

THE UNIVERSITY OF THE WESTERN CAPE

FACULTY OF LAW

CHILD SOLDIERS AND INTERNATIONAL LAW IN THE DARFUR REGION
OF SUDAN: DOES CONFLICT TRANSFORMATION OFFER A SOLUTION?

A MINI THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENT OF THE LL.M DEGREE, UNIVERSITY OF THE WESTERN
CAPE



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14 NOVEMBER 2008

Declaration

I, Enoch Adamson Akule Junior, Declare that the work presented in this mini thesis is original. It has never been presented before any other university or institution. Where other people's works have been used, references have been provided. It is in this regard that I declare this work as originally mine. It is hereby presented in partial fulfillment of the requirement for the award of the LLM Degree in International Law on Children Rights and Conflict Transformation in Darfur region of Sudan.

Signed.....

Date.....



Supervisor: Professor Julia Sloth-Nielson

Signature.....

Date.....

Co-Supervisor: Professor Marion Lees

Signature.....

Date.....

DEDICATION

In loving memory of my late junior brother

Enoh Vincent Etonga



ACKNOWLEDGEMENT

This Mini-thesis is a reward of one year of hard work, hardships, sacrifices, constrain and challenges. One year devoted to a prime ambition: To explore ways to better the lives of child soldiers in the Darfur region of Sudan

This work could not have been possible without the guidance of the Almighty God: Praise and Glory be yours always.

My Sponsor, Mr Mbu Nelson Eyesi: From you my light shines. Thanks for all

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LIST OF ABBREVIATIONS

ACRWC	African Charter on the Rights and Welfare of the Child
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
AMIS	African Union Mission in the Sudan
AP	Additional Protocol
AU	African Union
AU-UN	African Union and United Nation Mission in the Sudan
CPA	Comprehensive Peace Agreement
CRC	Convention on the Rights of the Child
DITF	Darfur Intelligent Task Force
DPA	Darfur Peace Agreement
GOs	Government of Sudan
HAC	Humanitarian Aid Commission
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Persons
INEE	Inter-Agency Network for Education Emergencies
JEM	Justice and Equity Movement
JFMFU	Joint Facilitation and Monitoring Unit
NCP	National Congress Party
NGO	Non Governmental Organisation
OPAC	Optional Protocol to the Convention of the Right of the Child on The involvement in Armed Conflict
SLA	Sudan Liberation Arm
SLA/MM	Sudan Liberation Army/ Miniwi
UMIS	United Nations Mission in the Darfur
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNICEF	United Nations Children Emergency Fund
UNSCR	United Nation Security Council Resolution

USAID

United States Agency for International Development

UNCRC

United Nation Committee for Human Rights

UNHCR

United nation High Commissioner for Human Rights



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CHAPTER ONE

INTRODUCTION

Among the most offensive consequences of civil war in Africa has been the widespread use of child soldiers.¹ Children as young as 18 years of age have been recruited into or forced to join militia groups and even official government armies.² Statistics show that over 100,000 child soldiers participate actively in armed conflict; even the youngest among them carry weapons.³

Reports prove that there are more child soldiers in Africa than on any other continent. The Coalition to Stop the Use of Child Soldiers estimates that up to 100,000 African child soldiers were involved in armed conflict in mid 2004.⁴ The reports state that a large majority of countries with child soldiers are located in West and Central Africa, though in 2004 Sudan recorded as many as 17,000 child soldiers in its army and militias.⁵

A report written on the 21 of May 2008 by a Child Rights Information Network on Armed Conflict and Child Soldiers, states that progress, efforts to end the recruitment and use of child soldiers are too little and too late for many children.⁶ The report details how a near global consensus that children should not be used as soldiers and strenuous international efforts with the United Nation (UN) at the forefront of the battle to halt the phenomenon, has failed to protect tens of thousand of children from war. It further reports that when armed conflict exists, children will almost inevitably become involved as soldiers.⁷

In the 2008 Amnesty International report on Children and Human Rights, it is reported that worldwide, hundreds of thousand of children under 18 have been affected by armed

¹ Habeeb, W: (2007): *Africa, Progress and Problems: Civil War in Africa*, p 18

² Ibid 18

³ Ibid 18

⁴ Baugham, B: (2007): *Africa Progress and Problems: Human Rights in Africa* p 71

⁵ Ibid 72

⁶ Child Rights Information Network: (2008): *Armed Conflict: Child Soldiers Global Report*: Available <http://www.crin.org/resources/infodetail.asp?id-17358>
Accessed 10 June 2008

⁷ Ibid

conflict. They are recruited into government forces, paramilitaries, civil militia and a variety of other groups. The report states that often these children are abducted out of school, on the streets or at home. Others they report enlist “voluntarily”, usually because they see fewer opportunities to survive in times of war, yet international law prohibits the participation in armed conflict of children age under 18.⁸

Dr Forbes in her report written in 2008 observes that the international community’s commitment to end the global scourge of child soldiers cannot be doubted, but existing efforts are falling short. “Laws, policies and practices must now be translated into real change to keep children out of armed conflict once and for all”.⁹ To her, the existing strategies have not had the desired impact. If progress is to be made, it must be recognized that child soldiers are not only an issue for child right specialists, but should be on the agendas of all those involved in conflict prevention and resolution, peace building and development.¹⁰

Despite the passing of more than a dozen Resolutions by the Security Council in response to child soldiers, the United Nation Security Council Resolution S/RES/1612 (2005), adopted by the Security Council at the 5235th meeting on the 26 of July 2005, reaffirming its Resolution 1261 (1999), resolution 1341 (2002), Resolution 1460 in (2003), Resolution 1539 of (2004), (strongly) condemns the recruitment and the use of child soldiers by parties in armed conflict in violation of international obligations applicable to them and all other abuses committed against children in armed conflict.¹¹

⁸ Amnesty International Global Report: (2008): *Children and Human Rights*
New York
Available <http://www.amnesty.org/en/children>
Accessed 9 June 2008

⁹ Child Right Information Network: (2008): *Armed Conflict: Childers Global Report*:
New York
<http://www.crin.org/resource/infodetail.asp?id-17358>
accessed 10 June 2008

¹⁰ Ibid

¹¹United Nation S/RES/1612 (2005)
Adopted by the Security Council at its 5235th meeting, on 26 July 2005
Available <http://www.childsoldiersglobalreport.org/appendices/united-nations-res1612-2005>
Accessed 20 June 2008

Habeeb reports that despite attempts by the United Nations and a host of International Organization to focus the world attention on the plight of child soldiers in Africa and elsewhere, there is no sign that the most tragic consequence of African civil wars is abating.¹²

1.1 THE LEGAL FRAMEWORK FOR THE PROTECTION OF CHILD SOLDIERS

Convention on the Rights of the Child

The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of the civil, political cultural, economic and social rights.¹³ Article 38 of the Convention is very important because it deals particularly with the situation of children in armed conflict. The final text of the Child Convention concerning child soldiers is found in Article 38, Paragraphs 2 and 3.¹⁴ Paragraph 2 states that, States Parties shall take all feasible measures to ensure that persons who have not yet attained the age of fifteen years do not take a direct part in hostilities. Paragraph 3 states that, States Parties shall refrain from recruiting any person who have not attained the age of fifteen years into their armed forces. In recruiting those who have attained the age of fifteen but have not attained the age of 18 years, State Parties shall endeavor to give priority to those who are oldest.¹⁵

Lloyd observes that during the drafting of the CRC children, and armed conflict was the most disputed issue. Article 38 was the result and has provoked a lot of criticism, chiefly due to the fact that it allows the recruitment of children as young as fifteen unlike the African Charter on the Rights and Welfare of the Child (ACRWC) which has a clear cut

¹² Habeeb, W: Africa, Progress and Problems: Civil Wars in Africa P 20

¹³ Human Right Watch: (1995): *Children of Sudan: Slaves, Street Children and Child Soldiers*

¹⁴ War on Children: Report on the Conference on Children of War , Organized by Swedish Red Cross, Swedish Save the Children and Raoul Wallenberg Institute P 14

¹⁵ Convention on the Rights of the Child: (1989): Article 38
Available <http://www.unhcr.ch/htm/menu/2/6/cpr/treties/crc/htm>
Accessed 10 August 2008

provision those children who have not attained the age of 18 should not be recruited into armed forces.¹⁶

The African Charter on the Rights and Welfare of the Child

On the other hand, the African Charter on the Rights and Welfare of the Child (ACRWC) defines a child as every human being below the age of eighteen. In terms of providing a definition for what constitutes armed conflict, the ACRWC states in its article 22 (1) that, “States Parties to this charter shall undertake to respect and ensure respect for rules of International humanitarian law applicable in armed conflict which affect the child”.¹⁷ Article 22(2) further states that state parties to the present Charter shall take all necessary measures to ensure that no child who is less than 18 years shall take a direct part in hostilities and shall refrain in particular from recruiting any child.¹⁸

Olowu observes that notwithstanding criticisms against the Charter, it remains a powerful tool in enhancing the lives of millions of children in Africa.¹⁹ The most important challenge that confronts the Charter, Olowu advanced, is the modalities for bridging the gap between law and practice, between the letters of the Charter and the reality of millions of children.²⁰ Chirwa supports this point. He observes that the ACRWC sets out the highest standard with respect to age of participation in armed conflict and recruitment of children into armed forces to 18 years.²¹

Ang’s work on the subject matter shows that although the practical impact of the ACRWC is yet to come to light, it is important to note that some countries who are not a party to other relevant instruments, did ratify the African Children Charter.²² Her work also shows that despite the criticisms of ineffectiveness and immaturity, the African’s Children Charter in particular and the African Human Rights System should be praised

¹⁶ Lloyd, A: Evolution of the African Charter on the Rights and Welfare of the Child and the African Committee of Experts: Raising the gauntlet p184

¹⁷ Daniel, N, and Miguel, A: (1999): *Child Soldiers in Southern Africa*, p5

¹⁸ Ibid p 51

¹⁹ Ibid 132

²⁰ Ibid 133

²¹ Chirwa, D: (200): ‘*The Merits and Demerits of the African Charter on the Right of the Child*’ p168

²² Ang,F : (2005): *A Commentary on the United Nation Convention on the Rights of the child* p6

for being the most forward thinking of all regional systems, and for having the ability to add to the enhancement of international human right law.²³

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

The Optional Protocol to the United Nations on the Rights of the Child on the Involvement of Children in Armed Conflict entered into force on the 12 of February 2002, to strengthen the recruitment and the deployment of the standards in the CRC.²⁴ As a result of the drawback of the age limit of 15 on the recruitment and participation under Article 38 of the CRC, a working group of the UN Commission for Human Rights drafted the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict to officially raise the minimum age of recruitment and participation in hostilities to 18.²⁵

Fontana's work shows that since the adoption CRC in 1989, it was of necessity that something had to be done to improve upon Article 38. To her, the main point of the improvement was to modify the age criterion of Article 38 to be in harmony with the rest of the Conventions.²⁶ Cohn and Goodwin observe that the Optional Protocol was adopted to replace Paragraph 2 and 3 of Article 38 and thus reservations to the protocol will not be permitted.²⁷

The Optional Protocol has a special blend in that, Article 9 of the Protocol says that, the Protocol is subject to ratification or opens for accession by any state. It is not limited to parties to the Convention on the Rights of the Child.²⁸ The United States initial report to

²³ Ibid 7

²⁴ Greenbaum, W, Veerman, P and Bacon-Shnoor, N:(2006) *Protection of Children During Armed conflict: A Multidisciplinary Perspective*: P274

²⁵ Barnitz, A: *Child Soldiers: Youth who Participate in Armed Conflict* P17

²⁶ Fontana, B: *Child Soldiers in International Law*: P5

Available <http://www.iss.co.za/pub/Asr/6N03/Fontana.html>

Accessed 28 September 2008

²⁷ Cohn, I and Goodwin G:(1994): *Child Soldiers: The role Children play in Armed Conflict*: P2

²⁸ Initial Report of the United States of America to the United Nations Committee on the Rights of the Child Concerning the Optional Protocol to the Convention of the Right of the Child on the Involvement in Armed Conflict: CRC/C/OPAC/USA/1(2008)

Human Rights Library

the United Nations Committee on the Right of the Child Concerning the Optional Protocol to the (CRC) states that, during the negotiations of the protocol, the UN legal council provided a legal opinion which confirms that under the rules of law of treaties there are no legal impediments to an instrument which is entitled the “Optional Protocol.”²⁹ The report shows that although the US is not a member of the CRC it has contributed over 10 million US Dollars towards the demobilization and reintegration of child combatants into their communities through the United States Agency for International Development (USAID).³⁰

International and domestic legal rules provide a useful guide for understanding the limitation of the rule of children in armed conflicts. In particular, there seems to be conflict between age factor limitations in the different international agreements.³¹ Baughan of the School of Conflict and Conflict Resolution observes that there are no easy explanations for the causes of most civil wars, and therefore no easy solutions to preventing or resolving these conflicts. Most of the contributing factors of civil wars in Africa that involve children as soldiers range from extreme poverty and economic disparity, weak governmental institutions, and a lack of real democracy in which all people feel that they have a voice in how their country is run.³²

Many specific remedies have been suggested as ways to prevent the future of civil wars in Africa. Among the proposal from experts who study the continent and its problems are, increase economic aid from wealthy nations, restriction of the flow of weapons to Africa and active intervention in civil conflict by peace keeping troops sent by other nations, such as United States or other groups like the Africa union, the United Nations or the European Union.³³

Galtang observes that the responsibility of conflict analysts begins with the recognition of the symptom, then the diagnosis of the problems, prognosis through treatment,

Available <http://wwwi.umn.edu/humanrts/crc-usa-amedjuly2007.htm>

Accessed 28 July 2008

²⁹ *ibid*

³⁰ *Ibid*

³¹ McIntyre, A: (2005) *Invisible Stakeholders: Children and War in Africa*: P10

³² Baughan, B: (2007): *Africa, Progress and Problems: Human Rights in Africa* p 87

³³ *Ibid* 87

knowledge about peace emanates from knowledge about conflict to him, peace research is not in the business of designing utopias, and it is in the business of clarifying opinions for people and decision makers in conflict situations.³⁴

Lederach observes that conflict transformation is about the understanding of the notion of conflict within a cross cultural and multi-disciplinary context. To him the aim of conflict transformation is not just to wipe out conflict but, rather the facilitation of the process of change controlled by the cause of conflict.³⁵

Against this back drop, I would like to agree that the practical and theoretical suggestions of the principles of conflict transformation can provide a solution to child soldiers in Africa.

1.2 Literature Review

Generally speaking on research done on this issue of child soldiers, Danso rightly argues that since the problem of children in armed conflict has only recently been pushed into the international stage, theoretical discourses on the subject are relatively few.³⁶ Largely, most of the work done on this area is based on fieldwork research and linked to programs of non-governmental organizations (NGOs).³⁷ Thus there is an urgent need for the theoretical framework within which the discussion, design and implementation of programs for the prevention of child soldiers can be situated.

Habeeb's work on the subject is a comprehensive summary on the employment of 10 000 child soldiers throughout the world actively participating in armed conflict. His work shows that children have been forcibly torn from their families and are pressed into government groups in exchange for food and shelter.³⁸ He advanced that the life of a child soldier is one of misery. Thousand have been killed or maimed in fighting, and live

³⁴ Galtung, J: *Peace by Peaceful Means* p3

See also Lederach, J: (1997) *Building Peace: Sustainable Recognition in Divided Societies* p 19-152

³⁵ Landerach, P: (1996): *Preparing for Peace-Conflict Transformation Across Cultures*

³⁶ Danso, A: (2008): *The co-option of childhood: Africa's Young Solders*

Available <http://www.iss.co.za/pubs/monographs/no82/intro.html>

Accessed 19 April 2008

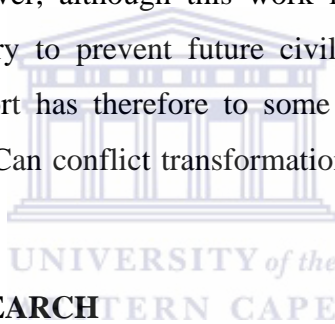
³⁷ *ibid*

³⁸ Habeeb, W: (2007): *Africa. Progress and Problems: Civil Wars in Africa* p 19

a life of virtual slavery, subject to physical and sexual abuses. Many who try to flee these conditions risk execution and in any case, they usually have nowhere to go for safety.³⁹

Goodwin-Gills examine the failure of the law protecting children from military service and abuse from the military.⁴⁰

One major work worth mentioning is the 1996 report by Machel.⁴¹ Although this report is a detailed one, it is to some extent outdated and fails to address some of the questions posed in this study. Baughman's work 2007 shows that weak governmental institution, and a lack of real democracy in which all people feel that they have a choice in how their country is run, are the major problems behind child soldiering throughout out Africa. He observes that successful efforts to address these problems may help to ameliorate the plague of civil wars.⁴² However, although this work is most recent, it has failed to provide the remedies necessary to prevent future civil wars, and to stop the use of children as soldiers. The report has therefore to some extent failed to address many questions asked in this study. Can conflict transformation then be the answer to address the question of child soldiers?



1.3 THE AIM OF THE RESEARCH

The aim of this research is to ask questions as to why child right laws for the protection of child soldiers have failed to protect children in the Darfur region of Sudan despite the fact that Sudan is a member to many of these children's rights instruments. Can conflict transformation therefore be of any help? This is research seeks to address the question posed above.

1.4 PROBLEM STATEMENT

The main question this research attempts to ask is "are the existing child rights instruments governing children rights in the Darfur region of Sudan sufficient and

³⁹ Ibid 20

⁴⁰ Goodwin-Gill: (1994): *Child Soldiers: A Study on Behalf of Henry Dunant Institute*

⁴¹ Machel, G (1996): *Impact of War on Children*

⁴² Baughan, B: (2007): *Africa, Progress and Problems: Human Rights in Africa* P 87

effective? The sub categories of questions include, if not what are the flaws? How do these flaws affect the lives of children? What is the best way to address the issue?

1.5 KEYWORDS AND PHRASES

Human Rights Law

Child Rights in International Law

Convention on the Rights of the Child (CRC)

Constitution and Children's Rights in Sudan

CRC Committee

African Charter on the Rights and Welfare of the Child

Child Soldiers

Conflict Transformation

International Labour Organization

Optional Protocol to the Convention on the Right of the Child on the Involvement of Children in Armed Conflict



1.6 RESEARCH METHODOLOGY

This research shall mainly be based on documented facts and literature on the subject being explored.

1.7 OVERVIEW OF CHAPTERS

CHAPTER ONE

The introduction will set out a preliminary observation of the context of this research, identifying the problem of children's rights in Sudan and outlining the methodology.

CHAPTER TWO

This chapter will look at the International Children's Rights instruments for the protection of child soldiers and its applicability to the rights of children in the Darfur region of Sudan.

CHAPTER THREE

This chapter will examine the difficulties impeding the implementation of children's right law in the Darfur region of Sudan, taking into consideration the legal and cultural diversities that exist in present day Darfur.

CHAPTER FOUR

This chapter will look at child soldiers and the remedies that have been suggested by conflict transformation as ways to prevent future civil wars in Africa that involve children as soldiers. The chapter will lay particular emphasis on the situation in the Darfur region of Sudan.

CHAPTER FIVE

This chapter summarizes the literature review, presents conclusion and recommendations from the experience drawn from this research in order to better the lives of children in the Darfur region of Sudan.

CHAPTER TWO

The International Children's Rights Instruments for the Protection of Child Soldiers and their applicability to the rights of children in the Darfur region of Sudan

2.1 Introduction

The application of international children's rights law for the protection of child soldiers has seen many of challenges across space and time in recent years. In this chapter, I will examine the international children's rights instruments for the protection of child soldiers. I shall analyze each instrument separately, bringing out the shortcomings and successes in the first part. In the second part I will examine the extent to which international children's rights instruments for the protection of child soldiers are applied in the Darfur region of Sudan. I will then conclude this chapter based on the facts drawn from my research.

2.2 Legal Protection

Fontana's work on the subject matter shows that the development of international law on the issue of child soldiers can be a common issue to solve; the defence of childhood and a raise in the minimum age of recruitment are just two aspects of a larger issue. The dissemination of the existing rules of international law has often been left open as an essential aspect to ensure the respect of international humanitarian norms.⁴³

Forbes observes that international laws have had little impact in deterring child soldiers' use by many armed groups. To Forbes, many groups attach little value to international standards and the need to build fighting strength overrides other considerations. The reality therefore must be confronted and new strategies developed.⁴⁴

⁴³ Fontana, B: (1999): *Child Soldiers in International Law* P5
Available <http://www.iss.co.za/pubs/Asr/6No3/Fontana.html>
Accessed 28 September 2008

⁴⁴ Forbes, V: (2008): *Child Soldiers Global Report*

2.3 Child Rights instruments for the Protection of Child Soldiers

The Convention on the Rights of the Child

Olowu observes that the adoption of the Convention on the Rights of the Child by the United Nations General Assembly signaled the beginning of an era of concrete efforts by nations of the modern world to give legal recognition to the rights of children, although the subject had been on the international agenda since shortly after the First World War.⁴⁵ It is regarded that the CRC is a landmark in the struggle for the rights of children worldwide, because the CRC establishes international standards and a binding legal framework to protect children.⁴⁶

Bernitz's work on the subject matter shows that under international law, the prohibition against the recruitment of children into armed services and protection of children are elaborated in the CRC, adopted by the United Nations General Assembly in 1989 and ratified by all countries of the United Nations except for Somalia and the United States of America.⁴⁷ States that ratified the UN Convention on the Rights of the Child undertake to protect children within their jurisdiction, to refrain from recruiting children and to ensure respect for international humanitarian law which affects children during armed conflict.⁴⁸

Bennett observes that by agreeing to undertake the obligations of the Convention, by ratifying or acceding to it, national governments have committed themselves to protecting and ensuring children's rights. They have agreed to hold themselves accountable for this commitment before the international community by developing and undertaking all actions and policies in the light of the best interests of child.⁴⁹

Available <http://www.crin.org/resource/infosdetail.asp?id-17358>

Accessed 28 August 2008

⁴⁵ Olowu, D: (2002): *Protecting Children's Right in Africa: A Critique of the African Charter on the Rights of the Child* P127

⁴⁶ Blake, M: (1998): *Right Up Your Street: A Guide to Human Rights in South Africa* P140

⁴⁷ Bernitz, A: (1997): *Child Soldiers: Youth who Participate in Armed Conflict*, P16

See also McIntyre A: (2005): *Invisible Stakeholders: Children and War in Africa* P10

⁴⁸ Bennett, T: (1996): *Using children in Armed Conflict: A legitimate African Tradition* p 22

⁴⁹ Bennett, E: (2000): *Act Against Child Soldiering in Africa: A Reader* P 15

Article 38 of the CRC is very important because it refers to situations of children in armed conflict, and defines 15 years as the age criterion for child soldiers.⁵⁰ Article 38 states that “State Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but have not yet attained the age of 18, State Parties shall give priority to the oldest”.⁵¹

Although the age limit of 18 years is the standard in the Children’s Convention for recruiting children in armed conflict,⁵² as the law currently exists, however, it does permit children aged 15 years or above to volunteer for military service. This is opposed by children rights advocates, who argue for a straight 18 ban on all recruitment and use of child soldiers. Despite their gaining considerable support, it has however been unsuccessful.⁵³

Bennett observes that nonetheless, Article 38(2).⁵⁴ can hardly be considered a full or satisfactory answer to the problem of children becoming involved in hostilities; it mainly repeats the terms of Article 77 of the Geneva Protocol 1, with the ambiguities failing in that Article in that it fails to rise the minimum age of recruitment and participation of children to 18 .⁵⁵ Like Article 38(2), Article 77 (2) of the Geneva Protocol states that States shall take all feasible measures to ensure that children who have not attained the age of 15 do not take part in direct hostilities and in particular, shall refrain from recruiting them into their national armed forces.⁵⁶

Harmilton and El-Haj support that while the CRC was being drafted, efforts were made to improve on the Geneva Protocol, by raising the minimum age up to 18 and asking all

⁵⁰ Fontana, B: *Child Soldiers in International Law* P2
Available <http://www.iss.co.za/pubs/Ars/6No3/Fontana.html>
Accessed 28 September 2008

⁵¹ Bennett, T (1996) *Criminalising Recruitment of Child Soldiers* P 42

⁵² Children of War: (1991): *Report from the Conference on Children of War organized by the Swedish Red Cross, Swedish Save the Children and Raoul Wallenberg Institute* P15

⁵³ Hoppold, M: (2005): *Child Soldiers in international law* P28

Also see: Olowu, D: (2002): *Protecting Children’s Rights in Africa* P130

⁵⁴ Article 38 (2) states that, State parties shall take all feasible measure to ensure that persons who have not attained the age of 15 years do not take part in direct hostilities.

⁵⁵ Bennett, T: (2003): *Criminalizing Recruitment of Child Soldiers*: P41

⁵⁶ Ibid.

states to take all legal administrative and other measures to prevent child participation in hostilities.⁵⁷ These proposals were defeated by the need to come to an agreement and by the United States' argument that Article 38 of the CRC was not a proper vehicle for rewriting humanitarian law.⁵⁸

The Center for Defense Information reports that the language in Article 38 suggest that a compromise, not a very good one, was required because it was well known that at the time of the drafting of the Convention the question of a minimum age of recruiting in the armed forces raised a lot of controversy.⁵⁹ While many wished the minimum age 18 to be in line with the age of majority as stated in Article 1 of the Convention, Article 38 is the only provision of the treaty which specifies that the minimum age be lower than 18 and is acceptable.⁶⁰ Heckenberg supports this point by observing that at first sight, what comes in relation to article 38 is that although it defines a child as person under the age of 18 unless under international applicable to child, majority is attained earlier, it makes provision for a minimum age of recruitment of 15. He furthers his point by observing that failure to adopt a "straight 18" position forced serious challenges from countries like the USA. However, the failure to adopt a "straight 18" position led to the advent of the draft and subsequent adoption of the OPAC to remedy the minimum age of recruitment.⁶¹

Another questionable compromise in Article 38 is that it requires states parties to take all feasible measures to prevent direct child participation in hostilities. This emphasis on "direct participation" actually lowers the standard of protection afforded by other humanitarian laws, such as the Additional Protocol 2 to the Geneva Convention.⁶² Article

⁵⁷ Hamilton, C and El-Haj T: (1997): *'Armed Conflict: The Protection of Children under International Law'* p115

⁵⁸ Ibid P115

⁵⁹ Center for Defense Information: (1997): *The Invisible Soldier: Child Combatant*
Available http://www.thirdworldtraveller.org/life_death_thirdworld/children_soldiers.html
Accessed 22 September 2008

⁶⁰ The Law Library of Congress: (2007): *Child Soldiers: International Law*
Available <http://www.whatsthe441.ca/?paidID=30>
Accessed 20 September 2008

⁶¹ Heckenberg, H: (2000): Is the Optional Protocol for the Convention on the Rights of the Child Protect Ugandan Child Soldiers: *10 Indiana International and Comparative Law Review* 428

⁶² Center for Defense Information: (1997): *The Invisible Soldiers: Child Combatant*
Available http://www.thirdworldtraveller.org/life_death_thirdworld/children_soldiers.html
Accessed 22 September 2008

4(3)(c) of Additional Protocol 2 applicable to non- international armed conflict, states that children who have not yet attained the age of 15 shall neither be recruited into armed forces or groups nor allowed to take part in hostilities.⁶³

Harvey, International Institute for Children's Rights, observes that Article 38 does not significantly give the protection contained in the Additional Protocols and in International Humanitarian Law in general, specifically retaining the age of 15 years for recruitment and participation.⁶⁴ Article 77 (3) of the Additional Protocol 1 states that despite the provision of Article 77(2) in exceptional cases children who have not attained the age of 15 years do take part in hostilities and falls into the power of the adverse party, they shall continue to benefit from special protection accorded by this Article, whether or not they are prisoners of war.⁶⁵

Article 77(2) of Additional Protocol 1 states that in recruiting among those persons who have not attained the age of 15 but who have attained the age of 18 State Parties to the conflict shall endeavour to give priority to the oldest.⁶⁶

Russell and Gozdzik observe that many factors complicate the enforcement of the child soldiers' prohibition because it is always very difficult to determine if combatants are under the age of 15. To them, children can lie about their age, and military officials in need of combatants often conveniently lose paper work related to the age of

⁶³ Coalition to Stop the Use of Child Soldiers: (2008): *international Standards*
Available <http://www.child-soldiers.org/childsoldiers/international-standards>
Accessed 21 October 2008

⁶⁴ Harvey, R: (2001): *Children and Armed Conflict: A Guild to International Humanitarian Law and Human Rights Law*
Available http://www.essex.ac.uk/armedcon/story_id/000044.pdf
Accessed 26 September 2008

⁶⁵ Coalition to Stop the Use of Child Soldiers: (2008): *International Standards*
Available <http://www.child-soldiers.org/childsoldiers/international-standards>
Accessed 21 October 2008

⁶⁶ Article 77(2) of the Additional Protocol to the Geneva Convention of 12 August 1949. Protocol 1 8 June 1977
Available <http://www.icrc.org/ihl.nsf/470?opendocument>
Accessed 25 October 2008

recruitment.⁶⁷ They further their argument that in countries where birth registration mechanisms are nonexistent or rarely used, age verification may be impossible.⁶⁸

Bennett observes that the anomaly in relation to the minimum age of 15 years for recruitment and participation in hostilities under article 38 of the CRC lead to non-governmental associations who had been most active on the issue during the drafting of the Convention, to press the newly-formed Committee to take up the matter. To Bennett, the Committee chose of the topic Children in Armed Conflict for the first thematic day of discussion in 1992, and one of its recommendations was that there should be an Optional Protocol to the Convention raising the minimum age to 18.⁶⁹

The Committee on the Rights of the Child, the consisting of 10⁷⁰ (now 18⁷¹) highly reputable, competent members, was established to examine progress made by State Parties to realize the provisions of the CRC. State Parties' had to submit progress reports after two years of ratifying and five years there after. The Committee itself reports its activities to the United Nations and other relevant bodies, who are entitled to provide advice and assistance to states with regards to its implementation.⁷²

Pampell and Fish observe that the Committee of the Child is the key entity that monitors states compliance that are party to the Convention by evaluating the country reports as required by the CRC. The Committee also developed new standards and presses government for specific reforms.⁷³ They further their point that the advocacy and watchdog role of Non-Governmental Organizations (NGOs) is very necessary to the work of the Committee, as each review process of the country reports begins with the

⁶⁷ Russel, L and Gozdziaik: (2006): *Coming Home Whole: Reintegrating Uganda's Child Soldiers* Available <http://www12.georgetown.edu/sfs/publish/journal/72/russel.cfm>
Accessed 20 September 2008

⁶⁸ Ibid

⁶⁹ Bennett, E: (2000): *Act Against Child Soldiering in Africa: A Reader* P14

Also see Bennett, T: (2003): *Criminalizing Recruitment of Child Soldiers* p41

⁷⁰ Blake, M: (1998): *Right Up Your Street: A Guide to Human Rights in South Africa* P 40

⁷¹ Center for Human rights: *African Human Rights Journal* P 63 (2008)

⁷² Blake, M: (1998): *Right Up Your Street: A Guide to Human Rights in South Africa* P 40

⁷³ Pampell, C and Fish K: *Children's Security*

Available http://www.huntalternalive.org/download/load/25_children_security.pdf

Accessed 21 September 2008

working group meetings using the NGOs to highlight specific areas of concern regarding the government under review.⁷⁴

Bennett, in The Published Monograph, No 32, reports that individual children have little chance of successful legal actions against states that fail to implement Article 38(2) of the CRC.⁷⁵ Most systems of municipal law provide that the treaty obligation enforceable by individuals in states courts is available only when the treaty is made part of the municipal law by an appropriate legislative Act; thus, if the CRC has not been incorporated into the domestic law, the Convention alone can not afford children rights when they are recruited as child soldiers.⁷⁶

Happold supports that following the dissatisfaction with the provision contained in Article 38 of the CRC, in 2000, an Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict was adopted to cure the defects raising the minimum age of recruitment to 18.⁷⁷

Harvey observes that while the CRC has the limitation of being considered not derogable during times of war, the CRC is not suited to be the reality in times of conflict. The monitoring mechanisms of the CRC entails that the CRC is not able to respond to situations of emergency, can not make ad hoc recommendations or comments on situation of countries outside its concluding comments of state reports, cannot hear individual complaints, impose sanctions on offenders or offer compensation.⁷⁸

Greenbaum, Veerman and Becon-Shnoor argue, however, that despite the limitations, the Convention does provide a framework for monitoring the implementation of children's rights in situations of armed conflict and sets the standards for which those responsible

⁷⁴ Ibid

⁷⁵ Bennett, T: (1998): *The Recruitment of Child Soldiers: Using Children in Armed Conflict, A Legitimate African Tradition*

⁷⁶ Ibid

⁷⁷ Happold, M: (2005): *Child Soldiers in International Law P*

⁷⁸ Harvey, R: *Children and Armed Conflict: A Guide to International Humanitarian Law and Human Rights Law*

Available http://www.essex.ac.uk/armedcom/story_id/000044.pdf

Accessed 26 September 2008

for implementing children rights in any situation can be asked to explain. It is thus of great importance in determining the level of protection children should be given and as an advocacy tool.⁷⁹

The African Charter on the Rights and Welfare of the Child (ACRWC)

The African Charter on the Rights and Welfare of the Child was adopted by the Organization of African Unity Assembly on the 11 of July 1990 and entered into force on the 29 of November 1999.⁸⁰ It is the second global and the first regional binding instrument that recognizes the child as a possessor of particular rights in domestic and administrative proceedings.⁸¹

The implementation and monitoring of the children's charter is supervised by the by the African Committee on the Rights and Welfare of the child. It is composed of 11 persons Committee, of individuals with high moral standing, integrity, impartiality and competence in matters relating to rights and welfare of the child.⁸² They are appointed by the Assembly of Heads of States and Government of the African Union (AU)

Mezmur observes that the African Children Committee is credited for because it has both an adversary and contentious jurisdiction over the rights of the African Children Charter. His work shows that under article 43, it has mandate to receive states reports and communications. Parties that have standing before the African Committee are individuals, NGOs recognized by the AU, and member of the UN.⁸³ The Committee like the CRC committee also has the power to carry out studies and investigations, and issue general comments.⁸⁴

⁷⁹ Greenbaum, W, Veerman, P and Becon-Shnoor N: (2006): *Protection of Children During Armed Political Conflict: A Multidisciplinary Perspective* P273

⁸⁰ Sloth-Nielson, J: (2008): *Children Rights in Africa: A Legal Perspective*

⁸¹ Chirwa, D: (2002): *The Merits and Demerits of the African Charter on the Rights and Welfare of the Child* P157

⁸² Mezmur, D: (2006): *The African Committee of Experts on the Rights and Welfare Of the Child: An Update* : *African Human Rights Journal Volume 6 NO2*

⁸³ Ibid

⁸⁴ ibid

Happold writes that the ACRWC is the most significant regional human rights treaty particularly concerned with children's rights and the most comprehensive human rights instrument which deals with children's involvement in armed conflict.⁸⁵ Article 2 of the Children's Charter is one of the most important provisions. It is of fundamental importance since it defines, though in a vague term and in only one sentence, those who fall within its ambit.⁸⁶ In the Charter, a child means every human being below the age of 18 years though it is debatable whether this definition includes a fetus.⁸⁷

Chirwa observes that the obligations under the Charter do not affect any provisions that are more conducive to the realization of children rights contained in the law of State Parties or any international or agreement in force in a state. The Charter mainly sets out the minimum standards and, it could be argued, it is borrowed from the CRC.⁸⁸ He furthers that, however, that the strength of the Charter lies in the fact that it openly shows its supremacy over any custom, tradition, culture or religious practice that is inconsistent with the rights, duties and obligations contained in the Charter.⁸⁹

Article 22 of the ACRWC states that State Parties shall take all necessary measures to ensure that no child takes a direct part in hostilities and shall refrain in particular, from recruiting any child.⁹⁰

Article 22(2) of the Charter is the most relevant in that is a blanket prohibition of the recruitment of children into the State Parties armed forces and this follows Article 38 of the CRC in confirming that the obligation to refrain from recruiting children is an

⁸⁵ Happold, M: (2005): *Child Soldiers in International Law* P83

⁸⁶ Lloyd, A: (2000): *Evaluation of the African Charter on the Rights and Welfare of the Child and the African Committee of Experts: Raising the gunlet:* P184

⁸⁷ Happold, M: (2005): *Child Soldiers in International Law* P84

⁸⁸ Chirwa, D: (2000): *The Merits and Demerits of the African Charter on the Rights and Welfare of the State:* P159

⁸⁹ Ibid P 151

Also see Article 1(3) of the (ACRWC)

⁹⁰ Netherlands Institute for Human Rights: *The African Charter on the Rights and Welfare of the Child* Available <http://sim.law.uu.nl/sim/library/HRinstruments.nsHecfe20097>

Accessed 20 September 2008

obligation of result and not simply a sub-set of the obligation that states parties take all feasible measures to ensure that no child takes part in direct hostilities.⁹¹

Lloyd's work shows that one of the criticisms of the ACRWC is the silence on the importance to implement effective birth registration across the continent, Article 6(2) and 6(4) of the Charter state that every child shall be registered immediately after birth in order to acquire the name and nationality.

Gutto observes that criticisms have surrounded the creation of the African Committee of Experts and the Rights and Welfare of the child as a specific institution charged with the promotion and protection of human rights, alongside the African Commission of Human Rights.⁹² Inadequate funding and resources for the committee since it was established have raised further questions about the need for separate child mechanisms in Africa.⁹³

Chirwa however observes that despite short comings of the ACRWC the contribution that the Charter has made to the children's rights discourse cannot be ignored. It is particularly strong when it comes to specifying issues that are relevant to the African child and in its feature of specifying the language.⁹⁴ According to Chirwa, the Charter makes several provisions that have not been articulated in any human rights instrument before, apart from making several improvements on the CRC most of the weaknesses in the Charter may be cured by reason of the fact that all African States are parties to the CRC.⁹⁵

Mezmur observes that there some indications that protection for child soldiers could be better enforced at the regional level. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) established under the ACRWC, with the necessary

⁹¹ Happold, M: (2005): *Child Soldiers in International Law* P84

⁹² Gutto, S: (2001): The Reform and Renewal of the African Regional Human Rights System: African *Human Rights Law Journal* No 2, 175-184.

⁹³ Regional Protection of Child Rights in Africa

Available <http://www.pumbazuka.org/en/category/commitee/44416>

Accessed 20 September 2008

⁹⁴ Chirwa, D: (2001): *The Merits an Demerits of the African Charter on the Rights an Welfare of he Child* P170

⁹⁵ Ibid

financial and technical support, can prove itself to be a tool for alleviating the problem of child soldiers in Africa.⁹⁶

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC)

The core of the OPAC is found in Articles 1, 2 and 3. Article 1 provides that States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years of age do not take direct part in hostilities.⁹⁷

UNICEF observes that direct participation in Article 1 can mean to encompass not only active participation in combat but also military activities and direct support functions. These functions, according to UNICEF, may include scouting, spying, sabotaging, and acting as decoys, couriers, and assistance to military check points.⁹⁸

Article 2 states that States Parties shall ensure that all persons who have not attained the age of 18 years are not compulsorily recruited into armed forces.⁹⁹

Halle observes that article 2 of the OPAC constitutes an important corollary to the prohibition against participation in hostilities. To Halle, wherever children have been recruited and undergone military training, it will be tempting to make use of their skills in the event of conflict, particularly if they are incorporated in a constant military base and the crises is on such a scale that every available capacity required.¹⁰⁰ To preclude the

⁹⁶ Mezmur, B: (2008): *Children at Both Ends of the Gun: Child Soldiers in Africa*: P210 in Sloth-Nielsen, J: (ed) (2008) *Children's Rights in Africa: A legal Perspective*

⁹⁷ Sloth-Nielsen, J: (2008): *Children's Rights in Africa: A Legal Perspective* P 203

See also, Fontana, B: *Child Soldiers and International Law* P4

Available <http://iss.co.za/pubs/asr/6No3/Fontana.html>

Accessed 28 September 2008

⁹⁸ Coalition to Stop the Use of Child Soldiers: (2008): *Guide to the Optional Protocol on the Involvement of Children in Armed Conflict*

Available Http://www.unicef.org/emerg/files/option-protocol_conflict.pdf

Accessed 20 September

⁹⁹ Russell, L and Gozdzia: 'Coming Home Whole: Reintegrating Uganda's Child Soldiers'

Available <http://www12.georgetown.edu/sfs/publication/journal/72/russel.cfm>

Accessed 20 September 2008

¹⁰⁰ Halle, D: *Optional Protocol on the Involvement of Children in Armed Conflict*

Available <http://www.icrc.org/web/eng/siteeng0.nsf/html/57JQQE>

Accessed 20 September 2008

presence of children in military units is therefore an important safeguard to avoid the involvement in armed conflict.¹⁰¹

Happold observes that as with the corresponding obligations in the Additional Protocol 1 (AP1) and the CRC, the obligation is not an absolute one given that the OPAC does not impose a minimum age of recruitment of 18; an absolute obligation might prove impossible by State Parties who recruit persons less than 18 years old.¹⁰² He furthers his argument that, in addition, Article 1 does not ban all participation of children in hostilities. Children can be allowed to participate in hostilities, meaning, as with the AP1 and CRC, that children can be employed in a number of roles which are likely to put them in danger from army forces.¹⁰³

Halle observes that the most complex provision of the OPAC is Article 3(1).¹⁰⁴ According to Halle, Article 3(1) presents a clear sign of its origin in a compromise. Firstly, Article 3 requires state parties to raise the minimum age for voluntary recruitment from that set out in Article 38(3) of the CRC (being 15 years) for recruitment. To Halle, it seems that Article 3 of the OPAC raises the minimum age of voluntary recruitment to 16, if in a rather “opaque manner.”¹⁰⁵

Secondly, in raising the minimum age at which voluntary recruitment is possible, State Parties must also take cognizance of the principles contained in the Article and recognizing that under the Convention persons under 18 are entitled to special protection. Article 3(2) then provides that, upon ratification or accession to the OPAC, a state party shall deposit a binding declaration setting the minimum age at which it will permit

¹⁰¹ Office of the United Nations High Commissioner for Human Rights: (2002): *Optional Protocol on the Involvement on Children in Armed Conflict*

Available <http://www2.ohchr.org/english/law/crc-conflict-htm>

Accessed 20 September 2008

¹⁰² Happold, M: (2005): *Child Soldiers in International Law* P77

¹⁰³ Ibid

¹⁰⁵ Halle, D: *Optional Protocol on the Involvement of Children in Armed Conflict to the Convention on the Right of the Child*.

Available <http://www.icrc.org/siteeng0.nsf/html/5JjQQE>

Accessed 20 September 2008

voluntary recruitment and describing the safeguards it has in place to ensure that such recruitment is truly voluntary.¹⁰⁶

Thirdly, in practice, the distinction between voluntary and compulsory recruitment may be difficult to prevent, as ‘voluntary’ recruitment might be coerced by the lack of food, the need for physical protection, poverty or revenge. It may also be difficult to verify age in warfare states.¹⁰⁷ The requirement to raise the minimum age to include that, Article 3 allows an exception. Schools operating under the control of armed forces of the state parties, are not required to raise the minimum age for voluntary recruitment.¹⁰⁸

Article 4 is to the effect that armed groups, as distinct from armed forces of the state, should not, under any circumstances, recruit or use in hostilities persons under the age of 18.¹⁰⁹

Halle observes that Article 4 has been drafted in a way that leaves doubts as to how effective it will be to prevent recruitment and participation of children in situations of internal armed conflict, mainly because the wordings “should not” as opposed to “shall not”, seems to impose a moral, as opposed to a legal, obligation under international law.¹¹⁰ Halle furthers his argument that the wording chosen under Article 4 seems to be motivated by the concern of many states not to depart from the classical approach of international human rights law, according to which the broad rule is that only states have

¹⁰⁶ Happold, M: (2005): *Child Soldiers in International Law* P 78

¹⁰⁷ Coalition to Stop the Use of Child Soldiers: UNICEF: Guide to the Optional Protocol on the Involvement of Children in Armed Conflict

Available <http://www.unicef.org/emerg/file/option-protocol-conflict.pdf>

Accessed 20 September 2008

¹⁰⁸ Ibid

¹⁰⁹ Office of the High Commissioner for Human Right: (2000): *Optional Protocol to the Convention on the Right of the Child on the involvement in Armed Conflict*.

Available <http://www.unhchr.ch/htm/menu216/protocolchild.htm>

Accessed 20 September (2004)

¹¹⁰ Halle, D: The Optional Protocol on the Involvement on Children in Armed Conflict to the Convention of the Right of the Child (2008) P3

Available <http://www.icc.org/web/siteeng0.nsf/htm/57JQQE>

Accessed 20 September 2008

an obligation under human rights law, whereas the behavior of non-state entities is to be regulated by domestic law.¹¹¹

Fontana's work shows that the drafters of the Optional Protocol have been highly criticized on the basis that they were following a lowest common denominator approach, to find the minimum standard that will be acceptable to all states.¹¹² Fontana advanced her point by referring to the reason in drafting an article, adopting and ratifying it when the chances are that it will never be respected. She notes that the prohibition of child soldiers below the age of 15 has not been respected since the adoption of the Protocol.¹¹³

This point by is supported by Bennett; he observes that notwithstanding considerable international support for the Protocol, the efforts being exploited seem profitless. Apart from the age limit, it will probably give children less protection than the provision of the Statute for the International Criminal Court, because the OPAC presents no advances on the notoriously weak enforcement procedures contained in the CRC.¹¹⁴

Sheppard observes the short-comings of the OPAC by stating that the OPAC does not specify the minimum age for direct participation into armed hostilities, it exempts military schools from complying with the age of recruitment and does not set the minimum age for voluntary recruitment although states will be required to raise their minimum age from 15 to 18 and to maintain and report on voluntariness and safeguards.¹¹⁵

Mezmur's work shows that unfortunately, the OPAC is vulnerable to some problems concerning the procedure for reporting under Article 8.¹¹⁶ Partly motivated by the need to

¹¹¹ Ibid P4

¹¹² Fontana, B: (1999): *Child Soldiers in International Law* P5
Available <http://www.iss.co.za/pub/Ast/6No3/Fontana.html>
Accessed 28 September 2008

¹¹³ Ibid

¹¹⁴ Bennett, T: (2003): *Criminalizing Recruitment of Child Soldiers* P42.

¹¹⁵ Sheppard, A: (2006): *Child Soldiers: Is the Optional Protocol Evident of an Emerging Straight-18 Consensus?*

¹¹⁶ Article 8 of the OPAC states that each states shall submit, within two years the following the entry into force of the protocol for the state party, a report to the CRC providing comprehensive information on the measures it has taken to implement the provisions on the participation and recruitment.
Available <http://www2.ohchr.org>

enforce this gap, there have been five UN Security Council (UNSC) Resolutions adopted to protect the rehabilitation of children affected by armed conflict. UNSC Resolution 1261 (1999), 1314 (2000), 1379 (2001) 1460 (2003) and 1612 (2005).¹¹⁷ Unfortunately, these Resolutions have not been respected. Children still take active part in armed hostilities all over Africa.

Resolution 1261 (1999) urges state and the UN systems to facilitate the disarmament, demobilization and reintegration of children used as soldiers in violation of international law, and calls upon, in particular, the Special Representative of the UN Secretary General for children and armed conflict, UNICEF, and other relevant agencies of the UN systems to intensify efforts in this regard.¹¹⁸ Resolution 1314 of (2000) call on states to take specific action- orientated steps such as combating trafficking in illegal conflict diamonds, ending impunity for war crimes against children, and securing the release of abducted children.¹¹⁹

Mezmur's works shows that Resolution 1379 (2001) strengthens the measures provided for in Resolution 1314 (2000) and makes them more targeted. While Resolution 1460 (2004) broadens the scope of monitoring and reporting, stipulating that all country-specific reports should include sanctions on those using children in armed hostilities, and endorses the call for an era of application.¹²⁰ He observes that in respect of these Resolutions, each one has been stronger than the last and each one of them has enforced an important principle. Sadly violations and security rights of children are in themselves a threat to international peace and security.¹²¹

Accessed 23 October 2008

¹¹⁷ Mezmur, D: (2008): *Children at Both Ends of the Gun: Child Soldiers in Africa* P 209 In

Sloth-Nielson, J: (ed) (2008): *Children's Rights in Africa: A Legal Perspective*

¹¹⁸ UN Security Council Resolution 1261 (1999)

Available <http://www.crin.org/law/instrument.asp.instid=1057>

Accessed 24 October 2008

¹¹⁹ UN Security Council Resolution 1314 (2000)

Available <http://www.crin.org/instrument/asp.instid=1056>

Accessed 24 October 2008

¹²⁰ Mezmur, D: (2008): *Children at Both Sides of the Gun: Child Soldiers in Africa* P 209

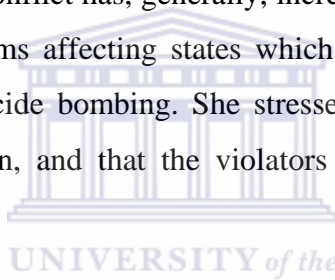
(ed) Sloth-Nielson, J: (2008): *Children's Rights in Africa: A legal perspective*

¹²¹ *ibid*

Security Council Resolution 1612 (2005) defines six grave violations of the recruitment and use of children; killing and maiming; rape and other sexual violence; abduction of children, attacks against schools and hospitals, and denial of humanitarian access.¹²²

This Resolution was voted unanimously by all 15 members of the UNSC. It calls for a series of measures to be taken, including the establishment of a mechanism for monitoring and reporting violations, a UNSC group to monitor progress and oversee implementation of these measures, and a demand that offending parties prepare and implement concrete action plans for ending violations against children.¹²³

Despite these Resolutions, in October 2008, Coomaraswamy, the Special Representative to the Secretary General on Children and Armed Conflict, reported to the Human Rights Council, declared that armed conflict has, generally, increased in intensity. She expressed concern about terrorist problems affecting states which have led to mobilization and recruitment of children in suicide bombing. She stressed that children are particularly vulnerable and need protection, and that the violators of their rights should be held accountable.¹²⁴



In response to her report, states raised a number of concerns such as the challenges faced by non state actors to abide by international standards regarding children and armed conflict, combating small arms, making systematic use of the UN Security Council Resolution 1612 (2005) on children and armed conflict and mainstreaming the issue of children into the work of the UN peace keeping mission.¹²⁵

The OPAC is admittedly, although not a solution in and of itself, a comprehensive legal framework which is a starting point towards alleviating the problem of child

¹²² Resolution 1617 (2005)

Available <http://www.crin.org/email-detail/asp?crinmailIID=2939#ar>

Accessed 23 October 2008

¹²³ Mezmur, D: (2008): *Children at Both Sides of the Gun: Child Soldiers in Africa* P 208- 209

(ed) Sloth-Nielsen, J: (2008): *Children's Rights in Africa: A Legal Perspective*

¹²⁴ Children Rights Information Network: (2008): *Children's Rights at the Human Rights Council: Report of the Special Representative of the Secretary General on Children and Armed Conflict*

Available <http://www.crin.org/email/crinmail-datal.asp?crinmailIID=2939#ar>

Accessed 6 October 2008

¹²⁵ Ibid

soldiers in Africa. A good number of existing provisions of the relevant legal framework, although progressive in some aspects, nonetheless fall short of addressing the need of child soldiers adequately.¹²⁶

2.4 The Application of Child Rights Laws to Child Soldiers in the Darfur Region of Sudan

International Standards

Sudan ratified the OPAC. In July 2005 in its declaration it is stated that it was committed to maintaining the minimum age of 18 for voluntary service and a prohibition on forced or voluntary conscription of children under 18 years old.¹²⁷

National Recruitment legislation and practice

Recruitment covers any means, formal or de facto, by which a person becomes member of an armed conflict or an armed group. This includes conscription, compulsory or obligatory military service, enlistment and forced recruitment.¹²⁸

Under the Sudanese National Service Law of 1992 (under review in 2007), all men between the ages of 18 and 33 are liable for military service, which applies to all branches of the armed forces. The length of military service was 18 months for high school graduates, 12 months for university and college graduates and 24 months for other cases.¹²⁹

¹²⁶ Mezmur, D: (2008): *Children at Both Ends of the Gun: Child Soldiers in Africa*

(ed) Sloth-Nielsen, J: (2008): *Children's Rights in Africa: A Legal Perspective*

¹²⁷ Declaration on Accession to the Optional Protocol

Available <http://www2.ohchr.org>

Accessed 4 September 2008

¹²⁸ Human Rights Watch: (2003): *International Legal Standard Governing Child Soldiers*

Available <http://www.hrc.org/campaigns/crp/int-law.htm>

Accessed 29 August 2008

¹²⁹ Child Rights Information Network: (2008): *Armed Conflict: Child Soldiers Global Report*

New York,

Available <http://www.crin.org/resource/infodetail/asp?id-17358>

Accessed 10 June 2008

Human Rights Watch observes that despite the Comprehensive Peace Agreement (CPA) and the Darfur Peace Agreement (DPA) agreements, the UN Commission on Human Rights has expressed concern on the continued recruitment and the use of children in armed conflict in Darfur in violation of international law.¹³⁰

Maslen, Coordinator of the Coalition to Stop the Use of Child Soldiers reports that although the minimum legal age of recruitment is 18 years, recruitment into the popular defence forces can start legally at 16 years, even in armed forces that otherwise prove to respect the recruiting procedure. Further, the creation of government-sponsored militias tends to open the floodgate to child recruitment particularly in the Darfur region of Sudan.¹³¹ Sudan Watch reports that child soldiers are increasingly being used in Darfur even when their use is in a decline elsewhere in Sudan.¹³²

Under age children have been drafted as soldiers and continue to fight, in violation of the Convention on the Rights of the Child and Sudanese law, which sets eighteen as the minimum age.¹³³ Reportedly, boys as young as twelve were taken from public buses, other vehicles, football stadiums and other recreation centers to fight their fellow Southerners in garrison towns in the Darfur region of Sudan while it is reported that the army does not admit the recruitment of children under 18 years of age, it is no secret that there are many schools in the larger garrisons where children of soldiers are given regular

¹³⁰ Human Rights Watch: (2004): *Sudan Government Forces*
Available <http://www.hrc.org/reports/2004/chilsoldiers0104/17.htm>
Accessed 20 August 2008

¹³¹ Maslen, S: Coalition to Stop the Use of Child Soldiers: The Use of Children as Soldiers in Africa: A Country analysis of child recruitment and participation in armed conflict P3
Available <http://www.reliefweb.int/library/documents/chilsold.htm>
Accessed 20 August 2008

¹³² Sudan Watch: (2007): *UN Darfur Using Child Soldiers*
Available <http://sudanwatch.blogspot.com/2007/02/un-darfur-using-child-soldiers.html>
Accessed 28 August 2008

Also see Central Africa News: (2007): *Child Soldiers in a Rise in Darfur*
Available <http://www.lol.co.za/index.php.set.lo>
Accessed 28 August 2008

¹³³ Human Rights Watch/Africa: (1995): *Children of Sudan: Slaves, Street Children and Child Soldiers*
P56

schooling and trade, wear uniforms and are held in quasi-military discipline and these children usually volunteer for military service.¹³⁴

2.5 Latest reports on the general situation of child soldiers in Darfur

Child Soldiers Global Report 2008, Children and Armed Conflict, reports that although the Sudan Armed Forces (SAF) denied recruitment or the use of children in their forces, military officials confirmed that children from armed groups were transferred into their forces during the unification process.¹³⁵ The report further states that in May 2006, child soldiers were seen in the newly integrated SAF units. In August 2006, the SAF estimated that there were approximately 19,000 soldiers in these units and it was observed that a significant number of them were under 18 and were associated with both the SAF and allied militias in Darfur.¹³⁶

On July 15 2008, the Secretary General of the UN said he was very worried that the Sudanese rebel groups active in the war ravaged the Darfur region appeared to be using child soldiers.¹³⁷ In July 2008 the UN Special Envoy on Human Rights urged the Sudanese government not to persecute 89 child soldiers arrested after an attack by the Darfur rebels in Khartoum in May; the envoys reported that during their visit they saw child soldiers everywhere, both with government forces and also with different movements. The report further states children from 11 years to 17 years were recruited into the rebel group (JEM) which attacked Khartoum in violation of international law.¹³⁸

¹³⁴ Ibid

¹³⁵ Child Right Information Network: (2008): *Child Soldiers Global Report: Sudan Children and armed Conflict*, New York

¹³⁶ Ibid

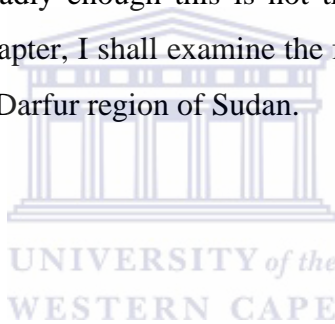
¹³⁷ Sudan Tribune: (2008): *UN Chief Concerned by the Use of Child Soldiers Among Darfur rebels*
Available http://www.sudantribune.com/spip.php?mot26&debut_article
Accessed 28 August 2008

¹³⁸ Afro news: (2008): *UN Denounces use of Child soldiers in Darfur*
Available <http://www.afrol.com/article/29843>
Accessed 28 August 2008

Amnesty International's report shows that the welfare of displaced children in Darfur is on a knife-edge and a generation of Darfurian children are growing up in extreme fear and insecurity in camps because armed groups continue to recruit children as soldiers.¹³⁹

2.6 Conclusion

To conclude, from research drawn on this chapter, it is very evident that the various international instruments put in place by international law for the protection of children below the age of 18 becoming child soldiers has not been respected in the Darfur Region of Sudan. This is a clear violation of international human rights law. The government of Darfur (Sudan) must be made to condemn the use of child soldiers. International law protects children by banning any recruitment and direct involvement in armed hostilities for those under 15 years.¹⁴⁰ Sadly enough this is not true with children in the Darfur region of Sudan. In the next chapter, I shall examine the factors impeding the application of children's rights laws in the Darfur region of Sudan.



¹³⁹ Amnesty International: (2008): *Anger Raises as Insecurity Worsened for Darfur*
Available <http://www.amnesty.ca/resource-center/news/view.php?load>
Accessed 28 August 2008

¹⁴⁰ Bennett, T: (2003): *Criminalizing Recruitment of Child Soldiers* P41

Chapter Three

Difficulties impeding the application of children's right law in the Darfur region of Sudan taking into consideration the legal and cultural diversities that exist in the present day Darfur.

3.1 Introduction

The problem of children and armed conflict in the Darfur region of Sudan has drawn a lot of interest lately by students, Professors and academicians alike. The conflict that started in Darfur in 2003 has great impact on children not only on health and educational wise, sadly enough; children in the Darfur region of Sudan have either voluntarily or forcefully been recruited into armed groups and militias. In this chapter, I will in the first part pay particular attention to the history of the Darfur, the geographical location, the size of its population and composition and the main occupation of the people of Darfur. I will also look at the conflict in Darfur which started in 2003 and how children are involved in the conflict. In part two, I will look at the factors that have impeded the application of children's rights law in the Darfur region of Sudan. I will look at the follow sub headings: limited access to humanitarian assistance, nonrespect for the Darfur Peace Agreement, support from the Chadian opposition groups and government, limited access to social and educational services, the flow of small arms and foreign intervention. I will then conclude with a summary of the findings drawn from this chapter. Here I will have shown that the above mentioned factors are impeding the application of child right's laws in Darfur region of Sudan.

3.2 The history of the Darfur armed conflict

The Darfur Region of Sudan covers an area of some 498,180 square kilometers, approximately the size of Spain.¹⁴¹ The total population of Darfur is 5, 626,000 with an annual growth rate of 3.03 percent. The urban population constitutes 16.37 percent of the

¹⁴¹ Sudan's geography
Available [http:// www.globaldramer.org](http://www.globaldramer.org)
Accessed 12 September 2008

total population. Those aged between 6 and 24 constitute 48.4 percent and those aged over 60 constitute 37 percent. Life expectancy for men is 53 years and that for women is 56 years.¹⁴²

Darfur through its geographical boundaries to Libya, Central African Republic and southern Sudan is situated in an area of small arms proliferation.¹⁴³ The long story of tribal conflict have seen the flow of arms into the region, the derogation of the environment, political instability, poor governance, street children and drug trafficking, which have resulted in violence, population displacement, and an increase in child soldiers.¹⁴⁴ In 2008 Amnesty International reported that of the four million people affected by the conflict in Darfur, 1.8 million are children under the age of 18. One million children have been displaced since 2006 and there are newly 120,000 displaced children.¹⁴⁵

The Darfur people are complex mosaic of between 40 to 90 different ethnic groups, partly of the African origin, and some Arabs.¹⁴⁶ The advent of the Arabs in Darfur began in the 14th century; they established themselves mainly as nomadic cattle herders.¹⁴⁷ Peaceful coexistence was the rule, with inevitable disagreements over resources between fixed and migratory groups resolved through the intervention of their local leaders. History tells that the division between the Arabs and the Africans has been such that, with much intermarriage, that all Darfurians can claim mixed ancestry.¹⁴⁸

¹⁴² Obeid, H: (2002): *Small Arms Surveys in Darfur and Child soldiers*
Available <http://www.nisat.org/publication/Darfur/Sa%20Survey-CHARM.doc>
Accessed 28 September 2008

¹⁴³ Sudan: Small Arms Survey in Darfur: (2001): *An Investigation of Child Soldiers*

¹⁴⁴ Ibid

¹⁴⁵ Amnesty International: (2008): *Sudan Displaced in Darfur, A Generation of Anger*
Available <http://www.amnesty.org>
Accessed 19 September 2008

¹⁴⁶ The Internationalist: (2007): *Darfur: A History of Multi-Ethnic Darfur*
Available <http://newint.org/features/2007/06/01/history/>
Accessed 12 September 2008

¹⁴⁷ Ibid

¹⁴⁸ Waal, A: (2002): *Race in Africa: Past and Present: Origin of the Darfur Crisis*
Available <http://acas.prairienet.org/bulletin/bull72-02-deWaal.htm>
Accessed 13 September 2008

In 2003 open warfare erupted in Darfur, when the two loosely allied groups, the Sudan Liberation Movement/Army (SLA) and the Justice and Equity Movement (JEM), attacked the military institutions.¹⁴⁹ The Darfur Peace Agreement (DPA) was signed in May 2006 by the Sudanese government and a faction of the Sudanese Liberation Army led by Akou Miniwa SLA/MM.¹⁵⁰ This agreement was criticized by the SLA and JEM for failing to address sufficiently power-sharing representation in government, and the conflict in Darfur became more fragmented and conflict-prone than ever.¹⁵¹

In 2007, Human Rights Digest reported that children of Darfur reaching their fifth birthday world have never known peace; the year 2007 sees the fifth year in which the international community has failed to respond adequately to the scale of crisis; children in the camps are facing an uncertain future and some are recruited forcible or willingly to serve as child soldiers.¹⁵² 2008 is the sixth year in the Darfur conflict where children are recruited in armed conflict.

3.3 What are the factors impeding the implementation of children's rights law

Limited access to humanitarian assistance

Human Rights Watch reports that the deterioration of security, combined with the targeted attack on humanitarian Aid workers, has severely limited humanitarian aid access across the large area of Darfur.¹⁵³ The report states that between January and April 2008, four humanitarian workers were killed in Darfur, 102 vehicles were hijacked, while 29 drivers contracted to deliver food aid were missing as of April 2008. The report says

¹⁴⁹ One World Society: (2008): *Darfur, History of the Conflict*

Available <http://www.ucc.ie/student/socs/oneworld/historyoftheconflic.html>

Accessed 13 September 2008

¹⁵⁰ Darfur Fragile Peace Agreement: (2006): *African Briefing No 39*

Available <http://www.crisisgroup.org/home.index.cfm?id=4179>

Accessed 14 September 2008

¹⁵¹ Child Rights Information Network: (2008): *Child Soldiers Global Report: Sudan, Children and Armed Conflict*, New York

Available <http://www.childsoldiersglobalreport.org/content/sudan-o>

Accessed 20 August 2008

¹⁵² Human Rights Digest: (2007): *Darfur's Children of Conflict*

Available <http://www.humanrightsdigest.org/248/darfur-children-of-conflict>

Accessed 17 September 2008

¹⁵³ Steiner, J, Aston, P and Goodman, R: (2006): *International Human Rights in Context: Q and A Crises in Darfur*

that during the same period, fourteen humanitarian premises were destroyed and looted and at least 100 people are currently cut off from humanitarian Aid; many more are accessible only through helicopters.¹⁵⁴

In 2007, Amnesty International reports that the roads to travel through Darfur are dangerous, vehicles are hijacked and humanitarian workers killed; 7 humanitarian workers were killed during October 2007 and from January to the end of November 2007, 128 vehicles belonging to humanitarian convoys were attacked by the JEM and the SLA, some sent by the government and some against it.¹⁵⁵

The Sudanese Government has placed impediments and restrictions on access for humanitarian aid agencies, aid providers are subject to unstable visa restrictions, authorization is limited on what material they use, and all aid providers are subject to arbitrary rules made by the Khartoum government.¹⁵⁶ The report states that aid organizations that operate in Darfur face their biggest challenge in attempting to operate in Darfur, their food and material are often seized by militias and many have been killed or kidnapped.¹⁵⁷

Human Rights Watch reports that in January 2006 a number of international humanitarian agencies were denied access into Darfur and their travel permits were revoked following an ad hoc request by the Sudanese government Humanitarian Aid Commission (HAC, the national relief coordination agency that is the liaison with international NGOs), despite the joint communiqué with the United Nations and Darfur to stop the restriction of humanitarian work in Darfur.¹⁵⁸

¹⁵⁴ Ibid

¹⁵⁵ Amnesty International: Sudan: (2008): *Displaced in Darfur, A Generation of Anger* available <http://www.amnesty.org.2008>
Accessed 20 September 2008

¹⁵⁶ Amnesty International: Sudan: *Human Rights*
Available http://www.amnestyusa.org/all_countries/sudan/parle.do?id=101124480
Accessed 20 September 2008

¹⁵⁷ Ibid

¹⁵⁸ Human Rights Watch: Sudanese Government Obstruction of Humanitarian Access
Available http://www.hrw.org/backgrounder/africa/sudan0506/s.htm#_toc134524597
Accessed 26 September 2008

Watch List reports that the deterioration of the security situation in Darfur and the unstable situation in the east have prevented many humanitarian actors from accessing severely unstable populations, documenting child soldier abuses and providing services to children and child soldiers.¹⁵⁹

In the Child Soldiers Global Report 2008, Children and Armed Conflict in Sudan, it was reported that throughout 2007, the Sudan Armed Forces (SAF), the Janjaweed and Darfur armed groups continued to commit human rights abuses, and that continued violence by the National Congress Party (NCP) and their intransigence has severely limited access for humanitarian agencies in Darfur.¹⁶⁰

The African Union Mission in the Sudan (AMIS) reports that despite that Article 24(257) of the Darfur Peace Agreement provides for a Joint Humanitarian, Facilitation and Monitoring Unit (JHMFU) to monitor humanitarian assistance and welfare conditions, and to act in a supporting role to AMIS and UN agencies in human rights and humanitarian matters concerning child soldiers.¹⁶¹ The Darfur conflict has been accompanied by an increase in the attack on humanitarian workers and their assets. The reports states that hostilities against AMIS by internally displaced persons (IDPs) and bureaucratic impediments are affecting humanitarian operations in Darfur.¹⁶²

Support from the Chadian Armed Opposition Group

The Child Soldiers Global Report 2008 on Children and Armed Conflict reports that massive recruitment by the Sudanese armed groups took place between March and April 2006 within the refugee and IDP communities in Eastern Chad.¹⁶³ The report shows that

¹⁵⁹ Sandrasagra, J: *Education Can't Wait Till the Fighting is Over*

Available <http://www.wipsnews.net/news.asp?idnews=37397>

Accessed 20 September 2008

¹⁶⁰ Child Soldiers Global Report:(2008): *Children and Armed Conflict*

Available <http://www.childsoldiersglobalreport.org/content/sudan-0>

Accessed 20 September 2008

¹⁶¹ The African Union Mission in the Sudan: (2008): *AMIS Humanitarian Component*

Available <http://amis-sudan.org/humaniterian.htl>

Accessed 30 September 2008

¹⁶² Ibid

¹⁶³ Child Soldiers Global Report: (2008): *Children and Armed Conflict*

Available <http://www.childsoldiersglobalreport.org/content/sudan-0>

in March 2006 the G-19 faction of the SLA, working in cooperation with Chadian government officials recruited, sometimes forcibly, 4, 700 Sudanese refugees, including hundreds of children from the Breidjing and Treguine UN-supervised refugee camps 50 km West of Adre in Eastern Chad.¹⁶⁴

Boeger reports that the UN estimate for 2007 shows that between 7,000 and 10,000 child soldiers have been forcibly recruited in Chad, where more than 25,000 refugees from Darfur are in the camps.¹⁶⁵ She said the situation has worsened since then, with the support of the Chadian government, despite the UN Agencies and other aid groups to negotiate an end to trafficking.¹⁶⁶

General Keita of the UN- lead Peacekeeping forces in West Darfur observes that in trying to solve the conflict in Darfur, Darfur must cooperate with international peacekeeping efforts in the region and better address the “proxy” war between Sudan and Chad: “...They are so interrelated, Darfur has a long porous boarder with Chad, if you want to solve the problem here in Darfur you will never succeed without solving the problem in Chad.. Everyone knows that there is Chadian opposition here in Darfur, every one knows that JEM are in Chad”.¹⁶⁷

Human Rights Watch observes that the Darfur rebel groups have long had their presence in Eastern Chad, including refugee camps which hold 200 000 refugees from Darfur. The report shows that the rebel faction JEM is a strong allie to the Chadian government, acting as a proxy force against rebel groups in return for safe harbor, material and financial support.¹⁶⁸ It is reported that the conflict in Darfur is intertwined with Chadian

Accessed 20 September 2008

¹⁶⁴ Ibid

¹⁶⁵ Boeger, J: (2008): *Darfur Child Refugees Being Sold to Militias*

Available <http://www.guardian.co.uk/world/2008/jan/06/sudan.humanrights>

Accessed 30 September 2008

¹⁶⁶ ibid

¹⁶⁷ Keita, B: Chad/Sudan: (2007): *Resolving Darfur Conflict Request to Fix Proxy War*

Available <http://sudantribune.com/spip.php?article27637>

Accessed 30 September 2008

See also African Security Review: (2005): *AU'S Critical Assignment in Darfur: Challenges and Constraints* P10

¹⁶⁸ Steiner, J, Aston, P, and Goodman, R: (2008): *International Human Rights in Context: Human Rights Watch: Q and A crises in Darfur*

political situation and with the unstable security situation along the 1,360 km Chad/Sudan borders.¹⁶⁹

The Darfur Peace Agreement in Article 342 called on parties to take note of the provisions of the Tripoli Agreement of February 2006 and especially article 4, which provides that the Government of Sudan (GoS) should ban the presence of citizen elements of the Republic of Chad in the Republic of Sudan.¹⁷⁰

Human Rights Watch investigations carried out in January and February 2006 show that the Janjaweed and Chadian rebels operate from bases in Sudanese government-controlled areas in Darfur. The report shows that Sudanese government troops and helicopters have at times supported the cross border attack in Chad.¹⁷¹

Failure to Respect the Darfur Peace Agreement (DPA)

The DPA was signed in May 2006 between the National Unity Government and a faction of the Sudanese Liberation Army (SLA) headed by Minni Minawi. It was rejected by the JEM and SLA faction for failing to address sufficiently power-sharing representation in government.¹⁷²

Article 24(M) of the DPA banned any recruitment or use of boys and girls under the age of 18. The DPA in Article 26 (275) further states that the parties shall release all boys and girls associated with armed forces and groups. UNICEF and United Nations High Commission for Refugees (UNHCR) and the International Red Cross (ICRC) shall be

¹⁶⁹ Human Rights Watch: (2006): *Darfur Bleeds: Recent Cross Border violence in Chad*
Available <http://www.hrc.org/english/doc/2006/02/16/chad12684.ht>
Accessed 30 September 2008

¹⁷⁰ *Darfur Peace Agreement*: (2006)
Available http://www.umis.org/englishDocs/DPA_annex6.pdf
Accessed 30 September 2008

¹⁷¹ Ibid

¹⁷² Child Soldiers Global Report: (2008): *Children and Armed Conflict*
Available <http://www.childsoldiersglobalreport.org/content/sudan=0>
Accessed 20 September 2008

called upon to assist in the identification, removal, family unification and reintegration of children affected by armed forces and groups.¹⁷³

Crisis Group observes that the DPA lacks support from the government, which is seen by many as another attempt by the government to fool opponents by buying them off and making empty gestures.¹⁷⁴ Waal supports that the President Omar Al-Bashir used the DPA as a cover for a military solution to the Darfur crisis. He argues that in principle, the African Union who was the custodian of the DPA, only has one professional staff member working in Sudan and it's Addis Abeba headquarters, and the DPA implementing team had only three senior professionals.¹⁷⁵

Article 407 of the DPA which was never respected, states that formal combatants will not be allowed into the army of the Sudanese National Security Forces.¹⁷⁶ Article 443 of the DPA further states that specific programs were to be drawn up to address the particular reintegration of children, especially orphans of the combatants, and article 444 called on UNICEF and other child protection organizations to support the family reintegration of children affected by armed conflict.¹⁷⁷

Mohammed's work shows that despite the merits of the agreement, analysts were concerned that it will remain a dead letter as little progress has been made to implement it since it was signed without the good faith of the parties, particularly the government of

¹⁷³ Ibid

¹⁷⁴ Crisis Group: (2008): *Sudan Horn of Africa*

Available http://www.alert.org/ib/crisisprofiles/SD_DAR.htm=at-a-glance

Accessed 30 September 2008

¹⁷⁵ Waal, A: (2006): *I Will Not Sign*

Available http://www.Irb.co.uk/v28/n23/waal01_.html

Accessed 20 September 2008

See also Hotttinger, J: (2006): *Darfur Peace Agreement: Expectation Unfulfilled*

Available <http://www.c-r.org/our-work/accord/sudan/dpa-unfulfilled.php>

Accessed 20 September 2008

¹⁷⁶ *Darfur Peace Agreement*: (2006)

Available http://www.umis.org/english/2006Doc/DPA_annex6.pdf

Accessed 30 September 2008

¹⁷⁷ Ibid

Sudan, and without the fulfillment of AMIS, whose troops were monitoring the region's ceasefire, of its verification and patrolling role, the DPA therefore was destined to fail.¹⁷⁸

Crises Group reports that the DPA offered no effective guarantee for implementation. AMIS was already stretched and lack workers and capacity to perform additional monitoring and verification duties asked of it.¹⁷⁹

Elgak writes that the post DPA era, instead of being that of joy at the accord, significantly contributed to exacerbating insecurity in Darfur and created more fragmentation between Darfurian actors.¹⁸⁰ On the ground frustration with the rejection of the content of the DPA provoked tension and clashes through out the three Darfur states, particularly in the IDP camps and the national capital of Khartoum, meeting with counter violence from government bodies.¹⁸¹

United Nations branded the Darfur situation as the worst humanitarian catastrophe as far back as 2004. More than three years later and despite the much-touted DPA signed in May 2006, the conflict continues unabated and many more child soldiers are recruited by the government armed forces and militias.¹⁸²

Jooma's work shows that the Darfur region has escalated to such a high level of militarization that it is now overwhelmed by small arms carriers and freelance bandits that are devoid of loyalty to any particular government and control structure like the DPA agreement.¹⁸³

¹⁷⁸ Mohamed, H: (2006): *Concerns Over the Implementation of the Darfur Peace Deal*
Available <http://www.thezimbabweststandard.com/international/155144.HTML>
Accessed 30 September 2008

¹⁷⁹ Crisis Group: (2006): *Darfur, Fragile Peace Agreement*
Available <http://www.crisisgroup.org/home/index.cfm?id=4179>
Accessed 28 September 2008

¹⁸⁰ Elgak, M: (2006): *There is a Significant Risk that the DPA will collapse*
Available <http://www.sudantribune.com/spip.php?article17617>
Accessed 28 September 2008

¹⁸¹ Ibid

¹⁸² Global Inside: (2006): *UN Brand International Response of Darfur "Pathetic"*
Available <http://www.globalinsight.com/productservices/productdetail684.htm>
Accessed 20 September 2008

¹⁸³ Jooma, M: Institute for Security Studies

Suleiman's work shows that the way forward for the peaceful resolution of the Darfur crisis rests, in adopting the root cause approach which looks into the crises in Darfur in the whole context of Sudan rather than the "symptom-focused approach."¹⁸⁴ This outcome according to him has worsened the situation in two years on and is evidenced an eventual abject failure of the DPA. He furthers his argument that the conflict in Darfur has to be seen as an "acute symptom of a chronic governance collapse of statehood and the AU-UN brokered mediation has proven to be an object of failure".¹⁸⁵

Limited access to social services

Kieman's work shows that in Darfur, education is one of the major casualties. Children are not going to school and risk their lives to become child soldiers.¹⁸⁶ To him education is essential in protecting children during conflict and in rebuilding the nation and strength. It is vital to alleviate poverty and reduce the risk of perpetual conflict by helping to lay the groundwork for perpetual growth, economic development, political stability and the prevention of child soldiers.¹⁸⁷

The Sudan Tribune reports that the growth of child soldiers can be caused by poor education. The reports shows that children of Darfur do not come with the JEM invaded forces; instead they have been simply collected from the streets of the capital, Khartoum, where about 70,000 street children lives.¹⁸⁸ The report states that these children are product of war, drought and are mal-developed and come from all over Sudan, commonly

Available [http://www.iss.co.za/index.php.link_id=22&slink_id=2817&link_type=12\\$mpl_id=3](http://www.iss.co.za/index.php.link_id=22&slink_id=2817&link_type=12$mpl_id=3)

Accessed 28 September 2008

¹⁸⁴ Suleiman, M: (2008): *Revitalizing the Darfur Conflict*

Available <http://www.cmi.no/sudan/docs/?d=1016>

Accessed 30 September 2008

¹⁸⁵ Ibid

¹⁸⁶ Kieman, K: (2006): *Children of Western Darfur are Getting an Education*

Available <http://www.interaction.org/newswire/detail.php?id=6194>

Accessed 28 September 2008

¹⁸⁷ Ibid

¹⁸⁸ Sudan Tribune: (2006): *Child Soldiers in Darfur*

Available <http://www.sudantribune.com/spip.php>

Accessed 20 September 2008

referred to as “Shamasa” a term which literally means “homeless children who live under direct scorching sun”.¹⁸⁹

In 2007, Coomaraswamy, Special Representative of the UN Secretary General on Children and Armed Conflict, reported that in Darfur, there are many cases where children just return to the military camps because of the lack of social services in the communities where they are sent.¹⁹⁰ Watch List supports that children of Darfur face appalling levels of violence and abuse, and with little hope and resources these children can become a source of further violence.¹⁹¹

The Inter-Agency NetWork for Education in Emergencies (INEE) reports that UNICEF estimated that 28 percent of school aged children are now going to school in Darfur, which is more children than before the conflict began. The report states that even though enrollment rates are the highest in the history of the region, 27 percent of children are not in school, and that the education situation remains “extremely” poor.¹⁹² South Darfur which is the most privileged ironically has the most IDP population of school age children who are not enrolled in school, and these children have the highest number drop-outs that leave school before even having basic literacy and numeracy skills.¹⁹³

Fegley observes that with the limited education, children in Darfur have been used in suicide missions and sent into minefields ahead of other groups. Girls have been raped and substance abuse has been encouraged.¹⁹⁴

¹⁸⁹ Ibid

¹⁹⁰ Coomaraswamy: (2007): *Child Soldiers on the Rise in Darfur*

Available http://www.iol.co.za/index.php?set_id=1&click_id=136&art_id-qw1170355501387B235

Accessed 28 September 2008

¹⁹¹ Sandrasangra , J: (2007): *Right-Sudan : Education can't Wait Until Fighting is Over*

Available <http://www.ipsnews.net/news.asp?idnews=37397>

Accessed 28 September 2008

¹⁹² INEE: Sudan-Darfur

Available <http://www.ineeserver.org/page.asp?pid=1341>

Accessed 29 September 2008

¹⁹³ Ibid

¹⁹⁴ Fegley, R: (2008): *Comparative perspective on the Rehabilitation of Ex-Slave and Formal Child Soldiers With Specific Reference to Sudan*

Available <http://www.africa.ufl.edu/asplasq/v10/v10oilaz.htm>

Accessed 28 September 2008

Sawyer's work shows that children lack basic necessities and educational opportunities in Darfur. Many of them are orphans turn to the military for food, clothing and medical attention. Many are looking for acceptance in a group and turn to their leaders as a father figure, seeking from him the approval they crave.¹⁹⁵ With no sense of their own morality, they do not question the risk they are about to take nor do they think twice about what the future they holds.¹⁹⁶

The Flow of Small Arms in Darfur

Obeid observes that the long history of conflict in Darfur has made warring parties institutionalize ways of flooding the region with small arms. The loose border at the west with Libya, Chad and the Republic of Central Africa (RCA) has helped to fuel the abundant flow of small arms into Darfur-Sudan.¹⁹⁷ His report shows that Darfur has the highest number of street children in Sudan. According to a survey, 72 percent of children said they use light weapons for protection, 20 percent for social reasons and 8 percent as a hobby. To them, religious beliefs, local cultures, tribal commitment and the government encourages the use and possession of small arms as a male business.¹⁹⁸

Fegley observes that unlike the heavier and more complex weapons of the past, modern light weight automatic rifles are used by children in Darfur. This technological development contributes to the exposure of child soldiers used in contemporary times.¹⁹⁹

Sudan Tribune reports that with the price of an AK47 the same as a chicken, child soldier's recruitment becomes all too easy in Darfur. Children are often given drugs and alcohol and encouraged to use these weapons without fear.²⁰⁰

¹⁹⁵ Sawyer, K: (2005): *Poignant Tragedy of Child Soldiers*
Available <http://www.sudantribune.com/spip/php?article11393>
Accessed 28 September 2008

¹⁹⁶ Ibid

¹⁹⁷ Obeid, H: (2002): *Small Arms Survey in Darfur and Child Soldiers*
Available <http://www.nisat.org/publications/Darfur/SA%20Suvey-Ch/ARM.doc>
Accessed 27 September 2008

¹⁹⁸ Ibid

¹⁹⁹ Fegley R: (2008): *Comparative Perspective on the Rehabilitation of Ex-Slave and Formal Child Soldiers With Case Study Sudan*
Available <http://www.Africa.ufl.edu/asplasq/v10/v10ioiaz.htm>
Accessed 28 September 2008

Foreign intervention in the Darfur Conflict

Mamdani observes that the best funded agencies in the Darfur conflict are mostly from the developed world; he observes that much criticism has been leveled at their programs, which involves foreign intervention in complex local conflicts.²⁰¹ He advances that international agencies are often over scrutinized, lack knowledge and seldom speak the language of those they are about to help. Expensive foreign experts often bypass local concerns and wisdom in Darfur. Pro-government militias and anti-government Darfurian rebels have used child soldiers extensively and UNICEF has proven to be the only agency capable of mass demobilization.²⁰²

Essa supports this by observing that the AU and the UN have failed in their mandate to monitor the shaky ceasefire between the warring parties of Darfur. He argues that the AU and the UN are seen to be very sympathetic with the government because they have close relations and cooperate much together.²⁰³ Nur, leader of the SLA, supports this point by observing that the UN-AU have failed to be observers, “their presence had no effect on the ground, all they have to do is watch and write, arguing that the military observers have also failed to report against attacks on children. They often arrive four to five days after the incident.”²⁰⁴

Rankhumise writes that the Darfur conflict has given sufficient opportunities for a more serious pragmatic assessment of state’s sovereignty and intervention. On the one hand, while the international communities, the AU and the UN have engaged in the parties to the conflict, the insecurity on the ground has changed very little.²⁰⁵ He advances that the

²⁰⁰ Sudan Tribune: (2006): *Poignant Tragedy of Child Soldiers*
Available <http://www.sudantribune.com/spip.php?article11393>

Accessed 28 September 2008

²⁰¹ Mamdani, M: (2007): *Blue Hatting Darfur*

Available <http://www.globalpolicy.org/security/issues/sudan/2007/0905/blehatting.htm>

Accessed 28 September 2008

²⁰² *ibid*

²⁰³ Sudan Watch:(2005): *Child Soldiers in the Janjaweed Breakwat in Darfur Rebel Groups NMRD*

Available <http://www.sudanwatch.blogspot.com/2005/02/sudan-child-soldier-in-Janjaweed.and.html>

Accessed 20 September 2008

²⁰⁴ *Ibid*

²⁰⁵ Rankhumise, P: (2006): *Civilians (in) insecurity in the Darfur Region of Sudan, Occasional Paper 123*, (2006)

Darfur Intelligent Task Force (DITF) reports that troop movement, illegal occupation and child soldiers increased significantly in 2005 and 2006.²⁰⁶

Failure to respect the Tripoli Agreement;

The failure to respect the Tripoli Agreement is seen as one of the reasons which impedes the application of international children rights laws in the Darfur region of Sudan. Article 4 of the Agreement calls for a ban on Chadian citizen elements in the Republic of Sudan who use children as soldiers in armed conflict.²⁰⁷

3.4 Conclusion

To conclude, the diverse culture of the Darfur region of Sudan, the numbers of tribes, the vast and inaccessible region can be said to be one reason why child's rights laws cannot be implemented in the Darfur region of Sudan. On the other hand, the limited access to humanitarian support, the failure to respect the DPA, foreign intervention, the lack of social facilities and the flow of small arms can be said to be a further problems that impede the application of children's rights law in Darfur. From the above, it is evident that the application of children's rights law in Darfur is a tale not so easy to tell or a problem not so easy to solve. The next chapter will look at conflict transformation and the alternative way it provides to stop conflict in Africa that will help stop the use of child soldiers

Available <http://www.iss.co.za/pub/paper/123/paper123.html>

Accessed 20 September 2007

²⁰⁶ Ibis

²⁰⁷ Sudan Tribune: (2007): Chad/Sudan

Available <http://www.sudantribune.com/php?article27637>

Accessed 21 October 2008

CHAPTER FOUR

Remedies suggested by Conflict Transformation as a way to prevent future civil wars in Africa that involve children as soldiers with particular emphasis on the situation in the Darfur region of Sudan

4.1 Introduction

The Darfur region of Sudan today remains conflict prone with children still being recruited as soldiers by government forces and militias. International humanitarian and human rights instruments for the protection of children in armed conflict, the CRC and the OPAC, ACRWC are being violated on daily bases. The international community has failed to positively respond to the cries of these children. This is very evident by the 2008 Global Report on Children and Armed Conflict in Sudan and the October 2008 report by the Special Representative of the Secretary General of the UN on Children and Armed Conflict discussed in chapter two.

This chapter will examine the theories and practice proposed by conflict transformation as an alternative way of solving conflict in Africa. Firstly I will define conflict transformation. I will bring out in the definition the difference between conflict transformation and conflict resolution. Secondly, I will examine the theories of peace and conflict as understood by scholars of conflict transformation. Here I shall bring out the concept of negative and positive peace. Thirdly, I will examine the concept of nonviolent transformation of conflict, bring out the stages in which this concept can succeed. Fourthly, I will examine the remedies proposed by conflict transformation as an alternative for peace in Africa. I will then conclude this chapter by giving a resume of the research drawn from this chapter.

4.2 What is Conflict Transformation?

Lederach observes that conflict transformation is about understanding the notion and the nature of conflict within a cross-cultural and multi-disciplinary context. To him, the aim of conflict transformation is not just to wipe out or control of conflict but, rather, the

facilitation of the process of change controlled by the cause of conflict.²⁰⁸ Conflict transformation according to Lederach accepts that while conflict, left unchecked, can be destructive, its outcome can be changed through constructive intervention. Conflict transformation assumes that conflict is a manifestation of complex processes and that a holistic approach is necessary to create a situation in which efforts expressed in a destructive manner can be turned towards cooperative and innovative attempts at working towards long-term peace solutions.²⁰⁹

Miller and King point out that conflict transformation focuses on the relationship between the parties in the midst of, or previously engaged in, a giving conflict. It is aimed to replace suspicion, hatred, animosity, stereotype, and fear with comprehension, consciousness, sympathy, possible forgiveness, and in rare cases, compassion.²¹⁰ They further their point that in a broad sense, openness to change, flexibility, the ability to peacefully modify approaches and learning from processes is what conflict transformation is all about.²¹¹

Conflict transformation is an ongoing process of changing relationships, behaviors, attitudes, and structures from negative to positive. It requires timely intervention, respect for cultural context, patience and persistence and a comprehensive understanding of conflict.²¹²

Conflict transformation is a more accurate term than conflict resolution. It is particularly so because the actual resolution of conflict occurs only rarely. Conflict resolution strategies simply may not offer options when the underlying grievances or injustice are so serious that they deserve full engagement.²¹³

²⁰⁸ Lederach, P: (1996): *Preparing for Peace-Conflict Transformation Across Cultures*

²⁰⁹ Ibid

²¹⁰ Miller, A and King, E : (2006): *Teaching Model: Nonviolent Transformation of Conflict*

²¹¹ Ibid

²¹² World Version: (2008): *Conflict Transformation*
Available <http://www.worldversion.org/uk/server.php=nav.si>
Accessed 16 September 2008

²¹³ Miller, A and King, E: (2006): *Teaching Model: Nonviolent Transformation of Conflict* P 57

Lederach supports this point. He observes that conflict transformation moves beyond the aims of conflict management and conflict resolution. Conflict transformation to him, can be described as a process and structurally orientated long- term peace building efforts, which aim to truly overcome forms of direct, cultural and structural violence and promote conditions for long lasting relationships.²¹⁴

4.3 Understanding the theory of peace and conflict in Conflict Transformation

George-Williams work shows that in Africa, the argument that what is achieved by aggression must be given by aggression ranks as one of the most unfortunate thinking ever exposed. To him, there is no doubt that violence has it's merits, but the problem is that it pays indiscriminately; the problem with violence, he observes, is that the means surpasses the end. The practice of aggression, like all action, changes the world, but the most visible change is to a more aggressive world.²¹⁵

Peace in conflict transformation

Banks observes that peace consist of new ways of thinking and acting and therefore requires scholars and practitioners alike to employ a tactical shift when thinking about peace. Peace to him is not merely the absence of war or manifest lack of violence; it includes something more than the absence of war.²¹⁶ To Banks, it is true that conflict is "endemic, inevitable and necessary".²¹⁷ It is inevitable because people have basic human needs expressed through competing values and interest. Conflict is necessary because it opens the way for social change, processes and progress. What needs to be done is not the eradication of conflict but the knowledge and skills on how to manage conflict and prevent its destructive effects.²¹⁸

Lederach and Maise in their work see peace as surrounded and rooted in the quality of relationships. This includes a face to face intervention in a way in which society is

²¹⁴ Lenderach, P: (1996): *Pre paring for peace- Conflict Transformation Across Cultures*

²¹⁵ George-Williams, D: (2006): *Bite Not One Another: Selected Accounts of Nonviolent Struggle in Africa*
P13

²¹⁶ Banks, M: *Four Conceptions of Peace* (1981) Unpublished

²¹⁷ Ibid

²¹⁸ Ibid

structured. It includes social, political, economic and cultural relationships.²¹⁹ According to them, peace is a “process structure” a practice that is simultaneously flexible, adaptive and changing. Rather than seeing peace as a static end state, conflict transformation sees peace as continuously rotating and developing quality relationships. It is defined by intentional efforts to avoid the natural rise of conflict through nonviolent approaches that address issues and increase understanding, equality and respect in relationships.²²⁰

George- Williams supports this point by observing that nonviolent strategy actions not only suffer the possibility of achieving short-term objectives, but they can also lead to more stable and equitable results benefiting all the parties to a conflict. They can improve the chances of reaching negotiations, transform the conflict into a manageable situation without destructive discord, and lay the foundation for reconciliation.²²¹

Miller and King observe that peace is one of the deepest and most universal desires in the field of peace and conflict studies. While lacking an exact and consistent, unified theoretical definition, it continues to shape and refine the term in its purview to arrive at a more exact meaning. To them, positive peace provokes debates, but may be interpreted as the building of peace and non-explorative social structures of justice and human rights.²²² They further their point that positive peace stands in opposition to the old notion of peace as the absence of war, a now discredited interpretation often referred to as negative peace.²²³

The Center for Conflict Management brings out the distinction between positive and negative peace in conflict transformation. Negative peace refers to the absence of violence. In situations where a ceasefire is adopted, a negative peace will ensue. In is negative because something not wanted to stops happening, violence is stopped and the oppression is ended. Positive peace on the other hand is filled with positive content such

²¹⁹ Lederach, P and Maise, M: (2003) Conflict Transformation
Available <http://www.beyondintractability.org/essay/information/>
Accessed 15 October 2008

²²⁰ Ibid

²²¹ George-Williams, D: (2006): *Bite Not One Another: Selected Accounts of Nonviolent struggles in Africa* P15

²²² Miller, A and King, E: (2006): *Teaching Model: Nonviolent Transformation of Conflict* P42

²²³ ibid

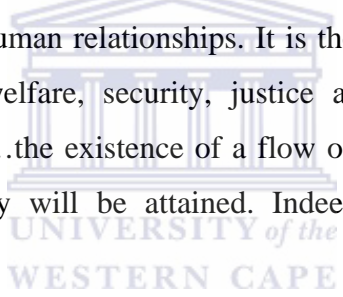
as the restoration of relationships, the creation of social systems that comes to the needs of the whole population and the constructive resolution of conflict.²²⁴

Conflict in conflict transformation

Conflict is defined as a struggle between two or more tendencies of action that are neither contrary or in the same direction but are mutually exclusive.²²⁵

Maill's work shows that conflict is an unavoidable aspect for social change. It is an expression of the heterogeneity of interests, values and beliefs that arise as new formations generate social change come up against inherited constraints.²²⁶

Burton observes that conflict is not inherently bad. It is a permanent and essential feature of the society with a functional role to play. According to Burton, "conflict, like sex, is an essential creative element in human relationships. It is the means for change, the means by which social values of welfare, security, justice and opportunities for personal development can be achieved...the existence of a flow of conflict is the only guarantee that the aspirations of society will be attained. Indeed conflict, like sex, is to be enjoyed."²²⁷



4.4 Nonviolent conflict transformation

Nonviolent conflict transformation manifests itself through acting in a conflict and through a life style. A nonviolent attitude in the transformation of conflict tries to deescalate personal violence and reduce structural and cultural violence.²²⁸ Nonviolent

²²⁴ Center for Conflict Resolution: Skills Development for Conflict Transformation
Available <http://upan1.un.org/intradoc/groups/public/documents/upan001363.pdf>
Access 17 October 2008

²²⁵ Kurve Wustrow: (2007): *Training of Trainers in Nonviolent Conflict Transformation*
Available <http://www.trainingoftrainers.org/finalcurriculum.pdf>
Accessed 15 September 2008

²²⁶ Maill, H: (1999): *Contemporary Conflict Transformation*

²²⁷ Burton, J: Conflict
Available <http://www.hypassoc.com.au/conflict.doc>
accessed 15 September 2008

²²⁸ Kurve Wustrow: (2007): *Training of Trainers' in Nonviolent Conflict Transformation*
Available <http://www.trainingoftrainer.org/finalcurriculum.pdf>
Accessed 15 September 2008

actors stand out for justice and human rights. It empowers those whose voices can not be heard to develop power and express their concerns. Nonviolent actions remain always open to dialogue with the powerful, the perpetrators of violence or injustice.²²⁹

Kurt's work shows that nonviolent action is active; it involves activity in the collaborative pursuit for social and political objectives. It does not involve physical force, or threat to physical force against human beings.²³⁰ He advances that nonviolent action involves an active process of bringing political, economic, social, emotional and mental pressure under control and promotes continues interaction between collective actors.²³¹

Miller's work shows that in understanding nonviolent struggles, it is necessary to focus on description of behaviors, rather than on beliefs. To him, the adoption of nonviolent struggle does not rely on ethnical systems, moral codes, religious adherence, or personal convictions. Thus it is appropriate to refer to individuals and groups who practice non violent struggles as proponents or advocates regardless of the values they reveal in their communities and societies.²³²

George- Williams observes that nonviolent struggle is a realistic alternative to armed struggle, yet its use may be even more pertinent in democratic systems where laws themselves may enshrine injustice. He furthers his point that where legal and parliamentary measures persist in ignoring the rights of minorities or fail to bring about even- handedness in the representatives of government, it may be necessary to turn to extra-legal or extra- parliamentary theories and methods of resistance.²³³

Miller and King points out in their work that the study of nonviolent action has developed from two basic perspectives, firstly, instrumentalist view the techniques as a functional equivalent of war and other form of conflict engagement, and are primarily concerned

²²⁹ Ibid

²³⁰ Kurt, S: (2003): *Nonviolent Action and its Misconception: Insight for Social Scientist* P 705

²³¹ Ibid

²³² Miller, A: (2006): *Only Young Once: an Introduction to Nonviolent Struggle for Youths* P 21

²³³ George-Williams, D: (2006): *Bite Not One Another: Selected Accounts of Nonviolent Struggles in Africa* P15-16

with how to improve and refine its practice. Secondly, the normative approach based on ethical values, morals, convictions, religious faith or spiritual groundings.²³⁴

Dugan work shows three major categories of nonviolent action. The first is protest. According to Dugan, these are actions that bring out the issue in contention or desired strategy for responding a situation. Firstly, through petitions, leafleting, or vigil marches. The second point he observes is the principle of non- cooperation. Here he says protestors may refuse to participate in a behaviour to which they object socially, economically or politically. Methods include civil disobedience, boycott or strikes. Lastly he talks about nonviolent intervention. Here the protestor actively interferes with the activities for which they are refusing. This may include overloading of facilities and being parallel with the government.²³⁵

Zunes, Kurtz and Asher observe that in nonviolent struggles the protestors can use the following means: Firstly, in nonviolent conflicts, protestors often use creative and thought provoking conflict symbols to communicate their will. Secondly, insurgents employ nonviolence, non-cooperation and non intervention to draw the attention of the authorities and pressure them to make concessions. Thirdly, social movements take advantage of the principle whereby regimes attempts of oppression backfires, magnifying people's anger, delimitating the regime and further mobilizing opposition movements.²³⁶

4.5 How can nonviolent struggles succeed?

Conversion

Miller observes that nonviolent struggles can succeed if a party to the conflict accepts with the justification of the ideas of the protagonist and in turn concedes, relying upon the shift in objective. The opponent accepts the new point of view and the goal of nonviolent protagonist with some involvement of their emotions and belief systems.

²³⁴ Miller, A and King, E: (2006): *Teaching Models: Nonviolent Transformation of Conflict* P74

²³⁵ Dugan, A: (2003): *Nonviolence and Nonviolence Direct Action*

Available http://www.beyondinteractability.org/essay/nonviolent_direct_action/

Accessed 15 September 2008

²³⁶ Zunes, S, Kurtz, R, and Asher, S: (1999): *Nonviolent Social Movement: A Geographical Perspective* P 208

Conversion, in which the heart and mind of the targeted groups can be touched, is the rarest mechanism.²³⁷

Nonviolent coercion

King and Miller observe that nonviolent struggles can succeed if a party to the conflict is compelled to concede due to the actual method of nonviolent protagonist. They point out that although in the exercise of nonviolent methods, real force may be exerted as when a “boycott hurt the bank account of an unfair merchant,” goals are achieved against the will of the adversary.²³⁸

Disintegration

George- Williams shows that disintegration occurs in nonviolent struggles when a leader or regime crumbles as a result of massive defiance and withdrawal of cooperation.²³⁹ This was Gandhi’s idea of nonviolent civil disobedience. According to Gandhi, “Civil disobedience is civil breach of unmoral statutory enactment.” But as he viewed it, it had to be carried out nonviolently by withdrawing cooperation with the corrupt state.²⁴⁰

4.6 Remedies suggested by Conflict transformation to stop civil wars in Africa and child soldiering with emphasis on the Darfur region of Sudan

Reconciliation

Conflict transformation suggests that long-range peace includes reconciliation and psychological healing. According to Miller, positive peace presupposes such goals. In some instance, in may be possible to reconcile formal enemies, even when one or several

²³⁷ Miller, A: (2006): *Teaching Model: Nonviolent Transformation of Conflict* P 8

²³⁸ Miller, A and King, E: (2006): *Teaching Models: Non-violent Transformation of Conflict* P82

Also see Kurt, S: (2003): *Nonviolent action and its Misconception: Insight for Social Scientist* P 706

²³⁹ George-Williams, D: (2006): *Bite Not One Another: Selected Accounts of Nonviolent Struggles in Africa* P 22

²⁴⁰ Explanation Guide: (2005): *India Independence Movement: The Beginning of the British Empire*

Available <http://explanation-guide.infos/meaning/india-independence-moverment.html>

Accessed 20 October 2008

parties have suffered severely.²⁴¹ Their report shows that reconciliation, according to Lederach, is both a concept and a principle that endeavors to restrain the conflict so that parties are no longer focusing on issues in a direct manner.²⁴²

Brahm observes that healing can prevent further violence and facilitates reconciliation. He advances that reconciliation is necessary if groups are to live together peacefully. By reconciliation, he means coming together and developing mutual trust which requires forgiving and truth. Reconciliation means that victims and perpetrators come to accept the past, and not see it as defining the future but simply a continuation of the past. They have come to see the humanity in one another, accept each other and see a possibility of constructive relationship.²⁴³

Archbishop Emeritus Tutu of South Africa emphasizes this point of forgiving. He observes that, in forgiving, people are not being asked to forget. On the contrary, it is important to remember, so that we should not let atrocities happen again. Forgiveness does not mean that we should condone what have been done. It involves trying to understand the perpetrator and so have empathy, to try and stand in their shoes, and to appreciate the sort of pressure and influence that might have forced them to do what they did.²⁴⁴

Tomlinson and Lewicki show that truth brings out the willingness of parties to a positive expectation of their conduct. They observe that truth has always been used as glue that holds relationships together and enable individuals to perform more efficiently. To them truth reduces uncertainty over future outcome and simplifies discussions processes and produces peace of mind.²⁴⁵

²⁴¹ Miller A: (2006) *Only Young Once: An Introduction to Nonviolent Struggles for Youth*

²⁴² *ibid*

²⁴³ Brahm, E: (2003): *Trauma Healing*

Available http://msct.beyondinteractability.org/essay/trauma_healing/

Accessed 15 October 2008

²⁴⁴ Miller, A and King, E: (2006): *Teaching Model: Nonviolent Transformation of Conflict* P 112

See also Tutu, D: (1999): *No future without Forgiveness*

available <http://www.yesmagazine.org/article.asp?id=962>

Accessed 21 October 2008

²⁴⁵ Tomlinson, C and Lewicki, J: (2003): *Managing Interpersonal Trust and Distrust*

Miller and King observe that peace building and constructive conflict transformation is simultaneously a visionary and context- responsive approach. In quoting Lederach in their observations they observe that man is orientated towards the building of relationships that in their totality form new patterns, processes and structures.²⁴⁶

Conflict transformation suggests that apology and forgiveness in reconciliation are two sides of the same coin. They reflect the constructive ways the oppressor and the oppressed in an intractable conflict come to grips with pain and suffering. The oppressors who have committed human rights violations and other atrocities have to take the responsibility for their actions and apologize. Their apology must be heartfelt and reflect true remorse for the past action.²⁴⁷

Collaboration

Schultz observes that strategies of fact finding are meant to be a strategy for resolving factual conflict. Empowering joint fact finding means addressing a factual conflict by forming a single fact finding team composed of experts and decision makers, representing both sides of the conflict.²⁴⁸

Conflict transformation suggests that nonviolent action methods ultimately should be elevated and allocated in accordance with effectiveness, appropriateness and legitimacy. By effectiveness it means that individuals need to be educated on how to conduct the action method, especially in places where nonviolent sanctions are not widely used, or where armed rebellion and guerrilla warfare have become accepted. Appropriateness means the successful use of methods in one situation does not mean it will necessarily

http://msct.beyondinteractability.org/essay/trust_overview/

accessed 17 October 2008

²⁴⁶ Miller, A and King, E: Teaching Model: (2006): *Nonviolent Transformation of Conflict P109*

²⁴⁷ Hauss, C: (2003): *Apology and Forgiveness*

Available http://msctbeyondintractability.org/essay/appology_forgiveness

Accessed 17 October 2008

²⁴⁸ Schultz, N: (2003): *Joint Fact finding: An Adversary in need for Information.*

Available http://msct.beyondinteractability.org/essay/fact_finding/

Accessed 16 October 2008

profitable in another. Legitimacy means creativity and ingenuity in maintaining momentum, initiatives, and interest.²⁴⁹

Negotiation

Negotiation is a voluntary attempt to solve conflict that arises from competing needs, interest and goals. It is a problem solving approach in which parties agree rather than resort to violence and force. In situations where relationships are threatened or have been harmed, high mistrust exists and violence occurs, negotiation as a problem solving approach becomes very relevant.²⁵⁰

Maiese points out that negotiations are talks between two or more disputants who are trying to work out a solution to their problems. He observes that interpersonal and intergroup conflict can occur at interpersonal level, as well as at international diplomatic levels. Negotiation typically takes place because the parties wish to create something new that neither could do on his own, or to resolve the problem between them.²⁵¹

The role of the media

Conflict transformation suggests in deeply divided societies, the media can shape opinions and decisions related to the nature and scope of conflict and constructively handle actual and potential conflict. In their work, Onadipe and Lord observe that where society is disintegrated into widespread violence, the role of information in mitigating the effects of violence or presenting alternatives can be crucial. For them, there is little doubt that information is the key component to power, to change social, political and economic condition for good or ill.²⁵²

²⁴⁹ Miller, A: (2006) *Only Young Once: An Introduction to Non Violent Struggles* P 39

²⁵⁰ Center for Conflict Resolution: (1997): *Skills Development for Conflict Transformation*
Available <http://upan1.un.org/intradoc/group/public/document/un/upan001363.pdf>
Accessed 17 October 2008

²⁵¹ Maiese, M: (2003): *Negotiation*
Available <http://msct.beyondintractability.org/essay/negotiation/>
Accessed 17 October 2008

²⁵² Onadipe, A and Lord, D: (1999): *Conciliation Resources: African Media and Conflict*
Available <http://www.c-r.org/resorces/occational-papers/africa-media-and-coflict.php>
Accessed 21 October 21, 2008

Dialogue

Conflict transformation suggests that dialogue is a fundamental process leading directly to personal and organizational transformation. Ellinor and Glenna supports that dialogue assists creative environments of high trust and openness with reflective and generative capacities. It is a revolutionary approach for conflict exploration, decision making and problem solving.²⁵³

Maiese's work shows that dialogue differs from other modes of communication including mediation, negotiation, discussion and debates. He furthers his point that dialogue is not only about resolving disputes, but rather on improving the way in which people with significant differences relate to each other.²⁵⁴ The main aim to him is to promote respectful enquires, and to stimulate a new sort of discussion that allows important issues to surface freely.²⁵⁵ While opponents in a deep rooted conflict are not likely to agree with each others views, they can come to understand each others perspective.²⁵⁶

Transformative Mediation

Burgess observes that transformative mediation does not seek a resolution of the immediate problem, but rather, seeks the empowerment and mutual recognition of the parties involved in the conflict. Empowerment, according to Burgess, helps the parties to the conflict to define their own issues and seek solutions. Recognition helps parties to seek and understand their own point of view, understanding how they can define the problem and find a solution.²⁵⁷

²⁵³ Ellinor, L and Glenna, G: (2003): *Dialogue*

Available <http://www.thedialoguegrouponline.com/whatsdialogue.html>

Accessed 21 October 2008

²⁵⁴ Maiese, M: (2003): *The Need for Dialogue*

Available <http://msct.beyondintractability.org/essay/dialogue/>

Accessed 21 October 2008

²⁵⁵ Ibid

²⁵⁶ Ibid

²⁵⁷ Burgess, H: (1997): *Transformative Mediation*

Available <http://www.colorado.edu/conflict/transformation/tmall.htm#Empowerment>

Accessed 21 October 2008

Bush and Folger observe that often empowerment and recognition have paved the way for mutual agreement of conflict settlement. To them, the primary goal of transformative mediation is to foster parties' empowerment and recognition. Helping parties to approach their problem with a stronger yet more open view, according to Bush and Folger, helps to avoid the problem of defectiveness which so often occurs in problem solving mediation, putting responsibility for the outcome squarely on the disputants.²⁵⁸

4.7 Conflict Transformation and suggested remedies for the civil war and child soldiers in the Darfur region of Sudan

Conflict transformation, as a suggested remedy for armed conflict and child soldiers in Darfur, suggests that in Darfur region of Sudan, the powerful, the perpetrators of violence and injustice should open dialogue and empower those who feel marginalized to develop and express their concerns freely. If this is done, surely talks can start to address the situation of child soldiers and possible solutions could be discussed jointly.

Nonviolent struggle suggest that in the Darfur region of Sudan, the protestors of the violence should not rely on ethnic systems, moral codes, religious adherence or personal convection²⁵⁹ to address the issue of armed conflict and use of children as soldiers. It will be very necessary to refer to individuals or groups who practice nonviolent struggle as advocates regardless of what values their societies attach to them.²⁶⁰ This can help solve the armed conflict in Darfur and bring about a stop in the use of child soldiers.

Conflict transformation as a nonviolent struggle suggests that Darfurians should turn away from armed responses to nonviolent action in response to the civil war and child soldiers. Civil disobedience in the form of strikes, petitions, principle of non-cooperation, refusal to participate in economic social and political activities should be used as an

²⁵⁸ Bush, B and Folger, P: (1994): *The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition*

Available <http://www.colorado.edu/conflict/transformation/bushbook.htm>

Accessed 21 October 2008

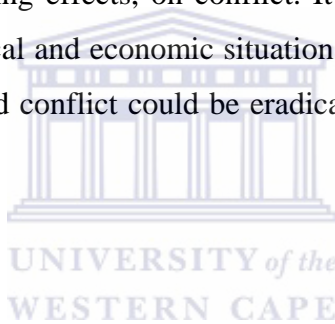
²⁵⁹ Miller, A: (2006) *Only Young Ones: An Introduction to Nonviolent Struggles for Youth* P21

²⁶⁰ Ibid ,

alternative means to draw the government attention to the plight of the children. This can help to stop armed conflict in the Darfur region of Sudan and the use of child soldiers.

Conflict transformation suggest that in the Darfur region of Sudan, the process of reconciliation and healing should be employed as an alternative for armed conflict and child soldiers, old generals in the armed forces and the rebel forces should come together and develop a sense of mutual trust, forgiveness and truth. They should accept the past and look at the future, allowing the perpetrators to apologies for crimes they have committed

The media should play and important rule to educate the Darfurians about nonviolent struggle. Conflict transformation could use the media and dissemination of information as a tool which can have mitigating effects, on conflict. It is seen as a key component to power, to change social, political and economic situations for good or ill.²⁶¹ If the media in Darfur plays this role, armed conflict could be eradicated and children will no longer be used as soldiers.



4.8 Conclusion

To conclude, from research done in this chapter, nonviolent struggles can be said to be a realistic alternative to armed struggles. Africans and the international community should change their minds about the notion that what is taken with the gun can only be given with the gun. Sudan and the Dufurians have failed to respect relevant international instruments for the protection of children in armed conflict. (The CRC, ACRWC, OPAC). Sadly, the UN Mission in Sudan (UMIS) and the AMIS have also failed in their quest for peace in Darfur. The failure to bring peace in Darfur only alleviates the recruitment of child soldiers. Conflict transformation tells the international community that conflict is not totally bad. What need to be done as proposed by conflict transformation is to accommodate conflict and look for alternative ways from the already existing ones. The Darfurian and the international community should use the principles of

²⁶¹ Onadipe, A, Lord, D: Conciliation Resources: African Media and Conflict
Available <http://www.c-r.org/resources/occational-paper/africa-media-and-conflict.php>
Accessed 21 October 2008

conversion, accommodation, nonviolent coercion, disintegration, truth, reconciliation, dialogue, transformative mediation and the media. This will help to stop the civil war in the Darfur region on Sudan. When this happen child soldiers will inevitably be a forgotten tale in Darfur.

The next chapter will draw the conclusion of this research on child soldiers and conflict transformation and give recommendations on the lessons drawn from this research.



CHAPTER FIVE

Conclusion and Recommendation

5.1 Introduction

This study is aimed at analyzing the problem of child soldiers in the Darfur region of Sudan as it is and ought to be. The core of this study is to strongly prove that the mechanisms put in place for the protection of child soldiers is inadequate specifically relating to child soldiers in Darfur. Apart from looking at the international humanitarian law and international law mechanisms for the protection of children in armed conflict, this study has also look at the theory of conflict transformation as an alternative way to better the lot of child soldiers in the Darfur region of Sudan. Conflict transformation provides a long range goal in peace building that includes reconciliation and social healing by recourse to justice through formal institutions. What follows is a comprehensive conclusion and recommendation of the findings of this study.

5.2 Conclusion

Over the past two decades, there has been a massive improvement in international law, policies and programs for the protection of child soldiers. In 1989 the UN- CRC came into existence. Finally, the international community was attempting to deal with the issue of child soldiers. In 1990 the ACRWC was adopted as the first regional treaty to address the problem of child soldiers in Africa. It has been noted that the ACRWC is applauded for it's objectivity that children who have not attained the age of 18 years do not take part in armed hostilities. In the year 2002, following the dissatisfaction of Article 38 of the CRC which allows 15 years participation of children in armed hostilities, the OPAC was adopted to address some of the shortcomings of the CRC in relation to children and armed conflict. It raised the minimum age for recruitment and participation of children in armed hostilities to 18 years.

However, despite these efforts by the international community, children still play an increasingly active role within armed forces, rebel groups and militias in today's armed

conflicts. This is particularly evident in the Darfur region of Sudan. At present an estimated 3000, 000 children, almost half of which are in Africa, serve in conflict throughout the world.²⁶² In the Darfur region of Sudan, an estimated 19, 000 child soldiers were recruited as of August 2006.²⁶³

International law relating to children's participation in armed conflict has failed to come to the aid of children caught up in hostilities. The mechanisms put in place by the international community, the UN and NGOs alike, are either ill-equipped or lack the necessary qualified personnel to adequately address the plight of children in situations of armed conflict. As children become involved as combatant in armed groups and militias in the Darfur region of Sudan there may be a need to look for alternative protection under the theories and principles of conflict transformation beyond the traditionally defined roles laid down by international law for the protection of child soldiers.

The CRC as an international human rights instrument, although seen as a modern green light to the protection of child soldiers, has failed in its mission to protect the children in the Darfur region of Sudan. This is because, firstly, the CRC allowed the participation of children aged fifteen to participate into national armed forces although article one defines a child as anybody below the age of 18 years. This was argued against by human rights advocates who wanted a straight 18 years ban on child soldiers, but represents a compromise.

Secondly, individual children had little chances of successful legal action under the CRC. Most states provide the treaty obligation enforceable in their municipal court can only be possible when the treaty is part of municipal law and by appropriate legislative law.²⁶⁴ Thus if the CRC has not been incorporated into the domestic law of states, and an

²⁶² Child Soldiers Global Report: (2008) *Children and Armed Conflict*
Available <http://www.childsoldiersglobalreport.org/content>
Accessed 26 October 2008

²⁶³ Child Soldiers Global Report: (2008):*Sudan's Children and Armed Conflict*
Available <http://www.childsoldiersglobalreport.org/content/sudan-0>
Accessed 28 October 2008

²⁶⁴ Bennett, T: (1998): *The Recruitment of Child Soldiers: Using Children in Armed Conflict: A Legitimate African Tradition*

appropriate complain mechanism is established, the problem of child soldiers can be solved, especially in the Darfur region of Sudan.

Thirdly, the monitoring mechanism of the CRC, The Committee on the Rights of the Child, is not a good vehicle in times of war. This is because it cannot respond to situations of emergency, cannot make ad-hoc recommendations or comment on situation of countries outside its concluding comment on state reports, cannot hear individual complaints, impose sanctions on offenders or offer compensation.

Following the dissatisfaction with the lack of protection of the CRC, the OPAC was adopted to redress the shortcomings of the CRC. Although relatively important in that it raised the minimum age for recruitment to 18, it does not adopt a “straight 18” position. It allows for voluntary recruitment, neglects girl soldiers. States obligations and enforcement mechanisms are also weak because of the shortcomings of the Committee of the Rights of the Child as cited above.

Firstly, the distinction between compulsory and voluntary recruitment under the OPAC is very difficult to determine as voluntary recruitment may be coerced to the lack of food, the need for physical protection, poverty or revenge.

Thirdly, the wording of Article 4 of the OPAC “should not” as oppose to “shall not” leaves doubts as to how effectively the OPAC will prevent the recruitment and participation of children in internal armed conflicts. This seems to impose a moral, rather than a legal, obligation under international law.

The ACRWC is the most significant. It offers children better levels of protection than the CRC and the OPAC, and is considered the most comprehensive human rights document for the protection of the rights of the child. The African Committee also has the mandate for enforcement which should be utilized to its highest potential. However the ACRWC has failed to respond to birth registration under Article 6(4) for the reason of clarifying a chronological age of children and to fully address the issue of who a child is. The lack of finance is also a set back to the proper function of the African committee. Should African

states help finance the African committee, the African child can hope for rescue from the African committee.

From the angle of the UN General Assembly, although resolution 1612 defines six gross violations against children in armed conflict, and voted unanimously to establish a mechanism for monitoring and reporting violations, the mechanism remains weak and unenforceable.

However, although the problem of child soldiers rests more on international law, municipal government themselves make it very difficult for child rights laws to be implemented in their municipal laws and legislation. The lack of political will of most governments, the bureaucracy of the UN and the philosophy that violence beget violence has made it very difficult for child rights laws to be implemented in most countries in Africa, particularly in the Darfur region of Sudan.

Finally, recognizing the fact that international child rights instruments have failed to protect child soldiers in the Darfur region of Sudan, this study proposes the theories and principles of conflict transformation. Conflict transformation is not, however, seen as a panacea, but as an alternative means of nonviolent intervention through which peace can be restored in Darfur and stop the use of child soldiers. To borrow UNICEF State of the World's Children 1996, "Children need to be victims of war only if there is no will to protect them. Experience in a dozen of conflict that extra- ordinary action have been taken and can be taken to protect and provide for children."²⁶⁵

5.3 Recommendation

For international children's rights laws for the protection of child soldiers to be successful and respected, the OPAC should evaluate the nature of state obligation to the treaty. A straight "18" position should be adopted as a universal rule for recruitment of children in armed hostilities both directly or indirectly. States should be encouraged to

²⁶⁵ UNICEF: State of the Worlds Children
Available <http://www.un.org/rights/concerns.htm>
Accessed 28 October 2008

enact into their legislation and clearly prohibit the recruitment of children into their armed groups or militia and their use in direct hostilities Effective individual complaint mechanisms should be put in place to hear the problem of child soldiers.

Under the OPAC, for the purpose of enforcement, the wording of Article 4 should be changed to bring a more legal rather than a moral obligation to state parties. The word “should not” should be replaced with “shall not” to clear the doubts about the effectiveness of the OPAC and to give it a more legal nature.

The CRC monitoring mechanism should be given the mandate to respond in situations of emergency, in times of war, to make ad-hoc recommendations or comments on situations of countries outside their concluding comments of states reports, hear individual complaints and offer compensation to victims of child soldiers.

The term “voluntary” recruitment should be eliminated from the OPAC as there seems to be no clear cut distinction between voluntary and compulsory recruitment. Direct recruitment should be given a broader look to involve children who are in military schools to comply with the age of recruitment.

The UN should force states to respect the Security Council Resolution 1612 of 2005 which defines six grave violations of child soldiers. This resolution should be a leading tool in the application of international human rights and humanitarian law in relation to children and armed conflict.

The African Charter is a comprehensive and most admired instrument for the protection of children. As the first regional organ and a relatively strong one, African states should support the ACRWC with the funding necessary to help bring smiles to the faces of African child soldiers. The African Charter should also take the issue of national birth certificates seriously. This will ascertain a chronological age pattern which will help in addressing the issue of child soldiers.

In the light of Darfur, the international community, the UN Agencies and NGOs should ask the Darfur rebel groups and militias to respect Article 24(257) of the DPA for a Joint

Humanitarian, Facilitation and Monitoring unit (JHMFU) to monitor humanitarian assistance and welfare conditions, and to act in supportive role with AMIS and UN agencies in human rights and humanitarian matters.

The international community should force the people of Darfur to respect the Tripoli Agreement of February 2006 and especially Article 4 and ban the presence of Chadian citizen elements in the Republics of Sudan who use children as soldiers in armed conflicts.

The UN and other NGOs should negotiate that the DPA be respected as well as all relevant Articles that combat against child soldiers. Provisions like article 24(M) and 26(275) should be implemented. This provision bans child soldiers and makes provision for the reintegration of former child soldiers.

International NGOs and UN Agencies should help build social services in Darfur. More schools should be provided to help the estimated huge number of street children in Darfur often described as ‘Shamasa’ homeless children who live under the direct scorching sun.

AMIS-UN forces in Darfur should be well equipped to check the flow of small arms into the Darfur region. The western border between Darfur, Libya, Chad and the Republic of Central Africa seems vulnerable and help the flow of small arms proliferation.

The international community should force the government of Sudan to grant UMIS and AMIS humanitarian workers who are working against the recruitment and participation of children into armed hostilities access to IDPs for humanitarian Aids. The Khartoum government should be made to provide possible safeguards to all humanitarian workers, their property and houses. The government should also be made to stop the practice of visa restriction to humanitarian workers.

In light of conflict transformation as an alternative way of long lasting peace building, the international community should apply the principles of nonviolent action of conflict transformation. Nonviolent action stands for human rights and justice and does not involve physical force or threat of physical force against human beings.

The UN and other NGOs working against child soldiers should apply the principle of reconciliation and psychological healing in the Darfur region of Sudan. This will help to bring parties together, develop mutual respect and trust and bring out the spirit of truth and forgiveness.²⁶⁶ It will help victims and perpetrators to forget the past. Conflict transformation sees this as a green light for long lasting positive peace.

The international community working against child soldiers should encourage the spirit of negotiation and transformative mediation in Darfur. This will help to seek empowerment and mutual recognition of parties involved in the conflict. Recognition and empowerment helps them seek their own point of view, understanding how they can define their problem and seek for solutions.

The government of Darfur should call for dialogue. Dialogue, though not a conflict resolving mechanism, is necessary in the Darfur conflict because it is seen as a revolutionary approach for conflict exploration, decision making and problem solving. Dialogue is necessary in the Darfur conflict because it seeks ways in which people with significant differences relate to each other, promote respectful enquiries and stimulate new sorts of discussions.²⁶⁷



All children below the age of 18 should be demobilized from formal and informal armed forces, militias and armed groups in Darfur. Furthermore, all children separated from families who reside with or work for members of fighting forces and the families of fighting forces, should be registered for family tracing. The government should mobilize resources, both nationally and internationally, to come into the needs of children in the process of disarmament, demobilization, registration for family tracing, return and

²⁶⁶ Brahm, E: Trauma Healing
http://msct.beyoundintractability.org/essay/truma_healing
accessed 29 October 2008

²⁶⁷ Ellinor, L and Glenna, G: Dialogue
Available <http://www.thedialoguegrouponline.com/whatdialogue.html>
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reintegration. UNICEF and other child protection agencies should be invited to assist in this process.²⁶⁸



²⁶⁸ Human Rights: (2004) Watch: *Sudan, Government Forces*
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