

LEGAL AND REGULATORY USE OF CHILD SOLDIERS IN ARMED CONFLICT UNDER INTERNATIONAL LAW: LESSONS FROM SELECTED JURISDICTIONS*

Abstract

The recruitment and use of child soldiers in armed conflicts represents one of the most severe breaches of international humanitarian and human rights law in today's world. Despite substantial global advocacy efforts and establishment of a comprehensive legal framework, countless children continue to be enlisted by the state actors in various armed groups. This study aimed to investigate the risks that children face in the modern world, especially in light of violent conflicts and the widespread discrimination against their human rights. It emphasized how children's vulnerabilities are increased when these rights are violated, putting them at risk for psychological, emotional, and bodily harm, and making sure that their rights under international law are effectively enforced. The study adopted a doctrinal methodology which involves both the primary and secondary sources of law, referencing international instruments and regional agreements. The study found that international law has achieved significant progress in prohibiting the use of child soldiers, there is need for enhanced efforts to strengthen compliance and recommended sustained global collaboration tailored rehabilitation, reintegration and prevention of the recruitment of children in armed conflicts.

Keywords: Armed Conflict, Child Soldiers, International Law, International Humanitarian Law

1. Introduction

The prohibition of recruitment of child soldiers in armed conflicts is visible in several international treaties and conventions meant for the protection of children involved during war time such as the Geneva Conventions and their Additional Protocols, the United Nations Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), the Rome Statute of the International Criminal Court, and regional agreements like the African Charter on the Rights and Welfare of the Child, etcetera.¹ Also, there are several organizations put in place to prohibit the use of child soldiers and promotes reintegration of child soldiers engaged in armed conflicts, which include the United Nation Children Fund (UNICEF) and International Committee of Red Cross through special court² and international criminal court.³ Despite these international legal frameworks, there exist significant gaps that exist in the scope, enforcement and the application of these laws. One of the main challenges in addressing the issue of child soldiers is the inadequate enforcement of existing legal standards. Although numerous states have ratified significant international agreements, the implementation of these agreements at the national level often falls short. Many countries struggle to develop the legal and institutional framework necessary to turn these international commitments into enforceable domestic laws, which allows violations to persist without consequence. Furthermore, prosecutions related to the recruitment of child soldiers are alarmingly infrequent. Factors such as political instability, weak legal systems, and a tendency to prioritize peace over justice create substantial barriers to accountability.

Additionally, non-state armed groups (NSAGs), which are responsible for the recruitment of the majority of child soldiers, are not held to the same international standards as sovereign states, complicating enforcement efforts against them. Moreover, inconsistencies in the definitions of a child and what constitutes unlawful recruitment limit the effectiveness of existing regulations. For instance, while OPAC prohibits direct participation in hostilities for individuals between 15-18 years, but allows voluntary recruitment of children in armed conflicts, provided there are safeguards in place. These inconsistencies create legal loopholes and result in varying standards across different contexts. Additionally, the current legal focus tends to emphasize the criminalization of recruitment, often neglecting the crucial aspects of rehabilitation and reintegration for former child soldiers⁴. Many reintegration programs are either underfunded or completely nonexistent, leaving these young individuals socially marginalized and economically vulnerable. Another critical area that requires attention is the gendered nature of child soldiering. Girls in armed conflicts face specific violations, such as sexual exploitation and forced marriage. Unfortunately, existing laws and reintegration strategies frequently overlook their unique experiences and needs, failing to provide adequate support and protection.

Furthermore, the effective implementation of legal standards is frequently obstructed by the realities of conflict. In nations like the Democratic Republic of Congo, South Sudan, and Somalia, the disintegration of state institutions renders the

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¹S. Rasakandan and P.M. Tehrani, "Protection of Children from Recruitment and Use in Armed Conflict: Role of International Legal Framework" (2022) *Journal of Politics and Law*, 15.

²CDF: The Prosecutor vs. Sam Hinga Norman, Moinina Fofana and Allieu Kondewa – RSCSL' (*Residual Special Court for Sierra Leone*, October 19, 2022) <https://rscsl.org/the-scsj/cases/cdf-the-prosecutor-vs-sam-hinga-norman-moinina-fofana-and-allieu-kondewa/> accessed 22 August 2025.

³Germain Katanga, 'Coalition for the International Criminal Court' available at <https://www.coalitionfortheicc.org/cases/germain-katanga> accessed 22 August 2025.

⁴F. Nsanzimana and Y. Kambabazi, 'Legal Analysis of Criminal Liability of Child Soldier in International Criminal Law' (Undergraduate dissertation, Kigali Independent University ULK, School of Law, 2023). Kigali, Rwanda. Supervisor: Dr. Ishema Pierre.

enforcement of international norms nearly unfeasible.⁵ In these contexts, even meticulously crafted legislation tends to have minimal or no effect. Additionally, there exists a selective and politicized enforcement of child protection laws. Legal action is occasionally taken in cases that align with political interests, while other violations are overlooked. This selective enforcement diminishes the credibility and efficacy of international law. Moreso, the perspectives of children are often overlooked in the development and execution of policies that impact them, resulting in interventions that may not adequately address their needs or reflect their lived experiences⁶. The United States of America has enacted its own laws to stop the recruitment of the child soldiers and safeguard this vulnerable group of people even though international humanitarian law continue to be forefront with international criminal court having the power to bring charges against those recruiting child soldiers⁷. Modern day armed conflict is characterized by urban warfare also known as war in the cities. Examples which include Syria, Yemen and Myanmar, which resulted in the establishment of the world's largest refugee camp in Bangladesh. As tension increased children were recruited and enlisted in the hostilities⁸.

OPAC Article 3(3) describes these precautions in full. States must ensure that recruiting is voluntary and with the informed agreement of recruits' parents or legal guardians. Voluntary military recruits must be properly informed of their tasks and submit proof of age before being accepted. According to OPAC Article 3(4), state parties can enhance their initial declaration by raising the minimum age for voluntary recruitment from 15 to 18 years. However, they cannot lower the minimum age indicated in the initial declaration⁹. Legalizing child volunteers contradicts a slavery interpretation that prohibits the resulting condition and OPAC portrays the problem as one of consent, not vulnerability and exploitative outcomes, unlike slavery instruments on child labor and child sex work.¹⁰ Children are not the instigators of warfare; however, they disproportionately bear the consequences. They are more susceptible than adults to being killed or injured by explosive devices. Furthermore, they often lose the protective presence of family and friends.¹¹ Many are forcibly taken from their homes, conscripted into armed factions, or subjected to sexual violence. Educational institutions and healthcare facilities are frequently destroyed, and numerous children are deprived of essential humanitarian assistance, solely based on their identity or geographical location.¹²

The dependence on the concept of 'consent' in situations concerning minors, including early marriage and military recruitment, is critically examined. A legal framework that emphasizes consent exclusively neglects the influence of systemic pressures that can inform decisions, often resulting in exploitation.¹³ In the case of *Prosecutor v. Thomas Lubanga Dyilo*,¹⁴ the International Criminal Court marked a significant milestone by issuing its inaugural ruling regarding the utilization of child soldiers. Lubanga, a warlord from the Democratic Republic of the Congo, was convicted for enlisting and conscripting children below the age of 15 to engage actively in armed conflict. This pivotal case underscored the ability of international criminal law to bring offenders to justice and reinforced the worldwide agreement that the recruitment of children constitutes a serious breach of humanitarian law.¹⁵

It is pertinent to state that gender specific measures are essential to address the needs of female child soldiers. These girls are often used as sex slaves, forced wives, or domestic servants within armed groups. Legal instruments such as CEDAW and UN Security Council Resolutions 1325 and 1820 stress the importance of protecting women and girls during conflict.¹⁶ The processes of monitoring and verifying these serious violations faced significant challenges, primarily due to limitations in access, a high degree of insecurity, and threats or direct assaults on United Nations personnel, monitors, and humanitarian workers. These factors contributed to the underreporting of serious violations and alarming rise given that such violence remains largely underreported due to stigmatization, fear of retaliation, detrimental social norms, a lack of or limited access to services, impunity, and safety concerns. Additionally, the prevalence of children experiencing multiple serious violations

⁵ *ibid.*

⁶ *ibid.*, no.1.

⁷ Minors and Miners: 'Accountability beyond Child Soldiering in the Democratic Republic of Congo,' *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) <https://doi.org/10.4337/9781788114486.00025> accessed 22 August 2024.

⁸ N. Govender, 'Through The Lens Of The ICJ: Bridging The Gap Between Human Rights And Humanitarian Norm In The Legal Protection For Child Soldiers,' *Potchefstroom Electronic Law Journal* 27(1), 1-31 <<https://doi.org/10.17159/1727-3781/2024/v27i016114>> 22 August 2025.

⁹ K. Hanson and C. Molima, 'Getting Tambo out of Limbo: Exploring Alternative Legal Frameworks That Are More Sensitive to the Agency of Children and Young People in Armed Conflict' *Research Handbook on Child Soldiers* (Edward Elgar Publishing 2019) <https://doi.org/10.4337/9781788114486.00014> accessed 15 August 2025.

¹⁰ L. Alfredson, 'Child Soldiers as Contemporary Slaves: A Human Rights Approach' (*Taylor & Francis*, September 22, 2022) <https://www.researchgate.net/publication/363780026> accessed 15 August 2025.

¹¹ G.B. Perobo, 'Evaluating the Individual Criminal Responsibility of Gukurahundi Perpetrators under International Law' (2023) *Comparative and International Law Journal of Southern Africa*, vol.1-2, 15.

¹² UNICEF (2024). Children under attack. <http://www.unicef.org/children-attack> accessed 15 August, 2025.

¹³ Stages of Development: Marriage of Girls and Teens as an International Human Rights Issue" (*Bora Laskin Law Library*) <https://library.law.utoronto.ca/whrrarticle/stages-development-marriage-girls-and-teens-international-human-rights-issue> accessed 15 August, 2025.

¹⁴ International Criminal Court. (2012). *Prosecutor v. Thomas Lubanga Dyilo* (Judgment pursuant to Article 74 of the Statute), ICC-01/04-01/06. <https://www.icc-cpi.int/court-cases/icr-01-04-01-06> accessed 22 August 2025.

¹⁵ *ibid.*

¹⁶ Law R-UG and Database P, 'Security Council Resolution 1325 (2000) [on Women and Peace and Security]' (*Refworld*, November 4, 2023) <https://www.refworld.org/legal/resolution/unsct/2000/en/113308> accessed 22 August 2025.

has risen, highlighted by the significant number of girls who have been abducted for purposes of recruitment, sexual violence, including rape and sexual slavery.¹⁷

2. Conceptual clarifications

Armed conflict

An armed conflict is defined as a situation where there is a violent engagement involving the military forces of different states or a confrontation between government authorities and organized armed groups, or among such groups within a single state. It is important to note that other forms of violence, including internal disturbances and tensions, do not qualify as armed conflicts according to the International Committee of the Red Cross¹⁸. Armed conflicts are divided into two, which are international armed conflict and non-international armed conflict, international armed conflict. Non international conflict is defined as long lasting armed hostile occurs between governmental armed forces and the forces that are more armed groups or between such groups arising on the territory of the state¹⁹. International armed conflict encompasses all instances of declared warfare and other forms of de facto military engagement occurring between two or more states. This classification applies even when the state of war is not acknowledged by one of the involved parties and/or when the use of military force is executed unilaterally. Furthermore, it includes scenarios involving armed groups, whether these groups are organized or arise within the territory of a state.²⁰

Child Soldier

The term child soldier refers to any man or woman below the age of 18 who is recruited or utilized by armed forces or armed groups. The Optional Protocol to the Convention at the Rights of the Child at the Involvement of Children in Armed Conflict (OPAC) and the Paris Principles (2007) outline child soldiers as children who actively take part in armed conflicts, but exclude those who serve in non-combat roles including porters, cooks, spies, and messengers.²¹ Any individual under the age of eighteen who is a member or is recruited into an armed force or armed group is considered a child soldier. Regardless of whether there is an armed company, a child soldier may engage in sexual slavery, forced labour, portering domestic, work sabotage scouting spying acting as decoy training drills and other various preparations.²² Additionally, this definition consists of children subjected to sexual exploitation inside armed groups. Understanding this definition is important as it highlights that child soldier isn't constrained to direct battlefield engagement however encompasses diverse styles of pressured or coerced involvement in armed conflict. Under International Humanitarian Law (IHL), armed conflicts are categorized into global armed conflicts (IACs), which arise among or greater states, and non-global armed conflicts (NIACs), which take vicinity inside the territory of a unmarried nation among authorities forces and non-nation armed groups²³.

Recruitment

Recruitment refers to the manner of enlisting kids into armed forces, either voluntarily or forcibly. International law, especially OPAC, strictly prohibits the recruitment of kids less than 18 years through non-nation armed groups²⁴. However, Article 38 of the Convention at the Rights of the Child (CRC), nation actors can recruit children between 15 and 18, once they do not partake directly in the hostilities²⁵. Despite this prohibition, children are voluntarily recruited in war-torn areas because of money, hardship, or ideological indoctrination. To end this, the United Nations and numerous non-governmental organizations play a crucial function in enforcing Demobilization, Disarmament, and Reintegration (DDR) as a crucial part of addressing the problem of child soldiers²⁶. The DDR applications are designed to put off child soldiers from armed groups, disarm them, and reintegrate them into society through education, vocational training, and mental support. The fulfilment of DDR applications is critical in making sure that former child soldiers are rehabilitated and averted from being re-recruited into armed groups.

¹⁷United Nations (2024). Children and armed conflict: Report of the Secretary-General (A/78/384). United Nations. <https://childrenandarmedconflict.un.org/document/a-78-384/> accessed 15 August 2025.

¹⁸Fernanda F, 'Armed Conflict: A Glossary of Terms' available @<https://www.researchgate.net/publication/363780026> accessed 15 August 2025.

¹⁹ICRC 2024 Opinion Paper - How Is the Term 'Armed Conflict' Defined in International Humanitarian Law?' (International Committee of the Red Cross, April 16, 2024) <<https://www.icrc.org/en/document/icrc-opinion-paper-how-term-armed-conflict-defined-international-humanitarian-law>> accessed 15 August 2025.

²⁰International Committee of the Red Cross (ICRC). (2016). Commentary of 2016: Article 2: Application of the Convention. In Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949. ICRC. <<https://ihl-databases.icrc.org/en/ihl-treaties/gci-1949/article-2/commentary/2016-44>> accessed 15 August 2025.

²¹'Undefined' <<https://childrenandarmedconflict.un.org/document/secretary-general-annual-report-on-children-and-armed-conflict-2/>> accessed 15 August 2025.

²²'Wellbeing', *Encyclopedia of Quality of Life and Well-Being Research* (Springer International Publishing 2023) https://doi.org/10.1007/978-3-031-17299-1_304819 accessed 22 August 2025.

²³ Customary International Humanitarian Law (Cambridge University Press 2005) pp.34-37.

²⁴OPAC, art. 4.

²⁵ United Nations, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2000, entered into force 12 February 2002) UN Doc A/RES/54/263; UNICEF, The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups.

²⁶ 'Home' (UN DDR, October 28, 2019) <https://www.unddr.org> accessed 15 August 2025

3. Legal and Regulatory Use of Child Soldiers in Armed Conflict

Regulation of the use of child soldiers in armed conflict is normally composed of three interrelated and together reinforcing our bodies of treaty law, which are international humanitarian law, human rights, international criminal law, which include the following:²⁷

United Nations Conventions on the Rights of the Children and its Optional Protocol on the involvement of the Children in Armed Conflict

The Convention on the Rights of the Child was adopted by the General Assembly of the United Nations through the decision 44/25 of 20 November 1989, which protects the children from abuse and exploitation such as prostitution or in dangerous jobs, of children in prison or in other difficult or hard circumstances, and of children as refugees and victims of armed conflict.²⁸ According to the Convention, children who have not attained the age of eighteen years are forbidden from taking part in direct hostilities. Article 39 provides that states shall take all suitable measures to promote physical and psychological recovery and social reintegration of a child victim of any shape of neglect, exploitation, or abuse; torture or every other shape of cruel, inhuman or degrading remedy or punishment; or armed conflicts. Such healing and reintegration shall take place in an environment which fosters the health, self-confidence and dignity of the child²⁹. The Convention was established to strengthen the rights of children by raising the age of participating in hostilities to eighteen, which must be strictly enforced by article 1. By article 2, if a person is below eighteen years, he will not be forced into armed conflict, while article 3 states that recruitment should be voluntary and if the person is under 18 years, the parent consent should be given.³⁰

Rome Statute of the International Criminal Court

The Rome Statute of the International Criminal Court was established on 17 July 1998 to prosecute the warlords or perpetrators of the most serious crimes of concerns on the international community. The Statute has contributed to the fight against impunity and development of international criminal jurisprudence which includes sexual based crime, recruitment of children as soldiers in armed conflicts and destruction of cultural property.³¹ The use of child soldiers is criminalised under article 8(2) (xxvi) of the Rome Statute by prohibiting conscription or enlistment of children under the age of eighteen years into the country wide militia or using them to take part actively in hostilities³². In the case of *Thomas Lubanga* who was the first to be convicted by the ICC and sentenced to 14 years for conscripting child soldiers in the Democratic Republic of Congo³³. Also, Dominic Ongwen, a former commander of Uganda's Lord's Resistance Army (LRA), was convicted for crimes including use of child soldiers, murder, enslavement, cruel treatment of civilians, and intentionally directing an assault towards a civilian population³⁴. Despite its impact, enforcement remains a challenge, as some states, such as the United States, Russia, and China, are not ICC members. Additionally, prosecution is often difficult in countries with weak legal systems or ongoing conflicts where warlords remain in power.

Geneva Conventions and Additional Protocols

These Conventions were adopted on August 12 1949 for the protection of war victims, the wounded, the sick and prisoners of war and several civilians who find themselves in the territory of their enemies. The Conventions also protect medical duties, medical personnel, medical units and facilities, and the means of medical transport. However, the Conventions have gaps in crucial areas, including the behavior of warring parties and safety of civilians from the outcomes of hostilities. To remedy these shortcomings, two Additional Protocols were made in 1977 and a third Additional Protocol was adopted in 2005. These supplements, however do not replace, the Geneva Conventions of 1949.³⁵

African Charter on the Right and Welfare of the Child

The African Charter on the Right and Welfare of the Child came into existence by the Organization of African Unity on 11 July 1990 and came into force on 29 November 1999. The Charter is a regional human rights instrument focusing on certain issues of particular interest and importance to children in Africa³⁶. This is among the progressive legal instruments, which

²⁷S. Foran, A. Swaine and K. Burns, 'Improving the Effectiveness of Humanitarian Action: Progress in Implementing the Inter-Agency Standing Committee (IASC) Gender Marker' (2012) 20 Gender & Development 233 accessed 15 August 2025.

²⁸OPAC, art. 38.

²⁹'Convention on the Rights of the Child' (*OHCHR*) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 15 August 2025.

³⁰United Nations. Convention on the Rights of the Child and armed conflict. United Nations. https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.22_crc-conflict.pdf>accessed, 22 August 2025.

³¹Rome Statute of the International Criminal Court: Declaration by the High Representative on Behalf of the EU to Mark the 20th Anniversary of Its Entry into Force' (*Consilium*) <https://www.consilium.europa.eu/en/press/press-releases/2022/06/30/rome-statute-of-the-international-criminal-court-declaration-by-the-high-representative-20-anniversary-entry-into-force> accessed 15 August 2025.

³²Legal Information Institute. 'Rome Statute of the International Criminal Court – Article 8. Cornell Law School'

justice/resource/rome_statute_of_the_international_criminal_court_article_8<<https://www.law.cornell.edu/gender>>accessed 15 August 2025.

³³'ICD – Lubanga' (*Asser Institute*) <https://www.internationalcrimesdatabase.org/Case/814> accessed 15 August 2025.

³⁴'Wanted: Dominic Ongwen' (*U.S. Department of State*) <https://2009-2017.state.gov/j/gcj/wcrp/206079.htm> accessed 15 August 2025.

³⁵'1977 Additional Protocols to the Geneva Conventions of 1949' (*International Committee of the Red Cross*, October 13, 2014) <https://www.icrc.org/en/document/additional-protocols-geneva-conventions-1949-factsheet> accessed 22 August 2025.

³⁶'Overview of the African Charter on the Rights and Welfare of the Child' (*ACERWC - African Committee of Experts on the Rights and Welfare of the Child*) <https://www.acerwc.africa/en/page/about-the-charter> accessed 15 August 2025.

protects civilians including children³⁷ and its application to internal conflict tension and strife³⁸ The recruitment and use of children in armed conflicts is a grave violation of human rights and a profound affront to human dignity. Across Africa, children are stripped of their childhood and thrust into the brutal realities of war. They are forced into combat and exploited as messengers, porters, spies, and political pawns, with many enduring the horrors of sexual violence, particularly girls who face heightened vulnerabilities. These children are robbed of their innocence, education, and future, leaving them with lifelong scars and depriving their communities of the children's potential contributions. Despite these challenges, significant progress has been made in addressing the recruitment and use of children in armed conflicts. The African Union and its Member States work tirelessly to advocate for the rights of children in conflict situations and to support rehabilitation and reintegration programme. Advocacy and awareness campaigns have strengthened the commitment of Member States to protect children and emphasised prevention of child recruitment and the reintegration of affected children.³⁹ Addressing the root causes of child recruitment requires investment in economic development, food security, and conflict prevention. Stronger collaboration among governments, international organizations, civil society, and local communities is essential to create a unified and effective response to the challenges faced by children in conflict situations.⁴⁰

European Union

The EU's global commitments to promote, protect, fulfill and respect the rights of children are visible and well acknowledged. The EU Strategy on the rights of the children includes a strong external dimension with the EU stepping up its work to promote, protect, fulfil and respect the rights of the child globally, eradicating child labour, fighting child marriage, investing considerably in education around the globe, and protecting children from all forms of violence, abuse and neglect, including in a humanitarian context.⁴¹ The EU is also fostering child and youth participation at the global level through the Youth Action Plan.⁴² In countries affected by conflicts, where children are particularly vulnerable, the EU is working to ensure regular, coordinated and consistent, diplomatic and practical engagement on child protection objectives, child rights and the respect of international humanitarian law.⁴³

The Association of the Southern Asian Nations

The Association of Southeast Asian Nations (ASEAN), established in 1967, is a regional framework, to promote economic and political cooperation amongst its member states. Despite these commitments, a few ASEAN countries, specifically Myanmar and Philippines, are maintaining war with child soldiers' recruitment with the aid of using kingdoms and non-kingdoms⁴⁴ In the year 2023, these countries were listed as the highest countries in recruiting children into armed forces.⁴⁵

4. Global Overview of Child Soldiers Recruitment in Armed Conflicts

The military enlistment of minors under the age of 18 and their involvement in armed conflicts represent a pervasive issue that remains prevalent across the globe. This phenomenon encompasses illegal recruitment by non-state armed groups, coercive enlistment by government military forces, the engagement of children by militias or other factions affiliated with armed forces, their utilization as informants, as well as lawful recruitment into peacetime military organizations.⁴⁶ In 2024, over one in six children worldwide found themselves in conflict-affected environments, enduring severe abuses and violations of their fundamental rights.⁴⁷ These children were profoundly impacted by the proliferation and intensification of conflicts, characterized by a blatant disregard for their rights. Preliminary data indicate that the most prevalent violations included the killing and maiming of children, alongside the obstruction of humanitarian aid access. Moreover, an increase in incidents of sexual violence against children and assaults on educational and medical facilities is anticipated. While the rates of recruitment and use of children in armed conflict have remained alarmingly high, a decline in these cases is expected.⁴⁸ Despite the heightened global awareness regarding the challenges faced by these children, the

³⁷ Art.,22.

³⁸University of Minnesota Human Rights Library, African Charter on the Rights and Welfare of the Child <https://hrlibrary.umn.edu/africa/afchild.htm>. accessed 22 August 2025.

³⁹ Africa Platform on Children Affected by Armed Conflicts. (2024, February 12). Statement by the Africa Platform on Children Affected by Armed Conflicts (AP-CAAC) on the International Day Against the Use of Child Soldiers. Peace and Security Department, African Union. <<https://www.peaceau.org/en/article/statement-by-the-africa-platform-on-children-affected-by-armed-conflicts-ap-caac-on-the-international-day-against-the-use-of-child-soldier>> accessed 15 August, 2025.

⁴⁰ *ibid.*

⁴¹ Africa Platform on Children Affected by Armed Conflicts. (2024, February 12). Statement by the Africa Platform on Children Affected by Armed Conflicts (AP-CAAC) on the International Day Against the Use of Child Soldiers. Peace and Security Department, African Union. <<https://www.peaceau.org/en/article/statement-by-the-africa-platform-on-children-affected-by-armed-conflicts-ap-caac-on-the-international-day-against-the-use-of-child-soldier>> accessed 15 August, 2025.

⁴²The EU Updates Its Guidelines on Children and Armed Conflict' (EEAS) https://www.eeas.europa.eu/eeas/eu-updates-its-guidelines-children-and-armed-conflict-2024_en accessed 15 August, 2025.

⁴³ *ibid.*

⁴⁴'Ministry of Foreign Affairs, Republic of China (Taiwan)' (*Ministry of Foreign Affairs, Republic of China (Taiwan)*, March 18, 2022) https://en.mofa.gov.tw/News_Content.aspx?n=1575&sms=321&s=95694 accessed 17 August, 2025.

⁴⁵Y. Li, 'The Child Soldiers of Myanmar' (*The Upstream Journal - Your magazine on human rights & social justice*, January 11, 2024) <https://upstreamjournal.org/myanmar-child-soldiers> accessed 17 August, 2025.

⁴⁶A. Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press 2011) accessed 15 August, 2025.

⁴⁷ *ibid.*

⁴⁸F. Vinet F, "Presentation of the Report of the Special Representative of the Secretary-General for Children and Armed Conflict to the Human Rights Council – Office of the Special Representative of the Secretary-General for Children and Armed Conflict

implementation of legal frameworks and sustainable solutions continues to be inconsistent and, in certain regions, almost absent.⁴⁹ It is to be noted, as earlier indicated, that international convention⁵⁰ such as the Optional Protocol to the Convention on the Rights of the Child which has been established to address the recruitment and utilization of child soldiers concerning the involvement of children in armed conflict, adopted in 2000 and ratified by over 170 nations, provides 18 years as the minimum age for direct engagement in hostilities and mandates that countries implement legal measures to prevent the recruitment of minors⁵¹. Additionally, the Rome Statute of the International Criminal Court, enacted in 1998, categorizes the conscription, enlistment, or employment of children under the age of 15 in armed conflicts as a war crime. Furthermore, International Labour Organisation Convention identifies the forced recruitment of children for participation in armed conflict as one of the most egregious forms of child labour.⁵² In Syria, groups like ISIS, Hay'at Tahrir al-Sham, and even militias supported by the state have enlisted and indoctrinated children for combat and auxiliary roles.⁵³ In Yemen, the Houthi rebels and various factions have forcibly conscripted children, frequently sending them to engage in frontline combat⁵⁴. The World Justice Project (WJP), in its 2023 Rule of Law Index, underscores the persistent inadequacy of judicial systems in numerous nations where the recruitment of child soldiers is prevalent.⁵⁵ A significant element of the WJP Index, the Judicial Effectiveness Index, assesses the capability of courts to dispense justice, enforce laws, and uphold their independence from political pressures⁵⁶.

5. Relationship between Legal Framework and Global Trends

The relationship between legal framework and global trends is characterized by its dynamic nature, especially in the realms of international humanitarian law and human rights law. Notable global trends, including the rising utilization of child soldiers in armed conflicts, have profoundly impacted the development of international legal instruments. Conversely, legal framework acts as tools aimed at addressing and mitigating these alarming trends. The involvement of children in armed conflicts has emerged as an increasingly pressing global issue. The United Nations reports that tens of thousands of minors have been enlisted and utilized as combatants in no fewer than 20 conflict areas across the globe, particularly in regions such as Central Africa, the Middle East, and certain parts of Asia.⁵⁷

6. Challenges in Implementing Legal Framework

Absence of Political Commitment

A prominent obstacle to the effective implementation of legal frameworks is the absence of political commitment. Although governments may introduce legislation in reaction to public demands or international pressures, the absence of active support and enforcement from political leaders can render these laws ineffective. For instance, in spite of international treaties that prohibit child labour, numerous nations with fragile political institutions continue to experience significant levels of child exploitation, largely due to political indifference or reluctance to confront influential economic interests. In the absence of a commitment from political leaders to uphold these frameworks, legal reforms frequently fail to result in substantial change.⁵⁸

Limited Resources and Capacity

One of the primary obstacles to the effective execution of legal framework is the scarcity of resources and capacity. Numerous nations, especially those in the Global South, experience deficits in financial resources, infrastructure, and trained professionals necessary for the implementation and enforcement of laws. The lack of adequate resources can lead to a legal framework that is either inadequately applied or entirely unenforced. For example, in the domain of environmental law, the enforcement of regulations concerning waste management and pollution control often encounters substantial difficulties in developing countries due to insufficient financial resources and technological capabilities.⁵⁹

⁴⁹<https://childrenandarmedconflict.un.org/2025/03/presentation-of-the-report-of-the-special-representative-of-the-secretary-general-for-children-and-armed-conflict-to-the-human-rights-council-2/> accessed 15 August, 2025.

⁴⁹World Justice Project' (*World Justice Project*) <https://worldjusticeproject.org> accessed 15 August 2025.

⁵⁰ Rome Statute, art. 8(2)(b)(xxvi).

⁵¹S.M. Kim, 'United nations' <https://childrenandarmedconflict.un.org/document/secretary-general-annual-report-on-children-and-armed-conflict-2/> accessed 15 August, 2025.

⁵²S.M. Kim, "Secretary-General Annual Report on Children and Armed Conflict – Office of the Special Representative of the Secretary-General for Children and Armed Conflict" <https://childrenandarmedconflict.un.org/document/secretary-general-annual-report-on-children-and-armed-conflict-2> accessed 15 August, 2025.

⁵³"US Stops Funding Some Militaries Using Child Soldiers" (*Human Rights Watch*, October 11, 2022) <https://www.hrw.org/news/2022/10/11/us-stops-funding-some-militaries-using-child-soldiers> accessed 15 August, 2025.

⁵⁴*ibid*.

⁵⁵World Justice Project. (2023). WJP Rule of Law Index 2023. World Justice Project. <<https://worldjusticeproject.org/rule-of-law-index/downloads/WJPIndex2023.pdf>> accessed 12 may 2025

⁵⁶*ibid*.

⁵⁷UNICEF' <https://www.unicef.org> accessed 15 August, 2025.

⁵⁸Child Labour' (International Labour Organization, January 28, 2024) <https://www.ilo.org/global/topics/child-labour/lang--en/index.htm> accessed 15 August, 2025.

⁵⁹R. Sullivan and S. Sullivan, 'Enforcement of Environmental Law in Developing Countries' *Journal of Environmental Law*, (2017) 25(3), 243-267. accessed 15 August, 2025.

7. Lessons from Selected Jurisdictions

Sierra Leone

In the wake of its devastating civil war, Sierra Leone adopted a restorative justice model by establishing the Truth and Reconciliation Commission (TRC) and the Special Court for Sierra Leone (SCSL).⁶⁰ While the SCSL was empowered to prosecute individuals aged 15 and older, its primary focus was on holding accountable those who recruited child soldiers rather than the children themselves. This strategy reinforced the international norm that views children predominantly as victims. The TRC's child-friendly hearings enabled young individuals to share their experiences in a secure setting, thereby fostering healing and facilitating reintegration⁶¹. The approach taken in Sierra Leone highlights the significance of restorative justice, rehabilitation, and societal reintegration, rather than the criminal prosecution of former child soldiers.

Colombia

Colombia has tackled the issue of child soldiers, particularly those enlisted by armed insurgent groups such as the FARC, by establishing a legal framework that acknowledges the unique status of children in situations of armed conflict.⁶² The Colombian Constitutional Court has consistently determined that child soldiers should be regarded as victims.⁶³ The government's initiatives for the demobilization of children encompass educational opportunities, vocational training, and efforts for family reunification.⁶⁴ Colombia's methodology underscores the importance of embedding protective principles within domestic legislation and executing thorough post-conflict reintegration strategies.

8. Conclusion and Recommendations

The issue of child soldiering represents one of the most alarming breaches of international humanitarian and human rights norms. This study has investigated the legal frameworks established by the international community to prevent the recruitment and utilization of children in armed conflicts. It is clear that, despite notable advancements in the creation of international agreements aimed at safeguarding children from such exploitation, numerous significant obstacles remain. Key international instruments, such as the Geneva Conventions, the Convention on the Rights of the Child along with its Optional Protocol, the Rome Statute of the International Criminal Court, and the African Charter on the Rights and Welfare of the Child, collectively reflect a global consensus against the use of child soldiers. However, issues such as inconsistencies in age definitions, limited enforcement capabilities, and inadequate accountability mechanisms continue to undermine the efficacy of these legal frameworks. Furthermore, the underlying factors contributing to child recruitment, such as poverty, insecurity, and lack of access to education, underscores the reality that legal frameworks alone cannot adequately resolve this issue. Unless the social, economic, and political conditions that render children susceptible to recruitment are addressed, the legal prohibitions may be rendered ineffective due to the prevailing circumstances. Additionally, there is a significant gap in the area of reintegration. Many former child soldiers face ostracism from their communities, suffer from psychological trauma, and encounter barriers to educational and employment opportunities. The existing legal instruments often fall short in providing adequate long-term rehabilitation and reintegration support, which are essential for the successful reintegration of these children into society.

Based on the findings and conclusions drawn from this research, the following recommendations are put forward to enhance the international legal framework addressing the issue of child soldiers and improve protective measures for affected minors. First, it is imperative to achieve greater uniformity regarding the minimum recruitment age across various international legal instruments. The existing inconsistencies in age thresholds especially the distinction between 15 and 18 years generate legal ambiguities and hinder effective enforcement. It is pertinent treaties establish a universal minimum recruitment age of 18 years for both voluntary and compulsory enlistment, aligning with the Optional Protocol to the Convention on the Rights of the Child. Second, there is a necessity to bolster enforcement mechanisms. This should encompass not only the accountability of offenders through international criminal tribunals, such as the International Criminal Court, but also the enhancement of domestic legal frameworks to investigate, prosecute, and penalize violators. States ought to be motivated to integrate international prohibitions against the recruitment of children into their national legislation and to ensure their effective application. Third, a transition from reactive to preventive approaches is required. Tackling the underlying causes of child soldiering, such as poverty, inadequate education, and political turmoil, necessitates long-term investments in education, social welfare, and community development. It is crucial for international organizations, governmental entities, and non-governmental organizations to collaborate in providing children in conflict-affected areas with viable alternatives to armed groups. Fourth, prioritizing and adequately funding reintegration and rehabilitation initiatives for former child soldiers is essential. Providing psychosocial support, education, vocational training, and community reintegration programs is vital for assisting children in rebuilding their lives. Legal frameworks should be revised or supplemented to ensure that support for reintegration is not merely suggested but regarded as a binding obligation. Last, enhanced international cooperation is critical. States, international organizations, and civil society groups must collaborate to monitor adherence to standards, exchange successful practices, and offer technical and financial assistance to nations grappling with the issue of child soldiers. Furthermore, increasing public awareness and advocacy efforts is necessary to maintain global focus on this pressing matter.

⁶⁰ Truth and Reconciliation Commission' <<https://www.justice.gov.za/trc/>> accessed May 11, 2025

⁶¹ *ibid.*

⁶² UNICEF Colombia. (2014, March). Informe anual 2013 [Annual report 2013]. <https://www.unicef.org/colombia/media/301/file/Colombia%20Annual%20Report%202013.pdf> accessed 15 August, 2025.

⁶³ *ibid.*

⁶⁴ *ibid.*