhood*].

¹³ *Id.* (This percentage is thought to be higher, however, “fear of reprisal,” is thought to have played a role in the low number reporting to have been recruited by force).

¹⁴ *Id.* at 27–28.

¹⁵ *Id.* at 28.

A. Voluntary Recruitment

Voluntary recruitment of young girls is a direct result of social, economic, political, and environmental considerations.¹⁶ First and foremost, joining the armed forces may serve as a means of survival for many young girls. “[A]ccording to the Director of the Liberian Red Cross, ‘those with guns could survive.’”¹⁷ Survival takes on many facets. For a majority of the young girls, joining the armed forces is a means of securing their next meal and the clothes on their back.¹⁸ Studies have found that young girls from more impoverished areas face a greater likelihood of voluntarily joining the conflict.¹⁹ For young girls in a large family, a small plot of land may not be able to sustain the nutritional needs of the entire family.²⁰ “Providing for the essential survival needs of the family was a constant source of anxiety and uncertainty” for many of the young girls.²¹ A young girl’s decision to voluntarily join the forces was also heavily influenced by the family environment that she was brought up in.²² Joining the forces, for some girls, is a way of protecting themselves from sexual or physical exploitation.²³ If a family member, close friend, or neighbor is sexually abusing the young girl, she may escape to an army or rebel group in which sexual conduct is not permitted amongst the troops.²⁴ In a family where the father was absent or deceased, it is harder for the mother to protect the children.²⁵ In

¹⁶ See generally *Factsheet: Child Soldiers*, *supra* note 2 (“Children are more likely to become child soldiers if they are separated from their families, displaced from their homes, living on combat zones or have limited access to education . . . [and] guarantee[d] daily food and survival.”).

¹⁷ *CHILDREN IN WAR: THE STATE OF THE WORLD’S CHILDREN*, UNICEF 17 (1996), <http://www.unicef.org/sowc/archive/ENGLISH/The%20State%20of%20the%20World’s%20Children%201996.pdf> [hereinafter *CHILDREN IN WAR*].

¹⁸ *Id.* See also *Factsheet: Child Soldiers*, *supra* note 2.

¹⁹ Yvonne E. Keairns, *The Voices of Girl Child Soldiers*, QUAKER UNITED NATIONS OFFICE 3 (Oct. 2002), <http://www.quno.org/newyork/Resources/QUONOchildsoldiers.pdf>.

²⁰ *Id.* at 3.

²¹ *Id.*

²² *Id.* at 2–3.

²³ MATTHEW HAPPOLD, *CHILD SOLDIERS IN INTERNATIONAL LAW* 13 (2005).

²⁴ See Keairns, *supra* note 19, at 3.

²⁵ One former child soldier in the Democratic Republic of the Congo recounted:

My father had left the house many years ago and, one day, my mother disappeared too. It was my grandmother that took me in. But she did not have the means to look after me . . . when I heard that the army was recruiting against payment, I joined, in the hope of a better life.

some cases, the young girls did not have additional family in which they could seek refuge and safety from the abuse.²⁶ For these young girls, the armed forces offer the safety they are missing at home. Family and friends joining the force also influenced the young girls to join.²⁷ “The significant others who had influence over the girls were boyfriends, brothers and girlfriends who influenced them to join. It was not unusual for the significant other to return to the village and escort the girl to camp”²⁸ For those without a family, the armed forces can step in and act like a surrogate family.²⁹ One example of this would be in Uganda, where many of the young girls were orphaned and saw the National Resistance Army as a replacement family.³⁰ Lastly, young girls may join voluntarily to seek vengeance following the death of a loved one.³¹

Another factor that serves to influence many young girls to join the armed forces is the political messages being conveyed. Propaganda plays a large role in the recruitment of young female child soldiers.³² “The movement was seen as a place for adventure and excitement . . . It gave them a chance to experience some measure of prestige, exhibit power and gain respect . . . [it was a] ready made and immediate identity.”³³ For young girls trapped in a patriarchal society, the opportunity to step out, gain an identity, and garner respect is a rare luxury. Thus, when the opportunity presents itself, it is to be seized upon. Propaganda is specifically targeted at the child’s adventurous ideology, portraying excitement and wonder. Propaganda further instills a sense of pride, giving young girls altruistic reasons for joining the force.³⁴ The young girls believe that their participation in a greater cause would help not only their own

WOUNDED CHILDHOOD, *supra* note 12, at 30.

²⁶ Keairns, *supra* note 19, at 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *CHILDREN IN WAR*, *supra* note 17. In many of the countries most noted for using child soldiers, AIDS is a very large issue. In such situations, it is not uncommon to have lost either one or both parents to the devastating disease, leaving the child orphaned and desperate for a family unit. See MICHAEL WESSELLS, *CHILD SOLDIERS: FROM VIOLENCE TO PROTECTION* 121 (2006).

³⁰ *CHILDREN IN WAR*, *supra* note 17.

³¹ WOUNDED CHILDHOOD, *supra* note 12, at 34 (citing that the psychological shock many of the children faced by the death of a loved one proved to be a turning point in their decision to join the forces).

³² Keairns, *supra* note 19, at 3.

³³ *Id.*

³⁴ *Id.*

status, but help in the lives of their family, friends, and neighborhood.³⁵ While these propaganda campaigns are heavily promoted by the military themselves, parents also take part in persuading the young child that their actions are noble, and thus, justifiable.³⁶

Therefore, when looking at the issue of female child soldiers, it is important to first consider how the young girls were recruited to the force. Often times this dictates how they are to be treated once they join the ranks and enter the camp.³⁷

III. LIFE IN THE CAMPS: SERVITUDE VERSUS EQUALITY

There exists a notable distinction amongst the experiences of young female child soldiers once recruited to the armed forces. Some young girls tell of great achievements bestowed upon them through the exercise of power and authority, while others recount horrifying and traumatic experiences involving sexual and physical exploitation.

A. *A Life of Servitude*

As soon as the girls' breasts began to form they could be impregnated, and the men did not have to assume or claim paternity, or any responsibility for them or for the child. If the girl did not accept the man's advances toward her she could be tied to a tree and beaten with sticks.³⁸ Young girls recruited to the armed forces face the possibility of physical, sexual, and emotional abuse by their superior officers. The child soldiers serve a variety of roles, from cook to soldier, laborer to 'wife.'³⁹ For many, their abduction into the armed forces presents only a dark and dismal future with little hope for reprieve.

Many of the young female child soldiers face sexual exploitation, often times by men over twice their age.⁴⁰ In the

³⁵ *Id.*

³⁶ WOUNDED CHILDHOOD, *supra* note 12, at 31 (where a group of former child soldiers from the Democratic Republic of Congo stated "[o]ur parents told us that we were going to defend a noble cause.").

³⁷ See generally Keairns, *supra* note 19, at 15.

³⁸ *Id.* at 7 (recounting the experience of female child soldiers in Angola).

³⁹ See WOUNDED CHILDHOOD, *supra* note 12, at viii.

⁴⁰ See Keairns, *supra* note 19, at 7 ("Those who are 30 dance with the oldest of 70/60, those of 20/25 dance with the men whose hair is turning white; those who are 17/18 also with the oldest men; 14 and under, there are some of the oldest who dance with them. . . . After dancing, those who have a young man/boy

armed forces, these young girls are “routinely raped” and forced into sexual slavery.⁴¹ A U.N. study conducted on the Fuerzas Armadas Revolucionarias de Colombia (translated to the Revolutionary Armed Forces of Columbia) found that the recruited 2,500 girls were raped and sexually abused by their commanders.⁴² “In desperate situations of survival, girl soldiers may be forced to barter their sexual services to avoid greater abuse and mutilation or simply to remain alive for another day or week.”⁴³ If sexual advances are refused, the young girl faces the possibility of death or great physical harm.⁴⁴

With the rape and sexual manipulation, young girls also risk the possibility of pregnancy. In Columbia, forced abortions and sterilizations take place in order to prevent the birth of a child.⁴⁵ Young girls are given contraceptive injections, IUDs, or birth control pills to prevent pregnancy.⁴⁶ Such medication is given out by the commander, with injections being forced upon the girl every six months.⁴⁷ When a young girl becomes pregnant, she may be forced to abort the baby.⁴⁸ Pregnancy devalues the women in the eyes of the officers, as they are then impaired from carrying on the normal tasks given to them.⁴⁹ In Columbia, girls risk the possibility of death for being pregnant.⁵⁰ For many of the officers in these militias, a child’s life is seen as expendable; for something as uncontrollable as pregnancy, death is a possibility. Contrasting this experience is that of the Okulumbuissa. In Angola, as well as in the Lord’s Resistance Army, young girls may be used as Okulumbuissa, whereby the girls’ sole purpose in the troops is to become pregnant and to take care of the children.⁵¹

go and sleep with him . . .”).

⁴¹ Morales, *supra* note 3, at 65.

⁴² *Id.* at 68.

⁴³ *Id.* at 69.

⁴⁴ Keairns, *supra* note 19, at 7 (recounting that in Angola “[t]hose who have a young man/boy go and sleep with him. If [the young girl] do[es] not accept, they will take [her] to a place, and then kill [her].”).

⁴⁵ *Id.* at 9.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Keairns, *supra* note 19, at 9.

⁵¹ *Id.* at 7; Abigale Rhodes, What to Do Next? An Examination of Child Soldiering in Northern Uganda and Recommendations for the Future 32 (2009) (unpublished B.A. thesis, University of Georgia), available at http://athenaem.lib.uga.edu/bitstream/handle/10724/11145/rhodes_abigale_n_200905_bs.pdf?sequence=1.

From the start of puberty, women are forced to conceive a child, while the men may disavow paternity and support to the infant and mother.⁵² One young girl recounts that “[i]t’s a common habit with chiefs in the forest—when a girl is in your care, you have to Okulumbuissa.”⁵³

Young girls are also exploited as wives and used for entertainment. Young girls are forced to take up the role of wife to these officers.⁵⁴ Girls accept this as their fate “because it at least offered them protection from numerous unwanted sexual partners.”⁵⁵ In this role they may bear children, take care of the home, and serve the sexual needs of their husbands. Those not taken as wives may serve as dancers for the troops. Designed to “keep the men at a high level of excitement twenty-four hours a day,”⁵⁶ young girls are forced to endure over thirteen hours straight of dancing and singing, on a nightly basis.⁵⁷ Apart from sexual offenses, these young girls are often exposed to direct combat, physical labor, and emotional isolation.

Young girls may be forced to take up arms and fight alongside, or instead of, their commanders.⁵⁸ Child soldiers “provide quick, cheap fighter power on demand. With the proliferation of light but deadly arms, even very young girls can serve as combat soldiers.”⁵⁹ In the eyes of the commanders, the children may be used to free up the seasoned fighters and are the equivalent of a disposable commodity.⁶⁰ Children are also seen as easier to indoctrinate because “young children, especially girls, are more obedient, vulnerable, and malleable, and their moral codes are unformed and readily manipulated.”⁶¹ With fear in their heart and a gun in their hand, child soldiers present a formidable enemy on the battlefield.

Back in camp, young girls serve in a variety of capacities.

⁵² Keairns, *supra* note 19, at 7.

⁵³ *Id.*

⁵⁴ Leymah Gbowee, *Child Soldiers, Child Wives: Wounded for Life*, OPENDEMOCRACY (Nov. 12, 2012), <http://www.opendemocracy.net/5050/leymah-gbowee/child-soldiers-child-wives-wounded-for-life>.

⁵⁵ *Id.*

⁵⁶ Keairns, *supra* note 19, at 7.

⁵⁷ *See id.*

⁵⁸ *See generally* Morales, *supra* note 3, at 64.

⁵⁹ *Id.* *See also* CHILDREN IN WAR, *supra* note 17, at 14, 17 (explaining that a stripped down AK-47 is often used by children in conflict zones due to its low cost and easy assembly).

⁶⁰ Morales, *supra* note 3, at 64.

⁶¹ *Id.*

Female child soldiers cook the meals, assemble the camp, and perform any other chores necessary in the maintenance of the camp.⁶² Young girls also serve as transportation mules, carrying upon their backs the materials of camp and the personal effects of the commanders.⁶³ The tasks given to the young girls are physically grueling and time intensive. While physically the young girls' bodies are pushed to their limit, the emotional toll taken on the young girls is equally as problematic.

After the young girl is taken into the forces, she is exposed to an extreme form of isolation as part of the indoctrination process. In Angola:

[G]irls were instructed not to talk about their former life with their family. They were not permitted to recall or talk about their family, use their family given name, speak about their village, acknowledge their birth date or age. In essence they were to give up their former identity This process led the girl to become socially and emotionally isolated from herself and others.⁶⁴

Some forces, as part of the recruitment, will force the child to kill or "maim" a relative or neighbor, effectively cutting them off from their community, thereby leaving them with no "home" in which to return.⁶⁵ The loss of family presents the loss of hesitation on the battlefield; with no one to go back to, or think of, the young girl can now focus completely on the task at hand. Sexual assault and rape also lead to feelings of isolation amongst the young girls, as the stigma of having been sexually impure will carry with the girls even after the fighting has ended.⁶⁶ While the physical scars will heal, the emotional and mental abuse these young girls suffer will continue on into their adulthood, and forever shape the way they live.

For the young girls fortunate enough not to endure the physical, sexual, or mental abuse coupled with recruitment into

⁶² Keairns, *supra* note 19, at 7. Children also take on "other military duties, such as portering, cleaning, providing medical assistance, gathering information or cooking." *Forgotten Casualties of War: Girls in Armed Conflict*, SAVE THE CHILDREN 11 (2005), http://www.peacewomen.org/assets/file/Resources/NGO/HR_ForgottenGirls_SC_2005.pdf [hereinafter SAVE THE CHILDREN].

⁶³ See Keairns, *supra* note 19, at 7–8.

⁶⁴ *Id.* at 8.

⁶⁵ *Child Soldiers: Child Soldier. Some Words Don't Belong Together*, WAR CHILD, <http://www.warchild.org.uk/issues/child-soldiers> (last visited Sept. 10, 2013).

⁶⁶ See generally SAVE THE CHILDREN, *supra* note 62, at 10 (describing the story of Hawa, who felt discriminated against and isolated from her family after she had been raped).

the forces, the chance to become a child soldier offers the chance at equality and a voice not common in their communities.

B. A Chance at Equality

While much of the research and media stories covering child soldiers discuss sexual exploitation and physical and emotional abuse, in some communities, the chance to become a child soldier is a way to gain status, to gain a surrogate family, and to speak out amongst her male counterparts.

In communities where a young girl is to be seen but not heard, the chance to participate in criticism groups and to gain a voice is seized upon with vigor. In the Philippines:

The girls participated in criticism groups that were held in the afternoons. The participants confronted each other about their behaviors. They reviewed the ways they related and behaved toward each other. These groups provided them an opportunity to evaluate their own behavior and insights about how others perceived them. The prevailing philosophy was that men and women were equal. Men were not permitted to abuse women.⁶⁷

The young girls are given a meaningful place in the militia whereby they can critique one another and openly discuss their emotions for possibly the first time in their young lives.⁶⁸ For these young girls, joining the armed forces is a means to gain the confidence to speak up for their beliefs and to speak out to a large audience.⁶⁹ The girls not only gain skills in negotiation and confrontation, but they gain a “knowledge about self expression” that will easily translate into civilian life.⁷⁰

The chance to become a female child soldier also presents the possibility of martyrdom, which bestows upon the young girls the “Hero’s Welcome.”⁷¹ In Sri Lanka, the highest designation a young girl receives is given at a “Hero’s Welcome,” and it is only to be granted “to those who risked and or sacrificed their life in battle by killing and destroying the enemy.”⁷² For those who lose their life in such a conquest, they are to be honored and remembered at the celebration.⁷³ For those fortunate enough to

⁶⁷ Keairns, *supra* note 19, at 8.

⁶⁸ *Id.*

⁶⁹ *Id.* at 9.

⁷⁰ *Id.* at 4.

⁷¹ *Id.* at 6.

⁷² *Id.*

⁷³ Keairns, *supra* note 19, at 6.

have survived the mission, they are promoted.⁷⁴ The promotion offers with it the opportunity of having a female not only equal, but superior to her male counterparts, a highly unusual and coveted position by many of the young girls.

While discussing female child soldiers, it is important to keep in mind the vastly different experiences many of these young girls face. While countless young girls endure physical, sexual, and emotional exploitation, others gain equality and a voice in their community. The international response in developing a strategy to end the use of child soldiers ought to take into account these differences. However, from what has thus far been displayed by the international community, the distinction between male and female child soldiers has not yet been adequately addressed.

IV. INTERNATIONAL INITIATIVES

Dating back to 1978, the international community has publically condemned the use of child soldiers in armed conflicts.⁷⁵ However, thirty-five years later, children continue to be used as pawns in an adult's game of war, and female child soldiers are disproportionately affected by the lack of awareness in the international community.

A. *The Additional Protocols of the Geneva Conventions*

The Additional Protocols of the Geneva Conventions were designed to protect civilians during war time.⁷⁶ Protocol I was designed to address victims of war in international armed conflicts; Protocol II was designed to address victims of war in non-international armed conflicts.⁷⁷ In both Protocol I and II, it has been stipulated that children under the age of fifteen shall

⁷⁴ *Id.* at 7.

⁷⁵ Webster, *supra* note 2, at 236–37; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), Dec. 7, 1978, 1125 U.N.T.S. 3, *available at* <http://www1.umn.edu/humanrts/instreet/y5page.htm> [hereinafter Protocol I]; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), Dec. 7, 1978, 1125 U.N.T.S. 609, *available at* <http://www.ohchr.org/Documents/ProfessionalInterest/protocol2.pdf> [hereinafter Protocol II].

⁷⁶ *A Summary of the Geneva Conventions and Additional Protocols*, AM. NAT'L RED CROSS 1 (2001), http://supportgenevaconventions.org/library/geneva_conventions_summary.pdf.

⁷⁷ *Id.* at 6.

not be recruited to the armed forces.⁷⁸

While Protocol II specifically prohibits the use of child soldiers under the age of fifteen, Protocol I simply states that forces should take “feasible measures” to make sure no child under the age of fifteen is recruited to the conflict.⁷⁹ As will be discussed in the ensuing sections, this standard sets a relatively low and easily manipulated standard of review. While Protocol I and II were built with well-meaning intentions, the language lacked the necessary support to truly end the practice.⁸⁰

B. Convention on the Rights of the Child

Just over ten years after the implementation of the Additional Protocols to the Geneva Convention, the United Nations once again took up the issue of child soldiers in the Convention on the Rights of the Child.⁸¹

Adopted and opened November 20, 1989, and entered into force on September 2, 1990, the Convention on the Rights of the Child was “[t]he most quickly and widely ratified international treaty in history[:] it took less than a year to enter into force and won nearly global acceptance in less than a decade.”⁸² With 140 signatories, and 193 parties to the Convention, the United States and Somalia are the only participating U.N. countries that have not yet ratified the Convention.⁸³

The Convention on the Rights of the Child begins by defining a child as any individual under the age of eighteen years old, unless otherwise articulated in the applicable country.⁸⁴ The Convention then goes on to state, in Article 8, that every child should be able to maintain his or her own identity.⁸⁵ In an effort to preserve the child’s identity, special protections should be afforded to his or her family identity and nationality.⁸⁶ This can be seen applicable to child soldiers as the young girls are often stripped of their

⁷⁸ Protocol I, *supra* note 75; Protocol II, *supra* note 75.

⁷⁹ *Id.*

⁸⁰ Webster, *supra* note 2, at 237.

⁸¹ Convention on the Rights of the Child, Declarations and Reservations, Sept. 2, 1990, 1577 U.N.T.S. 3, available at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

⁸² *Id.*; Webster, *supra* note 2, at 237–38.

⁸³ Gilbertson, *supra* note 2, at 230; Convention on the Rights of the Child, *supra* note 1.

⁸⁴ Convention on the Rights of the Child, *supra* note 1, at 46.

⁸⁵ *Id.* at 47.

⁸⁶ *Id.*

nationality, familial relations, and all other forms of identity as a means of early indoctrination.⁸⁷ Emotional isolation makes the child more amicable to the commander's orders.⁸⁸ Also, directly correlating with the experiences many of these young girls face is Article 19, which dictates that a state party should take appropriate action to, "protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of . . . any other person who has the care of the child."⁸⁹ As was discussed previously, most of the young female child soldiers are exposed to a barrage of physical, mental, and emotional abuse.⁹⁰ An argument can be made that the commanders are, by definition, caring for the children, thus falling within Article 19's parameters.

Arguably the most controversial section of the Convention is also the section most applicable to the use of child soldiers, Article 38. Article 38 sets forth that, "State Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities."⁹¹ Among those recruited between the ages of fifteen and eighteen, priority in joining should be given to the older recruits.⁹² The United States, Canada, and United Kingdom were among the key players in the discussion of setting the age limit at fifteen, arguing that it would reflect the international law already in place.⁹³ Following the implementation of a fifteen year age requirement, the United States and U.S.S.R. then set out to "minimize the burdens placed on states to protect children aged fifteen to eighteen,"⁹⁴ thus creating subdivision three of Article 38 and its highly discretionary language of "shall endeavor to give priority."⁹⁵ Article 38 poses no more than a slap on the wrist to those found guilty of recruiting child soldiers under the age of fifteen. In its definition, State Parties are mandated to "take all

⁸⁷ See *supra* point III(A).

⁸⁸ Morales, *supra* note 3, at 64.

⁸⁹ Convention on the Rights of the Child, *supra* note 1, at 50. See *id.* at 55 (Article 34 further protects young children from sexual exploitation).

⁹⁰ See *supra* point III(A).

⁹¹ Convention on the Rights of the Child, *supra* note 1, at 56.

⁹² *Id.*

⁹³ Webster, *supra* note 2, at 238–39.

⁹⁴ *Id.* at 239.

⁹⁵ Convention on the Rights of the Child, *supra* note 1, at 56.

feasible measures.”⁹⁶ The feasibility of a particular task is a subjective determination, leaving the discretionary call of recruitment up to the commanders. Furthermore, Article 38 mandates that children are not to take a “direct part in hostilities.”⁹⁷ The question that is posed is what constitutes a “direct part in hostilities”? Direct participation invokes images of battlefield participation. Many of these young girls are not necessarily taking up arms, but are rather used back in camp for chores or for sexual gratification.⁹⁸ Their actions, though tangentially related, are for the benefit of the armed forces. Does this constitute direct participation, or are the actions of the young girls too far removed from the hostilities? If so, would Article 38 prohibit recruitment of children under the age of fifteen for other mundane tasks? These questions cannot be answered by the text of the Convention.

Based on its apparent oversight and lack of clarification on the issue of the use of child soldiers, the United Nations then implemented the Optional Protocol.

C. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Optional Protocol) was entered into force on February 12, 2002. Today the Optional Protocol has 152 parties and 129 signatories.⁹⁹ The United States signed the Optional Protocol on July 5, 2000, and ratified it on December 23, 2002.¹⁰⁰

Similar to its predecessor, the Convention on the Rights of the Child, the Optional Protocol carried with it key provisions for the current discussion. Article I set forth that “State Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of eighteen years do not take

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *See supra* point III(A).

⁹⁹ Chapter IV: Human Rights: 11.b Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Declarations & Reservations, Feb. 12, 2002, 2173 U.N.T.S. 222, *available at* http://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11-b&chapter=4&lang=en#EndDec [hereinafter *Optional Protocol Declarations & Reservations*].

¹⁰⁰ *Id.* at 3.

a direct part in hostilities.”¹⁰¹ When ratifying the Optional Protocol, the United States declared that the minimum age requirement for voluntary recruitment would be dropped to seventeen years old.¹⁰² The United States also clarified confusion created by the Convention on the Rights of the Child by setting forth the understanding that:

(A) the term “feasible measures” means those measures that are practical or practically possible, taking into account all the circumstances ruling at the time, including humanitarian and military considerations;

(B) the phrase “direct part in hostilities”-

(i) means immediate and actual action on the battlefield likely to cause harm to the enemy because there is a direct causal relationship between the activity engaged in and the harm done to the enemy; and

(ii) does not mean indirect participation in hostilities, such as gathering and transmitting military information, transporting weapons, munitions, or other supplies, or forward deployment.¹⁰³

Based upon the understanding set forth upon ratification by the United States, the experience many of these young girls face does not fall within the purview of the Optional Protocol, leaving the female child soldiers in camp unprotected.

D. International Criminal Court and the Rome Statute

Four years prior to the implementation of the Optional Protocol for the Convention on the Rights of the Child, the Rome Statute of the International Criminal Court was set forth.¹⁰⁴ The Rome

¹⁰¹ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, G.A. Res. A/RES/54/263, at 237 (Feb. 12, 2002), *available at* <http://www.ohchr.org/english/law/crc-conflict.htm>.

¹⁰² Optional Protocol Declarations & Reservations, *supra* note 99, at 22.

¹⁰³ *Id.* at 22–23. In ratifying the Protocol, the United States also set forth the understanding that they were not to be bound to the Convention on the Right of the Child. *Id.*

¹⁰⁴ *Rome Statute of the International Criminal Court*, UNITED NATIONS, <http://untreaty.un.org/cod/icc/index.html> (last updated Dec. 19, 2003). The Rome Statute was completed on July 17, 1998. Its entry into force was not until July 2002, upon its 60th ratification in accordance with Article 126. *Id.*; *A Universal Court with Global Support: Ratification and Implementation: Ratification of the Rome Statute*, COALITION FOR THE INT’L CRIM. CT., <http://www.iccnw.org/?mod=romeratification> (last visited Sept. 11, 2013); Rome Statute of the International Criminal Court, U.N. Doc. A/CONF. 183/9, at Part 13, art. 126 (Sept. 12, 2013), *available at* <http://untreaty.un.org/cod/icc/statute/romefra.htm> [hereinafter Rome Statute].

Statute conveyed the four main principals for categorizing international crimes: genocide, crimes against humanity, war crimes, and crimes of aggression.¹⁰⁵ The statute has 139 signatories and 122 ratifications.¹⁰⁶ Notably missing is the United States, who had originally signed the treaty under President Clinton, but later revoked their signature under President George W. Bush.¹⁰⁷

Key articles in the discussion of the Rome Statute's applicability to child soldiers include Article 7, 8, and 26.¹⁰⁸ Article 7 states that a "crime against humanity" includes "[r]ape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity."¹⁰⁹ As discussed above, female child soldiers are often used for sexual gratification and run the risk of rape, assault, forced marriage, abortion, or sterilization.¹¹⁰ While commanders being found guilty of such atrocities could arguably be brought before the International Criminal Court and face charges of crimes against humanity, a closer reading of the treaty suggests otherwise. Article 7 only applies if the actions were "committed as part of a widespread or systematic attack directed against any civilian population. . . ."¹¹¹ Thus, "if such acts occur after the girls are part of armed conflict they lose that protection."¹¹²

Having disproved the applicability of crimes against humanity in the context of female child soldiers, one would then be advised to look to Article 8.¹¹³ Article 8 highlights what constitutes war crimes, and articulates two key provisions for the protection of females engaged in combat.¹¹⁴ For an individual participating in an armed conflict, he/she will be amenable to prosecution for war crimes if found to be (1) "[c]ommitting rape, sexual slavery, enforced prostitution, forced pregnancy . . . enforced sterilization,

¹⁰⁵ Rome Statute, *supra* note 104, at Part 2, art. 5.

¹⁰⁶ *A Universal Court with Global Support: Ratification and Implementation: Ratification of the Rome Statute*, *supra* note 104.

¹⁰⁷ Aurélie Coppin, *Status of the U.S. Signature of the Rome Statute of the International Criminal Court*, AMICC, www.amicc.org/docs/US_Signature.pdf (updated Sept. 11, 2008).

¹⁰⁸ Rome Statute, *supra* note 104 at Part 2, art. 7–8, Part 3, art. 26.

¹⁰⁹ *Id.* at Part 2, art. 7(1)(g).

¹¹⁰ *See supra* part III(A).

¹¹¹ Rome Statute, *supra* note 104, at Part 2, art. 7(1).

¹¹² Gilbertson, *supra* note 2, at 234.

¹¹³ *Id.*

¹¹⁴ Rome Statute, *supra* note 104, at Part 2, art. 8(2)(b)(xxii)–(xxvi).

or any other form of sexual violence . . .”¹¹⁵ and (2) “[c]onscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.”¹¹⁶ While many in the international community were upset at the Rome Statute’s fifteen year age limit, the treaty does offer additional protection to children whom may not be picking up a gun to fight, but are forced to contribute to the war effort.¹¹⁷ This is particularly beneficial to the females in combat, who are often times utilized behind the front lines as laborers, wives, and carriers.¹¹⁸

An additional protection offered by the ICC is that of Article 26 in the Rome Statute.¹¹⁹ Article 26 provides that no individual shall be brought before the court if the alleged crime took place before the individual reached the age of eighteen.¹²⁰ This protects those children who are forced to kill, rape, or commit any such atrocities once enlisted into the armed forces. Those young girls that do take up arms cannot be brought before the International Criminal Court if the acts took place prior to the age of eighteen. This is particularly helpful for those children enlisted against their will and forced to the front lines.

¹¹⁵ *Id.* at Part 2, art. 8(2)(b)(xxii).

¹¹⁶ *Id.* at Part 2, art. 8(2)(b)(xxvi) (These are but two of the many provisions provided for in Article 8). The intention behind the language used in the statute is as follows:

The words ‘using’ and ‘participate’ have been adopted in order to cover both direct participation in combat and also active participation in military activities linked to combat such as scouting, spying, sabotage and use of children as decoys, couriers or at military checkpoints. It would not cover activities clearly unrelated to the hostilities such as food deliveries to an airbase or the use of domestic staff in an officer’s married accommodation. However, use of children in a direct support function such as acting as bearers to take supplies to the front line, or activities at the front line itself, would be included in the terminology.

Webster, *supra* note 2, at 240–41 (citing Hermann von Hebel & Darryl Robinson, *Crimes Within the Jurisdiction of the Court, in The International Criminal Court, The Making of the Rome Statute, Issues, Negotiations, Results* 118 (Roy S. Lee ed., 1999)).

¹¹⁷ Webster, *supra* note 2, at 241.

¹¹⁸ See *supra* part III(A).

¹¹⁹ Rome Statute, *supra* note 104, at Part 3, art. 26.

¹²⁰ *Id.*

E. Convention Concerning the Prohibition and Immediate Action for Elimination of the Worst Form of Child Labour (Convention 182)

In June of 1999, the International Labour Organization¹²¹ issued C182 – The Worst Forms of Child Labour Convention, a Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (C182).¹²² C182 was entered into force on November 19, 2000,¹²³ and serves as a beacon of hope for the specialization of international protocols in assisting young female child soldiers. To date, 177 countries have ratified the convention, including the United States.¹²⁴

C182 applies to all children under the age of eighteen years old, and includes “all forms of slavery or practices similar to slavery . . . including forced or compulsory recruitment of children for use in armed conflict.”¹²⁵ This begs the question: how are children who are willing to join the forces affected by C182? This question is not answered within the text of the convention, which once again leaves it to the discretion of the reader to interpret the convention. What is done well, and arguably something that should be mimicked in other like conventions or treaties, is the specific mention of tailoring international initiatives to the unique circumstances of females. Each ratifying member “shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to: (a) Prevent the engagement of children in the worst forms of child labour [i.e. the use of child soldiers] . . . (e) Take account of the

¹²¹ Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, Nov. 19, 2000, 2133 U.N.T.S. 161 (1999) [hereinafter Worst Forms of Child Labour Convention]; *About the ILO*, INT’L LABOUR ORG., <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (last visited Sept. 3, 2013) (The ILO is an agency of the United Nations and is comprised of representatives from state governments, employers, and workers; it develops international labor standards).

¹²² Worst Forms of Child Labour Convention, *supra* note 121.

¹²³ *Id.*

¹²⁴ *Ratifications of C182 – Worst Forms of Child Labour Convention, 1999 (No. 182)*, INT’L LABOUR ORG., http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327:NO (last visited Sept. 3, 2013). (The United States ratified the Convention on December 2, 1999).

¹²⁵ Worst Forms of Child Labour Convention, *supra* note 121, at art. 2–3.

special situation of girls.”¹²⁶ What this convention does is highlight the need for a gender tailored approach when dealing with circumstances such as the use of child soldiers. In the same provision of Article 7, the International Labour Organization is able to connect the use of child soldiers and “special situations” many of these young girls are facing.¹²⁷ This is the first real step taken by an international organization to address these concerns, and yet so much still remains to be done.

V. LOOPHOLES IN THE INTERNATIONAL COMMUNITY’S RESPONSE

While the international community is quick to rally behind the children recruited to the armed forces, few have looked to customizing their approach to the unique situations of these young girls:

[I]n many instances, programmes to demobilize and reintegrate child soldiers fail to identify appropriate strategies for gaining access to these girls and young women. Ways must also be found to address the needs of girls abducted during war to serve as sexual slaves and who may have no alternative to remaining under the custody of their abductors.¹²⁸

While the international community is quick to discuss reintegration, few take into account the apprehension this causes the young girls. One problem that many of the women face is the stigmatization of being sexually abused or raped.¹²⁹ Girls returning to their communities describe being seen as promiscuous or dirty.¹³⁰ In addition, “[g]irls returning pregnant or with babies face the additional pressure of protecting and providing for their babies with little or no support from a community that resents their presence.”¹³¹ Furthermore, disarmament, demobilization, and reintegration programs set up by the international community have proven relatively ineffective at reaching young girls engaged in armed conflict: the practice specifically targets those actually fighting in the war, while many

¹²⁶ *Id.* at art. 7.

¹²⁷ *Id.*

¹²⁸ *Factsheet: Child Soldiers*, *supra* note 2.

¹²⁹ See generally SAVE THE CHILDREN, *supra* note 62, at 10; *Rape and Sexual Violence in Congo*, WAR CHILD, <http://www.warchild.org.uk/issues/sexual-violence-in-congo> (last visited Sept. 3, 2013).

¹³⁰ See generally SAVE THE CHILDREN, *supra* note 62, at 2.

¹³¹ *Id.*

of the young girls are responsible for the maintenance of camp.¹³² Currently, many of the young girls are being marginalized and left unprotected by international legislation.

While they may be rejected by their local communities and ignored by the international community, advocates have reached out to talk with the young girls and have tried to develop an effective plan to help the girls reintegrate. One proposal suggested by the young girls is to provide education to the families and the community regarding the circumstances surrounding what the young girls have had to endure.¹³³ Rather than stigmatize a young girl based on her “sexual impurity,” the community could learn to sympathize with the individual and provide the emotional support they so desperately need. Other suggestions include addressing the need for greater education, vocational training, emotional counseling, and medical assistance.¹³⁴ “None of these services are currently provided for girls as part of the current reintegration process.”¹³⁵

In regard to addressing the concerns relating to why some girls voluntarily join the conflict, one would have to look into the societal factors contributing to their decision. Be it a lack of education, the possibility of equality with their male counterparts, or to escape the sexual advances of someone close to them,¹³⁶ the persistence of the use of child soldiers who are voluntarily recruited to the conflict can seemingly only end with governmental intervention. While the international community could certainly aid in educating the young girls, the deep rooted societal inequalities can best be addressed by the individual state. To cut off the supply of willing child soldiers, one must determine why there is such a demand to join and correct the issue.

Finally, the use of child soldiers, especially female child soldiers, is able to persist due to loopholes built into international legislation. Be it the vague terminology commonly adapted from one treaty to the next, such as “direct part in hostilities” and “all feasible measures,” the debate over the appropriate age of a child soldier, or the complete oversight to the unique circumstances facing these young girls,¹³⁷ the international legislation has been

¹³² *Id.* at 1.

¹³³ *Id.* at 2.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ *See supra* part II(A), III(B).

¹³⁷ *See supra* part IV.

proven to be ineffective in ending the practice of child soldiers.

CONCLUSION

With an estimated 120,000 female child soldiers currently taking part in an armed conflict, more needs to be done by the international community.¹³⁸ While some young girls find equality and a voice in the militia, too many find a world of sexual servitude and hard labor. With the implementation of the Geneva Convention, Convention on the Rights of the Child, the Optional Protocol, Rome Statute and C182, the international community has stood up and condoned the elimination of the use of child soldiers. Yet, still it remains that female child soldiers are disproportionately left out of any means of effective legislation, providing a bleak and dismal future for countless young girls. The international community must once again join together to address the gaps the legislation has created and customize an approach tailor made to the circumstances facing these young girls. While their childhood cannot be re-done, the young girls deserve the possibility of a better adulthood.

¹³⁸ SAVE THE CHILDREN, *supra* note 62, at 1.