

**AN ANALYSIS OF THE LEGAL FRAMEWORK PROHIBITING CHILDREN'S
PARTICIPATION IN ARMED CONFLICTS: CHALLENGES AND PROSPECTS**

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BENIN CITY**

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**A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY OF LAW,
UNIVERSITY OF BENIN IN PARTIAL FULFILMENT OF THE REQUIREMENT
FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS (LLB) OF THE
UNIVERSITY OF BENIN, BENIN CITY.**

DECEMBER, 2025

CERTIFICATION

I, **Ayoleyi Adepeju OGBEMERUN**, with Matriculation Number **LAW2002905**, hereby certify that apart from references to other persons' works which have been duly acknowledged, the entire work is a product of my research, and this project has neither in whole nor in part been presented for another degree elsewhere.

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APPROVAL

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DEDICATION

This project is dedicated to God Almighty for His grace, wisdom, and strength throughout the period of this study and to my parents for their unwavering support and encouragement throughout the course of this study.

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I express my profound gratitude to God Almighty for His divine guidance, wisdom, strength, provision and protection throughout my five years of academic pursuit. His divine presence sustained me through the challenges and successes that shaped my university experience and made the completion of this project possible.

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LIST OF ABBREVIATIONS

ACRWC:	African Charter on the Rights and Welfare of the Child
AI:	Amnesty International
AP I:	Additional Protocol I to the Geneva Conventions (1977)
AP II:	Additional Protocol II to the Geneva Conventions (1977)
CCW:	Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons
CFRN:	Constitution of the Federal Republic of Nigeria
CRC:	Convention on the Rights of the Child
CYP A:	Children and Young Persons Act
ICC:	International Criminal Court
ICRC:	International Committee of the Red Cross
IHL:	International Humanitarian Law
ILO:	International Labour Organisation
NGO:	Non-Governmental Organisation
NWLR:	Nigerian Weekly Law Reports
OAU:	Organisation of African Unity
OHCHR:	Office of the United Nations High Commissioner for Human Rights
OPAC:	Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
SCNJ:	Supreme Court of Nigeria Judgments
SCSL:	Special Court for Sierra Leone
UDHR:	Universal Declaration of Human Rights
UN:	United Nations
UNCRC:	United Nations Convention on the Rights of the Child

UNICEF: United Nations Children’s Fund

UNSC: United Nations Security Council

UNTS: United Nations Treaty Series

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ABSTRACT

The recruitment and use of children in armed conflict remains one of the most persistent violations of international humanitarian law and international human rights law. Despite the existence of an extensive normative framework prohibiting child soldiering, including the Geneva Conventions and their Additional Protocols, the Convention on the Rights of the Child and its Optional Protocol, and the Rome Statute of the International Criminal Court, the practice continues across both international and non-international armed conflicts. This study examines the effectiveness of international legal mechanisms designed to prevent the recruitment and use of children in hostilities, and the extent to which these mechanisms have been enforced in practice. Adopting a doctrinal research methodology, the study analyses international treaties, customary international humanitarian law, decisions of international and hybrid criminal tribunals, and relevant United Nations instruments. Through case studies drawn from Africa, the Middle East, and Eastern Europe, the research highlights the evolving nature of armed conflict, the blurred distinction between voluntary and forced recruitment, and the increasing involvement of non-state armed groups. The findings reveal that while the international legal framework has achieved normative clarity, enforcement remains uneven and largely dependent on political will, domestic incorporation, and international cooperation. The International Criminal Court and other accountability mechanisms have contributed to the development of jurisprudence on child soldiering, yet significant gaps persist in prevention, prosecution, and post-conflict reintegration. The study concludes that strengthening domestic implementation, enhancing international cooperation, and prioritising child-centred reintegration strategies are essential to closing the enforcement gap. By providing a comprehensive legal and theoretical analysis, this research contributes to ongoing scholarly and policy debates on child protection, accountability, and the future of international humanitarian law.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

In any society, conflicts are constant, but the manifestation of these conflicts vary sharply in form, nature, scale, and severity. Armed conflicts are one of the widely known forms of conflicts, and they classically involve the use of arms (weapons). Examples of these armed conflicts include the World War I (1917–1929) and the World War II (1930–1945). Modern examples include the ongoing Russo-Ukrainian war between Russia and Ukraine, and the Israel-Gaza conflict, but to name a few. These conflicts occasion a staggering amount of loss of lives, as well as injury, damage to properties, and forced displacement.

Despite the seeming lawlessness of armed conflicts, especially when contrasted with democratic ideals, they actually operate within precise legal rules. These rules, otherwise known as the laws of war, is what collectively forms the crux of international humanitarian law (IHL).¹ Thus, IHL governs the conduct of armed conflicts, through principles, ensuring that when conflict occurs it is not unnecessarily catastrophic. Some examples of these principles are proportionality, precaution, and distinction, which, together, ensure the orderly conduct of armed conflict operations.² These principles are codified in the Geneva Conventions,³ their Additional Protocols,⁴ the Rome Statute,⁵ customary international law,⁶

¹ C. Droege, 'International Humanitarian Law and Peace: A Brief Overview' *International Review of the Red Cross*, (2024) 106(927) 989–1001. <https://doi.org/10.1017/S1816383125000062> accessed 21 August 2025.

² M.H. Kamal, 'Principles of Distinction, Proportionality, and Precautions under the Geneva Conventions: The Perspective of Islamic Law' In J.H. Bhuiyan and B.U. Khan (eds.), *Revisiting the Geneva Conventions: 1949–2019* (Brill 2020), 244–261. https://doi.org/10.1163/9789004375543_011 accessed 21 August 2025.

³ Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31 (entered into force 21 Oct. 1950) [hereinafter Geneva I]; Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85 (entered into force 21 Oct. 1950) [hereinafter Geneva II]; Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135 (entered into force 21 Oct. 1950) [hereinafter Geneva III]; Convention Relative to the Protection of Civilian Person in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 (entered into force 21 Oct. 1950) [hereinafter Geneva IV].

⁴ Protocol Additional to the Geneva Convention of Aug. 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflict, opened for signature Dec. 12, 1977, 1125 U.N.T.S. 3, 161 L.M 1391

and other conventions.⁷

One of the injunctions in IHL is the prohibition of the participation of children, in any form, in armed conflicts.⁸ This injunction derives verve from the deleterious effects of involving children in armed conflicts, recorded across armed conflicts in history. A popular historical case is the Cambodian genocide of 1974 to 1975, where tens of thousands of children were combatants.⁹ Another case is the Rwandan Genocide where several children were engaged as suicide bombers, couriers, porters, bush-wives, and direct combatants.¹⁰ In both cases, according to the United Nations, the participating children suffered severe physical effects as well as psychological harm.¹¹

Despite prohibitions under IHL, recent conflict scenarios disclose the continued use of children in prosecuting both clausewitz and new wars.¹² In clausewitz wars, an example is the ongoing Russo-Ukrainian war where the significant participation of children has been noted.¹³

(1977) [hereinafter AP I]; Protocol Additional to the Geneva Convention of Aug. 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflict, opened for signature Dec. 12, 1977, art.1(2), 1125 U.N.T.S 609, 161.L.M, 1442(1977) [hereinafter AP II].

⁵ Rome Statute of the International Criminal Court, July 17, 1998, U.N. Doc/A/Conf.183/9 (1998) [hereinafter Rome Statute].

⁶ J.M. Henckaerts and L. Doswald-Beck, *Customary International Humanitarian Law Volume 1: Rules* (Cambridge, University Press 2005).

⁷ See: Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (adopted 10 October 1980, entered into force 2 December 1983) 1342 UNTS 137 (CCW).

⁸ AP I, art. 77(2) & (3); AP II, art. 4(3); Rome Statute, art. 8(2)(b) & (e).

⁹ Klemensits Péter and Czirják Ráchel, 'Child Soldiers in Genocidal Regimes: The Cases of the Khmer Rouge and the Hutu Power' *Applied Research in Military and Public Management Science* (2016) 15(3), 215–222. <https://doi.org/10.32565/aarms.2016.3.1> accessed 21 August 2025.

¹⁰ Ibid.

¹¹ R. Dallaire and S. Whitman, 'Preventing the Use of Child Soldiers, Preventing Genocide' (2015) LII *The United Nations at 70*, 1. <https://www.un.org/en/chronicle/article/preventing-use-child-soldiers-preventing-genocide> accessed 21 August 2025.

¹² Clausewitz wars also known as old wars refer to 'acts of violence (with the use of force) between states for a definable political end'. On the other hand, new wars refer to forms of armed conflict that do not satisfy the threshold of classical wars, e.g. guerilla warfare, civil wars, insurgencies, and terrorism. For a full explanation of the meaning and distinction between old and new wars, see: M. Kaldor, *New and Old Wars: Organised Violence in a Global Era* (3rd edn, Polity Press 2012).

¹³ A. Barkhush, 'Russia's Child Soldiers: How the Kremlin Trains Ukrainian Kids and Sends Them to the Frontlines' *United24 Media* (7 July 2025). <https://united24media.com/war-in-ukraine/russias-child-soldiers-how-the-kremlin-trains-ukrainian-kids-and-sends-them-to-the-frontlines-9627> accessed 21 August 2025.

The UN Secretary-General's 2025 report reveals that Russian forces have been deploying children, both as combatants and as support personnel.¹⁴ Ukraine has also been accused of using children as human shields, violating IHL principles of distinction and child right protections.¹⁵ In the Yemeni civil war, as an example of new wars, children reportedly constitute 20 to 40% of Yemeni forces.¹⁶

These recent instances of children participation in armed conflicts violate the provisions of IHL and International Human Rights Law (IHRL). They have been attributed to several factors such as the proliferation of small arms and the sizeable population of children.¹⁷ Other factors accounting for the participation of children in armed conflicts includes poverty, naivety, and the emergence of new wars.¹⁸ Notwithstanding the foregoing, a largely ignored, yet critically important factor, is the adequacy of the legal mechanisms prohibiting children's soldering.¹⁹ A cursory glance at the existing legal protections reveal gaps and inconsistencies that may be fuelling the continued child soldering.

Consequently, this study critically examines the extant international legal and institutional framework prohibiting the participation of children in armed conflict. It begins by identifying the international humanitarian laws and international human right laws that prohibit children's participation in armed conflict. Thereafter, it critically examines the efficacy and adequacy of these laws and institutions, based on historical and contemporary factual

¹⁴ Secretary-General, *Children and armed conflict: report of the Secretary-General* UN Doc A/79/878–S/2025/247 (17 June 2025), 24–25.

¹⁵ Amnesty International, 'Ukraine: Ukrainian Fighting Tactics Endanger Civilians' *Amnesty International* (Ukraine, 4 August 2022). <https://www.amnesty.org/en/latest/news/2022/08/ukraine-ukrainian-fighting-tactics-endanger-civilians/> accessed 21 August 2025.

¹⁶ D.D. Kirkpatrick, 'On the Front Line of the Saudi War in Yemen: Child Soldiers from Darfur' *New York Times* (Yemen, 28 December 2018). <https://www.nytimes.com/2018/12/28/world/africa/saudi-sudan-yemen-child-fighters.html#click=https://t.co/8HUg9gjXb2> accessed 21 August 2025.

¹⁷ B.T. Kibret, 'Armed Conflict: Violation of Child Rights and Implications for Change' *Journal of Psychology and Psychotherapy*, (2015) 5(4) 1–10.

¹⁸ Ibid.

¹⁹ S. Rasakandan and P.M. Tehrani, 'Protection of Children from Recruitment and Use in Armed Conflict: Role of International Legal Framework' *Journal of Politics and Law*, (2022) 15(4) 230–241. <https://doi.org/10.5539/jpl.v15n4p230> accessed 21 August 2025.

evidence. Based on this critique, it articulates the precise challenges/limitations to the existing legal protections, both in their text and implementation. Finally, this study proposes recommendations to strengthen the existing legal and institutional framework that prohibits children's participation in armed conflicts.

1.2 Statement of Problem

The problem underpinning this long essay is the continued participation of children in armed conflicts, despite legal prohibitions against the same. Children's participation in armed conflicts is an age-long issue, dating back to the Children Crusade of 1212, although it only received global attention in the 20th century when approximately 300,000 children were found to be participating in armed conflicts globally.²⁰ The findings of the Machel Report informed international legal responses such as the Optional Protocol to the UN Convention on the Rights of the Child, 2000, which prohibits the involvement of persons below 18 years of age in direct hostilities.²¹

Despite this legal prohibition, children's involvement in armed conflicts by state and non-state actors, has been on the increase recently. Precise statistics are not available,²² but reports reveal a year-on-year increase in the number of children participating in armed conflicts. Country-specific cases include Russia, Palestine, Yemen, and Nigeria, where children are used by state and non-state actors in armed conflicts. In the Palestinian case, Hamas, an internationally recognised terrorist group is reportedly recruiting children to prosecute the ongoing Israeli-Palestinian conflict.²³ In Nigeria, Boko Haram are widely known to recruit

²⁰ United Nations, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children*, U.N. Doc. A/51/306 (26 August 1996) [hereinafter Machel Report].

²¹ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (adopted 25 May 2000, entered into force 12 February 2002) 2173 UNTS 222, art. 2.

²² R. van der Haer and K.J. Brown, 'The Effect of War Exposure on Children: An Exploration of Conflict and Post-conflict Gendered Experience' (2025) 29(5) *The International Journal of Human Rights*, 46–67 at 46. <https://doi.org/10.1080/13642987.2024.2377328> accessed 21 August 2025

²³ D. Pérez-García, 'Child soldiers in Palestinian Groups: Forced Recruitment and Use of Minors as a Violation of International Humanitarian Law' (*Revista Internacional de Estudios sobre Terrorismo*, 2022)

children into their ranks, using them as combatants and support personnel.²⁴

The participation of children in armed conflicts is not the issue *per se*; the proven effects of their participation is. In a recent study on the effect of war exposure on children, it was found that children who were previously involved in armed conflicts suffer from severe mental and emotional trauma, and are prone to lapse into depression and aggression.²⁵ The study also revealed that 21% of children who had participated in armed conflicts had been sexually assaulted or raped.²⁶ Also, 33% of these children had been stabbed, shot or mutilated during armed conflicts.²⁷ These dire effects necessitate this study.

1.2.1 Research Questions

Stemming from the identified research problem, a series of questions have been curated to anchor this discourse and steer this research in the right direction. The following questions have been raised:

- a. What is the origin of children's participation in armed conflicts? Is it an antiquated concept or a modern innovation in warfare?
- b. What are the current international legal frameworks and policy responses aimed at resolving this debacle?
- c. Are these laws and policies adequately poised to curb the rising occurrence of children's participation in armed conflict?

7(1) 21-33.

²⁴ Z. Pieri, 'Boko Haram's Child Soldiers: Media Mujahids, Martyrs, and Militants' *Terrorism and Political Violence*, (2023) 36(6) 790–817.

²⁵ van der Haer and Brown (n 22).

²⁶ Ibid.

²⁷ Ibid.

1.3 Aim and Objectives of the Study

Comprehensively, this long essay aims to critically and holistically analyze the recurring use of children as instruments of warfare, whether as combatants, spies, cooks, porters, sex slaves, forced conjugal partners, wives or couriers, and the effectiveness of international policy responses via Statutes, Treaties, Conventions, Recommendations and Protocols, in preventing this social anomaly.

Distilled from the aim of this research, the specific objectives are three-fold, to wit:

- i. To define the concepts of armed conflict and children's participation in armed conflict, drawing from a wide range of sources and perspectives.
- ii. To identify the extant international legal framework regulating armed conflicts and prohibiting children's participation in armed conflicts.
- iii. To appraise the effectiveness of the international legal framework in curbing the participation of children in armed conflict, drawing from recent statistical data.

1.4 Scope and Limitations

The scope of this long essay will be constricted geographically and topically. The geographical boundary of this research is the international sphere, where we will review the multitudinous international legal frameworks combating children's participation in armed conflict. Admittedly, there are domestic legal frameworks that prohibit children's participation in armed conflict, and laudable responses have been taken on a jurisdictional level to curb this malaise. These domestic statutory and policy interventions, however, are outside the scope of this work, and will not be incorporated into this research, save for the sake of comparative analysis. Furthermore, this research will be confined to children's participation in armed conflicts *per se*. The underlying rationale behind their participation and the effects of the same is not within the scope of this study.

Touching on limitations, the researchers' major limitations were insufficient time and paucity of research materials. The length of time given to the researcher was grossly limited; hence this research report is not as detailed as it would have been if greater latitude of time was afforded to conduct the study. Also, lack of access to relevant materials was a limitation that was encountered by the researcher. Because the research topic traces its origin to international law, specifically international humanitarian law, most of the peer-reviewed articles on the subject were contained in international journals, access to which was priced rather exorbitantly. Hence, most of the consulted sources are relatively old, with an average date of publication of year 2009. With access to more recent sources, this researcher is convinced that a more intelligent argument, reflecting recent occurrences could have been produced.

1.5 Significance of the Study

This long essay is significant because it addresses a pressing gap in the international legal framework prohibiting children's participation in armed conflicts. Its significance to policy lies in providing evidence-based insights that can inform the strengthening of existing treaties, protocols, and enforcement mechanisms. For practice, the study is significant as it highlights practical strategies for state and non-state actors, humanitarian agencies, and military institutions to align with child protection norms. Academically, the research is significant because it contributes to ongoing scholarship, offering a critical analysis that can guide future studies on international humanitarian law and child rights.

1.6 Research Methodology

This long essay adopts the doctrinal method of legal research. This method, unlike the empirical/socio-legal method, concentrates on identifying, evaluating/analysing, and interpreting legal doctrines within the context of social issues. Under the doctrinal method of

legal research, there exists a plethora of research approaches: historical, analytical, philosophical, comparative analysis, etc.²⁸ This research combines historical and analytical approaches to appraise the efficacy of IHL in preventing children's participation in armed conflicts. In this study, primary and secondary legal sources such as statutes, case law, textbooks, and peer-reviewed journal articles would be consulted.

²⁸ Bhat Ishwara, *Idea and Methods of Legal Research* (Oxford Academic 2020), 29.

CHAPTER TWO

CONCEPTUAL, THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 Conceptual Clarification

In this study, the following terminologies stand out, warranting clarification: children, armed conflict, and children participation in armed conflict. Each of these terminologies will be expatiated in turn, beginning with their lexical definition, and proceeding to their contextual meaning.

2.1.1. Children

It is important to note that the term ‘children’ merely refers to the plural form of the root word, ‘child’. More often than not, dictionaries, legal encyclopedia’s, statutes, and judicial decisions contain definitions of the word child, and not children. Hence in the paragraphs that follow, the terms ‘child’ and ‘children’ will be used interchangeably; they mean the same thing. Lexically, ‘children’ is the plural form of the word ‘child’ which means a young person especially between infancy and puberty.¹ The Merriam-Webster Dictionary defines a child as a person who has not attained the age of majority under the law.² The Black’s Law Dictionary, defines a child as, ‘a person under the age of majority, at common law.’³ Thus, in the ordinary meaning of the word, a child is an individual, who is yet to attain adulthood status.

Legally however, the term ‘children’ has varying and divergent conceptions owing to the spate of legal authorities on child rights. The Children and Young Persons Act (CYPA) 1958⁴ defines a child as, ‘a person under the age of fourteen years’. In contrast, the Child Rights Act 2003⁵ defines a child as, ‘a person under the age of eighteen (18) years. This definition draws

¹ P. Procter, *Longman Dictionary of Contemporary English* (5th edn, Longman 1978).

² Merriam-Webster, *The Merriam-Webster Dictionary* (Rev edn, Merriam-Webster 2022).

³ B.A. Garner, *Black’s Law Dictionary* (11th edn, Thomson Reuters 2019), 271.

⁴ Children and Young Persons Act 1958, Cap C50, Laws of the Federation of Nigeria 2004.

⁵ Child Rights Act 2003, Cap C50, Laws of the Federation of Nigeria.

life from Article 1 of the United Nations Convention on the Rights of the Child (CRC) 1989⁶. Therein, a child is defined as, ‘a human being below the age of eighteen years unless, majority is attained earlier.’⁷ The Convention places primacy on age, and the legal age of majority in determining if a person is a child. In sum, there is a clear dissonance in the definition of a child, highlighting the need to consolidate these laws.

As interpreters of the law, the judiciary is not estranged from this dichotomy resulting from the inconsistencies in the law. In cases where the definition of a child is in issue, a spate of conflicting judicial decisions has been reached. In the Nigerian case of *Okon v State*, a child was defined as ‘any person who has not attained the age of fourteen years’.⁸ The same decision was reached by the Supreme Court of Nigeria in the recent case of *Solola and Anor v The State*.⁹ However, in the case of *Labinjoh v Alake*,¹⁰ the Court gave judicial imprimatur to section 277 of the CRA 2003.¹¹ The Court held that a child is a person who has not yet attained the age of eighteen (18) years. The conflict in the foregoing judicial decisions is intrinsically embedded in the divergent legislative provisions on the definition of childhood.

2.1.2. Armed Conflict

Historically, armed conflict refers to wars between states, involving the use of weapons, leading to the victory of one party. They were also known as Clausewitzian wars, named after former soldier, Prussian war strategist and military theorist, Carl Von Clausewitz.¹² He defined wars as ‘an act of violence (with the use of force) between states for a definable

⁶ United Nations, Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3.

⁷ Ibid, art. 1.

⁸ (1988) 1 NWLR (Pt. 69), 173.

⁹ (2005) 5 SCNJ 139.

¹⁰ (1924) 5 NLR 33.

¹¹ CAP. C30, LFN 2004.

¹² C.V. Clausewitz, *On War* (Rev edn, Penguin 1968).

political end'.¹³ Textbook examples of Clausewitzian wars were World War I (1917–1929), World War II (1930–1945), and the Cold War. The reasons behind these wars were manifold yet easily discernible, such as: ideological differences, subjugation and domination, and religious intolerance. The establishment of certain rules (rules of warfare) differentiated these wars from haphazard killings or other random forms of violence. The rules include the prosecution of wars solely by sovereign states through licensed military officers and the protection of civilians.¹⁴

However, with the turn of the century, and after World War II, war as we used to know it changed. The absolutism of World War II shattered previously held convictions about the schism between military forces and the civilian population.¹⁵ In World War II, the totality of the population of the Allied forces was involved in the fight against Nazism. Whilst the Allied forces were physically combating Nazi troops, banks, port authorities, and even the media joined in the fight.¹⁶ Sequel to World War II, and the fall of fascism, breakaway states began to emerge, opposing their erstwhile colonial masters. The series of protracted battles that followed thereafter vitiated the rule of warfare, that only states could engage in wars.¹⁷ These events questioned the continued relevance of the Clausewitz concept of wars and its tenability in light of recent events.¹⁸

The foregoing events highlighted the need to critically appraise the concept of warfare in the modern era, noting its dynamics. This led to the coinage of the term 'low-intensity conflict'

¹³ Ibid,101.

¹⁴ M.V. Creveld, *The Transformation of War* (Maxwell Macmillan International 1991) 41.

¹⁵ Clausewitz (n11), 100.

¹⁶ Creveld (n13), 41–44. The author recounts how the Federal Reserve System (the U.S. central banking system) explicitly committed itself during WWII "to assure at all times an ample supply of funds for financing the war effort."

¹⁷ Ibid.

¹⁸ Ibid.

to recognize conflicts that fell short of the Clausewitz model.¹⁹ This novel dimension of armed conflicts have also been termed as ‘new wars’,²⁰ ‘privatized wars’,²¹ ‘post-modern wars’,²² ‘hybrid wars’,²³ etc. Armed conflicts such as uprisings, guerilla warfare, civil wars, insurgencies, and terrorism fall within the purview of this novel classification. Unlike old wars, they are not prosecuted by or between legitimate states through their military personnel. Rather, they encompass intra-state wars involving non-state actors such as terrorist groups, rebel political factions, pro-government militias, and seceding states. They typically involve organized violence with less clear motives, greater damage to infrastructure, and blurred lines between combatants and civilians.²⁴

New wars, often times, result from the loss of legitimacy of political institutions, accentuated by actual or perceived injustice. Frustrated, marginalized or nationalist ethnic groups and communities respond by destroying or destabilizing the state, through organized violence.²⁵ The factors undergirding new wars are profoundly complex, and uncertain; they range from nationalism to corruption and marginalization of ethnic minorities.²⁶ They are mostly intra-state armed conflicts and are sometimes perpetrated by non-state actors such as rebel forces and terrorist groups. Also, new wars fail to adopt the convenient distinction between

¹⁹ M. Kaldor, ‘In defence of new wars’ *International Journal of Security and Development*, (2013) 2(1) 1–16. <http://dx.doi.org/10.5334/sta.at> accessed 6 December 2025.

²⁰ Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Third edn, Polity Press 2012), 1.

²¹ Mary Kaldor, ‘The New Peace: The Emergence of a New Paradigm’ *Global Policy*, (2016) 38(3) 386–396. <https://doi.org/10.1111/1758-5899.12370> accessed 24 October 2025.

²² J. Demmers, ‘Theories of Violent Conflict: An Introduction’ *Routledge Studies in Peace and Conflict*, (2017) 2(2) 45–67. <https://doi.org/10.4324/9781315623028> accessed 24 October 2025.

²³ F. Hoffman, *Conflict in the 21st Century: The Rise of Hybrid Wars* (Potomac Institute for Policy Studies 2011).

²⁴ Mary Kaldor, *New & Old Wars: Organised Violence in a Global Era* (Polity Press 2012).

²⁵ B. Charbonneau, ‘Intervention and the New World Order: Theorizing the Legitimacy of the “Responsibility to Protect”’ *Security Dialogue*, (2016) 37(5) 563–578. <https://doi.org/10.1177/0967010616665953> accessed 24 October 2025.

²⁶ F.C. Onuoha and G.E. Ezirim, ‘Contentious Elections, Political Exclusion, and Challenges of National Integration in Nigeria’ (2019) 5(1) *Cogent Social Sciences*, 1–19. <https://doi.org/10.1080/23311886.2019.1565615> accessed 24 October 2025.

combatants and civilians leading to massive civilian casualties.²⁷ Some seminal examples of new wars include the Bosnia–Herzegovina war (1992-1995),²⁸ the Cambodian genocide (1975-1979),²⁹ and the Rwandan Genocide (1994).³⁰ In the context of this research, armed conflict embraces both the classical (Clausewitzean) wars and the modern (New) wars.

2.1.3. Children Participation in Armed Conflict

Children participation in armed conflict encompasses a wide array of activities, ranging from direct combat to domestic or support tasks. Broadly defined, it refers to the direct involvement of children in military activities, during a period of armed conflict. They may be spies, sentries, cooks, porters, sex slaves, forced conjugal partners, as well as fighters (whether carrying weapons or not).³¹ Children participation in armed conflict is an antiquated social pandemic, tracing its origin from the Children Crusade of 1212.³² Over the course of time, children were integrated as a part of warfare by German, British and Russian armies. The devastating ricochets of the modern conflicts in the twentieth century prompted a closer examination of the issue. Acting on the *Machel Report*,³³ the UN Security Council in concert with other international organizations are actively combating the malaise.

²⁷ Often times, civilian infrastructures such as schools, worship centers, stadiums, are invaded, bombed, or taken hostage. See: Derek Summerfield, 'The Impact of War and Atrocities on Civilian Populations: Basic Principles for NGO Interventions and a Critique of Psychological Trauma Projects, Relief and Rehabilitation' *Network Paper 14* (Overseas Development Institute, 1996).

²⁸ J. Lampe, 'Bosnian War' *Britannica* (17 November 2025). <https://www.britannica.com/event/Bosnian-War> accessed 28 November 2025.

²⁹ Fid Backhouse and others, 'Cambodian Genocide' *Britannica* (27 October 2025). <https://www.britannica.com/event/Cambodian-Genocide> accessed 28 November 2025.

³⁰ Britannica Editors, 'Rwanda Genocide of 1994' *Britannica*. <https://www.britannica.com/event/Rwanda-genocide-of-1994> accessed 28 November 2025.

³¹ M. Drumbl, 'Children, Armed Violence and Transition: Challenges for International Law & Policy' *Gashinan Journal of International and Comparative Law* (2015) 43(1), 623–627.

³² J.E. Foster and S. L. Gibson, 'Child Soldiers as Time Bombs? Adolescents' Participation in Rebel Groups and the Risk of Armed Conflict Recurrence' *Conflict Management and Peace Science*, (2015) 21(2) 131–145. <https://doi.org/10.1177/1354066115581910> accessed 24 October 2025.

³³ United Nations, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children*, U.N. Doc. A/51/306 (Aug. 26, 1996) [hereinafter *Machel Report*].

It is apt to distinguish children participation in armed conflict from a similar but distinct concept: children born of war. Children born of war refer to those children typically born to civilian mothers and combatant fathers in times of war. Mochmann defines them as:

*children conceived in sexual violence, consensual or dependency relationships in the context of an armed conflict with one parent (usually the father) being a member of an armed group, peacekeeping troop or army and the other parent (usually the mother) being a local civilian.*³⁴

Whereas children born of war may eventually participate in armed conflict, they are not one and the same.

Children participating in armed conflict may be forced to do so, or may opt to enlist in the militia forces. In cases of the former, children are forcibly conscripted from their homes and drafted into the military. In the latter instance, the children voluntarily offer to join the ranks of the military, with or without parental consent. The push and pull factors of children participation in armed conflict will be explored in the fourth chapter of this discourse. However, among others, shortage of manpower, naivety of children, and proliferation of small arms impel children participation in armed conflict.

2.2. Theoretical Framework

Underlying this research, and building up into a theoretical framework, are the theories of securitization, legal positivism, and critical realism. Each of these philosophical principles will be elucidated in turn, noting their historical background, limitations, and relevance to the research.

³⁴ I.C. Mochmann, 'Children Born of War – A Decade of International and Interdisciplinary Research' *Historical Social Research* (2017) 42(1), 321.

2.2.1. Securitization Theory

The Securitization theory was propounded by the trio of Barry Buzan, Ole Waever and Jaap de Wilde in 1998.³⁵ The theory attempts to explain the process by which hitherto overlooked issues, gain national and international recognition and policy response. The crux of the theory is the process of ‘securitization’ which denotes the elevation of private issues into the public space.³⁶ The Securitization theory is often used to explain how existential threats such as terrorism and climate change become political priorities. It traces the process that these events undergo in their ascension to the global spotlight, attracting policy responses. Securitization actors include documents, reports, resolutions, and statements issued by the UN Security Council, UN treaty bodies, media sources, etc.³⁷ In sum, securitization acts as a catalyst for legislative and institutional measures to extinguish the threat, and the theory explains how.

The securitization theory has been applied to several global issues, helping to heighten global concern and impel effective policy responses. One of such social malaise that underwent the process of securitization is conflict-related sexual violence, also known as wartime rape. Historically, rape was an incident of war, and it was commonly regarded as a natural consequence of warfare. However, with the spike in wartime rape in recent conflicts such as the Rwandan Genocide, the issue called for attention.³⁸ Applying the securitization theory, feminists began to clamor for the prohibition and prosecution of conflict-related sexual

³⁵ B. Buzan, O. Wæver, and J. deWilde, *Security: A New Framework for Analysis* (Lynne Rienner Publishers 1998), 32.

³⁶ T. Balzacq, ‘A Theory of Securitization: Origins, Core Assumptions, and Variants’ In Thierry Balzacq (ed.) *Securitization Theory: How Security Problems Emerge and Dissolve* (Routledge 2010), 19.

³⁷ L. Stotz. ‘The Evolution of Child Soldiers from ‘Villains to Victims’ in Law and Policy and its Significance for Children Born of War’ B.H. Borge, E Kleinau, I.C. Ødegaard (Eds) *Children and Youth at Risk in Times of Transition: International and Interdisciplinary Perspectives* (De Gruyter Oldenbourg 2024), 265-294. <https://doi.org/10.1515/9783111010649-012> accessed 24 October 2025.

³⁸ A. Houge and I. Skjelsbæk, ‘Securitisating Sexual Violence: Transitions from War to Peace’ In Kate Fitz-Gibbon *et al.* (eds), *Intimate Partner Violence, Risk and Security: Securing Women’s Lives in a Global World* (Routledge 2021), 20.

violence in all forms.³⁹ Through the instrumentality of international media sources and UN Special representatives, the issue was drummed up till it gained international attention. Thereafter, wartime rape was totally outlawed, and even prosecuted in the international criminal tribunals for Yugoslavia (ICTY) and Rwanda (ICTR).⁴⁰

The securitization theory is not without limitations, and a major criticism of the theory is its preoccupation on speech acts. More often than not, securitization is triggered by open protests against what is perceived as a threat to national security. However, where the victims of the social pandemic are silenced, the anomaly will continue unabated as in colonialism and imperialism. This has led many to opine that the theory is Eurocentric and favours the dominant actors in the international sphere.⁴¹ A textbook example of this can be seen in the Rwandan Genocide of 1994 that claimed several lives and properties. The looming genocide was unrecognized by the UN Security Council because of a lack of speech acts from dominant actors.⁴² Likewise, in the Darfur Conflict, the UN Security Council downplayed the obvious genocide, choosing rather to ‘denounce the “violence” in Darfur.’⁴³

Applied to the matter at hand, the securitization theory aptly captures the current global prohibition of children participation in armed conflict. It underpins the accelerated clampdown on child soldiering and other forms of children participation in armed conflict in thirty years. Starting from the *Machel Report*, it identifies several securitization factors that have prompted the prioritization of this social dilemma. It further showcases international legal responses as offshoots of the successful securitization of children involvement in armed

³⁹ S. Meger, ‘The Fetishization of Sexual Violence in International Security’ *International Studies Quarterly* (2016) 60(1), 150-185.

⁴⁰ S. Hirschauer, *The Securitization of Rape: Women, War and Sexual Violence* (Palgrave Macmillan, 2014).

⁴¹ A. Howell and M. Richter-Montpetit, ‘Is Securitization Theory Racist? Civilizationism, Methodological Whiteness, and Antiblack Thought in the Copenhagen School’ *Security Dialogue* (2020) 51(1), 6–7.

⁴² A.J. Johnsen, ‘The Security Council’s Lack of Intervention in the Rwandan Genocide – 100 Days of Silence’ *Institute of Sociology and Political Science* (2019), 11.

⁴³ A. Sinclair, ‘R2P in the UN Security Council: Darfur, Libya and Beyond’ (2015) 91(3) *International Affairs*, 601–617. <https://doi.org/10.1111/1468-2346.12333> accessed 24 October 2025.

conflict. This theory will undergird subsequent discussions in this research on the malaise of children participation in armed conflict. It will also underscore suggestible recommendations for the enhanced implementation of legal frameworks responsible for combating children participation in armed conflict.

2.2.2. Legal Positivism

The theory of legal positivism originated from the works of early legal theorists such as Thomas Hobbes and John Austin, while also being influenced by the empirical and positivist philosophies of Francis Bacon, Auguste Comte, and the logical positivism of the Vienna Circle.⁴⁴ Legal positivism is a theoretical framework that asserts the separation of law and morality, positing that the validity of legal principles is not dependent on their ethical or moral content but on their source and observance of legal procedures.⁴⁵ In the realm of international law, legal positivism emphasizes the importance of positive law – the rules that have been explicitly enacted or recognized by a sovereign authority.⁴⁶ In this research, legal positivism serves as a lens through which to critically examine the international legal framework concerning children's participation in armed conflicts.

Legal positivism contributes to research by providing a structured and objective approach to analyzing legal norms and principles. Its emphasis on the authority of legal sources allows researchers to evaluate the effectiveness and adequacy of existing international laws on child soldiers without being swayed by moral or ethical considerations. By grounding the analysis in positive law, researchers can identify gaps or inconsistencies in the legal framework and propose targeted amendments or improvements. Moreover, legal positivism contributes to

⁴⁴ HLA Hart, *The Concept of Law* (2nd edn, Oxford University Press 1994); RWM Dias, *Jurisprudence* (5th edn, Butterworths 1985); Raymond Wacks, *Understanding Jurisprudence: An Introduction to Legal Theory* (4th edn, Oxford University Press 2015).

⁴⁵ N.J. Pett., 'Ready for a paradigm shift? Part 2: Introducing qualitative research' *Manual Therapy*. <https://doi.org/10.1016/j.math.2012.03.004> accessed 24 October 2025.

⁴⁶ D. Hovell, 'Elements of International Legal Positivism' *Current Legal Problems*, (2022) 75(1) 71–109. <https://doi.org/10.1093/clp/cuac003> accessed 24 October 2025.

practice by offering a clear foundation for the development and interpretation of laws. Policymakers and legal practitioners can rely on legal positivism to navigate through complex issues such as children's participation in armed conflicts, ensuring that decisions and actions are firmly anchored in established legal principles. This approach facilitates the creation of more effective and enforceable policies that align with the existing legal framework.⁴⁷

However, legal positivism has its limitations. Critics argue that this theory may overlook the intrinsic connection between law and morality, particularly in areas where legal norms might clash with universally accepted ethical standards. In the context of children's involvement in armed conflicts, a strict positivist approach might neglect the moral imperative to protect the most vulnerable members of society. Additionally, legal positivism may struggle to address issues of customary international law, which can be derived from state practices and *opinio juris* rather than explicit written sources.

Applying legal positivism to the analysis of children's participation in armed conflicts involves scrutinizing the existing international legal framework through a positivist lens. The focus is on treaties, conventions, and customary international law that specifically address the issue. The research evaluates the clarity, enforceability, and effectiveness of these legal instruments in preventing the recruitment and use of children in armed conflicts. By adopting a legal positivist approach, the research avoids moral and ethical debates and instead concentrates on the authoritative sources of international law. It identifies potential gaps or ambiguities in the legal framework and proposes recommendations for enhancing its efficacy. For instance, the analysis may reveal weaknesses in the enforcement mechanisms or call for amendments to address emerging challenges related to the recruitment and use of children in modern conflicts.

⁴⁷ M.N. Saunders, P. Lewis, and A. Thornhill, *Research Methods for Business Students* (8th edn, Pearson Education Limited 2019).

2.2.3. Critical Realism

Critical realism was propounded by Roy Bhaskar, in response to the perceived defects of positivist views.⁴⁸ As a theoretical framework, it seeks to understand the underlying structures and mechanisms that shape the social world. It acknowledges the existence of an external reality while recognizing that our knowledge of this reality is mediated by various factors. In the context of international law, critical realism goes beyond the positivist approach by examining the social, economic, and political contexts that influence the creation, interpretation, and enforcement of legal norms.⁴⁹ This research employs critical realism to scrutinize the international legal framework addressing children's participation in armed conflicts.

Critical realism contributes to research by providing a holistic perspective on the complexities surrounding legal norms. Unlike legal positivism, critical realism encourages researchers to delve into the underlying social structures and power dynamics that shape the formulation and implementation of international laws related to child soldiers. This framework facilitates a nuanced understanding of how legal norms are influenced by political, economic, and cultural factors, allowing for a more comprehensive analysis. In practice, critical realism assists policymakers and legal practitioners in crafting interventions that go beyond legal formalities.

While critical realism enriches research and practice, it is not without limitations. The framework's emphasis on context and complexity may pose challenges in providing clear-cut solutions to legal issues. Additionally, the subjective interpretation of social structures may lead to varying analyses among researchers. Moreover, critical realism may be criticized for

⁴⁸ J. Joseph, 'The Limits of Governmentality: Social Theory and the International' *European Journal of International Relations*, (2016) 42(1) 223–245. <https://doi.org/10.1177/1354066114555788> accessed 24 October 2025.

⁴⁹ D.E. McNabb, *Research Methods in Public Administration and Nonprofit Management: Quantitative and Qualitative Approaches*. (3rd edn, Routledge 2013).

its potential to prioritize certain perspectives over others, raising questions about objectivity and neutrality.

Applying critical realism to the analysis of children's participation in armed conflicts involves examining not only the legal texts but also the broader social, economic, and political factors shaping these norms. The research explores how power dynamics, economic interests, and cultural contexts influence the creation, implementation, and enforcement of laws related to child soldiers. It seeks to uncover hidden structures and mechanisms that contribute to the persistence of the issue despite existing legal frameworks. The critical realist approach allows for a nuanced critique of the international legal framework, considering the socio-economic inequalities and power imbalances that may perpetuate the recruitment of children in armed conflicts. It encourages the identification of underlying causes and the development of more holistic interventions that address not only legal gaps but also the complex social realities contributing to the problem.

2.2.1. Historical Foundations

Children's participation in armed conflict is a phenomenon with deep historical roots, tracing back to medieval Europe and the Children's Crusade of 1212, where thousands of youths embarked on military expeditions.⁵⁰ Throughout history, children were often integrated into armies, serving as messengers, aides, and combatants. In early modern warfare, European, African, and Asian armies frequently conscripted boys to support logistical operations, signaling that children were considered expendable assets in conflicts.⁵¹ The practice was often normalized, reflecting societies' militarised cultures and the perception that children could contribute to state or communal survival during prolonged wars.⁵²

⁵⁰ A. Honwana, 'Children's Involvement in War: Historical and Social Contexts' *The Journal of the History of Childhood and Youth*, (2008) 1(1) 139–149.

⁵¹ Ibid.

⁵² Ibid.

During the twentieth century, industrialized warfare increased the scale and complexity of armed conflicts, further drawing children into military and support roles.⁵³ World War I and II witnessed children serving as laborers, couriers, and even combatants in occupied territories.⁵⁴ Total war blurred distinctions between civilians and soldiers, as national survival necessitated mass mobilization.⁵⁵ The rise of ideological conflicts, such as fascism and colonial resistance movements, saw children coerced or voluntarily joining militias, highlighting the interplay of coercion, propaganda, and socio-political pressures. These experiences established a precedent for systematic child involvement in both state and non-state armed groups globally.

Post-World War II decolonization, civil wars, and insurgencies expanded children's roles in conflicts across Africa, Asia, and Latin America. The proliferation of small arms and armed non-state actors in the late twentieth century made recruitment of children easier, often exploiting poverty, displacement, and social marginalisation.⁵⁶ Reports by the United Nations and NGOs in the 1990s, such as the Machel Report, documented widespread use of child soldiers in conflicts like those in Sierra Leone, Liberia, and Uganda.⁵⁷ These historical patterns underscore that children's participation in armed conflict is a persistent global issue, shaped by structural inequalities, political instability, and evolving modes of warfare.

Today, children continue to be drawn into armed conflicts across the globe, often as combatants, messengers, or forced laborers. In Ukraine, both Russian and Ukrainian forces

⁵³ R. Haer 'Children and armed conflict: looking at the future and learning from the past' *Third World Quarterly* (2019) 40(1), 74-91. <https://doi.org/10.1080/01436597.2018.1552131>. accessed 30 October 2025

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ M. Drumbl, 'Children, Armed Violence and Transition: Challenges for International Law & Policy' *Gashinan Journal of International and Comparative Law* (2015) 43(1), 623–627.

⁵⁷ United Nations, *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children*, U.N. Doc. A/51/306 (26 August 1996) [hereinafter Machel Report].

have reportedly involved minors in support and combat roles.⁵⁸ In the Middle East, children are exploited by Houthi rebels in Yemen and by armed factions in the Israel-Palestine conflict.⁵⁹ Similarly, in Nigeria, extremist groups like Boko Haram and ISWAP systematically recruit and indoctrinate children, using them as fighters and suicide bombers.⁶⁰ These contemporary cases reflect a persistent global crisis, exacerbated by ongoing warfare, displacement, and the proliferation of small arms, highlighting the urgent need for international intervention.

2.3. Literature Review

The involvement of children in armed conflicts is a grave and complex issue that has garnered widespread attention within the international community. The recruitment and use of children as soldiers present a multifaceted challenge, raising concerns about human rights violations, long-term psychological impacts, and the overall well-being of the affected individuals. This literature review critically examines the extant international legal framework governing children's participation in armed conflicts, aiming to identify gaps and limitations within the existing body of research.

Numerous scholars have delved into the legal dimensions of children's participation in armed conflicts, offering insights into the various international instruments and conventions designed to protect the rights of children during times of conflict. The work of Millard provides a comprehensive examination of the evolution of international laws pertaining to child soldiers, tracing the historical development and highlighting key milestones in the

⁵⁸ A. Barkhush, 'Russia's Child Soldiers: How the Kremlin Trains Ukrainian Kids and Sends Them to the Frontlines' *United24 Media* (7 July 2025). <https://united24media.com/war-in-ukraine/russias-child-soldiers-how-the-kremlin-trains-ukrainian-kids-and-sends-them-to-the-frontlines-9627> accessed 28 November 2025.

⁵⁹ D.D. Kirkpatrick, 'On the Front Line of the Saudi War in Yemen: Child Soldiers from Darfur' *New York Times* (Yemen, 28 December 2018). <https://www.nytimes.com/2018/12/28/world/africa/saudi-sudan-yemen-child-fighters.html#click=https://t.co/8HUg9gjXb2> accessed 28 November 2025; D. Pérez-García, 'Child soldiers in Palestinian Groups: Forced Recruitment and Use of Minors as a Violation of International Humanitarian Law' (2022) 7 *Revista Internacional de Estudios sobre Terrorismo*, 21-33.

⁶⁰ Z. Pieri and others, 'Boko Haram's Child Soldiers: Media Mujahids, Martyrs, and Militants' *Terrorism and Political Violence*, (2023) 36(6) 790–817.

establishment of legal frameworks.⁶¹ Additionally, Drumbl offers a sociological perspective, exploring the real-world implications of these legal instruments and their effectiveness in preventing the recruitment of children into armed forces.⁶²

Building upon this foundation, Haer focuses on the enforcement mechanisms embedded in international legal frameworks, shedding light on the challenges faced in holding perpetrators accountable for the recruitment of child soldiers.⁶³ The research by Webster extends this discussion by examining the role of non-state actors in exploiting legal loopholes, emphasizing the need for a more nuanced understanding of the dynamics influencing children's involvement in armed conflicts.⁶⁴

Furthermore, the literature has delved into the socio-economic factors that contribute to the recruitment of child soldiers. Péter and Rachel conducted a comprehensive analysis of the economic drivers behind child soldier recruitment, shedding light on the conditions that make children vulnerable to exploitation. This economic perspective adds depth to the understanding of the issue, supplementing legal analyses with insights into the root causes.⁶⁵

Despite the valuable contributions of existing literature, several gaps and limitations persist. Firstly, the effectiveness of international legal frameworks in preventing the recruitment of child soldiers remains a contentious issue. While there has been progress in normative development, the practical implementation and enforcement of these legal instruments often

⁶¹ A. Millard, 'Children in Armed Conflicts: Transcending Legal Responses' *Security Dialogue* (2001) 32(2), 187-200. <https://doi.org/10.1177/0967010601032002005> accessed 24 October 2025.

⁶² M. Drumbl, 'Children, Armed Violence and Transition: Challenges for International Law & Policy' *Gashinan Journal of International and Comparative Law* (2015) 43(1), 623-627.

⁶³ R. Haer 'Children and armed conflict: looking at the future and learning from the past' *Third World Quarterly* (2019) 40(1), 74-91. <https://doi.org/10.1080/01436597.2018.1552131> accessed 24 October 2025.

⁶⁴ T. Webster, 'Babes with Arms: International Law and Child Soldiers' *The George Washington International Law Review* (2007) 39, 227-254. https://scholarlycommons.law.case.edu/faculty_publications/556 accessed 24 October 2025.

⁶⁵ Klemensits Péter and Czirják Rachel, 'Child Soldiers in Genocidal Regimes: The Cases of the Khmer Rouge and the Hutu Power' *Applied Research in Military and Public Management Science* (2016) 15(3), 215-222. <https://doi.org/10.32565/aarms.2016.3.1> accessed 24 October 2025.

fall short.⁶⁶ Additionally, the focus on state actors in much of the literature tends to overlook the significant role played by non-state armed groups, hindering a comprehensive understanding of the problem.⁶⁷ Moreover, the psychological and social dimensions of children's participation in armed conflicts are not extensively explored in the existing legal literature. Millard primarily concentrated on the legal architecture without delving deeply into the lived experiences of child soldiers and the long-term consequences on their mental health and societal reintegration.⁶⁸ This gap in understanding limits the efficacy of legal frameworks in addressing the holistic needs of affected children.

Furthermore, the evolving nature of armed conflicts, marked by unconventional warfare and technological advancements, presents a challenge not adequately addressed by current legal instruments. Drumbl points out that the static nature of international laws may struggle to keep pace with the changing dynamics of modern conflicts, potentially rendering them ineffective in preventing the recruitment of children.⁶⁹

While economic factors have been touched upon, the existing literature does not thoroughly explore the intersectionality of economic and legal dimensions. The socio-economic conditions contributing to child soldier recruitment require a more nuanced understanding to inform comprehensive intervention. Additionally, the educational impact on children in conflict zones, though acknowledged, lacks an in-depth analysis of how disruptions affect their future prospects. The interplay between armed conflict and education needs more attention to develop targeted strategies for mitigating the long-term consequences on children's lives.

⁶⁶ Haer (n43), 83.

⁶⁷ Webster (n44), 231.

⁶⁸ Millard (n41), 198.

⁶⁹ Drumbl (n42), 624.

This research seeks to address the identified gaps and limitations by adopting an interdisciplinary approach that combines legal analysis with insights from psychology, sociology, international relations, and economics. By incorporating a broader range of perspectives, the study aims to unravel the intricate web of factors contributing to children's involvement in armed conflicts. Additionally, the research will emphasize the need for a more nuanced understanding of non-state armed groups' roles in recruiting child soldiers, filling a critical void in the existing literature.

To address the implementation gap, the research will critically evaluate the enforcement mechanisms embedded within the legal frameworks. Drawing from lessons learned in successful prosecutions and interventions, the study will propose practical strategies for enhancing accountability and ensuring the effective prevention of child recruitment. Additionally, a focus on the psychological and social dimensions will be integral to the research, aiming to contribute valuable insights into the experiences of child soldiers and inform comprehensive interventions that go beyond legal frameworks.

Moreover, recognizing the dynamic nature of contemporary armed conflicts, the research will explore innovative approaches to adapt legal frameworks to the evolving landscape. By acknowledging the influence of technology, non-state actors, and unconventional warfare, the study will propose amendments and additions to existing legal instruments, ensuring their relevance and effectiveness in preventing the recruitment of child soldiers in modern conflict scenarios.

In terms of economic factors, the research will conduct an in-depth analysis of the socio-economic conditions that contribute to child soldier recruitment. This will involve examining the root causes of economic vulnerability and proposing targeted interventions that address these underlying issues, thereby complementing legal efforts with a holistic socio-economic perspective. Additionally, the research will delve into the educational disruptions caused by

armed conflicts, exploring the long-term consequences on the future prospects of affected children. By understanding the intricate relationship between conflict and education, the study aims to propose policies and interventions that mitigate the impact on children's educational trajectories.

In summary, this research endeavors to bridge existing gaps in the literature, offering a comprehensive and nuanced analysis of the international legal framework governing children's participation in armed conflicts. Through an interdisciplinary approach, the study aims to provide practical recommendations for policymakers, legal practitioners, and humanitarian actors to strengthen the protection of children in conflict zones and facilitate their rehabilitation and reintegration into society. The integration of economic, psychological, and educational dimensions aims to offer a holistic understanding of the issue and inform targeted interventions that address the root causes and consequences of children's involvement in armed conflicts.

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS COMBATING CHILDREN PARTICIPATION IN ARMED CONFLICTS

3.1 Legal Frameworks

Hereunder, several international legal frameworks will be critically reviewed, detailing their historical background, outlining their relevant provisions, and critiquing their effect on the prohibition of children participation in armed conflict.

3.1.1. Additional Protocols to the Geneva Conventions, 1977.

Sequel to the adoption of the Geneva Conventions on 12 August, 1949, two additional protocols were formulated to consolidate the extant Conventions.¹ This move was necessitated by the proliferation of nationalist struggles and the spike in civil wars in the 1950s and 1960s². The original four Geneva Conventions were inept in curtailing these novel versions of armed conflict, with their peculiar characteristics. Hence, policy drafters convened to formulate the additional Protocols which were signed on the 8th of June, 1977³. The first Additional Protocol (AP I) consists of 102 articles and it focuses largely on international armed conflicts. The second Additional Protocol (AP II) consists of 28 articles, and it focuses on the protection of victims in non-international armed conflicts. Both protocols have been ratified by Nigeria in 1988, and they sparsely prohibit the participation of children in armed conflicts.⁴

¹ Protocol Additional to the Geneva Convention of Aug. 12, 1949 and *Relating to the Protection of Victims of Non-International Armed Conflict*, opened for signature Dec. 12, 1977, 1125 U.N.T.S. 3, 161 L.M 1391 (1977) (hereinafter AP I); Protocol Additional to the Geneva Convention of Aug. 12, 1949 and *Relating to the Protection of Victims of Non-International Armed Conflict*, opened for signature Dec. 12, 1977, art.1(2), 1125 U.N.T.S 609, 161.L.M, 1442(1977) (hereinafter AP II).

² International Committee of the Red Cross, *Protocols I and II Additional to the Geneva Conventions: Historical Perspective* (ICRC 2017).

³ Protocols I and II Additional to the Geneva Conventions of 12 August 1949, adopted 8 June 1977, United Nations, Treaty Series vol. 1125.

⁴ I. Ogunniran, *Protection of the Rights of Children Victims of Armed Conflicts in North Eastern Nigeria under International Humanitarian Law* *Nnamdi Azikwe University Journal of International Law and Jurisprudence*, (2021) 12(1) 1–15.

Article 77(2) of the Additional Protocol I mandates special protection for children below the age of 15 years. Specifically, it provides that:

The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict *shall endeavor* to give priority to those who are oldest.⁵

Contradictorily, Article 77(3) of the Additional Protocol I, provides that:

If in exceptional cases, despite the provisions of paragraph (2), children who have not attained the age of 15 years, take a direct part in hostilities, and fall into the power of an adverse party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war.⁶

Turning to the Protocol Additional to the Geneva Conventions Relating to the Protection of Victims of Non-International Armed Conflicts (AP II), it mandates State Parties to refrain from the recruitment of children below the age of 15 years. Fashioned in similar wordings to AP I, it provides thus:

Children shall be provided with the care and aid they require, and in particular:

- a) They shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;
- b) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
- c) *Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;*
- d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of subparagraph (c) and are captured;
- e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being (*italics mine*).⁷

⁵ Additional Protocol I (AP I), art. 77(2).

⁶ Ibid, art. 77(3).

⁷ Additional Protocol II (AP II), art. 4(3).

By virtue of Article 1(1), the AP II is only applicable to non-international armed conflict, and by extension, conflicts involving non-state actors.⁸ This extends the scope of the AP II, and fills the lacuna created by the constricted scope of AP I. In summary, the Additional Protocols put the malaise of child soldiering on the international radar, although sparsely prohibiting it itself. It can be said to have pioneered the statutory prohibition of child soldiering in international and non-international armed conflict. Furthermore, it also laid the foundation for the minimum age requirement for children participation in armed conflict—15 years old. Finally, it impelled policy debates over the issue of children participation in armed conflict, spurring the enactment of other legal frameworks.

3.1.2. United Nations Convention on the Rights of the Child, 1989

The United Nations Convention on the Rights of the Child (UNCRC),⁹ is one of the nine core human rights treaties.¹⁰ It is the primary Convention protecting the rights of children, and it was adopted on 20 November 1989.¹¹ The CRC is the most quickly and widely ratified international human rights treaty in the world history.¹² To date, it has been ratified by 197 countries, including Nigeria who ratified it on the 19th of April, 1991.¹³ The Child Rights Convention is a legally binding document, making it the first legally binding international instrument on Child Rights.¹⁴ The adoption of the UNCRC was a laudable milestone in the trajectory of the international codification of child rights. It was described as ‘that luminous, living, document that enshrines the rights of every child without exception, to a life of dignity

⁸ AP II, art 1(1).

⁹ The United Nations Convention on the Right of the Child, 1989.

¹⁰ OHCHR, ‘The Core International Human Rights Instruments and their Monitoring Bodies’ (United Nations) <<https://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies>> accessed 24 October 2025.

¹¹ Ibid.

¹² Ibid.

¹³ B.N. Okpalaobi and C.O. Ekwueme, ‘United Nations Convention on the Rights of a Child: Implementation of Legal and Administrative Measures in Nigeria’ *Nnamdi Azikwe University Journal of International Law and Jurisprudence*, (2015) 6(1) 1–8. Only the United States is yet to ratify it.

¹⁴ ‘History of the UNCRC’ (Child and Youth Advocate) <<https://www.childandyouthadvocatepei.ca/history-of-the-uncrc>> accessed 24 October 2025.

and self-fulfillment.’¹⁵ The Convention is made up of three (3) parts containing fifty-four (54) articles.

The Convention vociferously prohibits children participation in armed conflict, with provisions such as Article 38, stating that:

- (1) State Parties to the CRC undertake to request and to ensure respect for the rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
- (2) State Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities.
- (3) State parties shall refrain from recruiting any person who has attained the age of 15 years into the armed forces. In recruiting among those persons who have attained the age of 15 years, but who have not attained the age of eighteen years, State Parties shall endeavor to give priority to those who are oldest.
- (4) In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.¹⁶

Furthermore, Article 39 of the Convention provides that:

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.¹⁷

Frontally, paragraph (3) addresses the participation of children in armed conflicts, but the other provisions are equally as relevant. The provisions of Article 38 have been regarded as groundbreaking, noteworthy, significant, and crucial in the prohibition of children participation in armed conflict.¹⁸ The UNCRC has been lauded for taking the ambiguous provisions of the Additional Protocols of 1977 a step further. It extends the protection afforded to children to non-state recruits, placing a responsibility on State parties to prevent

¹⁵ Nelson Mandela, ‘Statement on Building a Global Partnership for Children’ (One World One People, 6 May 2000) <https://www.oneworldonepeople.org/articles/mandela_children.htm> accessed 24 October 2025.

¹⁶ UNCRC 1989, art. 38.

¹⁷ Ibid, art. 39.

¹⁸ Ibid, art. 38.

child soldiering in all ramifications.¹⁹ Article 39 takes it a step further by requiring State Parties to provide post-conflict assistance for children involved in armed conflict.²⁰ It has also raised the level of international concern over the issue of child soldiering, owing to its wide ratification. More so, it has spurred the enactment of municipal legal frameworks with similar principles—the prohibition of children participation in armed conflict.

3.1.3. Optional Protocol to the CRC on the Involvement of Children in Armed Conflicts

Sequel to the adoption of the UNCRC, the Committee on the Rights of the Child began formulating an Additional Protocol to the Convention. This was necessitated by global concerns over the spike in child soldiering, as evidenced by the Cambodian genocide of 1975²¹. The Optional Protocol was adopted by the UN on 25 May 2000 and entered into force on the 12 February 2002.²² It has been ratified by 173 countries, with Nigeria ratifying the Optional Protocol on the 25th of September, 2012.²³ The Protocol centrically addresses the problem of children participation in armed conflict within the breadth of its thirteen (13) Articles. Each Article will be set forth in seriatim, and examined in turn.

Article 1 requires States Parties to take all feasible measures to prevent children under 18 years from participating in direct hostilities.²⁴ Article 2 raises the minimum age for compulsory recruitment of persons into State armed forces, to eighteen years.²⁵

¹⁹ Ibid.

²⁰ Ibid.

²¹ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, preamble and articles, adopted 25 May 2000, entered into force 12 February 2002, United Nations.

²² G.A. Res. 54/263, at 3, U.N. Doc. A/54/263, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (May 25, 2000) (entered into force Feb. 12, 2002) [hereinafter Optional Protocol].

²³ B.N. Okpalaobi and C.O. Ekwueme, 'United Nations Convention on the Rights of a Child: Implementation of Legal and Administrative Measures in Nigeria' *Nnamdi Azikwe University Journal of International Law and Jurisprudence*, (2015) 6(1) 1–8.

²⁴ Optional Protocol, art. 1.

²⁵ Ibid, art. 2.

Article 3(1) mandates State Parties to raise the age requirement for voluntary recruitment of persons into the armed forces beyond 15 years,²⁶ and (2) every State Party must submit the new minimum age to the CRC upon ratification or accession to the Protocol.²⁷ Paragraph (3) outlines the conditions that must be satisfied before the voluntary recruitment of children below eighteen years into the armed forces.²⁸ Paragraph (4) permits State Parties to the Protocol to strengthen their declarations in respect of (1) at any time after SAVE that the Secretary General of the UN should be duly notified.²⁹ Paragraph (5) precludes the applications of the provisions of paragraph (1) from schools operated by or under the control of the armed forces of the State Parties.³⁰

Article 4 prohibits the recruitment of persons below the age of 18 years into non-state armed forces and empowers State Parties to the Protocol to prevent, prohibit, and criminalize same.³¹ Article 5 renders the provisions of the Protocol subject to domestic enactments and international instruments that are better poised to safeguard the rights of the child.³² Article 6 pertains to the implementation of the Protocol, and it compels State Parties to implement the Protocol in their jurisdictions as well as create awareness of its provisions to adults and children alike.³³ Paragraph (3) provides that State Parties should endeavor to demobilize and reintegrate children found to be participating in armed conflict.³⁴

Article 7 appeals to the humanistic side of State Parties, and implores them to foster the implementation of the Protocol in other jurisdictions, through financial assistance and

²⁶ Ibid, art. 3(1).

²⁷ Ibid, art 3(2).

²⁸ Ibid, art. 3(3).

²⁹ Ibid, art. 3(4).

³⁰ Ibid, art. 3(5).

³¹ Ibid, art. 4.

³² Ibid, art. 5.

³³ Ibid, art. 6.

³⁴ Ibid, art. 6(3).

technical cooperation.³⁵ Article 8 requests State Parties to bi-annually submit a detailed report on the implementation of the Protocol in their respective jurisdictions.³⁶ Articles 9, 10, 11, 12, and 13 pertain to the ratification, entry into force, denunciation, amendment, and transmission of the Protocol, respectively.³⁷

The provisions of the Optional Protocol filled the lacunas that were existing in the UNCRC, earning it praise from both child right advocates and observers.³⁸ Particularly, it was remarked that the Optional Protocol raised the minimum age requirement for participation in direct hostilities to 18 years old.³⁹ This milestone development is in tandem with Article 1 of the CRC and effectively resolves the dichotomy created by Article 38. Moreover, it has laid to rest the recurring policy debate over the age bracket for children participating in armed conflict. By adopting this straight-eighteen approach, it is in consonance with majority of child's rights legal instruments, achieving uniformity in the legal provisions.⁴⁰

Another noteworthy contribution of the Optional Protocol, to the sphere of children involvement in armed conflict is enshrined in Article II. Therein, the compulsory recruitment of persons below the age of 18 years, into national armed forces, was prohibited. This provision is yet another improvement on the provisions of Article 38 of the CRC. It deprives State Parties to the Optional Protocol from compulsorily recruiting a child into their armed forces. Moreover, by virtue of this provision, the pre-existing two-tier level of protection was abolished and rendered nugatory.⁴¹ Hence, there was no longer any distinction between children below eighteen years of age, and those above fifteen, but below eighteen. By this

³⁵ Ibid, art. 7.

³⁶ Ibid, art. 8.

³⁷ Ibid, arts. 9-13.

³⁸ U. Kilkelly, 'The UN Convention on the Rights of the Child: Optional Protocols and the Involvement of Children in Armed Conflict' *International Journal of Children's Rights* (2001) 9(2) 97-115.

⁴⁰ Ibid.

⁴¹ K. Arts, 'Strengthening the Protection of Children's Rights: Lessons from the UNCRC Optional Protocols' *International Journal of Children's Rights* (2014) 22(3) 213-240.

provision, *all* persons below the age of 15, are compulsorily precluded from active military service.

The Optional Protocol also goes beyond the lip-service provided under the UNCRC which failed to concern itself with practical implementation. Contrary to the theoretical provisions of the CRC, the Optional Protocol compels State Parties to enforce its provisions. It provides for a reporting mechanism that mandates State Parties to report to the Committee on the Rights of the Child.⁴² These periodic reports detail the measures taken by State Parties in enforcing the provisions of the Optional Protocol in their jurisdiction. They must be submitted within two years following the entry into force of the Protocol for that State Party. These reports must be submitted every five years in accordance with article 44 of the Convention of the Rights of the Child. The Committee further reserves the rights to request State Parties to provide relevant information on their implementation of the Protocol.

In addition, by virtue of Article 4 of the Optional Protocol, non-state actors are precluded for recruiting children into their armed forces. This landmark provision extends the application of the prohibition of children involvement in armed conflict to non-state armed groups. As earlier noted, these non-state actors (terrorist groups, rebel factions, anti-government forces, etc.) are the major actors of armed conflicts. More so, they are the most prone to enlist children into their armed groups, in a bid to break down the moral fabric of the society. Cognizant of this situation, the drafters of the Optional Protocol, prohibited the recruiting of children by non-state actors in.⁴³ The Optional Protocol made it a strict liability offence, by inputting the words, *in all circumstances*, thus barring any exceptions whatsoever. Article 4(2) further consolidates the provision by endearing States Parties to take all feasible measures to prevent such recruitment and use.⁴⁴

⁴² Ibid, art. 8.

⁴³ Ibid, art. 4.

⁴⁴ Ibid, art. 4(2).

3.1.4. The Rome Statute of the ICC, 1998

Sequel to the Nuremberg Trials, policy drafters engaged in protracted discussions over the creation of a permanent international criminal court. The necessity for this court was accentuated by the astronomical increase in war atrocities in the late Twentieth Century. Statistics indicated that, between 1900 and 1990, there were over 250 conflicts worldwide, with a death toll of eighty-six million civilians.⁴⁵ To bring the perpetrators of these atrocities to book, the Rome Statute was adopted on the 17th of July, 1998.⁴⁶ The Statute created a permanent International Criminal Court ('The ICC'), to try persons committing war crimes against humanity and genocide.⁴⁷ Nigeria ratified the Statute on 1st of June, 2000, and deposited her instrument of ratification on 27th of September, 2001.⁴⁸ The 128-Article Statute established the ICC, structured its composition, listed its functions, outlined its jurisdiction, and codified the crimes.

Among other atrocities, the Rome Statute categorized the involvement of children in armed conflict as a war crime. Specifically, it provides that, conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities is a war crime, and the ICC has the jurisdiction to prosecute same.⁴⁹ Again, it provides that, conscripting or enlisting children under the age of fifteen years into armed forces or groups [not national armed forces] or using them to participate actively in hostilities [not of an international character] is a war crime.⁵⁰ Furthermore, the Statute bars intentionally directed attacks against building dedicated to education, for the protection of children in

⁴⁵ M.T. Ladan, 'An Overview of the Rome Statute of the International Criminal Court: Jurisdiction and Complementarity Principle and Issues in Domestic Implementation in Nigeria' *Afe Babalola University Journal of Sustainable Development Law and Policy*, (2013) 1(1) 37-53.

⁴⁶ Rome Statute of the International Criminal Court, July 17, 1998, U.N. DocA/Conf.183/9* (1998) [hereinafter Rome Statute].

⁴⁷ Ibid, art. 1.

⁴⁸ Ladan (n45).

⁴⁹ Rome Statute 1998, art. 8 (2)(b)(xxvi).

⁵⁰ Ibid, art. 8 (2)(e)(vii).

conflict areas.⁵¹ Finally, it precludes the prosecution of offenders who were under 18 years old at the time of committing the crime.⁵²

The Rome Statute was a global watershed in the protection of children from participating in armed conflicts on many fronts. Firstly, and most importantly, it criminalizes the involvement of children in armed conflict, making it a war crime. This is important because it elevates the prohibition of children from participating in armed conflict, from a right to a punishable offence. Thus, individuals, non-state actors, and national armed forces are guilty of war crimes by involving children in armed conflicts. This has had the effect of consolidating the provisions of international humanitarian law, and international human rights, giving it binding force. It has also led to the conviction of child soldier recruiters such as Thomas Lubanga Dyilo of the Democratic Republic of Congo.⁵³

Another hallmark of the Rome Statute was its total abdication of any form of reference to the degree of participation. It abolished the direct-indirect dilemma characteristic of the Additional Protocols of 1977 and the 1989 Convention on the Rights of the Child.⁵⁴ The Statute stipulates that using children below the age of 15 years to participate actively in hostilities is a war crime.⁵⁵ The words ‘use’ and ‘participate’ were further elucidated to cover both direct participation in combat and ancillary military activities. Examples of the latter were given as, scouting, spying, sabotage, courier services, mine-checking and other military activities linked to combat. The provision, however, precludes activities that are remotely connected to armed conflicts, such as messengerial duties in the barracks. It, however,

⁵¹ Ibid, art. 8 (2)(b)(ix) and. 8 (2)(e)(iv).

⁵² Ibid, art. 26.

⁵³ *Prosecutor v. Lubanga*, ICC-01/04-01/06-803, Decision on Confirmation of Charges, 238-39 (Jan. 29, 2007);

⁵⁴ Siwnan Rasakandan and Pardis Moslemzadeh Tehrani, ‘Protection of Children from Recruitment and Use in Armed Conflict: Role of International Legal Framework’ (2022) 15(4) *Journal of Politics and Law* 230.

⁵⁵ Ibid.

includes the use of children in ‘direct’ support functions such as carrying supplies to the front line.⁵⁶

Also, the Rome Statute offers a wider degree of protection than was offered by the preceding legal frameworks. It removed the unnecessary schism that was created under the Optional Protocol by prohibiting both the conscription and enlistment of children. It explicitly provides that conscripting or enlisting children under the age of fifteen years is a war crime. In ordinary English parlance, conscripting refers to the act of enrolling a person into military service by compulsion. Enlisting, on the other hand, lexically means to enroll oneself into; participate heartily in; and become a member of, the armed forces. From the foregoing definitions, it is reasonable to infer that conscripting denotes compulsory recruitment and enlisting refers to voluntary recruitment. Hence, the legal implication of Article 8(2)(b)(xxvi) of the Statute is the criminalization of both forms of recruitment of children.

In addition, the Rome Statute, unlike the Additional Protocol I or the UNCRC, directly extends its provisions to non-state armed forces. In Article 8(2)(e)(vii), the Statute takes cognizance of the fact that present-day armed conflicts are intra-state wars involving non-state actors. The Article criminalises the recruitment of children less than fifteen years into non-state armed groups, or their involvement in internal hostilities. This provision is particularly laudable, as non-state actors are most likely to be engaged in recruiting children into their armed groups. Thus, by this provision, their recruitment and use of children below fifteen years old is punishable by the ICC. This led to the conviction of Thomas Lubanga Dyilo, former President of the UPC/FPLC, an armed group in Ituri, DRC. He was convicted of the war crimes of enlisting and conscripting children under the age of 15 years. He was

⁵⁶ Ibid.

sentenced to a total of twelve years imprisonment on the 14th of March, 2012 and released on 15 March 2020.⁵⁷

Also among its litany of striking provisions is the fact that the Statute covers situations where the children are not recruited *per se*.⁵⁸ Conventionally, and under the preceding legal frameworks, children were required to be recruited before an infraction of their rights could arise.⁵⁹ This was because liability for breach of the international instrument was inputted against the recruited of the child or children. Circumventing this requirement, erstwhile child recruiters began covertly using children to perpetrate their dastardly acts without recruiting them at all. To do so, they may approach a young child and hand him/her a package to drop in a nearby location. Unknown to the children, these packages often times contained bombs and other explosives, making them suicide bombers inadvertently⁶⁰. Putting a stop to this abuse of the gullibility and naivety of children, the Statute prohibits using children to participate actively in hostilities, with or without the prior recruitment of these children into their armed forces.

In conclusion, the Rome Statute stands as a pivotal international legal framework aimed at addressing the involvement of children in armed conflicts. The Statute's comprehensive approach of including both conscription and enlistment of children extends its provisions to non-state armed forces. It also criminalizes the recruitment and use of children under the age of fifteen, thereby elevating the protection of children from a mere right to a punishable offense.

⁵⁷ *Prosecutor v. Lubanga*, ICC-01/04-01/06-803, Decision on Confirmation of Charges, 238-39 (Jan. 29, 2007);

⁵⁸ Sylvain Vité, 'Child Soldiers and the International Criminal Court: A Legal Analysis of the First Case' (2005) 3 *Journal of International Criminal Justice* 114.

⁵⁹ *Ibid.*

⁶⁰ United Nations, *Cradled by Conflict: Children and Armed Violence* (New York: United Nations, 2017), ch. 6, p. 195.https://peacekeeping.un.org/sites/default/files/cradled_by_conflict.pdf.

3.1.5. Worst Forms of Child Labour Convention, 1999

The full title is, The Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.⁶¹ The International Labour Organization (ILO) is a United Nations agency comprising governments, employers, and workers dedicated to international labor standards. It was created in 1919, as part of the Treaty of Versailles, in the first International Labour Conference in 1919.⁶² As an international agency, the ILO makes recommendation and adopts conventions on issues appertaining labour conditions. It is a reference point for international labour law, and its pre-existing Conventions include the Forced Labour Convention⁶³, among others. The Worst Forms of Child Labour Convention was adopted on 17 June 1999, comprising 16 articles aimed at eliminating child labour.⁶⁴ It recognizes children participation in armed conflict as a form of slavery, and as one of the worst forms of child labour.

Specifically, the Convention categorizes the forced or compulsory recruitment of children for use in armed conflict as a form of slavery. Article 3(a) provides that:

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;⁶⁵

⁶¹ International Labour Organization, Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182), adopted 17 June 1999, (entered into force 19 November 2000). The 1999 Convention requires countries to urgently eliminate the worst forms of child labour, including slavery, trafficking, forced labour, hazardous work, and commercial or criminal exploitation. It obliges governments to adopt laws, enforcement mechanisms, rehabilitation programmes, and preventive measures to protect children, ensuring their safety, dignity, and access to education.

⁶² J. Van Daele, 'The International Labour Organization (ILO) in Past and Present Research' *International Review of Social History* (2008) 53(3) 100-118 <https://doi.org/10.1017/S0020859008003568> accessed 24 October 2025.

⁶³ International Labour Organization, Convention concerning Forced or Compulsory Labour (No. 29), adopted 28 June 1930, (entered into force 1 May 1932) 39 U.N.T.S. 55. (ILO)

⁶⁴ International Labour Organization, Worst Forms of Child Labour Convention, adopted June 17, 1999, No. 182 (entered into force Nov. 19, 2000). Available at <http://www2.ohchr.org/english/law/childlabour.htm>. accessed 24 October 2025.

⁶⁵ ILO Convention 182, art. 3(a).

Furthermore, the Convention defines children, for the purpose of its provisions as any person under the age of 18.⁶⁶ It also makes it incumbent on State Parties to take immediate and effective measures to implement its provisions.⁶⁷

The Convention marked a significant shift in the ILO's focus, acknowledging the dimension of child labor represented by child soldier recruitment. Laudably, it adopts a straight-eighteen approach, displaying consonance with the existing spate of laws on child soldiering. It also categorized the compulsory recruitment of children for use in armed conflict as a worse form of child labour.⁶⁸ This reflects the economic dimension to children's involvement in armed conflict, and makes it a contravention of international labour law. Moreover, it mandates members to ensure the removal of children from conflict situations and to foster their rehabilitation and reintegration into the society. It also implores Members to establish or designate appropriate mechanisms to monitor the implementation of the provisions of the Convention.⁶⁹

In conclusion, the ILO Convention 182⁷⁰ stands as a landmark treaty in the global effort to combat the worst forms of child labor, specifically addressing the forced recruitment of children into armed conflicts. It is a critical international instrument that calls for immediate action to prohibit and eliminate the exploitative and harmful practices endured by children in armed conflicts. The ILO's commitment to collaboration among states for the implementation of these provisions reflects a collective effort to safeguard the well-being and future of children worldwide.

⁶⁶ Ibid, art. 2.

⁶⁷ Ibid, art. 1.

⁶⁸ J Becker, 'Child Soldiers: Changing International Law to End the Use of Children in Armed Conflict' *Human Rights Brief* (2005) 12(1) 18.

⁶⁹ Ibid.

⁷⁰ Ibid, 40.

3.1.6. African Charter on the Rights and Welfare of the Child, 1990

Following sustained advocacy for a region-specific framework addressing the peculiar vulnerabilities of African children, the Organization of African Unity (now African Union) adopted the African Charter on the Rights and Welfare of the Child (ACRWC) in July 1990.⁷¹ Its formulation was largely influenced by the perception that the United Nations Convention on the Rights of the Child (CRC) did not adequately reflect the historical, socio-political, and cultural experiences of African children,⁷² particularly those embroiled in internal conflicts, liberation struggles, and prolonged instability. Consequently, African States collectively sought to articulate a binding normative instrument that not only reaffirmed the CRC's principles but also expanded its scope to reflect Africa's unique realities.⁷³ The Charter finally entered into force in 1999, and Nigeria ratified it in July of the same year.

The ACRWC is lauded for being more explicit and categorical than earlier international instruments concerning the recruitment and participation of children in armed conflict. Article 22 of the Charter, titled Armed Conflicts, contains the principal protective framework for children in situations of warfare. It provides that:

- (1) States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.
- (2) States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.
- (3) States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts.

⁷¹ African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (ACRWC).

⁷² B.D. Mezmur, 'The African Children's Charter @ 30: A distinction without a difference?' *The International Journal of Children's Rights*, (2020 28(1) 693–714.

⁷³ Ibid.

Such rules shall also apply to children in situation of internal armed conflicts, tension and strife.⁷⁴

Article 22(2) expressly mandates State Parties to ‘take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting **any** child’ (emphasis mine).⁷⁵ This clause marks a significant departure from the Geneva Conventions and the Additional Protocols which set the age threshold at 15 years.⁷⁶ In contrast, the ACRWC unequivocally defines a ‘child’ as any person below the age of 18 years,⁷⁷ thereby establishing 18 as the minimum permissible age for recruitment—both voluntary and compulsory.

Furthermore, Article 22(2) enjoins States to abide by international humanitarian law governing armed conflicts, and to respect the special protection afforded to children in such contexts.⁷⁸ The Charter imposes additional obligations that extend beyond the prevention of recruitment. It incorporates provisions requiring the protection of civilian populations, the safeguarding of essential facilities, and the prioritisation of children’s physical and psychological well-being during emergencies. In so doing, the ACRWC broadens the protective ambit previously articulated in global instruments by emphasising the layered vulnerabilities affecting African children, including displacement, loss of family care, and exploitation by insurgent groups.

The normative value of the ACRWC is further reinforced through the establishment of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the body responsible for overseeing State compliance.⁷⁹ The Committee reviews periodic reports, receives communications, and conducts investigations to collectively strengthen

⁷⁴ ACRWC 1990, art. 22.

⁷⁵ Ibid, art. 22(2).

⁷⁶ AP I, art. 77(2); AP II, art. 4(3).

⁷⁷ ACRWC 1990, art. 2.

⁷⁸ Ibid, art. 22(3).

⁷⁹ Ibid, art. 32

accountability for violations such as forced recruitment.⁸⁰ This institutional architecture distinguishes the ACRWC from several non-binding frameworks and enhances its practical relevance in contexts where State institutions routinely grapple with insurgencies or civil conflicts.

In summary, the African Charter on the Rights and Welfare of the Child represents a progressive regional innovation in the fight against child soldiering. Its categorical prohibition of recruitment under the age of 18 constitutes one of the most stringent age-based protections in international child rights law. By expanding the legal obligations of African States and situating the protection of children within Africa's specific conflict dynamics, the Charter fills critical normative gaps left by earlier global frameworks. It therefore stands as a cornerstone instrument that elevates the protection of children from participation in armed conflict and promotes a uniform, higher standard across the continent.

3.2 Institutional Frameworks

In the effort to combat the egregious practice of children's participation in armed conflicts, various institutional frameworks have been established at the international level to address the legal aspects and ensure accountability for perpetrators. Two key institutions, the International Criminal Court (ICC) and the Special Court for Sierra Leone, play pivotal roles in addressing crimes against children in the context of armed conflicts.

3.2.1. International Criminal Court (ICC)

The International Criminal Court (ICC) stands as a beacon for international justice, mandated to prosecute individuals responsible for the most serious crimes of international concern, including those involving child soldiers. Established by the Rome Statute in 1998,⁸¹ the ICC became operational in 2002 and serves as a permanent international court with jurisdiction

⁸⁰ Ibid, art. 42.

⁸¹ Rome Statute 1998, art. 1.

over genocide, crimes against humanity, war crimes, and the crime of aggression.⁸² The ICC is the brainchild of the Rome Statute, and its establishment marked a significant milestone in the pursuit of international justice. The Statute was adopted on July 17, 1998, in Rome, and came into force on July 1, 2002, after the requisite ratifications.⁸³

Figures instrumental in the establishment of the ICC include legal scholars, human rights advocates, and diplomats who sought to address the impunity surrounding grave international crimes. The court's first prosecutor, Luis Moreno Ocampo, played a crucial role in initiating investigations into situations involving child soldier recruitment.⁸⁴

The ICC's jurisdiction encompasses crimes related to the recruitment and use of child soldiers as war crimes. The Rome Statute explicitly recognizes the enlistment or conscription of children under the age of fifteen into armed forces or groups as a war crime.⁸⁵ The ICC's involvement has had a deterrent effect, emphasizing individual criminal responsibility for acts involving child soldiers and contributing to a growing global awareness of the need to protect children in conflict zones.⁸⁶

While the ICC has made strides in addressing crimes against children, it has faced criticisms, including accusations of selectivity in its case choices and challenges in its enforcement capabilities⁸⁷. Additionally, some argue that the ICC's impact on deterring child soldier

⁸² Ibid, art. 5–8.

⁸³ W.A. Schabas, 'The International Criminal Court: A Commentary on the Rome Statute' *European Journal of International Law* (2004) 6(1) 19-35.

⁸⁴ International Criminal Court, 'ICC – Child Soldier Charges in the First International Criminal Court Case' (Press Release, 28 August 2006) <https://www.icc-cpi.int/news/icc-child-soldier-charges-first-international-criminal-court-case> accessed 6 December 2025.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Birju Kotecha, "The International Criminal Court's Selectivity and Procedural Justice," *Journal of International Criminal Justice* 18, no. 1 (2020): 107–139, <https://doi.org/10.1093/jicj/mqaa020>; Dr. Nnamdi Kingsley Akani, "Challenges Facing the International Criminal Court," *Journal of Jurisprudence, International Law and Contemporary Legal Issues* Vol. 18, Issue 1 (2024): section on enforcement challenges.

recruitment could be strengthened through increased collaboration with national and regional bodies.⁸⁸

3.2.2. Special Court for Sierra Leone (SCSL)

The Special Court for Sierra Leone,⁸⁹ was established to address the heinous crimes committed during the Sierra Leone Civil War, including the conscription and use of child soldiers. This hybrid international and national tribunal played a crucial role in prosecuting those responsible for grave violations of international humanitarian law.⁹⁰ The Special Court for Sierra Leone was established through an agreement between the Sierra Leonean government and the United Nations.⁹¹ It was established on January 16, 2002, and its primary mandate was to prosecute those who bear the greatest responsibility for the atrocities committed during the Sierra Leone Civil War.

Key figures involved in the establishment of the Special Court include diplomats, legal experts, and representatives from Sierra Leone and the United Nations.⁹² The court's first prosecutor, David Crane, and subsequent prosecutors played instrumental roles in bringing individuals to account for their roles in recruiting and using child soldiers.⁹³

The Special Court for Sierra Leone had a distinct focus on crimes against children, including the recruitment and use of child soldiers. Notable cases, such as the trial of Charles Taylor, the former President of Liberia, highlighted the court's commitment to holding high-profile

⁸⁸ S.M. Nouwen, 'Complementarity in the Line of Fire: The Catalysing Effect of the International Criminal Court in Uganda and Sudan' *Oxford Journal of Legal Studies* (2013) 3(2) 1-18.

⁸⁹ Statute of the Special Court for Sierra Leone, UN Doc. S/2000/915, annex (2000), entered into force 2 October 2002. (UN Peacemaker). The Special Court for Sierra Leone was a hybrid international tribunal established in 2002 to prosecute those bearing the greatest responsibility for serious violations of international humanitarian law during the country's civil war. Combining international and domestic law, it aimed to deliver justice, promote accountability, and support long-term peace.

⁹⁰ C.C. Jalloh, 'The Contribution of the Special Court for Sierra Leone to the Development of International Criminal Law' *African Journal of International and Comparative Law* (2007) 14(2) 118-143.

⁹¹ S. Shenoda, A. Kadir and J. Goldhagen, 'Children and Armed Conflict (2015) 136(2) *Pediatrics*, 309-311. <https://doi.org/10.1542/peds.2015-0948> accessed 24 October 2025.

⁹² Ibid.

⁹³ Ibid.

individuals accountable for their involvement in child soldier recruitment. The court's judgments and verdicts contributed to setting important precedents in prosecuting those responsible for these grave crimes.

The Special Court for Sierra Leone's legacy includes not only its jurisprudence but also its outreach and engagement with affected communities. The court faced challenges, including securing witnesses and balancing international standards with local expectations.⁹⁴ However, its work demonstrated the possibility of combining international and national efforts to address crimes against children in conflict zones.

⁹⁴ S. Bald, 'Searching for a Lost Childhood: Will the Special Court of Sierra Leone Find Justice for Its Children?' *American University International Law Review*, (2002) 18(2) 537-553.

CHAPTER FOUR

CHALLENGES AND PROSPECTS OF THE LEGAL AND INSTITUTIONAL FRAMEWORK PROHIBITING CHILDREN'S PARTICIPATION IN ARMED CONFLICTS

4.1 Challenges

Despite the proliferation of international conventions, protocols, charters, statutes, and institutional arrangements meticulously crafted to proscribe the involvement of children in armed conflict, the practice remains disturbingly pervasive. Contemporary armed conflicts such as the Russo-Ukrainian war,¹ the Yemeni civil war,² and the Israeli-Palestinian conflict,³ continue to witness the conscription, enlistment, abduction, coercion, and utilization of children in a bewildering array of military and quasi-military roles. This persistent recurrence suggests that the compendium of legal and institutional frameworks, though robust in aspiration, has not translated into commensurate practical outcomes.

It therefore becomes imperative to interrogate the underlying factors militating against the effective implementation of these frameworks. Such an interrogation transcends a mere listing of deficiencies; instead, it demands a granular excavation of systemic, structural, and doctrinal challenges that befuddle the prohibition of children's participation in armed conflicts. This chapter proceeds to examine these challenges under five thematic sub-heads: weak enforcement mechanisms, ambiguity and inconsistency in legal standards, the limited jurisdiction of international courts, the role of non-state armed groups, and inadequate domestic implementation. Thereafter, it explores the prospects that may remedy these shortcomings, including the advent of comprehensive international norms, strengthened

¹ A. Barkhush, 'Russia's Child Soldiers: How the Kremlin Trains Ukrainian Kids and Sends Them to the Frontlines' *United24 Media* (7 July 2025). <https://united24media.com/war-in-ukraine/russias-child-soldiers-how-the-kremlin-trains-ukrainian-kids-and-sends-them-to-the-frontlines-9627> accessed 19 November 2025.

² D.D. Kirkpatrick, 'On the Front Line of the Saudi War in Yemen: Child Soldiers from Darfur' *New York Times* (Yemen, 28 December 2018). <https://www.nytimes.com/2018/12/28/world/africa/saudi-sudan-yemen-child-fighters.html#click=https://t.co/8HUg9gjXb2> accessed 19 November 2025.

³ D. Pérez-García, 'Child soldiers in Palestinian Groups: Forced Recruitment and Use of Minors as a Violation of International Humanitarian Law' *Revista Internacional de Estudios sobre Terrorismo*, (2022) 7(2) 21-33.

accountability mechanisms, the crystallization of customary international law, heightened collaboration with civil society, and the global ascendance of child protection awareness. The challenges of the legal and institutional framework prohibiting children's participation in armed conflicts are discussed hereunder:

4.2.1. Weak Enforcement Mechanisms

One of the foremost impediments to the realisation of the prohibition against child soldiering is the chronic weakness inherent in the enforcement mechanisms of the extant legal frameworks. Although the international system is replete with a constellation of treaties, conventions, protocols, and statutes, their enforcement remains largely dependent on the goodwill, political will, and capacity of sovereign States.⁴ As a result, enforcement often oscillates between tepid compliance, selective observance, and outright disregard.

A notable structural weakness is the absence of centralised supranational enforcement authority within the international legal order. Treaties such as the UNCRC,⁵ the Optional Protocol thereto,⁶ and the Additional Protocols to the Geneva Conventions⁷ are devoid of coercive implementing institutions. Their primary enforcement tool consists of periodic reporting obligations, which are more procedural than punitive. States submit self-reported compliance documents to treaty-monitoring bodies, such as the Committee on the Rights of

⁴ O.N. Okereke and others, 'Addressing Challenges and Development in Enforcing International Laws on Child Soldiers: The Need for Legal Reform' *Journal of Law and Legal Reform*, (2024) 5(4) 1941–1976. <https://doi.org/10.15294/jllr.v5i4.1529> accessed 19 November 2025

⁵ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (hereinafter UNCRC).

⁶ G.A. Res. 54/263, at 3, U.N. Doc. A/54/263, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (May 25, 2000) (entered into force Feb. 12, 2002) [hereinafter Optional Protocol].

⁷ Protocol Additional to the Geneva Convention of Aug. 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflict, opened for signature Dec. 12, 1977, 1125 U.N.T.S. 3, 161 L.M. 1391 (1977) (hereinafter AP I); Protocol Additional to the Geneva Convention of Aug. 12, 1949 and Relating to the Protection of Victims of Non-International Armed Conflict, opened for signature Dec. 12, 1977, art.1(2), 1125 U.N.T.S. 609, 161 L.M. 1442 (1977) (hereinafter AP II).

the Child, which reviews these submissions and issues concluding observations.⁸ Yet, these observations lack binding force, are unenforceable, and cannot compel State rectification.

More so, the doctrine of state sovereignty continues to frustrate attempts at meaningful enforcement.⁹ States frequently invoke sovereignty and territorial integrity to rebuff external scrutiny of their military practices, especially when accusations pertain to the conscription or use of children by their national armed forces.¹⁰ Sovereignty, therefore, becomes a shield to mask internal abuses, thereby diluting the effect of international norms.

Another problematic dimension is the absence of sanctions within many of these treaties. For instance, the UNCRC, despite being one of the most widely ratified treaties in human history,¹¹ contains no punitive provisions for non-compliance.¹² Similarly, the African Charter on the Rights and Welfare of the Child, though progressive in its substantive content, lacks mandatory sanctions beyond the relatively mild reporting obligations to the African Committee of Experts on the Rights and Welfare of the Child.¹³ Such frameworks, while normatively rich, are operationally impoverished. The Optional Protocol to the UNCRC, although more elaborate, still lacks direct enforcement machinery beyond reporting cycles.¹⁴ Even in cases where monitoring bodies identify contraventions; their tools remain admonitory rather than coercive.

⁸ UNCRC 1989, art. 44.

⁹ S. Diaz, 'An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers' *SSRN Electronic Journal*. <<https://doi.org/10.2139/ssrn.485634>> (2024) 39(3).

¹⁰ Ibid.

¹¹ B.N. Okpalaobi and C.O. Ekwueme, 'United Nations Convention on the Rights of a Child: Implementation of Legal and Administrative Measures in Nigeria' *Nnamdi Azikwe University Journal of International Law and Jurisprudence*, (2015) 6(6) 1–8. It has been ratified by 197 countries. Only the United States is yet to ratify it.

¹² I. Nwachukwu, 'Rights of Children under the United Nations Convention on the Rights of the Child: The Challenges of Implementation' (2023) 4 *African Customary and Religious Law Review*, 45–53.

¹³ African Charter on the Rights and Welfare of the Child (adopted 11 July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (ACRWC), art. 43.

¹⁴ G.A. Res. 54/263, at 3, U.N. Doc. A/54/263, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (May 25, 2000) (entered into force Feb. 12, 2002) [Optional Protocol], art. 8.

Institutional frameworks also suffer similar weaknesses. The International Criminal Court, although vested with the mandate to prosecute individuals for conscripting or enlisting children below fifteen years, is only complementary to domestic jurisdictions.¹⁵ This complementarity principle inadvertently places primary responsibility on States, many of whom lack the political appetite for prosecuting their own military officials or powerful non-state actors. Moreover, the Rome Statute's stringent admissibility requirements, including *gravity, unwillingness, inability, and interests of justice*, often preclude the ICC from taking action in all but the most egregious cases.¹⁶ As a result, child soldiering, though serious, must often compete with other grave atrocities for prosecutorial prioritisation. This hierarchical triage undermines the consistent enforcement of the prohibition.

Additionally, non-state armed groups, who are among the major perpetrators of child soldiering, are not direct parties to most international treaties. They cannot be compelled through treaty-based enforcement, thereby weakening the reach of international law.¹⁷ Even where the Rome Statute criminalises their recruitment practices, the Court lacks the operational capacity to arrest, investigate, or prosecute high-ranking rebel leaders embedded in non-permissive, inaccessible, or conflict-ridden terrains.

Finally, monitoring mechanisms remain limited by resourcing and geographic constraints. UN agencies such as UNICEF and the Special Representative of the Secretary-General for Children and Armed Conflict operate largely through field missions that depend on State cooperation. Where such cooperation is not forthcoming, meaningful monitoring becomes illusory.

¹⁵ Rome Statute of the International Criminal Court, July 17, 1998, U.N. DocA/Conf.183/9 (1998) [Rome Statute], art. 8 (2)(b)(xxvi).

¹⁶ Ibid, art. 17; M. Ochi, 'Taking Illegal Amnesties Seriously: Threefold Approach to the Admissibility Test before the International Criminal Court' (2023) 23(4) *International Criminal Law Review*, 580-602.

¹⁷ Y. Arai-Takahashi, 'War Crimes relating to child soldiers and other children that are otherwise associated with armed groups in situations of non-international armed conflict. An incremental step toward a coherent legal framework' *Questions in International Law*, (2019) 6(9) 25–48.

4.2.2. Ambiguity and Inconsistency in Legal Standards

Another major challenge undermining the protection of children in situations of armed conflict is the persistent ambiguity and inconsistency that plague the substantive legal standards across international instruments.¹⁸ While the global normative landscape appears rich and multilayered, the absence of uniformity—particularly regarding age thresholds, definitional clarity, and the nature of prohibited conduct—has produced a patchwork of obligations that often confound implementation and compliance efforts.

Historically, international humanitarian law set the minimum age for participation in hostilities at fifteen years. This threshold, first entrenched in the 1977 Additional Protocols to the Geneva Conventions,¹⁹ represented what was at that time a compromise between diverse State practices rather than a principled determination of childhood vulnerability. This age threshold, however, stands in stark contrast with later instruments in human rights and labour law such as the African Charter on the Rights and Welfare of the Child²⁰ and the Optional Protocol to the CRC²¹ which elevate the minimum age to eighteen for compulsory recruitment and direct participation. These divergent standards have created conceptual tension between humanitarian law and human rights law, generating uncertainty for States attempting to reconcile their dual obligations.

Furthermore, many treaties fail to clearly delineate between “direct” and “indirect” participation in hostilities. The phrase *direct participation*, used in the Additional Protocols,²² is notoriously ambiguous and has been interpreted narrowly by some States, thereby excluding a range of functions such as logistical, surveillance-related, intelligence-related, or

¹⁸ Okereke (n4), 1947–1953.

¹⁹ AP I, art. 77(2); AP II, art. 4(3)(c). This age threshold has been implemented by several countries in their domestic provisions, such as Belgium, Canada, Congo, Germany, Ireland, Mali, Netherlands, New Zealand, Norway, Korea, South Africa, Switzerland, United Kingdom, and United States of America among others.

²⁰ ACRWC 1990, art. 2.

²¹ Optional Protocol 2000, arts. 1–4.

²² AP I, art. 77(2); AP II, art. 4(3)(c).

supportive tasks that children frequently perform on the battlefield. By contrast, the Optional Protocol introduces the broader language of “taking part in hostilities,”²³ which some commentators interpret as capturing both direct and indirect roles. The absence of a universally accepted definitional framework has enabled States to manipulate terminological ambiguities to preserve certain military practices or to avoid responsibility.

The definitional problem extends even further in the context of “recruitment.” International law distinguishes between compulsory recruitment, voluntary enlistment, and forced recruitment.²⁴ Yet, the concept of “voluntary” enlistment by children remains deeply problematic, as socio-economic deprivation, coercive community structures, and the dynamics of survival in conflict zones render children incapable of exercising free and informed consent.²⁵ Despite this reality, several States maintain legal provisions that permit voluntary enlistment under the age of eighteen, relying on the Optional Protocol’s controversial allowance for voluntary recruitment into State armed forces with parental consent.²⁶ This inconsistency weakens the universality of the eighteen-year standard and perpetuates a loophole that enables the continued involvement of adolescents in military activities.

Similarly, disparity exists between regional and global instruments. While the African Charter unequivocally sets the age of eighteen as the minimum threshold for any form of recruitment or participation,²⁷ the UNCRC and its Optional Protocol stop short of

²³ Optional Protocol 2000, art. 1.

²⁴ This distinction is most aptly captured in Articles 2 and 3 of the Optional Protocol to the UNCRC.

²⁵ A.H. Blackwell and others, ‘Drivers of ‘voluntary’ recruitment and challenges for families with adolescents engaged with armed groups: Qualitative insights from Central African Republic and Democratic Republic of the Congo’ (2023) 3(5) *PLOS Global Public Health*, e0001265. <https://doi.org/10.1371/journal.pgph.0001265> accessed 19 November 2025. It is akin to a child consenting to sex. The law has repeatedly declared that this is not possible.

²⁶ Optional Protocol 2000, art. 3(3).

²⁷ ACRWC 1990, art. 2.

establishing such a firm and universal prohibition.²⁸ This regional/global divergence has produced a fragmented legal landscape, particularly for African States that are simultaneously bound by universal and regional obligations with different substantive thresholds.

Ambiguity also arises from the flexible language in several provisions, such as “all feasible measures” (Additional Protocol I) or “all necessary measures” (African Charter).²⁹ These indeterminate phrases lack objective criteria for assessment, allowing States substantial latitude in defining the scope of their obligations.³⁰ As a result, compliance is often subjective, self-assessed, and susceptible to political manipulation.

Moreover, the intersection between international humanitarian law and international criminal law introduces yet another layer of inconsistency. The Rome Statute criminalises the conscription, enlistment, and use in hostilities of children under fifteen years of age,³¹ thereby reinforcing the lower age threshold, despite parallel human rights norms advocating for eighteen. This discrepancy has created doctrinal tension in both legal scholarship and judicial practice. It also means that conduct involving children aged fifteen to seventeen, while internationally proscribed in human rights law, does not necessarily constitute an international crime under the ICC framework. This gap severely undermines accountability for a significant portion of adolescent recruitment.

In summary, the ambiguities and inconsistencies across legal instruments pertaining to age thresholds, definitional scope, roles constituting participation, and the nature of recruitment have collectively weakened international protection standards. These discrepancies permit interpretive manipulation by States, hinder enforcement, and contribute to the persistence of child soldiering.

²⁸ UNCRC 1989, art. 38; Optional Protocol 2000, art. 2 & 3.

²⁹ AP I, art. 77(2); ACRWC 1990, art. 22(2).

³⁰ D.F. Atidoga, S.E. Kabi, and O.N. Okereke, ‘Evaluation of Enforcement Powers of the African Regional Human Rights Legal Framework on Child Soldiering’ *Nigerian Law Journal*, (2023) 2(4) 84-94.

³¹ Rome Statute 1998, arts. 8(2)(b)(xxvi) & 8(2)(e)(vii)

4.2.3. Limited Jurisdiction of International Courts

The jurisdictional limitations of international judicial institutions constitute yet another formidable challenge in the enforcement of the prohibition against children's involvement in armed conflict.³² Although courts such as the International Criminal Court (ICC) and the Special Court for Sierra Leone (SCSL) represent important milestones in international justice, their mandates, operational constraints, and structural limitations significantly circumscribe their impact.³³

The ICC, established under the 1998 Rome Statute, is often heralded as the primary institution for prosecuting individuals responsible for conscripting, enlisting, or using children under fifteen years in hostilities.³⁴ However, this theoretical promise is undermined by formidable jurisdictional hurdles. Foremost among these is the principle of *complementarity*, which makes the Court a forum of last resort.³⁵ The ICC can only exercise jurisdiction where national jurisdictions are unwilling or unable genuinely to prosecute. Many States, particularly those embroiled in conflict, are neither willing nor institutionally capable of prosecuting high-ranking military officials or influential non-state actors. Yet, they often maintain a façade of willingness to avoid ICC intervention. This phenomenon, termed “positive complementarity,” often results in prolonged inaction.³⁶

Geographical selectivity further diminishes the ICC's effectiveness. The Court's jurisdiction is limited to crimes committed on the territory of State Parties or by their nationals,³⁷ unless referred by the UN Security Council. Several conflict zones with rampant child recruitment

³² S. Ekpa and D.F. Atidoga, ‘Challenges in the Enforcement of International Legal Framework against Child Soldiering’ *Indonesian Journal of International Law*, (2025) 22(4) 789–812. <https://doi.org/10.17304/ijil.vol22.4.1837> accessed 19 November 2025.

³³ Ibid.

³⁴ Rome Statute, 1998, art. 1.

³⁵ Ibid, arts. 13–18.

³⁶ Y. Shereshevsky, ‘The Unintended Negative Effect of Positive Complementarity’ *Journal of International Criminal Justice*, (2022) 18(4) 1017–1042. <https://doi.org/10.1093/jicj/mqaa043> accessed 19 November 2025.

³⁷ Rome Statute 1998, art. 12.

such as Myanmar, Syria, and parts of the Middle East fall outside the Court's territorial reach due to non-ratification of the Rome Statute. This leaves vast swathes of global child soldiering unaddressed by international criminal law.

The ICC's reliance on State cooperation also severely curtails its operational reach. Arrest warrants cannot be executed without the cooperation of national authorities, yet such cooperation is frequently withheld where alleged perpetrators retain political influence,³⁸ command armed forces, or control territory. The inability to apprehend suspects, illustrated in several situations including Sudan and Uganda, demonstrates how political realities often overpower legal prescriptions.

Another significant limitation is the Statute's restrictive age threshold. Because the ICC only criminalises the recruitment of children under fifteen,³⁹ it leaves a substantial gap in accountability for the recruitment or use of children aged fifteen to seventeen. Although international human rights law firmly protects this age group, the ICC's narrower threshold means that violations against them fall outside the Court's criminal jurisdiction. This limitation prevents the ICC from fully harmonising international humanitarian law with evolving human rights norms.

The Special Court for Sierra Leone, though more contextually effective, suffered similar jurisdictional limitations. Its mandate was geographically and temporally restricted, and it ceased operation after completing its cases. While its jurisprudence, particularly the *Prosecutor v. Charles Taylor*⁴⁰ and *Prosecutor v. Fofana and Kondewa*,⁴¹ significantly advanced accountability for child recruitment, its impact was inherently limited to the Sierra Leonean conflict. Its legacy, though normatively influential, lacked universal enforceability.

³⁸ D. Akande, 'The International Criminal Court and the Security Council: Practice, Problems and Prospects' *Journal of International Criminal Justice* (2012) 1(7) 853-877.

³⁹ *Ibid.*, arts. 8(2)(b)(xxvi).

⁴⁰ *Prosecutor v Charles Ghankay Taylor* (Judgment) SCSL-03-01-T (26 April 2012).

⁴¹ *Prosecutor v Moinina Fofana and Allieu Kondewa* (Judgment) SCSL-04-14-T (2 August 2007).

Moreover, both the ICC and SCSL have been criticised for their selective prosecutorial strategies. Investigative priorities often focus on emblematic offenders, thereby addressing only a fraction of actual violations. The structural constraints of international criminal trials such as length, cost, and evidentiary challenges, also reduce the number of cases that can be brought to trial. High evidentiary thresholds, especially in conflict environments where documentation is sparse and witnesses are children, further impair the ability of courts to prosecute child soldiering offences effectively.

Lastly, international courts lack the mandate to prosecute States. Their jurisdiction is strictly individualised, leaving systemic or structural State failures such as inadequate military oversight, negligent policy frameworks, or tacit encouragement of child recruitment outside the purview of judicial scrutiny. This gap perpetuates impunity at the institutional level and undermines the preventive value of international criminal law.

In totality, the jurisdictional limitations of international courts—including complementarity constraints, territorial restrictions, reliance on State cooperation, selective prosecution, and narrow age thresholds—significantly weaken the global fight against the recruitment and use of children in armed conflict

4.2.4. Non-State Armed Groups

One of the most persistent and complex challenges confronting the global prohibition on children's participation in armed conflicts is the central role played by non-state armed groups (NSAGs).⁴² Contemporary armed conflicts are no longer defined solely by traditional inter-state hostilities; rather, they are increasingly dominated by insurgencies, separatist movements, extremist organisations, warlord factions, private militias, and loosely organised community defence groups.⁴³ These entities constitute the primary recruiters and exploiters of

⁴² F.T. Birhane, 'Targeting of children in non-international armed conflicts' *Journal of Conflict and Security Law*, (2021) 26(2) 377-400.

⁴³ Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Third edn, Polity Press 2012), 1.

child soldiers worldwide. However, the international legal framework principally designed for state-centric warfare struggles to regulate these actors effectively.

A central dilemma arises from the fact that NSAGs are not signatories to the majority of international treaties governing child protection. Instruments such as the UNCRC, its Optional Protocol, the Additional Protocols to the Geneva Conventions, and the African Charter on the Rights and Welfare of the Child impose obligations exclusively on States. As a result, NSAGs cannot legally “ratify” these treaties, nor can they be compelled to observe their provisions through the usual treaty-based compliance mechanisms. This structural lacuna fundamentally undermines the reach and efficacy of international law in conflicts where the most egregious violations are committed by actors operating outside State authority.⁴⁴

Although Common Article 3 of the Geneva Conventions and Article 4 of Additional Protocol II extend certain obligations to parties to a non-international armed conflict—including NSAGs—⁴⁵these provisions remain limited, often ambiguous, and notoriously difficult to enforce. Additional Protocol II prohibits the recruitment and use of children below fifteen years,⁴⁶ yet NSAGs, unrestrained by the bureaucratic or reputational constraints of States, routinely flout these standards. Moreover, NSAGs often operate in lawless, ungoverned spaces where monitoring is minimal and accountability virtually non-existent.

Another factor compounding the challenge is the ideological, economic, or survival-driven motivations of NSAGs. Many extremist organisations recruit children not simply as fighters but as suicide bombers, spies, messengers, porters, labourers, “wives,” and informants. The fluidity of roles complicates both legal classification and protection mechanisms. The use of children by Boko Haram in Nigeria, Al-Shabaab in Somalia, the Mai-Mai groups in the DRC,

⁴⁴ Ibid.

⁴⁵ AP II, arts. 1(1) & 4.

⁴⁶ Ibid, art. 4(3)(c).

or numerous militias in South Sudan demonstrates how children become entrenched in the operational logic of these groups.⁴⁷

Furthermore, many NSAGs perceive international norms as alien, illegitimate, or incompatible with their agendas. Their strategies often rely on coercion, indoctrination, and systematic manipulation of vulnerable communities. Children are targeted precisely because they are malleable, easily indoctrinated, physically expendable, and less likely to resist hierarchical control. Economic deprivation, family disintegration, displacement, and lack of educational or livelihood opportunities also make children susceptible to recruitment voluntary or forced.⁴⁸

Engagement with NSAGs by humanitarian actors is itself fraught with legal and political obstacles. Governments frequently resist any form of negotiation or humanitarian dialogue with these groups on grounds that such engagement might confer legitimacy upon non-state actors.⁴⁹ Consequently, child protection agencies are often unable to access conflict zones or negotiate releases, rehabilitation, or monitoring arrangements.

Additionally, the criminalisation of NSAGs under domestic law and international counter-terrorism frameworks creates further operational hurdles.⁵⁰ Organisations designated as terrorist groups cannot be engaged directly by humanitarian agencies without risking prosecution or sanctions. This tension between counter-terrorism policy and child-protection

⁴⁷ Z. Pieri and others, 'Boko Haram's Child Soldiers: Media Mujahids, Martyrs, and Militants' *Terrorism and Political Violence*, (2023) 36(6) 790–817.

⁴⁸ Expert of the Secretary-General, Ms. Graca Machel, *Impact of Armed Conflict on Children*, U.N. GAOR, 51st Sess., Agenda Item 108, l. 40, U.N. Doc. A/51/306 (1996) [hereinafter Machel Report].

⁴⁹ Ibid.

⁵⁰ See: *International Convention for the Suppression of Terrorist Bombings* (adopted 15 December 1997, entered into force 23 May 2001) 2149 UNTS 284; *International Convention for the Suppression of Acts of Nuclear Terrorism* (adopted 13 April 2005, entered into force 7 July 2007) 2445 UNTS 89. In Nigeria, the Terrorism (Prevention and Prohibition) Act 2022, ss. 2–9, prohibit terrorism.

imperatives has been widely criticised for inadvertently undermining efforts to prevent child recruitment or facilitate demobilisation.⁵¹

Accountability mechanisms also remain weak. While the ICC theoretically has jurisdiction over NSAG commanders who recruit and use children under fifteen, the practical obstacles of investigation, arrest, and prosecution remain daunting. The clandestine nature of NSAGs, coupled with their willingness to evade international oversight, diminishes the deterrent effect of international criminal law.

In totality, the proliferation of NSAGs combined with their non-party status, ideological rigidity, operational secrecy, coercive recruitment strategies, and the legal constraints on humanitarian engagement—renders them one of the most formidable obstacles to the eradication of child soldiering. Their pervasive involvement underscores the inability of state-centred legal frameworks to address the realities of modern asymmetric warfare.

4.2.5. Inadequate Domestic Implementation

Even where States have ratified international legal instruments prohibiting children's participation in armed conflict, the domestic implementation of these obligations remains gravely inadequate. This inadequacy manifests in legislative, institutional, operational, and budgetary dimensions, each contributing to the persistent gap between international commitments and national practice.

The first challenge lies in legislative domestication. In many States, ratification of treaties does not automatically translate into enforceable domestic law.⁵² Dualist legal systems, in particular, require explicit legislative incorporation of international instruments before they can have direct legal effect.⁵³ However, domestic incorporation is frequently delayed,

⁵¹ Ibid.

⁵² Nigeria is a classic example of such states per the provisions of section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁵³ P.H. Verdier and M. Versteeg, 'Modes of domestic incorporation of international law' In *Research Handbook on the Politics of International Law* (Edward Elgar Publishing 2017), 149–175.

incomplete, or entirely neglected. Consequently, many States operate with outdated national laws that neither criminalise child recruitment nor reflect contemporary international standards.

Even where domestic laws are amended, they often contain loopholes or ambiguous provisions. For example, some States set the minimum age of recruitment at sixteen or seventeen, citing the Optional Protocol's controversial allowance for "voluntary" enlistment below eighteen.⁵⁴ Others fail to criminalise recruitment by non-state actors, thereby allowing impunity for the most common perpetrators in internal conflicts. In some jurisdictions, military schools, youth wings, or "civilian joint task forces" operate in legal grey areas, resulting in de facto recruitment of minors under the guise of patriotism or community defence.

Institutional capacity constitutes another layer of the problem. Enforcement agencies, military oversight bodies, child protection units, social welfare departments, juvenile justice institutions, and national human rights commissions are often underfunded, understaffed, or poorly trained. Their limited operational reach, particularly in rural or conflict-affected areas, impedes their capacity to detect, prevent, and respond to recruitment practices. A legal prohibition is meaningless without an effective institutional apparatus to monitor and enforce compliance.

Operational challenges also abound. In many conflict-affected States, military command structures are fragmented, informal, or deeply politicised.⁵⁵ Chain-of-command responsibility is weak, enabling mid-level commanders to recruit children without authorization or in some cases, with tacit approval from higher authorities. The absence of robust accountability

⁵⁴ Examples include Belgium (Criminal Code 2003, art. 136), Congo (War Crimes and Crimes Against Humanity Act 1998), Germany (International Crimes Code 2002, arts. 1 & 8(1)(5), Ireland (GCs Act, ss. 4(1) & (4), Mali, Netherlands, New Zealand, Norway, Korea, South Africa, Switzerland, United Kingdom, and United States of America among other

⁵⁵ Dewa Dede Sudika Mangku and Ni Putu Rai Yuliartini, 'Legal protection of Children in Armed Conflicts in the View of International Humanitarian Law' *Indonesian Journal of Criminal Law Studies*, (2021) 6(1) 1–10.

mechanisms within national militaries allows such violations to persist with minimal consequence.

Additionally, socio-economic factors intersect with legal implementation challenges. Poverty, displacement, lack of educational opportunities, and entrenched insecurity create fertile ground for child recruitment. Domestic legal frameworks, however, rarely address these structural drivers. As a result, even when legal prohibitions exist, the underlying socio-economic conditions continue to perpetuate child soldiering.

Another significant impediment is political will. Governments embroiled in protracted conflict may perceive strict enforcement of child-protection norms as operationally inconvenient or strategically disadvantageous. Some States deny the presence of children within their armed forces altogether, adopting defensive postures when confronted with evidence of violations.⁵⁶ Others engage in symbolic compliance like ratifying treaties, establishing committees, or issuing policy statements without implementing substantive reforms or prosecuting offenders.

Reintegration and rehabilitation programmes also remain inadequate in many jurisdictions.⁵⁷ Without sustainable reintegration pathways such as education, psychosocial support, or vocational training, rescued or demobilised children remain vulnerable to re-recruitment.⁵⁸ Domestic legal frameworks frequently fail to mandate or fund comprehensive rehabilitation programmes, resulting in cyclical patterns of recruitment.

Finally, national judiciaries often lack the capacity or independence to adjudicate cases involving child recruitment. Prosecutorial reluctance, evidentiary challenges, political

⁵⁶ For example, Ukraine has maintained that it does not use children as human shields, despite evidence to the contrary. See: Amnesty International, 'Ukraine: Ukrainian Fighting Tactics Endanger Civilians' *Amnesty International* (Ukraine, 4 August 2022). <https://www.amnesty.org/en/latest/news/2022/08/ukraine-ukrainian-fighting-tactics-endanger-civilians/> accessed 17 November 2025.

⁵⁷ L. Banholzer, and R. Haer, 'Attaching and Detaching: The Successful Reintegration of Child Soldiers' (2014) 6(2) *Journal of Development Effectiveness*, 111-127.

⁵⁸ Ibid; S. Elkhaili and N. Sempijja, 'The Role of Education in Reintegrating Ex-child Soldiers: The Case of Sierra Leone' *Cogent Education*, (2025) 12(1) 246-307.

interference, and the fear of reprisals contribute to a climate of impunity. Without credible judicial mechanisms, the domestic legal framework becomes a mere symbolic gesture rather than a functional deterrent.

In essence, the inadequacies of domestic implementation, spanning legislative gaps, weak institutions, operational deficiencies, socio-economic vulnerabilities, and insufficient political will, constitute one of the most enduring obstacles to eliminating children's participation in armed conflict. International norms can only be as effective as their domestic translation, and in many contexts, this translation remains incomplete or ineffective.

4.3 Prospects

Notwithstanding the myriad challenges that have plagued the enforcement of legal and institutional frameworks prohibiting children's participation in armed conflicts, the international community has witnessed a gradual strengthening of protective norms, institutional capacities, and global consciousness surrounding this issue. These developments, although uneven and still evolving, present meaningful prospects for the consolidation of a comprehensive and effective prohibition regime. The increasing sophistication of international legal instruments, the creation of diverse institutional accountability mechanisms, the gradual solidification of customary international law, the dynamic involvement of civil society organisations, and the widening spread of child protection awareness collectively underscore a global trajectory that favours the progressive eradication of child soldiering. It is therefore instructive to examine the prospects inherent in these emergent trends and institutional innovations, as they represent the normative and operational pillars upon which future successes in the fight against child recruitment must rest.

4.3.1 Comprehensive International Norms

One of the most promising developments in the global effort to prohibit child soldiering lies in the emergence of increasingly comprehensive international norms that articulate both

detailed prohibitions and expansive protections for children affected by armed conflict. These norms, which have gradually evolved through successive treaties, resolutions, interpretative statements, and institutional practices, reflect a deepening appreciation of the peculiar vulnerabilities of children and the multifaceted ways in which their involvement in conflict manifests. More significantly, they demonstrate a progressive shift away from the earlier minimalist standards that merely discouraged the participation of children below fifteen years, towards a more robust framework that embraces the eighteen-year standard and recognises a wide spectrum of harmful practices that extend beyond direct combat roles.⁵⁹

The progression from the Geneva Conventions and their Additional Protocols to the Convention on the Rights of the Child and its Optional Protocol illustrates a paradigmatic shift in the conceptualisation of child protection. Early humanitarian law focused primarily on regulating hostilities and ensuring the humane treatment of civilians, but it offered only sparse and limited references to child participation.⁶⁰ Subsequent instruments, particularly the Optional Protocol adopted in 2000, represent a significant normative leap because they articulate clear prohibitions against compulsory recruitment under any circumstances and impose stringent conditions on voluntary recruitment.⁶¹ Although not perfect, the Optional Protocol signals the emergence of a comprehensive child protection regime that views the participation of children in hostilities not as an unfortunate by-product of war but as a targeted and unacceptable violation requiring explicit prohibition and accountability.

Similarly, regional instruments, especially the African Charter on the Rights and Welfare of the Child, have contributed to the thickening of international norms.⁶² The Charter unambiguously sets the minimum recruitment age at eighteen and applies the prohibition to

⁵⁹ Michael Wessells, 'Recruitment of Children as Soldiers in Sub-Saharan Africa: An Ecological Analysis' *Comparative Social Research* (2002) 8(2) 313-323.

⁶⁰ Ibid.

⁶¹ Optional Protocol 2000, arts. 2 & 3.

⁶² ACRWC 1990.

all parties to a conflict, whether states or non-state actors.⁶³ Its provisions therefore help to consolidate the eighteen year standard as a universally accepted benchmark and counterbalance the persistent fifteen year threshold entrenched in older humanitarian instruments such as the Additional Protocols and the Rome Statute.⁶⁴ This multiplicity of progressive norms pushes the global legal order toward harmonisation around a higher protective standard.

In addition, non-binding frameworks such as the Paris Principles, the Vancouver Principles, and various United Nations Security Council resolutions complement the treaty system by elaborating operational guidelines that States, peacekeeping operations, and humanitarian actors can adopt.⁶⁵ Although not strictly enforceable, these instruments contribute to normative consolidation by articulating best practices, defining categories of violations, and establishing standards for monitoring, reporting, reintegration, and prevention.⁶⁶ Over time, such norms may influence State practice and judicial reasoning in ways that strengthen future legal obligations.

Collectively, these developments signal the maturation of a coherent body of international norms that, while imperfect, contain the conceptual and operational tools necessary to eradicate the phenomenon of child soldiering. The consolidation of these norms provides a strong foundation for future progress and significantly strengthens the legal and moral architecture surrounding child protection.

4.3.2 Institutional Accountability Mechanisms

A second important prospect in the global fight against child soldiering is the steady expansion of institutional accountability mechanisms that are capable of documenting

⁶³ Ibid, art. 22(2).

⁶⁴ AP I, art. 77(2); AP II, art. 4(3)(c); Rome Statute 1998, art. 1.

⁶⁵ Allison M Danner, 'Enhancing the Legitimacy and Accountability of the International Criminal *American Journal of International Law* Court' (2003) 9(7) 510-523.

⁶⁶ Ibid.

violations, naming perpetrators, generating political pressure, imposing sanctions, and in some instances prosecuting offenders. Although these mechanisms are not without limitations, their existence represents a substantial improvement over earlier eras when violations against children were largely invisible, undocumented, and unpunished.

The Monitoring and Reporting Mechanism established under United Nations Security Council Resolution 1612 exemplifies a breakthrough in institutional accountability.⁶⁷ For the first time, the international community created a structured and systematic process for gathering, verifying, and reporting data on grave violations committed against children in armed conflict.⁶⁸ This mechanism enables United Nations agencies, child protection units, and field-based organisations to compile detailed information on recruitment practices, patterns of abuse, and identifiable perpetrators.⁶⁹ By submitting these reports to the Security Council and the Working Group on Children and Armed Conflict, the mechanism ensures that child protection concerns are embedded at the highest levels of global decision making. Such visibility constitutes a potent instrument for mobilising diplomatic pressure and galvanising targeted action.⁷⁰

In addition, the role of the Office of the Special Representative of the Secretary General for Children and Armed Conflict has steadily expanded.⁷¹ The Office engages in dialogue with States and non-state armed groups, negotiates action plans for the release of children, and provides authoritative interpretations of international standards.⁷² Although primarily diplomatic in nature, its interventions have secured the release of thousands of children and

⁶⁷ UNSC Res 1612 (26 July 2005) UN Doc S/RES/1612.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ C. Aptel, 'Child Soldiers and Accountability: The Role of the United Nations' *International Journal of Children's Rights* (2010) 1(8) 531-555.

⁷¹ D.M. Amann, 'Children and the Security Council: The Working Group on Children and Armed Conflict' *International Journal of Children's Rights* (2006) 1(8) 237-247.

⁷² Ibid.

facilitated monitoring arrangements in conflict-affected regions.⁷³ Its influence therefore extends beyond moral advocacy into the realm of practical conflict mediation and compliance facilitation.

International justice mechanisms also contribute to institutional accountability. The jurisprudence of the Special Court for Sierra Leone represented a pivotal development when it affirmed that commanders of armed groups could be held individually responsible for recruiting and using children.⁷⁴ Likewise, the International Criminal Court, despite its jurisdictional limitations, embodies an important symbolic and practical deterrent by prosecuting individuals implicated in child recruitment.⁷⁵ High-profile cases, such as those involving Thomas Lubanga and Dominic Ongwen,⁷⁶ have drawn unprecedented global attention to the criminality of child soldiering and have reinforced the principle that influential actors cannot perpetrate such violations with impunity.

Regional institutions also play an increasingly active role. The African Committee of Experts on the Rights and Welfare of the Child, though relatively young, exercises monitoring, investigative, and interpretative functions that enhance accountability on the African continent.⁷⁷ Its communications procedure provides a forum through which individuals and organisations can bring allegations against States, thereby deepening regional oversight.⁷⁸

Collectively, these institutional mechanisms foster a climate in which violations are less likely to remain concealed or unpunished. Although they do not eliminate child soldiering, they significantly increase the political, reputational, and legal costs associated with such

⁷³ Ibid.

⁷⁴ C.C. Jalloh, 'The Contribution of the Special Court for Sierra Leone to the Development of International Criminal Law' *African Journal of International and Comparative Law* (2007) 1(4) 118-130.

⁷⁵ Ibid.

⁷⁶ *Prosecutor v Lubanga*, ICC-01/04-01/06-803, Decision on Confirmation of Charges, 238-39 (Jan. 29, 2007).

⁷⁷ Benyam Dawit Mezmur, 'The African Committee of Experts on the Rights and Welfare of the Child: An Update' *African Human Rights Law Journal* (2008) 6(1) 549-560.

⁷⁸ Ibid.

conduct. Their continued evolution constitutes a promising path toward greater global accountability.

4.3.3 Evolving Customary International Law

A further prospect for strengthening the prohibition of child soldiering lies in the gradual emergence of customary international law norms that reflect widespread State practice and *opinio juris*. Although treaty law provides the formal foundation for legal obligations, customary norms play a vital supplementary role, particularly in areas where treaty provisions are inconsistent, incomplete, or limited in their applicability to certain categories of actors.

There is growing scholarly consensus that the prohibition on the recruitment and use of children below fifteen years in hostilities has crystallised into customary international law.⁷⁹ This view draws support from the near-universal ratification of the Convention on the Rights of the Child,⁸⁰ the wide acceptance of the Additional Protocols, the consistent condemnation of child recruitment in United Nations Security Council resolutions, and the repeated emphasis on the fifteen-year standard in international criminal jurisprudence.⁸¹ Customary law therefore reinforces the older humanitarian law threshold and applies to both States and non-state actors, regardless of treaty ratification.

More significantly, there is emerging evidence that a higher customary standard may be developing around the prohibition of recruitment below eighteen years, particularly in non-compulsory or non-direct participation contexts.⁸² The widespread ratification of the Optional Protocol, the strong language of regional instruments such as the African Charter, the

⁷⁹ Ibid.

⁸⁰ 'History of the UNCRC' (Child and Youth Advocate) <<https://www.childandyouthadvocatepei.ca/history-of-the-uncrc>> accessed 17 November 2025.

⁸¹ Sylvain Vité, 'Child Soldiers and the International Criminal Court: A Legal Analysis of the First Case' x *Journal of International Criminal Justice* (2008) 6(2) 114-128.

⁸² J Becker, 'Child Soldiers: Changing International Law to End the Use of Children in Armed Conflict' *Human Rights Brief* (2005) 1(2) 18-30.

proliferation of national laws setting the minimum recruitment age at eighteen, and the growing consensus among humanitarian organisations all suggest a gradual movement toward the eighteen year benchmark.⁸³ Although not yet fully crystallised, these developments indicate a dynamic and evolving customary norm that may ultimately resolve the long-standing tension between the fifteen and eighteen year standards.⁸⁴

Additionally, customary international law may expand to encompass broader forms of participation beyond direct combat. Contemporary conflicts demonstrate that children are used in multiple roles that, although not traditionally classified as combat functions, expose them to comparable risks and constitute severe violations of their rights. Growing recognition of this reality among States, judicial bodies, and humanitarian institutions may contribute to the evolution of a customary norm that prohibits not only direct participation but also indirect roles such as intelligence gathering, logistics support, sexual exploitation, forced labour, terrorism related activities, and coerced marriage within armed groups.

The development of customary norms is particularly valuable because they bind all actors, including non-state armed groups that are not parties to treaties. As such norms evolve, they strengthen accountability, clarify legal standards, and reduce the interpretive ambiguities that impede enforcement.

In totality, the evolution of customary international law represents a promising avenue for harmonising legal standards, closing normative gaps, and extending the reach of international child protection principles to all actors engaged in armed conflict.

4.3.4 Civil Society and NGO Collaboration

A crucial prospect for strengthening the global prohibition against child soldiering lies in the ever-expanding role of civil society organisations, non-governmental organisations,

⁸³ Ibid.

⁸⁴ Ibid.

international advocacy groups, and community-based networks⁸⁵ These actors constitute an indispensable pillar of the international child protection landscape, not merely because they provide humanitarian services, but also because they serve as the connective tissue linking international norms to local realities⁸⁶. Civil society groups often operate in environments where State presence is minimal or contested, thereby becoming the primary points of contact for children who are at risk of recruitment or who have already been involved in armed groups. Their activities range from monitoring and documentation, to direct engagement with armed factions, to facilitating demobilisation, rehabilitation, and reintegration programmes⁸⁷. In this sense, civil society embodies both a normative and operational force that shores up the deficiencies of State institutions and compensates for the inherent limitations of international legal frameworks.⁸⁸

One of the most significant contributions of civil society organisations is their ability to gather real time, credible evidence of child recruitment and use in armed conflict⁸⁹. International courts, treaty bodies, and monitoring mechanisms frequently rely on documentation produced by NGOs such as Human Rights Watch,⁹⁰ Amnesty International,⁹¹

⁸⁵ United Nations, Report of the Secretary-General on Children and Armed Conflict, A/55/163-S/2000/712 (2000), para. 82.

⁸⁶ United Nations, “Civil Society Partners — Office of the Special Representative of the Secretary-General for Children and Armed Conflict,” United Nations website (2025).

⁸⁷ Protecting Children in Armed Conflicts: Legal Frameworks and Challenges, The Legal Matrix (2025).

⁸⁸ Michael Wessells, ‘Child Soldiers, Peace Education, and Postconflict Reconstruction for Peace’ *Theory into Practice* (2005) 1(3) 120-130.

⁸⁹ United Nations, Report of the Secretary-General on Children and Armed Conflict, UN Doc. A/59/695–S/2005/72 (9 February 2005), paras. 34–36.

⁹⁰ Human Rights Watch is an international non-governmental organisation that investigates and reports on human rights violations worldwide. Through research, advocacy, and public campaigns, it pressures governments, institutions, and actors to uphold human rights, protect vulnerable populations, and promote justice, accountability, and the rule of law across diverse global contexts.

⁹¹ Amnesty International is a global human rights organisation dedicated to protecting individuals from abuses such as torture, unlawful detention, and discrimination. Through research, advocacy, and public campaigns, it mobilises worldwide support to hold governments accountable, promote justice, defend freedoms, and ensure that every person enjoys the rights guaranteed under international law.

Watchlist on Children and Armed Conflict,⁹² Child Soldiers International,⁹³ and various local organisations embedded within conflict zones. These organisations maintain extensive field networks that enable them to access remote territories, interview affected children, map patterns of recruitment, and expose the involvement of both state and non-state actors. Their reports have shaped global discourse, influenced Security Council resolutions, informed ICC investigations, and set the agenda for policy reforms in several conflict-affected States. Without such documentation, many violations would remain concealed behind the fog of war. Furthermore, NGOs often serve as the principal negotiators with armed groups. In several conflict settings, State authorities are either unwilling or unable to engage with non-state armed groups due to political constraints, legal restrictions, or counter-terrorism policies.⁹⁴ NGOs, by contrast, are sometimes able to build trust with community leaders, local commanders, or informal militia networks. Through discreet dialogue and negotiated action plans, these organisations have facilitated the release, demobilisation, and reintegration of thousands of children across Africa, Asia, and South America.⁹⁵ Their engagement has been crucial in contexts where military operations alone cannot secure compliance with international standards.⁹⁶

Civil society actors also contribute significantly to reintegration efforts. Demobilized children face enormous difficulties when returning to their families and communities, including psychological trauma, social stigma, disrupted education, and vulnerability to re-recruitment.

⁹² Watchlist on Children and Armed Conflict is an international coalition that monitors and reports on violations against children in war-affected areas. It advocates for stronger protection measures, supports local partners, engages policymakers, and promotes accountability to ensure children's rights and safety are prioritised in conflict and post-conflict settings worldwide.

⁹³ Child Soldiers International was a global human rights organisation dedicated to ending the recruitment and use of children in armed conflict. Through research, advocacy, and engagement with governments and communities, it promoted stronger legal protections, supported reintegration efforts, and worked to ensure all children are safeguarded from involvement in armed groups.

⁹⁴ A. Wennmann, 'Negotiating with Armed Groups: The Role of Civil Society and NGOs' *International Negotiation* (2010) 2(2) 227-237.

⁹⁵ Ibid, 73.

⁹⁶ Ibid.

NGOs provide counselling, vocational training, interim care centres, family tracing, and long-term reintegration services that are rarely offered by State institutions. By addressing the root causes of vulnerability, they help prevent the cyclical patterns of recruitment that frequently plague conflict zones.⁹⁷

Additionally, civil society organisations play an advocacy role that transcends national boundaries. Through global campaigns, media engagement, strategic litigation, and policy advocacy, they raise international awareness and mobilise political pressure against governments and armed groups implicated in child recruitment. Their advocacy efforts have been instrumental in securing commitments from the United Nations, prompting legislative reforms in several States, and fostering the gradual development of new international norms.⁹⁸

In sum, civil society and NGO collaboration represents a powerful prospect for the future of child protection. Their operational flexibility, grassroots presence, advocacy leverage, and ability to bridge the gap between international law and local realities make them indispensable to the global effort to end child soldiering. Strengthening their capacity and ensuring their sustained engagement will be vital for the long term success of the prohibition regime.

4.3.5 Child Protection Awareness

A final and increasingly important prospect for improving the effectiveness of the legal and institutional framework prohibiting children's participation in armed conflict lies in the expansion of global and local awareness regarding child protection norms. Over the past three decades, the international community has witnessed a profound transformation in the discourse surrounding children in conflict.⁹⁹ Once regarded primarily as auxiliary participants,

⁹⁷ n. 90.

⁹⁸ n 82.

⁹⁹ Ibid.

children are now globally recognised as victims whose rights require comprehensive protection from the multifaceted harms of war.¹⁰⁰ This shift in perception has been driven by educational campaigns, community sensitisation programmes, media exposure, school curricula reforms, religious and traditional leadership engagement, and sustained advocacy by humanitarian organisations.¹⁰¹

At the global level, child protection awareness has become embedded in the normative language of international institutions, peacekeeping mandates, and humanitarian strategies.¹⁰² United Nations peacekeeping operations now routinely include child protection advisers who monitor conflict dynamics, engage with armed actors, and support local communities in understanding the dangers of child recruitment.¹⁰³ The visibility of child related violations in the reports of the Secretary General, the deliberations of the Security Council, and the operational frameworks of UNICEF and other agencies has ensured that the plight of child soldiers remains a prominent concern on the international agenda.¹⁰⁴

At the national level, awareness campaigns have contributed to the gradual internalisation of child protection norms within local communities. Community leaders, religious authorities, teachers, parents, and youth associations increasingly recognise that the recruitment of children into armed groups constitutes a violation of fundamental rights rather than an acceptable wartime necessity.¹⁰⁵ In several conflict-affected regions, traditional authorities have publicly denounced the practice and have cooperated with humanitarian organisations to

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² United Nations, Report of the Secretary-General on Children and Armed Conflict, UN Doc. A/72/865–S/2018/465 (16 May 2018), paras. 1–6.

¹⁰³ S. Wills, ‘Protecting Civilians: The Role of Peacekeeping Operations’ *International Peacekeeping* (2009) 1(6) 1-20.

¹⁰⁴ Ibid.

¹⁰⁵ B.D. Mezmur, ‘The African Committee of Experts on the Rights and Welfare of the Child: An Update’ *African Human Rights Law Journal* (2008) 6(5) 549-559.

discourage recruitment, report violations, and support reintegration efforts.¹⁰⁶ These developments create a normative environment in which child soldiering becomes socially stigmatised, thereby reducing the willingness of communities to tolerate or conceal recruitment activities.¹⁰⁷

Awareness is also spreading among children themselves. Educational programmes, school based campaigns, and peer network initiatives are equipping young people with knowledge about their rights, the dangers of armed conflict, and the resources available to them in cases of attempted recruitment.¹⁰⁸ Although these efforts cannot eliminate coercion, they empower children to resist manipulation, seek help, or flee recruitment attempts where possible. Importantly, empowered children become agents of deterrence, as armed groups may find it more difficult to manipulate communities that have been sensitised to the harms of child soldiering.¹⁰⁹

Moreover, the global media has played an instrumental role in exposing the brutal realities faced by child soldiers. Documentaries, films, investigative reports, and digital storytelling have reshaped public consciousness and generated empathy that transcends national boundaries. Such visibility expands pressure on governments and armed groups, compels international action, and contributes to the development of higher standards of child protection.¹¹⁰

Consequently, the rise of child protection awareness constitutes a transformative prospect. It not only reinforces the moral foundations of legal norms but also strengthens the social and cultural structures that influence patterns of behaviour during conflict. Over time, heightened

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ C.B. Abidi, 'Prevention, Protection and Participation: Children Affected by Armed Conflict' *Frontiers in Human Dynamics* (2021) 3(6) 241- 253.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

awareness can reshape community expectations, reduce the acceptability of recruitment, and contribute to the gradual eradication of practices that have historically been normalised in many conflict-prone societies.¹¹¹

In conclusion, the challenges confronting the legal and institutional framework prohibiting the participation of children in armed conflict are manifold, deeply entrenched, and intertwined with the structural realities of modern warfare. Weak enforcement mechanisms, inconsistent legal standards, limits on the jurisdiction of international courts, the pervasive role of non-state armed groups, and the chronic inadequacies of domestic implementation all combine to undermine the practical effectiveness of international norms. These obstacles reveal a system that, while normatively ambitious, remains operationally constrained and insufficiently equipped to address the complexities of contemporary conflict dynamics.

However, the prospects for strengthening this framework are equally significant. The progressive consolidation of comprehensive international norms, the expansion of institutional accountability mechanisms, the evolution of customary international law, the indispensable work of civil society organisations, and the growing global consciousness surrounding child protection collectively indicate that the international community is inching toward a more coherent and effective protection regime. These prospects, though still emerging, represent concrete pathways through which the prohibition of child soldiering can transition from aspirational rhetoric into tangible and enforceable reality.

Ultimately, the eradication of child soldiering will require sustained political will, robust legal frameworks, proactive institutional engagement, and transformative societal change. The challenges remain daunting, but the prospects demonstrate that meaningful progress is not only possible but achievable when the international community, national governments,

¹¹¹ R.E.C. Ellermeijer, M.A. Robinson, A.F. Guevara, G. O'Hare, C.I.S. Veldhuizen, M. Wessells, R. Reis and M.J.D. Jordans, 'A Systematic Review of the Literature on Community-Level Child Protection in Low- and Middle-Income Countries' *Vulnerable Children and Youth Studies* (2023) 18(3) 309-320.

civil society, and local communities align toward the shared objective of protecting the world's most vulnerable population.

CHAPTER FIVE

CONCLUSION

5.1. Summary of Findings

This Long Essay has critically analysed the legal framework prohibiting the participation of children in armed conflicts. A plethora of findings were made, beginning with the identification of several international legal and institutional frameworks prohibiting the participation of children in armed conflicts. These frameworks include the Additional Protocols to the Geneva Conventions, signed in 1977, the United Nations Convention on the Rights of the Child and its Optional Protocol,¹ the Rome Statute, 1998, the Worst Forms of Child Labour Convention, 1999,² and the African Charter on the Rights and Welfare of the Child, 1990. In addition to legal frameworks, the study found several institutional agencies that implement the prohibition of children's participation in armed conflicts such as the International Criminal Court and the Special Court for Sierra Leone.

Critically examining the efficacy of the aforelisted frameworks, this study found that there are several challenges. It observed that weak implementation mechanisms, limited political will, and gaps within national legislation continue to undermine effective protection of children. Security agencies are often under-resourced, while judicial processes remain slow or ineffective in prosecuting perpetrators. In conflict-affected regions, poverty, displacement, and community-level vulnerabilities further facilitate the recruitment and use of children by armed groups such as Boko Haram and ISWAP. These challenges revealed that legal norms, though comprehensive, remain insufficient without robust enforcement structures and socio-economic reforms.

Notwithstanding these challenges, the research identified several prospects for strengthening the protection of children from armed conflict. Improved regional and international

cooperation, especially through ECOWAS and the African Union, offers a pathway for coordinated strategies and intelligence sharing. Continued engagement by the United Nations through monitoring, reporting mechanisms, and targeted sanctions provides additional pressure on states and non-state actors to comply with child protection obligations. Furthermore, increased advocacy, community sensitization, and reintegration programs present opportunities for addressing root causes of child recruitment. Strengthening national institutions, enhancing accountability frameworks, and investing in education and economic empowerment can create long-term resilience against the exploitation of children in armed conflict.

5.2. Recommendations

Based on the findings and implications of this study, the following recommendations are proposed:

1. **Strengthen legal frameworks:** The international community should review and strengthen legal frameworks that address child participation in armed conflicts. Such frameworks should comprehensively address the various roles that children can play in armed conflicts and provide clear and enforceable provisions for their protection.
2. **Enhance institutional capacity:** Institutional agencies responsible for implementing and enforcing child rights laws should be provided with the necessary resources and expertise to effectively carry out their mandates. This includes providing training, technical assistance, and financial resources to enhance their capacity to address child participation in armed conflicts.
3. **Promote collaboration and coordination:** There is a need for greater collaboration and coordination among stakeholders to effectively address child participation in armed conflicts. This includes promoting the participation of affected communities in policy development and

implementation and fostering partnerships between governments, international organizations, civil society organizations, and affected communities.

4. Enhance monitoring and reporting mechanisms: There is a need to enhance monitoring and reporting mechanisms to accurately document and analyse the scale and nature of child participation in armed conflicts. This includes developing standardized data collection tools, enhancing the capacity of institutional agencies responsible for data collection and analysis, and promoting the participation of affected communities in data collection and analysis.

5. Promote education and awareness: Education and awareness-raising campaigns should be developed to sensitize policy makers and the general public on the harms of child participation in armed conflicts. This includes developing age-appropriate educational materials and promoting community-based initiatives that promote the protection of children's rights in armed conflicts.

5.3 Contribution to Knowledge

This study makes a significant contribution to the discourse on international humanitarian law and child rights by synthesizing a critical analysis of the legal and institutional frameworks prohibiting children's participation in armed conflict. It moves beyond a mere descriptive account to identify and interrogate the core disjuncture between robust normative standards and their persistently weak enforcement. The study uniquely frames this implementation gap through the intersecting lenses of legal positivism, securitization theory, and critical realism, providing a multi-dimensional understanding of how law, politics, and social structures interact to enable ongoing violations. By systematically cataloguing the specific challenges the study offers a clear diagnostic map for reformers. Its proposed pathway forward, which emphasizes the consolidation of customary norms, enhanced institutional accountability, and strategic civil society collaboration, provides a structured agenda for strengthening the global protection regime and translating legal prohibitions into tangible outcomes for children.

5.4. Areas for Further Studies

This study identifies several fertile areas for further scholarly inquiry. Future studies could undertake a comparative analysis of the domestic implementation of international child soldiering prohibitions across a select group of conflict-affected states, examining the political and institutional factors that lead to divergent outcomes. Another critical avenue is the in-depth exploration of the recruitment and operational methodologies of specific non-state armed groups, with a focus on how they circumvent international norms and the potential for culturally informed engagement strategies. The long-term socio-economic reintegration of former child soldiers, particularly the effectiveness of different psychosocial and vocational programs in preventing re-recruitment, also warrants sustained empirical investigation. Finally, interdisciplinary research examining the intersection of emerging warfare technologies, such as drones and cyber capabilities, with child recruitment and use would be crucial to ensure legal frameworks remain relevant in the face of rapidly evolving conflict landscapes.

5.5 Conclusion

The research work on the evolution of child soldiers in wars, and the critique of the genocide convention, has provided a holistic and critical appraisal of the recurring use of children as instruments of warfare. The study found that despite the plethora of legal and institutional frameworks at both the national and international levels to prohibit the participation of children in armed conflicts, children are still largely involved in these conflicts. The study also revealed that the legal frameworks have several gaps and inconsistencies that need to be addressed, and greater efforts are needed to ensure their effective implementation and enforcement.

The research work underscores the importance of thoroughly defining and clarifying the conceptual terminologies associated with the topic of discourse. The study also highlights the

need to identify and explain the ideologies or philosophies that underpin research exercises, as well as the importance of jurisprudential theories in providing a theoretical lens to understand and address the research problem. Furthermore, the study emphasizes the need for greater efforts to sensitize policy makers and the general public on the harms of child involvement in armed conflict. Institutional agencies responsible for investigating Child soldiering must also be adequately resourced and capacitated to effectively carry out their mandates.

In conclusion, the study provides a comprehensive and critical analysis of the recurring use of children as instruments of warfare and underscores the need for greater efforts towards the protection of children's rights in conflict situations.

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