# THE ROLE AND LIMITATIONS OF TRANSITIONAL JUSTICE IN ADDRESSING THE DILEMMA OF CHILD SOLDIER ACCOUNTABILITY: THE CASES OF SIERRA LEONE AND UGANDA

Mark Andrew Hetzel
HTZMAR002
Supervisor: Emeritus Professor André du Toit

Faculty of the Humanities
University of Cape Town
2010



A minor dissertation submitted in partial fulfillment of the requirements for the award of the degree of Master in Philosophy – Justice and Transformation.

**COMPULSORY DECLARATION**

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

Signature: signature removed Date: 12 FEB 2010

**Acknowledgments**

I would like to express my deepest gratitude to my Supervisor, Emeritus Professor André du Toit, without whom I would have had trouble knowing where to start this project let alone where to go with it. His patience, consistency, and vision have been invaluable to me and to this product of my research process. Through his guidance I have come to further understand and deeply respect the vital importance of transitional justice work.

A very special thanks also goes to everyone else who has helped me through this intense albeit profoundly enriching experience. To my editors – Heidi Nast, Paul Daanen, Natalie Simon, Bill Hetzel, and Maia Wright – thank you for your time, energy, and eyes. To my family and friends, especially Andrea, Bill, and Paul Hetzel – thank you for supporting me unconditionally, even in my darkest hours. Thanks also to Rosalie Richfield for the best administrative assistance one could ask for. And lastly, thanks to Maya Marshak for running the final leg of the race.

*In loving memory of Phillip Gregory Viator*.

## Abstract

In this mini-dissertation I investigate ways in which the accountability of child soldiers, themselves the victims of internal wars, has been addressed for atrocities they committed or in which they have been complicit. In the context of transitional justice this raises opposite and even contradictory concerns: as victims of human rights violations child soldiers require protection, but as perpetrators of human rights violations the same child soldiers need to be held accountable for their actions. More specifically I look at the application of transitional justice mechanisms to this dilemma of child soldier accountability in Sierra Leone and Uganda. In Sierra Leone between 5,000 and 10,000 children were recruited for use in combat by both state and rebel forces.[1] In Uganda an estimated 25,000 children were forcibly abducted by the Lord's Resistance Army alone.[2] As punitive judicial processes of the Special Court for Sierra Leone (SCSL) and the International Criminal Court (ICC) were put in place to try individuals with "the greatest responsibility for serious violations" or those deemed guilty of "the most serious crimes," the Sierra Leone Truth and Reconciliation Commission (SLTRC) and traditional justice mechanisms in Uganda were elected to address the plight of child soldiers in light of their status as both victims and perpetrators. My primary research question therefore is, how and to what extent was child soldier accountability, along with recognition of the need of child soldiers to be protected as victims of human rights violations, addressed in the transitional justice applications of the SLTRC in Sierra Leone and traditional justice in Uganda? Recognizing the possibility that the needs of child soldiers for protections might preclude effectively holding them accountable for their actions my secondary research question is, how *could* a coherent and effective approach in principle be devised to address both of these concerns? In setting up my investigation I provide a rigorous overview of the development of the emerging international consensus against child soldiering that has come to conceive child soldiers primarily as victims. I note the achievements that have been made in regards to provisions for the protection of child soldiers but also the important issues these have raised with regard to holding them accountable. The implications of the requirement for the voluntary participation of child soldiers in truth-seeking and reconciliation mechanisms is discussed. My investigation into the application of transitional justice mechanisms for child soldiers thus takes the form of country case studies of both Sierra Leone and Uganda. As a literature-based endeavor, my project consists of primary and secondary accounts relevant to the pursuit of accountability for child soldiers through transitional justice mechanisms. I conclude that in effect accountability for child soldiers was *not* pursued in these cases, at least not in any systematic way. Given the voluntary nature of the respective applications of transitional justice in Sierra Leone and Uganda it proved not possible to ensure that children responsible for, or complicit in, serious human rights abuse would participate in these processes, much less assume responsibility for the crimes they committed. Furthermore I conclude that the new voluntary standard precludes holding child soldiers accountable and therefore actually serves to foster and sustain the prevailing culture of impunity in their regard.




[1] Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.

[2] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.

## TABLE OF CONTENTS

**BIBLIOGRAPHY**

## GLOSSARY OF ABBREVIATIONS

| | |
|---|---|
| AAR | Agreement on Accountability and Reconciliation |
| ACRWC | African Charter on the Rights and Welfare of the Child |
| AFRC | Armed Forces Revolutionary Council |
| ANPPCAN | African Network for the Prevention and Protection Against Child Abuse and Neglect |
| APC | All People's Party |
| ARLPI | Acholi Religious Leaders Peace Initiative |
| AU | African Union |
| CCP | Commission for the Consolidation of Peace |
| CRC | Convention on the Rights of the Child |
| GoU | Government of Uganda |
| GUSCO | Gulu Save the Children Organization |
| HSM | Holy Spirit Movement |
| HSMF | Holy Spirit Mobile Forces |
| ICC | International Criminal Court |
| ICRC | International Committee of the Red Cross |
| ICTJ | International Center for Transitional Justice |
| IHL | International Humanitarian Law |
| IHRL | International Human Rights Law |
| ILO | International Labour Organization |
| LRA | Lord's Resistance Army |
| NPRC | National Provisional Ruling Council |
| NRM/A | National Resistance Movement/Army |
| OAU | Organization for African Unity |
| RUF | Revolutionary United Front |
| SCSL | Special Court for Sierra Leone |
| SLTRC | Sierra Leone Truth and Reconciliation Commission |
| UN | United Nations |
| UNICEF | United Nations Children's Fund |
| UPDF/A | Uganda People's Democratic Forces/Army |

## Chapter 1. INTRODUCTION

### 1.1 The Problem of Child Soldiers

The military involvement of children is not new. Historical accounts trace the use of child soldiers as far back as the 8th century BC[3] while the practice was referenced in Biblical accounts, Egyptian art, and Greek texts. Among the most prominent historical instances of child soldiering are the Children's Crusade of 1212 and the *Hitler Jugend* (Hitler Youth) of Germany's Third Reich.[4] As Singer notes however, "[i]n absolutely no cases were traditional tribes or ancient civilizations reliant on fighting forces made up of young boys and girls."[5] Until recently, children around the world were excluded from directly participating in conflict as "a general rule" with only "isolated instances" in which this was not the case.[6] In the modern era, conversely, a dramatic shift in the nature of warfare – to what has been termed "total war"[7] – has challenged the rule of children's exclusion from combat. Similarly threatened is the long-held "law of the innocents" of *jus in bello* (laws in war) that prioritized the protection of civilians, foremost women and children, from the effects of war.[8] Twum-Danso writes,

> "The post-Cold War period has been marked by a dramatic change in the nature of armed conflict globally as most wars are now intra-state rather than inter-state. This has resulted in the blurring of the distinction between combatants and civilians as communities are now at the heart of warfare. Furthermore, these conflicts tend to linger with escalations and de-escalations thereby prolonging violence and instability, and this, in turn, leads to an increased casualty in adult men. This factor encourages warring factions to turn to children to fill these vacant military roles."[9]

The increasing prevalence and evolving nature of child soldiering has become a notable feature of the contemporary world. By the end of 2007 the military recruitment and deployment of children (under age 18) into conflict situations was taking place in at least



---

[3] Disarmament Committee. 2007. "Child Disarmament," accessed 11th December 2008 at http://www.semmuna.org/Background%20Papers/2007disec.doc.
[4] Kennell, N. 1995. The Gymnasium of Virtue: Education and Culture in Ancient Sparta. Chapel Hill, NC: UNC Press, 5; Twum-Danso, A. 2003. Africa's Young Soldiers: The Co-option of Childhood. Pretoria: Institute for Security Studies, 17.
[5] Singer, P. 2005. Children at War. New York: Pantheon Books, 10.
[6] Ibid, 11, 15.
[7] Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management, 12.
[8] Singer, P. 2005. Children at War. New York: Pantheon Books, 4-5.
[9] Twum-Danso, A. 2003. Africa's Young Soldiers: The Co-option of Childhood. Pretoria: Institute for Security Studies, 13.

86 countries or territories worldwide.[10] Of around 300,000 children directly involved in 30 conflicts globally in 2001, approximately 80% were below the age of 15, many as young as seven or eight.[11] As of 2003 at least 120,000 child soldiers – over a third of the international total – were found in Africa alone.[12] To date the countries most affected by the child soldiering problem and where children have been recruited and used are Algeria, Angola, Burundi, Chad, Congo-Brazzaville, Côte d'Ivoire, the Democratic Republic of Congo, Ethiopia, Liberia, Moçambique, Rwanda, Sierra Leone, Sudan, and Uganda.[13] Moreover this is the case despite the adoption of the African Charter on the Rights and Welfare of the Child in 1999, the only regional agreement in the world prohibiting the use of under-18s in either active or supporting roles in armed combat.[14] In this study I will focus on the phenomenon of child soldiers in two prominent African cases, Sierra Leone and Uganda.

There are multiple causes for the high levels of child soldiering in Africa, most linked to the changing nature of modern warfare although intensified by much of the continent's political, economic, and health circumstances not to mention factors specific to African children themselves. While the number of civil wars around the world had doubled since the end of the Cold War by 2003[15], armed conflict was occurring in almost half of African countries: 24 of 53.[16] Collier argues that politics in mineral-rich African nations focus largely on the control of mineral revenues often resulting in corruption and violent governance and are a main contributing factor to Africa's steady increase in civil war.[17] Poverty, lack of opportunity, high orphan rates and displacement have also been cited



[10] Coalition to Stop the Use of Child Soldiers. 2008. Introduction to "Child Soldiers Global Report 2008," accessed 1st December 2009 at http://www.childsoldiersglobalreport.org/introduction.
[11] McKay, S. and D. Mazurana. 2001. Girls in Militaries, Paramilitaries, and Armed Opposition Groups, cited in A. Veale and A. Stavrou. 2003. Violence, Reconciliation and Identity: The Reintegration of Lord's Resistance Army Child Abductees in Northern Uganda. Pretoria: Institute for Security Studies, 7.
[12] Twum-Danso, A. 2003. Africa's Young Soldiers: The Co-option of Childhood. Pretoria: Institute for Security Studies, 9.
[13] Coalition to Stop the Use of Child Soldiers. 2002. "The Use of Children as Soldiers in Africa: A Country Analysis of Child Recruitment and Participation in Armed Conflict," accessed 1st December 2009 at http://www.reliefweb.int/library/documents/chilsold.htm; Coalition to Stop the Use of Child Soldiers. 2008. Introduction to "Child Soldiers Global Report 2008," accessed 1st December 2009 at http://www.childsoldiersglobalreport.org/introduction.
[14] Integrated Regional Information Network(IRIN). 2003. "Too small to be fighting anyone's war," accessed 12th December 2008 at http://www.irinnews.org/IndepthMain.aspx?IndepthId=24&ReportId=66280.
[15] Singer, P. 2005. Children at War. New York: Pantheon Books, 43.
[16] International Crisis Group. 2003. "CrisisWatch," November.
[17] Collier, P. 2004. "Natural Resources and Conflict in Africa," accessed 10th December 2008 at http://www.crimesofwar.org/africa-mag/afr_04_collier.html.

as main causes for the proliferation of child soldiers in Africa.[18] Other relevant factors include crises of governance. Coincidentally or not, half of African governments are autocratic and most of those govern in mineral-rich nations.[19] Nathan posits that authoritarian rule is but one root cause of the increase in intra-state war in Africa – alternatively he cites "the exclusion of minorities from governance, socio-economic deprivation combined with inequity, and weak states that lack the institutional capacity to manage normal political and social conflict."[20]

No matter the causes however, increasing African armed conflict has provided ample occasions for children to become involved as soldiers. Entering service either through voluntary or forced recruitment, child soldiers commonly act as porters, guards, messengers, spies, in laying and clearing landmines, and when they are deemed capable, often around age ten, in active combat roles. Girl soldiers have also frequently been made to provide sexual services for older soldiers.[21] The post-Cold War influx of "small arms" – including "rifles, grenades, light machine guns, light mortars, land mines, and other weapons that are 'man-portable'"[22] – has made it possible for children to participate in what has until recently been mainly an adult domain.[23] As of 2006, an estimated 100 million small arms were in circulation in Africa.[24] One of the more readily available and deadly assault rifles used by child soldiers, AK-47s are available for as little as US$6 or can be traded for a chicken, a goat, or a sack of grain.[25] Due to the simplicity of the AK-47, 10 year-old recruits can learn to strip and reassemble them.[26]

What is evident, though, are the disastrous effects of child soldiering, and not only on those directly involved. Children born in war zones, besides being exposed to fighting and related atrocities, usually lack basic necessities such as schools, health care,



[18] Landau, D. No date. "The Use of Child Soldiers." Zürich: International Relations and Security Network, 2.
[19] Amosu, A. 2007. Democracy in Sub-Saharan Africa: Trends and Transition. Accessed 14th July 2008 at http://www.soros.org/initiatives/washington/news/amosu_20070717/amosu_20070717.pdf.
[20] Nathan, L. 2001. "The Four Horseman of the Apocalypse: The Structural Causes of Crisis and Violence in Africa," in Track Two, 10(2), 4.
[21] Twum-Danso, A. 2003. Africa's Young Soldiers: The Co-option of Childhood. Pretoria: Institute for Security Studies, 29.
[22] Singer, P. 2005. Children at War. New York: Pantheon Books, 45.
[23] Machel, G. 2001. The Impact of War on Children. New York: Palgrave, 2.
[24] Amoa, B. 2006. "The Role of Small Arms in African Civil Wars." Global Policy Forum, accessed 14th July 2008 at http://www.globalpolicy.org/security/smallarms/articles/2006/0921roleinafrica.htm.
[25] Fleshman, M. 2001. "Small Arms in Africa: Counting the Cost of Gun Violence," in Africa Recovery. Accessed 20th July 2008 at http://www.un.org/ecosocdev/geninfo/afrec/vol15no4/154arms.htm.
[26] UNICEF. 1996. "Children as Soldiers," accessed 12th November 2009 at http://www.unicef.org/sowc96/2csoldrs.htm.

adequate shelter, water, and food while experiencing disrupted family relationships often with high levels of family violence. Many war-affected children, as they learn to accept violent behavior as a normal part of life, have been noted to frequently develop pessimistic and disempowered outlooks that communities with lessened abilities to support healthy cognitive and social development have trouble counterbalancing.[27] Similarly adding to their vulnerability, civil war has also left many African children without parents. In Angola alone, almost a million children lost one parent and 300,000 lost both parents to war.[28] The traumatic effects of AIDS have likewise orphaned some 11 million children in sub-Saharan Africa, considered the epicenter of the child soldier problem.[29] Singer writes of orphans, "malnourished, stigmatized, and vulnerable to physical and sexual abuse, this mass of disconnected and disaffected children is particularly at risk of being exploited as child soldiers."[30] Lastly, forced displacement caused by war produced almost 1.5 million African child refugees as of 2000.[31] By 2008 there were an additional 11.6 million internally displaced persons, notably the lowest level of the decade, of which 80% were women and children.[32]

At the crux of these developments are widely prevalent practices of the forced recruitment of child soldiers. While forced recruitment by armed groups has long targeted refugees, it has also become one of the main threats facing internally displaced communities in Africa in particular through the forced recruitment of children.[33] Capitalizing on the vulnerabilities of African children, armed groups and state forces alike have turned to the use of child soldiers as they have run out of adult soldiers during oft-prolonged civil conflict.[34] Commanders have noted that children are "easier to



[27] Smith, D. 2001. "Children in the Heat of War," Monitor on Psychology, 32(8), 29.
[28] IRIN. 2001. "Children of War," 21 June.
[29] UN. No date. "AIDS Orphans in Sub-Saharan Africa: A Looming Threat to Future Generations," accessed 12th November 2009 at http://www.un.org/events/tenstories/06/story.asp?storyID=400#; Singer, P. 2002. "AIDS and International Security," Survival, 44(1), 145-58.
[30] Singer, P. 2005. Children at War. New York: Pantheon Books, 42.
[31] UNHCR. 2001. "Refugee Children in Africa: Trends and Patterns in the Refugee Population in Africa Below the Age of 18 Years, 2000," 3.
[32] Internal Displacement Monitoring Centre. 2009. "Internal Displacement: Global Overview of Trends and Developments in 2008," 9; UN. 2009. "Special Concerns," accessed 12th November 2009 at http://www.un.org/rights/concerns.htm.
[33] UNHCR. 1994. "Refugee Children: Guidelines on Protection and Care," 79; Internal Displacement Monitoring Centre. 2009. "Internal Displacement: Global Overview of Trends and Developments in 2008," 35.
[34] Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management, 12.

condition into fearless killing and unthinking obedience."[35] Landau adds, "[T]here are few incentives that might cause children to refrain from joining armed groups, such as alternative educational or economic opportunities and intact families and communities."[36] This said, forcible methods of recruitment are on the increase as evidenced in abductions by both the Revolutionary United Front (RUF) in Sierra Leone and the Lord's Resistance Army (LRA) of northern Uganda, the two cases that I will deal with in depth. McIntyre writes that in fact the notion of "voluntary" service within these two groups among others is questionable owing to the external circumstances facing targeted children:

> "The idea of voluntarism among children, particularly in the context of the highly publicized forced recruitment methods of groups such as Uganda's Lord's Resistance Army and Sierra Leone's Revolutionary United Front, has come into question. Armed coercive methods aside, the decisions of children and youth joining armed groups are subject to social, political and economic pressures that cast doubt on the degree of free choice exercised."[37]

Regardless of the nature of their entry into armed service, however, child soldiers have been responsible for some of the worst crimes in African wars. In Sierra Leone, they were found to be involved in killing, amputation, mutilation, extortion, looting and destruction, rape and sexual violence, abduction and forced recruitment, forced displacement, forced detention, assault, torture, beating and forced labor.[38] In Uganda, as the overwhelming majority of the LRA's forces, they have been complicit in "a pattern of brutalization of civilians by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements."[39] In addition to the destruction that child soldiers have contributed through their service, recent studies have highlighted the negative consequences of child soldiering on the children themselves as "a human capital loss due to time away from schooling and employment, and psychological distress concentrated in those that experience the most



---

[35] McIntyre, A. and T. Weiss. 2003. "Exploring Small Arms Demand: A Youth Perspective." Pretoria: Institute for Security Studies, 16.
[36] Landau, D. No date. "The Use of Child Soldiers." Zürich: International Relations and Security Network, 1.
[37] McIntyre, A. 2003. "Rights, Root Causes and Recruitment: The Youth Factor in Africa's Armed Conflict," in African Security Review, 12(2), 4.
[38] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," Paragraph 228. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml.
[39] International Criminal Court(ICC). 2005. "Warrant of Arrest Unsealed Against Five LRA Commanders," press release accessed 19th March 2009 at www.icc.cpi.int.

violence."[40] Dodge and Raundalen highlight the effect on child soldiers of "psychological reaction patterns ranging from aggression and revenge (an aspect which we think is exaggerated) to anxiety, fear, grief and depression."[41] They add that this trauma "may affect the individual child and, as a consequence, the society for decades."[42] Regarding the dramatic challenge presented by child soldiering in Africa, both for local communities and for child soldiers themselves, the U.N. Secretary-General's Special Representative for Children and Armed Conflict Olara Otunnu writes,

> "Today's warfare in Africa, especially the exploitation, abuse and use of children, is nothing short of a process of self-destruction...This isn't a small matter. This goes to the very heart of whether or not in large portions of Africa there is promise of a future in those societies."[43]

### 1.2 Child Soldiers as both Victims and Perpetrators in the Development of International and Regional Law

Child soldiering in Africa has continued to proliferate despite attempts to confront it by developments in international and regional law. Addressing the child soldier problem is especially complicated by the fact that child soldiers have been recognized as both victims and perpetrators in armed conflict. Focusing on the rights of child soldiers as victims, many international organizations including the International Committee of the Red Cross (ICRC) and the United Nations Children's Fund (UNICEF), have pursued the development of protections for child soldiers – against their recruitment, towards a child-rights framework should prosecutions occur, and with an emphasis on their reintegration and rehabilitation needs in the interest of peace. On the other hand many victimized communities, recognizing that child soldiers are responsible for, or at least complicit in, some of the most serious crimes committed against them, rather prioritize the need for justice regardless of the fact that the accused are children.[44] Most national legal systems allow for the prosecution of juvenile perpetrators of crime if it is found "necessary and



[40] Blattman, C. and J. Annan. 2007. "The Consequences of Child Soldiering." Sussex: Households in Conflict Network, 23.
[41] Dodge, C. and M. Raundalen. 1991. Reaching Children in War: Sudan, Uganda and Mozambique. Dhaka: Sigma Forlag, 28.
[42] Ibid, 21.
[43] Otunnu, O. 2001. "The Road from Soldier Back to Child," in Africa Recovery, 15(3), 10.
[44] Popovski, V. 2007. Quoted in S. Leahy. 2007. "Prosecuting Child Soldiers For Their Own Safety," accessed 3rd January 2010 at http://stephenleahy.net/non-environmental-journalism/prosecuting-child-soldiers-for-their-own-safety/.

opportune."[45] While there has been substantial advancement made in the development of international and regional protections for children affected by war, finding an approach to hold child soldiers accountable for their crimes has been much more problematic. Even defining child soldiers within international law has been unsuccessful. Fox writes,

> "[A]lthough [it] has become quite clear in regard to who is a child, as well as what constitutes a combatant or soldier, there is no such clear understanding of or category for someone who is both a child *and* a soldier. The very concept of *child-soldier* or *child-combatant* does not exist within law, with the exception of provisions made for captured, armed minors."[46]

Within the traditional international laws of war, the position had been clear-cut: should children participate in armed conflict,

> "they lose their inviolability as non-combatants; indeed, they become 'legitimate' military targets, individuals whose death or disablement result in that weakening of the armed forces of the enemy which is the only legitimate aim in war."[47]

But in that case they could hardly be recognized as victims of these internal wars as the growing international consensus had come to regard them.

At a theoretical level what is at stake is the problem of recognizing the agency of child soldiers as both victims and perpetrators of crimes against humanity. To the extent that they are accorded a victim status, and in pursuing the protections this status requires, it seems that this must imply a denial of their agency. However, this is not the assumption of victimized communities who face the brunt of child soldier attacks and call for justice, while anthropological and social work literature also suggest that children may have more agency than international human rights and criminal law assumes.[48]

In more practical terms the issue of defining the threshold of agency tends to become the vexed question of setting an appropriate age limit. If child soldiers are deemed more victims than perpetrators, then work in international and regional law to raise the



---

[45] Popovski, V. and K. Arts. 2006. "International Criminal Accountability and Children's Rights," United Nations University, Policy Brief 4, 6.
[46] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 30.
[47] Cohn, I. and G. Goodwin. 1993. "Child Soldiers." Geneva: Henry Durant Institute, 45.
[48] Drumbl, A. 2009. "Child Soldiers, Individual Agency, and International Criminal Law," accessed 5th January 2009 at http://www.allacademic.com//meta/p_mla_apa_research_citation/3/1/0/5/7/pages310573/p310573-1.php.

minimum age limit for the acceptable recruitment and use of children is simultaneously a pursuit to determine the age of criminal accountability for child soldiers. As such, it has implications for accountability processes that might be applied in their regard. Presumably child soldiers below the acceptable age of recruitment and use are entitled to protections that respect their victim status. At what age the duty to prosecute applies to crimes committed by children remains unresolved.[49] In Sierra Leone for example, while children are defined as anyone under age 18, the age of criminal responsibility is set at age 14.[50] In Uganda the definition of a child is likewise 18 however age 12 is the age of criminal responsibility.[51] As a result of these discrepancies that exist throughout the African continent and around the world, the legal advancements made with regard to child soldiering have been largely confined to the recruitment of children for armed service, both in extending the age of protection of children and in holding recruiters accountable. Nonetheless, establishing an international consensus on the limit of child recruitment and use, first set at 15 in the Convention on the Rights of the Child(CRC)[52], implies that child perpetrators who are beneath the limit at the time of the alleged offense are above all victims due to a lack of mental maturity and agency:

> "[T]he prohibition on both forced recruitment and use of children under age fifteen in direct hostilities suggests that the States Party to these treaties believed children under fifteen do not possess the mental maturity to express valid consent to join an armed group. If children under fifteen are not sufficiently mature to consent to engage directly in armed conflict and must be protected from the dangers of war under the CRC, they arguably are more like victims of armed conflicts than its perpetrators."[53]

It is this issue, the extent to which child soldiers are either victims or perpetrators, and the related challenge of balancing their needs for protection and accountability, which will be the basis for my present inquiry.



### 1.3 Problem Statement and Guiding Questions

In this mini-dissertation I will investigate ways in which the accountability of child soldiers, themselves the victims of internal wars, have been addressed for atrocities they

[49] Grossman, N. 2007. "Rehabilitation or Revenge: Prosecuting Child Soldiers for Human Rights Violations," in Georgetown Journal of International Law. 38(2), 340-2.
[50] Sierra Leone. 2007. "The Child Right Act," Articles 2, 70.
[51] Uganda. 2000. "The Children Act," Articles 2, 88.
[52] Grossman, N. 2007. "Rehabilitation or Revenge: Prosecuting Child Soldiers for Human Rights Violations," in Georgetown Journal of International Law. 38(2), 332.
[53] Ibid, 343.

committed or in which they have been complicit. In the context of transitional justice this raises opposite and even contradictory concerns: as victims of human rights violations child soldiers require protection, but as perpetrators of human rights violations the same child soldiers need to be held accountable for their actions. More specifically I will look at the application of transitional justice mechanisms to this dilemma of child soldier accountability in Sierra Leone and Uganda. It should be noted that due to the ongoing nature of conflict in Uganda, how to address the situation of child soldiers by means of transitional justice tools to date remains only in the planning phase. In Sierra Leone between 5,000 and 10,000 children were recruited for use in combat by both state and rebel forces.[54] In Uganda an estimated 25,000 children were forcibly abducted by the Lord's Resistance Army alone.[55] In both of these cases various mechanisms of transitional justice were chosen of which some were more suited to securing the protection of child soldiers as victims and others with the objective of holding them accountable for the atrocities in which they had been involved.

According to 2004's UN "Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies," transitional justice

> "comprises the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof."[56]

UNICEF adds that the processes of transitional justice "are based on a human rights approach and rely on international human rights and humanitarian law in demanding that states halt, investigate, punish, repair, and prevent abuses."[57] In his preface to the Kritz volumes on *Transitional Justice* Nelson Mandela alludes to how transitional justice mechanisms can be employed to address accountability while attending to the needs of victims. Citing their application after the end of apartheid in South Africa Mandela posits,



[54] Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.
[55] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[56] UN. 2004. "Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies." Report S/2004/616, Article 3(8).
[57] UNICEF. 2008. "Expert Discussion on Children and Transitional Justice." Florence: UNICEF Innocenti Reseach Centre, 4.

"They have all had to devise mechanisms not only for handling past human rights violations, but also to ensure that the dignity of victims, survivors, and relatives is restored."[58] As such the victim-focused tools of transitional justice are intended to address the local context and political realities of societies in transition that call for new legal and political norms to be established. The question is how such alternative justice tools can also be utilized to aid in achieving accountability keeping in mind the final aim of statewide reconciliation. Punitive justice mechanisms are considered to be problematic in that they do not take into consideration the political and social dynamics of conflict, nor the process of building peace after conflict has ended.[59]

At the same time it is far from clear, certainly in the case of child soldiers as both victims and perpetrators of human rights violations, to what extent transitional justice processes are capable of addressing the accountability of these children. What is not in dispute is the prioritization of child soldiers as victims in need of reintegration. As Lumsden writes, "*[t]he* challenge facing the international community is how to rehabilitate the survivors of war and other trauma, and in particular how to reach the fraction who are potentially violent."[60] This further implies an emphasis on protections for child soldiers rather than an intention to pursue their accountability. It is important then to ask how transitional justice mechanisms are meant to address the issue of holding child soldiers responsible for the serious crimes they committed.

In Sierra Leone, the transitional justice mechanisms employed to address accountability were the Special Court for Sierra Leone (SCSL) and the Sierra Leone Truth and Reconciliation Commission (SLTRC). With the assistance of the United Nations the SCSL was established in 2003 "to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law."[61] Its initial mandate included prosecution of child soldiers between the ages of 15 and 18 within a juvenile justice framework with the goal of rehabilitation and



[58] Mandela, N. 1995. In Transitional Justice: How Emerging Democracies Reckon with Former Regimes. N. Kritz(ed). Washington, D.C.: United States Institute of Peace Press, vi.
[59] Mawson, A. 2004. "Children, Impunity and Justice: Some Dilemmas from Northern Uganda," in J. Boyden and J. de Berry(eds). 2004. Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement. Oxford, UK: Berghahn Books, 130.
[60] Lumsden, M. 1997. "Breaking the Cycle of Violence," in Journal of Peace Research, 34(4), 377.
[61] Special Court for Sierra Leone. 2002. "Statute of the Special Court for Sierra Leone," Article 1(1).

reintegration.[62] In the end however the Special Court chose not to fulfill this mandate. Responsibility for dealing with child soldiers and their accountability was transferred to the SLTRC that provided "an alternative to judicial prosecution for atrocities."[63] The SLTRC was established according to the Abuja Accord between the government of Sierra Leone and the RUF "to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation."[64]

In the process of setting up the SLTRC, its specific role in pursuing accountability for abuses committed by child soldiers was not illuminated. As a non-prosecutorial and quasi-judicial mechanism it could not function to achieve retributive justice. At best it could pursue accountability for abuses at the level of a truth process. A question then is whether the SLTRC was in fact conceived as a truth process linked to establishing accountability. Its approach to child soldiers puts this into question from the outset: in the founding "Truth and Reconciliation Commission Act of 2000" the only mention of child perpetrators places them on par with other war-affected children and victims of sexual abuse whose interests the SLTRC was to take into account.[65] This is further complicated by the fact that a general amnesty, including child soldiers, had previously been granted according to the Abuja Peace Accord.

In Uganda, the transitional justice processes I will highlight are the International Criminal Court (ICC) and traditional justice mechanisms. Requested by the Ugandan government, the ICC began its work in Uganda in 2004 in accordance with the Rome Statute, "to exercise its jurisdiction over persons for the most serious crimes of international concern."[66] As such its focus was on holding top LRA leaders accountable for their serious crimes. Unlike the SCSL, the ICC in Uganda as accorded by the Rome Statute did not have jurisdiction "over any person who was under the age of 18 at the time of the alleged commission of a crime."[67] By implication it therefore would not try child soldiers.



[62] Ibid, Article 7(1).
[63] Truth and Reconciliation Commission of Sierra Leone. 2004. "Volume 1, Introduction," Article 3.1.
[64] Sierra Leone. 1999. "Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Article 26.
[65] Sierra Leone. 2000. "The Truth and Reconciliation Commission Act of 2000," Article 7(4).
[66] ICC. 1998. "Rome Statute of the International Criminal Court," Article 1.
[67] Ibid, Article 26.

The Agreement on Accountability and Reconciliation (AAR) signed between the Government of Uganda (GoU) and the Lord's Resistance Army (LRA) in 2007 stated that accountability for lower-level perpetrators, which in practice included child soldiers, would be pursued through alternative means. As a framework agreement, the AAR was meant to provide guidance for more detailed subsequent legislation. Traditional justice mechanisms were prioritized for application in this regard "as a central part of the framework for accountability and reconciliation."[68] Again however the role of these transitional justice mechanisms specifically in addressing child soldier accountability was not mentioned. Furthermore, as child soldiers had previously been granted political amnesty along with other rank-and-file perpetrators under the Amnesty Act of 2000, the question arises to what extent their accountability was to be pursued in the subsequent transitional justice processes.

While the scenarios involved in the application of transitional justice mechanisms in Sierra Leone and Uganda were dramatically different, the respective approaches to the issue of child soldier accountability were nonetheless to be quite similar. As punitive judicial processes of the SCSL and the ICC were put in place to try individuals with "the greatest responsibility for serious violations" or those deemed guilty of "the most serious crimes," in both cases non-judicial restorative processes were elected to address child soldiers in light of their status as both victims and perpetrators.

With a growing international consensus around child soldiers being more victims than perpetrators while prioritizing prosecution for the crime of their recruitment and use, it is unsurprising that child soldier accountability was not to be pursued as vigorously as that of top military leaders. In line with this view, the accountability of child soldiers must certainly take lower priority than that of their recruiters and the organizers of mass atrocities. This was particularly poignant in the case of the ongoing conflict in Uganda where prosecuting top leaders was held by some as a way to end conflict with the LRA.

That both the SCSL and the ICC in Uganda did not try child soldiers thus reflects the international consensus that, although child soldier accountability is not to be ignored, it must be pursued while still observing child rights, but without unnecessarily resorting to

[68] Uganda. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Article 3.1.

judicial proceedings, and with the goal of reintegration and rehabilitation as stated first in the Convention on the Rights of the Child. Locally, despite the push of some communities for accountability regardless of the perpetrator's age, there is recognition that the end goal regarding child soldiers, most of whom come from those same communities, must be their reintegration and rehabilitation.

Given the realities facing post-conflict societies who themselves must rebuild both socially and economically after prolonged periods of violence and devastation, the importance of respecting the rights of child soldiers as victims is understandable. At the same time however, demands for justice by those communities highlight that indeed their own rights must be addressed as victims of child soldiers' committed atrocities. A further question then is how and to what extent child soldier accountability can be addressed in ways that respect both the rights of child soldiers *and* those of the communities they victimized.

Brought to bear on the case studies of the present investigation, my general problem statement can be formulated in terms of more specific research questions: How and to what extent was child soldier accountability, along with recognition of the need of child soldiers to be protected as victims of human rights violations, addressed in the transitional justice applications of the SLTRC in Sierra Leone and traditional justice in Uganda? While the SLTRC and Ugandan traditional justice mechanisms were given overall responsibility for balancing the needs for both accountability and protections in the case of child soldiers, it was not specified how this was to be achieved in practice. Rather, the SLTRC merely states that child soldiers were to be approached like other victims of conflict including arguably the worst-affected. The AAR in its turn posits that child soldiers were to undergo the same accountability processes as other rank-and-file soldiers who, like them, had been granted amnesty already.

An obvious subsidiary question seems appropriate: not how and to what extent was accountability for child soldiers to be addressed but rather, with the opposing considerations of providing child soldiers necessary protections while pursuing their accountability, *could* a coherent and effective approach be devised that in fact addresses both of these concerns? By studying the processes that led to the use of the SLTRC in Sierra Leone and traditional justice mechanisms in Uganda as well as those

transitional justice processes themselves, I hope to shed light on what promises to be a continuing challenge to the international community and local communities alike in establishing the relationship between the rights of child soldiers for protections and the need for their accountability while determining how these tensions and possible contradictions can be reconciled in theory and in practice.

The answers to these questions have significant theoretical and political implications some of which are quite contentious. At a theoretical level, the degree that child soldier accountability was to be pursued in Sierra Leone and Uganda reflects the extent to which the rights of child soldiers have been established internationally, regionally, and nationally. Regarding the international sphere it should be noted that this is not only a question of international human rights law but also of the broader "international consensus" expressed by human rights organizations and representatives of civil society. At a political level, it in turn also reflects the extent of the duties imposed on states in regards both to providing protections for child soldiers as victims and to holding them accountable as perpetrators. As the Sierra Leonean and Ugandan case studies represent the first attempts to apply transitional justice to address this aforementioned challenge, they have the potential to be precedent-setting regarding future dealings in the case of child soldiers. For the field of transitional justice this raises the question of how its related mechanisms can in fact be applied to effectively address the dilemma of child soldier accountability.



### 1.3.1 Research Design and Limitations

My investigation into the application of transitional justice mechanisms for child soldiers takes the form of country case studies of both Sierra Leone and Uganda. It occurs within a framework of transitional justice relevant to truth commissions and traditional justice processes in post-conflict societies. Each case study includes a literature review that contextualizes the respective transitional justice approach applied in each setting. While previous work exists which notes the appropriateness of transitional justice to the situation of child soldiers, much of this literature is quite generalized and makes no reference to practical cases. On the other hand, specific applications of traditional justice mechanisms are well-noted. However, this literature focuses overwhelmingly on the goals of rehabilitation, reintegration, and social reconciliation rather than on

accountability. As such, my proposed enquiry into the specific applications of transitional justice mechanisms towards the accountability of child soldiers in Sierra Leone and Uganda may be able to contribute to this literature.

As a literature-based endeavor, my project consists of primary and secondary accounts relevant to the pursuit of accountability for child soldiers through transitional justice mechanisms. I utilize secondary sources to discuss the relevant histories as well as the emergence and extent of the phenomenon of child soldiering in each case. I likewise use secondary sources to investigate some high-profile challenges to the pursuit of accountability for child soldiers including the peace-versus-justice debate in the Uganda case study. Due to the recent nature of the culmination of both the SLTRC and the signing of the AAR in Uganda however there is little secondary literature available that provides critical analysis, particularly with application to the child soldier issue. Therefore in both these cases I rely largely on primary sources and descriptive reports as a basis for investigation. While this is a limitation to my study it is also a significant strength in that this account and its analysis are pioneering.



### 1.3.2 Project Overview

My project begins with an overview of the development of the international consensus against child soldiering. This serves as the context within which my subsequent investigation of the case studies of Sierra Leone and Uganda takes place. In each case study I begin by looking at the root causes and dynamics of the respective internal conflict highlighting the development of the recruitment and use of child soldiers. In the case of Uganda I turn to a discussion of the peace-versus-justice debate that has not only hindered the resolution of conflict but has notably influenced the pursuit of accountability for child soldiers. Subsequently I look specifically at the phenomenon of child soldiering in both countries noting the role of child soldiers as both victims and perpetrators of serious crimes. In the Sierra Leonean case study I move on to a discussion of the war-ending Abuja Ceasefire Agreement of 2000 that, along with granting amnesty to all perpetrators, set up the SLTRC that was to be used to address the situation of child soldiers. I next discuss the creation of the SCSL in 2002 and investigate its relationship to the SLTRC in pursuing accountability for atrocities committed during wartime. Thereafter I focus on the SLTRC's work and the findings of

its Final Report for my analysis of its attempt to address the accountability of child soldiers. In the Ugandan case study I turn to the official and unofficial approaches to addressing child soldiers throughout the conflict there. I highlight the work of two non-governmental organizations, GUSCO and World Vision, which were involved in providing rehabilitation and reintegration services to child soldiers since 1994. I note the fluctuating stance of President Museveni and the GoU that for most of its tenure utilized child soldiers itself in a largely military approach to the LRA. I then highlight the GoU's community-influenced attempt to achieve peace with the LRA in its offer of amnesty to all combatants in the Amnesty Act of 2000. Thereafter I turn to the GoU's signing of the Optional Protocol to the CRC in 2002 in which they finally agreed to end the use of under-18s in Uganda. Subsequently I discuss the requested involvement of the ICC beginning in 2004 in pursuit of accountability for wartime atrocities. Lastly I move on to an investigation of the 2007 Agreement on Accountability and its subsequent Annexure that stipulated that all lower-level perpetrators including child soldiers were to be held accountable by traditional justice mechanisms on a voluntary basis. In both cases, I conclude by discussing how and to what extent the particular application of transitional justice mechanisms managed to address the issue of child soldier accountability.

## Chapter 2. THE DEVELOPING INTERNATIONAL CONSENSUS AGAINST CHILD SOLDIERING: ADDRESSING ACCOUNTABILITY FOR CHILD SOLDIERS AS BOTH VICTIMS AND PERPETRATORS IN CONFLICT

Dealing with the dilemma of child soldier accountability has been significantly affected by the development of an international consensus against child soldiering that has come to conceive child soldiers primarily as victims. This chapter will serve as an overview of that development, noting the achievements that have been made in regards to provisions for the protection of child soldiers but also the important issues these have raised with regard to holding them accountable. I highlight the legal developments both at the international and at the regional level. However I also investigate the non-legal and non-binding developments that have come to shape approaches to child soldiers globally. This chapter thus situates the issue of child soldiers within the developing framework of international and regional law. Secondly, and more significantly for my purposes, it provides the background necessary to understand the issues that have come to affect the pursuit of child soldier accountability.

### 2.1 The Development of International and Regional Law

The more specific issues and recent developments regarding the position of child soldiers need to be located within the historical background and context of international humanitarian law (IHL). IHL is "a set of international rules, established by treaty or custom [intended to protect] persons and property that are, or may be, affected by armed conflict and limits the rights of parties to a conflict to use methods and means of warfare of their choice." [69] The main treaty source of international humanitarian law is the Geneva Conventions. The Conventions were based on general principles of "just war" in place since medieval times that restricted how warfare could be carried out – limiting the means utilized to the most humane, permitting only minimal force to be used, stipulating that only military targets could be attacked, and protecting vulnerable civilian groups including children.[70] Pushed by the International Committee of the Red Cross (ICRC) the Geneva Conventions were created shortly after the end of World War II in

[69] ICRC. 2003. "International Humanitarian Law and International Human Rights Law," 1.
[70] Bennett, T. 1998. "Using Children in Armed Conflict: A Legitimate African Tradition?" Pretoria: Institute for Security Studies, 4.

1949.[71] The Conventions were intended to address humanitarian problems related to both international and non-international armed conflict.[72] As such they apply in times of war to governments that ratify their terms. As of 2009 they have been ratified by 194 countries making them in effect universally applicable.[73] The Geneva Conventions did not directly address the problem of child soldiers as child participation to that point had only been exceptional. Nonetheless they protected children "as members of the civilian population and therefore, by definition, as non-participants in the armed conflict."[74] Thus the Fourth Convention prohibits the recruitment of all "protected persons," which included children, into "armed or auxiliary forces."[75] Despite the multiple mentions of "children" in its protections, the Geneva Conventions did not clearly define who was to fall within this category. It was however largely implied that children were people under age 18 who were entitled to special considerations and protections. Notably, the Geneva Conventions indirectly created different classes of children based on special considerations that were to be extended, for example "preferential treatment" for those under 15 instead of those under 18.[76]

With the waning of inter-state wars and the rise of wars related to independence movements and new post-colonial states, the 1974-1977 Diplomatic Conference on the Reaffirmation and Development of Humanitarian Law Applicable in Armed Conflict recognized that the Geneva Conventions were insufficiently comprehensive to address contemporary armed conflict.[77] Furthermore, the increasing participation of children in international and non-international wars was now recognized as a humanitarian problem.[78] In 1977 the first and second Additional Protocols to the Geneva Conventions of 1949 henceforth prohibited the recruitment and participation of children under the age of fifteen into armed combat in international conflicts, internal conflicts for the right of self-determination (Protocol I), or high-intensity conflicts between a government and



[71] Rosen. D. 2007. "Child Soldiers, International Humanitarian Law, and the Globalization of Childhood," in American Anthropologist, 109(2), 1; International Committee of the Red Cross(ICRC). 2003. "International Humanitarian Law and International Human Rights Law," 1.
[72] ICRC. 2003. "International Humanitarian Law and International Human Rights Law," 1.
[73] ICRC. 2005. "State Parties/Signatories to the Geneva Conventions of 12 August 1949," accessed 12th December 2009 at http://www.icrc.org/ihlsf/WebSign?ReadForm&id=375&ps=P.
[74] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 1.
[75] UN. 1949. "Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949," Article 51.
[76] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 31.
[77] Ibid, 33.
[78] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 2.

organized armed groups (Protocol II).[79] This was the first time that an age restriction was placed on individuals taking part in war.[80] Regarding the military recruitment of 15 to 18 year-olds, Article 77(2)(c) of the first Protocol emphasizes that "the Parties shall endeavor to give priority to those who are the oldest."[81] Despite this effort to avoid the use of the youngest minors first in the recruitment of children, the cut-off at age 15 has since posed a problem in attempts of international law to prevent the recruitment of under-18s.[82] Moreover, the Protocols only covered direct participation – therefore auxiliary service was still not outlawed. The *voluntary* participation of under-15s was also not prohibited.[83] The ICRC attempted to strengthen the provisions of the Protocol by toughening states' obligations to protect children and by prohibiting *indirect* participation in hostilities.[84] Although some states also petitioned to raise the age of protection to 18, as well as to ban children's indirect participation in armed conflict, these points were rejected "as unrealistic at the time, having regard to the nature of wars of national liberation."[85] As of 2009, Protocol I has been ratified by 169 countries and Protocol II by 165 countries, both including Sierra Leone and Uganda.[86]

In 1989, the United Nations Convention on the Rights of the Child (CRC) updated protections previously extended to children in the Geneva Declaration of the Rights of the Child of 1924 and the Declaration of the Rights of the Child adopted by the U.N. General Assembly in 1959, also recognizing the Universal Declaration of Human Rights



[79]UN. 1977. "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 8 June 1977," Article 77(2)(c); UN. 1977. "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977," Article 4(3)(c).
[80] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 34.
[81]UN. 1977. "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 8 June 1977," Article 77(2)(c).
[82] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 34.
[83] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 2.
[84] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 35.
[85] Cohn, I. and G. Goodwin. 1993. "Child Soldiers." Geneva: Henry Durant Institute, 42.
[86] ICRC. 2009. "State Parties to the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict(Protocol I), 8 June 1977," accessed 12th December 2009 at http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=470&ps=P; ICRC. 2009. "State Parties to the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts(Protocol II), 8 June 1977," accessed 12th December 2009 at http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=475&ps=P.

among other international covenants.[87] At an earlier stage, and prior to the increasing war-related involvement of children with the rise of intra-state armed conflict, the rights of children had primarily been identified within the context of international labor law in protections against exploitation. The 1948 non-binding Universal Declaration of Human Rights for the first time situated child rights within the broader field of human rights law.[88] Differing from IHL in that its legal obligations apply equally both in times of peace and of war, international human rights law (IHRL) "is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain behavior and benefits from government."[89] According to IHRL "all children, regardless of differences in circumstance or social status, deserve equal protection."[90] According to IHL on the other hand, "protection may depend on the nationality of the child and its parents or their relationship to one of the parties to a conflict."[91] IHRL therefore assumes "that children can claim certain individual rights even in adverse situations, transcending border and conflict lines."[92]

With the safety of children as its main concern, the rights-based approach has since defined the work of international organizations with regards to youth under age 18 including child soldiers. Kemper explains that "[t]he moral obligation to protect them derives from a ubiquitous belief that children suffer the most; that they are innocent; and that their welfare lies in the interest of all."[93] This notion of children as innocent has nonetheless presented a conceptual challenge in the pursuit of international protections for child soldiers as a result of their dual victim/perpetrator status.

With the newly defined child-rights-based approach and given the rising involvement of children in global wars, the inclusion of a provision addressing the rights of children in



[87] UN Office of the High Commissioner for Human Rights. 1989. "Convention on the Rights of the Child," Preamble.
[88] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 36.
[89] ICRC. 2003. "International Humanitarian Law and International Human Rights Law," 1.
[90] Bennett, T. 1998. "Using Children in Armed Conflict: A Legitimate African Tradition?" Pretoria: Institute for Security Studies, 7.
[91] Ibid.
[92] Oyat, G. 2004. Coalition to Stop the Use of Child Soldiers; Save the Children, Uganda. Email reply, 4 June 2004, in Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management, 14; Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management, 14.
[93] Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management, 14.

armed conflict was considered essential as the UN began drafting the CRC.[94] This document entered into force with record speed – within less than a year[95] – and is considered groundbreaking for its specific focus on children's rights and the wide range of issues it addresses.[96] Furthermore, it has been ratified by all but two of the world's countries, the United States and Somalia, making it an almost universally accepted human rights treaty.[97] Perhaps the biggest noted weakness of the CRC, however, is that as a human rights document it is limited to addressing states and not any other parties to a conflict.[98] This is particularly poignant given the rise of non-state armed groups within the proliferation of intra-state conflicts. As opposed to IHL, "human rights instruments do not bind non-government entities such as opposition armed forces."[99] This poses an obvious challenge to the pursuit of protections for child soldiers through IHRL, and the CRC specifically, as the majority of child soldiers are recruited by non-state armed groups.[100] Nonetheless, some states and non-governmental organizations saw it as an ideal opportunity to improve the provisions of international law on the question of age and types of recruitment and participation.[101]

Article 1 of the CRC starts by defining a child as "every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier."[102] While respecting the differences among states' legal systems, this also reflects the lack of international consensus on the age of criminal responsibility.[103] Notably Article 3 then posits that "[i]n all actions concerning children…the best interests of the child shall be a primary consideration."[104] (This important point will shortly be further highlighted in discussion of the accountability provisions of the CRC). Article 19 amplifies the "best



[94] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 2.
[95] Arts, K. 2006. "General Introduction: A Child Rights-Based Approach to International Criminal Accountability," in K. Arts and V. Popovski(eds). International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 4.
[96] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 37.
[97] UN. 1989. "Parties/Signatories to the Convention on the Rights of the Child," accessed 12th December 2009 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.
[98] Fox, M. 2005. "Child Soldiers and International Law: Patchwork Gains and Conceptual Debates," in Human Rights Review, 27(4), 38.
[99] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 3.
[100] Withers, L. 2007. "Child Soldiers: How to Engage in Dialogue with Non-State Armed Groups," in C. Bellamy and J. Zermatten(eds). 2007. Realizing the Rights of the Child: Swiss Human Rights Book Vol. 2. Berne: Rüffer and Rub, 227.
[101] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 2.
[102] UN. 1989. "Convention on the Rights of the Child," Article 1.
[103] Grossman, N. 2007. "Rehabilitation or Revenge: Prosecuting Child Soldiers for Human Rights Violations," in Georgetown Journal of International Law. 38(2), 342.
[104] Ibid, Article 3(1).

interests" clause by giving states the responsibility to protect the rights of children. States are to take "all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation."[105] Turning to the issue of age restrictions for the recruitment and use of child soldiers, Article 38 merely reiterates the existing standards of the first Geneva Protocol including the age 15 cut-off for governments in the recruitment and *direct* use of children in hostilities.[106] Although significant attempts were made by the ICRC, Sweden, and Switzerland to retain the age-18 limit for child soldier recruitment and participation, several delegations wanted it changed to 15 in line with IHL and their own national legal systems. In the end efforts to lower the age of protection against child soldiering were defeated by a strong argument by the United States against using the CRC to redefine IHL along with the need to achieve consensus among conflicting states' views.[107]

Coming to the important issue of addressing accountability for child soldiers as both victims and perpetrators in armed conflict, the CRC for the first time in international law turned from the provision of protections against recruitment for child soldiers to their potential prosecution. Article 40(1) of the CRC iterates that although prosecution of child soldiers is acceptable it must take place within a juvenile justice framework:

> "States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and desirability of promoting the child's reintegration and the child's assuming a constructive role in society."[108]

The contents of this precedent were later copied almost verbatim by the African Charter on the Rights and Welfare of the Child. While recognizing the obligation to hold child soldiers accountable for any war crimes, article 40(1) also affirms the importance of protections for child soldiers during accountability processes. Together with the "best interests" clause of Article 3 that extended specifically to courts of law, this attempts to provide a balance between accountability and protection of child soldiers as both

[105] Ibid, Article 19(1).
[106] UN. 1989. "Convention on the Rights of the Child," Article 38(1-3).
[107] Bennett, T. 1998. "Using Children in Armed Conflict: A Legitimate African Tradition?" Pretoria: Institute for Security Studies, 8.
[108] UN. 1989. "Convention on the Rights of the Child," Article 40(1).

perpetrators and victims. Furthermore, reference to the goal of reintegration indicates that in pursuing their accountability, the status of child soldiers as victims will be emphasized. Towards this end, Article 40(3) and 40(3)(b) together call for States Parties

> "to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed penal law, and, in particular: Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected."[109]

While the CRC does not determine what would be considered "appropriate and desirable" conditions for its application, it nonetheless introduces the notion that child soldiers should be addressed through the use of alternative means of accountability. It should be noted that as the age of acceptable recruitment and use of child soldiers at this point was still 15, protections extended by the CRC only applied to child soldiers under age 15.

Recognizing that African interests were being inadequately represented during the drafting of the CRC, a regional meeting was convened by the African Network for the Protection Against Child Abuse and Neglect (ANPPCAN) with support of the UN Children Fund (UNICEF). In this meeting it was recommended that a charter complementing the CRC be developed to address issues facing Africa. As a result, ANPPCAN and the Organization for African Unity (OAU) drafted the African Charter on the Rights and Welfare of the Child (ACRWC) that was adopted in 1990 and entered into force in 1999.[110] To date it has been ratified by 45 of 53 African countries, including Sierra Leone and Uganda.[111] The ACRWC takes note of the critical situation facing "most African children…due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger."[112] Significantly, it is based on the notion that the child, "due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in



[109] Ibid, Article 40(3) and 40(3)(b).
[110] Ankut, P. No date. "The African Charter on the Rights and Welfare of the Child: Linking Principles with Practice." Dakar: Open Society Initiative for West Africa(OSIWA), 2-3; African Union. 1999. "African Charter on the Rights and Welfare of the Child."
[111] African Union. 2009. "List of Countries Which Have Signed, Ratified/Acceded to the African Charter on the Rights and Welfare of the Child," accessed 14th December 2009 at http://www.africa-union.org/root/au/Documents/Treaties/List/African%20Charter%20on%20the%20Rights%20and%20Welfare%20of%20the%20Child.pdf.
[112] African Union. 1999. "African Charter on the Rights and Welfare of the Child," Preamble.

conditions of freedom, dignity and security."[113] The mention of the need for "particular care" and "legal protection" are notable. The ACRWC begins by defining "children" as "every human being below the age of 18 years."[114] Significantly, this determination is set firmly and not left up to states as it had been in the CRC.[115] Furthermore Article 22(2) condemns the recruitment and direct use of children in war.[116] As discussed earlier, this implies that the age of criminal responsibility of child soldiers is 18. Nonetheless this age definition remained a contentious issue. Then, strengthening the rights provisions of the CRC, Article 4(1) states that "[i]n all actions concerning the child undertaken by any person or authority the best interests of the child shall be *the* primary consideration."[117] Specifically regarding accountability processes, Article 17(1) reiterates the juvenile justice standards of the CRC[118] while Article 17(3) establishes the intended goal of those processes:

> "The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation."[119]

The ACRWC makes no mention of avoiding judicial proceedings as did the CRC. Nevertheless, due to its prioritization of the "best interests" of *all* children along with child rights standards in accountability processes with the goal of reintegration it suggests that child soldiers up to age 18 are to be treated foremost as victims of armed conflict.



### 2.2 The Emergent International Consensus against Child Soldiering

Increasing global awareness of the problem of child soldiering has resulted in a series of international declarations and regional measures at various levels. These have enabled both a clearer definition of child soldiers themselves and a better understanding of the problem of child soldiering. They also went some way towards criminalizing the recruitment and use of children as soldiers while stressing the importance of holding those responsible to account. Although many of these measures have no standing in

---

[113] Ibid.
[114] Ibid, Article 2.
[115] No author. 2001. "The African Charter on the Rights and Welfare of the Child Comes into Force," in Journal of African Law, 45(1), 136.
[116] African Union. 1999. "African Charter on the Rights and Welfare of the Child," Article 22(2).
[117] Ibid, Article 4(1). My emphasis.
[118] Ibid, Article 17(1).
[119] Ibid, Article 17(3).

international law they nonetheless indicate a growing global consensus in approaches to the child soldier problem.

In 1997 the NGO Working Group on the Convention of the Rights of the Child and UNICEF conducted a symposium that produced the Cape Town Principles. Reflecting the push of international non-governmental organizations working on the issue of child soldiers, the Principles were an attempt "to develop strategies for preventing the recruitment of children – in particular for establishing 18 as the minimum age of recruitment – and for demobilizing child soldiers and helping them to reintegrate into society."[120] They amounted to a set of recommended actions "to be taken by governments and communities in affected countries to end this violation of children's rights."[121] For one they produced a more progressive definition of child soldiers that raises the bar significantly on previous international standards:

> "Any person under 18 years of age who is part of any kind of regular or irregular armed force in any capacity, including but not limited to cooks, porters, messengers and those accompanying such groups, other than purely as family members. It includes girls recruited for sexual purposes and forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms."[122]

In addition to this "straight-18" approach, the Cape Town Principles thus also advocated an extension of the definition of child soldiers to include even those indirectly involved in conflict. While recommending the formation of an international court, the Principles notably also proposed that that court's jurisdiction should cover the illegal recruitment of children.[123] Furthermore they emphasized the importance of respecting the special protection needs of all child soldiers while making sure that the child rights of illegally recruited child soldiers are protected.[124] Although the Cape Town Principles were non-binding they nonetheless indicated a set of goals that were subsequently pursued regarding child soldiers.



[120] UNICEF. 1997. "Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa." 27-30 April 1997: Cape Town, South Africa, 1.
[121] Ibid.
[122] Ibid, "Definitions."
[123] Ibid, 2.
[124] Ibid, 7.

The International Criminal Court (ICC) was formally established in 1998 based on the Rome Statute.[125] It was the result of a decades-long effort to create a permanent international court with the jurisdiction to try individuals for the commission of crimes against humanity.[126] As an independent treaty-based court the ICC, in accordance with the Rome Statute, was to "have power to exercise its jurisdiction over persons for the most serious crimes of international concern…and shall be complementary to national criminal jurisdictions."[127] The principle of "complementarity" means that national courts would retain jurisdiction over relevant crimes unless the government of a country itself referred a matter to the ICC for investigation. Of the major crimes the ICC seeks to punish, the one most pertinent here is "[c}onscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities."[128] Like the CRC the ICC's definition of child soldiers extends only to children under age 15 and those involved in active combat. As mentioned previously the ICC thus does not have jurisdiction to try individuals over 15 but under the age of 18. Currently the Rome Statute has 139 signatories and 110 ratifications; these include Sierra Leone and Uganda.[129] The Court came into being in 2002 when the Rome Statute entered into force after ratification by 60 countries.[130] The involvement of the ICC will be highlighted in the forthcoming Uganda case study.

Historically it had been the international labor movement that first sought more protection for children though primarily in the context of industrial relations. Eventually the problem of child soldiering was also taken up by this movement. In 1999 the International Labour Organization (ILO) adopted ILO Convention 182 that, among other things, recognized the "forced or compulsory recruitment of children for use in armed conflict" as one of "the worst forms of child labour."[131] The ILO's definition of child soldiers extended to all children under the age of 18.[132] As the specialized agency of the UN with regards to labor, the ILO is the global body responsible for creating and regulating international



[125] ICC. 1998. "Rome Statute of the International Criminal Court," Preamble.
[126] Elsea, J. 2002. "International Criminal Court: Overview and Selected Legal Issues," Report for Congress, Washington, D.C.: Congressional Research Service, 4.
[127] ICC. 1998. "Rome Statute of the International Criminal Court," Article 1.
[128] ICC. 1998. "Rome Statute of the International Criminal Court," Article 8(2)(b)(26).
[129] Coalition for the International Criminal Court. 2010. "World Signatures and Ratifications," accessed 20th January 2010 at http://www.iccnow.org/?mod=romesignatures.
[130] ICC. 2010. "About the Court," accessed 20th January 2010 at http://www.icc-cpi.int/Menus/ICC/About+the+Court/.
[131] Ibid, Article 3(a).
[132] International Labour Organization. 1999. "Convention 182," Article 2.

labor standards.[133] It has 183 member countries including Sierra Leone and Uganda.[134] According to ILO Convention 182 all member countries agreed to take the necessary measures to "prevent engagement of children in the worst forms of child labour."[135] Additionally they are to "provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration."[136]

Due to proliferation of child soldiering and growing attention to the problem, it increasingly became recognized as a matter of international peace and security. In 1999 UN Security Council Resolution 1261 formally established that "safe-guarding the protection, rights and welfare of war-affected children everywhere is a crucial peace-and-security concern that legitimately belongs on the highest agendas."[137] As such the Security Council expressed "its grave concern at the harmful and widespread impact of armed conflict on children and the long-term consequences this has for durable peace, security and development."[138] Furthermore it "[u]rges States and the United Nations system to facilitate the disarmament, demobilization, rehabilitation and reintegration of children used as soldiers in violation of international law."[139] Otunnu notes that in Resolution 1261 the UN Security Council significantly diverges from its usual practice of addressing breaches of peace and security in a specific national or regional context.[140] Resolution 1261 did not, however, address the issue of the age limit applying to child soldiers.

Since the adoption of the CRC that defined children as persons under the age of 18 but only extended protections to child soldiers under 15, it was felt by the Committee on the Rights of the Child, among others, that the document needed to be harmonized. The goal was to produce a legal document that reflected equal protections for *all* children



[133] International Labour Organization. 2010. "About the ILO," accessed 20th January 2010 at http://www.ilo.org/global/About_the_ILO/lang--en/index.htm.
[134] International Labour Organization. 2010. "List of Member Countries," accessed 20th January 2010 at http://www.ilo.org/public/english/standards/relm/country.htm.
[135] International Labour Organization. 1999. "Convention 182," Article 7(2)(a).
[136] Ibid, Article 7(2)(b).
[137] Otunnu, O. No date. "Placing Children on the World's Peace and Security Agenda," accessed 20th January 2010 at www.essex.ac.uk/armedcon/story_id/000079.doc.
[138] UN Security Council. 1999. "Resolution 1261," Operative clause 1.
[139] Ibid, Operative clause 15.
[140] Otunnu, O. No date. "Placing Children on the World's Peace and Security Agenda," accessed 20th January 2010 at www.essex.ac.uk/armedcon/story_id/000079.doc.

under the age of 18, including child soldiers. This was based in part on the rationale that those under 18 had been granted protections due to their immaturity. Due to their own immaturity, then, child soldiers were seen to deserve the same protections.[141]

In 2000, the UN introduced the Optional Protocol on the Involvement of Children in Armed Conflict to its previous Convention on the Rights of the Child (CRC). The Optional Protocol declares that States Parties must take all possible measures to make sure any under-18s currently within their ranks are not directly involved in combat.[142] Secondly it commits signatories to stop the forced recruitment of children under age 18.[143] Next, in an attempt to transcend the state-only application of IHRL, it extends the ban on under-18 recruitment to non-state armed groups.[144] Governments are further obligated to take "all feasible measures" to prevent such recruitment including nationally criminalizing it.[145] Lastly, as an indication of a growing consensus that holds child soldiers under age 18 to be more victims than perpetrators, the Optional Protocol calls for the demobilization of under-18s and, when necessary, the provision of "all appropriate assistance for their physical and psychological recovery and their social reintegration."[146] The Optional Protocol entered into force in 2002 and currently has 125 signatories and 131 Parties including both Sierra Leone and Uganda.[147]

Ongoing statements by the UN indicated an increasing commitment to the notion that child soldiers were indeed more victims than perpetrators in armed conflict. Following the introduction of the Optional Protocol in 2000 the UN Security Council passed Resolution 1314 that amounted to a plan of action regarding the necessity for protecting all children including child soldiers.[148] Relevant to the cases of Uganda, in which top leaders were eventually to be tried by the ICC after first having been granted amnesty, it called on countries to end impunity by excluding those responsible for serious crimes



---

[141] Fontana, B. 1997. "Child Soldiers and International Law," in African Security Review, 6(3), 4.
[142] UN Office of the High Commissioner for Human Rights. 2000. "Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict," Article 1.
[143] Ibid, Article 2.
[144] Ibid, Article 4(1).
[145] Ibid, Article 4(2).
[146] Ibid, Article 6(3).
[147] UN Treaty Collection. 2010. "Signatories/Parties of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict," accessed 20th January 2010 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.
[148] Otunnu, O. No date. "Placing Children on the World's Peace and Security Agenda," accessed 20th January 2010 at www.essex.ac.uk/armedcon/story_id/000079.doc.

from any future amnesty arrangements.[149] Most importantly for my purposes, Resolution 1314 emphasized that in peace processes, the post-conflict needs of child soldiers were to be a priority. It requested "parties to armed conflict to include, where appropriate, provisions for the protection of children, including disarmament, demobilization and reintegration of child combatants, in peace negotiations and in peace agreements and the involvement of children, where possible, in these processes."[150]

Increasingly the focus of international concern with child soldiers shifted to the protections they should be offered in the event that they were to be held accountable for their actions. In 2001 the UN Security Council passed Resolution 1379 that, like the CRC, called for alternatives to judicial proceedings. States were to "ensure that post-conflict truth-and-reconciliation processes address serious abuses involving children."[151] In line with this stipulation, the SLTRC began its work the following year.

In 2002, the UN convened the most significant international conference on children in more than a decade, the Special Session of the UN General Assembly on Children, which was the first such session devoted exclusively to children. About 70 government heads and high-ranking government delegations along with leaders from civil society including non-governmental organizations, cultural, academic, business and religious groups put forward an agenda committing themselves to broad goals to improve the situation of children and young people.[152] The Special Session produced a Plan of Action, "A World Fit for Children," which was adopted by some 180 nations.[153] With regard to child soldiers the document committed the UN, the international community, and affected states to "promote the establishment of prevention, support and caring services as well as justice systems specifically applicable to children, taking into account the principles of restorative justice and fully safeguard children's rights and provide specially trained staff that promotes children's reintegration into society."[154] This new emphasis on restorative justice for child soldiers would later be reiterated in the Paris Principles.



[149] UN Security Council. 2000. "Resolution 1314," Operative clause 2.
[150] Ibid, Operative clause 11.
[151] UN Security Council. 2001. "Resolution 1379," Operative clause 9(a).
[152] UNICEF. 2002. "World Leaders 'Say Yes' for Children," accessed 21st January 2010 at http://www.unicef.org/specialsession/index.html.
[153] UNICEF. 2002. "'A World Fit for Children': An Agenda Both Visionary and Concrete," accessed 20th December 2008 at http://www.unicef.org/specialsession/wffc/.
[154] UN. 2002. "A World Fit for Children," UN General Assembly Resolution S-27/2. Operative clause 44(7).

In 2004 the Commission of the African Union (AU), the executive/administrative branch of what was formerly the OAU, began developing what is considered its most ambitious strategy for institutional reforms.[155] Although the Commission did not directly address the issue of child soldiers it nonetheless established the overarching priority of protecting the rights and needs of African youth. This was based on the AU's recognition that youth form a major part of its development agenda.[156] The resulting African Youth Charter that was adopted in 2006 began by defining "youth" as "every person between the ages of 15 and 35."[157] Pertinent to the case of child soldiers, the Charter calls on States Parties to "[t]ake appropriate measures to promote physical and psychological recovery and social reintegration of young victims of armed conflict and war by providing access to education and skills development such as vocational training to resume social and economic life."[158] Notably, however, the Charter does not indicate whether child soldiers should be considered foremost as victims of conflict and thus as the intended beneficiaries of these special considerations. In addition all youth are given the responsibility to "defend democracy, the rule of law and all human rights and fundamental freedoms."[159] In this context youth are offered protections in exchange for a responsibility to respect those same legal frameworks that protect them. The African Youth Charter entered into force in July 2009[160] and as of October 2009 it had been signed by 32 African countries including Sierra Leone and Uganda. It has been ratified by Uganda but not Sierra Leone.[161]

In 2007, representatives of 58 countries, including those affected by the use of child soldiers and donor nations, were hosted by the Government of France and UNICEF to further address the child soldier problem.[162] The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups ("the Paris Principles") and their



[155] Mac-Ikemenjima, D. 2006. "The Long Road to Banjul and Beyond: Process of the African Youth Charter and the Role of Youth in its Popularisation and Ratification," Fifth African Development Forum, United Nations Conference Centre, Addis Ababa, 16-18 November 2006, 2.
[156] Ibid, 5.
[157] African Union. 2006. "African Youth Charter," Definitions.
[158] African Union. 2006. "African Youth Charter," Article 17(1)(g).
[159] Ibid, Article 26(j).
[160] African Union. 2009. "Press Release No. 142/2009: African Youth Charter to Enter into Force," 1.
[161] African Union. 2009. "List of Countries Which Have Signed, Ratified/Acceded to the African Youth Charter," accessed 12th December 2009 at http://www.africa-union.org/root/au/Documents/Treaties/list/Youth%20Charter.pdf.
[162] UNICEF. 2007. "Paris Conference on Child Soldiers Concludes with Commitment to Stop the Recruitment of Children," accessed 20th March 2009 at http://www.unicef.org/media/media_38231.html.

consolidated version, the Paris Commitments, were formulated towards directly addressing the needs of child soldiers, emphasizing "the informal ways in which boys and girls become associated with and leave armed forces or armed groups."[163] While the Principles are not a formal international treaty nor legally-binding, they were nonetheless signed by 84 nations by September 2009, including both Sierra Leone and Uganda.[164] Signatories pledged their commitment to "preventing the recruitment of children, demobilizing child soldiers and [helping] them to reintegrate into society."[165] The Principles declare that states have a "primary responsibility for the protection of children in their jurisdiction" and that this should be pursued using a child-rights approach, within a human rights framework.[166]

While seeking the protection of child soldiers but also recognizing the need for their accountability, the Paris Principles note that child soldiers are foremost victims but have also been perpetrators of grave violations of international law:

> "Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles."[167]

In addition to offering restorative justice processes as a proper means to address the accountability of child soldiers, the Paris Principles offer further protections with the goal of reintegration and rehabilitation in mind:

> "Where truth-seeking and reconciliation mechanisms are established, children's involvement should be promoted and supported and their rights protected throughout the process. Their participation must be voluntary and by informed consent by both the child and her or his parent or



[163] UNICEF. 2007. "The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups," Article 1.5.
[164] UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict. 2009. "List of 84 States which have endorsed the Paris Commitments," 1.
[165] Tramble, R. 2007. "Child Soldiers: More Talk, Little Action," accessed 18th December 2008 at http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?ots591=4888CAA0-B3DB-1461-98B9-E20E7B9C13D4&lng=en&id=53294.
[166] UNICEF. 2007. "The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups," Article 3.0.
[167] Ibid, Article 3.6.

> guardian where appropriate and possible. Special procedures should be permitted to minimize greater susceptibility to distress."[168]

These two passages, respectively from article 3.6 and 3.8 of the Paris Principles, are significant for my focus on addressing the dilemma of child soldier accountability as they establish two distinct standards that are potentially contradictory. First, article 3.6 in recognizing child soldiers as both victims and perpetrators in armed conflict, implies that child soldier accountability is to be pursued to the extent that child soldiers have been perpetrators of war crimes. At the same time, however, the notion of voluntary participation in post-conflict processes proposed in article 3.8 seems to negate the very prospect of achieving accountability in practice. The transitional justice processes employed in Sierra Leone and Uganda based on this principle of voluntary participation provide poignant case studies as to how this functions in practice.



[168] Ibid, Article 3.8.

## Chapter 3. THE CASE OF SIERRA LEONE: THE SPECIAL COURT AND TRUTH AND RECONCILIATION COMMISSION OF SIERRA LEONE

This chapter will provide an exposition of the conflict in Sierra Leone and the subsequent application of the Sierra Leone Truth and Reconciliation Commission (SLTRC) to address the case of child soldiers. Accordingly, I begin by reviewing the Sierra Leonean civil war and its effect on society and politics before turning to the specific impact on child soldiers. I then discuss the political pursuit of ending conflict including the various agreements that set up both the Special Court for Sierra Leone and the SLTRC to deal with issues of accountability and reconciliation. My main focus in this chapter is the work and findings of the SLTRC from which I draw conclusions as to how and to what extent it addressed the accountability of child soldiers.



### 3.1 The State of Sierra Leone: Before, During, and After Conflict

Sierra Leone has been ranked last of 177 nations in more than half of the studies procured annually for the UN Development Programme's Human Development Index (HDI) since its inception. In 1990, one year before the outbreak of civil war, the study found that 81.6% of the population was living in poverty, characterized not only by lack of income but also by a lack of access to health, education and other services; powerlessness; isolation; vulnerability and social exclusion.[169] According to Lord, even before the civil war Sierra Leone was already "economically and politically on the verge of collapse."[170] He describes the previous 24-year period under Siaka Stevens and his chosen successor Joseph Saidu Momoh as marked by "manipulation and misrule…mismanagement and corruption" where "[t]he merging of politics, violence and personal business interests secured access to resources for redistribution only to supporters and so undermined any attempts to satisfy broader national needs."[171]

---

[169] Department of National Development and Economic Planning. 1989/1990. "Poverty Profile for Sierra Leone," Freetown, Sierra Leone. In UN. 2004. "Poverty Measurement in a Post-Conflict Scenario: Evidence from the Sierra Leone Integrated Household Survey 2003/4," accessed 6th January 2009 at http://74.125.95.132/search?q=cache:1l0CyR7qkJIJ:unstats.un.org/unsd/methods/poverty/AbujaWS-SierraLeone.pdf+poverty+measurement+in+a+post-conflict+scenario&hl=en&ct=clnk&cd=1&gl=us&client=firefox-a.

[170] Lord, D. 2000. "Introduction: The Struggle for Power and Peace in Sierra Leone," accessed 6th January 2008 at http://www.c-r.org/our-work/accord/sierra-leone/introduction.php.

[171] Ibid.

A rift had developed between supporters of the incumbent All People's Party (APC) and their political and business rivals: profits from the potentially lucrative industries of rural Sierra Leone – agriculture, diamond and gold mining, and fisheries – were accumulated mainly by business owners and their supporters while government became more and more dependent on foreign aid, engaging in "clientelism" while neglecting the majority of its population.[172] The collapse of state structures and the suppression of civilian opposition resulted in increased arms-trafficking with dramatic increases in crime that added to both national and regional instability.[173] The APC was known to employ youth alongside older supporters to "settle political scores and intimidate opponents" during this time.[174] At this point, over half of the population was comprised of children under age 15 with few opportunities for education or employment.[175]

The mobilization of youth by both sides in Sierra Leone would become the most notable feature of the conflict during the civil war. The failure of the state to provide positive alternatives to youth in the post-independence period has been considered an important factor in the escalating conflicts in Sierra Leone, accounting for the involvement of so many young people. As youth worker Dennis Bright remarked,

> "the long years of neglect of youths in development programmes of successive governments in Sierra Leone has been widely acknowledged as a major cause of war. Indeed, during the dictatorial rule of the APC, youths were groomed in violence and used as hired thugs in election campaigns but abandoned afterwards and left to sink into drugs, crime and other vices on the margin of society. By the time of the outbreak of war, the conditions were favourable for manipulation and mass mobilization of such marginalized members of society into organized crime and violence. The massive looting, rape, use of drugs and arson is partly due to the background of the young recruits."[176]

Sierra Leone's civil wars began in March of 1991 when Liberian rebel leader Charles Taylor backed Foday Sankoh's Revolutionary United Front (RUF) and first invaded

[172] Ibid.
[173] AFROL. "The Civil War in Sierra Leone," accessed 6th January 2009 at http://www.afrol.com/News/sil007_civil_war.htm.
[174] Lord, D. 2000. "Introduction: The Struggle for Power and Peace in Sierra Leone," accessed 6th January 2009 at http://www.c-r.org/our-work/accord/sierra-leone/introduction.php.
[175] Ibid.
[176] Ibid.

border villages of the country.[177] Taylor himself sought to exact revenge for Sierra Leone's efforts to stop his 1990 bid to overthrow the Liberian government after his 1989 National Patriotic Front of Liberia invasion which led to the Liberian civil war.[178] The RUF's declared goal was to remove "the corrupt APC government, revive multi-party democracy and end exploitation [of rural people in Sierra Leone]."[179] At the same time, they hoped to spark a radical pan-African revolution.[180] They laid out their aims in a document entitled "Footpaths to Democracy: Towards a New Sierra Leone":

> "We are therefore fighting for democratic empowerment to enable us to reclaim our sense of ourselves as enterprising and industrious Africans, using the history of our glorious past to create a modern society contributing to world peace and stability through advancement in agriculture, architecture, medicine, science and technology, industry, free trade and commerce…[W]e are tired of poverty, bad drinking water, poor housing, second hand clothing and footwear, and our state of self-imposed backwardness…we are crying out against hunger disease and deprivation…We are tired of state-sponsored poverty and degradation. We are tired of our children dying of preventable diseases…We are tired of rural folks being exploited."[181]

Declaring that its objective was to reclaim Sierra Leone for the neglected rural populations, the RUF called on the people

> "to take up arms in order to take back their power and use this power to create wealth for themselves and generations to come by reconstructing a new African society in Sierra Leone consistent with the highest ideals of our glorious past and the challenges of the modern world we live in."[182]

When these revolutionary goals did not receive much popular support the RUF began its attack on local populations.[183] From the outset, the RUF characteristically pursued its goals through the looting of food, drugs, and other supplies to support its forces; the



[177] International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.
[178] Ibid.
[179] Lord, D. 2000. "Introduction: The Struggle for Power and Peace in Sierra Leone," accessed 6th January 2009 at http://www.c-r.org/our-work/accord/sierra-leone/introduction.php.
[180] International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.
[181] RUF. 1995. "Footpaths to Democracy: Towards a New Sierra Leone," 1 RUF/SL, 20-35, in A. Zack-Williams. 2001. "Child Soldiers in the Civil War in Sierra Leone," Review of African Political Economy, 28 (87), 22.
[182] Ibid, 24.
[183] University of Ottawa. "Synthesis Report: Child Soldiers in Sierra Leone," accessed 5th January 2008 at http://www.uottawa.ca/childprotection/sierraleone.pdf.

killing of local authority figures such as government officials and traditional healers; and the use of force in the recruitment of young people.[184]

The RUF was not alone in exploiting Sierra Leone's neglected youth and children. In 1991 the UN's IRIN news agency reported that President Momoh doubled the size of his army by conscripting the same alienated youth from urban ghettoes in order to counter the mounting RUF threat. As he was unable to pay or supply his troops, Momoh was overthrown in 1992 by Captain Valentine Strasser who brought the National Provisional Ruling Council (NPRC) to power. The NPRC was likewise known to recruit children into its ranks in order to bolster its similarly "badly-equipped and poorly trained army."[185] Because of the government's inability to protect local communities from the RUF, traditional hunting militias known as Kamajours developed which again utilized child soldiers.[186] By 1994, Sierra Leonean rural areas were besieged by violent young people, either RUF or renegade state soldiers, the so-called "Sobels" (soldier-rebels) who were soldiers by day and rebels by night. The country's diamond-producing areas were overtaken by the RUF beginning in 1995[187] and would become the source of major funding for ongoing conflict in Sierra Leone.[188]

In 1996, after local and international pressure had resulted in presidential elections, former UN official Ahmad Kabbah was elected to head the state. In November of that year, Kabbah signed the Abidjan Agreement with the RUF's Sankoh.[189] In addition to committing both sides to peace, the Abidjan Agreement called for the disarmament of all RUF combatants in exchange for their amnesty and the transformation of the RUF into a political party.[190] Despite the signing of the Abidjan Agreement, fighting continued along with massive human rights abuses and the further pillaging of Sierra Leone's resources.



---

[184] Lord, D. 2000. "Introduction: The Struggle for Power and Peace in Sierra Leone," accessed 6th January 2009 at http://www.c-r.org/our-work/accord/sierra-leone/introduction.php.
[185] IRIN. 2000. "Sierra Leone: IRIN Briefing on the Civil War," accessed 6th January 2009 at http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/a908b07653c82d37852568f1004fbce6.
[186] AFROL. "The Civil War in Sierra Leone," accessed 6th January 2009 at http://www.afrol.com/News/sil007_civil_war.htm.
[187] IRIN. 2000. "Sierra Leone: IRIN Briefing on the Civil War," accessed 6th January 2009 at http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/a908b07653c82d37852568f1004fbce6.
[188] Smille, I., L. Gberie, R. Hazleton. 2000. The Heart of the Matter: Sierra Leone, Diamonds and Human Security. Ottawa, Ontario, Canada: Partnership Africa Canada, 1.
[189] International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.
[190] Sierra Leone. 1996. "Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone(RUF/SL)," Articles 1, 5, 13, 14.

In July of 1999 Kabbah and the RUF signed the Lomé Peace Accord that was largely a rewriting of the earlier Abidjan Agreement. The RUF's Sankoh was installed as vice-president although Charles Taylor soon broke the Accord by taking 500 UN peacekeeping forces hostage. Sankoh was arrested.[191]

In November of 2000 the Abuja Ceasefire Agreement was signed by the RUF and the government of Sierra Leone.[192] In addition to once again committing both sides to peace, the new Agreement recognized the Lomé Accords as "the framework for the restoration of genuine and lasting peace to the country."[193] By January 2002 Sierra Leone's 11-year civil war was pronounced over.[194] At least 20,000 Sierra Leoneans had been killed while half the population, about 2 million people, was displaced. Furthermore, agricultural production had declined dramatically, government revenues from mining were severely cut, and much of public infrastructure – schools, health clinics, and administrative facilities – had been destroyed.[195]

### 3.2 Child Soldiers in Sierra Leone

The civil war in Sierra Leone is notorious for the recruitment of between 5,000 and 10,000 children (depending on the age-criteria used) for use in combat by state and rebel forces alike.[196] The government military and pro-government militias recruited children to bolster their ranks mostly by using proper voluntary recruitment procedures and within national law which until 2006 allowed children above age 17.5 to serve in the armed forces[197] However, the RUF systematically raided villages, abducting children from their homes, and utilized them as combatants against their will.[198] Over 50% of abducted children were enlisted at age 15 or younger and over 28% at age 12 or



[191] International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.
[192] Malan, M., P. Rakate, A. McIntyre. 2002. "Peacekeeping in Sierra Leone," Monograph 68, Pretoria: Institute for Security Studies, 1.
[193] Sierra Leone. 2000 "Abuja Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Preamble.
[194] International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.
[195] AFROL. "The Civil War in Sierra Leone," accessed 6th January 2009 at http://www.afrol.com/News/sil007_civil_war.htm.
[196] Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.
[197] Ibid.
[198] Human Rights Watch. 2000. "Sierra Leone Rebels Forcefully Recruit Child Soldiers: RUF Targets Children for Fighting, Forced Labor, and Sexual Exploitation," accessed 14th September 2008 at http://www.hrw.org/en/news/2000/05/30/sierra-leone-rebels-forcefully-recruit-child-soldiers.

younger.[199] Reports by Amnesty International show that the RUF threatened the lives of both children and their families in the process of abduction: thereafter children were indoctrinated into a "culture of violence."[200] In many cases, child abductees were first forced to kill their own parents, relatives, and village members to deter them from escaping and returning home. Other children were forced to watch the torture or murder of parents to "toughen them up."[201] Thus isolated from their families and communities, abducted children underwent indoctrination into the RUF's ideology along with intense military training. In many cases they were forced to consume alcohol and illicit drugs as they were brought to perceive violence and force as a legitimate means to gain authority and prestige.[202] The threat of physical punishment and death was also used to make child soldiers adhere to the violent norms of the RUF. One RUF abductee recalled,

> "We were sent to the forest for training. At first I refused but they threatened to kill me, so I had no choice. When the time came for an attack they injected us with cocaine. When they give these drugs you become fearless – you believe nothing can harm you. We were sent in front, but we did not care."[203]

Many abductees were mutilated and tattooed with the name of the armed group that had captured them to prevent escaping, the scars of which have compounded the children's fear of stigmatization during reintegration processes both during and after war.[204] Sexual violence and "slavery" were likewise practiced by the RUF and colluding Armed Forces Revolutionary Council (AFRC) within their own ranks: young girl abductees were forced to be available for sex as "bush wives". Approximately fifty percent of these girls were age 15 or under.[205]

Demobilized former child soldiers living in demobilization camps were re-abducted back into service of the RUF. One such child said the RUF threatened demobilized children that they would be sold after leaving the camp or that everyone in the camp would be



---

[199] Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.
[200] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.
[201] Zack-Williams, A. 2001. "Child Soldiers in the Civil War in Sierra Leone," Review of African Political Economy, 28 (87), 80.
[202] University of Ottawa. "Synthesis Report: Child Soldiers in Sierra Leone," accessed 5th January 2008 at http://www.uottawa.ca/childprotection/sierraleone.pdf.
[203] Moszynski, P. 1999. "'To the small ones, these atrocities are a game'," accessed 7th January 2009 at http://www.guardian.co.uk/world/1999/apr/20/sierraleone.
[204] Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.
[205] Ibid.

killed if they refused to rejoin. On occasion, the RUF also promised to unite children with their families only to put them on the frontlines in battle.[206] The rationales of child soldiers who "voluntarily" enlisted included seeking revenge for lost parents or family members and a commitment to defend their country after the destruction of communities and of 'normal life' as well as the lost educational opportunities resulting from war. Enlisting also provided opportunities for empowerment and relative stability compared to the conditions of 'street life' that many Sierra Leonean youth had been engaged in.[207]

In cases of abducted and "voluntary" child soldiers alike, armed forces became a surrogate family replacing traditional family and community structures which had largely been eroded along with the collapse of the state.[208] The newfound social support they found there amidst the social, economic, and educational devastation caused by civil war may to an extent explain the commitment of child soldiers to the aims of arms groups. Child soldiers were accordingly known to be "brave and loyal fighters"[209] and "ideal soldiers…[as t]hey have no responsibilities and obey orders."[210] As such, child soldiers perpetrated grave crimes against local and international law; they were responsible for some of the war's worst atrocities according to Sierra Leone's government and its allies pointing to the actions of RUF recruits.[211] One woman captive, still nursing her five-month-old baby, was raped in front of her husband almost immediately after their capture by 7 RUF soldiers, some as young as 14.[212] Child soldiers also routinely engaged in killing and purposefully maiming their victims throughout the war.[213] The Sierra Leonean Truth and Reconciliation Commission (see below), recorded a litany of heinous crimes committed by child soldiers in the course of their involvement in the war's worst atrocities: killing, amputation, mutilation, extortion,



[206] Human Rights Watch. 2000. "Sierra Leone Rebels Forcefully Recruit Child Soldiers: RUF Targets Children for Fighting, Forced Labor, and Sexual Exploitation," accessed 14th September 2008 at http://www.hrw.org/en/news/2000/05/30/sierra-leone-rebels-forcefully-recruit-child-soldiers.
[207] Zack-Williams, A. 2001. "Child Soldiers in the Civil War in Sierra Leone," Review of African Political Economy, 28 (87), 78-9.
[208] Ibid, 79.
[209] Peters, K. and P. Richards. 1998. "Why We Fight: Voices of Youth Combatants in Sierra Leone," Africa: Journal of the International Africa Institute, 68 (2), 210.
[210] Maier, K. 1995. "Boys in Arms find Peace a Trial," *The Independent*, 28 September 1995.
[211] Zack-Williams, A. 2001. "Child Soldiers in the Civil War in Sierra Leone," Review of African Political Economy, 28 (87), 80.
[212] Human Rights Watch. 2000. "Sierra Leone Rebels Forcefully Recruit Child Soldiers: RUF Targets Children for Fighting, Forced Labor, and Sexual Exploitation," accessed 14th September 2008 at http://www.hrw.org/en/news/2000/05/30/sierra-leone-rebels-forcefully-recruit-child-soldiers.
[213] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.

looting and destruction, rape and sexual violence, abduction and forced recruitment, forced displacement, forced detention, assault, torture, beating and forced labor.[214] In short the child soldiers became both perpetrators as well as victims of gross violations of human rights in the context of the civil war. This extensive list of the crimes of child soldiers raises major questions regarding their accountability as well as their needs for post-conflict justice and reconciliation processes.

### 3.3 The Abuja Ceasefire Agreement and the Lomé Peace Accord: Implications for Child Soldiers

On the 10th of November 2000, the Abuja Ceasefire Agreement was signed at Abuja, Nigeria between the government of Sierra Leone and RUF leaders re-committing the parties to the principles laid out in the 1999 Lomé Peace Accord. In the Ceasefire, the Lomé Accord was touted as "the most appropriate framework for the resolution of conflict in Sierra Leone."[215] Although fighting continued in one form or another until 2002, the Abuja Agreement, with its commitment to the Lomé Peace Accord's framework for peace, was considered the terminal document of the long-lasting war in Sierra Leone. As outlined in the Accord, the RUF agreed to change into a political party and thus gain representation in the transitional government.[216] At the same time, amnesty was to be granted to the head of the RUF, Sankoh, and all other "combatants and collaborators in respect of anything done by them in pursuit of their objectives, up until the signing of the…Agreement."[217] In Article 21, entitled "Release of Prisoners and *Abductees*[218]," the document called for the immediate and unconditional release of "[a]ll political prisoners of war as well as non-combatants."[219] According to this formulation, abducted child soldiers were considered political prisoners. The Accord also established the Commission for the Consolidation of Peace (CCP) that was "to implement a post-conflict



[214] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," Paragraph 228. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml.
[215] Sierra Leone. 2000. "Abuja Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Preamble.
[216] Sierra Leone. 1999. "Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Article 3.
[217] Ibid, Article 9.
[218] My emphasis.
[219] Sierra Leone. 1999. "Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Article 21.

programme that ensures reconciliation and the welfare of all parties to the conflict, especially the victims of war... [towards the] consolidation of peace." [220]

One of the mechanisms the CCP to oversee was the prospective Truth and Reconciliation Commission. According to Article 26 of the Accord, the TRC was intended "to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation."[221] The TRC's role in pursuing accountability for the abuses committed by child soldiers was not mentioned although the TRC was to "recommend measures to be taken for the rehabilitation of victims of human rights violations."[222] Article 30 addressed child combatants directly, focusing on their victimhood and not their status as perpetrators:

> "The Government shall accord particular attention to the issue of child soldiers. It shall, accordingly, mobilize resources, both within the country and from the International Community, and especially through the Office of the UN Special Representative for Children in Armed Conflict, UNICEF and other agencies, to address the special needs of these children in the existing disarmament, demobilization and reintegration processes."[223]

From this it is clear that with regard to child soldiers the focus of the Abuja Agreement was on their rehabilitation rather than on the pursuit of accountability for the crimes they had committed. Notably this was in accordance with the amnesty provisions central to the Lomé Accord and the subsequent Abuja Agreement. As such it reflected the more general nature of the Abuja Agreement as a negotiated settlement aimed at the cessation of the ongoing civil war.

### 3.4 The Special Court for Sierra Leone, its Relationship to the TRC, and the Potential Prosecution of Child Soldiers

Despite the amnesty agreements involved in the Lomé Accord and the Abuja Ceasefire Agreement the issue of accountability for the atrocities in the civil war had not been closed. Already in June of 2000, despite the forthcoming Abuja Ceasefire Agreement that would grant amnesty to all combatants and collaborators according to the Lomé Accord, Sierra Leonean President Kabbah requested the assistance of the UN in

[220] Ibid, Article 6.
[221] Ibid, Article 26.
[222] Ibid.
[223] Ibid, Article 30.

establishing a court to try those responsible for atrocities during the civil war.[224] The obvious question is how this could be consistent with the amnesty provisions of the Lomé Accord and the Abuja Ceasefire Agreement.

On this issue UN Resolution 1315 of August 2000 stated that the Special Representative of the Secretary-General in signing the Lomé Accord had also appended a statement saying the UN understood that the Accord's amnesty provisions would not apply to crimes against humanity, war crimes and other serious violations of international humanitarian law.[225] Then in the Special Court's Statute of 2002 it was emphasized that amnesty would not bar an individual from prosecution by the Court for the above-mentioned international crimes.[226]

As Zarifis argues, the Lomé Accord's amnesty provisions were in fact in conflict with the country's obligations under international humanitarian law to prosecute perpetrators for violations of international human rights and humanitarian law, first according to the Additional Protocol II to the Geneva Conventions of 1949 to which Sierra Leone became a party in 1977 and now according to UN Resolution 1315 which created the Special Court.[227] Recognizing the objectives of the Special Court, the UN emphasized that "a credible system of justice and accountability for the very serious crimes committed there would end impunity and would contribute to the process of national reconciliation and to the restoration and maintenance of peace."[228] As such, the Court was to be set up to try "persons who bear the greatest responsibility" for those atrocities not governed by the Lomé Accord's amnesty provisions as designated by the UN and supported by the government of Sierra Leone.[229] In January of 2002 the UN and the government of Sierra Leone signed the Agreement for the Special Court that officially established Sierra Leone's Special Court.[230]



[224] Human Rights First. No date. "The Special Court for Sierra Leone," accessed 7th January 2009 at http://www.humanrightsfirst.org/international_justice/w_context/w_cont_04.htm.
[225] UN. 2000. "UN Security Council Resolution 1315," Paragraph 5.
[226] Special Court for Sierra Leone. 2002. "Statute of the Special Court for Sierra Leone." Article 10.
[227] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.
[228] UN. 2000. "UN Security Council Resolution 1315," Paragraph 7.
[229] Ibid, Paragraphs 15-6.
[230] Special Court for Sierra Leone. 2002. "Agreement for the Special Court of Sierra Leone," accessed 12th January 2002 at http://www.specialcourt.org/documents/Agreement.htm.

In practice the Special Court, which began work in June of 2004[231], had to operate in conjunction with the Truth and Reconciliation Commission arising from the Lomé Peace Accord. The TRC, established in June 1999, began work in November of 2002.[232] Both the Special Court and the Truth and Reconciliation Commission were mandated to address the causes and consequences of civil war in Sierra Leone in working towards a sustainable peace, but their specific functions were very different.

Fundamentally, the Special Court was meant to punish individual perpetrators of major atrocities committed during the war in Sierra Leone, namely the "planners and instigators" of organized violence. It was anticipated that the Special Court would try only some 20 or fewer individuals and could convict only where there was no doubt as to the guilt of the accused. For its part, the TRC was to "investigate the causes, nature, and extent of the violence."[233] As such it was to undertake a broader investigation focused on uncovering patterns of violence and establishing a complete account of the overall conflict. Created by international treaty, the Special Court was an international institution while the TRC, created by an act of Sierra Leonean Parliament, was a national institution. Nevertheless, as both mechanisms would operate simultaneously, there would inevitably be some overlap in their functioning. From the outset, the Special Court recognized the potential need for "sharing of information; a referral system, where in the opinion of each institution any particular instance is better handled by the other institution; and the sharing of resources."[234] While these overlapping processes did create certain tensions between the two bodies, by and large they did not affect the approach to dealing with child soldiers.

Kofi Annan, as UN Secretary General at the time, recognized that the victim/perpetrator status of child soldiers would be "a difficult moral dilemma" facing the Special Court.[235]



---

[231] Global Policy Forum. No date. "Special Court for Sierra Leone," accessed 20th January 2010 at http://www.globalpolicy.org/international-justice/international-criminal-tribunals-and-special-courts/special-court-for-sierra-leone.html.
[232] International Crisis Group. 2002. "Sierra Leone's Truth and Reconciliation Commission: A Fresh Start?" Accessed 12th January 2010 at http://www.crisisgroup.org/home/index.cfm?id=1801&l=1.
[233] Wierda, M., P. Hayner, and P. van Zyl. 2002. "Exploring the Relationship Between the Special Court and the Truth and Reconciliation Commission of Sierra Leone." New York: International Center for Transitional Justice, 2-3.
[234] Special Court for Sierra Leone. 2002. "Relationship between the Special Court and the Truth and Reconciliation Commission, Briefing Paper," Office of the Attorney General and Ministry of Justice, Special Court Task Force, 3.
[235] UN. 2000. "Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone," S/2000/915, 4 October 2000, Paragraph 32.

In his 'Report on the Establishment of a Special Court for Sierra Leone' he stated "that although the children of Sierra Leone may be among those who have committed the worst crimes, they are to be regarded first and foremost as victims."[236] In support of this victims-first view he highlighted the dire circumstances faced by child soldiers:

> "More than in any other conflict where children have been used as combatants, in Sierra Leone, child combatants were initially abducted, forcibly recruited, sexually abused, reduced to slavery of all kinds and trained, often under the influence, to kill, maim and burn…Most if not all of these children have been subjected to a process of psychological and physical abuse and duress which has transformed them from victims to perpetrators."[237]

Despite this passage and the victims-first perspective on child soldiers it supports, the Special Court was given the jurisdiction to try and punish children between ages 15 and 18 based on "the gravity and seriousness of the crimes they ha[d] allegedly committed."[238] Notably therefore, children between the ages of 15 and 18 "were neither excluded from nor protected against criminal responsibility for violations of the international crimes in the [Court's] statute."[239] Annan indicated that this was in response to the will of both the government of Sierra Leone and representatives of Sierra Leone civil society who had sought judicial accountability for child combatants. He noted, "It was said that the people of Sierra Leone would not look too kindly upon a court which failed to bring to justice children who committed crimes of that nature and spared them the judicial process of accountability."[240]

Despite this statement there is the question of whether or not the will of the international community was an unmentioned motivating force behind the Special Court's approach to child soldiers. Nonetheless, as Clark points out, the potential prosecution of child soldiers by the Special Court could be regarded as in line with the Convention on the Rights of the Child "that does not prohibit the prosecution of child soldiers, but rather sets standards of juvenile justice that take into account particular needs and



---

[236] Ibid, Paragraph 7.
[237] Ibid, Paragraph 32.
[238] Ibid, Paragraph 31.
[239] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.
[240] UN. 2000. "Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone," S/2000/915, 4 October 2000, Paragraph 35.

vulnerabilities of children."[241] With its jurisdiction to prosecute child soldiers between ages 15 and 18, the Court thus also needed to provide for special measures that respected their needs as both victims and perpetrators according to juvenile justice standards:

> "Should any person who was at the time of the alleged commission of crime between 15 and 18 years of age come before the Court, he or she shall be treated with dignity and a sense of worth, taking into account his or her young age and the desirability of promoting his or her rehabilitation into and assumption of a constructive role in society, and in accordance with international human rights standards, in particular the rights of the child."[242]

In the end the Special Court did not make use of its specific jurisdiction to try children over the age of 15. Considering the general international consensus that children be treated differently than adults in courts of law, the Court focused rather on the statutory mandate to prosecute only those "who bear the greatest responsibility." Because children generally had no command responsibility during the war, this interpretation of the statute constituted a *de facto* decision not to prosecute any former child combatants.[243] By November of 2002, within months of the start of the Special Court, the Prosecutor David Crane told Sierra Leoneans that he did not intend to indict any children:

> "The children of Sierra Leone have suffered enough both as victims and perpetrators. I am not interested in prosecuting children. I want to prosecute the people who forced thousands of children to commit unspeakable crimes."[244]

While the Special Court had in the first place been given the jurisdiction to prosecute child soldiers, its decision to focus on those "who bear the greatest responsibility" for serious crimes – the recruiters of child soldiers rather than the children themselves – reflects a significant move away from pursuing child soldier accountability in post-conflict justice and reconciliation processes. It would be a sign of things to come.



---

[241] Clark, C. 2006. "Juvenile Justice and Child Soldiering: Trends, Challenges, Dilemmas," in C. Greenbaum, P. Veerman, and N. Bacon-Shnoor(eds). 2006. Protection of Children During Armed Political Conflict: a Multidisciplinary Perspective. Antwerp: Intersentia, 313.
[242] Special Court for Sierra Leone. 2002. "Statute of the Special Court for Sierra Leone." Article 7.
[243] Interview with Luc Cote, Chief of Prosecutions, Freetown, 12 October 2005. In K. Sanin and A. Stirnemann. 2006. "Child Witnesses at the Special Court for Sierra Leone." Berkeley: War Crimes Studies Center, 7.
[244] Special Court for Sierra Leone. 2002. "Press Release, 2 November 2002: Special Court Prosecutor Says He Will Not Prosecute Children," 1.

### 3.5 The Role of Truth Commissions

The importance of establishing truth in post-conflict settings was noted in the 2005 UN Commission on Human Rights' "Updated Set of principles for the protection and promotion of human rights through action to combat impunity":

> "Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to truth provides vital safeguard against the recurrence of violations."[245]

Although this statement was made recently, it reflects a developing consensus that has for some time acknowledged the vital significance of establishing truth towards recovery from situations of conflict or oppression. In prior recognition of this, the international human rights community has recommended the implementation of truth commissions as part of peace and healing processes in almost every international or internal conflict since the early 1990s.[246] Towards uncovering and establishing the truth after serious crimes committed against international law, the International Center for Transitional Justice (ICTJ) highlights truth commissions as "non-judicial, independent panels of inquiry typically set up to establish the facts and context of serious violations of human rights or of international humanitarian law in a country's past" with the objective "to prevent recurrence of crimes."[247]

Hayner describes four qualities that characterize all truth commissions: they focus on the past; they investigate a pattern of abuses over a period of time rather than a specific event; they are temporary bodies, normally in operation for six months to two years, that are complete following the publication of a final report; and they are officially sanctioned, authorized, or empowered by the state (and sometimes also by armed opposition groups, as in a peace accord).[248] Humphrey notes that the main source of evidence in truth commissions is "the stories of victims' suffering without the necessary burden of



[245]UN. 2005. "Updated Set of principles for the protection and promotion of human rights through action to combat impunity." Report E/CN.4/2005/102/Add.1, Principle 2.
[246] Braum, E. 2004. "Truth Commissions," accessed 24th December 2008 at http://www.beyondintractability.org/essay/truth_commissions/.
[247] International Center for Transitional Justice. 2010. "Truth Commissions," accessed 15th January 2010 at http://ictj.org/en/tj/138.html.
[248] Hayner, P. 2001. Unspeakable Truths: Confronting State Terror and Atrocity. New York and London: Routledge, 14.

legal proof or judgements."[249] The United Institute of Peace adds that the accounts of perpetrators who were complicit in human rights violations can be an additional contribution to the work of truth commissions.[250] Following the victim-focused thrust of transitional justice however, the ICTJ emphasizes that "[m]ost commissions focus on victim's needs as a path toward reconciliation and reducing conflict over the past."[251] Hayner posits that in fact truth commissions have five basic aims that are pursued to varying degrees in each application:

> "to discover, clarify, and formally acknowledge past abuses; to respond to specific needs of victims; to contribute to justice and accountability; to outline constitutional responsibility and recommend reforms; and to promote reconciliation and reduce conflict over the past."[252]

For the purposes of this project Hayner's third goal of truth commissions, that of contributing to justice and accountability, is my main concern. As the SLTRC has been charged with addressing the accountability of child soldiers in Sierra Leone it is important to investigate how truth commissions have been conceptualized to carry out this mandate.

The role of truth commissions in addressing issues of accountability has to date been quite contentious. In Hayner's account, for example, she notes that "[r]ather than displacing or replacing justice in the courts, a commission *may* sometimes help to contribute to accountability for perpetrators."[253] Part of this uncertainty stems from the fact that each application varies in overall design and focus. While some truth commissions have been quite legalistic, others have focused purely on reconciliation at the expense of both justice and truth.[254] Therefore the extent of a truth commission's pursuit of accountability has necessarily been defined on a case-by-case basis.



---

[249] Humphrey, M. 2002. The Politics of Atrocity: From Terror to Trauma. New York and London: Routledge, 106.
[250] United States Institute of Peace. 2005. "Truth Commissions Digital Collection," accessed 26th December 2008 at http://www.usip.org/library/truth.html.
[251] International Center for Transitional Justice. 2010. "Truth Commissions," accessed 15th January 2010 at http://ictj.org/en/tj/138.html.
[252] Hayner, P. 2001. Unspeakable Truths: Confronting State Terror and Atrocity. New York and London: Routledge, 24.
[253] Ibid, 29. My emphasis.
[254] Valji, N. 2009. "Trials and Truth Commissions: Seeking Accountability in the Aftermath of Violence," in D. Hinze(ed). 2009. Handbook on Human Rights Activities, Edition 2009/2010. Bonn/Berlin: Friedrich-Ebert-Stiftung, 3.

Hayner goes on to list several examples of how accountability *might* be pursued. Many commissions, she says, pass their files to prosecuting authorities and in situations of functioning judicial systems, sufficient evidence, and political will, trials may ensue. In other cases the names of perpetrators have been published thus at least providing moral sanctions. Some commissions have recommended other measures that might be enforced without full trial such as removing wrongdoers from posts in security forces where they might do further harm.[255] On the other hand Kritz posits that while a truth commission cannot substitute for prosecutions it can in fact serve many of the same purposes. Regarding accountability this is possible, Kritz argues, to the extent that it "in some cases, establishes a formal basis for subsequent compensation of victims or punishment of perpetrators."[256] Freeman comments that in fact truth commissions "infrequently receive their full due in the area of justice."[257] He goes on to highlight their value "in assembling, organizing, and preserving evidence for use in ongoing or future prosecutions," adding that "[t]ruth commissions tend to make recommendations in their final reports about the need for criminal trials against presumed perpetrators."[258]

What is notable about most of the previous characterizations of the role of truth commissions in pursuing accountability, with the exception of Hayner, is that accountability is defined in terms of criminal prosecution by a judicial body. Truth commissions are held as the means by which cases against perpetrators can be established. Given the provisions of the CRC that stipulate the application of non-judicial measures to the case of child soldiers, not to mention the international consensus that holds child solders as victims more than perpetrators, the question is to what extent can truth commissions in and of themselves work to achieve accountability.



### 3.6 The Child Protection Focus of Sierra Leone's Truth and Reconciliation Commission

Sierra Leone's Truth and Reconciliation Commission began work in July of 2002 to fulfill the aims laid out in the Lomé Peace Accord, i.e. to work towards national reconciliation

[255] Hayner, P. 2001. Unspeakable Truths: Confronting State Terror and Atrocity. New York and London: Routledge, 29.
[256] Kritz, N. 1997. "War Crimes and Truth Commissions: Some Thoughts on Accountability Mechanisms for Mass Violations of Human Rights." USAID Conference, Promoting Democracy, Human Rights, and Reintegration in Post-Conflict Societies, 30th-31st October 1997, 14-5.
[257] Freeman, M. 2006. Truth Commissions and Procedural Fairness. New York: Cambridge UP, 76.
[258] Ibid, 76-77.

by providing a forum for victims and perpetrators of human rights violations.[259] According to the TRC's report, the Commission was put in place in an effort to help the people of Sierra Leone to "express and acknowledge the suffering that took place…to relate their stories and experiences…to begin personal and national healing…[and] to build accountability in order to deal with impunity."[260] In view of the amnesty provisions of the Lomé Peace Accord, the TRC was to be "an alternative to criminal justice in order to establish accountability for the atrocities that had been committed during the conflict."[261]

Presumably the TRC would work towards achieving accountability for child soldiers through the use of alternative justice means as emphasized in the Paris Principles – in this case by facilitating truth-telling and thereby enabling an acknowledgement of the crimes they had committed. Zarifis argues that Sierra Leone's TRC could best facilitate child soldier accountability while keeping in mind their social and psychological health along with the reconciliation needs of post-conflict Sierra Leone by providing "a form of catharsis allowing the victim and perpetrator to heal emotionally and psychologically." Furthermore, Zarifis argued that the non-punitive nature of the TRC "fosters the children's total rehabilitation and social reintegration" while complying with human rights standards of the Convention on the Rights of the Child's for child soldiers.[262]

Yet Zarifis' formulation does not indicate more specifically *how* accountability would be achieved for child soldiers or indeed *if* it would be a focus of the TRC, or just an assumed byproduct. Nor is Zafiris alone in eliding the TRC's specific concerns with the accountability of child soldiers. On closer investigation it is notable that an emphasis on child soldier accountability was similarly absent from the TRC's establishing document or any commentary by the TRC about the intent of its work. Instead the only reference made to child soldiers in the TRC documentation was on the special procedures that they should be afforded given their special needs:

> "The Commission shall take into account the interests of victims and witnesses when inviting them to give statements, including the security and other concerns of those who may not wish to recount their stories in



[259] Sierra Leone. 1999. "Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Article 9.
[260] SLTRC Final Report. 2004. "Volume 1, Introduction," paragraph 3, accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/intro.shtml.
[261] Ibid, paragraph 26.
[262] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.

> public and the Commission may also implement special procedures to address the needs of such particular victims as children or those who have suffered sexual abuses as well as in working with child perpetrators of abuses or violations."[263]

From this it will be clear that in the TRC's view child soldiers were to be treated the same as all children affected by war and victims of sexual abuse.

Towards this end, the Parliament of Sierra Leone requested that the TRC develop child-friendly procedures to be applied to child victims and child perpetrators alike. The TRC worked with government, national and international NGOs, UNICEF and other UN agencies to develop specific child-friendly procedures. These included training statement-takers on the needs for child protection and psychosocial support, creating a safe and comfortable environment for interviews, maintaining confidentiality, and organizing closed sessions and special hearings for children.[264] Children were to be interviewed by one TRC statement-taker and supported by a child protection worker.[265]

The Framework for Cooperation developed by the TRC and child protection agencies further outlined the special attention that was to be given to *all* children before the TRC. The Framework set out principles for children's protection in the TRC process: the guiding notion of the best interests of the child, the necessity for their voluntary participation, consideration of their psychosocial status to determine if they were in an appropriate condition to make statements, and proper psychosocial support so the TRC process would not negatively impact on children. The overarching emphasis of the Framework was that children affected by war in Sierra Leone, whether they were active participants or not, would be treated as witnesses.[266]



[263] Sierra Leone. 2000. "The Truth and Reconciliation Commission Act 2000," Article 7(4).
[264] Siegrist, S. 2006. "Child Participation in International Criminal Accountability Mechanisms: The Case of the Sierra Leone Truth and Reconciliation Commission," in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 60.
[265] O'Flaherty, M. 2007. The Human Rights Field Operation: Law, Theory and Practice. London: Ashgate, 204.
[266] Siegrist, S. 2006. "Child Participation in International Criminal Accountability Mechanisms: The Case of the Sierra Leone Truth and Reconciliation Commission," in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 60-1.

According to the TRC's Final Report, a witness was "a person who has personal knowledge of a particular event and can explain what happened."[267] Child soldiers too were to engage in truth-telling in order to "recognize and acknowledge the past."[268] This would be achieved through the telling of *personal and narrative truth*, "a witness's personal truth which he or she tells either in a statement or at a hearing…what he or she believes and should be respected."[269] As such, child soldiers were thus not obliged to fully disclose the crimes they may have committed. Rather, it was up to them individually to determine their "personal truth" and that which they disclosed was to be respected by the Commission.

The notion of child soldiers *as perpetrators* thus came to be used merely as an acknowledgement that they had indeed committed serious crimes; it did not imply that they would be held accountable for these actions and certainly not that investigation would proceed beyond the scope of their involvement in those atrocities which they chose to illuminate. Despite its initial avowed aims of addressing the accountability of child soldiers, the Commission effectively decided to emphasize understanding the phenomenon of child soldiering – their motivations, what child soldiers themselves understood of their experiences, and their role as perpetrators – rather than any investigation of their culpability:

> "The conflict in Sierra Leone forced children into assuming 'dual identities' of both victim and perpetrator. While the Commission chose to treat children who had been involved in the conflict as neutral witnesses, the Commission was also determined to explore the fullness of their experiences in order to understand the motivations for what they did and whether they had the capacity to understand all of it. Examining their role as perpetrators is an important step in this direction. The Commission is not seeking to explore guilt; on the contrary, it strives to understand how children came to carry out violations as part of an important learning curve in preventing future conflicts."[270]

While the Sierra Leone TRC ostensibly recognized the dual nature of child soldiers as both victims and perpetrators, it simplified matters by approaching all children as neutral



[267] SLTRC Final Report. 2004. "TRC Children's Version: Glossary," document accessed 12th January 2009 at http://www.trcsierraleone.org/children/glossary.htm.
[268] SLTRC Final Report. 2004. "Volume 1, Chapter 3: Concepts," paragraph 8. Document accessed 10th January 2009 at http://trcsierraleone.org/drwebsite/publish/v1c3.shtml.
[269] Ibid, paragraph 25.
[270] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," Paragraph 225. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml.

witnesses. This emphasis on viewing child soldiers as witnesses begs many questions: Did the TRC's concern to understand the child soldiering phenomenon also involve any concern with their accountability for the atrocities they had committed? To what extent and through what means were child soldiers to be held accountable for their actions? What is entailed in the processes of "examining their role as perpetrators" and "striving to understand how children came to carry out violations"? Did the TRC's approach of "not seeking to explore guilt" rather ignore the question of accountability for the atrocities of child soldiers?

One view could be that the prioritization of rehabilitation and reintegration of child soldiers as victims compromised the TRC's work towards addressing their accountability as perpetrators. However, this view cannot ignore that the Commission's approach was in compliance with the child rights focus of international law, most notably the "best interests" clause of the Convention on the Rights of the Child. The Lomé Accord and the TRC's Framework for Cooperation followed suit and directed the work of the TRC.

Alternatively, it could be argued that, despite the recognition that child perpetrators were by definition guilty of violations of human rights, the degree to which this was the case still needed to be investigated. Did child soldiers have the required agency in the crimes they committed? Put another way, were child soldiers, all factors considered, responsible for willfully committing serious crimes? If not, they could not be held fully accountable for their actions.

Conceiving child soldiers at the outset as neutral witnesses allowed for an investigation into the extent and details of child soldier violations, but again only to the degree that child soldiers were willing to acknowledge. Bearing in mind the controversial nature of child soldiers – as first victims, then perpetrators – it also left room to examine if they indeed had agency in the crimes they committed or perhaps should be held as victims *above all*. This apparent lack of focus on accountability in favor of a more general investigation into the child soldiering phenomenon however calls into question the nature and purpose of the SLTRC: Should it be assumed that because of the SLTRC's intent to provide a forum for both perpetrators and victims that indeed it ever expressly intended to work towards child soldier accountability? Rather, in line with the "primarily victims then perpetrators" clause of the Principles, was the TRC's emphasis on child soldier

rehabilitation and reintegration rather than on their accountability? The work and findings of the SLTRC must be considered to address these various issues.

### 3.7 Work, Findings, and Recommendations of the SLTRC Regarding Child Soldiers

Between 2002 and 2004, Sierra Leone's TRC recorded more than 9,000 statements related to the civil war in Sierra Leone from all of its target groups including women, children, and perpetrators.[271] Throughout special attention was given to children as noted in the Commission's Final Report: "In interpreting its mandate the Commission wanted to ensure that the voices of children would be heard and taken into account at every stage of its proceedings...[while ensuring] that the identity of children who testified would remain confidential."[272]

In order to encourage the participation of *all* children given the importance of child soldier testimony in pursuing its goals, "[t]he Commission decided as a matter of policy that all children would be treated equally as witnesses whose experiences needed to be captured by the Commission, irrespective of whether they had perpetrated violations."[273] The question of how it intended to address the needs of other victims, including those victimized by child soldiers, remained.

Despite concerted efforts to include child perpetrators, some children were initially afraid that their statements would be shared with the Special Court. When it was explained that this would not happen, more came forward to testify.[274]

In the end, altogether some 200 children were involved in the TRC process around the country, giving testimony and participating in thematic hearings on children.[275] The exact



[271] Hayner, P. 2007. "Negotiating peace in Sierra Leone: Confronting the justice challenge." Geneva: Centre for Humanitarian Dialogue, 27; UN General Assembly. 2003. "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Sierra Leone." Report A/58/379, paragraph 44.
[272] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," paragraph 14. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml?page=1.
[273] Ibid, paragraph 17.
[274] Siegrist, S. 2006. "Child Participation in International Criminal Accountability Mechanisms: The Case of the Sierra Leone Truth and Reconciliation Commission," in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 62.
[275] Ibid, 61.

number of child soldiers that testified before the TRC has not been published. However, it was reported by UNICEF personnel that more child *victims* testified than did child *perpetrators.* This said, it was also reported that more children testified as perpetrators than did adults.[276]

It should be noted that between 1998 and the start of the TRC in 2002 6,774 child soldiers from all fighting factions had already gone through the disarmament, demobilization and reintegration (DDR[277]) process set up by the government of Sierra Leone and supported by UNICEF and their Child Protection Agency partners.[278] This fact highlights further that bringing reconciliation to Sierra Leone and rehabilitation to child soldiers has been the main priority of the parties involved, led by the Sierra Leonean government and children's advocates but supported by a large part of civil society. Regardless of the exact number of child soldiers who testified before the Commission, their participation was important in consolidating a view of child soldiers as *above all* victims of atrocities and human rights violations who are in need of rehabilitation and reintegration.

Through the testimony of child soldiers and others before the Sierra Leone TRC, the status of child soldiers as above all victims was laid out methodically from the process of recruitment through to their perpetration of serious atrocities and human rights violations. The Final Report notably dispels the notion of any "voluntary" enlistment of child soldiers into armed service since children are deemed to be incapable of making the choices that would be necessary to volunteer. It does not however indicate whether or to what extent child soldiers must themselves be held responsible for their actions. The Report instead views any use of children in war whatsoever as a breach of those children's rights, something that child soldiers themselves cannot be held accountable for but rather the adults who were responsible for their illegal recruitment:



---

[276] Dougherty, B. 2004. "Searching for Answers: Sierra Leone's Truth and Reconciliation Commission," in African Studies Quarterly, 8(1), 48.

[277] Through removing weapons from combatants, taking them out of military structures, and helping them to integrate socially and economically into society, DDR programs attempt to support ex-combatants so they can become active participants in peace processes.
UN Disarmament, Demobilization and Reintegration Resource Centre. 2009. "What is DDR?" Accessed 25th January 2010 at http://www.unddr.org/whatisddr.php.

[278] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," paragraph 393-4. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml?page=1.

> "The Commission…finds that the notion of children 'volunteering' to join the armed groups…completely unacceptable as children do not have the ability or capacity to 'volunteer'. Simply put 'they have no choice'. The Commission finds that the recruitment of children within the armed factions as soldiers constitutes a violation of international law for which the leadership must be held accountable. In the course of recruiting children as child soldiers, the rights of children have been violated."[279]

Besides negating child soldier agency, this passage indicates the TRC's focus on holding the recruiters of child soldiers accountable also for the atrocities the recruits subsequently committed rather than the children themselves. All fighting groups including the government-led Sierra Leone Army were found by the Commission to be responsible for the illegal recruitment of child soldiers in which they "exploited the vulnerability of children and in so doing brutalized them." [280] The Report notes that, as a result of such exploitation, "[c]hildren have entered adulthood deeply scarred by their traumatic experiences and their feelings of guilt."[281] The Final Report highlights the systematic abuses experienced by child soldiers that preceded their perpetration of serious crimes:

> "The conflict in Sierra Leone impacted heavily on children, as their rights were systematically violated by all of the armed factions. Children suffered abduction, forced recruitment, sexual slavery and rape, amputation, mutilation, displacement and torture. They were also forced to become perpetrators and carry out aberrations violating the rights of other civilians."[282]

That child soldiers were not only themselves brutalized but also *forced to become perpetrators* demonstrates the ambiguity of their situation: that they were both victims and perpetrators of gross human rights violations. How did the TRC address the dilemmas of accountability in this ambiguous situation? In general the TRC found it difficult to acknowledge the agency of child soldiers in committing serious crimes. Thus after describing how child soldiers had their own rights violated by the command structures of the armed forces during their initiation into violence, the TRC Report



[279] Ibid, paragraph 234.
[280] SLTRC Final Report. 2004. "Volume 2, Chapter 2: Findings," paragraphs 468-9. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v2c2.shtml?page=45.
[281] Ibid.
[282] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," paragraph 7. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml?page=1.

reemphasizes the process wherein these victims of atrocities were first made to commit atrocities that then became second nature:

> "Children witnessed the perpetration of violations during the conflict and in turn perpetrated gross human rights violations against others. Initially, they had to be coerced into committing abuses but soon many of them began to initiate heinous atrocities without having to be compelled to do so. After being absorbed into an armed faction, children often behaved absolutely without inhibition. Living in the violent reality of conflict soon deadened their senses..."[283]

The Commission notes this as a normalization of violence that child soldiers experienced within armed groups that made their crimes seem acceptable: "In their roles as perpetrators, many children have been 'conditioned' into accepting violence as the norm."[284] Despite the agency implied by the fact that child soldiers *initiated* serious crimes, the Report highlights the setting within which child soldiers had little choice but to become perpetrators:

> "The commission of these violations by children needs to be put in context against the turmoil of the conflict-ridden world they lived in. They were compelled to carry out such violations in order to survive. Refusal to carry out an order was simply not countenanced. Death or other violent reprisal for refusal to carry out the order was almost instantaneous. Thus most children were forced to carry out violations or become the victims of violations. Their physical size and their incredible vulnerability made them succumb quite easily."[285]

Besides the intimidation of severe violence and threats of death, the Report found that the vulnerability of child soldiers was exploited in multiple other ways. For one, commanders of child soldiers used the insecure and impressionable nature of their child recruits to motivate them to commit serious crimes:

> "Children…under most circumstances seek to please their elders, for a variety of reasons. These include issues of safety, as well as attracting affirmation and attention. Their desire to please has often been exploited by commanders, who force children into committing the most egregious violations."[286]



---

[283] Ibid, paragraph 227.
[284] SLTRC Final Report. 2004. "Volume 2, Chapter 2: Findings," paragraphs 468-9. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v2c2.shtml?page=45.
[285] SLTRC Final Report. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," paragraph 229. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml?page=1.
[286] Ibid, paragraph 209.

The Report goes on to note how commanders use drugs to control child soldiers.[287] Not only do the drugs make children more malleable to their command; it makes it easier for them to carry out especially violent offensives. Drugs are cited as a major influence on the behavior of child soldiers, allowing them to carry out the most heinous of crimes:

> "Most of the testimonies made to the Commission confirmed that children carried out the most atrocious violations while under the influence of these drugs. The capacity of children to take responsibility for their acts remains open to debate."[288]

In this passage, the Report alludes to the *possible* responsibility of child soldiers for their serious human rights violations and atrocities. It is one of the few places in the over-5,000 page document where agency on the part of child soldiers is held as even possible; the rest of the Report focused on how children were exploited and manipulated to do things they would not have done of their own initiative. Throughout the Report, there is no definitive attribution of any definite responsibility of child soldiers for the crimes they committed. Rather than attempting to pursue their accountability, the Commission establishes what it concludes is a main priority facing Sierra Leone – psychosocial rehabilitation of all Sierra Leonean children affected by war including the extreme example of child soldiers:

> "The psychosocial effects of the conflict have had a definitive impact on the children of Sierra Leone. The repercussions of their experiences are far-reaching and long-term and will require careful psychosocial support in order to help heal them. The overall development of the children of Sierra Leone has been affected and will need major intervention if they are to take their rightful place in the world."[289]

Beyond direct exposure to war and violence, the Commission alludes to the profound psychosocial factors that produced such pervasive effects on children around the country and which needed to be addressed in order to substantially improve conditions for children:

> "In the end, the war not only affected marginalized youth; it also affected mainstream youth. This was largely due to the breakdown of the family, the collapse of educational institutions, the lack of jobs and the fact that the fighting occurred in almost every part of the country."[290]



[287] Ibid, paragraph 195.
[288] Ibid, paragraph 197.
[289] Ibid, paragraph 363.
[290] SLTRC Final Report. 2004. "Volume 2, Chapter 2: Findings," paragraph 458. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v2c2.shtml?page=45.

This psychosocial outlook on the negative effects of war on children in Sierra Leone – focusing broadly on the effects of altered relationships from violence and death, the breakdown of family along with local values and belief systems, and the further educational and economic devastation incurred by many years of war – is the lens through which Sierra Leone's TRC viewed the necessary steps forward in proposing to address its findings. In doing so the initial concerns with the accountability of child soldiers as perpetrators of gross violations of human rights were effectively displaced.

As outlined in the Truth and Reconciliation Commission Act 2000, Sierra Leone's TRC was required to make recommendations regarding the "reforms and measures…needed to achieve the object of the Commission; namely, providing an impartial historical record, preventing the repetition of violations or abuses suffered, addressing impunity, responding to the needs of victims and promoting healing and reconciliation."[291] *None of these recommendations make reference to pursuing accountability for the actions of child soldiers.* Presumably this is because it was accepted either that child soldier accountability had already been adequately addressed during the course of the Commission's work, or that, in line with the findings of the TRC itself, child soldiers were not to be held accountable due to a lack of agency in the crimes they had committed.

In the "imperative" recommendations of the Final Report, i.e. those that were deemed necessary "to be implemented immediately or as soon as possible,"[292] strong emphasis is placed on addressing abuses suffered by Sierra Leonean children *as a whole*, child soldiers included, rather than moving towards child soldier accountability. The worst abuses experienced by children generally are combined with those experienced specifically by child soldiers, implying that the document's approach to redress for children equally applies to child soldiers.

In setting out its imperative recommendations, the Commission restated its sense of mission regarding the necessary future protection of Sierra Leone's children, the part of the population most dramatically affected by war:

> "The Commission found it most disturbing that children were the main victims in the following violations: drugging; forced recruitment; rape; and

[291] SLTRC Final Report. 2004. "Volume 2, Chapter 3: Recommendations," paragraph 1. Document accessed 12th January 2009 at http://trcsierraleone.org/drwebsite/publish/v2c3.shtml.
[292] Ibid, paragraph 17.

> sexual assault. The Commission also noted that children were compelled to participate in the war as child soldiers and were forced to commit a range of atrocities. Never again should the children of Sierra Leone be subjected to brutality."[293]

The Commission also took note of the needs of "youth", defined as those between age 18 and 35[294], in its recommendations. As 14 years had elapsed between the start of the war in Sierra Leone and the publication of the TRC's Final Report, many of those affected as children and/or child soldiers now fit into this category. In addressing their case the Commission states

> "civil war has aggravated matters for youth…[who] have been denied a normal education and indeed a normal life…These young people constitute Sierra Leone's lost generation. The Commission recommends that the youth question be viewed as a national emergency that demands national mobilisation."[295]

The imperative recommendations that follow are the Commission's attempt to create a framework for the improvement of the conditions facing Sierra Leonean children and youth, recognizing that in order to achieve them children must be protected and educated while the progress of youth must be monitored and their interests represented in government. Towards creating and/or strengthening legislative protections for the children of Sierra Leone, the Report prioritized the passing of the Child Rights Bill that was to incorporate the requirements of the Convention on the Rights of the Child.[296] All Sierra Leonean legislation was to be reviewed by the Law Commission "with a view to determining whether the rights of children have been taken into account and, in particular, whether such legislation is in accord with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child."[297] The Commission also stated that primary education should be compulsory for all children.[298] Furthermore, it recommended that Sierra Leone's Parliament create legislation that brings the age of majority to 18 in line with the current voting age.[299]



[293] Ibid, paragraph 378-9.
[294] Ibid, page 166.
[295] Ibid, paragraph 306.
[296] Ibid, paragraph 381.
[297] Ibid, paragraph 382.
[298] Ibid, paragraph 384.
[299] Ibid, paragraph 387.

With an eye towards integrating the country's youth into civil society and the national economy, a National Youth Commission is to be created and tasked with identifying and creating a framework for the realization of youth needs. The goal is not only to develop public-private partnerships that would lead to employment but eventually to involve youth as co-owners and investors in relevant companies.[300] A yearly "State of Youth" report by the National Youth Commission will assess the necessary and existing programs working for this end.[301]

The Report also highlights the importance of giving youth "a meaningful political voice [in order to] express themselves and to realize their potential," the lack of which is held as largely responsible for the "devastating consequences" endured by youth during war.[302] The Commission put forward as imperative that all political parties should ensure that at least 10% of their candidates at all elections are youths: "[A]ll political parties [are] to nurture and develop meaningful participation of youth."[303] Taken together, the imperative recommendations laid out by Sierra Leone's Truth and Reconciliation Commission show a clear prioritization of the protection and advancement of children and youth as they were perceived to be the groups most negatively affected by war in Sierra Leone. Far from pursuing accountability for child soldiers, the SLTRC recognized that in fact they were grossly victimized and deserved the same attention as did all children and youth affected by war.



### 3.8 Conclusion: The Marginalization of Accountability in the Victim-Centered SLTRC Process

If one of the goals of Sierra Leone's TRC had been to achieve the accountability of child soldiers for the serious crimes they committed during war, investigation of the TRC's work in this regard gives one good reason to question to what extent this had been accomplished or, for that matter, how seriously it had been pursued in the first place. The first mention of child soldiers by the SLTRC stressed that they should be held on par with victims of sexual abuse and afforded special procedures that respect the traumas

[300] Ibid, paragraph 310.
[301] Ibid, paragraph 311.
[302] Ibid, paragraph 312.
[303] Ibid, paragraph 313.

they had endured.[304] There was no further discussion in any Commission document, from the outset until the publishing of its Final Report, of holding child soldiers to account for their crimes, not to mention by what means. Rather, throughout the TRC process the focus remained on protecting children, including child soldiers, while trying to solicit their involvement at every stage of its work.

UNICEF's Siegrist notes that when, at its inception, there was a dearth of children scheduled to testify before the TRC it was emphasized that there would be no sharing of information with the Special Court and that all children would be considered only as victims of the war. Thereafter more children came forward to testify.[305] The child-friendly measures put in place by the Commission with support of UNICEF, while serving to protect child soldiers through their emphasis on voluntary participation of child soldiers-as-witnesses, effectively prevented any serious investigation of their human rights abuses during the civil war. In this sense the concern with the need to protect child soldiers as victims can be seen as working counter to ending the culture of impunity that Kofi Annan had noted as unacceptable to a significant part of Sierra Leonean civil society.

The commitment to ending the culture of impunity had given impetus for the UN to empower the Special Court with a mandate that would allow it to prosecute child soldiers. Subsequently the responsibility for holding child soldiers accountable for their war crimes was passed on to the SLTRC. In 2002 Zarifis argued that the collaborative effort of Sierra Leone's Special Court and TRC would effectively address "[t]he moral dilemma of holding juvenile offenders accountable for war crimes" as the Special Court would prosecute war criminals with the greatest responsibility while the TRC focused on "fostering national peace and reconciliation."[306]

But how can the Special Court and the SLTRC be considered effective in dealing with child soldier accountability if the former declined to prosecute them while the latter focused exclusively on national goals of peace and reconciliation while all but ignoring

[304] Sierra Leone. 2000. "The Truth and Reconciliation Commission Act 2000," Article 7(4).
[305] Siegrist, S. 2006. "Child Participation in International Criminal Accountability Mechanisms: The Case of the Sierra Leone Truth and Reconciliation Commission," in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 62.
[306] Zarifis, I. 2002. "Sierra Leone's Search for Justice and Accountability of Child Soldiers," Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.

accountability? Zarifis had emphasized that truth-telling is in fact the best means to address the victim-first-then-perpetrator status of child soldiers, though not for its strength in establishing their responsibility and addressing accountability, but rather because of its ability to "facilitate effective social rehabilitation and reintegration."[307] Duthie likewise argued that some of the benefits of truth commissions in the post-conflict period – in working to address impunity and towards redressing the grievances of victims as an important step towards reconciliation – are their ability "to individualize guilt [and] provide ex-combatants who are guilty of committing abuses the opportunity to acknowledge their guilt and apologize to victims and communities."[308] Given the approach of the SLTRC to child soldiers, however, the extent to which these benefits were realized was negligible.

In practice voluntary participation of child soldiers in the SLTRC's victim hearings was not conducive to holding them accountable as perpetrators of war crimes. For one, fewer than 200 child soldiers testified before the Commission – under 4% of those involved in war using the lowest estimates and under 2% using the highest. The large majority did not even discuss their actions much less acknowledge their guilt or apologize to victims. Secondly, due to the SLTRC's definition of child soldiers as witnesses rather than as perpetrators there was no emphasis on assuming responsibility for the serious crimes committed by those who did testify. Furthermore, the Commission's definition of "personal and narrative truth" as being the witness' personal account of events that must be respected by the Commission no matter how much or how little they chose to disclose did not guarantee accountability. As the best interests of child soldiers were prioritized over and above their accountability – by the voluntary participation and victims-witnesses-only approach – it may be inferred that the SLTRC in effect serves to ensure the impunity of child soldiers.

In the end, the SLTRC did not achieve accountability for child soldiers either due to its approach or to the shortcomings of its actual practice. In any case, it later became evident that the Commission's main priority was instead on their rehabilitation and reintegration. In its conclusions the Commission recognized child soldiers above all as *victims* of war's atrocities; it followed that child soldiers could have little or no agency for

[307] Ibid.
[308] Duthie, R. 2005. "Transitional Justice and Social Reintegration." Paper for Stockholm Initiative on Disarmament, Demobilization, and Reinegration(SIDDR), Working Group 3, 10.

the serious crimes they committed. Examination of views beyond the Commission indicate that its recovery focus for child soldiers reflected the concerns of the Sierra Leonean government and society. In its Report the SLTRC noted that there was widespread recognition of the importance of normalizing lives as quickly as possible in working towards consolidating peace in the country. The swift moves to pursue the disarmament, demobilization and reintegration of child soldiers represented the newly democratically-elected Kabbah government's priorities in this process: "There was widespread recognition at the end of such a tumultuous period of the conflict that a need existed to put structures in place to begin the transition to peace."[309]

Kabbah himself headed the National Committee for Disarmament, Demobilization and Reintegration that managed the DDR process as set out in the Lomé Accord of 1999[310] and consolidated the Abuja Ceasefire Agreement of 2000. Dougherty explains that DDR for child soldiers was likewise supported by the majority of Sierra Leoneans who welcomed their return, not only because of what he deems their "forgiving nature" but because it was an essential component of recovering from war: "A pragmatic calculation that the children had to be reintegrated to ensure peace and stability undoubtedly contributed to the acceptance of ex-child soldiers."[311] The fact that almost 7,000 child soldiers had already gone through the DDR processes by the inception of the TRC foreshadowed that indeed accountability of child soldiers was not the main emphasis of transitional justice processes in Sierra Leone.

Realizing the importance of reintegrating child soldiers in establishing peace, the emphasis of justice processes and the fight against impunity turned to prosecuting those who recruited and utilized child soldiers. This was compounded by the questionable extent of the agency of child soldiers. The founding Chief Prosecutor of the Special Court David Crane noted that in fact *all* of the SLSC's indictees were charged at least in



[309] Truth and Reconciliation Commission of Sierra Leone. 2004. "Volume 3b, Chapter 4: Children and Armed Conflict in Sierra Leone," paragraph 392. Document accessed 17th September 2008 at http://trcsierraleone.org/drwebsite/publish/v3b-c4.shtml?page=1.
[310] Malan, M., P. Rakate, and A. McIntyre. 2002. "Peacekeeping in Sierra Leone: UNAMSIL Hits the Home Straight," Chapter 7, Pretoria: Institute for Security Studies, accessed 12th February 2009 at http://www.iss.co.za/Pubs/Monographs/No68/Chap7.html.
[311] Dougherty, B. 2004. "Searching for Answers: Sierra Leone's Truth and Reconciliation Commission," in African Studies Quarterly, 8(1), 50.

part with the use of child soldiers, several also for their recruitment.[312] Fallah emphasizes that the Sierra Leone case is significant for its attention to the concerns of recovering from war and establishing peace while maintaining a focus on issues of justice and accountability: "The Sierra Leonean model presents a useful starting point for balancing two, sometimes competing, imperatives: the fight against impunity and the struggle to heal wounds and nation-build in the aftermath of conflict." [313] In the case of child soldiers however this was certainly not the case. In effect the SLTRC failed to hold them accountable for their war crimes in any meaningful sense. In the end it is apparent that the rehabilitation and reintegration of child soldiers, towards healing and rebuilding Sierra Leone, was prioritized over their accountability.



[312] Crane, D. 2006. "Strike Terror No More: Prosecuting the Use of Children in Times of Conflict – the West African Extreme," in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press, 126.
[313] Fallah, K. 2006. "Perpetrators and Victims: Prosecuting Children for the Commission of International Crimes," in The African Journal of International and Comparative Law, 14(1), 103.

## Chapter 4. THE CASE OF UGANDA: THE INTERNATIONAL CRIMINAL COURT AND TRADITIONAL JUSTICE MECHANISMS

This chapter will provide an investigation of the conflict in Uganda and the processes that led to the adoption of traditional justice mechanisms to address the case of child soldiers. I begin by giving a brief background to the Ugandan civil war and its effects on society and politics. I next highlight the peace-versus-justice debate that has challenged both the resolution of conflict as well as the issue of addressing child soldier accountability in Uganda. Subsequently I turn to the specific impact of war on child soldiers in this case. I then review the official and unofficial approaches to child soldiers throughout the conflict followed by the political processes that have led to the application of traditional justice mechanisms to child soldiers. In this chapter my conclusions as to how and to what extent traditional justice mechanisms are meant to address the accountability of child soldiers are based on the provisions of the Agreement of Accountability and Reconciliation and its Annexure that established their role in this regard. However the preceding account of the pursuit to end conflict along with the related thrust of concerns related to accountability further motivate my conclusions.

### 4.1 Historical Background: Child Soldiers and the Unresolved War in Northern Uganda

The as yet unresolved conflict in northern Uganda between the Lord's Resistance Army (LRA) and the government's Uganda People's Democratic Forces (UPDF) has deep historical foundations. Colonial marginalization of the north, unequal access to resources including land and the means of economic development, and ethnic strife between local groups contributed to a history of violence and militarism in dealing with regional and national problems. It is argued in related literature that contemporary violence in Uganda amounts to a "profound crisis of legitimacy of the state"[314] rooted in Uganda's colonial and post-colonial history. Otunnu argues that during the colonial period "the state was constructed through European expansionist violence, manipulation of pre-existing differences, administrative policies of divide-and-rule and economic policies that further fractured the colonial identity."[315] British colonial powers created different economic zones wherein major infrastructural investment went to the south while the north was

[314] Otunnu, O. 2002. "Causes and Consequences of the War in Acholiland," Conciliation Resources website, accessed 1st March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/causes-dynamics.php.
[315] Ibid.

utilized largely as a labor reserve thus solidifying economic disparities between the two parts of the country.[316]

Post-independence Uganda was characterized by serious political challenges. At first this was based on the varying interests of different political parties that were organized on ethnic lines and all sought to secure benefits for their constituencies. Indicating the growing importance of the military in Ugandan affairs President Obote selected Idi Amin Dada as his personal protégé and promoted him rapidly through the army ranks. When it was found that Amin had provided military support in a crisis in neighboring Congo, Obote's political rivals claimed that he and his closest associates were corrupt and had conducted secret foreign policy for personal gain. This resulted in a "no confidence" vote against him.[317] In 1966, only 4 years after independence, Obote declared a state of emergency and suspended the constitution.[318] Successive violent power struggles resulted in an increasing militarization of Uganda's political landscape, demonstrating the general inadequacy of state institutions to provide for participation, while more particularly exacerbating the north's unequal economic position and accompanying discontent.[319]

The northern Acholi were at first well-represented in the military but became the target of persecution by Idi Amin after his bloody coup in 1971. As Amin was from the West Nile sub-region he feared the army's Acholi elements. As a result he ordered the murder of or forced into exile many Acholi soldiers and "an entire generation of Acholi leaders" including the Acholi Anglican Archbishop of Uganda who was assassinated in 1977.[320] Anti-government forces including Yoweri Museveni began training in Tanzania during the late 1970s with plans to overthrow Amin. According to some northerners, many Acholis were recruited for this purpose. In 1981 Museveni established the National Resistance Movement/Army(NRM/A) as a politically motivated armed anti-government



---

316 Ibid.
317 Global Security. No date. "Uganda Independence," accessed 20th January 2010 at http://www.globalsecurity.org/military/world/war/uganda1.htm.
318 Clark, J. 2002. "Uganda," International Relations Center website, accessed 14th March 2009 at http://presentdanger.irc-online.org/conflicts/uganda.html.
319 Graduate Institute of International and Developmental Studies. 2008. "Lord's Resistsance Army: Origins," accessed 15th March 2009 at http://www.armed-groups.org/6/section.aspx/ViewGroup?id=28.
320 ReliefWeb. 1997. "The Anguish of Northern Uganda," accessed 15th March 2009 at http://wwww.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/4233a0bf811d7767c1256525002b8e44.

insurgency.[321] In a sign of what would come to characterize the war in northern Uganda, the NRM/A recruited 3,000 child soldiers, all of whom were under age 16, in support of its fight for power.[322]

After much political vacillation accompanied by extreme violence, peace talks were arranged in 1985 that resulted in the Nairobi Peace Agreement. The Agreement committed all competing factions, including Museveni's NRM/A, to a ceasefire, the demilitarization of armed forces, and power-sharing in a constitutional democracy.[323] Despite the Nairobi Peace Agreement, however, Museveni led his army to Kampala and seized power on the 25th of January 1986, consolidating all socio-economic, political, and military power in southern Uganda.[324]

Motivated by his betrayal of the Nairobi Peace Agreement, rebel groups solidified against Museveni as Acholi soldiers of the deposed government returned to their northern birthplaces[325]. More generally there was a growing perception among the Acholi that official government policy would further "exclude, discriminate against, neglect and/or exploit certain groups with regard to political participation."[326] Museveni responded by sending the NRA to thwart rebellion. In the process they committed significant human rights abuses including rapes, abductions, and the killing of unarmed civilians in addition to the destruction of granaries, schools, hospitals and boreholes.[327] Conscripted child soldiers were also involved in these atrocities. Later the Government of Uganda (GoU) would admit that it had used child soldiers extensively during the 1980s, justifying it as "dictated by the circumstances of the day."[328] During this time,



[321] Ibid.
[322] Muhumuza, R. 1995. "The Gun Children of Gulu: The Reluctant Child Soldiers in Joseph Kony's Lord's Resistance Army (LRA) in Northern Uganda," Kampala: World Vision Uganda, 11.
[323] Uganda. 1985. "The Uganda Peace Talks Agreement for the Restoration of Peace to the Sovereign State of the Republic of Uganda," document accessed 15th March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/nairobi-peace-agreement.php.
[324] Otunnu, O. 2002. "Causes and Consequences of the War in Acholiland," Conciliation Resources website, accessed 1st March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/causes-dynamics.php.
[325] Human Rights Watch. 2005. "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda," accessed 15th March 2008 at http://www.hrw.org/reports/2005/uganda0905/4.htm.
[326] Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies, 16.
[327] Otunnu, O. 2002. "Causes and Consequences of the War in Acholiland," Conciliation Resources website, accessed 1st March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/causes-dynamics.php.
[328]UN. 1996. "Initial Report of Uganda to the Committee on the Rights of the Child," UN Document CRC/C/3/Add.40, paragraphs 228-31.

many Acholi considered that their homeland was under violent occupation leaving little alternative but to fight for their survival.[329]

In August 1986, Alice Auma formed the quasi-political Holy Spirit Movement (HSM) and the militant Holy Spirit Mobile Forces(HSMF) in northern Uganda, in opposition to the continuing threat presented to northern populations by Museveni's new regime. These groups would in time become the foundation for Joseph Kony's similarly cult-like Lord's Resistance Army. Auma had been practicing as a spirit medium and healer in Gulu where she declared herself a prophet. The main spirit she claimed to channel was that of a dead Italian army officer named "Lakwena," or messenger, which the Acholi believe to be a manifestation of the Christian Holy Spirit.[330] She espoused the revival of Acholi militarism grounded in a fusion of Christian and traditional beliefs in defense against oppression and possible extinction.[331] As one account puts it, "she offered hope for worldly as well as spiritual redemption in a dark hour of despair."[332] In attempting to revive and strengthen Acholi culture, Auma emphasized the use of cleansing rituals and strict moral rules implying a vision of war as a purifying process.[333] Within the HSM and the HSMF looting, rape and adultery were prohibited, as was smoking and drinking.[334] Auma's charismatic figure electrified Acholi youth[335] and gathered many followers, extending beyond Acholiland and initially including many ex-UPDA forces that refused to enter into peace talks with Museveni.[336] The HSMF was surprisingly effective and, underestimated by Museveni, for a short time managed to take over large parts of Uganda.[337] In a quest for more manpower the HSMF, before its 1987 campaign into southern Uganda, coerced many young men from local villages into joining their forces.



[329] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 13-4.
[330] Allen, T. 1991. "Understanding Alice: Uganda's Holy Spirit Movement in Context," Africa: Journal of the International African Institute, 61 (3), 375-6.
[331] Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies, 16.
[332] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 16.
[333] Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies, 16.
[334] *The Independent.* 30 July 2004. "The mystic and his brutal army of child soldiers."
[335] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 18.
[336] Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies, 11.
[337] Ruaudel, H. and A. Timpson. 2005. "Northern Uganda: From forgotten war to an unforgivable crisis – the war against children." Pretoria: Institute for Security Studies, 3.

Many of the recruits' families were killed before their abduction, indicating the brutality that would soon become the hallmark of the LRA.[338] A short time later, having suffered defeat at the hands of the Museveni government's United People's Democratic Forces (UPDF), Auma went into exile in Kenya.[339]

In April of 1987, Joseph Kony, who claimed to have inherited his cousin Alice Auma's spiritual powers, founded the Lord's Resistance Army (LRA).[340] Drawing initially from Acholi UPDA deserters[341], the LRA filled the "power vacuum among fractured northern resistance movements."[342] Kony's "charismatic leadership" was at first accepted by local populations.[343] Akin to Auma's symbolism and message of saving the Acholi from genocide through moral rejuvenation and providing them with a renewed identity, Kony reportedly also advocated creating a new Acholi nation, "one that had been punished, cleansed and purged by violence."[344] In the LRA's original manifesto, Kony spoke of his desire to overthrow Museveni's regime and replace it with one that adheres to the Bible's Ten Commandments.[345] Despite this quasi-political-cum-spiritual message at the outset, however, Kony did little to address traditional Acholi grievances. Instead the LRA used fear and violence coupled with "apocalyptic spiritualism" to maintain the insurgency against Museveni.[346] As a result, Acholiland became a battlefield between the LRA and government forces and Kony gradually lost local support. The majority of Acholi were tired of living in constant terror, some so much so that they even took up bows and arrows against Kony.[347] Large numbers also moved to protected camps set up by Museveni. In return, the LRA intensified its violent campaign against the Acholi



[338] Allen, T. 1991. "Understanding Alice: Uganda's Holy Spirit Movement in Context," Africa: Journal of the International African Institute, 61 (3), 373.
[339] Graduate Institute of International and Developmental Studies. 2008. "Lord's Resistance Army: Origins," accessed 15th March 2009 at http://www.armed-groups.org/6/section.aspx/ViewGroup?id=28.
[340] Nannyonjo, J. 2004. "Conflicts, Poverty and Human Development in Northern Uganda," paper prepared for WIDER Conference on Making Peace Work, Helsinki, 4-5 June 2004, 3.
[341] Ibid.
[342] Graduate Institute of International and Developmental Studies. 2008. "Lord's Resistance Army: Origins," accessed 15th March 2009 at http://www.armed-groups.org/6/section.aspx/ViewGroup?id=28.
[343] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 22.
[344] Ruaudel, H. and A. Timpson. 2005. "Northern Uganda: From forgotten war to an unforgivable crisis – the war against children." Pretoria: Institute for Security Studies, 4.
[345] IRIN. 2002. "Uganda: Nature, Structure and Ideology of the LRA," accessed 18th March 2009 at http://www.irinnews.org/InDepthMain.aspx?InDepthId=23&ReportId=65772.
[346] Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies, 12.
[347] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 23.

population that was seen as allied to the government.[348] The abduction of children became a main tactic of the LRA as they were seen to be "the nucleus of a new Acholi identity."[349] Eventually child soldiers would make up 90% of the LRA's fighting forces.[350] By 2008, it was reported that about 25,000 children had been forcibly abducted by the LRA since the beginning of the conflict.[351]

The GoU also utilized child soldiers throughout the northern conflict although not nearly to the extent of the LRA. Children were involved as part of Local Defense Units or "home guards" in providing security for villages and camps.[352] The UPDF also reportedly pressured former LRA child soldiers to join them in fighting against the LRA.[353] One UPDF commander defended the use of ex-LRA child soldiers saying, "between two evils, you choose the lesser – they have no alternative employment, where can they go?"[354] Officially, however, the Ugandan government claimed that it never intentionally recruited children while also admitting that some under-18s could have been recruited due to difficulties related to age verification.[355]

In November 2003, the United Nations' Under-Secretary-General Jan Egeland described the conflict in northern Uganda as "the world's worst neglected humanitarian crisis."[356] Human Rights Watch considered the LRA's violent campaign, targeting northern populations as it sought the accumulation of child soldiers by whatever means necessary, "a prime factor in the destruction of the economy of northern Uganda and the resultant impoverishment of its inhabitants."[357] The indigenous non-governmental



[348] Human Rights Watch. 2005. "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda," accessed 15th March 2008 at http://www.hrw.org/reports/2005/uganda0905/4.htm.
[349] Doom, R. and K. Vlassenroot. 1999. "Kony's Message: A New Koine? The Lord's Resistance Army in Northern Uganda," African Affairs, 98 (390), 25.
[350] UN. 2008. "Uganda: Child Soldiers at Centre of Mounting Humanitarian Crisis," accessed 12th September 2008 at http://www.un.org/events/tenstories/06/story.asp?storyID=100.
[351] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[352] Human Rights Watch. 2003. "Stolen Children: Abduction and Recruitment in Northern Uganda," 15 (7), 19.
[353] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[354] BBC. 2005. "Ugandan Army Recruiting Children." 15th February 2005, accessed at http://news.bbc.co.uk/2/hi/africa/4266789.stm.
[355] UN. 2007. "Children and Armed Conflict: Report of the Secretary-General." UN Document A/62/609-S/2007/757, 30.
[356] International Crisis Group. 2004. "Northern Uganda: Understanding and Solving the Conflict." ICG Africa Report, Number 77, 23.
[357] Human Rights Watch. 2005. "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda," accessed 15th March 2008 at http://www.hrw.org/reports/2005/uganda0905/4.htm.

organization Gulu Save the Children Organization (GUSCO) detailed the devastation of more than 20 years of civil war complicating its efforts of LRA child soldier reintegration:

> "Poor living conditions are prevalent among the internally displaced persons and people returning to their ancestral homes in villages, who are highly impoverished, displaced from their traditional land, suffered illness like cholera, malaria, and HIV/AIDS. The region has witnessed interrupted education; families have had to endure severe social breakdowns as evidenced by the big numbers of orphans, child mothers, and child-headed families. Communities are faced by shortages of food due to inaccessibility of their farmlands and inadequate agricultural input availability, hence left to survive on the food rations provided monthly by [the] World Food Program."[358]

By the middle of 2005 between 90 and 95% of northerners, or more than 1.9 million people, had been moved to towns or camps for internally displaced persons (IDPs). The UN characterized most of these IDP camps as "squalid" and "overcrowded" with acute shortages of housing, medical care, sanitation, water, and provisions for adequate nutrition.[359] The majority of the displaced, over 1.1 million, came from the three main ethnically Acholi districts of Gulu, Kitgum, and Pader. Until recently, IDP camps experienced human rights violations by the LRA, including, killings, raids, abductions, sexual abuse and general violence.[360] During a 6-month period in 2005 almost 1,000 deaths were reported each week in these camps with the top causes being malaria/fever, AIDS, *two lango* (a local sickness comprising of oral thrush, malnutrition, and diarrhea), and violence.[361] By the end of 2006, 98% of the population of the Acholi sub-region had been displaced.[362]

In 2007 the Juba peace process and the departure of the LRA from Uganda, following the signing of a cessation-of-hostilities accord, brought considerable stability to the



---

[358] GUSCO. 2008. "Reintegrating Formerly Abducted Children," accessed 12th June 2009 at www.gusco.org.
[359] UN Office for the Coordination of Humanitarian Affairs. 2005. "Consolidated Appeals Process: Mid-Term Review of the Humanitarian Appeal 2005 for Uganda," accessed 14th March 2009 at http://www.reliefweb.int/rw/RWB.NSF/db900SID/HSHU-6DL849?OpenDocument&rc=1&emid=ACOS-635PRQ&cc=uga.
[360] Ibid.
[361] Republic of Uganda Ministry of Health. 2005. "Health and Mortality Survey Among Internally Displaced Persons in Gulu, Kitgum and Pader Districts, Northern Uganda," ii.
[362] UN Development Program. 2008. "Committed to Northern Uganda's Recovery," in *UNDP Uganda News*, June 2008, 1.

country with the displaced slowly returning to their home areas.[363] On the 29th of July 2009 UNHCR reported that "some 80% of the more than 1.8 million people in camps for the internally displaced have returned home."[364] Nonetheless, a final peace settlement has yet to be signed between the LRA and Museveni's UPDF despite several attempts at further peace talks and such already-signed agreements as the 2007 Agreement on Accountability and Reconciliation and its 2008 Annexure on how to approach issues of justice and social re-building in the post-conflict period.

### 4.2 Re-integration and/or Accountability of Child Soldiers as an element of the Peace-versus-Justice Dilemma in the Resolution of Conflict in Northern Uganda

From a transitional justice perspective the complex moral and political difficulties involved in the re-integration and/or accountability of child soldiers in the northern Ugandan conflict may be seen as an instance of the more general "peace-versus-justice dilemma". Typically the demands of justice, i.e. that the perpetrators of past political atrocities and gross human rights violations be prosecuted and punished, may be countermanded by the requirements of conflict-resolution and peace-making, i.e. that the inclusion and collaboration of warlords, mass murderers and torturers have to be secured for the political pacts that can bring an end to ongoing civil war and political violence. Both peace and justice are desirable objectives but in the context of transitional justice one or the other has to be prioritized; they cannot both be pursued at the same time. As Nielson explains, "It is commonly argued that there is a trade-off between the two where peace has to be sacrificed in favor of justice or vice versa."[365]

In Uganda, this dilemma has taken a notably high-profile form with regard to whether the leaders of the LRA should be prosecuted by the International Criminal Court (ICC) for their many gross human rights violations or be granted amnesty as part of a political deal to secure a peace pact that might bring the ongoing conflict in northern Uganda to an end. The cause of justice and accountability is represented by Museveni's referral of the case of the LRA to the International Criminal Court for punishment in 2003. As against



[363] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[364] UNHCR. 2009. "More than 1.4 million internally displaced Ugandans head home since 2006," accessed 5th August 2009 at http://www.unhcr.org/4a6dc3159.html.
[365] Nielsen, T. 2008. "The International Criminal Court and the 'Peace versus Justice' Dichotomy," in Australian Journal of Peace Studies, 3, 34.

this the Acholi Religious Leaders Peace Initiative (ARLPI) has notably advocated the cause of amnesty for the LRA leaders, prioritizing peace and forgiveness for the sake of reconciliation. Amnesty advocates argue that the prospect of ICC prosecutions of the LRA leaders is a hindrance to the peace process, noting that the LRA has demanded that ICC indictments be dropped as a precondition for engaging in full peace talks. Many northerners would rather want to achieve accountability of the LRA through the use of traditional reconciliation rituals "that involve the offending party accepting responsibility for his actions and asking forgiveness."[366] These rituals seek to address the underlying causes of conflict, something ICC prosecutions of perpetrators are not seen to do.[367] Supporting the peace-first approach, Okello argues that "the simultaneous pursuit of peace and justice only delays a peaceful resolution of the conflict and contributes in a very real and visible sense to the continued internment of people in squalid camps for the internally displaced."[368] On the other hand, advocates of the justice-first approach argue that ICC arrest warrants, delivered in October 2005, were the decisive impetus for the LRA's ceasefire compliance in August 2006 and the reason they are even considering final peace talks.[369] It is further contended that prosecutions of LRA leaders actually will assist in peace-building efforts and that the involvement of the ICC will help to "isolate and eliminate the handful of top LRA leaders, while allowing for the reintegration of others into Ugandan society through an amnesty policy."[370]

The peace-versus-justice dilemma is particularly acute in dealing with the future of child soldiers: local and international 'peace' advocates have prioritized their rehabilitation and reintegration with an eye on community reconciliation while 'justice' advocates – notably President Museveni and the Ugandan administration – have intermittently continued to seek punishment of rebel child soldiers for the crimes they perpetrated. This manifestation of the peace-versus-justice debate characterizes the priorities of northern communities and their leaders, supported by international 'peace' advocates, in opposition to those of Museveni and the Ugandan administration as they sought to try



[366] Hanson, S. 2006. "In Uganda, Peace Versus Justice," Council on Foreign Relations, accessed 20th March 2009 at http://www.cfr.org/publication/12049/in_uganda_peace_versus_justice.html.
[367] Okello, M. 2006. "Commentary on 'Only Peace Can Restore the Confidence of the Displaced," presented at the Public Hearing in the European Parliament, Brussels, 5 October 2006, 5.
[368] Okello, M. 2007. "Hard-hitting Commentary from Uganda's Moses Okello," accessed 25th March 2008 at http://tj-forum.org/archives/002573.html.
[369] Hanson, S. 2006. "In Uganda, Peace Versus Justice," Council on Foreign Relations, accessed 20th March 2009 at http://www.cfr.org/publication/12049/in_uganda_peace_versus_justice.html.
[370] Akhavan, P. 2005. "The Lord's Resistance Army Case: Uganda's Submission of the First State Referral to the International Criminal Court," The American Journal of International Law, 99 (2), 420.

and punish Kony and LRA leaders by invoking the ICC supported by international 'justice' supporters. Both perspectives have long-term peace as the ultimate aim, the first by recovering from conflict as quickly as possible by addressing community healing and the latter by attempting to end impunity for crimes against international law so as to avoid their recurrence. But in the short term they have different implications and consequences for the treatment of LRA child soldiers: they can be held accountable for their part in the atrocities during the war or they can be re-integrated in local communities.

In practice these alternative approaches have not been pursued consistently. Museveni's 'justice-first' stance on the topic has actually been fluctuating: although firm at first, it later softened as the reality of the stance's implications for resolving the conflict became more apparent. However this was not without deviations. In June of 2007 Museveni signed the Agreement on Accountability and Reconciliation with representatives of the LRA, committing the GoU to avoid the use of criminal justice procedures for child soldiers in favor of reconciliation processes such as Mato Oput. Only one month later Museveni threatened to detain and charge with treason a child soldier who was 15 years old when the crime was allegedly committed.[371]

Moreover the choices between justice and peace may be less clear-cut. Mabasi argues that the ICC, in seeking the accountability of LRA leaders, in fact complements local reconciliation processes that are directed at the reintegration of low-rank LRA combatants and child soldiers, who make up a majority of the LRA's fighting forces.[372] Raising a different though related issue, Okello contends that the ICC, in its focus on the atrocities of the LRA, effectively condones impunity for the GoU in ignoring their own serious human rights violations.[373] Meanwhile the safety and security of LRA child soldiers remains a serious concern the longer these issues remain unresolved and the hostilities are extended.[374] Finding a way to deal with the LRA child soldiers remains a key challenge of transitional justice in the Ugandan context.



---

[371] *The Independent.* 29 October 2008. "Inverted Justice: Ex-child rebel faces treason charge."
[372] Mabasi, T. 2008. "ICC Arrest Warrants No Impediment to Peace," International Center for Transitional Justice, accessed 24th March 2009 at http://www.ictj.org/en/news/coverage/article/1968.html.
[373] Okello, M. 2007. "Hard-hitting Commentary from Uganda's Moses Okello," accessed 25th March 2008 at http://tj-forum.org/archives/002573.html.
[374] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.

### 4.3 Child Soldiers in Uganda

While the conflict in northern Uganda has been characterized by major attacks on civilian populations, one of its most disturbing aspects has been that "this is a war fought by children on children."[375] By systematically abducting children to bolster its forces, the LRA produced large numbers of child soldiers who victimize children through violent attacks on other LRA child soldiers and as themselves abductors of civilian children.[376] The use of child soldiers by government forces adds to the child-on-child nature of conflict in northern Uganda.

Still, the LRA and its brutal and widespread strategy of forced abduction and service under the threat of severe violence and death remains by far the most dramatic and problematic aspect of the war. Children as young as 8 were abducted from their homes, schools, and IDP camps.[377] Most were typically taken at night when the LRA enacted raids on villages and camps while looting food and supplies, razing settlements and infrastructure, and capturing both children and adults.[378] Often the children were "initiated" by being forced to kill their relatives, including younger siblings.[379] They were then beaten, supposedly to "harden them to life as soldiers."[380] One child recalled being hit with a cane 150 times and with the blunt side of a machete 8 times on the back.[381] Children were next covered in shea nut oil – forehead, chest, back, hands, and feet – applied on each area in the sign of the cross. To instill fear, they were told the oil would help the LRA find them if they tried to escape. One child recounted, "[T]hen you are no longer with your mother and father, but with the LRA. If you leave they will kill you."[382] In fact many LRA child soldiers were punished by death for attempting to leave the fighting, thus providing others a vivid lesson as to what would happen if they also tried to escape. Child soldiers were many times made to punish and kill recaptured escapees, so as to



[375] UN. 2008. "Uganda: Child Soldiers at Centre of Mounting Humanitarian Crisis," accessed 12th September 2008 at http://www.un.org/events/tenstories/06/story.asp?storyID=100.
[376] Uganda Conflict Action Network. 2007. "The Conflict," website accessed 11th September 2008 at http://www.ugandacan.org/history.php.
[377] Nannyonjo, J. 2004. "Conflicts, Poverty and Human Development in Northern Uganda," paper prepared for WIDER Conference on Making Peace Work, Helsinki, 4-5 June 2004, 9.
[378] Human Rights Watch. 2003. "Stolen Children: Abduction and Recruitment in Northern Uganda," 15 (7), 8.
[379] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[380] Human Rights Watch. 2003. "Stolen Children: Abduction and Recruitment in Northern Uganda," 15 (7), 8.
[381] Ibid.
[382] Ibid.

experience firsthand why they should stay with the LRA. Another LRA child soldier recounted:

> "One boy tried to escape and was caught, tied up, and marched back to camp. All the recruits from the various companies were told that we were never going home, that we were fighting now with the LRA so as a symbol of our pledge to fight on, this boy would be killed and we would help. Soldiers then laid the boy on the ground and stabbed him three times with a bayonet until blood began seeping from the wounds. Then the new recruits approached the boy and beat him on the chest. Each one had a turn and could only stop once the blood from the body splashed up on you. This boy was sixteen years old. We were beating him with sticks, each recruit was given a stick."[383]

Escapees were not the only ones brutalized and killed after their initiation into the LRA. Child soldiers were frequently caned even for minor mistakes in following orders.[384] Some were trampled to death, beaten, or mutilated either as punishment or if they were incapable of keeping up with their units.[385] One boy, just abducted, was made to carry the goods stolen from his village. When he fell down and broke his ankle, the unit commander shot him in the head.[386] Abductees were likewise made to perform gruesome acts, apparently senseless but effectively serving to further dehumanize them and inculcate the LRA's extreme culture of violence. One child was made to mutilate the dead body of a boy who had been beaten to death by other abductees: "I was ordered to cut up a dead body with a knife. I was then forced to pick up the pieces of flesh and throw them on the ground to show my loyalty."[387] The children were also given drugs that decreased their inhibitions in committing acts of violence; in the words of one, the drugs "make you lose your memory, and you don't think about whether it's a human being."[388] Female child soldiers were often enslaved and made "wives" of LRA commanders, subject to rape, unwanted pregnancies, and the high risk of sexually transmitted diseases.[389]



---

[383] Ibid
[384] Ibid.
[385] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.
[386] Coomaraswamy, R. 2009. "Child Soldiers: Root Causes and UN Initiatives," UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 4.
[387] IRIN. 2003. "Uganda: Web Special on Crisis in Northern Uganda," accessed 17th March 2009 at http://www.irinnews.org/Report.aspx?ReportId=46146.
[388] Nolen, S. 2003. "Uganda's Child Soldiers," *The Globe and Mail*, 25 January 2003.
[389] Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.

Although fear of punishment and death was the main driving force behind the atrocities committed by LRA child soldiers, there are reports that some participated willingly. Stella Laloyo, a social worker in Gulu working with LRA child soldiers, reported that "[s]ome kids enjoyed it and want to go back."[390] Among children she interviewed, some explained that although they did not miss the hardship of living with hunger and fear, they did miss the sense of power they had as soldiers and preferred that to becoming "children" again.[391] A UNICEF Uganda report published in 2006 found that 44% of interviewed abductees even admitted feeling "allegiance" towards the LRA at some point during their tenure regardless of the forced nature of their recruitment and the conditions they were exposed to.[392] Maina argues that life in the LRA "could have had more to offer" for child soldiers in terms of privileges and relative advantages than the conditions they experienced in IDP camps. As a result she says reintegration attempts are potentially challenged by the eagerness of some child soldiers to return to rebel service.[393] On the other hand Human Rights Watch posits that, although some children "volunteer" to participate in the LRA, many nonetheless soon learn that "they are at the mercy of their commanders, and do what they believe they must in order to survive…Children who engage in violence have no choice but to follow orders."[394] Whether willing participants or not, child soldiers, who made up the vast majority of the LRA's fighting forces during its brutal campaign, were certainly complicit in, if not outright guilty of, some of the war's worst crimes. These included, in the words of the ICC's characterization of the crimes of the LRA, "a pattern of brutalization of civilians by acts including murder, abduction, sexual enslavement, mutilation, as well as mass burnings of houses and looting of camp settlements."[395]

In short, the question of how to deal with LRA child soldiers as both victims and perpetrators of gross human rights violations during the still ongoing war in northern Uganda constitutes an especially acute form of the peace-versus-justice dilemma for



[390] Nolen, S. 2003. "Uganda's Child Soldiers," *The Globe and Mail*, 25 January 2003.
[391] Ibid.
[392] Annan, J., C. Blattman, and R. Horton. 2006. "The State of Youth and Youth Protection in Northern Uganda: Findings from the Survey of War-Affected Youth," UNICEF Uganda, 60.
[393] Maina, G. 2009. "Questioning Reintegration Processes in Northern Uganda," in Conflict Trends, 1, African Centre for the Constructive Resolution of Disputes, 53.
[394] Human Rights Watch. 2008. "Coercion and Intimidation of Child Soldiers to Participate in Violence," accessed 18th March 2009 at http://www.hrw.org/en/news/2008/04/16/coercion-and-intimidation-child-soldiers-participate-violence#_Uganda.
[395] ICC. 2005. "Warrant of Arrest Unsealed Against Five LRA Commanders," press release accessed 19th March 2009 at www.icc.cpi.int.

transitional justice. Should priority be given to holding them accountable for the atrocities in which they participated, or should they in the first place be re-integrated in local communities with a view to reconciliation and peace-building? Or can ways be found to combine the demands of justice with the requirements of peace and reconciliation in dealing with the plight of these child soldiers?

### 4.4 Official and Unofficial Approaches to dealing with Child Soldiers in Uganda

Addressing the issue of child soldiers in Uganda has a history as long as the war itself. The evolving public positions, policies and actions of President Museveni and the GoU, as these moved towards ending the overall conflict, have been inconsistent and sometimes contradictory. The official approaches have also been complicated by the international condemnation of the recruitment and use of child soldiers in Uganda in dynamic coexistence with local and international initiatives working to rehabilitate and reintegrate child soldiers as part of the broader goals of social reconstruction and peace-building towards recovery from the devastating effects of more than 20 years of war.

From their assumption of power in 1986, Museveni and his administration were first and foremost engaged with ending the LRA insurgency through a militaristic approach and by whatever means available including the use of child soldiers. Although momentarily heeding the international community's stance against child soldiering by decommissioning a token number of children in 1986[396], the UPDF continued recruiting child soldiers until 2000 both locally into Ugandan Local Defense Units and to support opposition groups in northeastern Democratic Republic of the Congo.[397]

In 1992, during a lull in the fighting, the GoU demobilized 36,358 of roughly 90,000 state soldiers in an attempt to shift public spending from defense and security to social and economic development. Despite extensive provisions for all other veterans however, the World Bank noted that the position of child soldiers was left completely unaddressed:

[396] Museveni responded to international criticism for his use of child soldiers by decommissioning 300 children from NRA/UPDF service in late 1986. Along with state child soldiers, 200 LRA child soldiers were also enrolled in army-founded schools beginning in 1988. Despite the gesture at moving children from armed service, those who under-performed academically were sent back to military training and redeployed. Muhumuza, R. 1995. "A Case Study on the Reintegration of Demobilized Child Soldiers in Uganda," Kampala: World Vision Uganda.

[397] Coalition to Stop the Use of Child Soldiers. 2002. "Child Soldiers: 1379 Report," London, 99-100.

"[T]he program does not contain any specific component for this otherwise vulnerable subgroup."[398] As fighting continued the child soldier issue was repeatedly subsumed to other objectives in Museveni's attempts to end conflict with the LRA.

With no official program in place for child soldiers it was left to local and international non-governmental organizations – coming from a 'peace' perspective – to establish concrete programs in northern Uganda. These unofficial initiatives, established in 1994, had to provide some of the much-needed rehabilitation and reintegration services to the numerous children exposed to the extreme brutality and violence of the LRA. The broad focus of recovery efforts developed by the local Gulu Save the Children Organization (GUSCO) and the U.S.-based World Vision reflected and reinforced the Acholi's "culture of peace."[399] As opposed to the 'justice' perspective, these initiatives prioritized peace-building and social reconciliation in a quest for an expedient end to the suffering brought on by civil war. Veale and Stavrou characterize the community sentiment underlying non-governmental reintegration and peace-building initiatives:

> "In Northern Uganda, communities' traditional means of survival have been massively impacted upon by the conflict, yet at the level of civil society, resistance to the destructive impact of violence is expressed in the community push for strategies of peace, a discourse of forgiveness, and local, community based strategies to promote the reintegration of returnees from the rebel forces…Rather than being a top down process taken by religious leaders, mobilising reintegration and reconciliation seems to stem from individuals and communities themselves. Its roots lie in a Christian doctrine of forgiveness, in traditional Acholi cultural beliefs around spirituality, cleansing and social healing and in a political will to move beyond the personal and cultural destruction caused by the conflict."[400]

GUSCO and World Vision initially opened reception centers in Gulu to provide medical examinations and basic counseling for escaped or released child returnees.[401] Muggah

[398] Colletta, N., M. Kostner, and I. Wiederhofer. 1996. "Case Studies in War-to-Peace Transition: The Demobilization and Reintegration of Ex-Combatants in Ethiopia, Namibia, and Uganda," Washington, D.C.: The World Bank, 219, 330.
[399] Pain, D. 1997. "'The Bending of Spears': Producing Consensus for Peace and Development in Northern Uganda," report commissioned by International Alert and Kacoke Madit, London: International Alert, 19.
[400] Veal, A. and A. Stavrou. 2003. "Violence, Reconciliation and Identity: The Reintegration of Lord's Resistance Army Child Abductees in Northern Uganda," Monograph 92, November 2003. Pretoria: Institute for Security Studies, 43-4.
[401] Borzello, A. 2009. "The Challenge of DDR in Northern Uganda: The Lord's Resistance Army," in M. Berdal(ed). 2009 Transforming Armed Groups After Conflict: War-to-Peace Transitions. London: Taylor and Francis, 153.

suggests that the counseling services provided at reception centers were in fact only "group discussions and advice – led by local social workers."[402] Nonetheless they attempted, in however piecemeal a fashion, to address the long-neglected and dire psychosocial needs of LRA child soldiers. Available evidence has since suggested that children who spent time in these or similar receptions centers had better mental health and psychosocial well-being compared to children that returned directly to their communities.[403] In addition to the physical and psychosocial components of the GUSCO and World Vision programs, skills-training was made available in some cases. In the interests of facilitating reintegration, family reunification was pursued for all.[404] Furthermore GUSCO employed traditional cleansing ceremonies in the process of reintegration while World Vision followed Christian forgiveness practices.[405] These reintegration initiatives represent a grassroots effort to address the issue of child soldiers that has so severely impacted northern communities.

As armed conflict continued between the LRA and the GoU, community-based peace-focused groups led by the Acholi Religious Leaders Peace Initiative (ARLPI) increasingly pushed a 'peace' agenda of amnesty for all conflict participants, leaders included, founded on the Acholi belief in forgiveness. As much as the Acholi had grown to resent the LRA's violent onslaught on local life and community, there was similar resentment against the Ugandan government for its one-dimensional advocacy of a military solution to the war in northern Uganda that was perceived to be a no-win strategy. Underlying local disapproval for the GoU's military tack was a growing belief that it paid "little regard to the effects of this strategy on the population or to the wider factors that underlie the conflict."[406] From the outset, the ARLPI advocated an amnesty aimed at enticing Kony and the LRA to end their insurgency without punishment. This was viewed as part of the need to explore alternatives towards the resolution of conflict and the rebuilding of northern Uganda – namely the necessity for dialogue and negotiations between the GoU



[402] Muggah, R. 2008. Security and Post-Conflict Reconstruction: Dealing with Fighters in the Aftermath of War. London: Taylor and Francis, 109.
[403] MacMullin, C. and M. Loughry. 2002. "An Investigation into the psychosocial adjustment of formerly abducted soldiers in Northern Uganda," Field Report: International Rescue Committee.
[404] Borzello, A. 2009. "The Challenge of DDR in Northern Uganda: The Lord's Resistance Army," in M. Berdal(ed). 2009 Transforming Armed Groups After Conflict: War-to-Peace Transitions. London: Taylor and Francis, 153.
[405] Akello, G., A. Richters and R. Reis. 2006. "Reintegration of Former Child Soldiers in Northern Uganda: Coming to Terms with Children's Agency and Accountability," Intervention, 4(3), 230, 233.
[406] International Crisis Group. 2004. "Northern Uganda: Understanding and Solving the Conflict." ICG Africa Report, Number 77, 1.

and the LRA along with the implementation of traditional rituals as a means of working towards societal reconciliation.[407] The reintegration of child soldiers is seen to be an integral part of these processes.[408]

In a memorandum to the government, the ARLPI, reflecting the aspirations of the Acholi people at home and in the diaspora, rejected partial amnesty offers and instead strongly advocated a general amnesty. Their draft was in fact to form the basis of the GoU's subsequent Amnesty Act. The Amnesty Act of 2000 was considered at the time as the appropriate means to secure an end to conflict with the LRA and to "establish peace, security and tranquility throughout the whole country."[409] According to the Act, amnesty was to be granted to "any Ugandan who has at any time since the 26th day of January 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda."[410] Participants and collaborators were not to be prosecuted or punished in any way so long as he or she "renounces and abandons involvement in the war or armed rebellion" and "surrenders…any weapons in his or her possession."[411] The Act had no specific provisions for child soldiers[412] but they were included in its blanket amnesty. However, despite the overwhelming support of northerners for amnesty as the greatest hope for resolving the conflict,[413] few high-level LRA commanders agreed to give up their insurgency and warring continued.[414] With this failure of the Amnesty Act Museveni and the GoU was to return to a 'justice' approach to the problem.

At the same time international pressure regarding child soldiers resurged in January 2000 when the UN introduced its 'Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict' with a view to ending the use of child soldiers globally. Finally succumbing to international pressure, Uganda ratified



---

[407] Rodrigues, C. 2002. "The Role of Religious Leaders," accessed 18th March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/religious-leaders.php.
[408] UgandaNet. 2004. "ARPLI Receives Prize from the World Parliament of Religions," accessed 20th March 2009 at http://www.mail-archive.com/ugandanet@kym.net/msg14796.html.
[409] Uganda. 2000. "The Amnesty Act, 2000," Preamble, accessed 18th March 2009 at www.c-r.org/accord/northern-uganda/documents/2000_Jan_The_Amnesty_Act.doc.
[410] Ibid, Operative clause 3.
[411] Ibid, Operative clause 4(1)(c).
[412] Coalition to Stop the Use of Child Soldiers. 2004. "Uganda," in Child Soldiers: Global Report 2004. Accessed 24th March at http://www.unhcr.org/refworld/country,,CSCOAL,,UGA,456d621e2,49880620c,0.html.
[413] Refugee Law Project. 2005. "Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-term Reconciliation," Kampala, 9.
[414] Human Rights Watch. 2003. "Stolen Children: Abduction and Recruitment in Northern Uganda," 15 (7), 5.

the Optional Protocol in May of 2002[415] thereby committing itself to end the use of *all* child soldiers. This dramatic shift from using child soldiers to backing its end in all forms can be seen as a relative success of concerted global attention to the child soldier problem while at the same time potentially foreshadowing Museveni's subsequent move to solicit international support in the form of the International Criminal Court.

In December 2003 President Museveni moved away from his previous offers of amnesty and, in an attempt to bring LRA leaders to justice and thus end the LRA insurgency, became the first head of state to refer a case in his country to the ICC citing the abuses of Kony's Lord's Resistance Army. In opting for justice and prosecution of the LRA leadership, he also emphasized the need for the reintegration of LRA members as a key to the future stability of northern Uganda. Museveni also noted in particular that many child soldiers had been abducted and brutalized.[416] Accountability for child soldiers did not enter into the discussions.

Before proceeding with its investigation, ICC Prosecutor Luis Moreno-Ocampo took note of "some local initiatives under way to find negotiated solutions to the situation."[417] In establishing the working relationship between the GoU and the ICC however, most importance was placed on finding and arresting the leadership of the LRA for future prosecution.[418] Revoking its previous blanket amnesty, the GoU vowed to assist the ICC in "ensuring that those bearing the greatest responsibility for the crimes against humanity committed in northern Uganda are brought to justice."[419] Towards this end, the ICC in Uganda would serve a function similar to Sierra Leone's Special Court in its focus on top leaders while other accountability processes were to be put in place to address



[415] UN. 2009. "Status of Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict," accessed 14th June 2009 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.
[416] ICC. 2004. "Press Release: President of Uganda refers situation concerning the Lord's Resistance Army(LRA) to the ICC," accessed 19th March 2009 at http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB.
[417] ICC. 2004. "Statement of the Prosecutor Luis Moreno Ocampo to Diplomatic Corps, The Hague, Netherlands, 12 February," 5.
[418] ICC. 2004. "Press Release: President of Uganda refers situation concerning the Lord's Resistance Army(LRA) to the ICC," accessed 19th March 2009 at http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB.
[419] Ibid.

impunity for lower-level perpetrators. Based on its mandate, on the 13th of October 2005 the ICC issued arrest warrants against the top 5 commanders of the LRA citing foremost "acts of murder and enslavement, both constituting war crimes and crimes against humanity."[420] Three of the 5 were charged with the forced enlistment of children.[421]

The ICC's concerns with accountability in Uganda extended only as far as the prosecution of the LRA's top leaders. For their part Museveni and the GoU, focused on ending the conflict with the LRA, likewise neglected the accountability of child soldiers. Issues of child soldier agency that arose during the course of the Sierra Leone TRC process concerning the dual nature of child soldiers as both victims and perpetrators were therefore for all practical purposes left unaddressed in the Ugandan political context. This is not to say there were no perspectives on the topic. Even within the northern communities there was significant division as to how accountability for child soldiers should be approached. On the one hand there existed a benevolent view of child soldiers as primarily victims reflecting the Acholi "culture of peace":

> "[W]hen many Northerners talk about their desire to forgive the LRA, they are often speaking of their own children or those from their communities, many of whom had no choice but to fight."[422]

Recognizing child soldiers at least partially as victims casts significant doubt on the need for holding them fully accountable for their actions. Far from this perspective, however, were the sentiments of some communities that diverged greatly from the supposed Acholi 'peace' approach. Akello et al noted resistance to child soldier reintegration based on severe stigmatization of returnees. Some communities pointed to the voluntary nature of some children's participation, and the perception that they were infected by "cen," or evil spirits, that could negatively impact the rest of the community.[423] These stigmas motivated putting more emphasis on child soldier accountability in reintegration efforts:

> "The unwillingness of communities to welcome formerly abducted child soldiers is based on the refusal to accept the idea that such children are not accountable for the crimes they committed. The fact that communities

[420] ICC. 2005. "Statement by Chief Prosecutor Luis Moreno-Ocampo, 14 October 2005," 2.
[421] ICC. 2005. "Press Release: Warrant of Arrest Unsealed Against Five LRA Commanders," 14th October, accessed 20th March 2009 at http://www.icc-cpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200204/related%20cases/icc%200204%200105/press%20releases/warrant%20of%20arrest%20unsealed%20against%20five%20lra%20commanders.
[422] Worden, S. 2008. "The Justice Dilemma in Uganda," USIPeace Briefing, United States Institute of Peace, Washington, D.C., 6-7.
[423] Akello, G., A. Richters and R. Reis. 2006. "Reintegration of Former Child Soldiers in Northern Uganda: Coming to Terms with Children's Agency and Accountability," Intervention, 4(3), 234-5.

will insist on traditional cleansing rituals for child returnees also points to this issue."[424]

In a matter of speaking, this conflict of perspectives – at once recognizing the victimhood of child soldiers while at the same time calling for accountability based on the needs of the communities from which child soldiers had come – could be seen as another incarnation of the peace-versus-justice dilemma. It must be recognized that northern communities, who sustained injury by the LRA's systematic large-scale plunder of its people and resources including the forced recruitment of its children, were thereafter once again the victims of those same children's lethal attacks once they were within the ranks for the LRA. In terms of the victim-focused nature of transitional justice processes, the needs of victimized communities should presumably be taken into account on par with those of the child soldiers who were both victims and perpetrators.

### 4.5 The Juba Peace Talks, the Agreement on Accountability and Reconciliation, and the Approach to Child Soldiers

International pressure again mounted against Museveni from 2005 as the British government cancelled funding to Uganda citing that too little had been done in moving towards multi-party politics.[425] In 2006 the UN launched the multi-million-dollar Juba Initiative Fund to support peace talks[426] while the Security Council unanimously called on both the GoU and the LRA "to commit themselves fully to further a long-term and peaceful solution to the conflict."[427] On the 4th of July 2006, in order to bring the LRA to the negotiating table, President Museveni reversed his previous position by offering Kony total amnesty if he "renounced terrorism and accepted peace."[428] Again reflecting the peace-versus-justice debate, the ICC's Moreno-Ocampo expressed his concern over the amnesty offer by saying that Kony would eventually have to face trial: "[Ugandan authorities] have a duty to execute the arrest warrants because they are a member of

[424] Ibid, 235.
[425] BBC News. 2005. "UK Aid Cut Pressures Uganda," 29th April, accessed 15th June 2009 at http://news.bbc.co.uk/2/hi/africa/4498381.stm.
[426] UN. 2006. "Press Release: United Nations Launches Juba Initiative Fund to Aid Peace in Northern Uganda," accessed 15th June 2009 at http://www.un.org/News/Press/docs/2006/afr1439.doc.htm.
[427] ReliefWeb. 2006. "Uganda: Security Council Presidential Statement Demands Release of Women, Children by Lord's Resistance Army, Expeditious Conclusion of Peace Process," accessed 24th June 2009 at http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/HMYT-6VLR9H?OpenDocument.
[428] IRIN. 2006. "Uganda: Kony will eventually face trial, says ICC prosecutor," accessed 15th September 2008 at http://www.globalsecurity.org/military/library/news/2006/07/mil-060707-irin01.htm.

the ICC."[429] Nevertheless, negotiations began shortly thereafter in Juba, Sudan, and were considered to be another good chance of ending the conflict.[430] Within a short time two truces were signed in August[431] and November 2006[432] with the LRA moving to specified safe havens separate from the IDP camps. However, hostilities resumed swiftly as both sides violated the terms of peace.[433]

By May 2007 the Juba Initiative Project, with the support of the United Nations, resumed facilitating discussions between the LRA and the GoU. For security reasons, the LRA leadership did not go to Juba but sent representatives in their stead.[434] Although no peace plan had yet been agreed to, discussions moved forward to considerations of how justice issues would be approached in the post-conflict period. In June the parties agreed to the terms of the Agreement on Accountability and Reconciliation (AAR). The AAR set out a commitment "to preventing impunity and promoting redress" while recognizing both the Ugandan Constitution and international obligations, namely the requirements of the Rome Statute of the International Criminal Court.[435] It further stressed that any pursuit of accountability should seek also to address national healing: "[A]ny meaningful accountability proceedings should, in the context of recovery from the conflict, promote reconciliation and encourage individuals to take personal responsibility for their conduct."[436] Furthermore the AAR made a strong commitment to taking into



[429] Ibid.
[430] BBC. 2006. "Uganda Rebels Drop Truce Demands," 14 August, accessed 24th March 2009 at http://news.bbc.co.uk/2/hi/africa/4790049.stm.
[431] IRIN. 2006. "Uganda: Key Events in the Northern Conflict Since May," 30 August, accessed 24th March at http://www.irinnews.org/Report.aspx?ReportId=60756.
[432] BBC. 2006. "Ugandan LRA Rebels Sign New Truce," 1 November, accessed 15th September 2008 at http://news.bbc.co.uk/2/hi/africa/6105800.stm.
[433] In August, the LRA noted that its forces were being threatened by unsanctioned UPDF movements near assembly camps leaving them no choice but to vacate one of them. Both sides admitted their violations. There was further suspicion that the LRA had been complicit in the killing of innocent civilians in Sudan in violation of the terms of negotiations. Fighting also resumed, this time in Southern Sudan, between the LRA and the UPDF. After the November truce, the LRA claimed its troops had been attacked by UPDF forces, killing several soldiers. As a result, the LRA withdrew from the peace talks.
BBC. 2006. "Ugandan Army Breaking Peace Deal," 28 September, accessed 15th September 2009 at http://news.bbc.co.uk/2/hi/africa/5388026.stm; IRIN. 2006. "Sudan: Armed Group Kills 42 Civilians," 20 October, accessed 25th March 2009 at http://irinnews.org.report.aspx?reportid=61376; IRIN. 2006. "Talks Hit Fresh Snag Amid Rebel Protest," 30 November, accessed 24th March 2009 at http://www.globalsecurity.org/military/library/news/2006/11/mil-061130-irin04.htm.; UN Security Council. 2009. "Northern Uganda/LRA Historical Chronology," accessed 25th March 2009 at http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2880391/.
[434] IRIN. 2006. "Sudan-Uganda: LRA Talks, Pencils and Helicopters," 31 May, accessed 25th March 2009 at http://www.irinnews.org/Report.aspx?ReportId=72489.
[435]Uganda. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Introduction.
[436] Ibid, Article 3.2.

account the needs of victims: "The Parties agree that it is essential to acknowledge and address the suffering of victims, paying attention to the most vulnerable groups, and to promote and facilitate their right to contribute to society."[437] At the same time, a child-rights focus emphasized the need to "[r]ecognise and address the special needs of children and adopt child-sensitive approaches."[438] To ensure accountability for atrocities committed during the war the GoU committed to adapting and developing national courts into "formal courts and tribunals"[439] in order to enable the prosecution of "individuals who are alleged to bear particular responsibility for the most serious crimes, especially crimes amounting to international crimes, during the conflict."[440]

Significantly justice processes would not be limited to the top leadership only. In pursuit of accountability for lower-level perpetrators while also recognizing the sensitivity of the situation, and so balancing the needs of peace and justice, the AAR committed the parties to adopting "appropriate justice mechanisms, including customary processes of accountability, that would resolve the conflict while promoting reconciliation."[441] In effect the AAR was proposing that recourse to customary processes of accountability, rather than criminal prosecutions, could provide a way of resolving the peace-versus-justice dilemma. Acholi religious leaders maintained that the use of traditional justice and reconciliation rituals "does not imply impunity, but holds perpetrators and their clans responsible for their crimes and helps prevent further crimes by restoring relationships between victims and perpetrators."[442] In pursuing its goal "to ensure the widest national ownership of the accountability and reconciliation processes"[443] the AAR thus prioritized the use of local traditional justice processes:

> "Traditional justice mechanisms, such as *Culo Kwor*, *Mato Oput*, *Kayo Cuk*, *Ai Luc* and *Tonu ci Koka* and others as practiced in communities affected by the conflict, shall be promoted, with necessary modifications, as a central part of the framework for accountability and reconciliation."[444]



[437] Ibid, Article 8.1.
[438] Ibid, Article 12(i).
[439] Ibid, Articles 6.1-2.
[440] Ibid, Article 6.1.
[441] Ibid, Introduction.
[442] Baines, E. 2007. "The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda," International Journal of Transitional Justice, Vol. 1, 102.
[443] Uganda. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Article 2.2.
[444] Ibid, Article 3.1.

Of these accountability processes the Mato Oput ritual was highlighted as it is the customary practice of the Acholi who were most affected by the war.[445] It was not made clear by the AAR in which cases traditional justice mechanisms would be used, but the Agreement stated that "alternative penalties and sanctions shall…reflect the gravity of the crimes or violations [of the individual]."[446] Since special courts were to be charged with the prosecution of LRA leaders it could be assumed that traditional justice processes would be applied to lower-level perpetrators including child soldiers.

### 4.6 Traditional Justice and Reconciliation Approaches as Transitional Justice Mechanisms for dealing with Child Soldiers

The AAR's proposal for recourse to customary justice and reconciliation processes as transitional justice mechanisms is by no means unique. Significantly there has been a growing awareness of the relevance and appropriateness of such traditional justice approaches in the African context. Thus the 2007 Paris Principles' emphasized that indigenous methods of dispute settlement and reconciliation based on an African view of restorative justice and social rehabilitation take a very different approach than Western justice systems. Desmond Tutu, the chairperson of the South African Truth and Reconciliation Commission, posits that traditional African jurisprudence, rather than seeking "retribution or punishment", prioritized "the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and the perpetrator, who should be given the opportunity to be reintegrated into the community he or she has injured by his or her offence."[447] Kofi Annan, then UN Secretary-General, wrote in his 2004 report *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*,

> "due regard must be given to indigenous and informal traditions for administering justice or settling disputes, to help them to continue their often vital role and to do so in conformity with both international standards and local tradition. Where these are ignored or overridden, the result can be the exclusion of large sectors of society from accessible justice. Particularly in post-conflict settings, vulnerable, excluded, victimized and marginalized groups must also be engaged in the development of the sector and benefit from its emerging institutions."[448]

---

[445] IRIN. 2007. "Uganda: LRA Talks Reach Agreement on Accountability," 30 June, accessed 24th March 2009 at http://irinnews.org/Report.aspx?ReportId=73010.
[446] Uganda. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Article 6.4.
[447] Tutu, D. 1999. No Future Without Forgiveness. New York: Doubleday, 55.
[448] UN. 2004. "Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies." Report S/2004/616, Article 11(36).

The community-focused orientation of traditional justice is particularly applicable in Africa as large sectors of the continent affected severely by war and its related atrocities have no recourse but to indigenous accountability processes at the local level.[449] Moreover, post-conflict scenarios often pose severe challenges to the formal criminal justice system due to the sheer volumes of perpetrators involved in crimes of civil conflict in which case customary processes may offer the only feasible alternative. To take the extreme example of Rwanda, about 8,000 traditional *gacaca* courts were employed to try more than 80,000 perpetrators who for years had been awaiting trial for their participation in massacres around the country.[450]

In this context it should not be surprising that the AAR recommended recourse to traditional justice mechanisms for their appropriateness in addressing child soldiers as both victims and perpetrators of serious breeches of international law. Indeed, according to Huyse, traditional ceremonies including cleansing rituals employed in Uganda "seem to be successful in reintegrating and reconciling surviving victims and ex-combatants, particularly former child soldiers."[451] In particular, the Mato Oput ceremony has been employed as the main traditional justice mechanism to address accountability for wartime atrocities. Recognizing the importance of mending relationships in establishing sustainable peace, its central aim is the reconciliation of victims and perpetrators.[452] The ceremony is presided over by traditional leaders and community members. It includes the perpetrators' acknowledgement of wrongdoing, the offering of reparations to the victim and their family, followed by a symbolic ritual where both parties drink the "bitter root" for which the ceremony is named.[453] "In Acholi jurisprudence," according to Latigo,



---

[449] UN Peacebuilding Commission – Working Group on Lessons Learned. 2008. "Justice in Times of Transition," accessed 24th December 2008 at http://74.125.47.132/search?q=cache:2C9tAfuZilgJ:www.un.org/peace/peacebuilding/Working%2520Group%2520on%2520Lessons%2520Learned/Justice%2520in%2520Times%2520of%2520Transition%2520(26.02.2008)/26.02.2008%2520Chair%2520Summary.pdf+traditional+justice+processes+ICTJ&hl=en&ct=clnk&cd=5&gl=us&client=safari.

[450] IRIN. 2004. "Rwanda: Traditional Courts Inaugurated," accessed 26th December 2008 at http://www.irinnews.org/report.aspx?reportid=50380.

[451] Huyse, L. 2008. "Presentation of *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences.*" Stockholm: International Institute for Democracy and Electoral Assistance, 1.

[452] Huyse, L. 2008. "Introduction: tradition-based approaches in peacemaking, transitional justice and reconciliation policies," in Huyse, L. and M. Salter(eds). 2008. Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences. Stockholm: International Institute for Democracy and Electoral Assistance, 12.

[453] Afako, B. 2002. "Reconciliation and Justice: 'Mato oput' and the Amnesty Act," accessed 26th December 2008 at http://www.c-r.org/our-work/accord/northern-uganda/reconciliation-justice.php.

"there is no contradiction between accountability and reconciliation – indeed, the two are aligned. Above all, impunity is never accepted. The Acholi traditional justice and reconciliation system is a practical reflection and application of the nascent concept of transitional justice, namely counter-factual investigations into the past and present in order to forge the future."[454] The goals of achieving accountability for the criminal actions of perpetrators while restoring normal relations between victim and perpetrator are thus to be addressed simultaneously in line with other tools of transitional justice such as truth-telling. Huyse contends that the use of such traditional justice processes may even in some respects be superior to the standard criminal justice system in African post-conflict contexts:

> "Courtrooms are not usually capable of the subtlety needed to deal with such complexities. A combination of palavers, the African way of prolonging discussions, and ritual events creates in principle more opportunities for exploring the issues of accountability, innocence and guilt that are integral to the legacy of violent conflict."[455]

It should be noted, however, that in the contemporary Ugandan context the application of traditional justice practices such as Mato Oput towards ensuring accountability has been a contested matter. Some observers point out that, precisely due to the impact of the war, key customary practices had fallen in abeyance: the "constant fear" facing local communities "undermined traditional customs around which the rural Acholis built their value, ethical and normative base and are no longer followed."[456] If traditional rituals are no longer practiced in local communities due to the ravages of war, how can they be applied in post-conflict settings to ensure accountability? The Liu Institute adds that traditional rituals had previously been applied to crimes very different from those seen during the course of the northern Ugandan conflict and would thus have to be significantly adapted to that situation:

> "LRA massacres, mass rape, abduction, arson and mutilation are not crimes Acholi elders are familiar with in the history of the region. Although



[454] Latigo, J. 2008. "Northern Uganda: tradition-based practices in the Acholi region," in Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences, Huyse, L. and M. Salter(eds). 2008. Stockholm: International Institute for Democracy and Electoral Assistance, 110.
[455] Huyse, L. 2008. "Introduction," in Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences, L. Huyse and M. Salter(eds). 2008. Stockholm: International Institute for Democracy and Electoral Assistance, 15.
[456] Veale, A. and A. Stavrou. 2003. Violence, Reconciliation, and Identity: The Reintegration of Lord's Resistance Army Child Abductees in Northern Uganda. A. Veale and A. Stavrou(eds). Pretoria, South Africa: Institute for Security Studies, 41.

> variants of such crimes have existed in Acholi history…the modern scale and devastation on the population have not been witnessed before."[457]

Furthermore, the Acholi are not the only group affected by war, raising the question how multiple rituals stemming from distinct cultural traditions can be used in the same transitional justice application. It has been suggested that it might be necessary to harmonize the different customary justice and reconciliation practices mentioned in the AAR in order to accommodate all parties.[458] The Refugee Law Project sums up some of the challenges facing the use of traditional justice in Uganda:

> "[I]t remains unclear to what extent these practices could address abuses perpetrated in the course of conflict, how (if at all) they could be adapted for contemporary application, whether or not formal codification of traditional principles into national law is desirable, and to what extent such practices must be allowed to remain flexible."[459]

Baines adds that in the international context the appropriate use of traditional justice practices is still being formulated. Many nascent issues confront the use of customary practices

> "in the field of transitional justice, where local approaches to justice and reconciliation are increasingly recognized as a vital element of transitional justice strategies, but where theorists are only beginning to understand such approaches, let alone reflect on their potential role and impact."[460]

In light of so many unresolved questions as to how traditional justice could be applied in transitional settings, Baines argues that the Juba Talks provided "a unique opportunity to *begin* to resolve how local approaches to justice and reconciliation can better inform and shape international approaches."[461] Evidently the many challenges and questions surrounding the use of traditional justice mechanisms also apply to proposals to use them in dealing with child soldier accountability in Uganda.



---

[457] Liu Institute for Global Issues and the Gulu District NGO Forum. 2005. *Roco Wat I Acoli* / Restoring Relationships in Acholiland: Traditional Approaches to Justice and Reintegration. Gulu, Uganda: Liu Institute, 4.

[458] Ocen, J. 2007. "Can Traditional Rituals Bring Justice to Northern Uganda?" Institute for War and Peace Reporting, accessed 20th September 2008 at http://www.iwpr.net/?p=acr&s=f&o=337405&apc_state=henpacr.

[459] Refugee Law Project. 2009. "Building Consensus on Sustainable Peace in Uganda – Tradition in Transition: Working Paper No. 1," accessed 20th August 2009 at http://www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7V353Y?OpenDocument.

[460] Baines, E. 2007. "The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda," International Journal of Transitional Justice, Vol. 1, 98.

[461] Ibid, 114. My emphasis.

## 4.7 Conclusion: The Marginalization of Accountability in Traditional Justice Mechanisms

After ignoring the plight of LRA child soldiers for nearly 20 years, the AAR as outcome of negotiations between the GoU and the LRA, in the end prioritized accountability for LRA leaders while leaving accountability for lower-level perpetrators to be addressed by traditional justice mechanisms. The AAR stated that the parties agreed to "[e]nsure that children are not subjected to criminal justice proceedings, but may participate, as appropriate, in reconciliation processes."[462] However, given the challenges facing the implementation of traditional justice in Uganda, it was not clear to what extent these would be capable of addressing issues of child soldier accountability. Worden argues that, due to the prioritization of justice measures for LRA leaders, the issue of accountability for lower-level perpetrators, including child soldiers, was actually ignored further:

> "So far, the focus has been on how to hold the top LRA leadership accountable – including its head, Joseph Kony, and two others[463] whom the International Criminal Court has indicted for crimes against humanity. Less attention has been paid to the greater problems associated with the thousands of perpetrators who have committed terrible crimes for which prosecution is not envisioned."[464]

Significantly, the AAR made no mention of holding child soldiers responsible for the serious crimes they had committed. This raises the question, in what ways were traditional justice processes then intended to deal with this issue? Underlying this is the basic question of what indeed was to be the goal of child soldier participation in reconciliation processes – their accountability, their healing, addressing the needs of communities affected by their actions, or perhaps all of these together given the reputed utility of traditional justice mechanisms for addressing issues of both accountability and reconciliation. Regarding the traditional purposes of Mato Oput, Tom claims that "[i]t doesn't aim at establishing whether an individual is guilty or not, rather it seeks to restore



[462] Uganda. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Article 10.4.
[463] Two of the original ICC indictees, Raska Lukwiya and Vincent Otti, have been reported deceased since the unsealing of the ICC indictments against them in 2005. BBC News. 2007. "Otti 'Executed by Uganda Rebels," 21st December, accessed 12th July 2009 at http://news.bbc.co.uk/2/hi/africa/7156284.stm; ICC. 2007. "Uganda," accessed 12th July 2009 at http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0204/.
[464] Worden, S. 2008. "The Justice Dilemma in Uganda," USIPeace Briefing, Washington, D.C.: United States Institute of Peace, 1.

marred social harmony in the affected community."[465] The question follows, if the establishment of guilt was not the objective of traditional tools to be applied in Uganda, then how were child soldiers to be held responsible for their actions? Duthie suggests that "the community-based nature" of traditional justice processes could add to the legitimacy of holding child soldiers accountable in part by "draw[ing] upon existing local structures, customs, and values and philosophies."[466] But what if the most affected Ugandan communities, and with it their traditional belief systems, had been severely disrupted and damaged by more than two decades of war? In short, the AAR left many questions open as to how traditional justice was to be applied to address child soldier accountability, what potential adaptations in the contemporary context might be needed, and how issues of the criminal responsibility of child soldiers were to be dealt with.

In June 2007 the GoU and LRA signed the Annexure to the Agreement on Accountability and Reconciliation which added that participation in traditional justice mechanisms, for adult and child lower-level perpetrators alike, was to be only on a voluntary basis: "A person shall not be compelled to undergo any traditional ritual."[467] Accordingly, it was up to child soldiers themselves to decide whether or not they would participate in the traditional justice and reconciliation processes. As in the case of the SLTRC, this meant that child soldier accountability was to be addressed only to the extent that child soldiers were willing to come forward and confess their crimes. In line with the child-rights focus of the AAR it followed that they could not be compelled to disclose more than they were willing to do during the course of traditional rituals. This did not necessarily mean that there would, or could, be no disclosures by child soldiers of their involvement in war crimes. If they chose to do so, then child soldiers could recount their crimes in order to clear their consciences or acknowledge their mistakes to facilitate being welcomed back into their communities. McConnan and Uppard suggest, for example, that through traditional tools child soldiers can "benefit from acknowledging their previous actions, as part of the process of coming to terms with the past and preparing for civilian life."[468]



[465] Tom, P. 2006. "The Acholi Traditional Approach to Justice and the War in Northern Uganda," accessed 7th July 2009 at http://www.beyondintractability.org/case_studies/acholi_traditional_approach.jsp?nid=6792.
[466] Duthie, R. 2005. "Transitional Justice and Social Reintegration." Paper for Stockholm Initiative on Disarmament, Demobilization, and Reintegration(SIDDR), Working Group 3, 15.
[467] Annexure to the Agreement on Accountability and Reconciliation. 2008. "Annexure to the Agreement on Accountability and Reconciliation," Article 22.
[468] McConnan, I. and S. Uppard. 2002. "Children Not Soldiers: Guidelines for Working with Child Soldiers Associated with Fighting Forces," Save the Children Fund, 198.

Duthie adds that traditional justice mechanisms "can promote trust between ex-combatants and society in many of the same ways as more formal measures."[469] Still, it must be concluded that the relegation of child soldiers to traditional justice tools like Mato Oput, taken together with the prioritization of reconciliation over establishing guilt in these traditional approaches, in practice meant that the challenge of child soldier accountability was deflected rather than faced. Essentially child soldiers were given the option to take no more responsibility for their actions than they did during NGO reintegration processes, maybe less as either traditional or Christian forgiveness rituals were a part of those processes.

If the goals of traditional justice processes were merely those of healing and reconciliation, then perhaps this emphasis would be acceptable. However, if one of the aims of traditional processes is accountability, as stated in the AAR, then voluntary participation actually precludes holding child soldiers responsible for the serious crimes they committed. Any child that fears judgement or stigmatization for their actions could simply opt out of these processes. Similarly to the SLTRC – by its standard of voluntary participation – the impunity of child soldiers complicit in war crimes was actually facilitated by the AAR's application of traditional justice mechanisms.

Despite the AAR's stated commitment to addressing child soldier accountability, its application of traditional justice mechanisms on a voluntary basis showed that indeed this was not its main goal. When combined with the work of Uganda's Amnesty Commission it becomes apparent that the main priority of national processes in Uganda concerning child soldiers was that of their rehabilitation and reintegration. As previously discussed, according to the 2000 Amnesty Act child soldiers who renounced war and armed rebellion, deemed "reporters," were to be granted amnesty for their actions. The amnesty program, in addition to providing DDR for former child soldiers, focused on the importance of dialogue between adversaries as a means towards reconciliation.[470] Hovil and Lomo note the overwhelming public support for this Act and its resulting Amnesty Law based on several motivations:



[469] Duthie, R. 2005. "Transitional Justice and Social Reintegration." Paper for Stockholm Initiative on Disarmament, Demobilization, and Reintegration(SIDDR), Working Group 3, 14.
[470] Multi-Country Demobilization and Reintegration Program. 2009. "Uganda," accessed 20th January 2010 at http://www.mdrp.org/uganda_main.htm.

> "[T]he Amnesty Law is perceived to be not only an effective tool for ending conflict, but also to have the potential for reconciling communities with ex-combatants, ex-combatants with government, and communities with other communities. Most importantly, it is a process that is clearly accepted by the victims of the conflict: indeed, the resilience of the people and their willingness to forgive is tangible."[471]

As child soldiers made up the vast majority of LRA forces, their reintegration into and reconciliation with local communities, was considered paramount compared to holding them accountable for their actions. By the time of the 2007 Juba Talks, the Amnesty Commission detailed that over 12,000 former LRA combatants had been granted amnesty.[472] Of these Blattman and Annan report that almost all were formerly abducted child soldiers.[473] As in the case of Sierra Leone, the reintegration needs of child soldiers were prioritized over their accountability.



[471] Hovil, L. and Z. Lomo. 2005. "Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-term Reconciliation," Kampala: Refugee Law Project, 28.
[472] Uganda Ministry of Internal Affairs. 2007. "Reporters Granted Amnesty," accessed 27th July 2009 at http://www.mia.go.ug/page.php?1=reporters&&2=Reporters%20Granted%20Amnesty.
[473] Blattman, C. and J. Annan. 2008. "Child Combatants in Northern Uganda: Reintegration Myths and Realities," in R. Muggah(ed.). 2008. Security and Post-Conflict Reconstruction: Dealing with the Fighters in the Aftermath of War. New York, NY: Routledge, 104.

# Chapter 5. CONCLUSION: ASSESSING THE OUTCOMES AND PROSPECTS OF CHILD SOLDIER ACCOUNTABILITY

## 5.1 The Dilemma of dealing with Child Soldier Accountability in Sierra Leone and Uganda

The growing problem of child soldiering in Africa poses the stark dilemma of child soldiers as both victims and perpetrators in armed conflict. Child soldiers are victims of war, more often than not forced into service, with warlords taking advantage of their emotional immaturity and initiating them into extreme cultures of violence. Nonetheless child soldiers have also been responsible for some of the most serious war crimes. As victims of human rights violations child soldiers require protection, but as perpetrators of human rights violations some of the same child soldiers also need to be held accountable for their actions.

In the cases of Sierra Leone and Uganda, various transitional justice mechanisms were chosen to deal with the dilemma of holding child soldiers accountable. In Sierra Leone, the responsibility for child soldiers was referred to the SLTRC which had been set up according to the Lomé Peace Accord "to address impunity, break the cycle of violence, provide a forum for both the victims and perpetrators of human rights violations to tell their story, [and] get a clear picture of the past in order to facilitate genuine healing and reconciliation."[474] In Uganda, traditional justice mechanisms such as Mato Oput were to be applied to lower-level perpetrators to "resolve the conflict while promoting reconciliation"[475] and "to ensure the widest national ownership of the accountability and reconciliation processes."[476]

This study has attempted to investigate how these two transitional justice mechanisms, reputed to have the ability to address issues of both accountability and reconciliation, have dealt with the challenge of child soldier accountability. As such my primary research question has been, how and to what extent has child soldier accountability, along with recognition of the need of child soldiers to be protected as victims of human

[474] Lomé Agreement. 1999. "Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone," Article 26.
[475] Agreement on Accountability and Reconciliation. 2007. "Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Juba, Sudan," Introduction.
[476] Ibid, Article 2.2.

rights violations, been addressed by the SLTRC in Sierra Leone and traditional justice in Uganda? Recognizing the possibility that the needs of child soldiers for protections might preclude effectively holding them accountable for their actions my secondary research question is, *could* a coherent and effective approach in principle be devised to address both of these concerns?

In both Sierra Leone and Uganda efforts to address child soldier accountability has proven to be questionable at best. Despite the decision that the child soldier issue would best be taken up by transitional justice mechanisms, in both cases no further significant efforts have been made to hold child soldiers accountable for their human rights abuses. In Sierra Leone, the child-friendly measures put in place by the SLTRC with the backing of UNICEF, served to protect child soldiers through their emphasis on voluntary participation and child soldiers-as-witnesses, but worked counter to addressing their accountability. The participation of less that 200 child soldiers in the hearings of the SLTRC meant that the vast majority did not have to account for their actions much less acknowledge their guilt or apologize to victims. Furthermore, due to the SLTRC's conception of child soldiers as witnesses rather than perpetrators, there was also no emphasis on holding those that did testify responsible for their actions. In a related matter the SLTRC's notion of "personal and narrative truth" as the witness' personal account of events that were to be respected by the Commission no matter how much or how little they chose to divulge did not guarantee full disclosure.

In Uganda, when the AAR finally tasked traditional justice mechanisms with the processes of accountability and reconciliation, it did so with an emphasis on the latter component. The problem of addressing child soldier accountability was further complicated by the many challenges facing the application of traditional processes that made those processes less than viable, namely the destruction of the community/traditional basis for these customary tools and the lack of a unified mechanism fit for the designated purpose as laid out in the AAR. The Annexure to the AAR thereafter decreed that participation in traditional justice mechanisms was also to be on a voluntary basis only. While the cases of Sierra Leone and Uganda were specific to local histories and politics, the effect of their approaches to the dilemma of child soldier accountability was much the same. In both cases child soldiers were effectively allowed to have impunity for their actions.

## 5.2 Reflections on Child Soldier Accountability in the Context of the International Consensus on Protecting Child Soldiers

The role and limitations of transitional justice in addressing the dilemma of child soldier accountability, as seen in the cases of Sierra Leone and Uganda, has been framed by two major developments highlighted during the course of this investigation. The first major development is the emerging international consensus against child soldiering that has come to prevail in the development of international humanitarian and human rights law as well as influencing the domestic post-conflict dealings concerning child soldiers. The second major development is the emergence of the new sub-field of transitional justice whose tools have been deemed appropriate for application in the case of child soldiers as well. To the extent that both of these developments come together in addressing the dilemma of child soldier accountability we need to consider how they have interacted in the actual cases of Sierra Leone and Uganda but we also need to reflect more generally whether or not the goals of the international consensus and the principles of transitional justice are compatible.

The first issue to examine concerns the degree to which the international consensus against child soldiering compromises the pursuit of child soldier accountability. The recent statement of the Paris Principles characterizing child soldiers as “primarily victims, not just perpetrators” articulates a protection agenda that has exacerbated the dilemma of addressing accountability for child soldiers as both victims and perpetrators in armed conflict. More specifically this dilemma has come to be concretized around the issue of setting age-limits for child soldiers meant to extend the provisions for protecting them as victims that simultaneously serves to prevent efforts to hold them accountable as perpetrators. The logic of the international consensus, primarily concerned with expanding the protections needed by child soldiers as victims, functions to extend the age-limit of acceptable recruitment and use of child soldiers upwards as far as possible. Thus it is generally assumed and argued that if the limit is set at 18 instead of 15 then many more child soldiers will be protected as victims. In the abstract this might make logical sense – *if* child soldiers were victims only and not also perpetrators. But if they are considered as both victims and perpetrators, then extending the age-limit upwards means that increasing numbers of perpetrators will have effective impunity. From a

justice perspective concerned with holding child soldiers accountable for their war crimes, the relevant question should be not only whether 16 and 17 year-olds need protection, but at what age young people should begin to be held accountable for their actions and crimes. Arguably this should be in line with the age limits set in criminal justice systems generally. However, given the age of criminal responsibility of children in Sierra Leone of 14 and in Uganda of 12, it is apparent that protections for child soldiers are over and above that of other children, even by the age 15 standard. The age 18 standard extends these child soldier protections dramatically above all other children.

Besides stating that child soldiers were indeed perpetrators as well as victims, the only allusion to the issue of accountability in the Sierra Leone and Uganda case studies has been in creating the parameters within which the cases of child soldiers are to be pursued – namely without resorting to criminal justice proceedings and in a framework of restorative justice. The application of transitional justice mechanisms in the cases of Sierra Leone and Uganda, as well as their non-judicial nature and restorative objectives, thus leads back to my primary research question: How and to what extent was child soldier accountability, along with recognition of the need of child soldiers to be protected as victims of human rights violations, addressed in the transitional justice applications of the SLTRC in Sierra Leone and traditional justice in Uganda?

A simple answer to this question is that, in effect, accountability for child soldiers was *not* pursued, at least not in any systematic way. Given the voluntary nature of the respective applications of transitional justice in Sierra Leone and Uganda it proved not possible to ensure that children responsible for, or complicit in, serious human rights abuse would participate in these processes, much less assume responsibility for the crimes they committed. The more complicated answer to the question of how and to what extent these processes dealt with child soldier accountability is that in fact this happened only as far as child soldiers were willing to participate in them. This was based first on whether or not child soldiers chose even to be involved and, if they were, by how much or how little they chose to disclose of the serious crimes they took part in. Although specific to the transitional justice applications in Sierra Leone and Uganda, it reflects the victim-focused work of international consensus that has set forth the standard of voluntary participation in future child soldier cases within the Paris Principles. As such, the implications of the Sierra Leone and Uganda situations are far-reaching. This much

is clear: without any further development of international consensus as to the degree child soldiers can also be considered as perpetrators, that considers their accountability rather than only their protection needs, how and to what extent they are held accountable will continue to be determined by child soldiers themselves based on their voluntary participation in justice mechanisms.

This leads back to my secondary research question: with the opposing considerations of providing child soldiers necessary protections while pursuing their accountability, *could* a coherent and effective approach be devised that in fact addresses both of these concerns? Existing literature on truth commissions highlights their potential inadequacy in addressing accountability without resorting to judicial courts and punitive measures. Challenges to traditional justice mechanisms are two-fold: first, adapting customary processes that are no longer in use to markedly different present realities, and second, finding a unified system to accommodate all parties in a multiethnic society. Given this established acknowledgement of the weaknesses of the transitional justice mechanisms under investigation, and keeping in mind the previous discussion on the role of international consensus in the pursuit of child soldier accountability, my secondary question can be reformulated as follows: would the transitional justice processes applied in Sierra Leone and Uganda have addressed the dilemma of child soldier accountability more effectively had it not been for the mandate developed by international consensus to treat child soldiers foremost as victims of serious crimes?

During the course of the SLTRC's investigation into the nature and effects of war the Commission found conclusively, and in line with the international consensus, that child soldiers were in fact above all victims in armed conflict. As such they were in need of attention on par with all other children who were negatively impacted by war. This included the protection of their rights and the importance of their education and economic integration in the post-conflict period. In Uganda, the unresolved nature of the conflict has precluded similar conclusions. However, due to an even more extensive targeting of children and comparable methods of forced recruitment and initiation into extreme violence by the LRA, presumably the outcome will be much the same. According to this formulation then the applications of transitional justice mechanisms in Sierra Leone and Uganda *were not* in fact effective means to address the dilemma of child soldier accountability. Based on the conclusions of the SLTRC it can further be said

that transitional justice mechanisms are indeed incompatible with the victim focus of international consensus concerning child soldiers.

Nonetheless, as these mechanisms were chosen for their ability to simultaneously address the needs of both accountability *and* reconciliation, it should be asked to what degree reconciliation needs could be considered in relation to the pursuit of child soldier accountability. While it is important to recognize the protection needs of child soldiers as victims, the needs of the communities into which they will return cannot be neglected. In so far as transitional justice tools are victim-focused, the question is whether the needs of communities victimized by the serious crimes perpetrated by child soldiers are to be considered at the same level as the needs of child soldiers themselves. Or does the child rights focus developed by international consensus put the rights of child soldiers above those of the communities they victimized?

Underlying these questions is still the issue of child soldier accountability. Applied to victimized communities and recognizing the need to address their concerns in the pursuit of reconciliation and the grounds for a durable peace a last question is appropriate: are victimized communities themselves satisfied with the extent to which child soldier accountability has been addressed through the application of transitional justice mechanisms? In the context of attempting to achieve reconciliation, surely affected communities must play a role in deciding what adequately constitutes accountability. It is possible that in fact those communities are content without pursuing child soldiers further seeing as though, given the vast number of child soldiers in situations of internal conflict, there is a good chance one of those children is somehow related to them or someone they know. All of these questions will need to be addressed in pursuit of what will be a continuing challenge to both international consensus and the field of transitional justice.

In conclusion we should also consider the implications of this outcome of the two case studies highlighted here for the limitations to the application of transitional justice principles more generally both in theory and practice. That the SLTRC and traditional justice mechanisms in Uganda proved ineffective in dealing with the accountability of child soldiers *could* imply that transitional justice tools, at least truth commissions and traditional justice and reconciliation processes, are inappropriate for this purpose. At a

theoretical level it could further imply that, while the restorative and victim-focused nature of such transitional justice mechanisms are perhaps a proper means to address their reintegration and reconciliation, they fall short on the issue of holding child soldiers accountable. In practice this is closely associated with the requirement of voluntary participation by victims, and thus also by child soldiers, in such transitional justice processes. In effectively precluding the pursuit of child soldier accountability, as demonstrated in both Sierra Leone and Uganda, this in practice absolutizes the victim status of child soldiers while allowing them impunity as perpetrators of war crimes and human rights abuses. By this formulation the dilemma of child soldier accountability is not a dilemma at all. Child soldiers are effectively to be regarded only as victims. Paradoxically, though, protecting child soldiers as victims in this way also serves to foster and sustain the prevailing culture of impunity.

# BIBLIOGRAPHY

**Scholarly Books, Articles, and Other Works:**


Afako, B. 2002. "Reconciliation and Justice: 'Mato oput' and the Amnesty Act," accessed 26th December 2008 at http://www.c-r.org/our-work/accord/northern-uganda/reconciliation-justice.php.

Akello, G., A. Richters and R. Reis. 2006. "Reintegration of Former Child Soldiers in Northern Uganda: Coming to Terms with Children's Agency and Accountability," Intervention, 4(3).

Akhavan, P. 2005. "The Lord's Resistance Army Case: Uganda's Submission of the First State Referral to the International Criminal Court," The American Journal of International Law, 99 (2).

Allen, T. 1991. "Understanding Alice: Uganda's Holy Spirit Movement in Context," Africa: Journal of the International African Institute, 61 (3).

Amoa, B. 2006. "The Role of Small Arms in African Civil Wars." Global Policy Forum, accessed 14th July 2008 at http://www.globalpolicy.org/security/smallarms/articles/2006/0921roleinafrica.htm.

Amosu, A. 2007. Democracy in Sub-Saharan Africa: Trends and Transition. Accessed 14th July 2008 at http://www.soros.org/initiatives/washington/news/amosu_20070717/amosu_20070717.pdf.

Ankut, P. No date. "The African Charter on the Rights and Welfare of the Child: Linking Principles with Practice." Dakar: Open Society Initiative for West Africa(OSIWA).

Arts, K. 2006. "General Introduction: A Child Rights-Based Approach to International Criminal Accountability," in K. Arts and V. Popovski(eds). International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press.

Baines, E. 2007. "The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda," International Journal of Transitional Justice, Vol. 1.

Bennett, T. 1998. "Using Children in Armed Conflict: A Legitimate African Tradition?" Pretoria: Institute for Security Studies.

Blattman, C. and J. Annan. 2007. "The Consequences of Child Soldiering." Sussex: Households in Conflict Network.

Blattman, C. and J. Annan. 2008. "Child Combatants in Northern Uganda: Reintegration Myths and Realities," in R. Muggah(ed). 2008. Security and Post-Conflict Reconstruction: Dealing with the Fighters in the Aftermath of War. New York, NY: Routledge.

Borzello, A. 2009. "The Challenge of DDR in Northern Uganda: The Lord's Resistance Army," in M. Berdal(ed). 2009 Transforming Armed Groups After Conflict: War-to-Peace Transitions. London: Taylor and Francis.

Clark, C. 2006. "Juvenile Justice and Child Soldiering: Trends, Challenges, Dilemmas," in C. Greenbaum, P. Veerman, and N. Bacon-Shnoor(eds). 2006. Protection of Children During Armed Political Conflict: a Multidisciplinary Perspective. Antwerp: Intersentia.

Cohn, I. and G. Goodwin. 1993. “Child Soldiers.” Geneva: Henry Durant Institute.
.
Collier, P. 2004. “Natural Resources and Conflict in Africa,” accessed 10th December 2008 at http://www.crimesofwar.org/africa-mag/afr_04_collier.html.

Crane, D. 2006. “Strike Terror No More: Prosecuting the Use of Children in Times of Conflict – the West African Extreme,” in K. Arts and V. Popovski(eds). 2006 International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press.

Dodge, C. and M. Raundalen. 1991. Reaching Children in War: Sudan, Uganda and Mozambique. Dhaka: Sigma Forlag.

Doom, R. and K. Vlassenroot. 1999. “Kony’s Message: A New Koine? The Lord’s Resistance Army in Northern Uganda,” African Affairs, 98 (390).

Dougherty, B. 2004. “Searching for Answers: Sierra Leone’s Truth and Reconciliation Commission,” in African Studies Quarterly, 8(1).

Drumbl, A. 2009. “Child Soldiers, Individual Agency, and International Criminal Law,” accessed 5th January 2009 at http://www.allacademic.com//meta/p_mla_apa_research_citation/3/1/0/5/7/pages310573/p310573-1.php.

Duthie, R. 2005. “Transitional Justice and Social Reintegration.” Paper for Stockholm Initiative on Disarmament, Demobilization, and Reinegration(SIDDR), Working Group 3.

Fallah, K. 2006. “Perpetrators and Victims: Prosecuting Children for the Commission of International Crimes,” in The African Journal of International and Comparative Law, 14(1).

Fontana, B. 1997. “Child Soldiers and International Law,” in African Security Review, 6(3).

Fox, M. 2005. “Child Soldiers and International Law: Patchwork Gains and Conceptual Debates,” in Human Rights Review, 27(4).

Freeman, M. 2006. Truth Commissions and Procedural Fairness. New York: Cambridge UP.

Grossman, N. 2007. “Rehabilitation or Revenge: Prosecuting Child Soldiers for Human Rights Violations,” in Georgetown Journal of International Law, 38(2).

Hayner, P. 2001. Unspeakable Truths: Confronting State Terror and Atrocity. New York and London: Routledge.

Hayner, P. 2007. “Negotiating peace in Sierra Leone: Confronting the justice challenge.” Geneva: Centre for Humanitarian Dialogue.

Humphrey, M. 2002. The Politics of Atrocity: From Terror to Trauma. New York and London: Routledge.

Huyse, L. 2008. ”Introduction: tradition-based approaches in peacemaking, transitional justice and reconciliation policies,” in Huyse, L. and M. Salter(eds). 2008. Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences. Stockholm: International Institute for Democracy and Electoral Assistance.

Huyse, L. 2008. "Presentation of *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences.*" Stockholm: International Institute for Democracy and Electoral Assistance.

Kemper, Y. 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management.

Kennell, N. 1995. The Gymnasium of Virtue: Education and Culture in Ancient Sparta. Chapel Hill, NC: UNC Press.

Kritz, N. 1997. "War Crimes and Truth Commissions: Some Thoughts on Accountability Mechanisms for Mass Violations of Human Rights." USAID Conference, Promoting Democracy, Human Rights, and Reintegration in Post-Conflict Societies, 30th-31st October 1997.

Landau, D. No date. "The Use of Child Soldiers." Zürich: International Relations and Security Network.

Latigo, J. 2008. "Northern Uganda: tradition-based practices in the Acholi region," in Huyse, L. and M. Salter(eds). 2008. Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences. Stockholm: International Institute for Democracy and Electoral Assistance.

Lomo, Z. and L. Hovil. 2004. Behind the Violence: The War in Northern Uganda. Monograph 99. Pretoria: Institute for Security Studies.

Lord, D. 2000. "Introduction: The Struggle for Power and Peace in Sierra Leone," accessed 6th January 2008 at http://www.c-r.org/our-work/accord/sierra-leone/introduction.php.

Lumsden, M. 1997. "Breaking the Cycle of Violence," in Journal of Peace Research, 34(4).

Mac-Ikemenjima, D. 2006. "The Long Road to Banjul and Beyond: Process of the African Youth Charter and the Role of Youth in its Popularisation and Ratification," Fifth African Development Forum, United Nations Conference Centre, Addis Ababa, 16-18 November 2008.

Machel, G. 2001. The Impact of War on Children. New York: Palgrave.

Maina, G. 2009. "Questioning Reintegration Processes in Northern Uganda," in Conflict Trends, 1, African Centre for the Constructive Resolution of Disputes.

Malan, M., P. Rakate, A. McIntyre. 2002. "Peacekeeping in Sierra Leone," Monograph 68, Pretoria: Institute for Security Studies.

Mandela, N. 1995. In Transitional Justice: How Emerging Democracies Reckon with Former Regimes. N. Kritz(ed). Washington, D.C.: United States Institute of Peace Press.

Mawson, A. 2004. "Children, Impunity and Justice: Some Dilemmas from Northern Uganda," in J. Boyden and J. de Berry(eds). 2004. Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement. Oxford, UK: Berghahn Books.

McIntyre, A. 2003. "Rights, Root Causes and Recruitment: The Youth Factor in Africa's Armed Conflict," in African Security Review, 12(2).

McIntyre, A. and T. Weiss. 2003. "Exploring Small Arms Demand: A Youth Perspective." Pretoria: Institute for Security Studies.

McKay, S. and D. Mazurana. 2001. Girls in Militaries, Paramilitaries, and Armed Opposition Groups, cited in A. Veale and A. Stavrou. 2003. Violence, Reconciliation and Identity: The Reintegration of Lord's Resistance Army Child Abductees in Northern Uganda. Pretoria: Institute for Security Studies.

Muggah, R. 2008. Security and Post-Conflict Reconstruction: Dealing with Fighters in the Aftermath of War. London: Taylor and Francis.

Nannyonjo, J. 2004. "Conflicts, Poverty and Human Development in Northern Uganda," paper prepared for WIDER Conference on Making Peace Work, Helsinki, 4-5 June 2004.

Nathan, L. 2001. "The Four Horseman of the Apocalypse: The Structural Causes of Crisis and Violence in Africa," in Track Two, 10(2).

Nielsen, T. 2008. "The International Criminal Court and the 'Peace versus Justice' Dichotomy," in Australian Journal of Peace Studies, 3.

No author. 2001. "The African Charter on the Rights and Welfare of the Child Comes into Force," in Journal of African Law, 45(1).

O'Flaherty, M. 2007. The Human Rights Field Operation: Law, Theory and Practice. London: Ashgate.

Okello, M. 2006. "Commentary on 'Only Peace Can Restore the Confidence of the Displaced," presented at the Public Hearing in the European Parliament, Brussels, 5 October 2006.

Otunnu, O. 2001. "The Road from Soldier Back to Child," in Africa Recovery, 15(3).

Otunnu, O. 2002. "Causes and Consequences of the War in Acholiland," Conciliation Resources website, accessed 1st March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/causes-dynamics.php.

Oyat, G. 2004. Coalition to Stop the Use of Child Soldiers; Save the Children, Uganda. Email reply, 4 June 2004, in Y. Kemper(ed). 2005. "Youth in War-to-Peace Transitions: Approaches of International Organizations." Berlin: Berghof Research Center for Constructive Conflict Management.

Peters, K. and P. Richards. 1998. "Why We Fight: Voices of Youth Combatants in Sierra Leone," Africa: Journal of the International Africa Institute, 68 (2).

Popovski, V. and K. Arts. 2006. "International Criminal Accountability and Children's Rights," United Nations University, Policy Brief 4.

Rosen. D. 2007. "Child Soldiers, International Humanitarian Law, and the Globalization of Childhood," in American Anthropologist, 109(2).

Ruaudel, H. and A. Timpson. 2005. "Northern Uganda: From forgotten war to an unforgivable crisis – the war against children." Pretoria: Institute for Security Studies.

RUF. 1995. "Footpaths to Democracy: Towards a New Sierra Leone," 1 RUF/SL, 20-35, in A. Zack-Williams. 2001. "Child Soldiers in the Civil War in Sierra Leone," Review of African Political Economy, 28 (87).

Sanin, K. and A. Stirnemann. 2006. "Child Witnesses at the Special Court for Sierra Leone." Berkeley: War Crimes Studies Center.

Siegrist, S. 2006. “Child Participation in International Criminal Accountability Mechanisms: The Case of the Sierra Leone Truth and Reconciliation Commission,” in K. Arts and V. Popovski(eds). 2006. International Criminal Accountability and the Rights of Children. The Hague, Netherlands: Hague Academic Press.

Singer, P. 2002. “AIDS and International Security,” Survival, 44(1).

Singer, P. 2005. Children at War. New York: Pantheon Books.

Smille, I., L. Gberie, R. Hazleton. 2000. The Heart of the Matter: Sierra Leone, Diamonds and Human Security. Ottawa, Ontario, Canada: Partnership Africa Canada.

Smith, D. 2001. “Children in the Heat of War,” Monitor on Psychology, 32(8).

Tom, P. 2006. “The Acholi Traditional Approach to Justice and the War in Northern Uganda,” accessed 7th July 2009 at http://www.beyondintractability.org/case_studies/acholi_traditional_approach.jsp?nid=6792.

Tutu, D. 1999. No Future Without Forgiveness. New York: Doubleday.

Twum-Danso, A. 2003. Africa’s Young Soldiers: The Co-option of Childhood. Pretoria: Institute for Security Studies.

Valji, N. 2009. “Trials and Truth Commissions: Seeking Accountability in the Aftermath of Violence,” in D. Hinze(ed). 2009. Handbook on Human Rights Activities, Edition 2009/2010. Bonn/Berlin: Friedrich-Ebert-Stiftung.

Veal, A. and A. Stavrou. 2003. “Violence, Reconciliation and Identity: The Reintegration of Lord’s Resistance Army Child Abductees in Northern Uganda,” Monograph 92, November 2003. Pretoria: Institute for Security Studies.

Wierda, M., P. Hayner, and P. van Zyl. 2002. “Exploring the Relationship Between the Special Court and the Truth and Reconciliation Commission of Sierra Leone.” New York: International Center for Transitional Justice.

Withers, L. 2007. “Child Soldiers: How to Engage in Dialogue with Non-State Armed Groups,” in C. Bellamy and J. Zermatten(eds). 2007. Realizing the Rights of the Child: Swiss Human Rights Book Vol. 2. Berne: Rüffer and Rub.

Zack-Williams, A. 2001. “Child Soldiers in the Civil War in Sierra Leone,” Review of African Political Economy, 28 (87).

Zarifis, I. 2002. “Sierra Leone’s Search for Justice and Accountability of Child Soldiers,” Human Rights Brief, 9 (3), accessed 10th September 2008 at http://www.wcl.american.edu/hrbrief/09/3sierra.cfm.

**Reports:**

Annan, J., C. Blattman, and R. Horton. 2006. “The State of Youth and Youth Protection in Northern Uganda: Findings from the Survey of War-Affected Youth,” UNICEF Uganda.

Coalition to Stop the Use of Child Soldiers. 2002. “Child Soldiers: 1379 Report,” London.

Coalition to Stop the Use of Child Soldiers. 2002. "The Use of Children as Soldiers in Africa: A Country Analysis of Child Recruitment and Participation in Armed Conflict," accessed 1st December 2009 at http://www.reliefweb.int/library/documents/chilsold.htm.

Coalition to Stop the Use of Child Soldiers. 2004. "Uganda," in Child Soldiers: Global Report 2004. Accessed 24th March at http://www.unhcr.org/refworld/country,,CSCOAL,,UGA,456d621e2,49880620c,0.html.

Coalition to Stop the Use of Child Soldiers. 2008. Introduction to "Child Soldiers Global Report 2008," accessed 1st December 2009 at http://www.childsoldiersglobalreport.org/introduction.

Coalition to Stop the Use of Child Soldiers. 2008. "Sierra Leone," in Child Soldiers: Global Report 2008. Accessed 14th September 2008 at http://www.childsoldiersglobalreport.org/content/sierra-leone.

Coalition to Stop the Use of Child Soldiers. 2008. "Uganda," in Child Soldiers: Global Report 2008. Accessed 16th March 2009 at http://www.childsoldiersglobalreport.org/content/uganda.

Colletta, N., M. Kostner, and I. Wiederhofer. 1996. "Case Studies in War-to-Peace Transition: The Demobilization and Reintegration of Ex-Combatants in Ethiopia, Namibia, and Uganda," Washington, D.C.: The World Bank.

Coomaraswamy, R. 2009. "Child Soldiers: Root Causes and UN Initiatives," UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict.

Department of National Development and Economic Planning. 1989/1990. "Poverty Profile for Sierra Leone," Freetown, Sierra Leone. In United Nations. 2004. "Poverty Measurement in a Post-Conflict Scenario: Evidence from the Sierra Leone Integrated Household Survey 2003/4," accessed 6th January 2009 at http://74.125.95.132/search?q=cache:1l0CyR7qkJIJ:unstats.un.org/unsd/methods/poverty/AbujaWS-SierraLeone.pdf+poverty+measurement+in+a+post-conflict+scenario&hl=en&ct=clnk&cd=1&gl=us&client=firefox-a.

Elsea, J. 2002. "International Criminal Court: Overview and Selected Legal Issues," Report for Congress, Washington, D.C.: Congressional Research Service.

Hovil, L. and Z. Lomo. 2005. "Whose Justice? Perceptions of Uganda's Amnesty Act 2000: The Potential for Conflict Resolution and Long-term Reconciliation," Kampala: Refugee Law Project.

Human Rights Watch. 2003. "Stolen Children: Abduction and Recruitment in Northern Uganda," 15 (7).

Human Rights Watch. 2005. "Uprooted and Forgotten: Impunity and Human Rights Abuses in Northern Uganda," accessed 15th March 2008 at http://www.hrw.org/reports/2005/uganda0905/4.htm.

ICRC. 2003. "International Humanitarian Law and International Human Rights Law."

Internal Displacement Monitoring Centre. 2009. "Internal Displacement: Global Overview of Trends and Developments in 2008."

International Crisis Group. 2003. "CrisisWatch," November.

International Crisis Group. 2004. “Northern Uganda: Understanding and Solving the Conflict.” ICG Africa Report, Number 77.

MacMullin, C. and M. Loughry. 2002. “An Investigation into the psychosocial adjustment of formerly abducted soldiers in Northern Uganda,” Field Report: International Rescue Committee.

McConnan, I. and S. Uppard. 2002. “Children Not Soldiers: Guidelines for Working with Child Soldiers Associated with Fighting Forces,” Save the Children Fund.

Muhumuza, R. 1995. “A Case Study on the Reintegration of Demobilized Child Soldiers in Uganda,” Kampala: World Vision Uganda.

Muhumuza, R. 1995. “The Gun Children of Gulu: The Reluctant Child Soldiers in Joseph Kony’s Lord’s Resistance Army (LRA) in Northern Uganda,” Kampala: World Vision Uganda.

Pain, D. 1997. “‘The Bending of Spears’: Producing Consensus for Peace and Development in Northern Uganda,” report commissioned by International Alert and Kacoke Madit, London: International Alert.

Refugee Law Project. 2005. “Whose Justice? Perceptions of Uganda’s Amnesty Act 2000: The Potential for Conflict Resolution and Long-term Reconciliation,” Kampala.

Refugee Law Project. 2009. “Building Consensus on Sustainable Peace in Uganda – Tradition in Transition: Working Paper No. 1,” accessed 20th August 2009 at http://www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7V353Y?OpenDocument.

Republic of Uganda Ministry of Health. 2005. “Health and Mortality Survey Among Internally Displaced Persons in Gulu, Kitgum and Pader Districts, Northern Uganda.”

SLTRC Final Report. 2004.

Special Court for Sierra Leone. 2002. “Relationship between the Special Court and the Truth and Reconciliation Commission, Briefing Paper,” Office of the Attorney General and Ministry of Justice, Special Court Task Force.

UN. 1996. “Initial Report of Uganda to the Committee on the Rights of the Child,” UN Document CRC/C/3/Add.40.

UN. 2000. “Report of the Secretary-General on the Establishment of a Special Court for Sierra Leone,” S/2000/915, 4 October 2000.

UN. 2004. “Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies.” Report S/2004/616.

UN. 2005. “Updated Set of principles for the protection and promotion of human rights through action to combat impunity.” Report E/CN.4/2005/102/Add.1.

UN. 2007. “Children and Armed Conflict: Report of the Secretary-General.” UN Document A/62/609-S/2007/757.

UN General Assembly. 2003. “Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Sierra Leone.” Report A/58/379.

UNHCR. 1994. “Refugee Children: Guidelines on Protection and Care.”

UNHCR. 2001. “Refugee Children in Africa: Trends and Patterns in the Refugee Population in Africa Below the Age of 18 Years, 2000.”

UNICEF. 2008. “Expert Discussion on Children and Transitional Justice.” Florence: UNICEF Innocenti Reseach Centre.

University of Ottawa. “Synthesis Report: Child Soldiers in Sierra Leone,” accessed 5th January 2008 at http://www.uottawa.ca/childprotection/sierraleone.pdf.

UN Office for the Coordination of Humanitarian Affairs. 2005. “Consolidated Appeals Process: Mid-Term Review of the Humanitarian Appeal 2005 for Uganda,” accessed 14th March 2009 at http://www.reliefweb.int/rw/RWB.NSF/db900SID/HSHU-6DL849?OpenDocument&rc=1&emid=ACOS-635PRQ&cc=uga.

Worden, S. 2008. “The Justice Dilemma in Uganda,” USIPeace Briefing, United States Institute of Peace, Washington, D.C.

**Official Treaties, Resolutions, Conventions, and Related Documents:**

African Union. 1999. “African Charter on the Rights and Welfare of the Child.”

African Union. 2006. “African Youth Charter.”

African Union. 2009. “List of Countries Which Have Signed, Ratified/Acceded to the African Charter on the Rights and Welfare of the Child,” accessed 14th December 2009 at http://www.africa-union.org/root/au/Documents/Treaties/List/African%20Charter%20on%20the%20Rights%20and%20Welfare%20of%20the%20Child.pdf.

African Union. 2009. “List of Countries Which Have Signed, Ratified/Acceded to the African Youth Charter,” accessed 12th December 2009 at http://www.africa-union.org/root/au/Documents/Treaties/list/Youth%20Charter.pdf.

Coalition for the International Criminal Court. 2010. “World Signatures and Ratifications,” accessed 20th January 2010 at http://www.iccnow.org/?mod=romesignatures.

ICC. 2002. “Rome Statute of the International Criminal Court.”

ICRC. 2005. “State Parties/Signatories to the Geneva Conventions of 12 August 1949,” accessed 12th December 2009 at http://www.icrc.org/ihlsf/WebSign?ReadForm&id=375&ps=P.

ICRC. 2005. “Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000,” accessed 25th March 2009 at http://www.icrc.org/ihl.nsf/INTRO/595?OpenDocument.

ICRC. 2009. “State Parties to the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflict(Protocol I), 8 June 1977,” accessed 12th December 2009 at http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=470&ps=P.

ICRC. 2009. “State Parties to the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts(Protocol II), 8 June 1977,” accessed 12th December 2009 at http://www.icrc.org/ihl.nsf/WebSign?ReadForm&id=475&ps=P.

International Labour Organization. 1999. “Convention 182.”

International Labour Organization. 2010. “List of Member Countries,” accessed 20th January 2010 at http://www.ilo.org/public/english/standards/relm/country.htm.

Sierra Leone. 1996. “Peace Agreement between the Government of the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone(RUF/SL).”

Sierra Leone. 1999. “Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone.”

Sierra Leone. 2000. “Abuja Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone.”

Sierra Leone. 2000. “The Truth and Reconciliation Commission Act of 2000.”

Sierra Leone. 2007. “The Child Right Act.”

Special Court for Sierra Leone. 2002. “Agreement for the Special Court of Sierra Leone,” accessed 12th January 2002 at http://www.specialcourt.org/documents/Agreement.htm.

Special Court for Sierra Leone. 2002. “Statute of the Special Court for Sierra Leone.”

Uganda. 1985. “The Uganda Peace Talks Agreement for the Restoration of Peace to the Sovereign State of the Republic of Uganda,” document accessed 15th March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/nairobi-peace-agreement.php.

Uganda. 2000. “The Amnesty Act, 2000,” accessed 18th March 2009 at www.c-r.org/accord/northern-uganda/documents/2000_Jan_The_Amnesty_Act.doc.

Uganda. 2000. “The Children Act.”

Uganda. 2007. “Agreement on Accountability and Reconciliation Between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, Juba, Sudan.”

Uganda. 2008. “Annexure to the Agreement on Accountability and Reconciliation.”

UN. 1949. “Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.”

UN. 1977. “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, 8 June 1977.”

UN. 1977. “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977.”

UN. 1989. “Convention on the Rights of the Child.”

UN. 1989. “Parties/Signatories to the Convention on the Rights of the Child,” accessed 12th December 2009 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

UN. 2000. “UN Security Council Resolution 1315.”

UN. 2002. “A World Fit for Children,” UN General Assembly Resolution S-27/2.

UN. 2009. “Status of Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,” accessed 14th June 2009 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

UNICEF. 1997. “Cape Town Principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa.” 27-30 April 1997: Cape Town, South Africa.

UNICEF. 2007. “The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups.”

UN Office of the High Commissioner for Human Rights. 1989. “Convention on the Rights of the Child.”

UN Office of the High Commissioner for Human Rights. 2000. “Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.”

UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict. 2009. “List of 84 States which have endorsed the Paris Commitments,” accessed 15th January 2010 at http://www.un.org/children/conflict/_documents/ParisPrinciplescountrylist09.pdf.

UN Security Council. 1999. “Resolution 1261.”

UN Security Council. 2000. “Resolution 1314.”

UN Security Council. 2001. “Resolution 1379.”

UN Treaty Collection. 2010. “Signatories/Parties of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,” accessed 20th January 2010 at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&lang=en.

**New Reports and Press Releases:**

African Union. 2009. “Press Release No. 142/2009: African Youth Charter to Enter into Force.”

BBC. 2005. “Ugandan Army Recruiting Children,” 15 February, accessed at http://news.bbc.co.uk/2/hi/africa/4266789.stm.

BBC News. 2005. “UK Aid Cut Pressures Uganda,” 29 April, accessed 15th June 2009 at http://news.bbc.co.uk/2/hi/africa/4498381.stm.

BBC. 2006. “Ugandan Army Breaking Peace Deal,” 28 September, accessed 15th September 2009 at http://news.bbc.co.uk/2/hi/africa/5388026.stm.

BBC. 2006. “Uganda Rebels Drop Truce Demands,” 14 August, accessed 24th March 2009 at http://news.bbc.co.uk/2/hi/africa/4790049.stm.

BBC News. 2007. “Otti ‘Executed by Uganda Rebels,” 21 December, accessed 12th July 2009 at http://news.bbc.co.uk/2/hi/africa/7156284.stm.

ICC. 2004. “Press Release: President of Uganda refers situation concerning the Lord’s Resistance Army(LRA) to the ICC,” accessed 19th March 2009 at http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB.

ICC. 2004. “Statement of the Prosecutor Luis Moreno Ocampo to Diplomatic Corps, The Hague, Netherlands, 12 February.”

ICC. 2005. “Press Release: Warrant of Arrest Unsealed Against Five LRA Commanders,” 14 October, accessed 20th March 2009 at http://www.icc-cpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200204/related%20cases/icc%200204%200105/press%20releases/warrant%20of%20arrest%20unsealed%20against%20five%20lra%20commanders.

ICC. 2005. “Warrant of Arrest Unsealed Against Five LRA Commanders,” press release accessed 19th March 2009 at www.icc.cpi.int.

IRIN. 2001. “Children of War,” 21 June.

IRIN. 2004. “Rwanda: Traditional Courts Inaugurated,” accessed 26th December 2008 at http://www.irinnews.org/report.aspx?reportid=50380.

IRIN. 2006. “Sudan: Armed Group Kills 42 Civilians,” 20 October, accessed 25th March 2009 at http://irinnews.org.report.aspx?reportid=61376.

IRIN. 2006. “Sudan-Uganda: LRA Talks, Pencils and Helicopters,” 31 May, accessed 25th March 2009 at http://www.irinnews.org/Report.aspx?ReportId=72489.

IRIN. 2006. “Talks Hit Fresh Snag Amid Rebel Protest,” 30 November, accessed 24th March 2009 at http://www.globalsecurity.org/military/library/news/2006/11/mil-061130-irin04.htm.

IRIN. 2006. “Uganda: Kony will eventually face trial, says ICC prosecutor,” accessed 15th September 2008 at http://www.globalsecurity.org/military/library/news/2006/07/mil-060707-irin01.htm.

IRIN. 2007. “Uganda: LRA Talks Reach Agreement on Accountability,” 30 June, accessed 24th March 2009 at http://irinnews.org/Report.aspx?ReportId=73010.

Maier, K. 1995. “Boys in Arms find Peace a Trial,” *The Independent*, 28 September 1995.

Nolen, S. 2003. “Uganda’s Child Soldiers,” *The Globe and Mail*, 25 January 2003.

ReliefWeb. 2006. "Uganda: Security Council Presidential Statement Demands Release of Women, Children by Lord's Resistance Army, Expeditious Conclusion of Peace Process," accessed 24th June 2009 at http://www.reliefweb.int/rwarchive/rwb.nsf/db900sid/HMYT-6VLR9H?OpenDocument.

Special Court for Sierra Leone. 2002. "Press Release, 2 November 2002: Special Court Prosecutor Says He Will Not Prosecute Children."

*The Independent.* 30 July 2004. "The mystic and his brutal army of child soldiers."

*The Independent.* 29 October 2008. "Inverted Justice: Ex-child rebel faces treason charge."

UgandaNet. 2004. "ARPLI Receives Prize from the World Parliament of Religions," accessed 20th March 2009 at http://www.mail-archive.com/ugandanet@kym.net/msg14796.html.

UN. 2006. "Press Release: United Nations Launches Juba Initiative Fund to Aid Peace in Northern Uganda," accessed 15th June 2009 at http://www.un.org/News/Press/docs/2006/afr1439.doc.htm.

UN Development Program. 2008. "Committed to Northern Uganda's Recovery," in *UNDP Uganda News*, June 2008.

UNICEF. 2002. "World Leaders 'Say Yes' for Children," accessed 21st January 2010 at http://www.unicef.org/specialsession/index.html.

UNICEF. 2007. "Paris Conference on Child Soldiers Concludes with Commitment to Stop the Recruitment of Children," accessed 20th March 2009 at http://www.unicef.org/media/media_38231.html.

**All Other Website Entries:**

AFROL. "The Civil War in Sierra Leone," accessed 6th January 2009 at http://www.afrol.com/News/sil007_civil_war.htm.

Braum, E. 2004. "Truth Commissions," accessed 24 December 2008 at http://www.beyondintractability.org/essay/truth_commissions/.

Clark, J. 2002. "Uganda," International Relations Center website, accessed 14th March 2009 at http://presentdanger.irc-online.org/conflicts/uganda.html.

Disarmament Committee. 2007. "Child Disarmament," accessed 11th December 2008 at http://www.semmuna.org/Background%20Papers/2007disec.doc.

Fleshman, M. 2001. "Small Arms in Africa: Counting the Cost of Gun Violence," in Africa Recovery. Accessed 20th July 2008 at http://www.un.org/ecosocdev/geninfo/afrec/vol15no4/154arms.htm.

Global Policy Forum. No date. "Special Court for Sierra Leone," accessed 20th January 2010 at http://www.globalpolicy.org/international-justice/international-criminal-tribunals-and-special-courts/special-court-for-sierra-leone.html.

Global Security. No date. "Uganda Independence," accessed 20th January 2010 at http://www.globalsecurity.org/military/world/war/uganda1.htm.

Graduate Institute of International and Developmental Studies. 2008. "Lord's Resistsance Army: Origins," accessed 15th March 2009 at http://www.armed-groups.org/6/section.aspx/ViewGroup?id=28.

GUSCO. 2008. "Reintegrating Formerly Abducted Children," accessed 12th June 2009 at www.gusco.org.

GUSCO. 2009. Website homepage, accessed 12th June 2009 at www.gusco.org.

Hanson, S. 2006. "In Uganda, Peace Versus Justice," Council on Foreign Relations, accessed 20th March 2009 at http://www.cfr.org/publication/12049/in_uganda_peace_versus_justice.html.

Human Rights First. No date. "The Special Court for Sierra Leone," accessed 7th January 2009 at http://www.humanrightsfirst.org/international_justice/w_context/w_cont_04.htm.

Human Rights Watch. 2000. "Sierra Leone Rebels Forcefully Recruit Child Soldiers: RUF Targets Children for Fighting, Forced Labor, and Sexual Exploitation," accessed 14th September 2008 at http://www.hrw.org/en/news/2000/05/30/sierra-leone-rebels-forcefully-recruit-child-soldiers.

Human Rights Watch. 2008. "Coercion and Intimidation of Child Soldiers to Participate in Violence," accessed 18th March 2009 at http://www.hrw.org/en/news/2008/04/16/coercion-and-intimidation-child-soldiers-participate-violence#_Uganda.

ICC. 2007. "Uganda," accessed 12th July 2009 at http://www.icc-cpi.int/Menus/ICC/Situations+and+Cases/Situations/Situation+ICC+0204/.

ICC. 2010. "About the Court," accessed 20th January 2010 at http://www.icc-cpi.int/Menus/ICC/About+the+Court/.

International Center for Transitional Justice. 2008. "Children and Transitional Justice," accessed 24th January 2010 at http://www.ictj.org/en/tj/2882.html.

International Center for Transitional Justice. 2010. "Truth Commissions," accessed 15th January 2010 at http://ictj.org/en/tj/138.html.

International Crisis Group. 2002. "Sierra Leone's Truth and Reconciliation Commission: A Fresh Start?" Accessed 12th January 2010 at http://www.crisisgroup.org/home/index.cfm?id=1801&l=1.

International Crisis Group. 2007. "Conflict History: Sierra Leone," accessed 10th September 2008 at http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=96.

International Labour Organization. 2010. "About the ILO," accessed 20th January 2010 at http://www.ilo.org/global/About_the_ILO/lang--en/index.htm.

IRIN. 2000. "Sierra Leone: IRIN Briefing on the Civil War," accessed 6th January 2009 at http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/a908b07653c82d37852568f1004fbce6.

IRIN. 2002. "Uganda: Nature, Structure and Ideology of the LRA," accessed 18th March 2009 at http://www.irinnews.org/InDepthMain.aspx?InDepthId=23&ReportId=65772.

IRIN. 2003. “Too small to be fighting anyone’s war,” accessed 12th December 2008 at http://www.irinnews.org/IndepthMain.aspx?IndepthId=24&ReportId=66280.

IRIN. 2003. “Uganda: Web Special on Crisis in Northern Uganda,” accessed 17th March 2009 at http://www.irinnews.org/Report.aspx?ReportId=46146.

Mabasi, T. 2008. “ICC Arrest Warrants No Impediment to Peace,” International Center for Transitional Justice, accessed 24th March 2009 at http://www.ictj.org/en/news/coverage/article/1968.html.

Moszynski, P. 1999. “‘To the small ones, these atrocities are a game’,” accessed 7th January 2009 at http://www.guardian.co.uk/world/1999/apr/20/sierraleone.

Multi-Country Demobilization and Reintegration Program. 2009. “Uganda,” accessed 20th January 2010 at http://www.mdrp.org/uganda_main.htm.

Ocen, J. 2007. “Can Traditional Rituals Bring Justice to Northern Uganda?” Institute for War and Peace Reporting, accessed 20th September 2008 at http://www.iwpr.net/?p=acr&s=f&o=337405&apc_state=henpacr.

Okello, M. 2007. “Hard-hitting Commentary from Uganda’s Moses Okello,” accessed 25th March 2008 at http://tj-forum.org/archives/002573.html.

Otunnu, O. No date. “Placing Children on the World’s Peace and Security Agenda,” accessed 20th January 2010 at www.essex.ac.uk/armedcon/story_id/000079.doc.

Popovski, V. 2007. Quoted in S. Leahy. 2007. “Prosecuting Child Soldiers For Their Own Safety,” accessed 3rd January 2010 at http://stephenleahy.net/non-environmental-journalism/prosecuting-child-soldiers-for-their-own-safety/.

ReliefWeb. 1997. “The Anguish of Northern Uganda,” accessed 15th March 2009 at http://wwww.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/4233a0bf811d7767c1256525002b8e44.

Rodrigues, C. 2002. “The Role of Religious Leaders,” accessed 18th March 2009 at http://www.c-r.org/our-work/accord/northern-uganda/religious-leaders.php.

Tramble, R. 2007. “Child Soldiers: More Talk, Little Action,” accessed 18th December 2008 at http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?ots591=4888CAA0-B3DB-1461-98B9-E20E7B9C13D4&lng=en&id=53294.

Uganda Conflict Action Network. 2007. “The Conflict,” website accessed 11th September 2008 at http://www.ugandacan.org/history.php.

Uganda Ministry of Internal Affairs. 2007. “Reporters Granted Amnesty,” accessed 27th July 2009 at http://www.mia.go.ug/page.php?1=reporters&&2=Reporters%20Granted%20Amnesty.

UN. No date. “AIDS Orphans in Sub-Saharan Africa: A Looming Threat to Future Generations,” accessed 12th November 2009 at http://www.un.org/events/tenstories/06/story.asp?storyID=400#.

UN. 2008. “Uganda: Child Soldiers at Centre of Mounting Humanitarian Crisis,” accessed 12th September 2008 at http://www.un.org/events/tenstories/06/story.asp?storyID=100.

UN. 2009. “Special Concerns,” accessed 12th November 2009 at http://www.un.org/rights/concerns.htm.

UN Disarmament, Demobilization and Reintegration Resource Centre. 2009. “What is DDR?” Accessed 25th January 2010 at http://www.unddr.org/whatisddr.php.

UNHCR. 2009. “More than 1.4 million internally displaced Ugandans head home since 2006,” accessed 5th August 2009 at http://www.unhcr.org/4a6dc3159.html.

UNICEF. 1996. “Children as Soldiers,” accessed 12th November 2009 at http://www.unicef.org/sowc96/2csoldrs.htm.

UNICEF. 2002. “‘A World Fit for Children’: An Agenda Both Visionary and Concrete,” accessed 20th December 2008 at http://www.unicef.org/specialsession/wffc/.

United States Institute of Peace. 2005. “Truth Commissions Digital Collection,” accessed 26th December 2008 at http://www.usip.org/library/truth.html.

UN Peacebuilding Commission – Working Group on Lessons Learned. 2008. “Justice in Times of Transition,” accessed 24th December 2008 at http://74.125.47.132/search?q=cache:2C9tAfuZilgJ:www.un.org/peace/peacebuilding/Working%2520Group%2520on%2520Lessons%2520Learned/Justice%2520in%2520Times%2520of%2520Transition%2520(26.02.2008)/26.02.2008%2520Chair%2520Summary.pdf+traditional+justice+processes+ICTJ&hl=en&ct=clnk&cd=5&gl=us&client=safari.

UN Security Council. 2009. “Northern Uganda/LRA Historical Chronology,” accessed 25th March 2009 at http://www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.2880391/.

World Vision. 2009. “World Vision’s work in northern Uganda,” accessed 20th June 2009 at http://www.worldvision.org/content.nsf/learn/globalissues-uganda-wwork?Open&lpos=lft_txt_World-Vision-in-Uganda.