CHAPTER FIVE
ADDRESSING THE PROBLEM:
THE ROLE OF THE INTERNATIONAL COMMUNITY

5.1. INTERNATIONAL LEGISLATIONS


The League of Nations, the first intergovernmental organization created after the World War I in 1919, made little mention on human rights. However, the League did attempt to undertake the protection of human rights through international means by championing the rights of minorities and a few social protection rules. The International Labor Organization (ILO) based in Geneva was created the same year and established standards determining the conditions of workers.

The Universal Declaration of Human Rights of 1948 was one of the first major achievements of a world body to internationalize the issue of human rights and fundamental freedoms after the formation of the United Nations in 1945. It is linked with at least seven founding texts, namely:

a. The Roosevelt Declaration which declared that “freedom is the existence of human rights everywhere”;
b. The Atlantic Declaration which explained the objectives of the war and reaffirmed the four freedoms: the freedom of opinion, of expression, of religion and the right to basic needs;

c. The Declaration of the United Nations, signed by the Allies on 1 December 1942, affirming their belief that a "complete victory" against their foes was essential in order to "preserve human rights and justice in their own countries and for all nations";

d. The Declaration of Philadelphia (the International Labor Organization Constitution of May 1944) set forth the concerns of member states and their citizens regarding human rights;

e. The draft agreement of the Dumbarton Oaks Conference on 7 October 1944 which became the Charter of the United Nations states that "the respect of human rights and fundamental freedoms" depends on the return of peace;

f. The Act of the Chapultepec Conference of 21 February-8 March 1945, affirmed by twenty-one states of the American continent the equality of all rights for all men "whatever their race or religion";

g. The San Francisco Conference that adopted the Charter of the United Nations on 26 June 1945 proclaimed the faith of the United Nations in the dignity and value of the human person, in the equal rights and women and of nations large and small and establishes conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained without distinction as to race, sex, language or religion.
Forty-eight member states adopted The Universal Declaration of Human Rights presented to the United Nations General Assembly (UNGA) at the Palais de Chaillot in Paris on 10 December 1948.¹ For the first time in history, the international community embraced a document considered to have universal value though not legally binding. The Universal Declaration together with the United Nations Charter served both as an inspiration and a means of achieving self-determination for millions of people under colonial rule and many governments incorporated the provisions of the Declaration in their constitutions making it legally binding.²

There is no mention in the 30-articled Declaration on specific rights of children and their safeguard from exploitation, abuse and neglect. Acknowledging this shortcoming, the Polish government initiated the legislative process in getting the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 and it came effectively into force in 1990. The Convention was carefully drafted over the course of ten years between 1979 and 1989, with the input of representatives from all societies, religions and cultures. A working group made up of members of the United Nations Commission on Human Rights (UNHCR), independent experts and observer delegations of non-member governments, non-governmental organizations and the United Nations' agencies were charged with the drafting.

¹ There were only 58 member states in the United Nations when the Declaration was adopted.
² "The International System of Human Rights", www.droitshumains.org/uni/Formation/02Charte_a.htm
The Convention reflects global consensus and in a very short period of time, it has become the most widely accepted human rights treaty ever. It outlines 41 human rights articles that are to be respected and protected for every child under the age of eighteen years and requires that these rights be implemented in the light of the Convention's guiding principles. Articles 42-45 covers the obligation of states to disseminate the Convention's principles and provisions to adult and children; the implementation of the Convention and monitoring of progress towards the realization of the child's rights through states' obligations; and the reporting responsibilities of states. The final clauses in Articles 46-54 cover the processes of accession and ratification by states; the Convention's entry into force; and the depository function of the Secretary-General of the United Nations.³

Whereas most of the Convention's provisions are concerned with human rights as a whole, only Article 38 on children in armed conflicts relates to international humanitarian law. There can be no doubt that in time of war children are in even greater need of protection and assistance than in peacetime. The concern of states to protect children in such situations is therefore fully justified and Article 38 reflects that concern. According to the Convention, a child is every human being below the age of eighteen. However, the minimum age for participation in armed conflicts was set at fifteen much to the disappointment of several member states and the International Committee of the Red Cross (ICRC),

one of the two non-governmental organizations responsible for drawing up a draft convention for the protection of children in armed conflicts.⁴

Following the adoption of the Convention on the Rights of the Child, another United Nations agency, the International Labour Organization (ILO), passed a resolution during its 87th session on 1 June 1999, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Also known as the ILO No. 182, it effectively came into force on 19 November 2000. Among others, Article 3 outlines the worst forms of child labor as being slavery, procuring or offering the child for illicit activities and prostitution and forced or compulsory labor including recruitment of children for use in armed conflicts.⁵

In 1994, a working group at the United Nations was formed to prepare an Optional Protocol to the Convention on the Rights of the Child that would raise the minimum age for armed forces recruitment and participation in hostilities from fifteen to eighteen years. Although most countries accepted such change, Bangladesh, Cuba, Israel, Pakistan, the United Kingdom and the United States, however, resisted it.

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⁴ The other being the Save the Children Fund International Union.

⁵ “Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor” (ILO No. 182), www1.umn.edu/humanrts/instree/ilo182
Despite five years of negotiations, only a limited consensus has been reached that prevents the “forced compulsory recruitment of children for use in armed conflicts.” This narrow provision had failed to protect the thousands of children coerced or lured into warfare. This development prompted many non-governmental organizations including the Coalition to Stop the Use of Child Soldiers, to lobby for a global acceptance of the Optional Protocol.\(^6\)

Following the failure of the Working Group of the UNHCR to obtain a unanimous acceptance on the straight 18 protocol during its meet on 11 January 1999, the newly formed Coalition To Stop The Use of Child Soldiers convened its first conference on child soldiering in Maputo, Mozambique, from 19 to 22 April 1999. The venue was aptly chosen because of the disappointing turnout by African nations at the Geneva meet on 11 January 1999 although Africa is the continent with the greatest number of child soldiers.

The Maputo Conference brought together the largest-ever gathering of African governments, non-governmental organizations, and representatives of the United Nations and the Red Cross to seek an end to the use of children as soldiers.\(^7\) The Maputo Declaration, adopted by the African Conference, was endorsed by the Organisation of African Unity (OAU) Council and Assembly of Heads of State and Government in July 1999, with a specific call for member

\(^6\) “Children Used As Soldiers: The Ultimate Exploitation,” www.religioustolerance.org/chil_war

\(^7\) “More than 120,000 Child Soldiers Fighting in Africa,” Human Rights Watch, April 1999, www.hrw.org
states to adopt and promote norms in respective countries prohibiting recruitment and use as soldiers of children under eighteen years of age.⁸

A major break through following this was legislation of the African Charter on the Rights and Welfare of the Child on 29 November 1999 setting eighteen years as the minimum age for recruitment and use of children in hostilities.⁹

A sequel to the above conference was held in Montevideo, Uruguay, from 5 till 8 July 1999. The Coalition and the Inter-American Children’s Institute of the Organization of America States (OAS) jointly organized it. The conference focused primarily on the use of child soldiers in Latin America. Some one hundred people from nineteen countries representing Foreign Affairs and Defense Ministries, non-governmental organizations, representatives of inter-governmental organizations, and governments committed to ending the use of child soldiers, attended the conference. Because of its opposition to the eighteen year standard, the United States was not invited. The Montevideo Declaration called for international action on the prevention of the use of children in conflict through international mechanisms such as the United Nations and the International Criminal Court. The participants also urged the countries of Latin

America and the Caribbean to take the necessary steps to stop all recruitment of children under eighteen or their use in armed conflict. Some of the major agendas discussed included the following:

a. The need to promote a culture of peace;
b. the prevention of militarization of education;
c. the launching of information and sensitization campaigns to demonstrate to civil society, the armed forces, and other armed groups the negative effects of armed conflicts on minors participation;
d. the need for early-warning mechanisms among vulnerable parts of the population to highlight signs of recruitment of children;
e. the adoption of demobilization and reintegration of child soldiers programs which would include working at community and local levels to ensure the reunification of families and the full insertion of formal educational system and;
f. the authorization of amnesty for child soldiers.

One highlight of the conference was the release of a 'World Leader's Statement on the Use of Child Soldiers' that called upon current leadership of all nations and armed groups to immediately stop the use of children as soldiers, and establish and respect an international prohibition on the military recruitment or participation in armed conflict of any child under the age of eighteen. The statement signed by sixteen former heads of states, including Jimmy Carter (former American President), Oscar Arias Sanchez (former President of Costa Rica), Mikhail Gorbachev (former President of the Soviet Union) and Shimon Peres (former Prime Minister of Israel), called the use of child soldiers
"reprehensible" and stated that "world community should no longer tolerate this practice."\(^\text{10}\)

The European regional conference organized in Berlin on 18 to 20 October 1999, by the Coalition and the German Ministry for Foreign Affairs brought together more than 180 representatives from governments and international and non-governmental organizations to tackle the use of child soldiers under the age of eighteen years as soldiers in Europe. The Berlin Declaration among others, welcomed the United Nations Secretary-General's recommendation to the Security Council that the minimum age for recruitment and participation in hostilities should be eighteen years, as well as his decision that United Nations peacekeepers be at least twenty-one years and in no case less than eighteen. It also welcomed the adoption of the Statue of the International Criminal Court which made the conscripting or enlisting of children under the age of fifteen or using them to participate actively in hostilities, a war crime both in international and internal armed conflict and whether by armed forces or armed groups. The Maputo and Montevideo Declaration were also endorsed at this conference.\(^\text{11}\)

Finally, on 22 January 2000, an unanimous agreement was reached on the ban on the use of child soldiers for armed participation but it was not until 25 May

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\(^{11}\) "Berlin Declaration on the Use of Children as Soldiers," \textit{Children of War} (Radda Barnen), No. 4/99, December 1999, p. 6.
2000 that it was formally adopted at the UNGA. By June 2000, this new protocol was open for signatures and ratification by member countries. At the close of the United Nations Millennium Summit, held in New York from 6 to 8 September 2000, 68 countries had signed the new protocol, and three (Canada, Bangladesh and Sri Lanka) had ratified it.\textsuperscript{12}

During the Millennium Summit, the Coalition drew attention to the use of child soldiers and the new protocol by unveiling a special 'children's war memorial' during a ceremony attended by more than twenty, government representatives. The memorial was inscribed with the name, age and country of scores of child soldiers killed, wounded, missing or detained in armed conflicts around the world.

Among those featured on the memorial are dozens of children, many from the same families, abducted from schools in Northern Uganda by the Lord's Resistance Army, teenagers used as suicide bombers by the Tamil Tigers in Sri Lanka, and youngsters drafted by the armed groups in Colombia. It also named child soldiers used in government armies and paramilitaries, including two 17-year-old British soldiers killed in the Falklands and Gulf wars.\textsuperscript{13}


\textsuperscript{13}“UN Millennium Summit: Children's war memorial unveiled- Call for global ban on child soldiers,” Coalition to Stop the Use of Child Soldiers, 7 September 2000, www.child-soldiers.org
In meeting its target of getting one hundred governments to sign the new protocol by the first anniversary of its adoption and 50 ratifications by the September 2001 United Nations General Assembly Special Session on Children, the Coalition continued with its campaigns by convening conferences in other regions of the world.

The fourth regional conference was held in the Asia-Pacific basin at Kathmandu, Nepal, from 15 to 18 May 2000. Together with representatives from the UNICEF, delegates from 24 governments and more than one hundred delegates of non-governmental organizations across the region attended the conference. The Kathmandu Declaration condemned the use of children as soldiers by armed groups and urged these groups to end the recruitment and release the children who were already being used as soldiers into safety. It also called upon states to ratify the new Optional Protocol and implement it in national laws. It further urged them to ratify ILO Convention 182 that defines the use of child soldiers as amongst the worst form of child labor. Recognizing that lack of documents to authenticate age as an excuse used by armed groups in recruitment, the conference addressed this by asking governments to make birth registration compulsory, and, in the absence of age documentation, make sworn affidavits from parents or community elders a precondition for recruitment.

The problem of child soldiers has not only been the agenda in non-governmental organizations organized conferences but also a topic at government hosted meets. At the Association of Southeast Asian Nations (ASEAN) foreign ministers meeting in Thailand in July 2000, the problem of children being drawn into armed conflicts was placed on its agenda. Though only admitted as a member into the grouping in 1997, Cambodia became the first ASEAN country to sign the new Optional Protocol on 27 June 2000.16

The Canadian Government arranged an International Conference on War-Affected Children in Winnipeg, Canada from 10 to 17 September 2000 that was attended by 400 government representatives, representatives of the United Nations, academicians, non-governmental organization activists and youth delegates.17 Graca Machel, author of the 1996 report The Impact of Armed Conflict on Children presented an update of her groundbreaking study and acted as honorary chair of the Conference. The conference comprised of three meetings namely:

a. the Youth Workshop was a platform for youths from various war-affected countries to identify and analyze issues that were important to them.

b. participants to the Experts Meeting that included representatives of war-affected countries and interested governments, international organizations, youths, researchers, non-governmental organizations, and the private sector. Participants took stock of the progress made in dealing with the issue,

17 "Outcomes of Winnipeg," Children of War (Radda Barnen), Nos. 3-4/00, December 2000, p. 5.
explored current and emerging challenges and responses, and examined new approaches, strategies, and actions as well as made recommendations for an agenda for action on war affected children.

c. The International Conference culminated in a ministerial-level meeting where government ministers joined by a number of representatives from non-governmental organizations, United Nations' agencies, business and the youth bodies. An international agenda for action for war-affected children was adopted and would be presented at the new scheduled United Nations Special Session on Children.18

The United Nations Special Session on children will be the first real opportunity in ten years to move child rights to the top of the world's agenda. More than 3,500 non-governmental organizations, child advocates and young people will meet together with government leaders and Heads of States to review the achievements of the goals of the 1990 World Summit for Children and to finalize an action plan for the next decade.19 Unfortunately, the scheduled meeting for 21 September in New York was postponed indefinitely as a result of the 11 September 2001 terrorist attack on New York's World Trade Center and the Pentagon.

5.2. THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS

Children around the world suffer appalling abuses when often, street children are killed or tortured by police whilst refugee children are separated from

19 "United Nations General Assembly Special Session on Children," www.hri.ca/crin/specialsession
their families, making them vulnerable to exploitation, sexual abuse, or domestic violence. Ironically, within the care of the state, children are often subjected to abuse and mistreatment— orphaned and abandoned children are housed in appalling institutions where they suffer from cruelty and neglect and many die.

In the past, the huge and largely voiceless population has fallen through the cracks in the international human rights arena. Traditional children's humanitarian groups have focused mainly on vital survival and development projects, and rarely addressed other human rights concerns because they could not afford to antagonize host governments. Human rights groups have focused chiefly on the rights of adults. As the human rights movement was founded out of concern for political dissidents, it has sometimes overlooked those— like children— whose persecution is unrelated to their political views.

As with many positive developments for children, the idea of a children's ombudsman was first developed by non-governmental organizations. Radda Barnen, Swedish Save the Children, established an Ombudsman for Children in the 1970s and promoted the idea internationally during 1974 International Year of the Child. Currently, there are many organizations in the world championing the cause of children's rights and among them some are directly advocating the ban on child soldiers. Non-governmental organizations like Save the Children Alliance and Coalition to Stop the Use of Child Soldiers have been instrumental in getting the United Nations to agree on the Optional Protocol to the Convention
on the Rights of the Child that establishes eighteen as the minimum age for direct participation in hostilities, for compulsory recruitment, and for any recruitment or use in hostilities by non-governmental armed groups.20

The Coalition to Stop the Use of Child Soldiers was formed in May 1998 by leading non-governmental organizations seeking an end to military recruitment and participation in armed conflicts of all children below eighteen years of age. It seeks to promote the adoption of, and adherence to, the Optional Protocol to the United Nations Convention on the Rights of the Child as well as the recognition and enforcement of this standard by all armed forces and groups, both governmental and non-governmental.

Its ten steering committee members currently include regional and international organizations namely Amnesty International, Defense for Children International, Human Rights Watch, Jesuit Refugee Service, Quakers United Nations Office, Radda Barnen for Save the Children Alliance, Terre des Hommes, World Vision International, Latin American Coalition to Stop the Use of Children, and African Coalition to Stop the Use of Child Soldiers.21 The Coalition has established partnerships or national coalitions in around forty countries bringing together a wide variety of organizations from across a wide spectrum of human rights, humanitarian, development, peace, and security issues. The

21 „News From The Coalition To Stop The Use Of Child Soldiers,” Children of War (Radda Barnen), No 3/99, October 1999, p.3.
Coalition adopts a high-profile media and lobbying campaign designed to raise awareness of the extent of the problem and promote action to tackle it. Its secretariat, comprising a full-time Coordinator and a part-time Information Officer, is based in Geneva.22

International Save the Children Alliance movement began in the aftermath of the World War I (1914-1918) and the Russian Revolution of 1917 to help refugee and displaced children across Europe. Today, members of this movement work with children affected by war all over the world. In 1994, some of the larger members joined together in a Working Group on Children in Armed Conflict and Displacement.

Among its objectives are to improve communication between policymakers and practitioners and facilitate learning and the sharing of experiences among member organizations. Members of this group include Save the Children Federation of the United States with Radda Barnen of Sweden, Red Barnet of Denmark, Redd Barna of Norway and Save the Children Fund of the United Kingdom.

In May 1995, this Working Group brought together several of the Alliance’s most experienced child psychiatrists, psychologists and social workers. The Working Group amongst others discussed their work in different parts of the

world drawing out common factors and lessons learned. A significant role played by this body was the its contribution to the 'United Nations Study on the Impact of Armed Conflict on Children', led by Graca Machel, former Education Minister of Mozambique.  

Another key player in advocating children’s rights is the Human Rights Watch Children’s Rights Division. Human Rights Watch established the Children’s Rights Division in 1994 to monitor human rights abuses against children around the world and to campaign to these abuses. The Division sends fact-finding missions to places where abuses are occurring- interviewing child victims, parents, human rights activists, lawyers, child-care workers, government officials and others. It also works closely with local human rights groups to identify specific abuses and strategies for change. Objective and factual reports are then prepared and presented to governments, international organizations such as the United Nations, European Union, the Organization of American States (OAS) and the Organization of African Unity, non-governmental organizations, policy makers and the media. The Division also devises campaigns and work in coalition with other groups to expose abuses of children’s rights and put a stop to them.

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23 Save the Children Alliance, www.savethechildren.net

CONCLUSION

As is known, basic survival needs take precedence over psychological needs during times of war but there is an increasing concern today that the experiences of war will have damaging effects on not only the psychological but also the social and moral development of child war victims. This is because their social skills, attitudes towards the society they live in, their relationship with others as well as their perspective on life itself will be greatly impaired.

It is sad that children have to watch their role models that include parents, teachers or elders, torture and kill each other while some trade their children for food and security. This act of breaching the expected moral standards of behavior by authoritative figures are translated by children as betrayal, which in turn are manifested in themselves, as they grow up. These manifestations can take many forms. While studies have shown that school absenteeism and juvenile crimes or attitudes favoring gambling, pre-marital sex and smoking could indicate such altered moral learning in children, acts of physical aggression, imitation of military acts and unwillingness to co-operate with peers are also indicators of developmental damage. Even when the war is over, its effects on children linger on long after the stressful event. They may experience numbing of responsiveness to or reduced involvement with the external world. This may be indicated by a marked diminished interest in
activities and surroundings, feelings of detachment or estrangement from others, loss of energy or withdrawal. Such negative developments in the child would influence the child’s occupational choice and his relationship with others later in life.¹

The estimated figure of 300,000 child soldiers has appeared to be constant throughout the years because it only reflects the number of children being used in combat at any one time. This figure is constantly being replaced by new recruits who are either killed, wounded or have reached the age of maturity and therefore no more considered a child.

The numerous protocols, conventions, treaties or laws governing the protection of children from abuses and neglect, if not taken seriously by all countries concerned, will make all the lobbying of dedicated non-governmental organizations seem like blowing air in the wind.

The flaw in these international laws lies, with enforcement and the stand of non-state players as well as non-signatories. The only way to pressure them to abide to these laws is through careful monitoring by United Nations' agencies, non-governmental organizations and the international media, which so far has proven to be ineffective. This is because the international community has different sets of standards for different states when it comes to

violating international laws. The West, for instance has branded the engineers of the ethnic cleansing in Bosnia as war criminals and got warrants for their arrest while no such efforts were made in the case of Sierra Leone. Leaders who exploit child soldiers such as Liberia’s Charles Taylor and Congo’s Lauren Kabila are, accepted as peers in the international community² despite the fact that both these states are parties to the Convention to the Rights of the Child. Albeit all these setbacks encountered there is still hope. Several measures undertaken by the non-governmental organizations and the United Nations’ agencies to minimize or prevent the use of child soldiers especially in Peru, El Salvador, Guatemala and Paraguay, has shown some promising results at the very least.³

If efforts to pass the Optional Protocol to the Convention on the Rights of the child are not taken seriously by all countries, signing the treaty but not ratifying it would tantamount to not acknowledging the contents enshrined in it. Therefore concerted effort and total commitment by all sections of the international community is needed to address the issue of child soldiers.

Poverty appears to be the motivating factor in most of the countries where child soldiers prevail. It is therefore important for relevant sections of the international community to also look at the flaws in the international

³ http://www.un.org/rights/concerns.htm
economy. The economic disparity between the developed and the developing world must be addressed because it is under these dire economic conditions in the developing world that innocent children are recruited as soldiers. Improvement of standards of living is vital to overcome the menace of recruiting children as combatants.

Maybe there is still hope for those unfortunate children who are victims of adults' irresponsibility. Another mechanism for international accountability was drafted on 17 July 1998 and open for signatures a year later. However, as in other treaties of the United Nations, it can only come into force after 60 countries have ratified it. As of 12 February 2001, 130 countries had signed the treaty while 29 had ratified it. The United States, as in the case of the Optional Protocol is opposed to this legislation. The International Criminal Court will prosecute crimes of genocide, crimes against humanity and war crimes where national courts fail to do their job.

Until the Optional Protocol comes into force when ten countries have ratified it, it lists the use of child soldiers – those younger than fifteen, under Article 8 (2)(b)(xxvi) as the Convention on the rights of the Child – in its catalogue of war crimes. Besides enlisting the conscription, enlistment or use of children in armed conflicts as war crimes, it also recognizes the intentional

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attacks on educational institutions as a wrongdoing and safe guards the immunity of children under eighteen years from court prosecution.\(^5\)

These unfortunate children of war may not be able to regain their childhood but they can reclaim their lives if concerted action is genuinely taken by all parties to address the problem of their recruitment into armed conflicts.

\(^5\) "The International Criminal Court," www.hrw.org
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