

Forum:	Legal Committee
Issue:	Legal rights of children in armed conflict
Student Officer:	Constance Tsoutsou
Position:	Co-chair

PERSONAL INTRODUCTION

My name is Constance Tsoutsou and I am a student in the 11th grade of the Deutsche Schule Athen. This is my 4th time attending PSMUN and my 13th conference in general. My dream is to make it to the GA6 of the real United Nations as a representative of my country and I feel really honoured to have the chance to chair a Model GA6 committee. Chairing the same committee I attended as a delegate two years ago is surely a great challenge for me, but I trust that we will have a great debate with fruitful results which will help you evolve in your MUN path. Should you need any help, do not hesitate to send me an e-mail at t.constance.98@gmail.com. I hope this study guide helps you with your research and understanding on the topic and I look forward to seeing you all in March!

INTRODUCING TOPIC

The 19th article of the Convention on the Rights of the Child ensures the protection from all forms of violence. However, this seems to not be the case in conflicted areas. Not only do children have to live in fear for their own lives, but thousands of them are forced or “decide” to participate in the hostilities. Children seeking revenge for the deaths of family members, being threatened to have their loved ones killed if they do not join a military group or seeing this as an opportunity to survive after the murder of their family members, often end up fighting in civil and international wars.

They can easily be brainwashed and taught to kill, they also play the part of the “less important casualties”, therefore they are placed in positions most likely to get them killed and they are commanded to carry out the most dangerous tasks.



Fig.1:A very young soldier

The worst aspect of this is that many children at a very young age find a parental model in the same people that deprived them of their real parents; such behaviour, characterised as the Stockholm syndrome, enables child recruiters to penetrate more easily in the brains of the innocent.

BBC and UNICEF estimate all recruited underage at a total of 300.000, while the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) has facts to support that the majority of them is older than 15 years old, nevertheless there still are some as young as 8 years old.

The few ones managing to escape this horrible way of living, face great challenges in their reintegration in the community. The physical and psychological wounds of being a child soldier lead many teenagers to the margin of the society and render them incapable of working or generally surviving without severe trauma.

Apart from those participating in war, there are also children suffering and being killed without taking part in any hostilities, the so-called civilians. They have risks concerning their physical and mental integrity as well and they cannot enjoy their rights freely. Schools close or get attacked, parents get killed, food gets limited and diseases thrive. It is clear enough that underage people cannot develop under these circumstances.

According to figures published by UNICEF, 2014 has been “a devastating year”, because 15 million children have been trapped in conflict worldwide. The action taken by the United Nations and other international institutions increases and so do the incidents of infringements of the children’s human rights, thus it is of utmost importance that the international community combated the issue as quickly as possible.

DEFINITION OF KEY TERMS

Children in Armed Conflicts

This term usually refers to children participating in war but for the context of this Guide, it will also include underage people living in conflicted areas and experiencing the consequences, without taking part in the hostilities.

Child soldiers

The Paris Guidelines on Children Associated with Armed Forces or Armed Groups defines child soldiers as:

“A ‘child associated with an armed force or armed group’ refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.”

Legally binding document

According to the online dictionary “thelawdictionary.org”, a binding document is: “Common legal phrase. Lawful action, such as an agreement consciously agreed to by two or more entities, establishing lawful accountability For example, an apartment lease legally binds the lessor and the lessee. An illegal action, such as forcing, tricking, or coercing a person into an agreement, is not legally binding. The document's signing gives the number of conditions the weight of law. Both parties knowingly understand what they are agreeing to is the other requirement to legally establish an agreement or contract.”, thus a document that has to be followed by its parties.

HISTORICAL INFORMATION

The only way to examine the historical background to such a realistic topic is to see the international community’s efforts evolving and maximising as years progress, as well as related incidents. Make note here below, of the most significant and relevant legal documents.

Declaration on the Protection of Children and Women in Emergency and Armed Conflict

Adopted in 1974, this Declaration mostly thematises the rights of women and children not participating in a conflict but also penalises the act of “all forms of repression and cruel and inhuman treatment...”

See the text of the declaration here: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/20/IMG/NR073920.pdf?OpenElement>

Protocol Additional to the Geneva Convention

This was the first attempt to address the issue of children in armed conflict in a legal document with bindingness back in 1977. It sets 15 as the lowest age for participation in armed conflict and creates a legally, unprotected gap for the ages 15-18. Although recruitment is generally to be avoided at these ages, it depends on every country’s discretion whether it will accept young volunteers or not.

See the text to the Protocol here: <http://cpwg.net/wp-content/uploads/sites/2/2013/08/AP-I-and-II-to-the-Geneva-Conventions.pdf>

The Convention on the Rights of the Child

This binding document of 1989 praises the rights of the children and fights for their improvement, including a statement about not recruiting people under 15 in armed conflict. The main point affecting the issue at hand is the Optional Protocol on the Involvement of Children in Armed Conflict, which prompts states to allow military conscriptions only to adults and to keep underage volunteers at a distance from hostilities.

See the text to the Protocol here: <http://www.un-documents.net/a54r263.htm>

The Rome Statute of the International Criminal Court (ICC)

The Rome Statute is a binding treaty published in 1998 which now has 123 parties to it. Among its clauses, the text of the Statute mentions that the definition of war crimes includes “conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.”

See the text of the Statute here: http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf

Worst Forms of Child Labour

In 1999 the International Labour Organisation (ILO) adopted the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Worst forms of child labour Convention) with the aim of reducing the incidents of underage citizens being taken advantage of in working places, including conflict zones. It additionally published the Worst Form Hazards Faced by Children at Work, which includes jobs with high injury risks, in order to further urge states to stop using child labourers. This convention is binding, as its first clause states that every country ratifying it is bound to limiting the worst forms of child labour.

See the text of the Declaration here:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_ILO_CODE:C182

The Paris Guidelines on Children Associated with Armed Forces or Armed Groups

Adopted in 2007, it is a document with full analysis of the issue and mechanisms to prevent and combat child recruitment. It invites the international community to work together to achieve the maximum possible.

See the text of the Guidelines here:

<http://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>

SC Resolution 1820

The above Security Council resolution passed in 2008 and demands the cessation of sexual assault of civilians during conflict. In 2013, the Council re-discussed the topic having Angelina Jolie, the Special Envoy for the United Nations High Commissioner for Refugees, as a guest and voted upon a new resolution (2106), the text of which is, however, not available online.

See the text of the resolution here:

<http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAC%20S%20RES%201820.pdf>

SC Resolution 2068

This 2012 resolution recognises that many military groups have been continuously recruiting child soldiers despite the Council's demands that the recruitment stop and threatens those with "targeted and graduated measures". It also expresses a strong condemnation against the illegal involvement of underage in armed conflict.

See the text of the resolution here:

http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2068.pdf

SC Resolution 2143

The most recent Security Council Resolution dealing with the issue of "children and armed conflict" consists of 27 clauses proposing various measures for children living in conflict, supporting the 2014 launched campaign "Children, not soldiers".

See the text of the resolution here:

http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2143.pdf

As mentioned above, it is important that one studies cases in which the human rights of children have been sacrificed for the sake of a conflict before handling the issue. There are hundreds of those, with these three being representative for contemporary problems.

Joseph Kony and the Lord's Resistance Army (LRA)

The LRA is an extremist Christian movement established in Uganda in 1987, initially with the aim of overthrowing the regime. Joseph Kony, the leader of the movement, quickly lost power and decided to kidnap children and make them kill so that he could take his revenge. The short film published in 2012 by Invisible Children brought to light the crimes that the movement has been committing for almost 30 years now and made the question of children in armed conflict very prevalent.

See the film here: <http://invisiblechildren.com/kony-2012>

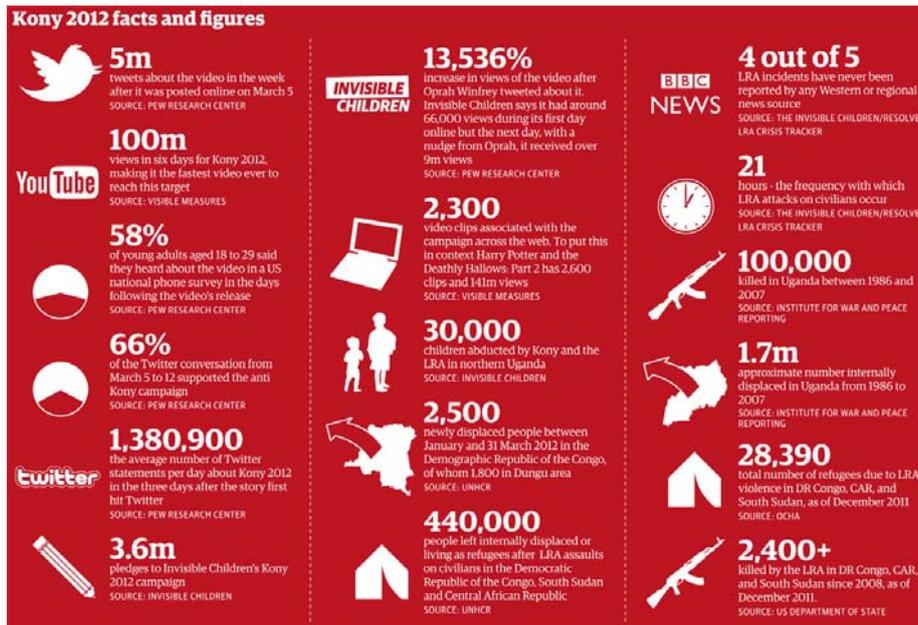


Fig.2:KONY in numbers

The Swat Valley

The Swat Valley is an area of Pakistan, which has been controlled by the Taliban in previous years. With the exception of the insecurity and instability that exists in the territory, the Taliban have been trying to ensure that the right to education, especially for girls, is limited. In the time span 2009-2012 the attacks on schools were at a minimum of 838, climaxing in October 2012, when Malala Yousafzai was shot by the Taliban. This is a typical situation of a conflict which causes civilians to miss out on their fundamental rights.

Jihadist Child Soldiers

There is a series of videos showing jihadists decapitating journalists, civilians and others opposing to them, to which the international community reacted intensely. In January 2015, Islamists uploaded a video of a young boy killing two alleged Russian spies, increasing the West's reaction. Also important is the fact that a great number of the Europeans and Americans joining jihad are teenagers and are therefore classified as "children".



Fig.3:10-year-old ISIS fighter

COUNTRIES AND ORGANISATIONS INVOLVED

Countries with conflicts influencing children

The last few years have been marked by dozens of national and international conflicts, most of which have really worsened the lives of children and teenagers, as they are deprived of education, food, potable water and other basic goods they are entitled to.

Countries still recruiting child soldiers

According to the Secretary General's report for 2013, there are 23 "country situations" in which children take part as soldiers. The states using child soldiers in 2013 are the following: Afghanistan, the Central African Republic, Chad, Colombia, Côte D'Ivoire, the Democratic Republic of Congo, India, Israel and the State of Palestine, Lebanon, Libya, Mali, Myanmar, Nigeria, Pakistan, the Philippines, Somalia, South Sudan, Sudan, the Syrian Arab Republic, Thailand and Yemen. This list includes states having some of the greatest conflicts at the moment and it is apparent that the recruited children live under horrifying and extremely dangerous circumstances.

See the text of the report here:

http://www.un.org/ga/search/view_doc.asp?symbol=a/68/878

United Kingdom

Surprisingly, the United Kingdom can be described as an advocate for the underage joining the armed forces. Sixteen year olds are allowed to participate in the national military forces, provided that they have their parents' permission. The existent lack of transparency and the fact that the contract of underage people obligates them to stay in the armed forces at least until they reach the age of 22, make British people sceptical towards this law.

United States of America

The US provides 17 year olds with the chance to join the Armed Forces, provided once again that their parents consent. They are however not taken to conflict areas; they rather spend the first year as a training and transitional period.

Australia

Australia allow 17 year olds to join the armed forces if their parents agree to this, yet young recruiters are not preferred for conflict needs.

Cuba

Cuban boys and girls can fulfil their compulsory military service after 17 years if age.

LRA

Although the international community has been alerted and taken action to stop Joseph Kony, he continues kidnapping young people from the Central African Republic, the Democratic Republic of Congo and South Sudan, training them to become serial killers. While one of the basic co-operators of Kony is prosecuted to the International Criminal Court for crimes against humanity, the latter one remains

hidden in central Africa and continues his work by doing sudden attacks in remote villages.

Security Council Working Group on Children and Armed Conflict

Comprised of the UN Security Council Members, the SC WG CAAC is a Committee reviewing the annual reports prepared by the UN Secretary General concerning the role of children in armed conflict. In addition to those reports, the Committee also obtains respective information from UNICEF.

Child Soldiers International

This Non-Governmental Organisation (NGO), formerly known as the Coalition to Stop the Use of Child Soldiers, works in five countries which have not yet abolished the institution of child soldiers. It orientates its action towards the ban of underage soldiers in every state's law system and the rehabilitation of the unfortunate children and could have a key role in a debate of legal nature.

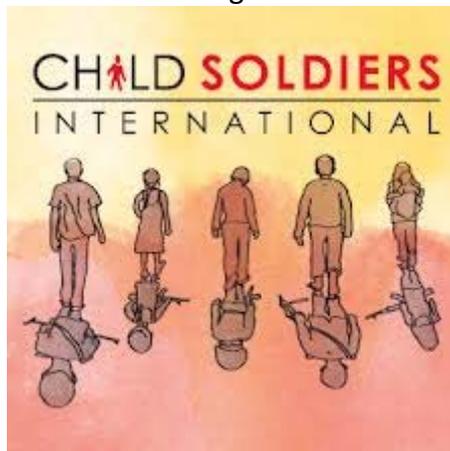


Fig.4:Child Soldiers International Logo

Amnesty International

Amnesty International does not have an active role in the issue but it is a member of the Coalition to Stop the Use of Child Soldiers and makes efforts to raise awareness on the existing problem.

UNICEF

The main UN organisation focusing on children, the United Nations International Children's Emergency Fund provides the UN with the information needed for it to act.

Red Hand Day

An Initiative with the goal of ending the use of child soldiers. With the aid of Amnesty International, the Human Rights Watch and other humanitarian instruments it has set the 12th of February as the Red Hand Day to raise awareness.

TIMELINE OF EVENTS

Year	Event
1974	Declaration on the Protection of Children and Women in Emergency and Armed Conflict
1977	Protocol Additional to the Geneva Convention
1989	Convention on the Rights of the Child
1998	Rome Statute (ICC)
1999	Worst Forms of Child Labour (ILO)
2000	Optional Protocol on Involvement of Children in Armed Conflict
2007	Paris Guidelines on Children Associated with Armed Forces or Armed Groups
2012	KONY 2012 film is published and raises awareness on the topic of child recruitments

POSSIBLE SOLUTIONS

All in all, one can objectively say that there has been a lot of action taken by International Organisations, the problem, however, is that all of this action has not reduced the involvement of children in times of conflict. We, as the Legal Committee, have to determine what has gone wrong and mobilise the suitable institutions in order to end this problem.

A very important aspect that needs to be discussed is the question of the 15-18 year olds and their accessibility in the armed forces. Some states do need adolescents in the national army, while others are totally against it. Should there be an international binding document which defines an exact behaviour of the military towards these people or would it be better for each country to have a legislation of its own on this? Measures to promote various legal changes on a national and international level, as well as new treaties, conventions, etc are needed.

A further point that needs to be elaborated upon is how states can aid former child soldiers in their effort to be rehabilitated. While the DDR (Disarmament, Demobilisation, Reintegration) is quite widespread and used by various UN Peacekeeping missions, governments and organisations, there is a need for the

delegates being more specific concerning the allowances a state will have available for the traumatised children.

Last but not least, you will be called to answer the following question: Should children be punished for crimes they have committed in the context of their recruitment?



Fig.5:DDR, first stage (Disarmament) with the help of UN peacekeepers

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MULTIMEDIA RESOURCES

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