Child Soldiers

Under Article Eight of the Rome Statute of the International Criminal Court (ICC) (2002) "conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities" is a war crime. Thus, in international law, a 'child soldier' is defined as any person aged fifteen years or below who takes part in armed conflicts or military operations. **However, the 2002** United Nations (UN) General Assembly's **Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC) sets**  eighteen years of age as the minimum age for direct participation in hostilities and for compulsory recruitment by state armed forces *and* non-state armed groups. Under OPAC, states may accept volunteers from the age of sixteen years (for example, in the United Kingdom) but must deposit a binding declaration at the time of ratification or accession, setting out their minimum voluntary recruitment age and outlining certain safeguards for such recruitment. Moreover, the 2002 Optional Protocol to the Convention of the Rights of the Child stipulates that its state parties "shall take all feasible measures to ensure that persons below the age of 18 do not take a direct part in hostilities and that they are not compulsorily recruited into their armed forces". More recently, the Paris Principles on the Involvement of Children in Armed Conflict (2007), which provide guidelines on the disarmament, demobilization and reintegration of all categories of children associated with armed groups, define the term 'child soldier' more broadly 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".

So, while the Rome Statute has strengthened the legal protection of children, it has received widespread criticism for setting a fifteen-year age limit for voluntary recruitment instead of eighteen years of age.

Sinha (2013) argues that child soldiers should be considered ‘super-privileged’ combatants who are entitled to special treatment. He says the Geneva Conventions explicitly treat child soldiers as possessing ‘super’ privileges above and beyond standard privileged combatants, and that the conventions label child soldiers as ‘victims’. The victimhood of children and young people who are labelled child soldiers can be seen in their enlistment. Many children enmeshed in conflict are abducted or recruited by force, while others join out of desperation, believing that armed groups offer their best chance for survival. Children have across time and cultures been involved in some way or another in conflict, but their intentional recruitment is an increasing occurrence (Williams, 2011). In some cases they are also being appropriated as child soldiers by state or non-state armed groups or forces perpetrating mass atrocities and/or genocide (Grover, 2012). Despite their youth, children and young people can be prosecuted for war crimes if found guilty, although the Convention of the Rights of the Child limits the punishment a child can receive.

Evidence from the UN and various human rights organisations working on behalf of children and young people embroiled in conflict suggests that child soldiers are active in at least fourteen countries: Afghanistan, Burma, Central African Republic, Chad, Colombia, DR Congo, India, Iraq, Philippines, Somalia, South Sudan, Sudan, Thailand and Yemen. Indeed, at the ICC as recently as September 2015 the trial commenced of the Congolese army general Bosco Ntaganda for 'enlistment and conscription of child soldiers under the age of fifteen years and using them to participate actively in hostilities' (ICC-01/04-02/06 The Prosecutor v. Bosco Ntanganda), amongst the eighteen indictments against him for war crimes, while leading fighters of Hema ethnicity to drive ethnic Lendus out of north-east region of the Democratic republic of the Congo. Charges which rival those against Joseph Kony, the Ugandan rebel leader subject of a controversial internet campaign in 2012 (Karlin and Matthew, 2012). Despite achievements over the last decade or so in the international movement to prohibit the use of child soldiers, many, many children and young people continue to suffer severe psychological trauma, needless deaths, life-long disabilities, sexual violence and slavery.

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Readings

Grover, S. (2012). Child soldiers as victims of ‘genocidal forcible transfer’: Darfur and Syria as case examples. *The International Journal of Human Rights*, 17(3), 411-427.

Karlin, B. and Matthew, R. (2012). Kony 2012 and the Mediatization of Child Soldiers. *Peace Review: A Journal of Social Justice*, 24, 255-261.

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