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INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

CHILD SOLDIERS IN AFRICA: A CASE STUDY OF UGANDA AND SOUTH SUDAN

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DECLARATION

I declare that this research project is my original work and has not been presented before for an award of any degree in any other university.

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This Research project has been submitted for examination with my approval as the university supervisor

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ABBREVIATIONS

ATT	Arms Trade Treaty
AU	African Union
CRC	Convention on the Rights of the Child
DRC	Democratic Republic of Congo
ICRC	International Committee of Red Cross
IDP	Internally Displaced Persons
IHL	International Humanitarian law
ILO	International Labor Organization
IMF	International Monetary Fund
LRA	Lord's Resistance Army
NRA	National Resistance Army
OAU	Organization of African Unity
OLS	Operation Lifeline Sudan
RECSA	The Regional Center on Small Arms
SPDF	Sudan's People's Defence Forces
SPLA	The Sudan People's liberation army,
SPLM	Sudan People's Liberation Movement
SSIM	South Sudan Independence Movement
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children Fund
UPA	Uganda People's Army

TABLE OF CONTENTS

CHAPTER ONE: INTRODUCTION	1
1.0 Background of study	1
1.1 Statement of the Problem.....	4
1.2 Objectives of the Research.....	4
1.3 Literature Review.....	5
1.3.1 Legal Frameworks	5
1.3.2 Girl Soldiers	8
1.3.3 Consequences of conflict on children and the society.....	10
1.3.4 Solutions to stop the phenomenon of child soldiers	11
1.4 Justification of the study	12
1.5 Theoretical Framework.....	13
1.6 Hypotheses.....	15
1.7 Methodology	15
1.8 Chapter Outline.....	16
CHAPTER TWO: CONCEPTUAL ANALYSIS OF CHILD SOLDIERS	18
2.0 Introduction.....	18
2.1 Debates on child soldiering.....	19
2.2 Recruitment and impact on Society	23
2.3 Role of girls in armed conflicts.....	27
2.4 International legal frameworks	29
2.4.1 Monitoring the implementation of Legal Frameworks	32
2.4.2 UN Convention on the Rights of the Child (CRC) 1989	33
2.4.3 International Labor organization. Worst Forms of Child labour Convention 182 – 1999.....	35
2.4.4 The Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict.....	36
2.4.5 The African Charter on the Rights and Welfare of the Child.....	37
2.4.5.1 The African Committee of experts on the rights and welfare of the child.....	39
2.4.6 The Rome Statute of the International Criminal Court (1998).....	40
2.5 Inadequacy of International law to protect child soldiers	41

2.6	Conclusion	44
CHAPTER THREE: CHILD SOLDIERS IN UGANDA AND SOUTH SUDAN		45
3.0	Introduction.....	45
3.2	Case study of Uganda	49
3.2.1	<i>Emergence of Child soldiers in Uganda</i>	49
3.2.2	<i>Impact of Child soldiers on the Ugandan society</i>	52
3.3	Case study of South Sudan.....	53
3.3.1	<i>Emergence of child soldiers in South Sudan</i>	54
3.3.2	<i>Impact of child soldiers on the South Sudan society</i>	56
3.3.3	<i>Demobilizing Child Soldiers in South Sudan</i>	56
3.4	Initiatives to end the use of child soldiers in Uganda and South Sudan	57
3.5	Legal instruments on child soldiers in Uganda and South Sudan	60
3.6	Conclusion	62
CHAPTER FOUR: A CONCEPTUAL ANALYSIS OF CHILD SOLDIERS IN UGANDA AND SOUTH SUDAN.....		63
4.0	Introduction.....	63
4.1	“Constructing” child soldiers	63
4.2	Role of the society	66
4.3	Role of Advocates.....	68
4.3.1	<i>The Economic and Social Council (ECOSOC).....</i>	70
4.3.2	<i>United Nations International Children’s Emergency Fund (UNICEF).....</i>	70
4.3.3	<i>Non-governmental organizations.....</i>	71
4.3.3.1	<i>Amnesty International</i>	72
4.3.3.2	<i>Coalition to Stop the Use of Child Soldiers</i>	72
4.3.4	<i>A critique of rights on legal approaches.....</i>	73
4.4	Recovery and Rehabilitation of child soldiers in Uganda and South Sudan.....	75
4.5	Conclusion	77
CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS.....		79
5.0	The case of child soldiers in Africa	79

ABSTRACT

This research project studies the phenomenon of child soldiers in Uganda and South Sudan with a view of understanding the emergence of this phenomenon, the actors perpetrating the existence of child soldiers, and solutions towards ending the phenomenon. Many treaties have been signed and ratified by states with regards to children's rights. There are international treaties and regional treaties but children's rights are still violated. The number of children participating in armed conflict is on the increase in the world. This research seeks to understand why this phenomenon still goes on and examines the international legal standards in place, the adequacy of the standards and possible remedies to improve the situation of child soldiers. Three main issues are discussed in the research paper. The issue of age is very important in relation to when persons can take part in armed conflict. The research argues that a universally acknowledged age should be used to describe the child. The second issue is the response of the international community towards the legal standards. It has been noted that people violate set standards because they can. This research attempts to assess the truth behind the behavior of the international community towards the phenomenon of child soldiers.

Monitoring and implementation is discussed as an important aspect of international legal procedures. Analysis and criticism are made of a selection of international organizations and Non-governmental organizations with the view to understanding the role of advocates in the campaign for children's rights. The role of the community is examined in this research project and arguments based on the social constructivist theory that argues amongst other things that ideas, norms and culture affect the structure of the society are used. Suggestions and recommendations are given, if not to make a change, hopefully to add emphasis on the fact that the international community needs to change the way it views child soldiers and the society needs to be more involved in issues pertaining to child soldiers.

CHAPTER ONE

INTRODUCTION

1.0 Background of study

There are an estimated 250,000 Child Soldiers in the world.¹ The United Nations Convention on the Rights of the Child (CRC) of 1989 describes a child as “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier”²

Article 38 of the Convention on the Rights of the Child states that, “States shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting amongst those persons who have attained the age of fifteen but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest. There is an anomaly in this article in that in all other respects, a child is under eighteen years and not fifteen. Article 38 creates a window for 15 -18 year old children to be used as soldiers. Although the CRC is in place, more children are being recruited into armies and children of younger and younger ages are recruited.

This research will seek to address the emergence of this phenomenon. It will argue out that the existing legal standards are not adequate in addressing and solving the problem of child soldiers. The research will make a study of child soldiers in Uganda and South Sudan and attempt to come up with dimensional impacts based on the study. It will also address the gender dimension of child soldiers.

¹ www.peacedirect.org/child_soldiers accessed on 15th August, 2013 at 02:19 pm

² UN Convention on the Rights of the Child 1989. Article 1

The use of child soldiers is clearly a violation of international law. ‘Customary international law draws from humanitarian law, the law of the child, and the practice of states. Among the basic rules now applying to international and internal conflicts is that knowingly to allow or to require the participation in conflict of children under fifteen years of age is a violation of their human rights under customary international law, no matter that the child “volunteers”.’³ The international legal standards on child soldiers borrow from customary international law. There are four kinds of international law in relation to child soldiers. They are; International Human Rights Law, International Humanitarian Law, International Criminal Law and International Labor Law. Using children in armed conflict is clearly a violation of all the above laws.

According to the CRC, a child is any person below the age of eighteen. Many different cultures view children differently. In the African culture, the description of the male child and the female child vary in terms of age. It is viewed that a girl can be married at an earlier age than a boy can marry and therefore the girl ceases to be a child once married. For many African cultures, marriageable age is attained through initiation into adulthood at diverse ages. Different religions as well view a child differently. For Muslims and Hindu, marriage is attained at puberty. It is arguable deducing from the above that the description of a child is not universal and maybe then should not be treated universally. This multiplicity of definitions as is acknowledged by UNICEF in various communities, results in numerous grounds for discrimination. It is arguable that child soldiers do in certain circumstances fall in this bracket of discrimination where they are considered adults while in actual sense they are still children.

³ Ilene Cohn and Guy S. Goodwin-Gill. *Child Soldiers: The Role of Children in Armed Conflicts* (Oxford University Press 2003) p171

‘Up to 2,000 women and children remained with the opposition Lord’s Resistance Army (LRA) in October, 2007. They included girl soldiers who had been raped and had given birth while in the LRA. Children were abducted and used by the LRA in combat and other roles and forced to commit and witness human rights abuses’.⁴ Article 38(3) of the Convention on the Rights of the Child indicates that states shall protect children who are affected by armed conflict. Uganda has ratified this treaty.

‘The Sudan People’s liberation army, SPLA, acknowledged that it had child soldiers in its ranks.....these children had been enticed by SPLA junior officers who promised education in Southern Sudan. SPLA forces raided a school in Nasir, Upper Nile in October, 2006 and abducted 32 boys for the purpose of recruitment. In September 2007 the UN confirmed the presence of children associated with SPLA forces in Southern Sudan. The youngest of the children was nine and the average age 16’.⁵

The International Labor Organization (ILO) recognizes the use of children as soldiers, as worst forms of child labour. The use of child soldiers to fight on front line conflict in armies is in fact ‘hazardous child labour’. ILO convention No. 38 recognizes the minimum age for hazardous work as 18 years. The LRA and the SPLA are clearly in violation of ILO law as they recruit children below the age of 18.

The phenomenon of child soldiers has had differential impacts in the society. Societal values have been destroyed by emergence of delinquents and families broken. Girls who were raped while taken as child soldiers found it difficult to fit back into the society because of the stigma

⁴ Coalition to stop the use of child soldiers. *Child Soldiers. Global Report 2008*. Coalition to stop the use of child soldiers 2008 p345

⁵ Report of the Secretary General on children and armed conflict in the Sudan, UN Doc. S/2007/520, 29 August 2007

associated with their being in the armed groups. The girls who bore children out of rape are especially affected. The society is also challenged in that it finds it difficult to accept ex-child soldiers back into the community. Some child soldiers were forced to kill their parents and others robbed villages.

1.1 Statement of the Problem

The recruitment of children in armed forces is a violation of international law. Children used in armed conflict are often treated brutally, suffering severe physical, emotional and sexual abuse. As soldiers, children miss out on education and a social structure necessary for a healthy growth. Child soldiers are spread across the world where they will grow up and will not have been rehabilitated as children and will in turn engage in more conflict and unless the cycle is broken, the world will not be a desirable and safe place to live in.

1.2 Objectives of the Research

This dissertation will make case studies of child soldiers in Uganda and South Sudan. It will seek to understand the cause of this phenomenon, its impact on the society and the application of international law towards solving this problem. It will also study the gender dimension and investigate how it is responded to by states. It will focus on the following objectives;

1. Analyze the differential impacts and challenges the phenomenon of child soldiers on the society
2. Examine the gender dimension in armed conflict and whether it is being responded to by states
3. Examine the legal frameworks that are in place to protect children against recruitment.

4. Recommend solutions and areas that require further research

1.3 Literature Review

The review of literature has been undertaken to inform of existing discourse on child soldiers and provide an in-depth understanding of the subject matter. Literature by prominent scholars in the field of child soldiers like Honwana, Cohn and Goodwin and Wessells are studied in this research. The literature review aims to add more emphasis on the legal frameworks in existence regarding child soldiers and how effective they are. The issue of the girl soldier is also examined to demystify the intricacies surrounding the use of girls in combat and lend a voice to the need to address gender issues with regard to the phenomenon of child soldiers.

Consequences of conflict on children and the society is a pertinent issue to the existence of child soldiers and is examined in the work of other scholars with a view to highlighting the terrible negative effects war has had on children and the society and emphasize the need to find a solution to the scourge.

1.3.1 Legal Frameworks

The issue of lack of clarity in the legal frameworks regarding definition of a child has been identified as a contributor towards the phenomenon of child soldiers. As mentioned in the introduction, the CRC defines a child as any human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier. Honwana and Cohn and Goodwin-Gill acknowledge the issue of age as being contentious as articulated in the international instruments on the protection of children. Honwana - *Child Soldiers in Africa* argues that the Geneva Convention, The AU Charter and the CRC have not given a clear

definition on the child with regard to age. Most of these conventions define the child as being below 15 years. There is no clarity regarding children aged between ages 15 and 18 and this leaves the children of these age bracket vulnerable to brutalization. Cohn and Goodwin-Gill also argue that 18 years is the internationally accepted age for one to cease being a child as per the CRC because 144 countries have ratified the treaty. Wessells joins in the argument on the definition of a child by advancing the research that the definition of a child by CRC varies from the traditional African societies' definition of a child. This he argues explains why there are many child soldiers in Africa. Initiation and not age, in Africa determines adulthood. Most children undergo initiation at the age of 14. 'A 15 year old carrying a gun is viewed as a child by International Human Rights observers. The same individual is viewed as a young adult by people in rural Africa'⁶

It is disturbing to see children being used as child soldiers and this is replicated all over the world. Where there has been war, there are child soldiers and it begs the question, why are children recruited as child soldiers? Honwana elaborates the disturbing scenario of a child soldier with a paradoxical comparison between a child and a soldier where a child is someone that needs protection and love of an adult and is vulnerable while a soldier is seen someone who instills fear in people and has no feelings, ready to fight.

Children are recruited into armed groups for various reasons. Wessells argues that children are cheap and convenient. They are always available in abundance, are more receptive to new ideologies and are easily exploitable. The youth bulge in the world is testimony to the number of

⁶Michael Wessells. *Child Soldiers – From Violence to protection* (Harvard University Press. Cambridge, MA.2006)p5

children available. 'Of the 620 million people living in sub-Saharan Africa, 51% are children'⁷. It is arguable that children are easily exploitable. All armed groups exploit children they recruit. Literature on child soldiers depict horrendous stories of how children are exploited by their commanders from carrying heavy weapons and supplies to carrying out domestic tasks such as pottering and cooking, to sexual exploitation. Armed groups even exploit children by using them as mine detectors.

Honwana bases her argument that children are recruited into armies because of their vulnerability, on research she undertook in various African countries. She argues that children are developing into adults and need guidance. Armed groups take advantage of their vulnerability and take them to war for their advantage.⁸

It is important to differentiate between the reasons why armed groups recruit children and why children join armed groups. While analyzing why children join armed groups, a two pronged approach is used which is voluntary and non voluntary conscription. Non voluntary conscription is where children are abducted by armed groups. This is done by press ganging and kidnapping.

Children, just like the soldiers have their reasons why they join armed groups. Scholars like Brett and Specht point out that it can prove difficult to determine whether a child joined an armed group voluntarily because voluntary may not be voluntary. They argue that children may not know what they are getting themselves into but once conscripted, they do not have the freedom to leave if they do not like it.⁹ Many children have a different view of the army based on movies

⁷ David J. Francis 'Paper Protection' Mechanisms: Child soldiers and the international Protection of Children in Africa's Conflict Zones. *The Journal of Modern African Studies*, Vol.45, No. 2 (June,2007) pp 207-231 (217)

⁸ Alicinda Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press, 1997)pp 17 -18

⁹ Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Rienner Publishers, 2004) pp111 - 112

watched or even brainwashing from recruiters and many are disappointed once they have joined. Voluntary recruitment should therefore not be seen as a matter of free rational choice.

The children that willingly join armed groups according to Wessells do so for protection, education, power, money, and a sense of purpose or as a source of opportunity. Fighting in an armed group, to some children and even their families, is seen as a fulfillment of patriotic duties to a country. Children who have been abused in their villages like girls who have been raped by boy soldiers or step fathers and those children who live in IDP camps where there are warring factions join armies to get a gun for protection. Brett and Irma interviewed young girls who said they join armies for security. To these girls, having guns means they may not be raped. Some children join armies because there are little other options while others do so, so that they can get food. There is a strong correlation in this instance between poverty and joining armed groups. Cohn and Goodwin-Gill add their voices to the argument of voluntary joining of armies by children that conflict offers such roles like leader, hero, combatant or victim and can induce a child to join an armed group.¹⁰ The above scholars also note that children are influenced to join armed groups by religion, ideology and indoctrination, social, community and family values, peer pressure, feeling of helplessness, feeling of vulnerability, desire for revenge and identity formation.

1.3.2 Girl Soldiers

There is a misconception when addressing the girl child soldier where girls have often been depicted as victims. Research such as that carried out by Wessells¹¹ has shown that in fact there

¹⁰ Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003) p31

¹¹ Michael Wessells, *Child Soldiers: From Violence to Protection* (Harvard University Press. Cambridge, MA.2006) p 104

are combatant girls who are in some cases dangerous assassins. It is important to address the gender dimension in order to identify how states are responding to this phenomenon including remedies to bring it to an end.

Several scholars highlight the plight of girl soldiers by depicting their experiences that include sexual violence and being assigned to commanders as “wives”. Wessells describes how girls in Uganda and South Sudan are abducted by LRA soldiers and given harsh training just like the boys. Their roles are fluid, multiple and overlapping and include domestic labour, spy and wife. Honwana illustrates the complex situation girls find themselves in. They are victims and perpetrators at the same time because they are raped and trained to fight. They are civilians and soldiers because they do not go to the front line to fight, rather stay in the camps to cook for the soldiers and use arms to guard the camp. Yet some of the girls create good relationships with their captors who sire children with them and usually these girls have a problem reintegrating to the society due to the relationships created.

Francis differs with Honwana on girls fighting in the front line. He notes that ‘...the uniform categorization of child soldiers neglects the particular focus on the girl soldier and young women combatants. Historically women have been presented as innocent and passive victims in situations of war and armed conflict. However, in contemporary civil wars, women and girls have played active parts in armed conflicts as fighters and purveyors of violence’¹²

¹²David J. Francis ‘Paper Protection’ Mechanisms: Child soldiers and the international Protection of Children in Africa’s Conflict Zones. *The Journal of Modern African Studies*, Vol.45, No. 2 (June,2007) pp. 207-231 (216)

1.3.3 *Consequences of conflict on children and the society*

The involvement of children in conflict has severe consequences on the children and the society. The brutality children are exposed to affects them for the rest of their lives. They suffer physical and psychological trauma which if not addressed turns them into dysfunctional members of the society, a cycle which eventually destroys the values of the society. Cohn and Goodwin-Gill draw attention to the consequences of participation in conflict on the child to include psychological trauma, physical injuries and juvenile delinquency.¹³

A society and child that are ravaged by war need healing. When conflicts are over and child soldiers demobilized, they need healing in order to fit back into the society. The society too needs healing in order to accept children who have committed atrocities against it and to be able to also help these children heal. The process of healing has not been given the attention it requires by the international community. Some healing processes especially the western ones cannot be afforded by communities in rural Africa where some of the worst forms of conflicts involving children are experienced. The tear that cuts through the fabric of the society right through to the child as depicted in the theoretical framework and needs to be sealed in order for the child to be protected. Healing is an important aspect of this process.

In Africa, child soldiers who return from conflicts are healed by traditional healers through rituals. Some healings are administered by the church while others in hospitals. The aim of the healing is to rid the children of the horrific things they underwent during the war. The war scenes, graveyards and homes are cleaned by traditional African healers who take it upon themselves to carry out the exercise that requires assistance of the international society.

¹³ Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003)pp98 - 114

1.3.4 Solutions to stop the phenomenon of child soldiers

Different scholars vary in terms of solutions they suggest would stop the phenomenon of child soldiers. The ideal situation being a full circle where the child is completely shielded from the wrath of conflict as depicted in the theoretical framework.

Honwana argues that there is need to avail treatments that will help to reintegrate ex child soldiers into the society yet this may not be forthcoming from the international community because the Geneva Convention does not recognize ex child soldiers who are under 15 years.¹⁴

Stopping wars and conflicts is the ultimate solution of ending the phenomenon of child soldiers. While that is the ideal solution, we live in a world that is not ideal. Brett and Specht hold the view that Legal Frameworks need to be strengthened as well as building strong families with responsible parents.¹⁵ States should also provide affordable, accessible formal, vocational and apprenticeship education with incentives such as free school meals. Cohn and Goodwin-Gill argue that the Legal Frameworks should be used to influence the use of child soldiers in armed conflict.¹⁶ Donors should make adherence to these laws conditionality for giving aid. They agree with Brett and Specht that a solution to keeping children away from war zones is by keeping them busy through schooling, recreation and improved socio-economic conditions.

The Legal Frameworks in place are not adequate in solving the problem of child soldiers. It is recommended therefore that the Legal frameworks be strengthened to deal with this phenomenon. The prosecution by the International Criminal Court of Charles Taylor and

¹⁴ Alicinda Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press, 1997) pp35 - 37

¹⁵ Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Rienner Publishers, 2004) p126

¹⁶ Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003) p 80

Thomas Dyilo who were involved in the enlistment of child soldiers in conflict is a step in the right direction but arguably a small step. We share the same school of thought with Francis who argues that ‘For international treaties to have the intended impact and legal efficacy, they should have elements that are context-specific and socio-culturally relevant. As it stands, the restrictive and Western-centric definition of a child is of limited relevance to the socio-cultural, traditional and development realities in Africa’¹⁷ Brett and Specht hold the same view of the need to strengthen Legal frameworks.¹⁸ Finding solutions to stopping the phenomenon of child soldiers is very key in the fight against the use of children in armed conflict. The solution starts from the family level to the society and the international community comes later. Legal frameworks can be best adhered to when the family unit is strengthened and donors can be effective when dealing with a cohesive society. Building strong families as postulated by the constructivist theory through shared identity, norms and culture is the foundation stone of finding lasting solutions to stopping the phenomenon of child soldiers.

1.4 Justification of the study

The fact that the phenomenon of child soldiers still persists even with legal frameworks in place and many countries having ratified the concerned convention is justification enough to find the gap or missing link that would connect the dots and assist eradicate the existence of child soldiers.

Many studies have been undertaken on this subject and recommendations made. Recent research by scholars such as Cohn, Goodwin (2003) and Honwana (1997) is minimal yet the phenomenon

¹⁷ David J. Francis ‘Paper Protection’ Mechanisms: Child soldiers and the international Protection of Children in Africa’s Conflict Zones. *The Journal of Modern African Studies*, Vol.45, No. 2 June,2007 pp. 207-231

¹⁸ Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Rienner Publishers, (2004) p126

persists. New conflicts where child soldiers are being used are emerging such as the Congo, Rwanda conflict. It is the duty of the international community to tighten Legal Frameworks and intensify campaigns to stop the phenomenon of child soldiers to make the world a safe place. Child soldiers are not limited to certain countries.

There is a gap in the literature on child soldiers regarding the legal frameworks in place to address issues of age of the child soldiers and cultural norms of various countries. New legal frameworks are instituted to address initially unclear issues like the age of the child but this does not fill the gap and there is need for literature to address how these legal frameworks have been effected and if there has been any impact after their coming to force.

1.5 Theoretical Framework

Constructivism theory holds that social facts are creations of human beings. The social structure is manifested by material structure and international community. Social structure has three components – shared knowledge, material resources and practices. Constructivism stresses the function of ideas. Human activities are conducted through sharing of ideas. Constructivism believes that norms, culture, customs and learning can change the behaviours and interests of a country's citizenry.

Constructivism asserts that the process of international politics alters interests and identity in the international system. It emphasizes that identities may change through interaction.¹⁹

¹⁹ Maja Zehfuss *Constructivism in International Relations: The Politics of Reality* (Cambridge University Press. Cambridge, England 2002) p 41

The child soldiers in Uganda and South Sudan are as a result of social structures constructed by human beings. These structures are conducted at the local, national and international levels. At the local level, broken families, abusive parents and family values affect children and determine whether they will be child soldiers or not. At the community and national level, civic groups, religious groups, schools, peers and government can contribute to a child joining an armed group. Government institutions, social norms and the ethnic factor have a correlation with the child soldier. At the international level, weak legal frameworks cross border flows and existence of arms industries and greed for resources such as conflict diamonds will fuel the growth of child soldiers.

According to the constructivist theory, norms culture, customs and interests can change the behaviours of a country's citizenry. This research will use this theory to argue that the practice of using child soldiers can be eliminated with proper adaptation of the tenets of the theory.

This theory will be applied at the national and local levels by adopting norms, culture, customs and learning that can change the country's citizenry. These include protecting children from abuse at home, which is a reason why some turn into child soldiers. This can be done by counseling and sensitizing the society so that for example step fathers are not let to live with their adult step daughters and religions and cultures that indoctrinate children into joining armed groups are curtailed.

At the international level, the theory of constructivism is applied through the strengthening of legal frameworks. This can be done where the international community pays great attention to countries violating international norms and organizations such as the International Criminal Court placing punitive measures on leaders who violate laws such as the CRC.

International politics, according to constructivists, alters interests and identity in the international system. This can be applied to the phenomenon of child soldiers by using international regimes to control cross border flows and reduce if not eradicate the existence of small arms industries. International regimes like the UNHCR work with states to ensure cross border flows of refugees are controlled. The Arms Trade Treaty (ATT) and RECSA can work with states parties to eradicate small arms and weapons. One of the arguments for the emergence of child soldiers is because of the production of small and light weapons that can be carried, assembled and used by children. Making these weapons unavailable to armed groups would reduce the existence of child soldiers especially as combatants.

Sharing of knowledge by Uganda and South Sudan can help eliminate the existence of child soldiers in both countries and is in tandem with the constructivist theory that stresses the function of ideas through shared knowledge.

1.6 Hypotheses

1. There is a significant connection between the existence of child soldiers and the lack of proper International Legal Frameworks to protect the child
2. There is a significant correlation between dysfunctional societies and the existence of child soldiers

1.7 Methodology

The phenomenon of child soldiers still persists in the world even with 154 countries having ratified the Convention on the Rights of the Child. There are over 250,000 children in the world today involved in armed conflict. It is against this backdrop that this dissertation is undertaken.

The study by other scholars on this subject gives their experience and attempt to find the gap in their findings that may help solve the persistent phenomenon. This study concentrates on the case studies of Uganda and South Sudan with the intention of learning from the gap arising from the two scenarios.

An interview with former SPLA soldiers and natives of Gulu will shed more light into the presence of child soldiers in both Uganda and South Sudan. Existing laws on protection of the child also give the required information. The Geneva Convention on the Right of the Child of 1989 and the International Labor Organization are particularly concerned with protection of the child.

This research is also based on secondary data collected from books, journals and articles on child soldiers found in the internet. Honwana is a household name in the field of child soldiers. Many scholars quote her writings and especially the book of *Child soldiers in Africa* (1997) making it a must read for any scholar of child soldier issues in Africa

The information gathered from the various sources confirms that indeed the issue of child soldiers is complex. This work will therefore seek to add some new information to make some progress in the process of bringing the plight of children subjected to the unhealthy phenomenon of being child soldiers to an end.

1.8 Chapter Outline

Chapter by chapter, the research intends to address the concerns of the international community regarding child soldiers. Chapter one is the introductory chapter and outlines the statement of the research problem. It also gives a background on the research and lists the objectives of the study. Literature of selected authors on Child soldiers are reviewed here as well as giving a justification

for the research. The Theoretical Framework to be used is highlighted in this chapter as well as hypothesis, methodology of study and chapter outline.

Chapter two highlights the conceptual theories used in the research and sheds light into the background of the phenomenon including such issues as recruitment and impact on society. Problems created by the presence of child soldiers, which are in all aspects violation of international law are discussed here as well as issues of forced recruitment, underage, hazardous labor and sexual abuses. This chapter also addresses the available legal standards and attempts to shed light into the work of a selection of advocates that have been on the frontline campaigning for the rights of the child especially with regard to child soldiers. It also addresses the gender dimension of child soldiers. It seeks to know whether this dimension is being responded to by states and looks at the role of girls in armed conflicts not just as victims but also as combatants.

Chapter three examines case studies of Child soldiers in Uganda and South Sudan and highlight the impacts and challenges of child soldiers on the society which is intended to shed light into lessons that can be learned from both cases and existing gaps filled.

Chapter four is an analytical chapter and makes an analysis of the findings of chapters two and three. It argues that the emergence of Child Soldiers in Uganda and South Sudan was socially constructed and uses the constructivist theory to analyse the existence of child soldiers in the two countries. This chapter also analyses the role of advocates against child soldiers and critiques legal approaches in place.

Chapter five constitutes the conclusion and recommendations

CHAPTER TWO

CONCEPTUAL ANALYSIS OF CHILD SOLDIERS

2.0 Introduction

Several scholars such as Michael Wessells, Alcinda Honwana, Rachel Brett and Irma Specht have debated about the issue of child soldiers and have used various theories to try and understand the phenomenon. This chapter will analyze a few theories that are pertinent to the phenomenon of the child soldier mainly the constructivist theory and the human security theory. The debates shed more light into the phenomenon with various theses as to why the phenomenon occurs and persists. The analysis will test the hypotheses of the dissertation and will give build up cases that will help determine the research in question.

A further insight into the recruitment of child soldiers in African countries and their impact on the society is examined to understand to immensity of the problem and provide background for analysis. The role of girl soldiers in armed conflict is often ignored and if considered, most writers tend to portray girls as victims of conflict who are abducted and used as sex slaves. The position of girls as combatants who voluntarily join armed groups needs to be considered in order to address problems related to the girl child.

Legal frameworks that address the phenomenon of the child soldiers need to be critically examined to address any gaps that may be present in the frameworks and to add value to them. The legal frameworks seem not to have adequately addressed to issues of child soldiers and this is evidenced by the continuous existence of this phenomenon.

2.1 Debates on child soldiering

Other theories related to the constructivist theory, which is the theory adapted to use in this research are the Post Colonial theory and the Human security theory.

The Post Colonial theorists take into consideration factors such as identity and subjectivity. They are particularly sensitive to language since language has itself played such a leading role in colonization.²⁰ These factors are closely related to those of constructivists in that they believe in discussion and exchange of knowledge. These are important factors when addressing the phenomenon of child soldiers as the children live in a society where other actors affect their lives. These actors have to be included in the process of eradicating the phenomenon and this is best done through engaging them in discourse and knowledge sharing.

The constructivist theory applies to the child soldier phenomenon in that it argues that identities and interests are not only created by interactions but are also sustained through repeated interactive processes. Actors create and maintain social structures which subsequently constrain choices.²¹ This theory can be used to address the society in which children live in as contributing to them being child soldiers. Some children have joined armed groups out of impressions given by their peers of a good life in armed groups. The sense of security provided by a gun has enticed some children into joining armed groups. Armed groups have used villages as battle grounds making it easy for children to be conscripted into their armies as the battle has been taken to their doorstep. This is the reality that children will construct.

²⁰Bill Ashcroft, Gareth Griffiths and Helen Tiffin *Post-Colonial Studies: The Key Concepts*. (Routledge. London, 2000)p2

²¹Maja Zehfuss *Constructivism in International Relations: The Politics of Reality* (Cambridge University Press. Cambridge, England 2002) p 43

The Human security theory fills the void and provides a people centered paradigm to securitize child soldiers and the underlying problems that traumatize the wider society. In this theory, states are expected to be aware of the issues and to provide preventive measures to prevent child recruitment. This theory can be applied to the phenomenon of child soldiers in that it can aptly address the need for stringent legal frameworks to be put in place and followed by state parties and due punishment meted on those violating the laws.

The Human security theory holds that a people centered view of security is necessary for national, regional and global stability.²² If this theory is applied to the case of child soldiers in Uganda and South Sudan, then it will argue that the people in the villages and communities where the child soldiers come from should be involved in security issues by the states. This will ensure that conflicts that are taken to the villages by armed groups will be addressed early and involvement by the community in the armed groups, including children is reduced leading to national, regional and global stability. This theory underscores the importance of the individual as opposed to the state.

UNDP has defined human security according to seven dimensions of personal, environmental, economic, community, health and food security. Human security emphasizes the individual's rights and interests which are often ignored by the international community. This theory can be used to analyze the problem of child soldiers in that some of the reasons children join armed groups is so that they can get food. Armed groups entice children with food they rob off people. Some children join for economic reasons where they feel they are better off economically as a soldier than at home in poverty. Armed groups have lied to children that they would be paid if

²² Luke Prang, Children in armed Conflicts, Human Security, www.empirehistory.weebly.com accessed on 25th January, 2014 at 04:15 pm

they conscripted to their groups. The groups have appealed to children through misconceptions that their rights and interests will be taken care of. The international community and the state ignore the rights and interests of their citizenry to the advantage of armed groups.

Scholars like De Berry argue that 'child soldiers are linked to the crisis of the state because a failure of a state to bolster education and employment opportunities for young people will cause them to become vulnerable to recruitment by armed groups'²³ De Berry's argument is associated with the constructivist theory that argues that the society plays a role in whether children will become soldiers or not. The behaviours of human beings are constructed by structures like schools and employment opportunities. De Berry, who did a study on children in Uganda, argued that 'it is not enough to say children under fifteen cannot engage as soldiers but to understand why they do'.²⁴

He also argues that the nature of war changed and made it possible for the child to be a soldier. He points out that the emergence of small weapons makes it easy for children to operate hence attributed to their joining armed groups. De Berry's study also shows that civilian communities were turned into battle grounds making it easy to conscript and abduct children into armed groups. De Berry's arguments on small weapons and civilian communities turned to battle grounds are further arguments for constructivist theory that believes that norms, culture and customs can change the behavior of citizenry. In this case the norms, use of small weapons, changed and the culture, use of civilian communities as battleground was also a change that affected the behavior of the citizenry of Uganda, bringing about the phenomenon of child

²³ Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child* Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001), pp. 92-105 (Sage Publications, Inc. in association with the American Academy of Political and Social Science pg 93

²⁴ Ibid

soldiers. De Berry's argument of the presence of small weapons is substantiated by Wessells who points out that 'worldwide, there are over 500 million lightweight weapons such as the AK-47 assault rifle that enables even 10-year-olds to be effective combatants.'²⁵

Drub elucidates the constructivist theory in his arguments on child soldiering. Drub posits that research on reducing child soldiering argues for primary education, vocational training and social services as ways of reconciliation and to reduce child soldiers.²⁶

According to Drub, by observing legal protection, political leaders can help reduce child soldiering by being 'more interested in the welfare of the child than in military strategies'²⁷

The Human security theory posits that human security fills the void and provides a people centered paradigm to securitize child soldiers and the underlying problems that traumatize the society. This theory is demonstrated in the writings of Wessells that children join armed forces in search of security, food and health care. These are the factors that push children who have been orphaned or girls escaping forced marriages. They want to fill the void left by their parents or care givers. Other children are pulled into joining armed forces to be with an older sibling or an uncle or father. These children are searching for security as well and want to be where there is the sense of security that they know in the name of a relative.

Children who are abducted are traumatized. The human security theory addresses the underlying problems that traumatize children as key issues to be looked at to securitize child soldiers. Wessells points out that 'LRA tactics of isolation, physical beatings and intimidation are used to

²⁵ Michael Wessells, *Child Soldiers, Peace Education, and Post conflict Reconstruction for Peace* (Theory into Practice, Vol. 44, No. 4, Peace Education (Autumn, 2005), pp. 363-369

²⁶ Volker Drub *The Problem of Child Soldiers* (International Review of Education Vol. 48, No. 3/4, Education and Human Rights Jul., 2002, pp. 271-277

²⁷ Ibid

force children into obedience²⁸ Other factors that identify with the human security theory, that lead children to join armed groups are the measure of power and prestige that the gun and military uniform give to some children especially those from poor backgrounds who could never have obtained such power and prestige in any other way. Some ideologies and political socialization also influence children to join youth groups and others who fall in same category are those seeking for revenge. This category of children it is arguable are not forced into joining armed groups but do so out of their own free will and the human security theory helps us understand why. These children are in search of filling the void of human security which includes all forms of security such as food security, social security and emotional security.

Both the constructivist and the human security theory highlight the important role the society plays in the emergence or not of child soldiers. The society in both theories is expected to mould the child and protect him or her from situations that lead to them joining armed groups. A dysfunctional society is not in a position to support the child. The hypothesis that a dysfunctional society has a significant correlation with child soldiers holds true in this case.

2.2 Recruitment and impact on Society

There are many reasons and ways that make children join wars. According to Goodwin – Gill and Cohn, children are influenced to join war by religion, ideology and indoctrination, social, community and family values, peer pressure, feeling of helplessness, feeling of vulnerability, desire for revenge and identity formation.²⁹

²⁸ Michael Wessells, *Child Soldiers, Peace Education, and Post conflict Reconstruction for Peace* (Theory into Practice, Vol. 44, No. 4, Peace Education (Autumn, 2005), pp. 363-369 Taylor & Francis, Ltd.) p364

²⁹ Ilene Cohn and Guy S. Goodwin-Gill. *Child Soldiers: The Role of Children in Armed Conflicts* (Oxford University Press 2003) p 38 - 42

One of the ways of recruiting children to armies is through abduction. This is an involuntary recruitment and as we shall see later in the chapter, some children join armed groups out of their own free will. Armed groups would raid villages and market places and target children between the ages of fourteen and eighteen. According to Wessells, the armed groups abduct children by force from markets and mainly target children from poor backgrounds. Some would be taken for military training and in most cases the children would be tortured and indoctrinated into the armed groups through fear. Wessells points out that the LRA use children to abduct other children and to terrorize villages. By terrorizing villages, the children break the bonds between them and the community.

Cases of use of alcohol and drugs on children being forcefully recruited have been reported. Denov highlights such incidences as happened in Sierra Leone that ‘the apparent abundance of alcohol and hallucinatory drugs deliberately and unquestionably contributed to the creation of efficient and effective soldiers. The drugs were effective and engendered feelings of strength and a readiness to pick up their weapons and kill.’³⁰ The abducted children were turned into lethal soldiers with the use of drugs and once they had killed, they were completely assimilated into the armed groups and could not leave.

In other cases of forcible recruitment, children were forced to kill their parents or cut off ears, hands or private parts of their relatives. This act traumatizes the children and makes them feel guilty making it impossible for them to return back home because they had killed the people they would be returning to and they are also afraid of returning to a society that they have wronged.

³⁰ Myriam Denov, *Child Soldiers, Sierra Leone's Revolutionary United Front* (Cambridge University Press, Cambridge, 2010) p100

Children who were indoctrinated into armed groups tell stories of how they were given lectures by their abductors about the urgent necessity to overthrow certain governments. War songs were also used that made the children believe they were strong and intelligent commandos. These songs inspired them and made them want to be part of the armed group. ‘Children were also required to learn and repeat war songs that appear to have simultaneously inspired commitment and violence.’³¹

The LRA uses tactics of isolation, beatings and intimidation to force children to obey them. Wessells notes that the children recruited to armed groups are forced to kill escapees and to loot villages and abduct other children

Another form of recruitment of children is through voluntary acceptance. Children seek to join armed groups to escape poverty and abuse at home. Girls run away from forced marriages or rape by step fathers and join armed groups. Wessells points out that some voluntary joining of armed groups by children should not be considered to be voluntary just because children join of their free will. These children actually join because they have no other option or because they have been cheated into believing that the armed groups are comfortable places, only to discover otherwise when they have joined and have no option of leaving. Wessells postulates that ‘many children decide to join armed groups without explicit coercion, although their decisions cannot be regarded as voluntary because they are nearly always bounded by desperation and survival needs.’³²

Another example of voluntary recruitment is demonstrated by young boys in Uganda who joined the LRA after their families and home were destroyed by government armies. Cohn and

³¹ Ibid p101

³² Michael Wessells, *Child Soldiers, Peace Education, and Post conflict Reconstruction for Peace* (Theory into Practice, Vol. 44, No. 4, Peace Education (Autumn, 2005), pp. 363-369 Taylor & Francis, Ltd.) p364

Goodwill – Gill note that the LRA commanders were paternalistic to the boys and cared and trained them and these boys preferred to be with the LRA than outside.³³

According to Brett and Specht, Children join armed groups because the war comes to them. Modern conflicts are fought where the villages and communities are the battle grounds. Armed groups raid villages and markets for foodstuffs and to abduct children to recruit them to their ranks. Children in war zones feel insecure, they join armies for security, to have a gun and for girls, so that they may not be raped. The girls feel, if they have a gun, they have self protection.³⁴

Other reasons that make children join armed groups are schools that are either not there, so children are idle and join armed groups, or schools that are there and used to recruit children through indoctrination. The same situation applies to families where the lack of families causes children to join wars while on the other hand, some families influence children to join armed groups. Brett and Specht identify peer pressure from friends, politics and ideology, specific features of adolescence that make teenagers be easily influenced, culture and tradition from family and media and television as some of the reasons why children voluntarily join armed groups.³⁵

Child soldiers found it hard to return to their villages and the villagers found it hard to accept them back. This is because their being child soldiers has a huge negative impact on the society. As postulated by Wessells, children who had attacked villages were afraid and embarrassed to return back there and the villagers feared them or sought revenge. The children who returned

³³ Ilene Cohn and Guy S. Goodwin-Gill. *Child Soldiers: The Role of Children in Armed Conflicts* (Oxford University Press 2003) p 97

³⁴ Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Reinner Publishers, 2004) p 20

³⁵ Ibid p20 - 33

back were stigmatized as rebels and the girls who had been raped and got children were harassed “or regarded as if they were damaged goods.”³⁶

2.3 Role of girls in armed conflicts

Many of the conflicts in Africa have involved girls both as combatants and as slaves or service providers for the armed groups. Girls, just like the boys join the armed forces through forceful abduction or voluntarily. The girls who join armed groups voluntarily do so for security. Brett and Specht note from interviews with former girl child soldiers that a gun to them meant they would not get raped because they had a gun for self protection.³⁷ Some girls have also given domestic violence as reasons to join armed groups voluntarily. These are girls who are from poor families who are made to do all the household chores or from dysfunctional families whose parents are abusive. In some instances step fathers have been reported to molest daughters of their wives.

A former girl child soldier in Liberia narrated that the reason she joined an armed group was because she did not want to join her family in escaping the war and going to Ghana. The girl also joined the armed group for protection and benefits and wanted to enjoy the power she thought the soldiers, who she had observed, enjoyed. She thought those soldiers were inviolable and untouchable.³⁸

The girls who have joined armed groups involuntarily have been abducted and in most cases taken as sex slaves. Honwana points out that ‘rape is used in wars as a form of aggression

³⁶ Michael Wessells, *Child Soldiers, Peace Education, and Post conflict Reconstruction for Peace* (Theory into Practice, Vol. 44, No. 4, Peace Education (Autumn, 2005), pp. 363-369 Taylor & Francis, Ltd.) p366

³⁷ Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Reinner Publishers, 2004) p 20

³⁸ *Newsweek Magazine*, August 12 & 19, 2013, p23

through sexual act and not an act of sex through aggression. Rebels get satisfaction from dominating girls.³⁹

Wessells however argues that sexual violence is a small part of women's experiences in war and that girls are made to perform similar duties with boys in armed conflict.⁴⁰ Girls undergo harsh training. The LRA in Uganda do not like pregnant girls and use crude methods to terminate pregnancies such as stomach pounding. 'They see the pregnancy as slowing them down and another mouth to feed'⁴¹

Girls in armed conflict perform many duties. Some of the duties are multiple and overlapping as noted by Wessells and include cooking, domestic labour, spying, porters and "wives". Honwana describes the situation of women in armed conflict as complex in that they are raped and forced to work and to fight. They are victims and perpetrators at the same time. The girls who are taken in as "wives" by the LRA commanders get raped, get sexually transmitted diseases and get unwanted pregnancies⁴² It is instructive to note that not all the girls in armed groups are victims. Some are combatants and are lethal killers and assassins.

The girls find it more difficult than boys to integrate. In fact some girls refuse to demobilize from the armed group because of the repercussions they will face at home. The difficulty for the girls comes with the society that does not accept them. Many societies like Uganda are patriarchal and find girls who have been raped in armed groups impure. Girls who have gotten children with

³⁹ Alicinda Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press, 1997) p 88

⁴⁰ Michael Wessells, *Child Soldiers: From Violence to Protection* (Harvard University Press. Cambridge, MA.2006) p 88

⁴¹ Ibid p100

⁴² Harry G. West, *Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"* (Anthropological Quarterly, Vol. 73, No. 4, Youth and the Social Imagination in Africa, Part 2 (Oct., 2000)), pp. 180-194: The George Washington University Institute for Ethnographic Research

rebels also fear the stigma. Brett and Specht note that few girls voluntarily agree to de-mobilize and re-integrate because they fear the stigma of having borne children with their captors and some have become 'wives' while some were raped.

Some societies believe that girls in armed groups are used for sexual satisfaction only and are not combatants and therefore see them as whores and are not ready to accept them back into the society.

Healing takes longer for former girl soldiers than the boys. Many girls turn to prostitution because of how the society views them and for lack of jobs and the need to fend for themselves and the children they have borne from their captors. MacDougall notes of the former Liberian combatants that 'while the male commanders negotiated government positions after the war, female combatants were largely excluded from the process. Today many of the women who went to war are shunned and live in slums, scraping by for survival, often by prostituting themselves for a few dollars.'⁴³

2.4 International legal frameworks

As mentioned in an earlier chapter, there are four kinds of International Law in relation to child soldiers. These are: international Human Rights law, International Humanitarian Law, International Criminal law, and International Labor law. Of the legal standards applying to the child, International Humanitarian law (IHL) is notable. Goodwin – Gil and Cohn acknowledge that 'among basic rules now applying to international and internal conflicts is that knowingly to allow or to require the participation in conflict of children under fifteen years of age is a

⁴³ Claire MacDougall, *Newsweek Magazine*, August 12 & 19, 2013, p23

violation of their human rights under Customary International Law.⁴⁴ All children are protected by International law and the legal standards should be clear and universal to apply to all children of the world.

Van Beuren notes that ‘to protect children in armed conflicts effectively, International law must be able to respond to the changing nature of these conflicts.’⁴⁵ The increase of child soldiers in the world is attributable to this changing nature of conflicts. ‘Experts note that the increased employment of children in armed conflict marks a qualitative shift in the nature and conduct of warfare from international to national in scope.’⁴⁶ Many of the wars fought nowadays are internal; mainly guerilla, religious wars or ethnic clashes and they involve children. International law is limited in its approach towards internal conflicts.

International Law is able to protect children by putting in place a protocol that protects children from joining the army as many states use different tactics to camouflage the presence of children in their armies. Some of the excuses used are that children will not be in the battlefields or they will only train until they turn 18.

International Law needs to protect children not only from engagement in conflict but also to keep them at a distance from any conflict. Villages and market places have been turned into battlefields in the conflicts of nowadays and this is where children are found and forcibly recruited by armed groups. Van Beuren acknowledges that ‘the principal purpose of International Law in this area (hostilities) is to protect children against the physical and psychological impacts

⁴⁴ Ilene Cohn and Guy S. Goodwin-Gill. *Child Soldiers: The Role of Children in Armed Conflicts* (Oxford University Press 2003) p 171

⁴⁵ G. Van Bueren, *The International Law on the rights of the child*,(Kluwer Academic Publishers, Netherlands, 1995) p334

⁴⁶ V. Escobar, “Little angels” and “Little bells”. *Fordham International Law Journal*. Vol. 26 No. 3,(March 2003) p786

of armed conflicts.’⁴⁷ The international community and international bodies concerned with the rights of the child need to provide this kind of protection. The protocols would be more sufficient if they included a paragraph dealing with physical and psychological protection of children. Monitoring bodies need to have a provision to cater for this as well.

While considering legal frameworks in relation to the child soldier, it would be insufficient to fail to consider the right of the child to freedom of association. The CRC allows for children to have the freedom to associate. It is arguable that the child may wish to take part in a conflict. Children have taken part in conflicts that have brought change in the world. An example is the fight against apartheid. They may have not involved themselves in direct conflict but they led riots and chanted anti-apartheid songs in funerals and illegal gathering. As mentioned in an earlier chapter, weapons have been produced that can be assembled and used by children. It has been noted as well that there are more children than adults in the world today. Children have also voluntarily joined armies to avenge the killing of their relatives. Others have joined because it is the only place to go where they can get free food, clothing and shelter. It is arguable from this perspective that children should not be denied their right of association. If they want to join armies, they should have a right to. It has been noted that, ‘yet arguments can be made that the restrictions placed by treaties on the minimum age of recruitment interferes with the rights of children to freedom of association and arguably also raises issues of freedom of expression.’⁴⁸

⁴⁷ G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers, Netherlands, 1995) p334

⁴⁸ Ibid p335

2.4.1 Monitoring the implementation of Legal Frameworks

In order for the Legal Frameworks to be complete, it is essential that monitoring takes place. This will ensure that the legal standards put in place are adhered to and implemented. It has been noted that some of the set standards and protocols have failed as there has been no monitoring body to ensure implementation. Cassese notes that the best means of ensuring respect for a right is to back it up with legal guarantees to be administered by a court of law. Monitoring bodies have the advantage that they can be composed of, as Cassese rightly points out, independent individuals, whereas others consist of state officials. The advantage individuals have over state officials is that they will not be compromised by their governments to give an opinion in favour of their governments. Individuals will not jeopardize their jobs if they found it necessary to disagree with a position their governments have taken regarding a legal issue. If their governments are not adhering to a set of rules of conventions they have signed and ratified, then an independent individual will bring it to the attention of the international community without fear of losing a job or political favour. This argument though may be watered down by the fact that individuals to implementing bodies have to be nominated by their governments. In this case it is worth noting that they may not bring much difference as Van Beuren rightly observes the ‘the notion of independence however has to be considered with some caution. It is unlikely that a state party will nominate any candidate who publicly disagrees with the policies of the government of the day’⁴⁹

Van Beuren notes that ‘sometimes a disproportionate amount of energy is expended in seeking to raise standards.’⁵⁰ This argument supports the fact that there are different protocols set yet hardly

⁴⁹ Ibid 384

⁵⁰ Ibid 338

any implementation or monitoring body in place. It is arguable that this could be the reason why the conventions have failed to protect the child soldier and we continue to see a presence of child soldiers in the world today. It is important to note that monitoring is difficult in that the child soldier is a transitory phenomenon, as children get older. It is not easy as well to carry out monitoring during a conflict.

A selection of conventions and protocols pertaining to child soldiers and other available legal standards are discussed here below;

2.4.2 UN Convention on the Rights of the Child (CRC) 1989

The CRC was adopted by the United Nations General Assembly on 20th November, 1989 and entered into force on 2nd September, 1990. By January, 2000, the convention had been ratified by 191 states. Only Somalia and the United States of America remain outside the treaty regime.

Article 38(3) of the treaty addresses the issue of child soldiers; it states, ‘States parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have not attained the age of eighteen years, states parties shall endeavour to give priority to those that are the oldest.’⁵¹

Article 1 of the convention on the rights of the child states ‘for the purpose of the present conventions, a child means any human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.’⁵²

From the above, we can deduce that Article 38 presents an anomaly in that it contradicts article 1 with regard to the age of a child. Article 1 refers to a child as any human being below the age of

⁵¹ Convention on the Rights of the Child, 1989 Article 38(3)

⁵² (Article 1)

18 yet article 38 allows children to be conscripted into the army. The CRC in this instance has failed to protect the child from the harm caused by being a child soldier.

The anomaly of article 38 of the CRC led to the introduction of the Optional Protocol to the CRC on the involvement of children in armed conflict. This treaty was adopted by the UN Assembly on 25th may 2000. Article 3 of the above protocol states: states parties shall raise the minimum age in years for the voluntary recruitment of persons to their national armed forces from that set out in article 38(3) on the CRC, taking account of the principles contained in that article and recognize that under the convention, persons under 18 are entitled to special protection'⁵³

The CRC has been criticized that many of the rights listed down in the convention are very vague and difficult to be translated into international and domestic law. Fortin argues that 'by listing forty substantive legal rights, the convention certainly contributes to this process of rights devaluation'⁵⁴

The CRC has further been criticized for giving universal solutions without recognition of local complexities in which it is applied.⁵⁵ It can be argued that this criticism resonates with the Human Security theory used in this research which argues that states should provide preventive measures that will guard against Legal frameworks that would not apply to particular situations but are instead very generalized. In any case the CRC in its article 38 underscores that it (CRC) relies on state parties to effect the Convention. De Berry argues that it is often the state that is to be blamed for failure of implementation of the Convention.⁵⁶

⁵³ Ibid

⁵⁴ J. Fortin *Children's Rights and the developing law*, (Reed Elsevier, UK 2003) p43

⁵⁵ Jo de Berry ,*Child Soldiers and the Convention on the Rights of the Child*, (Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001), pp. 92-105, Sage Publications, Inc. in association with the American Academy of Political and Social Science). p 101

⁵⁶ Ibid p 98

2.4.3 *International Labor organization. Worst Forms of Child labour Convention 182 – 1999*

This convention was adopted in June 1999 and came into force on 19th November, 2000. The convention commits each state that ratifies it to ‘take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.’

Recommendation 190 accompanying the convention encourages states to make the recruitment of children for use in armed conflict a criminal offence. This convention recognizes the child as any one below the age of 18 and the worst forms of child labour include ‘all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.’⁵⁷

The convention fails to address instances of voluntary recruitment. As mentioned in earlier chapters, and as is the case in many African states, there are children who voluntarily seek to be recruited into armed forces.

As the African Security Council Review points out, ‘Experts have nevertheless estimated that voluntary participation exceeds cases of forced recruitment...reasons such as peer pressure, community glorification of participation, revenge and social classes are more difficult to address. Economic incentives, such as the need for food and other essentials will play a role in voluntary enlistment.’⁵⁸

⁵⁷ H. Steiner, P. Alston, *International Human Rights in context. Law, Politics, Morals*. (Oxford University Press, Oxford, 2000) pp 534-535

⁵⁸ Child Soldiers and International Law. *African Security Review* Vol. 6 no. 3, 1997

2.4.4 The Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict

The UN Assembly adopted the above protocol on May 25th, 2000. The entry into force of this protocol has been regarded as a landmark as it specifically prohibits the use of child soldiers, and as mentioned earlier in this chapter, there is an anomaly created by the CRC in specifying the exact age of recruitment to the armed forces. The optional protocol has been signed by 115 countries and ratified by 63. The main points of the protocol include;

1. Outlaws compulsory recruitment of children under 18 years of age by armed forces (government and non-government)
2. Obliges ratifying states to ensure that members of their armed forces under 18 do not take direct part in combat
3. Raises the voluntary enlistment into armed forces to 16 years and includes specific measures requiring proof of a wish to enlist by the volunteer and his/her parents
4. Outlaws the recruitment or participation of anyone under 18 years in insurgency groups and rebel force ‘under any circumstances’⁵⁹

The new protocol seals all the loopholes left by the CRC and is very specific on the terms and conditions. The loopholes created by the CRC included the anomaly in recruitment age. Article 38 of the CRC allowed children of 15 to 18 years to be conscripted to the army.

The CRC does not concern itself with actions of non-government groups e.g. guerillas. It deals only with governments who have signed and ratified its protocol. Additional protocol two addresses both government and opposition groups.

⁵⁹ IRIN Web Special on Child Soldiers, <http://www.irinnews.org/webspecials/childsoldiers> accessed on 27th January, 2014 at 06.05 pm

The protocol clarifies the issue of voluntary enlistment to include permission from the child's parents. This will reduce instances of children being lured to voluntarily join armies with tokens and will also reduce instances of children joining armies out of peer pressure.

The second protocol seeks all states parties to take all 'feasible' measures to ensure children do not participate in conflict. The ICRC has attacked the use of the word 'feasible'. It argues that states need to take all 'necessary' measures but many states avoid taking absolute duty and seem to want to leave leeway to protect themselves as Van Beuren notes. The use of the word 'feasible' is likely to raise controversy, as it may not be clear what is 'feasible' and what is not 'feasible'.

This protocol, though it may seem to appear to improve on the CRC, has its shortfalls as well. In its provision that children should not take part in direct hostilities, the protocol seems to give leeway to children participating indirectly in hostilities. It is arguable that indirect participation is still participation. This participation would include such duties as transporting arms, messages and spying which are equally dangerous activities.

2.4.5 The African Charter on the Rights and Welfare of the Child

The Organization of African Unity (OAU) adopted the African Charter in 1990. It states; 'States parties to the present charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child'. It also makes it clear that a child is anyone below the age of 18 years.

This has been noted as ‘the only regional treaty in the world which addresses the issue of Child Soldiers.’⁶⁰ As Van Bueren acknowledges, ‘the potential protection offered by the African Charter is more comprehensive and coherent.’⁶¹ This is in reference to the age of the child. The African Charter makes it clear that no human being under the age of 18 shall be conscripted into any army. It has no exceptions like the CRC has but then it is arguable that this charter does not have much effect on the African States that have signed it as most of the child soldiers come from Africa. There have been instances of states parading their child soldiers yet this contravenes the above charter. Experts on child soldiers confirm that most child soldiers come from Africa. ‘Up to half of the world’s child soldiers are in Africa despite the entry into force in 1999 of the African Charter on the rights and welfare of the child.’⁶²

There is argument that the charter may have not been ratified and there do not appear any signs of it being ratified in the near future. It has been noted and it is arguable that ‘the respect of these norms would prove to be difficult in countries raging with civil war and where half the population is composed of people below the age of 15.’⁶³

It is arguable that the African charter is more comprehensive than the CRC in that the African charter extends to situations of ‘internal armed conflicts, tension and strife’ (Art.22 (3)), the duty of states parties to protect children. The CRC merely says in Article 38 that “state parties shall ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child.’

⁶⁰ HRW: Child Soldiers: International Legal standards governing Child Soldiers. <http://www.hrw-org/campaigns/crp/int-law.htm> accessed on 12th February, 2014 at 04:25 pm

⁶¹ G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers, Netherlands, 1995) p334

⁶² Human Rights Watch. *Child soldiers. International law governing child soldiers* <http://www.hrw-org/campaigns/crp/int-law.htm> accessed on 12th February, 2014 at 04:39 pm

⁶³ World Fact Book 1995 for Liberia, Sierra Leone, Angola, Burundi, Sudan, Mozambique and Zaire. <http://www.hrw-org/campaigns/crp/int-law.htm> accessed on 13th February, 2014 at 04:45 pm

The African charter, belonging to a regional organization is arguably able to develop International Human Rights Law in ways that are appropriate to the region. As Van Beuren⁶⁴ rightly observes ‘regional treaties theoretically have better prospects of being implemented amongst a smaller number of cohesive states.’

2.4.5.1 The African Committee of experts on the rights and welfare of the child

The African Charter is unique in that it has established a monitoring and enforcement committee. The committee was established on 10th July, 2001 and is mandated to promote the rights and welfare of the child. The committee is made up of eleven experts of high moral standing, serving in their independent and personal capacity that is on behalf of their states.

As mentioned above, it is arguably necessary for persons elected in committees to act in their individual capacities so that they do not feel compromised. It is worth noting that the experts making up the committee may have felt compromised when they submitted their reports to the committee at other meetings. Lloyd⁶⁵ notes that ‘the reports (of the experts) highlighted a perceived lack of independence and impartiality of some of the members. For example, the activities were stated as being undertaken in their employed capacity, on behalf of their state or government and the members only reported on activities in their own countries.’ The committee has seen changes where certain members were asked to step down, as they held high ranking positions in their respective governments, which could cause them to be compromised.

The committee has the advantages that it is given ‘broad powers to interpret the provisions of the Charter (AU) not only at the request of state parties and institutions of the AU but also to any

⁶⁴ G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers, Netherlands, 1995) p334

⁶⁵ The international Journal of children’s rights, Volume 12 No.1, 2004p33-34

“other person or institution” recognized by the AU.’⁶⁶ The committees’ other advantage is that it can receive communications from any person, group or Non-governmental Organization recognized by the AU. It also has the power to draft a checklist of fundamental principles on the rights of the child, which AU states can use as guidance when drafting legislation on the rights of the child.

This approach of having a committee on issues of children is an assertion of the constructivist theory which argues that human activities are conducted through sharing of ideas. If followed, this approach should address the phenomenon of child soldiers in that the fundamental issues would be laid bare and therefore easy to resolve.

2.4.6 *The Rome Statute of the International Criminal Court (1998)*

The statute gives the court jurisdiction over war crime of conscription or enlisting of children under 15 years into national armed forces or using them to participate actively in hostilities (Article 8). The court criminalizes all conscriptions whether forced or voluntary. Another positive aspect of the statute is that jurisdiction applies to everyone. It addresses armed forces or opposition groups and therefore applies to both government armies and armed opposition groups.

Under this statute, International law appears to have succeeded in that Charles Taylor of Liberia has been convicted of among other hostilities, using children as soldiers.

⁶⁶ G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers, Netherlands, 1995) p402

2.5 Inadequacy of International law to protect child soldiers

According to Goodwin-Gill and Cohn, There is no single source for International law of the Child, which means it must be looked for in specific and general treaties, in the broad field of Human Rights at both universal and regional levels, in the rules of International Humanitarian Law, in the Customary Humanitarian Law and in the law practice of states.’⁶⁷ It is arguable deducting from the above, that the existing legal standards are not adequate in solving the problem of child soldiers. It means the rights of children are under-specified and one has to look through many references before they can come up with an applicable law. In such situations, a lot is left to interpretation which may affect the quality of law to be applied. This is an indication of a failure as viewed from the constructivist theory which is the basis of this research. The failure is that the three components of social structure (Shared knowledge, material resources and practices), which is a tenet of constructivism, have not been adequately utilized to achieve required results.

It is worth noting that although treaties (convention and protocols) are used as legal standards on the protection of children’s rights, they are not adequate on their own. Treaties incorporate a self-reporting mechanism whereby states report on the national legislation adopted and the programmes undertaken to comply with specific treaty provisions. As Van Beuren⁶⁸ notes, ‘self reporting is frequently perceived as one of the weakest forms of enforcement.’

Treaties and conventions have been signed and ratified which apply to the legal protection of the child. Though some state may hold the opinion that certain treaties do not apply to them because

⁶⁷ Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003)p 55

⁶⁸ G. Van Bueren, *The International Law on the rights of the child*,(Kluwer Academic Publishers, Netherlands, 1995) p37

they have not signed or ratified them, it is arguable that they may still be held accountable to the treaties. If the treaty over time has become standard practice among world governments, then it has become Customary International Law that means it can be applied to all states. It is worth noting that although the customary law affects all states, it does not affect Non-governmental entities like guerilla and opposition groups. Most of the conflicts regarding child soldiers currently are internal conflicts engaged by Non-governmental groups. The LRA in Uganda, which has used many children to fight its war against the government, is an example of a guerilla group. It is difficult for the international community to apply any legal action on such groups.

The above notwithstanding, it should be noted as well that International Humanitarian Law can be applied to both government and opposition armed forces, though this has its own shortfalls as well.

The additional protocols to the Geneva Convention signed in 1997 increased the protection of civilians against wars and therefore made it possible for International Humanitarian Law to be applied to internal conflicts.

Additional Protocol one extended the definition of armed conflict to include conflicts against Apartheid, Colonialism, Racism and peoples self – determination.

Additional Protocol two extended the definition of armed conflict to include internal conflicts that are extremely intense and may be considered civil war. It is notable that many conflicts that take place today do so because International Law cannot be applied to them. The conflict in Northern Uganda should have been considered a civil war in view of the number of children that have been used and killed in the war.

International Humanitarian Law can only be applied to both states and Non-governmental entities if the states have signed and ratified the four Geneva conventions or the additional protocols and whether the conflict in question meets the five categories specified in the conventions. The categories are;

1. Traditional International armed conflicts (Additional Protocol one)
2. Conflicts between a government and opposition group with responsible command (Additional Protocol two)
3. Conflicts and riots, internal disorder and tensions violent enough to be subject to minimal standards (Common Article three)
4. Conflicts (Common Article three)
5. Conflicts (Additional Protocol one)

It is worth noting that the most current conflicts involving child soldiers do not fall within the threshold of the above criteria.

Of the above additional protocols, common article three comes closest to dealing with internal warfare as it gives jurisdiction over conflicts termed as ‘armed conflicts with armed forces on either side of hostilities and taking place within the confines of a single country’ but it still does not affect the legal status of insurgent groups. It is arguable then, in view of the above that International Humanitarian Law has a lot of gaps regarding the way child soldiers should be addressed. International legal standards therefore are not adequate in solving the problem of child soldiers.

2.6 Conclusion

The journey of a child to adulthood in many African states is a treacherous one. Conflicts have been taken to the doorsteps of homesteads and children are enticed with all sorts of treats to join armed conflicts. There are more children voluntarily joining armed groups than those forced to. This is a scary scenario that calls upon families, communities, governments and the international community to take serious actions to address the plight of children.

As depicted by the Constructivist theory that is used in this research, the society is constructed and. The theory emphasizes that the social structure has three components namely shared knowledge, material resources and practices. This chapter has highlighted the knowledge there is that needs to be shared for the eradication of the phenomenon of child soldiers. The legal frameworks in place should be strengthened and enforced in all states. The community and care givers should change their practices and embrace ones that ensure the child is protected. Material resources should be used constructively e.g. building of schools and making children comfortable so that they do not fall for peer pressure or get enticed to joining armed groups. The society has an important role to play and mechanisms such as legal frameworks provide protection.

CHAPTER THREE

CHILD SOLDIERS IN UGANDA AND SOUTH SUDAN

3.0 Introduction

This chapter addresses case studies of child soldiers in Uganda from early 1980's to present day and South Sudan before the partition of Sudan and South Sudan to present day. The emergence of child soldiers in Uganda can be traced back to the British colonial policy for Uganda protectorate. When Uganda got independence in 1966, the president then, Obote used the army to chase his political disputers from the country. In 1979, 'the army came to the forefront of politics in Uganda with the military coup led by General Idi Amin toppling Obote government.'⁶⁹ Amin led a military dictatorship that continued throughout the 1970s and 1980s. He was disposed in 1979 by the Tanzanian sponsored Uganda National Liberation Army (UNLA) which restored Obote to power in 1980. Obote's army then waged war against supporters of Amin. Yoweri Museveni's national Resistance Army (NRA) resisted Obote who was defeated in 1985 in a military coup. Museveni implemented the National Resistance Movement (NRM) in 1986 and is in power to date.

Museveni's NRM and NRA encountered opposition and armed rebellion in northern Uganda which remains unresolved to date. This is the conflict that saw the emergence of child soldiers in Uganda when many young boys joined men in Teso to take up arms against Museveni's government.⁷⁰ This led to the formation of the Lords' Resistance Army (LRA) which has notoriously used child soldiers in its fight against the government of Uganda from the 1980's to

⁶⁹ Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child* Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001) pg 95

⁷⁰ Ibid pp 94 - 96

present day where the armed group has moved to the Central African Republic. The foregoing gives the impetus to examine the phenomenon of child soldiers as a case study in order to understand why children have been used and why the phenomenon persists. The fact that cases of child soldiering and the impacts of the use of child soldiers are still being experienced in Uganda is another reason for the need to examine the case of Uganda.

Child soldiers have also been used in conflicts in South Sudan. The SPLM/A war against the Khartoum Sudan government was given impetus with the selective and forceful return of the people of South and Western Sudan to their homes through ‘Nimeri’s policy (Kasha)’⁷¹ Many of the Southern Sudanese forced to return home in this manner joined the ranks of SPLM/A. It was not ‘necessarily out of political awareness or revolutionary zeal alone but out of anger with the regime that saw school children, teachers, university students youth, women and intellectuals joining the struggle for the separation of South Sudan from Sudan.’⁷² Hence the emergence of child soldiers in South Sudan. There have however been claims of child soldiers in Southern Sudan when it was still one Sudan. The Sudanese government has been accused by Human Rights watch of supporting the LRA just as Uganda supported guerilla forces attacking Sudan. For much of the 1990’s the LRA was based in Sudan, venturing over the border to wreck havoc and destroy lives in Northern Uganda.⁷³ President Museveni of Uganda has argued that opposition to NRA came through Sudanese government backing the remnant and subsequently resurgent armies of Obote and Okello and that these armies fled to Sudan where they regrouped

⁷¹ Nyaba. P.A. *The Politics of Liberation in South Sudan An Insider’s view*, (Fountain Publishers, Kampala, Uganda, 2000) p26

⁷² Ibid p27

⁷³ Human Rights Watch, *Stolen Children: Abduction and Recruitment in Northern Uganda* 4 (Vol. 15, No. (7)(A) Mar. 2003)

and re-entered Uganda in 1986 to fight the NRA.⁷⁴ These incidences saw the use of children as soldiers in both Uganda and South Sudan

3.1 Child soldiers in Uganda and South Sudan

According to the UN, CRC, a child is means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.⁷⁵ Article 38 of the same convention however differs with article one in the description of a child when it comes to participation in hostilities. According to Article 38; ‘States parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take part in hostilities.’⁷⁶ This can be argued that children under 15 years should not be soldiers and it is therefore conclusive that child soldiers are individuals below 15 years who participate in hostilities. This description of child soldiers according to the CRC is inadequate in that it does not protect individuals between the ages of 15 and 18 years who are, according to the same convention, children and can be recruited into armed forces. The UNICEF Paris Principles and guidelines on children associated with armed forces or armed groups of February 2007 describes the child soldier as ‘any person below the 18 years of age who is or who has been recruited or used by an armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.’⁷⁷ Many armed groups have taken advantage of the notion that soldiers are combatants in uniform and hence used children for the

⁷⁴ Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child* Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001) pg 96

⁷⁵Art 1, UN Convention on the Rights of the Child (CRC) (1989)

⁷⁶ CRC Art 38

⁷⁷ www.unicef.org accessed on 8th April,2014 at 8:45 pm

activities mentioned above not considering them falling under the premise of soldiers. The Paris principles protect the child from being taken advantage off by such armed groups.

Children are recruited into armed groups by rebel groups, guerrilla groups and the armed forces of Nation states. Honwana argues that children are recruited into armed conflicts because they are vulnerable. They are developing into adults and need guidance which they may not get at home because they are orphans or their parents are absent due to poverty migration and war which cause families to disintegrate. Soldiers take advantage of such situations and lead children into wars for their (soldiers) advantage.⁷⁸ This scenario is supportive of the constructivist theory which argues that ideas, norms and culture play a role in promoting structural change. The child becoming a soldier is influenced by the norms, ideas and culture he or she is exposed to and if it is soldiers who are available to guide the children, then they will be soldiers.

The art of war has also changed such that it is easy to involve children in war because weapons like AK 47 are easy to carry, assemble and use. It is important to note that children are recruited into armies out of their own volition. Children who have suffered poverty and abuse at home voluntarily join armed groups to get food and to be away from their abusers. Some join to have a gun to protect themselves, especially the girls who fear being raped. Peer pressure, religious indoctrination and politics and ideology also influence children into joining armed groups.

Children are often targeted for recruiting by armed groups because they are easily molded into what the armies want them to be, ruthless killers. Children are also cheap to recruit as they do not demand for much pay and are agile as soldiers.

⁷⁸ Alicinda Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press, 1997) p28

3.2 Case study of Uganda

Uganda presents a classic case study of the use of child soldiers in conflicts. Uganda has had many conflicts over the years where both the rebel groups and the government paramilitary groups have used children to fight in their armies. Joseph Kony, The Leader of the Lord's Resistance Army (LRA) used children to replenish his army. Kony abducted children from Uganda and took them across the border to South Sudan where they received harsh training and later returned to Uganda where they attacked villages in Northern Uganda.⁷⁹

3.2.1 Emergence of Child soldiers in Uganda

The root of emergence of child soldiers in Uganda can be traced back to colonial times where the state used violence against political dissenters.⁸⁰ The colonial government often gave top civil service positions to the Buganda tribe of the central and southern sections of the country and whose kingdom was centered in Kampala, the official capital of the country. Other tribes like the Acholi and Lango of the North tended to be marginalized and found their only means of gaining power was through the military.⁸¹ President Museveni took over power from Obote with support from Southern Uganda. The North resisted Museveni's National Resistance movement and caused conflict of which young boys and men in the Teso North took up arms. The Karamojong cattle raiders, who had been armed by Amin's army that was fleeing, engaged in advanced cattle rustling using cattle to trade for arms with Sudan. At that time, Uganda People's Army (UPA), was used to fight Museveni to haul Obote back. During these conflicts, boys were used as

⁷⁹ Michael Wessells, *Child Soldiers: From Violence to Protection* (Harvard University Press. Cambridge, MA.2006)

⁸⁰ Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child*, (Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001), pp. 92-105, Sage Publications, Inc. in association with the American Academy of Political and Social Science). p 94

⁸¹ Government of Uganda, *The History of Uganda*, at <http://www.government.go.ug/static/history.htm>.

information carriers and also fought as combatants in the UPA as they became part of the crisis of the state. Museveni's government army, the National Resistance Army (NRA) responded to UPA's attacks ferociously. This led to many young boys joining UPA as they argued that NRA's actions had left them homeless and UPA was offering them security.

In Teso, boys joined UPA as they were angered by the Karamojong raiding their cattle. To the Teso, cattle are important as they use them to pay for bride price and the oxen in cultivating land. These boys also joined UPA under the influence of their peers and especially the opportunity to own a gun. 'The ability to loot and acquire food, and the excitement they sensed from their peers already in the bush'⁸²

The government, The NRA, responded to the rebellion by UPA by attacking villages where they believed the rebels were hiding and where there were sympathizers. Their government carried out extra judicial executions of those they believed were rebels.

The NRA by these actions aided the emergence of Child Soldiers in Uganda in that 'many child soldiers of the UPA talk of joining the insurgency after NRA's actions had left them homeless and in some cases parentless. The UPA, they say, offered their only security until the end of the conflict in 1992.'⁸³ The Human Security theory can be used to further the argument that the lack of security that should have been provided by parents and society lacked in the above scenario leading to children turning into soldiers.

Another angle of examining the emergence of child soldiers in Uganda is related to the conflict between the Acholi tribe, Sudanese groups and the government of Uganda, The NRA. The

⁸² Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child*, (Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001), pp. 92-105, Sage Publications, Inc. in association with the American Academy of Political and Social Science). p101

⁸³ Ibid p98

Acholi were discriminated upon by highly organized groups like the Baganda during the colonial period and were attacked by Idi Amin during his reign. The Acholi often lost during the politics of Uganda and led to their reaction by ‘organizing “messianic” leaders to use their influence to bring about social and political change.’⁸⁴

In the 1980’s, the Holy Spirit movement arose among the Acholi and was led by a priestess, Alice Lakwena. Her group was crushed by Museveni’s NRA, government arm and this led to the formation of another rebel group led by Kony, the LRA, who received military assistance from the Rebel Sudan People’s Liberation Army (SPLA). ‘The LRA has been widely accused of using as its own warriors, children as young as eight years old who were kidnapped, tortured, raped, virtually enslaved and sometimes killed in the name of the “Holy Spirit”.’⁸⁵ The LRA is known to attack schools, villages and homes in Northern Uganda targeting children to use as child soldiers.

It is evident from the foregoing that the Human Security theory which holds that a people centered view of security is necessary for national, regional and global security should be used to solve the problem of child soldiers. In the above case, the people in the villages and communities where the child soldiers come from should be involved in Security issues by the state to ensure that conflicts that are taken to the villages by armed groups as elucidated above can be addressed early and the problem nipped in the bud before it escalates.

⁸⁴ Elliott P. Skinner, *Child Soldiers In Africa: A Disaster For Future Families* (International Journal on World Peace, Vol. 16, No. 2 (JUNE 1999), pp. 7-22Published by: Professors World Peace Academy) p 15

⁸⁵ Ibid

3.2.2 *Impact of Child soldiers on the Ugandan society*

The conflict between the government of Uganda and LRA has had diverse effects on children. Atim notes that forced recruitment and abduction led to physical injuries and sexual violence. It also resulted in children missing education and skills training opportunities as well as suffering psychological harms such as reintegration challenges. Atim elucidates how slavery, forced marriage and sexual violence as a result of the conflict led to fistula and other gynecological complications and HIV/AIDS. He reports that 8,000 females gave birth within LRA and some boys were sexually violated too.

Those that suffered these atrocities required specialized care and assistance which is not available and is costly. They face stigma and discrimination and are unable to return to normal lives and resume school.⁸⁶

The conflict has also had economic impact on families where death, disappearance and maiming of breadwinners made it difficult for them to provide basic needs such as schooling, housing and medical attention. Some children, Atim notes, have been forced to take an adult role while others moving into early marriage thereby dropping out of school. The conflict has further led to the emergence of street children and youth who are forced to provide labour for families of the street. This leads to sexual exploitation and lost education.⁸⁷

Another impact of the conflict on the society is the scourge of war wounded and victims of mutilation. Atim highlights that majority of burn victims are children. These victims require specialized care and assistance which is not available. There is also the case of children born due

⁸⁶Teddy Atim, *Children and Youth: Necessary Transitional Justice Mechanisms, Processes and Outcomes in Uganda* (International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25 – 27th Sept 2013)

⁸⁷ Ibid

to sexual violence. These children are not recognized by the father's family and have no access to land under customary law or practice. The male children are seen as competitors and risk being landless in an agrarian society. Their mothers also do not disclose circumstances of their birth to these children and they suffer emotional and behavioural health.⁸⁸

The human security theory applies while analyzing the impact of the conflict on the society. All the identified impacts of the conflict affect the society as a whole and there is need to involve it in decision making. Importantly the society plays a role in bringing about the situations the children find themselves in. It is imperative therefore to sensitize the society on the consequences of their actions and for the government to put strict rules on members of society so that they can perform their functions in a manner that is conducive for the proper upbringing of children.

3.3 Case study of South Sudan

South Sudan has experienced the phenomenon of child soldiers in its conflicts with Sudan. The split of the Sudan People's Liberation Movement (SPLM) into two with one faction keeping the original name and the other becoming SPLM-Nasir (later known as Sudan's People's Defence Forces (SPDF)) is partly attributed to the use of child soldiers which the SPDF is said to have opposed.⁸⁹

⁸⁸ Ibid

⁸⁹ Hirut Tefferi and Fatuma Ibrahim, *Demobilizing Child Soldiers, The Sudan Experience*, (Working paper No. 2, December 2000, Save the Children, Sweden) p6

3.3.1 Emergence of child soldiers in South Sudan

Civil war in the Sudan has mainly been between the Christians in the South and the Muslims in the North and has religious, political and economic connotations to it. The war that started in 1983 and raged on beyond the year 2000 started when the Addis Ababa Agreement granted the South some autonomy. The discontent between the two sides was based over the redrawing of borders between the South and the North and the introduction of Sharia Law. There was also discontent over the shifting of oil refineries from Bentiu in Upper Nile to Northern Sudan and the division of the South into three regions.⁹⁰ This contention issue led to the formation of the Sudan People's Liberation Movement (SPLM) and the Sudan People's Liberation Army (SPLA). SPLM was supported by Ethiopia government under Mengistu Haile Mariam until his overthrow in 1991.

The conflict caused displacement of families, led to diseases, rampant starvation, injuries, poverty and death and made children extremely vulnerable by creating a situation where children could be easily abused. The constructivism theory postulated in this research is reflected in the case of South Sudan where the war weakened the structural institutions that were in place before the war. This theory holds that social facts are creations of human beings. These facts can change the behaviours of citizenry in a country. The war in South Sudan 'weakened traditions and institutions that protected children and helped them cope with hardships and difficult situations.'⁹¹ Without the structures in place, there was the emergence of child soldiers. Tefferi and Ibrahim postulate that when children first joined the armed forces in South Sudan, the

⁹⁰ Ibid

⁹¹ Ibid p7

military fighters opposed them joining but the children were incessant as they had nothing to occupy them.⁹²

The reasons for children joining armies are the same all over the world and have been highlighted to include the lack of opportunities, revenge arising from personal loss, nature of armaments, ideological persuasions and the breakdown of traditional care systems. One unique reason as postulated by Tefferi and Ibrahim in their findings from South Sudan is the recruitment by chiefs of young children because they are not taxed. Adults are taxed and if they are recruited to armies, the Chiefs will have reduced returns of taxation and will be viewed by the local administration as inefficient.⁹³

Nyaba also postulates that many of the youths who left their homes to join SPLA/M 'did so initially in the hope of acquiring arms and come back to resolve the local conflict.'⁹⁴ Local conflict included revenge for cattle rustling which was practiced against the Bor and Kongor by the Murle and Nuers. There were also the Malual, Twic and Abeyei Dinka who established the Anya-nya 2 and later joined ranks of the SPLA 'not because of national ideals but because of their desire to avenge the raids of the Arab armed groups – Murahalieen- of Southern Kordofan'.⁹⁵ Nyaba⁹⁶ postulates that many of the black people in South Sudan were exasperated by the attitude of the Arabs in Khartoum of discriminating against them by introducing sharia law which should not have been applicable to them as they were Christians and not Muslims. This made the pastoralists, students, workers, youth, women, peasants and intellectuals to join

⁹² Ibid

⁹³ Ibid p10

⁹⁴ Nyaba. P.A. *The Politics of Liberation in South Sudan An Insider's view*, (Fountain Publishers, Kampala, Uganda, 2000) p26

⁹⁵ Ibid

⁹⁶ Ibid p27

the ranks of the SPLA. This proves that children under 18 years participated in the conflict in South Sudan

3.3.2 Impact of child soldiers on the South Sudan society

The over 45 years of war in South Sudan has had a negative impact on children and society as a whole. A report by The United Nations Children Fund (UNICEF) says that only 20% of children in South Sudan have access to primary education and only 2% complete primary school. The war has also created extreme poverty and the traditional cultural attitudes and beliefs toward education have further compounded to undermine development in the region.⁹⁷ The Darfur region of South Sudan has been inflicted by famine and ethnic cleansing as a result of the war and this has caused a lot of migration of the South Sudanese people to countries abroad including the United States of America, Uganda and Kenya affecting their cultural cohesiveness

3.3.3 Demobilizing Child Soldiers in South Sudan

Initiatives to end the use of child soldiers rest on the shoulders of the community, the government and International organizations. In South Sudan, Save the Children, Sweden, an International Organization, has been in the fore front in the campaign to eliminate the use of child soldiers. Save the Children, Sweden targets children in refugee camps and conflict prone areas.⁹⁸ Tefferi and Ibrahim note that some communities in South Sudan have used the community to request for the release of their children from military camps. The community uses

⁹⁷ Palmer, James: *Former Soldiers Trade Guns for Scarce Textbooks in War-Torn Sudan*. (The World and I. Volume: 20. Issue: 1 January 2005)

⁹⁸ Hirut Tefferi and Fatuma Ibrahim, *Demobilizing Child Soldiers, The Sudan Experience*, (Working paper No. 2, December 2000, Save the Children, Sweden) p 12 - 13

chiefs to communicate to the military commanders and release of the children depends on the influence of the chiefs and military commanders.⁹⁹

UNICEF and Operation Lifeline Sudan (OLS) signed a relief operation on the grounds of the UN Convention on Rights of the Child and in ‘September 1995, the SPLM and South Sudan Independence Movement (SSIM) committed themselves to the principles of the convention. This was the first time in the history of child protection that any rebel group affirmed its commitment to an international agreement.’¹⁰⁰ South Sudan should therefore adhere to the CRC and those violating it should have punitive measures meted on them.

3.4 Initiatives to end the use of child soldiers in Uganda and South Sudan

In 1999, Sudan and Uganda agreed to stop using each other’s rebel groups which as highlighted above, had been the case. Sudan allowed Ugandan forces to enter South Sudan and destroy the LRA bases and camps in a military operation known as “Operation Iron Fist.”¹⁰¹ Wessells however proponent that the ‘Operation Iron Fist’ against the LRA led to the expansion of the war by LRA into the Teso region. The number of children used as child soldiers ‘Increased with LRA abducting over 12 thousand children in 2003.’¹⁰² Government paramilitaries such as the Arrow boys in Teso, The Amuka militia in Lango and the Frontier guards in Kitgum and Pader also recruited children to fight against the LRA. Wessells adds that the Ugandan government army has sometimes recruited former child soldiers to fight the LRA. This argument brings a different dimension to the view of child soldiers as being used only by the anti-government rebel group. It

⁹⁹ Ibid p13

¹⁰⁰ Ibid p 14

¹⁰¹ Human Rights Watch, *Stolen Children: Abduction and Recruitment in Northern Uganda* 4 (Vol. 15, No. (7)(A) Mar. 2003)

¹⁰² Ibid

would be difficult to solve the problem of using child soldiers in armed forces if the government, that is supposed to protect its citizenry and indeed adhere to the UN convention on the Rights of the Child, is violating the very law it has signed and ratified. The case against Ugandan government begs for a lot of analysis. On the other hand, it is notable that the Ugandan forces have made several attempts at peace treaties with the LRA but they have often proved difficult because of the lack of formal means of communication between the LRA commanders and the Ugandan military.¹⁰³ The nexus between use of child soldiers in South Sudan and Uganda is created by the cross border movement of rebel groups. LRA is a clear example of this as Joseph Kony, the leader of LRA set up base in South Sudan when fighting the government of Uganda.

The attempt at peace treaties by the Uganda forces can be argued based on the theory postulated by this research as a step in the right direction. The attempted peace treaties would entail sharing ideas, knowledge, resources and practices between Sudan and Uganda, a clear manifestation of the Constructivism theory.

In Uganda, recent projections to end the use of child soldiers and integrate former child soldiers in the society include the use of truth and justice committees. In these committees children are encouraged to tell the truth, there are prosecutions and reparations and institutional reforms are put in place. Atim notes that there is a framework for truth and justice operation in Uganda with specific provisions for child and youth, and gender and female sensitive approaches.¹⁰⁴

Apart from the initiatives already undertaken to end the use of child soldiers in Uganda and Sudan, there are suggested initiatives which if effectively put in place will assist bring the

¹⁰³ Human Rights Watch, *Stolen Children: Abduction and Recruitment in Northern Uganda* 4 (Vol. 15, No. (7)(A) Mar. 2003)

¹⁰⁴ Teddy Atim, *Children and Youth: Necessary Transitional Justice Mechanisms, Processes and Outcomes in Uganda*. Presentation during an International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25th – 27th September, 2013

phenomenon of child soldiers to an end and also eliminate what is termed the “revolving door” of child recruitment that has taken place in a country like DRC. Guitard¹⁰⁵ argues that rehabilitation and reintegration programmes can contribute to preventing the recruitment and use of children in conflict. She suggests psychological support to former child soldiers and their families and communities, the provision of income-generating activities, support to access education and vocational training and community-level awareness raising of children rights.

The Kampala recommendations¹⁰⁶ highlight the importance of recovery and reintegration processes which must be led by community action and support and assisted by child protection actors. This approach resonates with the constructivist approach which roots for the involvement of the community and stake holders in shaping decisions. The power of language and discourse is emphasized by this theory and that is what community led actions tend to do, engage in discourse. The reintegration process should mobilize existing community support structures which include cultural, religious, educational and psychosocial protection. Communities are encouraged by the Kampala recommendations to make their own decisions on how to balance traditional and external support structures. It also points out that reintegration should consider gender and identity rights, inheritance protection and access to services.

¹⁰⁵ Isabelle Guitard, *Prevention in Cure: Can rehabilitation and Reintegration programmes contribute to preventing the recruitment of children in conflict?* Presentation during an International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25th – 27th September, 2013

¹⁰⁶ Centre for children in vulnerable situations. *The Kampala Recommendations on the recovery and reintegration of Children and Youth affected by armed conflict.* Kampala, Uganda 25th – 27th September, 2013

3.5 Legal instruments on child soldiers in Uganda and South Sudan

‘The international law on child soldiers is unclear and protocols are unusually weak in protection.’¹⁰⁷ The Optional protocol to the 1989 UN convention on the Rights of the Child on the involvement of Children in Armed Conflict (OP-CRC) was adopted by the UN General Assembly in May 2000 and entered into force in February 2002. It has been ratified by 120 states including Uganda.¹⁰⁸ Uganda has signed and ratified all the treaties on the protection of the child and should therefore be able to protect against the use of children in armed conflict.

The Sudanese Child Act of 2004 is a national instrument available in Sudan and is a repeal of the Juvenile Welfare Act of 1983 and recognizes the child as any boy or girl below the age of 18 years. This is a domestic document hence it is easy to apply because it is tailored for the country. South Sudan can apply this document as it was recognized by both South Sudan and Sudan when it was one country.

The African Charter of 1981 entered into force in 1986 and has been ratified by 53 countries. Sudan signed into the charter in 1982 and ratified in 1986. The charter places a spotlight on children and refers to international declarations and conventions as a point of reference.

The 1999 African Charter on the Rights and Welfare of the Child is another legal instrument signed and ratified by Sudan. It has 39 signatories with Sudan having ratified it in 2005. The instrument requires state parties to take measures to ensure that children do not take part in hostilities.

¹⁰⁷ Allan Collins, *Contemporary Security Studies 3rd Ed*, (Oxford University Press, UK, 2013) p 385

¹⁰⁸ Jenny Kuper, *Military Training and children in armed conflict* (Netherlands, Brill Koninklijke NV 2005)p138

The other instruments available to both Uganda and South Sudan are the international instruments which are highlighted in this research document and include the International Labor Organization, Convention 182 on the elimination of the worst forms of child labour and the United Nations Convention on the Rights of the Child, First Protocol regarding the involvement of children in armed conflict.

The ILO convention 182 was ratified by Sudan in 2003. Each member that ratifies this convention is expected to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour urgently. The worst forms of child labour include forced or compulsory recruitment of children for use in armed conflict.¹⁰⁹

The UN convention on the Rights of the Child was adopted in 1989 and came into force in 1990. There are 140 signatories and 193 parties to the convention including Uganda and Sudan both who signed the treaty in 1999 and ratified it the same year.¹¹⁰ Article 38 of the convention refers to prohibition of child soldiering but uses age 15 as the minimum age for states recruitment of soldiers while other conventions on the rights of the child define a child as anyone less than 18 years.

It is evident from the research project that both Uganda and South Sudan who have signed and ratified some of these treaties on the rights of the child still have children taking part in hostilities. One of the reasons that can be attributed to the existence of this phenomenon is that these conventions pertain only to states consequently excluding Non state actors yet the Non

¹⁰⁹ International Labor Organization Convention 182 Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labor (1999) (entry into force Nov. 19, 2000)

¹¹⁰ Treaty Collections, United Nations, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en. Accessed on 11th April, 2014 at 9:57 am

state actors are responsible for a significant portion of the recruitment of child soldiers like the LRA of Uganda and SPLM/A in South Sudan.

3.6 Conclusion

The case studies of Uganda and South Sudan bear many similarities. It is important to note that in both cases there was a crossover of children from one of the case study country to the other. In both cases the society was involved in aiding the children join armed conflict and this resonates with the constructivist theory that argues that identities are created by interactions. If the society interacted positively with the children, that is showing them that war was wrong, then there would not be incidences of child soldiers.

The emergence of child soldiers in Both Uganda and South Sudan are as a result of intra state conflicts and the main recruiters of children are guerilla groups or non state actors. This makes it difficult for the legal frameworks to be effected as they are signed by governments yet violators are not the government.

In both the case study countries, there are attempts to stop the use of children in conflict. This is done by the society and international community and gives hope that the negativity of the phenomenon is understood.

CHAPTER FOUR

A CONCEPTUAL ANALYSIS OF CHILD SOLDIERS IN UGANDA AND SOUTH SUDAN

4.0 Introduction

This chapter makes an analysis of the case studies presented in chapter three. It also examines the role of advocates who are involved in the campaign against the use of child soldiers in conflicts and who are highlighted in the preceding chapter as being in the forefront in addressing the issue of child soldiers in Uganda and South Sudan. It analyzes the role of these advocates in the attempt to ensure states adhere to the legal frameworks they have signed into and how the advocates bring into the limelight the ills perpetuated against children in the case study countries of Uganda and South Sudan. The chapter also critiques the advocates. UNICEF and Amnesty International are advocates for the children and have been present in Uganda and South Sudan. It is important to note that advocates are Non-state actors that influence international decisions especially that the new world order has seen the shrinking of state centric sovereignty.

The chapter also addresses the concepts that have been highlighted in chapter two and makes analysis of the case studies as highlighted in chapter three and addresses the hypotheses that Legal Frameworks and dysfunctional societies have a correlation with the existence of child soldiers.

4.1 “Constructing” child soldiers

It is arguable that the emergence of child soldiers in Uganda was socially constructed. The theory of constructivism that is used in this research helps us interpret the situation in Uganda. In social

constructivism, ‘human beings collectively interpret and impose shared meanings on objects and actions, because in so doing, human beings collectively produce their own social realities.’¹¹¹

The colonialists in Uganda constructed a situation where tribes like the Acholi and Lango of the North were disgruntled. The colonialists gave top civil service jobs to the Buganda tribe leaving out the Acholi and Lango who attached meanings and functions to the jobs offered and feeling marginalized, resorted to gaining power through military actions.

The social constructivist argument of ‘social reality emerges from the attachment of meaning and functions to physical objects; collective understandings, such as norms endow physical objects with purpose and therefore constitute reality’¹¹² holds true as indicated by the attachment of importance to cattle by the Teso of Uganda . As highlighted in chapter three, cattle were so important to Teso boys as they used them to pay bride price and the oxen to cultivate land. This meant that when the Karamojong raided their cattle, the only alternative the boys had was to resort to war. If there was another ‘socially constructed’, not violent, option to cattle for bride price, then the Teso boys may have opted for that option. It is arguable that a society can explore other avenues that would ensure it (the society) is not vulnerable to situations that lead to conflicts. Cattle rustling is evidently an unsolved problem that has been socially constructed over the years and in many countries across East Africa. In Kenya, the problem persists where the Pokots and Samburu are often engaged in raids that have led the country to securitize the issue. Governments need to explore other means of having societies live cohesively with each other as argued by Sterling-Folker, ‘such collective understandings and their accompanying social

¹¹¹ Jennifer Sterling-Folker, *Making Sense of International Relations Theory*, (Lynne Rienner Publishers, London 2005) p116

¹¹² Ibid

identities and interests, can become reified or embedded over time so that alternatives seem impossible'.¹¹³

Social constructivism postulates that ideas shape what actors want, who actors are, and how they behave. The NRA government basing from this argument created child soldiers out of their actions against the UPA as elucidated in chapter three. The NRA responded to the rebellion by UPA by attacking villages where they believed rebels were hiding and where there were sympathizers. The government carried out extra-judicial executions that left children homeless and parentless. These children did not have much option except to join the UPA as child soldiers for protection and security. The government had in essence shaped how the children behaved.

The use of the 'messianic' leaders by the priestess Alice Lakwena of the Holy Spirit Movement in Uganda as examined in chapter three is another form of social constructivism that had an effect in promoting child soldiers. Social constructivists argue that human beings use language to describe the world and collectively interpret shared meanings. It is arguable that Alice Lakwena must have found it easy to recruit children into her army using religion as children would interpret her actions to be guided by the Holy Spirit.

In South Sudan, the SPLM/A was constructed by the Sudanese who had been forcefully removed from Khartoum and returned to their 'homes' in the south and west of Sudan. The Sudanese who began the rebellion included the elite, teachers and their students, women, children and farmers. They agitated for self determination. Constructivism focuses on interaction and the possibility of change. Constructivists believe that ideas, norms and culture play a role in promoting change and that sovereignty is a matter of collective intentionality.¹¹⁴ This theory is proved true by the

¹¹³ Ibid

¹¹⁴ Ibid p 119

promotion of the South Sudanese culture as a cause for self determination and separation from Sudan. The shared ideas, norms and culture by the South Sudanese who had been forcefully removed from Sudan was the glue that kept them together and strong enough to fight for and achieve self determination. The rise of SPLM/A dismantled the society in that children and teachers left school, those Sudanese who were working in Khartoum were disrupted when they were evicted out of Khartoum and the farmers and peasants left their villages and joined the ranks of SPLM/A.¹¹⁵ The hypothesis of this research project that there is a significant correlation between dysfunctional societies and the existence of child soldiers is proved true here as child soldiers emerged out of the dysfunctional society brought about by the fight for self determination.

4.2 Role of the society

This research project has highlighted in chapter two the impact of the recruitment of child soldiers on the society and the role played by girl soldiers. The constructivist theory that is used by this research paper to address the phenomenon of child soldiers posits that the society plays an important role in the structure and identity of its members.

The recruiting of children to armed conflict is done through the influence of peers, family, religious leaders and politicians. These are members of the society a child belongs to and the first interaction that a child has with the world. These people are therefore the most important actors in shaping the child. They determine how a child will grow to be and in essence can determine whether a child will or will not be a child soldier. Sterling-Folker posits that ‘identities and

¹¹⁵ Nyaba. P.A. *The Politics of Liberation in South Sudan An Insider's view*, (Fountain Publishers, Kampala, Uganda, 2000)p27

interests are socially constructed by the particular way in which we interact with one another.’¹¹⁶ By interacting positively with the child, the society can mold him or her to be a positive member of the society. The society therefore need to be empowered through education and training and capacity building so that it can support the child that has not joined an armed armed group and the one that needs rehabilitation having been a child soldier. There is need to give priority of such an exercise and bear in mind that children grow and if not attended to immediately then they will have turned into men and women who cannot be easily rehabilitated.

During the International conference on children and youth affected by armed conflict in Kampala, Uganda in September, 2013, Guitard informed that her organization, Child Soldiers International arranged for psycho-social support to former child soldiers and their families and communities. They also arranged for the provision of income generating activities, support to access education and vocational training and community level awareness raising of children’s rights.¹¹⁷ This is a demonstration of the importance given to the society in the molding and rehabilitation of children.

Girls in armed conflict play multiple overlapping roles from combatants to slaves to sex objects. It is more complex rehabilitating girls than boys as in some cases the girls have given birth in captivity and have children that were conceived out of rape. Special attention needs to be given to ex girl soldiers as in the past, they have been shunned. Some African societies do not understand the term rape and often see girls who have been raped as cursed and children born out of rape are often not assimilated into the society as there is no societal remedy for such situations. In Uganda a research was carried out to find guidelines for the integration of children

¹¹⁶ Jennifer Sterling-Folker, *Making Sense of International Relations Theory*, (Lynne Reinner Publishers, London 2005) p116

¹¹⁷ Isabelle Guitard, *Prevention in Cure: Can rehabilitation and Reintegration programmes contribute to preventing the recruitment of children in conflict?* Presentation during an International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25th – 27th September, 2013

born out of wedlock which is what affected girls in conflict situation. The Lango tribe of northern Uganda has a constitutive theory founded on patrilineal clans which makes it difficult for children born out of wedlock to be assimilated into the society. This measure addresses the vulnerabilities associated with social interactions and tends to trigger socially generated remedies.¹¹⁸ This measure is a demonstration of the use of constructivist theory to solve the effects of child soldiers on girls.

4.3 Role of Advocates

Bellamy¹¹⁹ notes that ‘children are not expendable; they belong in schools and in their families. It is our responsibility to ensure that they are protected from the horrors of warfare.’ The practice of child soldiering continues because children are vulnerable, they make cheap labour, are easily molded into soldiers and are sometimes led by peer pressure as it has been highlighted in chapter two. The shortage of men in the society has led to the use of children as combatants but advocates for child soldiers agree that ‘the most obvious reason armed forces take on children as soldiers is because they can.’¹²⁰ Most of the advocates for child soldiers are international organizations and non-governmental organizations.

Advocates promote the protection of children’s rights through fact finding missions and making report. Tefferi and Ibrahim¹²¹ reported for Save the Children, Sweden in South Sudan while Human Rights Watch produced many reports on the phenomenon of child soldiers in Uganda as

¹¹⁸ Apio Eunice Otuko, *Exploring experiences of CBOW in Northern Uganda: Guidelines for integration* Presentation during an International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25th – 27th September, 2013

¹¹⁹ Carol Bellamy, UNICEF Executive Director on IRIN web special on soldiers, <http://www.irinnews.org/webspecials/childsoldiers> accessed on 25th February, 2014 at 8:28 pm

¹²⁰ Ibid

¹²¹ Hirut Tefferi and Fatuma Ibrahim, *Demobilizing Child Soldiers, The Sudan Experience*, (Working paper No. 2, December 2000, Save the Children, Sweden)

demonstrated by their works referenced in chapter three of this paper. These reports, as Van Beuren¹²² notes form the basis for further international and regional action as well as being direct method of remedying human rights violations.

Fact- finding has been regarded as an acid test of the effectiveness of international organizations. Organizations encounter difficulty in fact-finding, as in most cases, states involved do not welcome interference. Steiner and Alston¹²³ note that fact-finding is difficult both because of the subject matter on humanitarian law and because of the importance attached to it by public opinion. They observe that more difficulty is encountered because it concerns the structure and interests of states involved, ‘who are therefore less inclined to accept international intervention in such matters.’¹²⁴ It is arguable therefore that there are probably many more cases of child soldiers in the world than those on record as states may hide such instances from international and non-governmental organizations or make it difficult for them to carry out these necessary fact-finding missions by not offering assistance or compliance.

As there are many different advocates for child soldiers, it is arguable that they may come up with different conclusions regarding issues of child rights violations by states as there is no methodology of carrying out fact-finding missions. As Steiner and Alston rightly observe, ‘it is necessary to have available a variety of procedures suited to different situations, ranging from quasi-judicial inquiries to methods involving a minimum of formality such as direct contacts.’¹²⁵

¹²² G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers, Netherlands, 1995) p 45

¹²³ H. Steiner, P. Alston. *International Human Rights in context. Law Politics Morals*. (Oxford University Press, 2000)

¹²⁴ Ibid p604

¹²⁵ Ibid

A selection of international organizations and Non-governmental organizations are analyzed here below.

4.3.1 The Economic and Social Council (ECOSOC)

This is an organ of the United Nations. The Commission on Human Rights and the Sub Commission on Prevention of Discrimination and Protection of Minorities work under the umbrella with the protection of human rights and carry out studies including issues such as child labour. As these bodies operate under the United Nations, it is arguable that they operate under a highly political scenario and may not therefore take consideration of specific human rights issues. It is further arguable that they may consider issues like child soldiers wholesomely that is look at the issues as they take place in the whole world yet there are certain instances like the presence of child soldiers in Uganda that need urgent attention. Politicians may influence decisions that could be carried out against their states for using children as soldiers or they may water down cases of gross atrocities to children. Cohn and Goodwin-Gill note that ‘the United Nations Security Council or the General Assembly operate at a high political level where specific human rights issues come relatively infrequently and generally only after action taken in another part of the system.’¹²⁶ The ECOSOC therefore may sound influential but on its own, it cannot effect change.

4.3.2 United Nations International Children’s Emergency Fund (UNICEF)

The United Nations International Children’s Emergency Fund was founded in 1946 as an organ of the United Nations. UNICEF has been advised ‘to consider developing guidelines for monitoring implementation and encouraging local non-governmental organizations to become

¹²⁶ Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003) p 94

involved in monitoring and informing the committee.¹²⁷ The committee being that of the CRC. It is arguable that the phenomenon of child soldiers continues because there is poor follow up or implementation of set protocols. It is arguable that UNICEF could improve the situation of child soldiers if it influenced government and non-governmental organizations to avoid the use of child soldiers.

It is worth noting though with regards to UNICEF and other international organizations that there is need to approach the issue of implementation carefully lest states refuse to work with these international organizations. Cassese correctly emphasizes that ‘...international bodies must tread gingerly, lest states withhold co-operation thus leaving them unable to act, except for adopting condemnatory remarks.’¹²⁸ Cassese advises international organizations not to take any accusatory approach but rather opt for public exposure and pressure. UNICEF ought to apply public pressure and exposure on states concerning the protocols on the rights of the child. The issue of applying pressure is further discussed in the concluding chapter under remedies. International organizations in general need to take a conciliatory rather than a confrontational approach as rightly put by Cassese.

4.3.3 *Non-governmental organizations*

It is worth noting that non-governmental organizations played a crucial role in the drafting and acceptance of the protocols on child soldiers and as Harvey¹²⁹ clearly observes, ‘they now have a vital role to play in encouraging ratification, advising on implementation, encouraging and

¹²⁷Ibid p153

¹²⁸ A. Cassese, *International Law*, (Oxford University press, 2001)p365

¹²⁹ R. Harvey, *Human Rights Child Soldiers: The Beginning or the end?* (Childright, Vol 164, 2000)

monitoring compliance and exposing erring states.¹³⁰ As it is notable, the optional protocols are optional and many states are yet to ratify them.

4.3.3.1 *Amnesty International*

Amnesty International is a worldwide voluntary movement and works to prevent some of the gravest violations by governments of people's fundamental rights.

Amnesty International works by attending amongst other issues, meetings and conferences of international organizations such as the ILO to ensure by follow up that standards set by the organizations are implemented.

The organization has made some achievements with regard to child soldiers... 'Campaigned for the explicit inclusion in the ILO Convention No.182 of child soldiering as one of the worst forms of child labour (2).'¹³¹ Amnesty international is recognized as one of the more powerful Nongovernmental organizations. Its achievements and notable and this may have a side effect in that rogue governments may be reluctant to welcome Amnesty International in their jurisdictions.

4.3.3.2 *Coalition to Stop the Use of Child Soldiers*

This is an international movement of organizations and individuals committed to ending the use of children as soldiers. Like Amnesty international, the Coalition to stop the use of child soldiers has been at the forefront in seeking for the full implementation of the Optional Protocol to the CRC. The coalition seeks to achieve its' aims by regional mobilization, the work of national

¹³⁰ Ibid p 18

¹³¹ Amnesty International's concerns at the 89th International Labour Conference (5-21 June 201, Geneva) http://www.amnestyusa/child_soldiers/document accessed on 26th February, 2014 at 07:10 pm

coalitions, supporting the creation of core group of governments and influencing public opinion through the international media. This organization has been active in Uganda

4.3.4 *A critique of rights on legal approaches*

Advocates have been criticized in the way they carry out their advocacy. Leading human rights lawyers including David Kennedy acknowledge that human rights movement is in many cases ‘more part of the problem in today’s world than part of the solution.’¹³² Criticisms of the advocates include the following;

Human rights advocates tend to generalize too much. They do not view individual cases. The description of the child as universal as it may be needs to be also considered regionally. In Africa, demographically, there are more children than adults. It is arguable then that African states may find it difficult not to include children in their armies. Human rights advocates need to examine the way different cultures and religions view the description of a child so as to understand the different ways children are treated. Should not human rights advocates consider a sixteen-year-old married girl not a child anymore?

It is arguable that advocates need to adopt a pragmatic attitude towards human rights as Kennedy rightly acknowledges, ‘pragmatic evaluation means specifying the benefits and harm that might attend human rights initiatives in particular cases, under specific conditions, in particular time and periods and so forth.’¹³³ This means comparing costs and benefits of their actions (advocates). Human rights advocates have in certain instances put too much pressure on the international community to isolate states contravening human rights. The benefit of such acts has in some cases been less than the cost in that more suffering has been brought to such states than

¹³² D.Kennedy, ‘The International Human Rights Movement: Part of the Problem?’ *Harvard Human Rights Journal* (2002) p101

¹³³ Ibid p102

any gain. An example would be asking International Monetary Fund (IMF) to pull out from giving funds to a state that has used children as soldiers in its army. The state may, due to this, be unable to educate its children. The cost in this instance would outweigh the benefit.

Legal approaches have been accused of creating a fantasy government. Their use of legal rather than political terms weakens the ability of governments to perform political functions as Kennedy¹³⁴ rightly examines. Children fighting for guerilla groups, as is the case with the LRA in Uganda are purported by advocates as fighting for the government. In such instances, the government is seen as violating international law yet it is an opposition group that is engaged in recruiting child soldiers.

Human rights actors are criticized for not being conduits of world citizens in voicing their concerns from bottom to top. Steiner and Alston observe that advocates are rather a vehicle for international elites to talk to other international elites about things frequently of undeniable critical importance that other international elites care about.’¹³⁵ Concerns have been raised regarding funds to such advocates. Contributions are always requested from citizens of this world to fund advocates’ work in promoting human rights and it is arguable that most of the money contributed goes to finance the expensive lives advocates live with little left to fund the actual course.

Human rights actors in many instances are seen not as of democratic legitimacy but as pressure groups. It is no wonder states do not accommodate them. They are more interested in confrontation than consensus.

¹³⁴ Ibid

¹³⁵ H. Steiner, P. Alston, *International Human Rights in context. Law, Politics, Morals.* (Oxford University Press, Oxford, 2000) p952

Advocates on the rights of the child deserve credit for the work they do in voicing the rights of the child. It is arguable though, in view of the above, that not much has been done in advocating for the rights of the child. The fact that there are and continue to be, child soldiers, gives room to question the adequacy or lack of legal procedures in providing for children's rights. It is arguable that there is an imbalance in the rights granted to women and children as compared to those rights granted to men. That is, the rights of women and children are unequal to those of men.

There are more women and children in the world today; therefore there are many instances of girl soldiers. The girl child soldier suffers more than the boy soldier in that girls are victims of sexual abuse. There is no protection of girls from this abuse and if anything, existing human rights are biased toward women. The feminist view of human rights, rightly acknowledges that the fact that women are sexually discriminated against is not seen as a major obstacle to development. Advocates should campaign for a convention that protects the girl child against being used as a child soldier as girls are more vulnerable than boys as child soldiers.

4.4 Recovery and Rehabilitation of child soldiers in Uganda and South Sudan

Following the case studies of Uganda and South Sudan, it is evident that there is need to put in place mechanisms for the recovery and rehabilitation of children affected by war. In Uganda, the need for proper mechanisms was highlighted in an international conference on children and youth affected by armed conflict held in Kampala, Uganda in September, 2013 and some of the recommendations included the following;

A community led recovery and reintegration process working with family members, peers, friends, teachers, religious and traditional leaders. The conference recognizes the community as the key actor for social support to the child. The community led process also involves utilizing

existing structures, consideration for gender and identity where children born to mothers associated with armed groups are given birth certificates.

The conference suggests ‘that efforts to address children and armed conflict need to be more responsive and aware how gender norms and inequalities between girls and boys can increase vulnerabilities,’¹³⁶ Another consideration is family reunification which is seen as being of priority and reintegration process should be contextual and sensitive to the beliefs of local culture, practice and religions. It should also include psychological counseling, medical and social support, access to justice and community cohesion. Skills training and economic considerations have to be put in place for the children to develop skill with follow up to encourage the identity on ongoing challenges¹³⁷

These recommendations of the Kampala conference resonate with the constructivist theory which gives the community priority in identifying and forming norms and ideas that construct the structure of the society. According to Ba and Hoffman, ‘the notion that actors’ words, deeds and interactions shape the kind of world in which they exist, and the world shapes who actors are and what they want.’¹³⁸ The social constructivist theory is further reinforced and the Ba and Hoffman argument accentuated by the Kampala recommendations which underscore that gender norms and inequalities between girls and boys can increase vulnerabilities hence the need to be more responsive and aware of the actors words, deeds and interactions so that girls are not discriminated upon. The hypothesis of this research that there is a significant correlation between dysfunctional societies and the existence of child soldiers is put to test here and emerges as true.

¹³⁶ Centre for children in vulnerable situations. *The Kampala Recommendations on the recovery and reintegration of Children and Youth affected by armed conflict*. Kampala, Uganda 25th – 27th September, 2013 p 7

¹³⁷ Ibid

¹³⁸ Jennifer Sterling-Folker, *Making Sense of International Relations Theory*, (Lynne Rienner Publishers, London 2005) p120

Another recommendation by the conference is one on transitional justice where the process must be relevant and appropriate to the local, cultural and situational context. All children should be recognized and supported equally and the approaches used should be relevant to the local, cultural and situational circumstances. There should also be accountability and research should be undertaken to collect and share empirical research and best practices.¹³⁹ This recommendation supports the hypothesis of the research paper which sees a correlation between the existence of child soldiers and the lack of proper international legal frameworks to protect the child especially on the issue of equality and gender balance.

Rehabilitation of child soldiers in Southern Sudan is done by international organizations considering the country is relatively young. These organizations have been there before Sudan was divided into two. Organizations like Save the Children and UNICEF participated in demobilizing and rehabilitating child soldiers in the Darfur region and Southern Sudan. They however encountered difficulties in that the rehabilitated children were re-recruited back into the SPLA/M. The vast territory of Sudan made it difficult to return children to their homes to be rehabilitated as the armed groups take children far away from their homes.

4.5 Conclusion

This analytical chapter examines the causes and actors in child soldiering. It highlights the role of Non state actors and their importance vis a vis the sovereignty of a state. It is notable that in both Uganda and South Sudan, Non State actors have played key roles in the rehabilitation of ex child soldiers. As highlighted in the research project, there are many advocates for the child soldiers. It is arguable that with many different organizations handling the same issue, there are

¹³⁹ Centre for children in vulnerable situations. *The Kampala Recommendations on the recovery and reintegration of Children and Youth affected by armed conflict*. Kampala, Uganda 25th – 27th September, 2013

chances of duplication and overlap of performance. This coupled with the many legal frameworks in place can cause confusion for the recipients of these services, in this case the society and children which can result in the actual goal not being achieved.

The role of the society is demonstrated as being very crucial in determining whether a child will be a child soldier or not and this is backed up with analysis of the social constructivist theory which postulates that ideas, norms and identities are structured by culture which is derived from the society. A well balanced society will raise children that are protected and do not need to join armies to get the guidance, provisions and protection that the society should give.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.0 The case of child soldiers in Africa

The situation of child soldiers in the world in general and in the Horn of Africa in particular is more acute than one can imagine. There are many legal standards in place to guard against mistreatment of children yet children continue to suffer. Conventions have been enacted and protocols have been signed and ratified in relation to the protection of children. Some states want to be seen as “nice” in the international front so they sign these treaties and almost immediately break every single rule. Many argue that states break rules because they can. Because they know that treaties have no implementation mechanisms and if they are there, they are weak.

This research argues that the existing legal procedures are not adequate in addressing the issue of child soldiers. They are inadequate in that they are incomplete, that is some are not ratified or even signed like the African charter. They are not universal in that they do not apply to all countries but rather to only those that have signed and ratified it. An example is the UN – CRC, which does not apply to the United States of America and Somalia. Some conventions are not thorough. Protocol one of CRC does not address Non –Governmental groups like opposition groups or guerillas but just governments. Certain legal standards are contradictory. The CRC is one such standard where different articles address the ages of children differently (Article 38 addresses children as individuals below the age of 15 years while article one addresses children as human beings below the age of 18 years). It can be concluded that although the basic principles are clear, the specific provisions on child soldiers are mixed up. Children are being used as child soldiers for many reasons. One of the main reasons is because of the ‘lack of

political will of the international community to enforce the standards it has set.’¹⁴⁰ The following are suggested recommendations that can help in the protection of children against the phenomenon of child soldiers.

Public exposure and pressure should be meted on countries violating protocols they have signed and ratified. As experts have rightly stated, ‘the United Nations should be called upon to “name and shame” offending belligerents in all conflicts on a yearly basis, in order to keep the spotlight on the international agenda and spur punitive action against those who continue to abuse children.’¹⁴¹

Diplomatic isolation of states that abuse children is suggested. This can include political pressure and economic sanctions. It is also arguable that child soldiers exist because of the proliferation of light/small arms (AK47, M16). Countries can be encouraged to stop the proliferation of small arms by tightening borders. Porous borders should be monitored and guerilla groups encouraged to surrender small arms and serious punishment meted on those found with such arms illegally.

The presence of child soldiers is related to the presence of small arms, which is linked to the presence of failed states. British Prime Minister, Tony Blair once described Africa as a scar in the face of the world. This is because there are many failed states in Africa hence the presence of child soldiers. Somalia is a notable failed state in Africa which has brought about a magnitude of small arms. Different opposition groups are arming themselves in conflicts and these arms end up being used by children. The international community needs to address this issue with a view of eliminating the existence of failed states. Without failed states, it would be difficult to have

¹⁴⁰ Coalition to stop the use of Child Soldiers. The use of children as soldiers. <http://www.childsoldiers.org/cs/childsoldiers.nsf> accessed 18th March, 2014 at 06.46 pm

¹⁴¹ IRIN Web special on child soldiers. <http://www.irinnews.org/webspecials/childsoldiers> accessed on 18th March, 2014 at 08.16 pm

small arms and guerilla groups. The international community needs to be encouraged to stop arming rebel groups, as children end up in either end of the gun.

Different conventions have been ratified that aptly address the issue of child soldiers. States need to be encouraged to sign and ratify these conventions to make them legally binding. Countries that have signed and ratified conventions would find it difficult to violate them and if they did, the international community would find it easy to take legal actions against them.

All conventions should have monitoring bodies or committees to follow up on implementation. These monitoring bodies should make frequent reports and should be made up of independent individuals who will not feel compromised if they took action against their governments.

Children have voluntarily joined armies because they are better off in armies than at home. (There is food, shelter, security and clothing provided in armies) Alternatives should be provided to alternative recruitment. International organizations should be encouraged to set up institutes to cater for otherwise child soldiers. They could be schools, polytechnics or centres where children can learn skills and get food and clothing in some form of uniform.

Recruitment of soldiers in all states needs to be monitored by an international body in a similar way to how country elections are done. This will discourage the recruitment of children into armies. There is also need to put programmes in place for the reintegration and rehabilitation of former child soldiers into the society. Children will have taken drugs, been sexually abused, killed or watched their loved ones killed and will be traumatized. They will need psychological therapy and counseling.

Most importantly, a convention or protocol needs to be put in place that uncompromisingly seeks to raise to eighteen, the minimum age at which a person can be recruited into the army. This

recommendation given by Steiner and Alston can conclusively solve the phenomenon of child soldiers. All states should sign and ratify a convention of this kind and it should apply to states and opposition groups equally.

When all is said and done, solving the problem of child soldiers depends upon resources, which are not a matter of international law as Van Bueren notes, but a matter of international political will. In the word of the UN special representative for children in armed conflict, Olara Otunnu, it is important to address the political, social and economic factors that create the environment that facilitates the exploitation of children as soldiers. We may argue for an increase in political will. This we can do by celebrating the successes of positive childhood. Children that can grow up without the scourge of war.

The research bases its argument on the social constructivist theory which argues that ‘social interaction produces social identities.’¹⁴² The social identities we have in Uganda and South Sudan of the use of child soldiers were created by social interactions. We have seen in the research project that in both countries, The community allowed for the participation of children in war either by commission or omission. By commission in that parents, religious leaders, peers and politicians urged children to join armies to fight for self determination, as was the case in south Sudan or to revenge for death of loved ones, get back stolen cattle or reduce marginalization of certain tribes as was in Uganda. The participation of children in war by omission happened when there was no one in the community to guide children otherwise because parents had died in war or war fighting in the war themselves or were abusive to the children because of psychological effects of wars. This happened in both the countries.

¹⁴² Jennifer Sterling-Folker, *Making Sense of International Relations Theory*, (Lynne Reinner Publishers, London 2005)p116

The constructivists also argue that ideas, norms and culture play a role in structural change.¹⁴³ The research project uses this aspect of the theory to argue that the ideas, norms and cultures in Uganda and South Sudan affect the social structures in those countries and these social structures can lead to the existence of child soldiers or make it difficult to rehabilitate child soldiers. The social structure of the Lango in Uganda is such that children born out of wedlock cannot be reintegrated into the society which is based on patrilineal meaning children take the names of their fathers and hence belong to the clan of their fathers. Girls from Lango tribe who bore children from the LRA soldiers while in their captivity found it difficult to integrate into the society because their children were not accepted. Many societies also do not accept girls who were raped while serving as child soldiers. They were viewed by the society as whores and impure. This made it difficult for reintegration of girls to the society. It is important to note that in many African societies, children who have undergone circumcision rites were seen as adults. 15 year olds were therefore considered adults and not children so parents would not deny their under 18 but over 15 years or even younger from joining armies, in fact some parents encouraged these teenagers to join armed groups. Examples of such cases were among the Teso and Acholi of northern Uganda who fought the Karamojong for cattle they would use as bride price or to till the land.

An important aspect of the constructivist theory that this research project identifies with ‘involves the study of narratives, rhetoric, speech acts and signaling.’¹⁴⁴ The words used and narratives invoked affects the way a society relates to situations. This research project highlighted how children captured by the LRA were made to sing war songs which made them believe they were capable of fighting and were mighty and strong and they were fighting for a

¹⁴³ Ibid p118

¹⁴⁴ Ibid p119

just course. This child soldiers also used words like hero to describe those who joined armed groups and this encouraged them to join the armed groups. Their society was constructed by these narratives and words.

Using the constructivist theory therefore, the community, leaders and international community can structure a positive society for children to be brought up and those coming out of wars, rehabilitated. This can be done through training, capacity building and offering justice and protection to the child.

The study based its argument on two hypotheses. That there is a significant connection between the existence of child soldiers and the lack of proper international legal frameworks to protect the child, and that there is significant correlation between dysfunctional societies and the existence of child soldiers. The project has examined in detail the existing legal frameworks on protection of children and how they have been used in the two countries. The research identified lack of clarity of some Legal Frameworks, like the UN, CRC regarding the age when one should be considered a child and the African Charter that has not been ratified by many countries. The research also identified weak implementation systems for some legal frameworks for example the inability to apply punitive measures on Non state actors who violate some laws just because they are not states. Based on the above therefore, it is conclusive that there is a significant connection between the existence of child soldiers and the lack of proper international legal frameworks to protect the child. This hypothesis is therefore confirmed as true. Proper legal frameworks need to be put in place with strong punitive measures that affect all actors not just the state.

The research project also examined the role of the community in the life of the child. The community was seen to play a big role in a child's life and most of the child soldiers were from poor communities that lived in close knit villages. In the case of the LRA in Uganda, villages were attacked and young boys captured and taken as child soldiers. To ensure these boys stayed with the LRA, they made them kill or maim their parents or relatives. Dysfunctional societies were therefore created and this brought about child soldiers. It can be deduced from the research project therefore that there is a significant correlation between dysfunctional societies and the existence of child soldiers. The hypothesis is confirmed as true.

BIBLIOGRAPHY

Allan Collins, *Contemporary Security Studies 3rd Ed*, (Oxford University Press, UK, 2013)

Alicinda Honwana, *Child Soldiers in Africa* (University of Pennsylvania Press, 1997)

Bill Ashcroft, Gareth Griffiths and Helen Tiffin *Post-Colonial Studies: The Key Concepts*.
(Routledge. London, 2000)

Cassese, *International Law*, (Oxford University press, 2001)

Centre for children in vulnerable situations. *The Kampala Recommendations on the recovery and
reintegration of Children and Youth affected by armed conflict*. Kampala, Uganda 25th –
27th September, 2013

Child Soldiers and International Law. *African Security Review* Vol. 6 no. 3, 1997

D. Kennedy, 'The International Human Rights Movement: Part of the Problem?' *Harvard
Human Rights Journal* (2002)

David J. Francis, 'Paper Protection' Mechanisms: *Child Soldiers and the International
Protection of Children in Africa's Conflict Zones*, *The Journal of modern African
Studies*, Vol. 45, No. 2 (Jun. 2007) pp 207 – 231 (Cambridge University Press) accessed
08/08/2013 10:48

Elliott P. Skinner, *Child Soldiers in Africa: A Disaster for Future Families* (International Journal
on World Peace, Vol. 16, No. 2 (JUNE 1999), pp. 7-22Published by: Professors World
Peace Academy)

G. Van Bueren, *The International Law on the rights of the child*, (Kluwer Academic Publishers,
Netherlands, 1995)

H. Steiner, P. Alston, *International Human Rights in context. Law, Politics, Morals*. (Oxford
University Press, Oxford, 2000)

- Harry G. West, *Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"* (Anthropological Quarterly, Vol. 73, No. 4, Youth and the Social Imagination in Africa, Part 2 (Oct., 2000)), pp. 180-194: The George Washington University Institute for Ethnographic Research Stable URL: <http://www.jstor.org/stable/3318250>. Accessed on 20th November, 2013 at 17:45 hrs
- Hirut Tefferi and Fatuma Ibrahim, *Demobilizing Child Soldiers, The Sudan Experience*, (Working paper No. 2, December 2000, Save the Children, Sweden)
- International Labor Organization Convention 182 Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labor (1999) (entry into force Nov. 19, 2000)
- Illene Cohn and Guy S. Goodwin, *The role of children in Armed conflict* (Oxford University Press, 2003)
- Isabelle Guitard, *Prevention in Cure: Can rehabilitation and Reintegration programmes contribute to preventing the recruitment of children in conflict?* Presentation during an International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25th – 27th September, 2013
- J. Fortin *Children's Rights and the developing law*, (Reed Elsevier, UK 2003)
- Jeff McMahan, *Killing in war* (New York, Oxford University Press, 2009)
- Jennifer Sterling-Folker, *Making Sense of International Relations Theory*, (Lynne Reinner Publishers, London 2005)
- Jenny Kuper, *Military Training and children in armed conflict* (Netherlands, Brill Koninklijke NV 2005)

- Jo de Berry, *Child Soldiers and the Convention on the Rights of the Child* Annals of the American Academy of Political and Social Science, Vol. 575, Children's Rights (May, 2001), pp. 92-105
- Maja Zehfuss *Constructivism in International Relations: The Politics of Reality* (Cambridge University Press. Cambridge, England 2002)
- Michael Wessells, *Child Soldiers, Peace Education, and Post conflict Reconstruction for Peace* (Theory into Practice, Vol. 44, No. 4, Peace Education (Autumn, 2005), pp. 363-369 Taylor & Francis, Ltd.) Stable URL: <http://www.jstor.org/stable/3496980> p364 Accessed on 18th November, 2013
- Michael Wessells, *Child Soldiers: From Violence to Protection* (Harvard University Press. Cambridge, MA.2006)
- Myriam Denov, *Child Soldiers, Sierra Leone's Revolutionary United Front* (Cambridge University Press, Cambridge, 2010)
- Newsweek Magazine, August 12 & 19, 2013
- Nyaba. P.A. *The Politics of Liberation in South Sudan An Insider's view*, (Fountain Publishers, Kampala, Uganda, 2000)
- R. Harvey, *Human Rights Child Soldiers: The Beginning or the end?* (Childright, Vol 164, 2000)
- Rachel Brett and Irma Specht, *Young soldiers: Why they choose to fight* (Colorado: Lynne Reinner Publishers, 2004)
- Teddy Atim, *Children and Youth: Necessary Transitional Justice Mechanisms, Processes and Outcomes in Uganda* (International Conference: Children and Youth Affected by Armed Conflict: Where to go from here? Kampala, Uganda 25 – 27th Sept 2013)

V. Escobar, "Little angels" and "Little bells". *Fordham International Law Journal*. Vol. 26 No. 3, (March 2003)

Volker Drub *The Problem of Child Soldiers* (International Review of Education Vol. 48, No. 3/4, Education and Human Rights (Jul., 2002), pp. 271-277) Published by: Springer Stable URL: <http://www.jstor.org/stable/3445368> Accessed on 17th November, 2013

United Nations Convention on the Rights of the Child, 1989

Websites

Amnesty International's concerns at the 89th International Labor Conference (5-21 June 201, Geneva) http://www.amnestyusa/child_soldiers/document accessed on 26th February, 2014 at 07:10 pm

Government of Uganda, *The History of Uganda* HRW: Child Soldiers: International Legal standards governing Child Soldiers. <http://www.hrw-org/campaigns/crp/int-law.htm>. Assessed on 12th February, 2013 at 04:25 pm

<http://www.government.go.ug/static/history.htm>. Assessed on 31st January, 2014 at 2.00 pm

IRIN Web Special on Child Soldiers, <http://www.irinnews.org/webspecials/childsoldiers>

Luke Prang, Children in armed Conflicts, Human Security, www.empirehistory.weebly.com accessed on 16th November, 2013

Coalition to stop the use of Child Soldiers. The use of children as soldiers. <http://www.childsoldiers.org/cs/childsoldiers.nsf> accessed 18th March, 2014 at 19.46 pm

Treaty, Collections, United Nations, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mntdsg_no=IV-11&chapter=4&lang=en.