

Human Rights Implications of Child Soldiers in Nigeria.

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Abstract

School abductions claimed to be perpetuated by insurgents have become a gist in Nigeria. A possible horrific scenario comes to mind; what if these children are transformed into child soldiers? UNICEF on Red Hand Day 2022 raised alarm that since 2009 more than 8,000 girls and boys have been recruited and used as child soldiers in diverse roles by armed groups in Nigeria. Transformation of children as soldiers is an unimaginable tragedy. Age 15 is the international minimum for recruitment in harmony with the Convention on the Rights of the Child (CRC). Thus, for children under age 10 to become soldiers questions whether ratification of the CRC, hold any real significance. This paper examines the reasons, impacts and how children are recruited into insurgent armies. Nigeria in 2003 domesticated the provisions of international instruments in form of the Child's Rights Act 2003. Albeit, the passage of the Child's Rights Act/Laws, the Nigerian child is still very far from being protected from fighting as insurgents. It concludes that though, legal framework for the protection of the Nigerian child had improved since 2003, this is not a notable relief in the face of the current security challenges plaguing major parts of the nation.

Keywords: Child Soldiers, Insurgents, Transformation, Recruitment, Armed Groups, Child's Rights Act.

1. Introduction

They Fight Like Soldiers, They Die Like Children.¹

War is an adult matter, and child soldiers who find themselves fighting in one are faultless and passive victims.² The world currently is not free of child soldiers. It has been estimated that there are 250 000 to 300 000 child soldiers around the globe, with the majority located on the African continent.³ Human rights organizations, academics and other actors have documented the presence and experiences of child soldiers in both state armies (i.e., armed forces) and non-state militia (i.e., armed groups).⁴ Such reports have, for the most part, been focused on developing strategies for prevention which include efforts to avert the recruitment of children into armed forces or groups and protection that is, chiefly, working to release child soldiers from armed forces or groups and arrange for their return to family and community.⁵

Child soldiering is as old as the history of warfare, the intensity has increased immensely in the modern-day Africa that analysts are of the view that the continent appears to be decimating and destroying the very foundation of its future existence. Intra-state wars and insurgencies have become prevalent as the continent is generally under siege and thoroughly ravaged particularly since the beginning of the twenty first century. These violent conflicts have devastated countries such as Algeria, Angola, Burundi, Central African Republic (CAR), Congo- Brazzaville, Chad, the Democratic Republic of Congo (DRC), Ethiopia, Eritrea, Guinea-Bissau, Liberia, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Uganda and Cote d'Ivoire, Niger, Nigeria, South Africa and Djibouti.⁶ These protracted armed conflicts in Africa and that of insurgency in Nigeria are not

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¹ Romeo Dallaire, *They Fight Like Soldiers, They Die Like Children*. (Walker & Co. New York, NY:2010) 299

² Mark A Drumbl, *Reimagining Child Soldiers in International Law and Policy*. (New York, NYC, Oxford University Press: 2012) 239.

³ Peter W Singer, *Children at War*, (New York, Pantheon Books:2005) 12.

⁴ Romeo Dallaire, 'Book Reviews' *They Fight Like Soldiers, They Die Like Children* (NEW York, NYC Walker & Co, 2010) and Mark A. Drumbl, *Reimagining Child Soldiers in International Law and Policy*. (New York, NYC, Oxford University Press, 2012) 239. *African Journal of Legal Studies* 6 (2013) 375–393 Martinus NIJHOFF Publishers

⁵ Ibid.

⁶ AM Ogbonna, 'Child Soldiering and Human Development in Africa: Overview of the Democratic Republic Of Congo' (March, 2016) *African Journal Of Politics And Administrative Studies*, Vol. 9, 1.

fought with only professionally and otherwise trained soldiers as they are in obvious and severe shortage. Insurgent organizations and rebel groups forcefully recruit and utilize or exploit children as combatants, militias, porters, sex slaves etc.

In the light of this, in fact, in more than 40 countries around the world, more than 300,000 children below the age of 18 are engaged in combat with governments and armed groups with the largest numbers of child soldiers in Africa.⁷ The sub-Sahara Africa has over 120,000 children (some not more than 7 or 8 years of age) of this global figure fighting in armed conflicts across Africa, with Congo DR having about 30 per cent of the share.⁸ These minors participate in all aspects of contemporary warfare. They wield small and light weapons like AK 47s and M 16s on the front line of combats. They are also used as human mine detectors, spies, messengers or lookouts, participate in suicide missions, carry supplies and are sexually abused. Also, the UN estimates, that over 300,000 child soldiers are involved in armed conflicts in at least twenty countries in the world today, out of which 100,000 are particularly in Uganda, Liberia, the Democratic Republic of Congo and Sudan.⁹

The prevailing narrative deployed to garner support for the eradication of child soldiering emerged in the mid-to-late 1990s as a partial response to, among other conflicts, civil wars in Liberia and Sierra Leone that were notorious for the involvement of boy soldiers, a number of whom carried out brutal attacks on civilians and combatants. Such child soldiers were not only reportedly vicious in their attacks, but were themselves also subject to brutal treatment by their recruiters who, particularly if members of rebel armed groups, were fed drugs and trained using ruthless means, including disciplinary beatings and forced witnessing of and participation in killings of fellow troops or even family members.¹⁰

Child soldiers are often forcibly abducted from their homes, schools, and villages to serve. For example, in Mozambique, sixty four percent of children in one study had joined armed forces through abductions.¹¹ The reasons armed groups use children as soldiers are: Children are easier to manipulate, they don't eat as much food, don't get paid, don't have highly developed sense of danger or risk, making it all too easy to send them into the line fire. They are also used because they are more docile than adults and it is easier to train them to kill. Groups also often send children in the first wave of an attack so as to draw the enemy's fire.¹²

On the other hand, the life children soldiers lead are tough and dangerous as they are not only victims in armed conflicts they are also perpetrators. During their abduction and training, they often have to kill members of their own families or friends in order to "harden up." This often happens under the influence of gun point, drug and alcohol. The secondary negative effect is that children have to struggle for the rest of their life to come to terms with the effects of physical and psychological acts of cruelty. The educational lives of the children are disrupted.¹³

⁷H Allan, "Coming of Age in Child Soldier Literature", Brooklyn Rail (July/August 2011), <http://www.brooklynrail.org/2011/07/books/coming-of-age-in-child-soldier-literature>. accessed 23 January 2025.

⁸ U.N. Secretary-General, Impact of Armed Conflict on Children: Rep. of the Expert to the Secretary General, U.N. Doc. A/51/306 (26 August 1996).

⁹ Ogbonna (n 6).

¹⁰ Ibid.

¹¹ Neil Boothby, 'What Happens When Child Soldiers Grow Up? The Mozambique Case Study, ((2006). 4 *Intervention* 244, 248.

¹² Ogbona (n 6) 3.

¹³ Ibid.

Also, with the wake of terrorism in most part of the world events has shown the use of children as perpetrators of terrorism. Terrorist groups such as Al Qaeda, Taliban fighters, Islamic State of Iraq and Sham (ISIS), Boko Haram etc. engage children in their activities.¹⁴ In addition, other than terrorist, some other groups especially during civil war in countries like Syria engaged children for combat e.g. the Free Syrian Army (FSA), Jabhat al- Nusra, Ahrar al-Sham, Syrian Kurdish groups etc.¹⁵ More so, during situation of conflict, children have been used as combatants especially in countries such as Liberia, Congo, Sierra Leone, Nigeria, Rwanda etc. The continuous use of children over the years as soldiers has remained a topical issue and has raised several issues and opinions from various authors.

In response to such horrific reports, members of the international community established a movement to eradicate the use and recruitment of child soldiers around the globe, advocating for the establishment of a legal regime that prohibited the use of persons under the age of 18 in direct combat, as well as a monitoring and reporting mechanism that named and shamed armed groups and armed forces found to be in violation of this prohibition.¹⁶ Neither childhood nor youth should be about war or weapons. Adults who serve in such forces or groups, moreover, may have joined while younger than eighteen. In addition, the past decade has seen the demobilization of many tens of thousands more child soldiers. Although joyful, their return journey to civilian life also is bittersweet. They come back home to the communities where they initially had been recruited at times, forcibly and where, in some instances, they had committed terrible atrocities.¹⁷

International law and policy cover considerable ground in their efforts to eradicate child soldiering and promote the well-being of current and former child soldiers. States adopt treaties and instruments, while also endorsing principles and declarations. Experts issue reports, organizations draft best practices and how to guidelines. Authorities prepare model interventions. Conscripting, enlisting, or using younger children namely, under the age of fifteen in hostilities is an international war crime for which adult commanders have been convicted. Additional verdicts are imminent, including against Charles Taylor, Liberia's former dictator.¹⁸ From the foregoing, it is undeniable that children have no part in armed conflict. What children do need, rather, is nutritious food but nutrition, an essential right of children becomes a victim as malnutrition soars and kills children during insurgencies. They also need adequate health care, a decent education, shelter and a secure and loving family.

2. Concepts and Historical Development of Child Soldiering

2.1 Who is a Child?

A child means every human being below the age of eighteen years, unless under the law applicable to the child majority is attained earlier.¹⁹ Black's Law Dictionary defines a child as a person under

¹⁴ ISIS has training centres where they train children as suicide bombers and fighters. See D Lizzie, 'ISIS is Using Far More Child Soldiers Than the World Realised' *Independent* (United Kingdom, 19 February, 2016) < www.independent.co.uk/news/world/middleeast/isis-using-more-child-fighters-than-feared-as-suicide-bombers-and-soldiers-after-brainwashing-at-a6883626.html > accessed 29 April 2024.

¹⁵ T Sommerfelt and MB Taylor, 'The Big Dilemma of Small Soldiers: Recruiting Children to the War in Syria' (2015) Norwegian Peace building Resource Centre Report <http://reliefweb.int/sites/reliefweb.int/files/resources/f2c1eef2efb2c782b9a9dab621ceaf75.pdf> > accessed 27 April 2024.

¹⁶ Ilene Cohn, *Child Soldiers: The Role of Children in Armed Conflicts*, (Oxford, Oxford University Press: 1994)1,4.

¹⁷ Drumbl (n 2) 7.

¹⁸ Ibid.

¹⁹ CRC, Article 1.

the age of majority.²⁰ According to the United Nations Convention on the Rights of the Child (UNCRC), a child is everyone under the age of 18. The human rights framework for defining the child treats individuals up to the age of eighteen as children, with the notable exception under Article 28 of the CRC.²¹

2.1.1 Child Soldier

Cape Town Principles defines a Child Soldier as any person less than eighteen years of age who is part of any kind of regular or irregular force or armed group in any capacity, including but not limited to cooks, porters, messengers, and anyone accompanying such groups, other than family members.²² It further includes girls recruited for sexual purposes and for forced marriages.

The United Nations International Children's Emergency Fund (UNICEF) defines child soldiers as "any child-boy or girl under eighteen years of age, who is part of any kind of regular or irregular armed force or armed group in any capacity."²³ This definition, unfortunately, bears no real connection to the prohibition on the use of child soldiers. Instead, the practice of using child soldiers, while universally viewed as morally repugnant, has only recently been construed as applying to children age fifteen and older. This age limit was established in 2002 by the Optional Protocol to the Convention on the Rights of the Child (OPAC). Accountability mechanisms have not yet caught up to OPAC, and the contemporary restriction under international humanitarian law (IHL) and international criminal law (ICL) applies only to children under the age of fifteen years. Consequently, the use of child soldiers remains pervasive, and the systems of enforcement designed to remediate the problem have been unable to effectuate the prohibition.

Child soldiers have been recruited into the Bolivian armed forces as child soldiering is a global phenomenon. Children have participated in armed violence in Guatemala and Peru. In Colombia, child soldiers were voluntarily enlisted and were forcibly recruited into armed opposition groups (the FARC and the ELN), where they laid mines and undertook support tasks. The largest pro-government paramilitary group, the AUC, also recruited child soldiers. Peace negotiations in Colombia have demobilized many FARC child soldiers and former child soldiers. Questions persist as to how such former child fighters should be reintegrated and whether they ought to face restorative processes or some element of retributive justice for crimes they may have committed during the armed conflict.²⁴ In Sri Lanka, UNICEF estimates more than six thousand cases of child recruitment between 2003 and 2008 by rebels.²⁵ The LTTE a group of violent secessionists who fought the Sri Lankan government until its defeat in 2009 turned extensively to child soldiers. The Khmer Rouge used youthful cadres in the Cambodian killing fields between 1975 and 1979 with speculations of Myanmar's government recruit of children through harsh methods. One quarter of its national armed forces (the Tatmadaw) was estimated to be composed of persons under the age

²⁰ *Black's Law Dictionary*, (Eight edn, 1891-2004) (Thomson West Publishing Co 2004).

²¹ CRC, Article 28 codified the IHL prohibition against the use of children in armed conflict therefore applying only to children under the age of fifteen.

²² Cape Town Principles and Best Practices, adopted at the Symposium on the Prevention of Recruitment of Children into Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa, 27-30 April 1997, Cape Town, South Africa. <[http://www.unicef.org/emerg/files/Cape_Town_Principles\(1\).pdf](http://www.unicef.org/emerg/files/Cape_Town_Principles(1).pdf)> accessed 3 February 2025.

²³ Sarah J. Diaz, 'An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers' (2020). 39 *Child. Legal RTS. J. Law* 263 (Commons Publishers), <<https://lawcommons.luc.edu/clrj/vol39/iss3/4>>

²⁴ Mark Drumbl, *Children in Armed Conflict* (The Oxford Handbook of Children's Rights Law), Jonathan Todres and Shani M. King (eds) (Oxford University Press: 2020) DOI:10.1093/oxford/9780190097608.013.32

²⁵ *Ibid.*

of eighteen. More also, child soldiers were found within the many non-state armed groups in Myanmar.

In Nepal, three thousand child soldiers were released in early 2010 as part of peace negotiations participated in Maoist rebel groups. Child soldiers served in pro-Indonesian militia forces in Timor-Leste. Children have furthermore been associated with armed forces or armed groups in Bangladesh, Laos, Pakistan, Thailand, the Philippines, and Jammu and Kashmir. Children have fought in Iraq and in Iran. Child soldiers have fought, killed, and died in Afghanistan through successive conflicts; children also are recruited into Afghan police forces.²⁶ In Palestine, the face of the first intifada was youthful: among those arrested, the average age was seventeen. Israel has imprisoned Palestinian children for security offenses and for being associated with an armed group.²⁷ ISIS presents one of the most visible cases of child soldiering. Circulated through social media, haunting imagery of beheadings and murders committed by the cubs of the caliphate shock the conscience. ISIS also succeeds in recruiting minors, frequently through abductions and brainwashing, but also because youths come forth on their own initiative and wish to enrol. Influenced by social networking and web-interfaces, adolescents have travelled long distances to join ISIS, often but not always under false pretences. Children have carried out numerous terroristic attacks, including suicide bombings, throughout Iraq.²⁸ These children tend to be seen less as passive victims by the international community and more as threats to be disabled in counterterrorism programs, in part because of political impulses that treat these children differently from others associated with armed groups. Children associated with groups labelled as terroristic and extremist are therefore among the most vulnerable and poorly served by current policies.

Also, Boko Haram, a group in Nigeria, unknown gunmen, bandits viciously kidnaps and abuses children. In response, the Nigerian government according to United Nations report, the Nigerian military detained over 3,600 children from January 2013 to March 2019 who it fears are associated with Boko Haram.²⁹

2.2 Historical Development of Child Soldiering

The use of child soldiers is not a new phenomenon in human history. For centuries, children have been involved in military campaigns such as child ratings on warships, as drummer boys in the battle fields of Europe, and even as child warriors in early Islamic history.³⁰ The earliest known use of child soldiers can be traced back to the ancient Greeks, specifically to the city-state of Sparta.³¹ The Spartan government required male children to begin military training at seven years old. The recruitment of child soldiers was also common in Europe during the middle Ages. Many boys were enlisted to serve alongside Christian knights in battle as squires or de facto infantrymen. Child soldiers also played a role in the American Civil War. It is estimated that around 5 percent

²⁶Josh Rogin, 'Obama's Failed Legacy on Child Soldiers,' *Washington Post*, (Washington, 25 September, 2016).

²⁷ Oxford Handbooks Online 'Conflict in Yemen and Syria; Children in Armed Conflict' Page (www.oxfordhandbooks.com). (Oxford University Press, 2020)5.

²⁸ Morris Loveday, 'Islamic State, Losing Fighters and Territory, Increasingly Turns to Child Bombers,' *Washington Post*, August 22, 2016.

²⁹ <www.bbc.com/world-africa-49653414>, <www.voanews.com/africa/hrw>.

³⁰ Brian Schofield, 'Boy Soldiers: Using Children in Warfare is Not A Modern Phenomenon', *Independent* (Dec. 16, 2010, 1:00 PM), <https://www.independent.co.uk/news/world/boy-soldiers-using-children-in-warfare-is-not-a-modernphenomenon-2161593.html>.

³¹Diaz (n 23)

of the soldiers in the Civil War were under the age of eighteen, with some even being as young as ten.³²

Amazingly, contemporary military history shares this unfortunate theme. Indeed, the tragic use of children in the events of World War II is largely attributed to the prohibition's creation. Child soldiers were first recruited and used during the Second World War. Thanks to the demand for increased manpower, the use of child soldiers became a frequent strategy during both World War I and II. Nearly every country involved in these wars made use of child soldiers, with the notable exception of the United States, which had a generally strict enlistment age limit of seventeen.³³ This was discouraged and diminished after the Second World War.³⁴ In the aftermath of World Wars I and II, the ravages of war led the world community to contemplate the protection of children. This birthed the development of the Geneva protocols that codified the prohibition of the use of children during war. More so, the proliferation of small and light arms around the globe after the cold War has also contributed to an increase in the use of child soldiers, considering that the size as well as the lightness of the weapons makes it easy for children to carry.³⁵ Also, these weapons are relatively cheap, accessible and easy to operate.³⁶

In Nigeria, child soldiers were seen recruited and used during the 1967 Civil War.³⁷ Initially, children below the age of eighteen were barely recruited as militias, however as the Civil War heightened children as young as ten years were recruited by the Igbo Biafra force either as spies or as militias.³⁸ Also in present day Nigeria, with the wake of terrorism and insurgency, particularly in the Northern part, Boko Haram, armed bandits, unknown gunmen have abducted children (boys and girls) from schools, farms, villages, places of worship using them for various forms of vices.³⁹

2.3 Human Rights of Children and Effects of Insurgents Forceful Recruitments

Despite limited resources and varying degrees of support, warlords have easily countered governmental forces by tapping into the abundant supply of easily accessible and expendable fighters (child soldiers).⁴⁰ Warlords, utilizing extreme indoctrination and fear tactics have been able to transform impressionable, dependent youth into loyal, ferocious armed forces capable of overtaking comparatively powerful, well-equipped governmental forces. Governmental forces have followed suit, placing young children on the front lines to fight against their peers, as was the case in the Sudanese civil war.⁴¹ The widespread availability of small arms has also contributed to the increase in child soldiering. In addition to the surplus of small arms circulating in the global market, excessive manufacturing and technological improvements have yielded accessible, light weight, inexpensive machines that can be easily mastered by young children. This dangerous trend

³² Ibid.

³³ Diaz (n 23).

³⁴ CM Colleen, "The Protection of Children in Armed Conflict: A Human Rights Analysis of the Protection Afforded to Children in Warfare", (1989) B.C. *Third World L.J* 297.

³⁵ KB Omodanisi, 'Child Soldiers in Times of War: Issues Arising' (2020)93 *Journal of Law, Policy and Globalization* www.iiste.org ISSN 2224-3240 (Paper) ISSN 2224-3259 (Online)

³⁶ AB Abbott, 'Child soldiers: The Use of Children as Instruments of War' (2000) 23 *Suffolk Transnat'l L. Rev* 499, 508.

³⁷ U Egodi, 'Recollection of Childhood Experiences During the Nigerian Civil War' (2007) <http://www.uky.edu/~clthyn2/PS439G/readings/uchendu_2007.pdf> accessed 28 January 2025.

³⁸ Ibid.

³⁹ Omodanisi (n 35)

⁴⁰ Brooke Breazeale, 'Transforming Children of War into Agents of Change,' (2009) *Human Rights & Human Welfare*: Vol. 9: Iss. 1, Article 55. 26. <<https://digitalcommons.du.edu/hrhw/vol9/iss1/55>>

⁴¹ Ibid.

has allowed even small rebel groups to emerge as powerful forces, capable of terrorizing, displacing and murdering hundreds of thousands of citizens within their own states.

Also, unprotected displacement camps have also contributed to the increased number of young combatants. The surge in armed conflicts and widespread violence in sub-Saharan Africa have caused an estimated 15.2 million people, with the majority consisting of women and children, to seek refuge in unprotected camps within or outside their homelands. The lack of camp protection has inadvertently resulted in ideal training and recruitment camps for armed factions preying on vulnerable young transients. The abduction of 4,700 refugees in Chad during a one-month period has demonstrated the danger facing millions of people already battling the insecurity of displacement, disease, poverty, and increased mortality.⁴² As a former child soldier, aged 7 recounts,

‘The rebels told me to join them, but I said no. Then they killed my smaller brother. I changed my mind.’⁴³

In many cases, joining armed groups has been the only way for children to avoid persecution or death. Another former child soldier, age unknown recounts as follows:

‘Now we were in a hideous state they killed my parents in front of me, my uncles’ hands were cut off and my sister was raped in front of us by their commander...After all this happened, they told us, the younger boys, to join them.’⁴⁴

Regardless of how children come to be soldiers, armed forces use the same methods of indoctrination, intense military training, addictive drugs, promised wealth, and increased status to manipulate, terrorize, solidify dependency, and prevent defection among their new recruits. For example, during the conflicts in Sierra Leone, Mozambique and Angola, warlords often forced children to sever all ties with their communities by committing atrocities against their neighbors, including killing their own family members. Alone for the first time, children become dependent on their captors and other comrades for survival. To instill fear and absolute compliance, leaders randomly kill children who display weakness, deviant behavior or remorse for their actions.⁴⁵

The United Nations charter fundamental purpose is ‘to save succeeding generation from the scourge of war’. Given that a child is vulnerable to all sorts of exploitation and inhuman treatment, the United Nations, in her Convention on the Rights of the Child (UNCRC), established a legally-binding international agreement that spells out the civil, political, economic, social, and cultural rights of every child, regardless of their race, religion, or abilities.⁴⁶ The 54 articulated rights documents include rights such as the right to life, survival, and development. Article 9 of the act categorically affirms that no child should be separated from his or her parents against their will, except it is in the child’s best interests.

⁴²Breazeale Ibid.

⁴³ Ibid at 26.

⁴⁴ Ibid. at 27.

⁴⁵ Ibid.

⁴⁶ United Nations Convention on the Rights of the Child, Adopted and Opened for Signature, Ratification and Ascension by the General Assembly Resolution 44/25 of 20 November 1989 (entry into force 2 September 1990) <<http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>> accessed 25 July 2016. (Hereinafter referred to as Convention on the Rights of the Child.

But sadly, in the region of Boko Haram insurgency, it is almost a norm for children to be separated from the caring arms of parents. This puts to question, the potency of Article 9.⁴⁷ Children are always the most vulnerable to the effects of terrorist activities and armed struggles. Child soldiers suffer untold hardship both as witnesses and perpetrators of crimes. They are used as fighters, spies, messengers and servants. Young girls recruited as soldiers are employed as sexual slaves exposed to rape, sexual abuse and harassment.⁴⁸

Article 28 of CRC states that every child has the right to education, primary education should be compulsory and free. Different forms of secondary education should be available to every child. School discipline should respect children's dignity and rights. While Article 29 declares that education should help develop every child's personality, talents, and mental and physical abilities to the fullest. Every child has the right to relax, play, and take part in cultural and artistic activities. Children are not expected to partake in drug abuse and should be protected from drug abuse. Children should be protected from using, producing, or distributing illegal drugs. Every child has the right to be protected from all forms of sexual exploitation and abuse, including unlawful sexual activity, prostitution, and pornographic materials. A child should not be involved in abduction, sale, and trafficking. A child should not be subjected to cruel treatment and detention. They should not be subjected to armed conflict.⁴⁹

Due to the activities of Boko Haram and ISWAP, many families have been disconnected and children detached from their parents, especially mothers. Many children are bereft; some have become radicalized, conscripted, and drafted into the Boko Haram sect or ISWAP to engage in acts of terrorism. They are used as child suicide bombers and spies to the sects. Essentially, the growth process, such as education, nurturing, parental love and care of these children are denied. Consequently, the children become vulnerable to being radicalized by Boko Haram or ISWAP terrorists' group currently terrorizing Nigeria. In 2019, Vanguard Newspaper reported that Boko Haram had killed over 6,600. The insurgent group had also carried out numerous abductions. This include 2015 kidnapping of 276 School-Girls in Chibok (acronymned Bring back Our Girls) and 105 Girls of Dapchi Secondary School from their hostels in 2018; the attack and burning of 59 boys sleeping in their hostel in a secondary school in Buni Yadi in northern Nigeria in April 2014 by gunmen from Islamist group, there had also been isolated cases of kidnappings, killing, and sexual exploitations and molestation of innocent children.

Government has to make the protection of human rights a pivotal issue in order to stop child rights' violation and abuse in Nigeria. Again, Nigerians will continue to remember that all these depict that Nigeria's future is being compromised by terrorism, it is undeniable that for sustainable peace, security and development to thrive in Nigeria, the rights of children must to be respected by all the stakeholders⁵⁰ With the Boko Haram insurgency, virtually all articles embedded in the 54 rights of the child have been violated. According to Article 40 of the United Nations Child Right Article, every child has the right to juvenile justice. Children need to be protected from being abducted, sold, or trafficked to another country and exploited and exposed to other forms of exploitation even as it is stated in Article 36 of the rights of the child. No child should be subjected to torture or treated in a cruel or inhuman way. Article 32 sets out to protect the child from any harmful labor

⁴⁷ CRC *ibid*.

⁴⁸ S Abraham, 'Child Soldier and the Capacity of the Optional Protocol to Protect Children in Conflict' Human Right Brief Online <<https://www.wcl.american.edu/hrbrief/10/3abraham.pdf>> accessed 8 May 2024.

⁴⁹ CRC (n46).

⁵⁰ DS Olawuyi, Terrorism and armed conflict and the Nigerian Child: Legal Framework for Child rights enforcement in Nigeria. (2015). *The Nigerian Judicial Review*, 13,1-24.

of any kind because it advocated that children in conflict zones should be accorded special protection.⁵¹ A child has the right to recover, especially from trauma and benefit from reintegration. To this extent, the state and all stakeholders need to ensure that every child is protected and secured, especially from Boko Haram terrorists in northern Nigeria and elsewhere in the country.

3. Legal Framework Prohibiting Child Soldiering

3.1 International and National Legal Frameworks

3.1.1 Geneva Conventions Relative to the Protection of Civilian Persons in Time of War (Geneva Convention IV)

Following World War II, Geneva Convention IV relative to the Protection of Civilian Persons in time of War (Geneva Convention IV) was the first international instrument explicitly addressing the protection of children during armed conflict. Notably, the Conventions failed to prohibit the use of children in armed conflict. Article 24 of Geneva Convention IV addresses measures relating to child welfare.

3.1.2 Protocols Additional to the Geneva Conventions of 12 August 1949 (Protocols I & II)

The additional Protocols to the Geneva Conventions sought to clarify ambiguities in the rules of war laid out under the initial Geneva Conventions. One such area in need of clarification related to the treatment of children during times of war. Specifically, Protocols I and II further specify the protection of children, and Protocol II extends to those protections including non-international armed conflicts.⁵²

Article 77 of Protocol I for the first time sets out the parameters of the prohibition on the use of child soldiers: Article 77 says that:

Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.

A close look at the prohibition demonstrates that it was designed only to deter the use of child soldiers rather than strictly forbid the practice. children are included under the general provisions of Article 4 relating to fundamental guarantees. Article 4(3) sets out that children shall be provided with the care and aid they require, and in particular; children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;

3.1.3 Convention on the Rights of the Child (CRC)

The UN Convention on the Rights of the Child (CRC) was the product of sustained efforts by the United Nations to support the proposition that children should enjoy special protection. The CRC was adopted by the General Assembly on November 20, 1989. The Convention entered into force

⁵¹ Ibid.

⁵² Ibid.

less than a year later, on September 2, 1990.⁵³ This was the first universal recognition of children as entitled to special status and protection as children rather than property or other economic interests or merely adults in miniature. While the CRC was a landmark convention for the universal rights and special treatment of children, it provided no additional protections for children during times of war. The CRC addresses the protections in virtually identical terms as the Geneva Protocols, stating pursuant to Article 28(1) which reads as follows:

States Parties must undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child. 2. States 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. 3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

The language of the CRC references the international humanitarian law applicable to children and merely restates, at section 28(3), the same tenets of the prohibition under the Geneva Protocols. The CRC came under great scrutiny for failing to protect children in the most dangerous environment: the theatre of war.⁵⁴ As a result, an initiative began to address the age gap and protection deficits of the CRC relating to children in armed conflict. It was not until that initiative was realized that a more rigorous prohibition emerges: the prohibition found in the CRC's Optional Protocol on the involvement of children in armed conflict.

3.1.4 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 (OPAC)⁵⁵ has been described as the most specific prohibition of child soldiers under international law.⁵⁶ Indeed, the document was designed to address the scope of protections that should apply to children during times of war. OPAC has now been ratified by 168 states.⁵⁷ It entered into force on February 12, 2002. The number of states party to OPAC is critical since one of the main goals of OPAC was to raise the age of recruitment and use of children in armed conflict to eighteen years, the age of majority under the CRC. Articles 1, 2 and 3 of OPAC directly address the age gap by raising the minimum age for participation in hostilities and compulsory recruitment to eighteen years.

⁵³ United Nations Office of the High Commissioner, Convention on the Rights of the Child, adopted Nov. 20, 1989, 1577 U.N.T.S. 3 I.L.M. 1448, < <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.> accessed 6 February 2025.

⁵⁴ Daniel Helle, 'Optional Protocol on the involvement of children in armed conflict to the Convention on the Rights of the Child', INT'L REV. OF THE RED CROSS at No. 839 (Sept. 30, 2000)

⁵⁵ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Feb. 12, 2002, 2173 U.N.T.S. 222 [OPAC] < https://treaties.un.org/doc/source/docs/ARes_54_263-E.pdf>.

⁵⁶ Helle (n 54)

⁵⁷ Ibid.

3.1.5. Rome Statute of the International Criminal Court)

The Rome Statute criminalizes the use of child soldiers, thus giving teeth to the international prohibition.⁵⁸ The Rome Statute was negotiated to codify existing international criminal law rather than create criminal accountability for new international crimes.⁵⁹ As a result, accountability for violating the international prohibition reflects the level of culpability delineated pursuant to customary international law, specifically that of the Geneva Conventions and the additional Protocols.

3.1.6 African Charter on the Rights and Welfare of the Child⁶⁰

This Charter considers a child as persons below the age of 18. It prohibits state parties from recruiting children and encourages them to take measures prohibiting a child from taking direct part in hostilities.

3.1.7 Child's Right Act⁶¹

By the import of Section 34 of the Act, children are prohibited from recruitment into the Armed forces of the Federal Republic of Nigeria. It further mandates the government and other agency or body to ensure that no child is directly involved in any military operation or hostilities. The Act considers any person under the age of eighteen years as a child.⁶²

4. Reasons for the use of Children as Soldiers.

Children often lack the capacity to determine their best interests, to independently form opinions, and to analyze competing ideologies. Children are recruited in number of ways but the entire picture could be divided into two groups; those who volunteer themselves and those who are kidnapped from school, streets, homes and orphanages- in other words those who are forcefully recruited. Some children join armed forces in order to protect or support their families or to protect themselves from threats of violence by soldiers. Others have lost their parents and siblings in war and feel the need to take revenge for the atrocities committed against their family. Again, the term voluntary in reference to the use of child soldiers is questionable, given the brutal conditions that motivate children to join armed forces. Some children volunteer for the armed forces because of what they have experienced personally: poverty, death, loss, displacement, religious motivations, need for revenge, and collapse of social structure. In general, children are recruited into armed conflicts because they are perceived to be cheap and expendable commodities. It is also easier for guerrilla soldiers to indoctrinate and control child soldiers than adults, as children are raised in most parts of the world to follow instructions.⁶³ In addition, children's surroundings influence their decision to volunteer in armed conflict; families, peer groups, and religious or other community based groups may exert pressure that leads or encourages children to join armed hostilities.

After recruiting them, these children are institutionalised in training camps where they undergo harsh combat, weapon training and indoctrinated socially and politically to perform the bids of

⁵⁸ Rome Statute of the International Criminal Court, July 17, 1998, art. 8(2) (b) (xxvi), U.N. Doc. A/CONF.183/9, 37 I.L.M. 999, 1008, available at <https://www.icc-cpi.int/nr/rdonlyres/add16852-ae9-4757-abe7-9cdc7cf02886/283503/romestatuteng.1.pdf> [hereinafter Rome Statute].

⁵⁹ Ibid.

⁶⁰ African Charter on the Rights and Welfare of the Child, adopted in Addis Ababa, Ethiopia, on 11 July 1990, entered into force on 29 November 1999.

⁶¹ Child's Right Act Cap. C50 LFN 2010.

⁶² Ibid.

⁶³ Holy Bible, Proverbs 4:1-4.

these terrorist.⁶⁴ These children apart from being taught how to make bombs are forced to watch videos of suicide bombings, after which they are sent to the front lines, where they function essentially as human shields, fighters, or as suicide bombers.⁶⁵ Having seen this, the query is what is the rationale for conscripting children as soldiers? To start with, children are readily available. They are cheaper compared to adults considering that they consume less food and require little or no remuneration as adults. Furthermore, children give more heed to orders, are easy to manipulate, exhibit unquestionable loyalty and commitment and are susceptible to easy indoctrination. More so, the fact that children are expendable and easy to replace at the event of death or injury make it convenient for recruiters to conscript them. More so, because of their tender nature, they provoke less suspicion and this makes it easy for recruiters to use them as spies and suicide bombers.⁶⁶ In the same vein, poverty, starvation, unemployment and ethnic persecution have made children gullible and easily convinced to become soldiers. The prevalence of social factors as these may make them willing to fight voluntarily for honour, duty, revenge, or for protection from violence.⁶⁷ Also, some children who have lost their parents and love ones in the course of an armed conflict volunteer to join the military or other groups in a bid to get surrogate familial relationship.⁶⁸ The fact that they raise little suspicion makes them useful tools in the hands of terrorists.

4.1 Nigeria and the Prevention of Future Recruitment

It appears that the only way to stop the use of child soldiers by insurgents in Nigeria is to stop their impunity at all levels. There are few further depths to which humanity can sink. Nigeria by including appropriate provisions concerning children in Counter terrorism laws then perhaps these children will have an opportunity to hope for their future. Article 6 of the Optional Protocol requires States Parties to reform and enforce domestic laws and procedures... The process of national law reform can create opportunities for broader reforms or revisions of child rights laws.

4.2 Nigeria and the Rehabilitation and Reintegration of Child Soldiers

The impact of war on children is a popular conversation.' But how can the impact of war be measured? Who suffers the greater horror, the child who is violated, or the child who is forced to become a perpetrator?⁶⁹ Children used as soldiers in armed conflicts are not only the victims; they can also be the perpetrators and the witnesses to atrocities. This makes a child's role in an armed conflict unique, but also confusing as it is difficult to determine when or if ever a child should be held accountable for violations of war crimes. Additionally, there is no international minimum threshold age of criminal responsibility for war crimes. This adds to the dilemma of whether a child should be treated as a victim and thus be entitled to support and assistance for reintegration into society, or instead whether the child should be prosecuted for any International Humanitarian Law (IHL) violations that may have been committed during the conflict.

⁶⁴ UNICEF, 'Boko Haram Attacks with Children Suicide Bombers' <<http://www.aljazeera.com/news/2016/04/boko-haram-children-suicidebombers-160412093755915.html>> accessed 8 May 2024.

⁶⁵ Omodanisi (n 40)

⁶⁶ *Al Jazeera*, 'Nigeria's Boko Haram Uses Child Soldiers' <<http://www.aljazeera.com/news/africa/2013/11/nigeria-boko-haram-uses-childsoldiers-201311291435525502.html>> accessed 29 May 2024.

⁶⁷ Ibid

⁶⁸ Omodanisi (n 35).

⁶⁹ Sierra Leone Truth and Reconciliation Commission, Truth and Reconciliation Commission Report for the Children of Sierra Leone: Child-Friendly Version (2004) 14. <<http://www.unicef.org/infobycountry/files/TRCCF9SeptFINAL.pdf>>.

It is very difficult for a former child soldier, worn down by conflicts both physically and emotionally to make the transition to a non-violent lifestyle back into the society.⁷⁰ Few programs exist to help these children. The international community as well as the local governments must step up to make wider changes and provide assistance for this generation. If they are not demobilized and reintegrated back into society, they can grow up to be future rebel leaders, having leaded an entire life of using violence and gun power to attain their desires. Many former child soldiers suffer from post-traumatic stress syndrome and many children have been scarred psychologically by the violence they endured or witnessed at intimate range.⁷¹ Such children must be disarmed both emotionally and mentally, through rehabilitation and reintegration. Special and specialized facilities should be put in place to deal with child victims of war, so that they can return to the society as decent human beings.⁷² Nigerian authorities must strengthen relief agencies that strive to re establish contacts between former child soldiers and their families.

Rehabilitation of child soldiers is a vital area that is often put on hold or given a low priority. In attempt to reconstruct the system of governance, buildings, and economic systems, leaders often give little or no attention to education, in particular the education of child soldiers.⁷³ Yet, the education of post-conflict children deserves more time, attention, and funding. Educational and vocational opportunities help children to establish new foundations in life and revive local values and support systems that traditionally provide protection to them in times of crisis. They also prevent children from rejoining military units, since an idle mind is the devil's workshop.⁷⁴

5. Conclusion

Boko Haram, ISWAP and their cronies has infringed on the rights of individuals particularly the rights of vulnerable children in Nigeria. Former child soldiers who have been acculturated into a world of violence and destruction have been expected to go through peaceful transition back into society without the necessary skills, support systems, and opportunities to do so, leaving them vulnerable to re-recruitment efforts or criminal activities. To break this cycle of violence, local and international rehabilitation and reintegration efforts must channel adequate funding and resources into comprehensive educational programs that transform these children of war into agents of change.

Also, children should not be permitted to volunteer for the armed forces in any capacity, direct participation in hostilities or otherwise. Expert testimony demonstrates, again and again, that children are exposed to extraordinary danger when they are employed in the theatre of war.⁷⁵ Using children in armed conflict should be as unacceptable as using nuclear or chemical weapons.⁷⁶ Children are vital to the development and sustenance of any country. Their innocence

⁷⁰ Elisabeth Schauer and Thomas Elbert, 'The Psychological Impact of Child Soldiering' in E. Martz (ed.), *Trauma Rehabilitation After War and Conflict*, 311 DOI 10.1007/978-1-4419-5722-1_14, C _ Springer Science+Business Media, LLC 2010

⁷¹ Ibid.

⁷² Nsongurua J Udombana, "War Is Not Child's Play! International Law and the Prohibition of Children's Involvement in Armed Conflicts", (2006) *TEMPLE INT'L & COMP. L.J.* 58

⁷³ Graca Machel, 'Impact of Armed Conflict on Children' (Report of the Expert to the Secretary General, UN General Assembly, Note by the Secretary-General), 26 August 1996, A/51/306, <: <http://www.unhcr.org/refworld/docid/3b00f2d30.html>>

⁷⁴ Isabelle Roger, Education for Children During Armed Conflicts and Post-Conflict Reconstruction, 3 (2002) *Disarmament F.* 45, 48., Schauer and Elbert (n70).

⁷⁵ Ibid.

⁷⁶ Kathy Vandergrift, Challenges in Implementing and Enforcing Children's Rights, (1999) 32 *CORNELL INT'L L. J.* 547, 548.

and naivety should be preserved and not exploited as a basis for perpetrating crime, acts of terrorism or as combatants in times of war.

Recent use of children as suicide bombers robs them of the most important fundamental human right, they have, which is the right to life and more international as well as domestic actions should be taken to discourage this. There is dire need for a uniform minimum age for imposing criminal liability for children involved in war. International as well as domestic steps should be taken to situate a uniform age for criminal liability for children. This will go a long way to allay the discrepancies as regarding the minimum age of imposing criminal liability on child soldiers. Also, Nigerian host communities must take steps to receive child soldiers irrespective of the crime they might have committed. They should be pitied rather than castigated. This is owing to the fact that they did not commit crime based on their volition or free will. Again, the Nigerian government should take steps to provide more programmes that will help rehabilitate and ensure the reintegration of child soldiers. International and national measures should be taken where appropriate to dissuade such atrocious acts for the future of today's children largely depends on eliminating the evils that constantly threaten them, including their recruitment into armed forces.⁷⁷

In poor countries such as Nigeria, the voices of suffering go unheard because the children mostly affected are those of the poor. But this is a battle, which must be fought together. Another important mechanism in preventing child soldier recruitment is the use of media. The media has played an extremely important role in promoting and protecting human rights and the issue of child soldiers is yet another important area where its contribution would be of utmost help. However, the problem is that where there is a conflict of interest of media and a child, the voices of suffering go unheard. It is sad to know that the primary concern of the media is to produce a quick and sensational story, which is easy to sell. If the media were to responsibly undertake their role and stigmatise the use of child soldiers, Nigeria would be half way through winning the battle. Governments and the media are not the only ones who shoulder the responsibility of protecting the children. The rest of the international community also has an important role and can participate by protesting, reporting child conscription and raising such issues with the authorities supporting the fight against child soldiers.

⁷⁷General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child, ¶ 9, U.N. Doc. CRC/GC/2003/5 (Nov. 27, 2003) [General Comment No. 5].