

THROUGH THE LOOKING GLASS:

AN ANALYSIS OF THE PORTRAYALS OF CHILD SOLDIERS THROUGH THE LENSES OF COMMUNITY MEMBERS AND KEY STAKEHOLDERS

CLAUDIA ARICI

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ABSTRACT

This thesis explores the construction and deployment of global representations of child soldiers. The main argument is that understanding the representation of child soldiers by unravelling the way it is constructed has an important impact on policy applications when addressing child soldiers. In broadening the theoretical, conceptual and practical interpretations of the concept of 'child soldier', this thesis demonstrates some of the political effects of these portrayals. Given the multidimensional and multifaceted nature of the child soldier phenomenon, a cross-disciplinary approach is employed. Perspectives from law, public policy and anthropology, in addition to different qualitative methods, are used to explore the representations of child soldiers by key stakeholders.

Considering the relationship context in which child soldiers exist, this thesis argues that the child soldiers' identity is a complex one that cannot be considered in isolation from the external stakeholders who contribute to its creation. Nor can the representation of child soldiers be dissociated from environmental, structural and cultural factors. This persona is produced differently in different locations, in multiple and sometimes contradictory ways. The contrastive iconographic and gendered images of child soldiers are exceedingly significant not only for what they convey, but also for what they obscure. Additionally, politically and materially, the identity 'child soldier' carries a range of meanings and implications in the process of post-war rehabilitation and reintegration of child ex-combatants into society. In these contexts, new meanings of childhood and of youth as a political identity emerge – meanings influenced by international discourse around children's rights.

The main hypothesis of my thesis is that the representation of child soldiers cannot escape the institutional, political and social positioning of the stakeholders. It is not possible to represent or act from the 'outside', since everyone is always already situated inside discourse, culture, institutions and geopolitics. Consequently, portrayals are always mediated by a confluence of diverse institutional interests and pressures and other identifiable externalities; in this regard, representation serves a utilitarian purpose.

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DECLARATION OF ORIGINALITY

I hereby certify that this thesis is entirely my own work and that any material written by others has been acknowledged in the text.

The thesis has not been presented for a degree or for any other purposes at The University of Sydney or at any other university or institution.

The empirical work undertaken for this thesis (interviews) was approved by The University of Sydney Human Research Ethics Committee (HREC).

Claudia Arici

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CHAPTER I: INTRODUCTION

1. Background to the Study

The current generation of youth is the largest in the history of the world.¹ Today, almost half of the seven billion people on Earth are under the age of 25, and almost two billion are between the ages of 0 and 14.² In developing countries, the percentage is even higher, with half of the 940 million inhabitants of sub-Saharan Africa under the age of 15.³ Considering the large number of young people around the world, it should not surprise that, especially in countries where they constitute the majority of the population, children and youth become involved into civil unrest, political struggles and uprisings. However, historical, political and humanitarian 'explanations for the presence of young people on battlefields have tended to be simplistic and to overlook the political significance of this phenomenon'.⁴

Around the world, the identity 'child soldier' is created by the meeting of local and global concepts of childhood,⁵ 'in and around institutions in multiple and sometimes contradictory ways'.⁶ Consequently, children who participate in war⁷ are often represented⁸ in one of two ways: either as victims, forced to fight under the

¹ Afua Twum-Danso, 'The Political Child' in Angela McIntyre (ed), *Invisible Stakeholders: The Impact of Children on War* (Institute for Security Studies, 2004) 7.

² Index Mundi, *World Demographics Profile 2014* <http://www.indexmundi.com/world/demographics_profile.html>.

³ Ibid.

⁴ Angela McIntyre (ed), *Invisible Stakeholders: The Impact of Children on War* (Institute for Security Studies, 2004) 1.

⁵ In this case, children and adults using the Western model of childhood for their own purposes.

⁶ Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 83.

⁷ Throughout this thesis, children associated with armed forces or groups are referred to as either 'child soldiers' or 'child combatants'. I am aware that, under international humanitarian law, the term 'combatant' has a specific meaning; however, for the purpose of this thesis, I use the term in its descriptive and non-legal sense.

⁸ The term 'representation' conflates two related but discontinuous meanings: (1) 'speaking for' in the sense of political representation; and (2) 'speaking about' or 're-presenting' in the sense of making a

influence of drugs or brainwashing, and unaware of the moral implications and consequences of their actions; or demonised as a collective of irrational killing machines, scarred for life and unable to return to civil society.⁹ These are vastly different discourses, but they have an important thing in common: they do not always accurately describe the motives, choices, aspirations and actions of young people. They skip over the context and the processes in which children become fighters, and imply either a profound commitment or a complete disconnect between the child and the cause. In reality, the child's own political universe is more likely to be located between these two extremes.

I became interested in the phenomenon of child combatants during my master's degree in international relations, when, for the first time, I heard about this topic. I was shocked and disgusted at the realisation that, as I sat in class, met my friends for a drink or enjoyed a game of volleyball, hundreds of thousands of children as young as my little brother were fighting in battlefields, were torturing and being tortured, and were losing their childhoods in horrendous ways. Moved by the desire to let more people know about the scourge of child soldiering, I decided to dedicate my research for my master's thesis to the topic of the recruitment of child soldiers in Sierra Leone.¹⁰ Over the course of the months in which I first researched this phenomenon, one thing appeared obvious to me. Many actors were talking about the child soldiers, but where were the voices of the children? It seemed like everyone had something to say about child fighters, everyone had an opinion, and everyone felt entitled to speak on their behalf: but what did the children have to say?

Indeed, during my research, I discovered this to be a common theme across many areas: children are often seen but not heard – not just in an armed conflict situation, but even here, in Australia, as in many other countries around the world. Children 'are rarely informed or consulted about new laws and policies which will impact upon them [and] [t]hey are frequently denied rights and opportunities which

portrait. In this thesis, I use the term 'representation' in reference to the description or portrayal of someone or something in a particular way. Throughout this thesis, other terms used to refer to the same concept are 'depiction', 'portrayal' and 'description'.

⁹ These and other common portrayals of child soldiers will be presented and analysed in chapter III.

¹⁰ Claudia Arici, *La giurisprudenza della Corte Speciale per la Sierra Leone in materia di bambini soldato* (Master of International Relations Thesis, Università degli Studi di Milano, 2010).

other members of the community take for granted'.¹¹ Additionally, when children are given the chance to speak, often their voices are muzzled because of externalities, such as age, gender, race, geographical location and so on. Moreover, combinations of these factors contribute to the marginalisation of certain subgroups of children – for example, child soldiers or youth offenders.¹² Indeed, due to these externalities, which can be identified and will be analysed later in this thesis,¹³ children worldwide are ignored as political actors and conflict stakeholders.¹⁴

However, especially in the case of child soldiers, marginalising, excluding and overlooking such a relevant sector of the popular has extremely serious consequences. As Twum-Danso puts it, the exclusion of 'youth from political and social life by "infantilising" them is a denial of the problems facing the youth and the wider society, as well as a refusal to acknowledge not only the capabilities of young people, but also their absolute numerical dominance in the overall population'.¹⁵ Especially in war-torn countries, where the adult populace has been decimated, youth need to be involved in the reconstruction of the country. The younger generation is the future of every nation; therefore, it cannot be marginalised or ignored.

The role that representation plays in muzzling children's voices and marginalising them within society is crucial. Therefore, understanding portrayals of child soldiers by analysing the way in which they are constructed has a critical impact on policy applications when addressing the phenomenon of child soldiering.

¹¹ See Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) <<http://www.alrc.gov.au/publications/report-84>>.

¹² See, for example, Elizabeth S. Scott et al, 'Public attitudes about the culpability and punishment of young offenders' (2006) 24(6) *Behavioral sciences & the law* 815; Mark. Soler, 'Public opinion on youth, crime, and race: A guide for advocates' (Building Blocks for Youth, 2001) <www.buildingblocksforyouth.org>.

¹³ See chapters III and VIII.

¹⁴ According to the Australian Law Reform Commission, 'many laws treat children and young people not as people but as the property of their parents or as objects of concern. ... Decisions are often made by professionals with children's views not being sought or, if ascertained being ignored or discounted. Children are the passive recipients of decisions made on their behalf by powerful adults. This has been described by Michael Freeman as "entrenched processes of domination" and by Penelope Leach as "benevolent authoritarianism" but, more simply, it is a modern day manifestation of the old adage "Children should be seen and not heard": Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997).

¹⁵ Twum-Danso, above n 1, 7.

2. Research Paradigm

The research for this thesis will be based on four assumptions. First, representations of child soldiers are predetermined by externalities. As mentioned earlier, externalities – such as age, gender, race and geographical location – are key factors in influencing portrayals. On the one hand, as will be seen in the narrative analysis in chapter VII,¹⁶ features such as age, developing personality and immaturity muzzle the children's voices, despite this being in contrast with the Convention on the Rights of the Child.¹⁷ On the other hand, these externalities also influence the roles that child soldiers cover once they are demobilised: for example, as will be seen in chapter VI, their age is the main reason to date that there has been no criminal proceeding before international institutions against child soldiers,¹⁸ even if children have appeared before the courts as victims and witnesses.¹⁹ Again, the status as a former child soldier sometimes is the key factor in determining the acceptance of an individual in a foreign country. In fact,

¹⁶ See also Annex H: Interview with Shena Gacu.

¹⁷ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) states at article 12 that 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law' and at article 13 that 'the child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice'.

¹⁸ However, Omar Khadr, a Canadian former child soldier, was arrested and prosecuted by the United States for killing a US soldier in Afghanistan in 2002, at age 15. He had been brought to Afghanistan by his father, who was affiliated with an extreme religious group, and trained with a terrorist organisation. After Khadr was arrested and brought to Guantánamo Bay detention camp, where he was imprisoned for more than a decade, he pled guilty to war crimes. For more information, see Michael Friscolanti, 'Who is the real Omar Khadr?' (2010) 123(44) *Maclean's* 18.

¹⁹ In January 2015, however, Dominic Ongwen, a former child abductee and the alleged Brigade Commander of the Sinia Brigade of the Lord's Resistance Army, appeared in front of the International Criminal Court (ICC) for 70 counts of war crimes and crimes against humanity committed as an adult in northern Uganda between July 2002 and December 2005. Ongwen is believed to be the only former child abductee to face charges before the ICC. Although he was tried as an adult for crimes committed as an adult, Ongwen's status as a child abductee has played a relevant role in his legal defence and could be a mitigating factor during sentencing. For more information on this ongoing case, see *Prosecutor v Dominic Ongwen* (International Criminal Court, Case No. ICC-02/04-01/15) <<https://www.icc-cpi.int/uganda/ongwen>>.

even those perceived as helpless victims²⁰ can be seen as a threat when they come too close for comfort to our Western world – for example, as refugees and asylum seekers. It is then that we become more worried and less compassionate, at times refusing entry to our country because of their involvement in an armed conflict.²¹

The second assumption is that representations of child soldiers are socially constructed. Specifically, this implies two factors: the first is that representation is determined by whose eyes are looking. Who is the actor representing the child soldier? Is it the child himself? His family or immediate community? Or is it a more detached stakeholder, such as a humanitarian officer, a legal professional or a scholar? Understandably, the opinion that a child soldier has of himself rarely matches that of a humanitarian officer; likewise, the approach that a community member has towards the returning child combatant differs significantly from that of a judge in an international tribunal. In order to comprehend and analyse representation, it is crucial to understand who the actor behind the portrayal is. The second factor of this second assumption is the stakeholder's interest in representation: in this regard, depiction serves a utilitarian purpose. Every actor who comes into contact with child soldiers relates to them on the basis of the actor's own profession and interest. For example, as will be seen in chapters III and V, the image of child soldiers as innocent victims has been systematically used by humanitarian organisations in order to capture the world's attention and to obtain funds and support for their activities.²² Even before setting foot in the conflict zone, aid workers have already characterised all child

²⁰ With a few exceptions, I have used the masculine pronoun when speaking of child soldiers because most children involved in armed conflicts are male, even though a notable number of girls are recruited for various roles.

²¹ I am aware that this issue would require a much more detailed discussion; however, this falls outside the scope of this research and it will not be analysed further. For more information, see Bryan Lonagan, 'Sinners or saints: child soldiers and the Prosecutor bar to asylum after *Negusie v. Holder*' (2011) 31(1) *Boston College Third World Law Journal* 71; Sonja Grover, 'Child Soldiers' as 'Non-Combatants': The Inapplicability of the Refugee Convention Exclusion Clause' (2008) 12(1) *International Journal of Human Rights* 53; Tina Javaherian, 'Seeking Asylum for Former Child Soldiers and Victims of Human Trafficking' (2012) 39(2) *Pepperdine Law Review*; Matthew Happold, 'Excluding Children From Refugee Status: Child Soldiers and Article 1F of the Refugee Convention' (2002) 17(6) *American University International Law Review*; Elizabeth A. Rossi, 'A "Special Track" for Former Child Soldiers: Enacting a "Child Soldier Visa" as an Alternative to Asylum Protection' (2013) 31(2) *Berkeley Journal of International Law*.

²² David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005) 1.

soldiers as helpless victims, and they stick to this label even when they are confronted with a different picture.²³ Likewise, as chapters III and VI will show, court professionals believe that child soldiers are victims.²⁴ This rationale lies in international humanitarian law, which determines 15 as the minimum age for recruitment in armed forces or armed groups,²⁵ or in the 'straight-18' philosophy, which sets recruitment minimums at 18 years of age.²⁶

The third assumption is that representation varies according to the distance of the stakeholder from the action and subject represented. As we will see in chapter III, the further the actor is from the act, the more the representation becomes 'stereotyped'. Child soldiers present very heterogeneous tales of their relationship with violence and command authority: consequently, self-portrayals by former child combatants are very mixed, ranging from hero to rational being and from victim to perpetrator, and often mixing these extremes.²⁷ On the contrary, the portrayals by aid officers, scholars and other professionals are more stylised, with child soldiers fitting comfortably in the labels prepared, too often reducing the complexity of experiences into the one stereotyped victim image.²⁸ Additionally, it appears that the more aloof and distanced the actor is from the child soldier, the more benevolent the child becomes. In our global perception, child combatants are only found in third world countries and this disadvantaged position makes us more sympathetic to their

²³ For example, children who have consciously committed atrocities, children who have volunteered for enlistment, children who have knowingly chosen to take an active role in combat when they could have fled, and children who believe in the cause. See chapter V for more information on this topic.

²⁴ See chapter VI for more information on the involvement of child soldiers in court proceedings.

²⁵ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) art 77; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) art 4(3)(c); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 38; *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 8(2)(b)(vi).

²⁶ This position aims at establishing 18 as the universal minimum age for conscription and enlistment by state armed forces. Although today almost two-thirds of UN member states have committed to a minimum military recruitment age of 18 years, there are still states that, contrary to best practice, still permit the voluntary recruitment of under-18s. See Child Soldiers International, *Straight-18* <http://www.child-soldiers.org/theme_reader.php?id=1>.

²⁷ See, for example, Annex H: Interview with Shena Gacu.

²⁸ See chapter III for a more detailed presentation and analysis of this topic.

suffering, while at the same times it screens us off from the worst of their actions, which in turns, 'protects our compassion and enables us to give'.²⁹ Within this imagery, in an echo of colonialism, we tend to be less forgiving with the 'bad boys' who are attracting attention at 'home', while the Third World children who need to be saved tend to be represented as vulnerable and dependent little boys in need of protection.³⁰

Lastly, representations of child soldiers are not just theoretical but can actually craft responses. While the stakeholders dealing with child soldiers based their actions mostly on a Western-inspired culture, the actual effects of their actions and programs are to be found in the local, non Western, communities. That is, 'the effects are in social practice'.³¹ According to Shepler,

the steps involved in making "child soldiers" are as follows:

1. An external distinction is imposed (imperfectly).
2. People strategize regarding that distinction – in part by deploying history and local meaning, also taking advantage of the confusion in administration of the distinction.
3. The distinction comes to have local meaning and the struggle transforms the external distinction.³²

For example, as we will see in chapter V, the portrayal of child soldiers as victims has proven to be pivotal in shaping interventions by NGOs during and after armed conflicts. In particular, humanitarian organisations provide physical and mental healthcare for such children: however, although these programs deal with physical and psychological trauma, they rarely address the issue of responsibility, which, in turn, prevents children from healing completely.³³ Conversely, portrayals of child

²⁹ P. Holland, *What is a Child? Popular Images of Childhood* (Pandora Press, 1992) 150, quoted in Erica Burman, 'Innocents abroad: Western fantasies of childhood and the iconography of emergencies' (1994) 18(3) *Disasters* 238, 241.

³⁰ Although it falls outside the scope of this research and will not be analysed further, it is worth mentioning that child soldiers are comparable to child criminals across that world. However, the punitive approach in domestic vs. international law is significantly different: children (some as young as 10) who commit heinous acts of violence under domestic laws are held accountable for their actions, while child soldiers are deemed innocent no matter what crimes they may commit. But if all child soldiers are going to be considered legally blameless, shouldn't this apply to all children who commit any type of crime?

³¹ Shepler, above n 6, 83.

³² Ibid.

³³ There is a largely faulty assumption here that shielding child soldiers from prosecution will suffice to erase the past and will render these children guilt-free. On the contrary, former child combatants who

soldiers as dangerous and permanently scarred individuals may also influence responses, but in a very different way. Indeed, this image entails the futility of investing in the rehabilitation of former child soldiers, therefore often undermining the outcomes of after-war programs.³⁴

Based on these assumptions, this thesis serves a dual purpose. First, given the lack of involvement of child soldiers in matters that concern them, the thesis aims at uncovering their voices. This will be done through the analysis of memoirs by former child combatants in chapter VII and through interviews with a former child soldier.³⁵ Second, considering that child soldiers are often depicted in various and divergent ways, this study also aims at providing a broader interpretation of the concept of child soldiers, exploring their different portrayals, the reasons behind them, and their consequences. These will be contextualised against child soldier memoirs and testimonies to highlight issues of child ‘voices’ and the tensions between the ‘right to protection’ and the ‘right to agency’ in campaigns on child soldiering. As will be further seen in chapter III, these interpretations influence people’s attitudes, post-conflict assistance programs, and the roles that former child soldiers are expected to take once they return home. It is therefore crucial to explore the different ways child soldiers are portrayed, since understanding these representations by unravelling the way they are constructed has a significant impact on policy applications.

This study presents new perspectives on, and practical interpretations of, the concept of child soldiers, with a specific focus on the contrast between ‘speaking for’ and ‘speaking about’. A cross-disciplinary approach is used to enrich the perspective of child combatants. This disciplinary analysis broadens the definition of ‘child soldier’, which in turn strengthens the case for effective protection and participation of children in policy and practice. It is not the aim of this thesis to provide any

have participated in human rights crimes need a forum for acknowledging their wrongdoings, and for expressing remorse for them, before forgiveness may be remotely possible. Not only those seeking mercy, but also the community as a whole benefits meaningfully from this, given that healing is often a collective choice. In particular, David Rosen is a supporter of this view: he states that age should not on its own be an absolute barrier to prosecution and that various degrees of culpability should therefore be applicable in the case of child soldiers. For further information, see Rosen, above n 22.

³⁴ Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 8.

³⁵ See Annex H: Interview with Shena Gacu.

generalisable claims of 'truth' or any definitive 'solutions' to the problem of child soldiering, or to draw final conclusions about the condition of individuals' perceptions of young combatants. The four main objectives to advance the research aims are presented below.

Objective 1: To provide a background to the subject area of child soldiering. In order to fulfil this objective, it is necessary to identify and discuss the current literature regarding the involvement of children in armed conflicts in chapter III. This will be supplemented by a review of relevant international legislative developments in chapter VI and of NGO literature in chapter V, as well as the self-representation of child soldiers in the literature in chapter VII.

Objective 2: To identify the positions of the different stakeholders involved, such as international organisations, court professionals, refugees service providers, and individuals. This objective seeks to paint a picture of the dynamics in representing child soldiers, while considering the viewpoints of the various actors. The objective is first addressed in chapter III, where all the stakeholders are presented, and subsequently in chapter V, which presents the standpoint of humanitarian organisations; in chapter VI, where the specific points of view of international tribunals are discussed; and in chapter VII, where I analyse the self-perspective of former child soldiers through narratives. A limited number of interviews and focus groups with a former child soldier and community members supplement the review of the literature in chapter VIII.

Objective 3: To investigate individuals' awareness of and attitudes towards child soldiers. Since ordinary citizens are part of the communities in which former child soldiers are resettled and reintegrated, it is important to represent their opinions in the complex debate about child soldiers. In order to learn about individuals' attitudes towards child combatants, a number of focus groups have been conducted. The methodology to guide the collection of data will be discussed in chapter II, and the findings from the data collections will be presented in chapter VIII.

Objective 4: To analyse the relationship between the media and the perceptions of individuals regarding child soldiering. As part of this objective, definitions of child soldiers commonly used in, and known from, the literature and media will be

critically evaluated in the light of the analysis of empirical data. Discrepancies between the respondents' views of child combatants and those represented in the relevant literature will be identified and discussed in chapters III and VIII.

3. Significance of the Research and Contribution to Scholarship

With hundreds of thousands of children recruited around the world to act as combatants, as well as in other support roles, the existing literature on the topic is abundant. Lawyers, anthropologists, psychologists, sociologists, historians and even economists: all have been interested in child soldiers. Some existing studies examine the causes of the phenomenon and how to prevent it,³⁶ while some others are concerned with the consequences of the experience and how to reintegrate these children.³⁷ Some scholars concentrate on the roles that former child soldiers could take up after the conflict is over,³⁸ while others focus their attention on a specific subgroup of child soldiers.³⁹ The motivations for these studies have been of either an advocacy

³⁶ Rachel Brett, 'Adolescents volunteering for armed forces or armed groups' (2003) 86(852) *International review of the red cross* 857; Krijn Peters, 'Re-examining voluntarism: youth combatants in Sierra Leone' (2004) <<http://www.iss.co.za/pubs/Monographs/No100/Contents.html>>; Rachel Brett and Irma Specht, *Young Soldiers: Why They Choose to Fight* (Lynne Rienner Publishers, 2004).

³⁷ Susan Shepler, 'The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone' (2005) 4(2) *Journal of Human Rights* 197; John Williamson, 'The disarmament, demobilisation and reintegration of child soldiers: social and psychological transformation in Sierra Leone' (2006) 4(3) *Intervention: The International Journal of Mental Health, Psychosocial Work and Counselling in Areas of Armed Conflict* 18; Grace Akello, Annemiek Richters and Ria Reis, 'Reintegration of former child soldiers in northern Uganda: coming to terms with children's agency and accountability' (2006) 4(3) *Intervention* 229; Angela Veale and Aki Stavrou, *Violence, reconciliation and identity: the reintegration of Lord's Resistance Army child abductees in Northern Uganda*, ISS monograph 92 (Institute of Security Studies, 2003; Neil Boothby, 'What happens when child soldiers grow up? The Mozambique case study' (2006) 4(3) *Intervention: The International Journal of Mental Health, Psychosocial Work and Counselling in Areas of Armed Conflict* 244.

³⁸ Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010; Crystal E. Lara, 'Child soldier testimony used in prosecuting war crimes in the International Criminal Court: preventing further victimization' (2011) 17(2) *Southwestern Journal of International Law* 30; Kyra Sanin and Anna Stirnemann, 'Child witnesses at the Special Court for Sierra Leone' (War Crimes Studies Center, 2006); Jason Hart, *Children's participation in humanitarian action: learning from zones of conflict* (University of Oxford, 2004).

³⁹ Chris Coulter, *Bush wives and girl soldiers: women's lives through war and peace in Sierra Leone* (Cornell University Press, 2009); Fiona Shanahan, 'Cultural Responses to the Reintegration of Formerly Abducted Girl Soldiers in Northern Uganda' (2008) 1(1) *Psychology & Society* 14; Susan McKay, 'The effects of armed conflict on girls and women'

or a political nature, therefore relying on the same narratives and the same assumptions. However, the existing literature on child soldiers⁴⁰ fails to historically contextualise the emergence of the phenomenon against changing rights discourses and legal frameworks, their reception within non-Western cultures, and evolving constructions of 'the child' in space and time. However, in failing to appropriately contextualise child soldiers, this literature is quite useful in order to establish that the way child soldiers are represented is highly variable and contradictory. There are a few published studies that question the belief that all child soldiers are innocent victims;⁴¹ however, their authors have not explicitly taken a side on the issue of whether or not the innocent victim label should be applied to child soldiers. Authors such as Denov,⁴² Drumbl⁴³ and Rosen,⁴⁴ for example, have presented the most

(1998) 4(4) *Peace and Conflict: Journal of Peace Psychology* 38; Myriam Denov and Richard MacLure, 'Engaging the Voices of Girls in the Aftermath of Sierra Leone's Conflict: Experiences and Perspectives in a Culture of Violence' (2006) 48(1) *Anthropologica* 7; Matt Hobson, 'Forgotten Casualties of War: Girls in armed conflict' (Save the Children, 2005) <<http://resourcecentre.savethechildren.se/library/forgotten-casualties-war-girls-armed-conflicts>; Faith McDonnell and Grace Akello, *Girl Soldier: A Story of Hope for Northern Uganda's Children* (Chosen, 2007); Myriam Denov, 'Girl Soldiers and Human Rights: Lessons from Angola, Mozambique, Sierra Leone and Northern Uganda' (2008) 12(5) *International Journal of Human Rights* 81; Rachel Brett, 'Girl Soldiers: Challenging the Assumptions' (Quaker United Nations Offices, 2002); Carolyn Nordstrom, *Girls and Warzones: Troubling Questions* (Life and Peace Institute, 1997); Jane Rice, 'Girls at War: Historical Perspectives and Representations' in Helga Embacher (ed), *Children and war: past and present* (Helion & Company Ltd, 2013); Michael Wessells, 'Girls in armed forces and groups in Angola: implications for ethical research and reintegration' in Scott Gates and Simon F. Reich (eds), *Child soldiers in the age of fractured states* (University of Pittsburgh Press, 2010) 18; Dyan E. Mazurana et al, 'Girls in Fighting Forces and Groups: Their Recruitment, Participation, Demobilization, and Reintegration' (2002) 8(2) *Peace and Conflict: Journal of Peace Psychology* 9; Harry G. West, 'Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"' (2000) 73(4) *Anthropological Quarterly* 18; Ami Chitalia and Michael Odeh, 'How Girl Soldiers are Punished by Their Past' (Youth Advocate Program International, <<http://www.yapi.org/reports.htm>; Myriam Denov and Christine Gervais, 'Negotiating (In)Security: Agency, Resistance, and Resourcefulness among Girls Formerly Associated with Sierra Leone's Revolutionary United Front' (2007) 32(4) *Signs* 88; Susan McKay, 'Reconstructing Fragile Lives: Girls' Social Reintegration in Northern Uganda and Sierra Leone' (2004) 12(3) *Gender and Development* 1; Yvonne E. Keairns, 'The Voices of Girl Child Soldiers' (Quaker United Nations Office, 2002).

⁴⁰ See chapter III for more details.

⁴¹ Erin K. Baines, 'Complex political perpetrators: reflections on Dominic Ongwen' (2009) 47(2) *The Journal of Modern African Studies* 163; Lucille Grétry, 'Child soldiers: our representation challenged by their reality' (2011) 31(9/10) *International Journal of Sociology and Social Policy* 583; Matthew Happold, 'Child soldiers: victims or perpetrators?' (2008) 29 *University of La Verne Law Review* 56; Tim Wright, 'When children commit atrocities in war' (2010) 22(3) *Global Change, Peace & Security* 315.

⁴² Myriam Denov, 'Child Soldiers and Iconography: Portrayals and (Mis)Representations' (2010) *Children & Society* 280.

⁴³ Drumbl, above n 34.

⁴⁴ Rosen, above n 22.

common portrayals of child soldiers; however, they have not provided exhaustive explanations of why these descriptions are so inconsistent.

The concept of ‘child soldiers’ as outlined in the existing literature has far-reaching implications for the academic understanding of the nature of the phenomenon, for programs management, and for policy planning. This lack of clarity on the issue in the literature can not only weaken the commitment to protect child soldiers and end this practice, but also, more in general, to advocate for and protect children’s rights. Consequently, this thesis aims to achieve this clarity within a cross-disciplinary framework and to expand the intellectual, conceptual and theoretical understanding of the concept of ‘child soldiers’.

As chapter III will present, the prevailing representations of child combatants in Western cultures reduce these children to the binary victims⁴⁵ vs. perpetrators definition, which in turn limits the possible reactions to either sympathy and pity or hostility.⁴⁶ For example, in chapter VII, former child soldiers reflect, throughout their autobiographies, on how other stakeholders relate to them based on this duality, while chapter VI explores how victimhood influences the participation of child soldiers in judicial and non-judicial proceedings. However, this thesis proposes that this limited and flawed perception ought to be challenged, as these views are inadequate in their classifications for creating and justifying representations of child soldiers. As will be explored in more detail later in this thesis, I believe that child soldiers are more than simple victims or threats. Continuing to see child fighters as one-dimensional archetypes is both clumsy and unhelpful; thus, this research contributes to broadening the public construction of child soldiering and to deepening the understanding of this complex phenomenon.

Given the primary role of external stakeholders in portraying child soldiers in ways that influence policies and programming, this thesis aims at making a significant contribution in terms of uncovering the triggers of representation that craft responses.

⁴⁵ Guided by the Convention on the Rights of the Child, most scholars believe that underage soldiers should not be held legally responsible for their recruitment into fighting forces, nor for the actions they undertake while within those forces, no matter to what extent such acts may have violated either local laws or international treaties.

⁴⁶ This seems to be a theme in many areas in relation to children, not just as soldiers – for example, regarding young people and sexuality, and young people and criminal law.

This line of inquiry will contribute to the determination of the influences on representation, which in turn will help in shaping policies that are the most objective and efficient possible. Additionally, this research is valuable to ensuring that child soldiers are dealt with in their best interests, which includes being able to speak for themselves. Currently, many former child soldiers all around the world are not involved in determining what is best for them; their voices are muzzled and not heard. Besides being morally and psychologically harmful for the children involved,⁴⁷ not being able to express their views on matters that affect them goes against the Convention on the Rights of the Child;⁴⁸ therefore, it cannot be considered to be in their best interests. According to former child soldier and autobiographer Shena Gacu (formerly known as China Keitetsi),⁴⁹ my research 'is very important, and it can change many different lives',⁵⁰ since, despite hundreds of interviews, she 'never c[a]me across the questions that [this research is] actually wondering about'.⁵¹

4. Methodology Overview

The next chapter will discuss in more detail the methods and theoretical framework that have been used for this research. At this point, though, it is worth highlighting some of the unique approaches of my project. In order to give a more nuanced account of the representations of child soldiers, I wished to allow different stakeholders to express their views as fully as possible in their own words. Although the recruitment of participants for my project at first seemed daunting, my main concern was not with the quantity of data, but rather with its quality. I was dedicated

⁴⁷ See Annex H: Interview with Shena Gacu.

⁴⁸ 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law': *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 12.

⁴⁹ China Keitetsi, *Child soldier* (Souvenir Press, 2004).

⁵⁰ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

⁵¹ Ibid.

to creating a picture of the stakeholders' perspectives in their own words, in order to give a feel for the phenomenon of child soldiering as they see it. Consequently, the original methodology of this research was deliberately qualitative, inductive and designed to capitalise on the richness of narrative data collected during in-depth interviews and focus groups to be conducted with three different sources.⁵²

The first intended participants were to be identified among former child soldiers and members of their communities⁵³ resettled in Australia,⁵⁴ with the help of asylum seeker and refugee service providers.⁵⁵ The second source was to consist of international organisations and institutional representatives, selected because of their involvement in countries where the phenomenon of child soldiering is widespread and for their public stand on the matter.⁵⁶ The remaining candidates were to be handpicked among persons of interest from the public record specifically because of their role in the process of representation of child soldiers. They constituted legal professionals involved in significant court cases related to the phenomenon of child soldiering in front of international tribunals, and former child soldiers who have published autobiographies about their times in the armed forces.⁵⁷ I planned to interview the above-mentioned stakeholders for my fieldwork because they represent the principal actors with whom child soldiers come into contact before, during and after their time in armed conflict. Therefore, they are the best individuals to be approached in order to paint a picture of the dynamics in representing child soldiers.

Although I had originally foreseen some difficulties in reaching these participants, I did not expect to face a 'wall of silence' in every direction. Indeed, legitimate but insuperable barriers prevented me from establishing a relationship with these stakeholders. All but one of the individuals and organisations contacted refused

⁵² See chapter II for more details.

⁵³ By 'community members', I refer to people who have had close, personal and direct contact with child soldiers at the time of their involvement in the armed conflicts. This might include immediate family members (parents and siblings), relatives (grandparents, uncles, aunts and cousins), schoolmates, friends or close community members.

⁵⁴ Either through official channels, such as the United Nations High Commissioner for Refugees (UNHCR) resettlement programs, or through autonomous and individual ways.

⁵⁵ See Annex A: Organisations Contacted for the full list of organisations contacted.

⁵⁶ *Ibid.*

⁵⁷ See Annex B: Personalities Contacted for the full list of individuals contacted.

to take part in my research and were extremely reluctant to help me in recruiting candidates due to the potential breach of privacy and respect, the interruption in the integration process, the risk of re-traumatisation, and the lack of specific knowledge of child soldiers among their clients. Therefore, I was only able to establish contact with one former child soldier and autobiographer, with whom I had one in-depth interview via Skype, and who provided extremely valuable data. No matter how disappointed I was at first when faced with the impossibility of obtaining significant data from these sources, eventually this impasse allowed me to reflect on the meaning of silence. Consequently, my attitude regarding the purpose of collecting data for changed.

If my original interest had been in collecting data in order to tell the stories of young combatants, in the second phase of my research I became more concerned with gathering data to prove that these children's stories are indeed not heard, and that their voices are muzzled. In order to do so, I resorted to narrative analysis:⁵⁸ by examining autobiographies written by former child combatants about their time in the armed forces, I was able to partially discover the voices of child soldiers. Considering the above-mentioned troubles in reaching the children directly, the study of their autobiographies appeared to be the only chance to actually hear what these young people had to say. In particular, I analysed three books, chosen because they each presented a different image of the child soldier: therefore, they were extremely helpful in challenging the stereotypes surrounding child combatants and in discovering, with some limits, how they perceive themselves. Additionally, I was able to secure an interview with the author of one of the autobiographies analysed, which proved extremely valuable.⁵⁹ This in-depth conversation allowed me to discuss at length with the author the issue of how her experience was represented, and how her persona as a former child soldier was created through the interaction with others. In particular, the question of the labelling of former child combatants as 'helpless victims' was a pivotal topic in our discussion, as was the children's lack of 'voice' in matters that concern them.

⁵⁸ See chapter VII.

⁵⁹ See Annex H: Interview with Shena Gacu.

Yet, if the children's points of view are not given significance, then what are the portrayals based on? In order to answer this question, I developed a secondary hypothesis that would help me assess how representations of child soldiers are created. My postulation is that portrayals of child combatants are based on assumptions and stereotypes, which rely on certain externalities – in particular, age, gender and mode of recruitment. Consequently, it is possible to create in the mind of a person a specific view of child soldiers and a response to it simply by the way the phenomenon is constructed and presented. In order to test my theory and explore the key prompts of representation, I chose to conduct focus groups with community members. In particular, I was interested in exploring the way in which the participants portrayed child soldiers based on a set of factors, such as age and gender, as well as the mode of recruitment, the actions taken, the length of stay, and the consequences of the involvement in the armed conflict. The first result was the stereotypical image of a child soldier as a young African black boy, brainwashed or forcibly recruited, staring aimlessly at the camera with an AK-47 while under the influence of drugs.⁶⁰

In order to challenge the existing stereotypes, the participants were then presented with real-life scenarios, meant to shape a precise portrayal in their minds.⁶¹ This second exercise was designed to uncover the triggers of representation: Which externalities determine the portrayal of a child soldier as a victim rather than a perpetrator? What makes a young combatant a rational agent or an immature child? Is it his age or her gender? Is it the way he was recruited or the actions she carried out? Is it the length of time he spent with the armed group or the way she left the army? All these facets of the passages were discussed and analysed, until the real triggers of representation emerged.⁶² In particular, as anticipated, in comparing the two stories, participants seemed to label the children as 'victims' or 'perpetrators' based on externalities such as their age, gender, mode of recruitment and involvement in violence. However, not all these factors seemed to have equal importance in the

⁶⁰ Focus group discussion (Sydney, 24 November 2014).

⁶¹ See Annex G: Focus Group Scenarios for a copy of the passages provided during the focus groups.

⁶² See chapter VIII for an in-depth analysis of the focus group discussion outcomes.

portrayals of the children: for example, the fact that a child was only eight years old and female appeared to be more significant than her voluntary enlistment in labelling her as a 'victim'. At the same time, the involvement of a male teenager in killings had a greater impact in making him a 'perpetrator' than the fact that he was forcibly recruited.⁶³

5. Structure of the Thesis

This thesis consists of nine chapters. The structure of the thesis is designed to explore the representation of child soldiers, moving from distanced actors to the child soldier himself.

The purpose of this chapter I is to set the scene for the thesis by describing its overall context and rationale, including the aims and objectives.

Chapter II describes in detail the methodological paradigm adopted for this study. The original methodology of in-depth interviews with former child soldiers, NGO representatives, legal professionals and autobiography authors is presented. I then recount the hurdles that prevented me from fully carrying out this type of fieldwork research. In particular, the chapter discusses the connection between the resistance of humanitarian organisations to child soldiers participating in my study, and the innocent victim portrayal. Second, the chapter explores the choices of conducting focus groups and narrative analysis.

In chapter III, I present the dominant Western discourse surrounding child soldiers, with an analysis of the contexts and purposes for the creation of common portrayals and representations of child combatants created by key stakeholders. In particular, the portrayals of child soldiers as innocent victims, dangerous and disorderly, rational agent and redeemed hero are explored, taking into account the distance that separates the stakeholder from the child and his interests in the representation. In fact, if it is true that the self-perceptions of child soldiers are heterogeneous and ambiguous, it is also true that when actors detached from the

⁶³ Focus group discussions (Sydney, 24 November 2014 and 29 June 2015).

children – such as NGOs and court professionals – portray them, children are more likely to fall into a specific category and stereotype.

I then move on to analyse the voices of key stakeholders and the rationales behind their representations. In chapter IV, I focus on the specific topic of childhood innocence that constitutes the basis for the depiction of the innocent victim that is generally broadcast by humanitarian organisations. Considering that perceptions of childhood have changed throughout history, in order to understand this changing process, I explore the example of child labour. Through the case studies of an apprentice, a textile worker and a coal miner, the chapter discusses some of the conditions that brought about a shift in the concept of childhood in Western Europe. The chapter demonstrates how, during the 18th and 19th centuries, alterations in market necessity, the value of labour and state intervention shaped a new picture of the child: once a contributing asset to the family income, the child became a vulnerable and innocent individual with a right to state care and protection. This shift in perspective is extremely important in relation to child soldiers, as it forms the basis of the frequently broadcast portrayal of child combatants as innocent victims.

Subsequently, in chapter V, the approach of humanitarian organisations to child soldiers is explored. The main aim of this chapter is to analyse how, and in what way, child soldiers are ‘produced’ by international organisations, revolving around two central concerns. First, I examine how the interest by NGOs in child soldiers translates into the nature of their engagement and the services they provide. Second, I consider the kind of political subjectivities produced by human rights experts. This chapter shows how our discursive constructions are intimately linked to our socio-economic, gendered, cultural, geographic, historical and institutional positioning;⁶⁴ consequently, the reasons behind our representations cannot be separated from our positioning. In particular, the helpless victim stereotype guides me through the analysis of the involvement of humanitarian agencies with child soldiers.

In chapter VI, I explore the participation of former child soldiers in judicial and non-judicial proceedings. This chapter investigates the conditions under which

⁶⁴ Gayatri Chakravorty Spivak and Rosalind C. Morris, *Can the subaltern speak?: reflections on the history of an idea* (Columbia University Press, 2010) 11.

children in tribunals are able to give voice to their experiences. In particular, the normative, procedural and critical influences that moderate these voices and interpret their meaning through a legal mirror are analysed. Additionally, this chapter compares the motivations of courts to include children's testimonies with the children's own expectations, and the subsequent tension that arises between storytelling and witness testimony. In this analysis of children's participation in judicial proceedings, great importance is given to the relationship between perception and context. While exploring the ways different courts systems have an impact on child participants and vice versa, it is essential to highlight that children's experiences with judicial mechanisms are highly dependent on the contexts in which they take place.

Chapter VII introduces the views of former child combatants through the analysis of autobiographies. For the above-mentioned difficulties in obtaining data directly from child soldiers, autobiographies are extremely important in order to discover the children's voices. However, the chapter shows that this is not always achievable, as most autobiographies by child soldiers do not reveal what the children really want to say. Their voices are confused, influenced by the opinions of others, and misinterpreted by the audience. This chapter explores the way the child soldier figure is mobilised and challenged, as well as the imaginative cultural and political work that is being performed in such narratives. In particular, the chapter expands on themes such as human rights and responsibilities, the concept of childhood, and innocence already presented in previous chapters.

Chapter VIII draws together and triangulates the results from the different data collection methods in a deconstruction of representation. First, empirical findings are contrasted with the literature and synthesised in order to provide a holistic interpretation of the research question on how the creation of representations of child soldiers is carried out. In particular, the concept of age and childhood and the interest of the stakeholders in child soldiers proved to be the crucial drivers of representation. Second, this chapter reflects on the commodification of the child both in war and in peacetime, in order to show how the representation of child combatants is a tool to an end used by a wide range of stakeholders in different contexts. Third, in order to show

how all these elements come together to define a specific portrayal, the chapter presents an analysis of victimhood in the context of innocence and the silencing of child soldiers' voices.

Finally, chapter IX sets out the conclusions of the thesis in relation to the aims identified above. It draws all data and interpretation together and makes suggestions for further research.

CHAPTER II: ENGAGEMENT WITH EMPIRICAL UNDERSTANDING

1. Introduction

One of the aims of this thesis is to explore representations of child soldiers: in particular, to investigate the forces and processes at work in representation, and the manner in which representations construct responses in a 'rights' or 'liability' context. Understanding portrayals of child soldiers by deconstructing the way they are created affects greatly policy application and programs planning in relation to youth combatants. In order to achieve the goals and objectives of the thesis on the basis of the assumptions stated in the introduction,¹ this chapter introduces the research methodology used in this study and explores how it has guided data collection and analysis.

Indeed, the methodology of this thesis morphed out of my research assumptions and preconceptions: as my research questions and approach evolved, the methodology used also changed. This chapter describes the methodology of the qualitative research project that underpins the thesis, including the basis for the choice of method and how this relates to the research objectives. Section 2 offers an explication of methodology and also provides essential background and fundamental guidelines in relation to how the process of analysis was informed by debate within the academic literature on grounded theory and phenomenology. To explain the research and the literature that influenced the aims and methodological approach, I then explore how the combination of these two methods has formed the methodology used in my research. Sections 3 and 4 describe the data collection and analysis phases for this study, both in its original approach and in its successive development, which

¹ See chapter I.

consisted of in-depth interviews, focus groups and narrative analysis. The chapter concludes by clarifying the analysis approach for the empirical data.

2. Grounded Phenomenology Theory

2.1. Grounded Theory and Phenomenology

Due to my interest in the mechanisms of representations and the cross-disciplinary nature of the research problem identified in this thesis across different fields,² I considered the issue of the representation of child soldiers from an interdisciplinary perspective. The method used in this research is qualitative grounded³ phenomenology, drawing on primary⁴ and secondary sources⁵ in order to analyse the influences on representations of child soldiers. The theoretical foundations of my research lie in both grounded theory and phenomenology. Table 1 illustrates the similarities and differences between the two approaches.

² The phenomenon of child soldiering has been studied from several disciplines, including law, history, sociology, anthropology and psychology.

³ The notion of grounding relates to data collection and implies the 'rooting' of researches and studies in data, which could be quantitative or qualitative data of any type – for example, video, images, text, observations and spoken word. Grounding also details strict procedures for data analysis. Generally, this research tool enables researchers to seek out and conceptualise the latent social patterns and structures of the area of interest through the process of constant comparison.

⁴ Interviews and focus groups.

⁵ Including narratives, government and non-government reports, media stories, judicial decisions and academic literature.

	PHENOMENOLOGY	GROUNDED THEORY
HISTORY	European philosophy	Sociology
PHILOSOPHY	There exists an essential, perceived reality with common features	Theory is discovered by examining concepts grounded in the data
GOAL	Describe the meaning of the lived experience of a phenomenon	Develop an explanatory theory of basic social processes
METHODOLOGY		
Research question	'What is the lived experience of [the phenomenon of interest]?'	'How does the basic social process of [X] happen in the context of [Y environment]?'
Sampling	Those who have experienced the phenomenon of interest	Those who have experienced the phenomenon under different conditions
Data collection	Interviews	Interviews, observation, second-hand data
ANALYTICAL METHODS	Identify descriptions of the phenomenon; cluster into discrete categories; taken together, these describe the 'essence' or core commonality and structure of the experience	Open, axial and selective coding; examine concepts across their properties and dimensions; develop an explanatory framework that integrates the concepts into a core category
PRODUCT	A thematic description of the pre-given 'essences' and structures of lived experiences	Generate theory from the range of the participants' experiences

Table 1⁶

The most relevant feature for my research that the two approaches have in common is that both seek to explore real-life situations, usually through interviews and/or observations. In fact, both grounded theorists and phenomenologists seek to collect and analyse data from the participants' perspectives, in order to ensure that their findings are not influenced by preconceived ideas. To achieve this, they often involve participants in data analysis to increase the trustworthiness of the findings and to explore the experiences of individuals in the context of the worlds in which they live.⁷ Consequently, I have relied on these approaches in my choice of focus groups and

⁶ See Helene Starks and Susan Brown Trinidad, 'Choose Your Method: A Comparison of Phenomenology, Discourse Analysis, and Grounded Theory' (2007) 17(10) *Qualitative health research* 1372, 1373.

⁷ John W. Osborne, 'Some Similarities and Differences Among Phenomenological and Other Methods of Psychological Qualitative Research' (1994) 35(2) *Canadian Psychology/Psychologie canadienne* 167; Shay Sayre, 'Phenomenology and Grounded Theory' in Shay Sayre (ed), *Qualitative Methods for Marketplace Research* (SAGE Publications, 2001) 91.

interviews in order to explore the voices of participants, as the next sections will discuss.

However, these two methods are significantly different in their origin, evolution, data collection and scope. Phenomenology is rooted in early 20th century European philosophy, influenced predominantly by Edmund Husserl⁸ and Martin Heidegger.⁹ It involves the use of thick description¹⁰ and close analysis of the lived experience to understand how meaning is created through embodied perception.¹¹ Therefore, data can only be collected from individuals who have lived through those experiences; hence, it is often limited to interviews. Phenomenologists are interested in common features of the lived experience. Although a larger sample may provide more information, core data can be drawn even from a few individuals.¹² Findings are reported as a rich description of the experience, drawing on characteristics identified during data analysis. Since phenomenology contributes to a deeper understanding of lived experiences by exposing taken-for-granted assumptions about these phenomena, this is highly relevant for the scope of my research. Indeed, it allowed me to expose and challenge the assumptions and stereotypes surrounding child soldiers: for example, the assumption that all child soldiers are victims, that children cannot possibly join armed groups because they believe in the cause, that anyone under 18 is too immature to be able to decide what's best for him, and so on.¹³

⁸ Edmund Husserl, *Cartesian meditations: an introduction to phenomenology* (Martinus Nijhoff, 1960).

⁹ Martin Heidegger, *Being and time* (SCM Press, 1962).

¹⁰ Phenomenology relies on descriptions to depict the structure of first-person lived experience, rather than to theoretically explain it. Hence, the descriptions need to be very detailed and rich, in order to portray, in as many details as possible, the experience analysed. For more information, see Husserl, above n 8; Clark Moustakas, *Phenomenological Research Methods* (Sage Publications, Inc., 1994).

¹¹ Robert Sokolowski, *Introduction to phenomenology* (Cambridge University Press, 2000); David Stewart and Algis Mickunas, *Exploring phenomenology: a guide to the field and its literature* (American Library Association, 1974).

¹² In my case, for example, I was able to interview only one former child soldier; however, the richness and uniqueness of her experience provided me with more significant data than if I had carried out dozens of interview with less 'interesting' individuals. See Annex H: Interview with Shena Gacu.

¹³ For example, in chapter III, I refer to the most frequently broadcast stereotypes of child soldiers, which have led to the creation of common portrayals, such as the helpless victim, the dangerous and unruly individual, and the redeemed hero. Then, in chapter IV, I reflect on how the current approach of child soldiers is the reflection of a modern concept of childhood, with all its expectations and traditions. In chapter VI, I compare the assumptions of victimhood of child soldiers with their involvement in judicial and non-judicial proceedings. In chapter VII, I let the child soldiers challenge the stereotypes by analysing their autobiographies.

In contrast, grounded theory developed in sociology, specifically from symbolic interactionism, which posits that ‘meaning is negotiated and understood through interactions with others in social processes’.¹⁴ It was first described by Barney Glaser and Anselm Strauss¹⁵ as a qualitative methodological approach aimed at generating a ‘grounded theory’ to describe and explain the phenomenon under study. Unlike phenomenologists, grounded theorists seek to include all data sources that might contribute to theory development: interviews are commonly used, but they might also include observations, diaries, images, past literature and research. Using a technique described as ‘constant comparison’, researchers compare all the data collected with all other data to look for contradictory cases, which might challenge the emerging theory but will ultimately strengthen it.¹⁶

To sum up, both grounded theorists and phenomenologists seek to understand peoples’ lives. However, phenomenology begins with a research question, while grounded theory is conducted to discover a research question for testing. Phenomenologists describe the meanings of lived experiences, whereas the intent of grounded theory study is to generate or discover a theory. Having introduced the two approaches in their similarities and differences, in the next section I will explain how I morphed them into a theoretical framework suitable for my research.

2.2. Use of Qualitative Grounded Phenomenology Methodology for This Study

I refer to the methodology I used in my research as qualitative grounded phenomenology because it takes certain aspects from both grounded theory and phenomenology. Indeed, although both theories were relevant for my project, none was completely suitable on its own: consequently, I opted for a mixed approach. From both theories I gathered the importance and the focus on the participants’ perceptions:

¹⁴ Starks and Brown Trinidad, above n 6, 1374.

¹⁵ Barney G. Glaser and Anselm L. Strauss, *The discovery of grounded theory: strategies for qualitative research* (Weidenfeld and Nicolson, 1968).

¹⁶ Barney G. Glaser, *Theoretical sensitivity: advances in the methodology of grounded theory* (Sociology Press, 1978).

in fact, in accordance with the thesis goals,¹⁷ my whole choice of methods and methodology revolved around the issue of exploring people's opinions and attitudes.¹⁸ In particular, I found the phenomenological approach useful in order to understand a person's experiences, rather than providing a causal explanation of those events, as applied to the creation of representation. Therefore, the goal of the process was not to 'break down' the experience that was being studied,¹⁹ but rather to provide rich descriptions and interpretations that exactly described what it meant to be a child soldier,²⁰ and how others portrayed this experience.

Also, the link between grounded theory and symbolic interactionism has been very useful for my research. In particular, I drew on the writings of George Herbert Mead and the school of symbolic interactionism to conceptualise the self as being rooted in social interaction. Indeed, this school of thought refers to how others perceive us, and how their perspectives shape how we see ourselves.²¹ For my research, I considered the interaction of child soldiers at both the micro level – with family, peers and community members – and the at macro level – with institutions, NGOs, mass media and the broader international community. According to the school of symbolic interactionism, people continuously interpret themselves, their settings and others through the process of symbolic communication.²² In other words, people do not respond to reality directly, but rather they react to the social understanding of reality,²³ to the meaning that things have for them because of social interaction.²⁴

¹⁷ See chapter I.

¹⁸ This has been achieved through an in-depth interview with a former child soldier and autobiographer, focus groups with community members, and narrative analysis.

¹⁹ It was the intention of my study to analyse not the single components of being a child soldiers – such as the mode of recruitment, actions undertaken, and involvement in crimes – but rather how these factors influenced the representation of child soldiers.

²⁰ In particular, the interview was semi-structured, which allowed the participant to express her thoughts and experiences in a free form, without being constantly interrupted by questions. Regarding the focus groups, also in this case the participants were not asked a series of detailed questions; rather, they were presented with an open question, destined to elicit free thoughts, and real scenarios in order to stimulate representations of the phenomenon.

²¹ Ronald L. Akers and Christine Sharon Sellers, *Criminological theories: introduction, evaluation, and application* (Oxford University Press, 2009).

²² Herbert Blumer, *Symbolic Interactionism: Perspective and Method* (Prentice-Hall, 1969).

²³ Considering that the focus of my thesis is on the representation of the phenomenon of child soldiers, the way individuals construct and interpret the reality around them is of crucial importance for my

Individuals share culturally orientated understandings of their world, which are in turn shaped by similar beliefs, values and attitudes: therefore, it is these understandings that determine how individuals behave according to how they interpret the world around them.²⁵ People are seen as being both 'self-aware' and 'aware of others'; therefore, they can adapt their social interactions and situational behaviour to shape meaning and society. In relation to my research, this aspect of symbolic interactionism has been largely relevant while conducting focus groups, in order to analyse how, when prompted by a stark image, respondents construct a particular representation of the soldier and of the meaning of their actions.²⁶

Similarly, I have referred to theories of labelling²⁷ and reference groups to specify the broader determinants of the self. I argue that the portrayal of former child soldiers is in part determined by one's appraisals of self from the standpoint of others. In fact, as will be seen throughout the thesis, the self-perceptions of child soldiers change as they come into contact with external stakeholders, such as NGOs and legal professionals. According to both symbolic interactionism and labelling theory, the labels that are imposed upon us by others in society are thought to be how they see us as individuals. Through these labels, certain behaviours (particularly deviant ones) can actually be reinforced, and ultimately continue due to the labelled individual's self-reflection and internalisation of that negative label.²⁸ In this thesis, in chapter VII, I let the child soldiers reflect on how other actors, such as humanitarian officers, have shaped their self-perceptions. Similarly, in chapter VI, I refer to labelling theories in analysing how the participation of former child combatants in judicial and non-

research. For example, during the focus groups, I explored the participants' pre-constructed meanings that led to the understanding and perception of the experiences of child soldiers.

²⁴ George Herbert Mead, *Mind, Self, and Society* (University of Chicago Press, 1934).

²⁵ David Franks, 'Emotions' in Larry T. Reynolds and Nancy J. Herman-Kinney (eds), *Handbook of symbolic interactionism* (Sage, 2003) 787.

²⁶ See Annex F: Focus Group Questions and Annex G: Focus Group Scenarios.

²⁷ Labelling theory attempts to explain how deviants continue to commit secondary deviance after being labelled as deviants. In the traditional view, this can only occur if the delinquent gets caught by the criminal justice system and is therefore formally labelled by the system. However, instead of being labelled as deviants, child soldiers are labelled as innocent victims. It is hypothesised that labelling child soldiers in this way facilitates their criminal conduct by allowing them to remain free of responsibility and stigma.

²⁸ Akers and Sellers, above n 21.

judicial proceedings influences their opinions of themselves. In these two chapters in particular, but also throughout this thesis, labelling theory has constituted the reference frame to analyse how representation depends on certain externalities and how, once labelled by key actors in a particular way, this depiction influences one's self-portrayal.²⁹

In addition to this, I have also referred to another feature of symbolic interactionism: the notion that the parties interacting must necessarily take each other's role. As Mead points out, it is critical for the individual to understand the point of view of the society, internalise it, and then control himself or herself accordingly: the constitution of the self as object from the viewpoint of the 'generalised other' gives the self unity.³⁰ The concept of 'generalised other' is particularly relevant when analysing research data gathered on the African continent, because the concept of *Ubuntu* runs deeply throughout African thought and action. The term *Ubuntu* is derived from the Zulu maxim *umuntu ngumuntu ngabantu*, which means 'I am because we are'. In fact, in the African culture a person is defined in relation to the community; the self cannot be conceived without taking into consideration others.³¹ In this sense, the focus lies with the symbolic meanings that are uncovered by people's interactions, actions and resulting consequences.

In relation to the data collection methods, like grounded theorists I relied on a wide range of sources to gather information. These include interviews, focus groups, narrative analysis, and literature analysis, as shown in figure 1 below.

²⁹ In particular, my research focused on the label of 'helpless victim' and how this label was accepted or refused by former child soldiers depending on the material benefits attached to it. Most child soldiers initially reject the label. Eventually, however, the incentives offered by victimhood status may come to suffuse how former child soldiers see themselves. In this regard, they can develop 'victimcy', a term that cultural anthropologist Mats Utas uses to describe how child soldiers display 'individual agency by representing themselves as powerless victims', thereby 'hiding ... actions in passive victimhood and reaping the benefit of other people's pity'. By constantly being told that what happened was 'not their fault', some former child soldiers eventually start believing it. See Mats Utas, 'Fluid Research Fields: Studying Ex-Combatant Youth in the Aftermath of the Liberian Civil War', quoted in Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 37.

³⁰ See George Herbert Mead, *Social consciousness and the consciousness of meaning* (American Psychological Association, 1911).

³¹ For more information on this topic, see Gary Mersham, Chris Skinner and Ronél Rensburg, 'Approaches to African communication management and public relations: a case for theory-building on the continent' (2011) 11(4) *Journal of Public Affairs* 195.

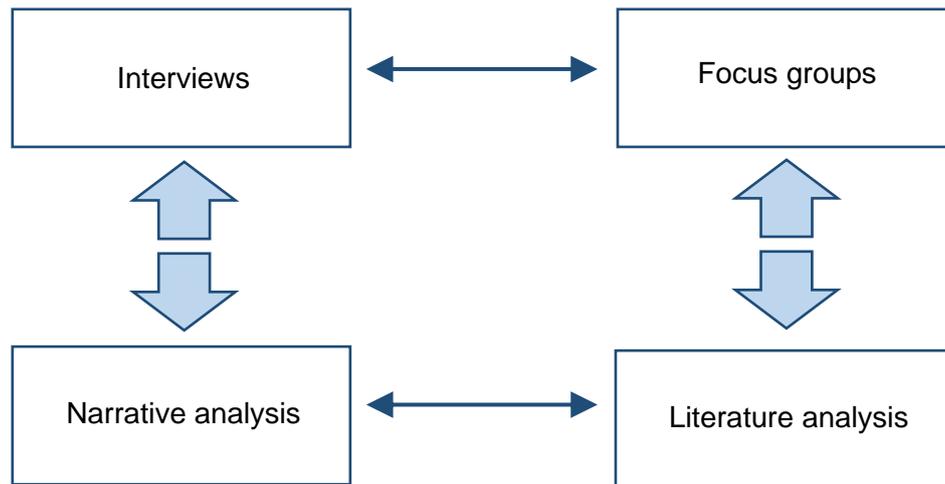


Figure 1: Sources used

Regarding the sampling size and methods, I relied on both approaches. In the initial assumption and methodology, I foresaw a large sample of child soldiers in order to guarantee variety. In the end, however, due to recruitment issues,³² in agreement with phenomenologists, I conducted only one in-depth interview with a former child soldier and autobiography author.³³ This ‘purposive sampling’³⁴ method was designed not to be representative, but rather to allow a certain picture to be unravelled and understood. According to Neuman, this method is appropriate in three situations:

- (1) in selective cases that are especially informative;
- (2) to select members of a ‘difficult-to-reach’, specialised population; and/or
- (3) when a researcher wants to identify particular types of cases for in-depth investigation.³⁵

³² See the next section.

³³ See Annex H: Interview with Shena Gacu.

³⁴ This approach is a way of recruiting participants for a research project based upon the researcher’s judgment as to typicality or interest, because it illustrates some feature or process of importance. For further information, see David Silverman, *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction* (Sage Publications, 2001).

³⁵ William Neuman, *Social Research Methods: Qualitative and Quantitative Approaches* (Allyn and Bacon, 2000) 273-4.

Consequently, purposive sampling is an appropriate method to adopt, given that the aim of the project is to gain a deeper understanding of how the representations of child soldiers translate in practices and attitudes towards this phenomenon. In fact, I believe that crucial data can be obtained from a few core interviews, as long as the participants can provide a detailed account of their experiences. The interview with Shena Gacu had the uniqueness and richness to provide me with the data I needed. In line with phenomenological research,³⁶ the interview was semi-structured, with few questions asked to encourage the participant to elaborate on the details in order to achieve clarity and to stay close to the lived experience.³⁷ However, in the structuring of focus groups, I relied on the theoretical sampling of grounded theory, which led me to the recruitment of participants with different experiences of the phenomenon in order to explore multiple dimensions of the social process under study.³⁸ As we will further see in the next sections, the participants of the focus groups were representative of different age groups, different genders, different professions and different backgrounds, which allowed me to have a moderately heterogeneous sample.³⁹

Regarding coding and analysis, I relied predominantly on phenomenology. The transcripts of the interview and focus groups were divided into statements, analysed and categorised into *clusters of meaning*.⁴⁰ I then prepared a textual description of *what* was experienced and a structural description of *how* it was experienced. I explored taken-for-granted assumptions, and gave special attention to descriptions of what was experienced, as well as how it was experienced. I engaged with the analysis as a faithful witness to the accounts in the data: in order to do so, it was important to

³⁶ Starks and Brown Trinidad, above n 6, 1375.

³⁷ The interview was intended to yield a conversation, not a question-and-answer session. See Annex H: Interview with Shena Gacu.

³⁸ For example, some participants with a legal background were familiar with the issue from a legal point of view; others had been researching the topic out of their own interest and curiosity; some had personal connections with child soldiers due to their job or personal circumstances; and others had only a very basic understanding of the phenomenon.

³⁹ However, heterogeneity was never the main goal of participant recruitment. For the purpose of the research, I did not draw representative conclusions, nor did I control in any detail for variations in the focus group populations, although I have achieved some general population balance across the groups.

⁴⁰ Clusters of meaning are ensembles of terms or concepts that are linked by family resemblance – that is to say, they are part of an interrelated network of meanings, a ‘family’.

recognise and set aside my own *a priori* knowledge and assumptions in a process called 'bracketing'. Only by attending to the participants' accounts with an open mind was it possible for me to capture the richness of the narratives.

Having described the theoretical framework of my thesis, in the next section I will describe the data collection process for this study. I will first present my initial approach to this type of research, followed by an analysis of the difficulties encountered. I will then introduce my actual fieldwork research, through in-depth interviews, focus groups and narrative analysis.

3. Initial Approach to Fieldwork Research

From the early stages of this research, I was aware of the possible difficulties in reaching key informants for my fieldwork. Child soldiers as a category have been highly (and, in some cases, overly) researched,⁴¹ with the consequence that institutions and humanitarian organisations have become very protective towards them. Unfortunately, as will be seen next, despite my best efforts and despite obtaining all the required ethical approvals to conduct fieldwork research, legitimate but insuperable barriers prevented me from establishing a direct relationship with key informants.

In line with the objectives of the thesis,⁴² my original assumption was that truth could be found in the mouths of those closest to the event. Additionally, I had initially assumed that interested parties, such as humanitarian officers and legal professionals, would be keen to cooperate to increase the knowledge on this subject. Consequently, the original methodology complemented these assumptions. It was deliberately qualitative, inductive, and designed to capitalise on the richness of narrative data collected during in-depth interviews and focus groups⁴³ to be conducted with three

⁴¹ Just to give an example, I entered the term 'child soldier' in the University of Sydney library database. The search produced more than 55,500 results.

⁴² See chapter I.

⁴³ According to my initial methodology, small focus groups with the identified participants would be conducted to explore their experiences with child soldiers. In the eventuality of a person or group of persons whose stories proved particularly interesting and relevant for my research, a second round of

different kinds of sources. I chose the stakeholders described below for interviews because they represent the principal actors with whom child soldiers come into contact before, during and after their time in the armed conflict. Therefore, they are the best individuals to be approached in order to paint a picture of the dynamics in representing child soldiers.

The first participants were to be identified among former child soldiers and members of their communities⁴⁴ resettled in Australia,⁴⁵ with the help of asylum seeker and refugee service providers.⁴⁶ I considered the qualitative phenomenological approach of interviews and focus groups appropriate with these recipients, as it enabled the probing of the individuals' own understandings of their war experiences and what has, or has not, helped them afterwards.⁴⁷

The second set of stakeholders to be interviewed consisted of selected international humanitarian organisations and institutions,⁴⁸ known for their involvement in countries where the phenomenon of child soldiers is widespread and for their public stand on the matter. The use of written questionnaires designed to elicit each organisation's opinions and views on matters related to child soldiers⁴⁹ was envisaged. The responses of representatives of the organisations were then to be contextualised against child soldiers' memoirs and testimonies in order to highlight issues of children's 'voices' and the tensions between the 'right to protection' and a 'right to agency' in campaigns on child soldiering.

The remaining candidates were to be selected among persons of interest from the public record specifically because of their role in the process of representing child

one-on-one interviews would be conducted to confirm and probe topics covered in the first round of interviewing.

⁴⁴ See chapter I n 53.

⁴⁵ Either through official channels, such as the UNHCR resettlement programs, or through autonomous and individual ways.

⁴⁶ See Annex A: Organisations Contacted for the full list of organisations contacted.

⁴⁷ Despite the challenges of this methodology, ethnography is still the best approach to studying the lived experiences of children. Ethnography can reveal the life worlds of children from their own perspectives and can illuminate alternative indicators of wellbeing.

⁴⁸ See Annex A: Organisations Contacted for the full list of organisations contacted.

⁴⁹ Such as their representation, criminal responsibility, rehabilitation, reunification with the community of origin, expected role in the community and consequences of resettlement.

soldiers.⁵⁰ They consisted of legal professionals involved in significant court cases related to the phenomenon of child soldiers in front of international tribunals,⁵¹ where they witnessed the involvement of child soldiers in the courtroom. Additionally, I selected a number of former child soldiers resettled in Australia, North America and Europe who published autobiographies about their times in the armed forces.⁵²

All these key informant interviews were instrumental in obtaining a wider perspective about former child soldiers. This viewpoint is of central importance, since the war and reintegration process is considered by the local communities as communal rather than individual in nature.

Unfortunately, although I had originally foreseen some difficulties in reaching these participants, I did not expect to face a wall of silence in every direction. Notwithstanding the large number of organisations and individuals contacted over the course of several years, recruiting participants for my fieldwork research proved to be an unsurmountable challenge. The most common reasons for their refusal⁵³ included potential breach of privacy and respect, interruption in the integration process, risk of re-traumatisation, and lack of specific knowledge of child soldiers among their clients. Ultimately, I was only able to get in touch with one author, with whom I corresponded via emails, followed by an in-depth interview via Skype, due to her geographical location in Europe.⁵⁴

4. Subsequent Approach to Fieldwork Research

Although initially disappointed when faced with the near impossibility of obtaining significant data from these key informants, eventually this impasse allowed me to reflect on the meaning of silence. While I accepted that some of their arguments were

⁵⁰ See Annex B: Personalities Contacted for the full list of individuals contacted.

⁵¹ In particular, the Lubanga case in the ICC and the Civil Defence Forces, Revolutionary United Front and Armed Forces Revolutionary Council cases in the Special Court for Sierra Leone (SCSL) were considered, being the first cases that addressed the crime of recruiting child soldiers and consequently relied on the testimonies of former child soldiers.

⁵² See Annex B: Personalities Contacted for the full list of individuals contacted.

⁵³ When a response was even provided, as the vast majority of individuals contacted did not reply.

⁵⁴ See Annex H: Interview with Shena Gacu.

valid,⁵⁵ at the same time I began questioning the additional reasons behind this refusal. Indeed, the lack of cooperation from institutions and other interested parties in the recruitment of participants for my fieldwork could be interpreted once again as the desire of these stakeholders to maintain control of child soldiers' lives. So, in reality, is it true that children cannot talk, or is it rather that we do not listen to them? Do stakeholders claim the right to speak on behalf of the children because it is in the children's or their own best interests?

Consequently, my attitude regarding the purpose of collecting data changed. If my original interest had been in using the data to tell the stories of youth combatants, in the second phase of my research I become more concerned with gathering data to prove that these children's stories are indeed neither heard nor relevant in the representation of the phenomenon. In order to do so, in compliance with the third⁵⁶ and fourth⁵⁷ objectives of my research, my methodology changed, and I resorted to one in-depth interview, narrative analysis, and focus groups with community members.

4.1. Interview

Respondents' perceptions and beliefs are at the heart of qualitative research and this was the main motivation for complementing a period of written correspondence with a semi-structured interview with Shena Gacu, a former child soldier and author of an autobiography,⁵⁸ after having obtained ethics approval.⁵⁹ As can be seen in Annex H: Interview with Shena Gacu, the nature of what Shena recounted was unique and

⁵⁵ I gave the stakeholders the benefit of the doubt and accepted their excuses for not taking part in my project, such as privacy, lack of time, heavy workload and so on.

⁵⁶ To investigate individuals' awareness of and attitudes towards child soldiers.

⁵⁷ To analyse the relationship between individuals' perceptions and the media regarding child soldiering.

⁵⁸ Originally from Uganda, Shena spent ten years fighting with the National Resistance Army, before fleeing the country and eventually resettling in Denmark. Ever since, she has been involved in the campaign to end the plight of child soldiers, which included telling her own story in a book.

⁵⁹ Ethics approval for this research project was granted by the Human Research Ethics Committee of the University of Sydney. See Annex D: Ethics Approvals.

extremely rich in detail:⁶⁰ she, in one person, encapsulated everything I was hoping to achieve with all the interviews – and more. Her being a girl, her voluntarily joining the army while still very young, her constant choosing of military life over civilian life, her determination to make a career in the army, her struggle to break free, her resettlement in a Western country: all of these elements of Shena's experience made her story a unique and crucial one for my research.

During the interview, I used a guide that I had prepared. The questions were of an exploratory nature due to the small scale of this study.⁶¹ The use of semi-structured interviews as the method of choice was based on the nuances and complexity of the topics to be explored.⁶² The use of the interview guide indicated that there was some structure to the interview, even though it was treated as a conversation during which I drew out detailed information and comments from the respondent.⁶³ In line with phenomenological research,⁶⁴ I asked few questions to encourage Shena in order to elaborate on the details of her experience. The questions were designed to identify the meaning of her experience, and how her persona as a former child soldier was created. During the interview, it was important not to restrain the participant but to give her time to talk about how she understood and described her experience and her identity as a former child soldier. Figure 2 below gives an overview of the interview themes, while Annex H: Interview with Shena Gacu provides a detailed account of the interview.

⁶⁰ Which is consistent with phenomenology.

⁶¹ See Annex H: Interview with Shena Gacu.

⁶² Interviewing is frequently used in socio-legal research and may begin with 'commonsense perceptions, explanations and understandings of some lived cultural experience' and may aim 'to explore the contextual boundaries of that experience or perception, to uncover what is usually hidden from ordinary view or reflection or to penetrate to more reflective understandings about the nature of that experience'. See John M. Johnson, 'In-Depth Interviewing' in Jaber F. Gubrium and James A. Holstein (eds), *Handbook of interview research : context & method* (Sage Publications, 2001) 103, 106.

⁶³ 'One way to provide more structure than in the completely unstructured, informal conversational interview, while maintaining a relatively high degree of flexibility, is to use the interview guide strategy': Patton, quoted in Allen Rubin and Earl R. Babbie, *Essential research methods for social work* (Brooks/Cole, Cengage Learning, 2013) 407.

⁶⁴ Starks and Brown Trinidad, above n 6, 1375.

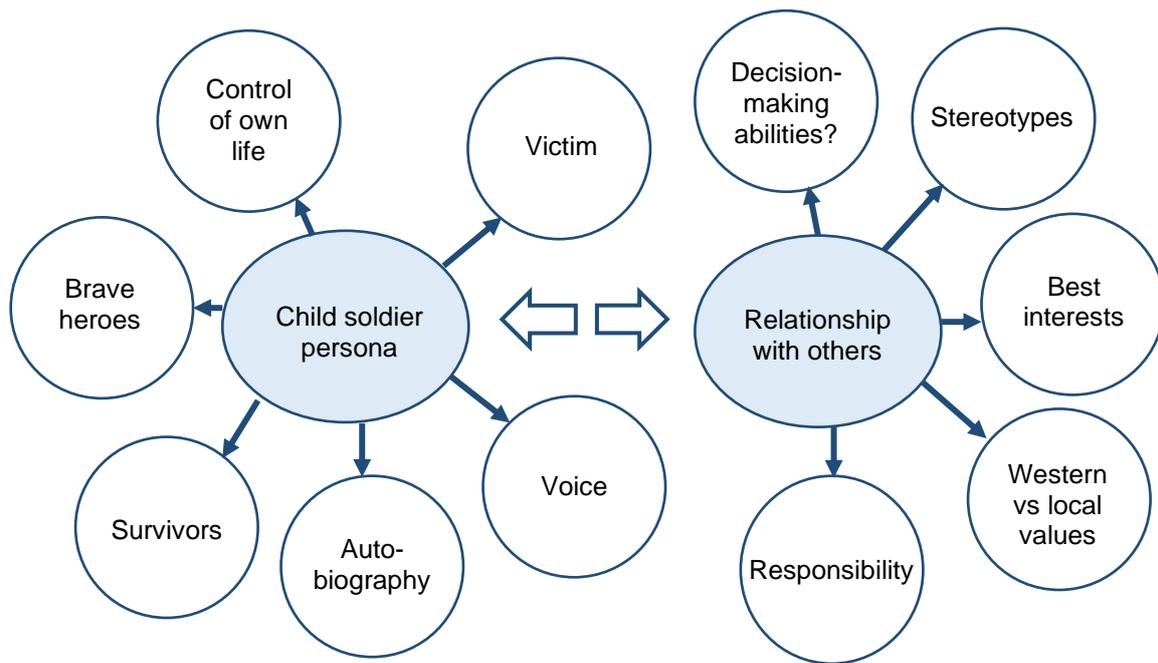


Figure 2: Interview themes

With the permission of Shena, the interview was recorded with a digital voice recorder and the files were transferred to a PC for transcription. The interview was transcribed immediately after it took place using a word processor. It was then sent to Shena for approval and feedback. Once she was satisfied with my transcription, the interview was coded using the qualitative analysis software NVivo.⁶⁵ This software facilitated the following of potentially promising analytic routes, but also enabled these routes to be discontinued with ease. Dynamic and real-time representation of the findings considerably assisted reflection on the data and the connections between the data.

My initial approach to Shena’s interview was influenced by two considerations. The first was the result of my preliminary reading of her autobiography, which shaped a preconceived representation of her. The second was the result of my previous failure in contacting other former child soldiers, which resulted in high expectations for her interview. As a consequence, I predicted that I would be able to probe Shena to talk about her experience as a child soldier, based on her published

⁶⁵ This software provides a powerful platform to assemble reports, concluding observations and other relevant documents and to identify patterns of relevance to the research questions. Details are available at <http://www.qsrinternational.com/products_nvivo.aspx>.

memoir. I approached our interview with preconceptions, anticipating that she would play the victim, blaming others for her past and looking for compassion. However, Shena caught me off-guard in her honesty regarding her actions as a child soldier and her views and opinions of the phenomenon as a former young combatant. Shena was adamant in her rejection of the stigma of victimhood that has been attached to her for the past fifteen years, despite recognising that she was a victim because she 'did not have a choice at the time'.⁶⁶ Shena's confessions were highly unexpected but incredibly useful, in that they shaped the rest of my fieldwork research, starting with narrative analysis.

4.2. Narrative Analysis

Narrative analysis included autobiographies, governmental and non-governmental reports, media stories, judicial decisions and academic literature. The original data obtained from these sources can be analysed and interpreted using many different frameworks and techniques. Hence, they can be said to represent valid and reliable data from original sources, even though they have not been directly collected from the field. The context-rich and readily available state and institutional reports were an invaluable source of data that could be examined to interpret the ways in which states and institutions perceive their obligations in policy and practice, and how state compliance expectations are being developed in key policy areas. Because the focus here was to collect the widest possible range of evidence on state and institutional practice with regard to child soldiers, the use of existent official data and reports from a large number of sources offered a further advantage over field data collected in relation to one or a few contexts. Moreover, in-depth case studies on selected topics significantly enhanced the reliability and validity of these data sources.⁶⁷ The data

⁶⁶ See Annex H: Interview with Shena Gacu for a full account of the interview.

⁶⁷ See chapter VII for an in-depth analysis of selected autobiographies.

from all these sources were canvassed through document analysis methodology to derive relevant and supporting evidence for the arguments put forward in the thesis.⁶⁸

Compared to all the other sources, which were quite straightforward in their examination, autobiographies proved to be more challenging. Although autobiographical narratives⁶⁹ have increasingly been used in educational research over the past decade, critiques have been raised in relation to their lack of trustworthiness as a research methodology due to being biased⁷⁰ and not always reflecting reality.⁷¹ However, autobiographies as a source of data can offer researchers 'an important set of social and individualized contexts to study',⁷² consequently becoming 'a viable methodology of research within the context of narrative inquiry'.⁷³

The theoretical underpinning of narrative analysis is the belief that 'telling a story about oneself involves telling a story about choice and action, which have integrally moral and ethical dimensions'.⁷⁴ Through the process of telling the narrative participants are not only able to re-live their experience, but they are often in a position to give it a new meaning. This form of research represents a change in focus

⁶⁸ Document analysis is a 'systematic procedure for reviewing or evaluating documents'. It requires data to be rigorously examined and interpreted in order to draw meaning and to uncover supporting evidence to further empirical knowledge. The procedure involves finding, selecting, interpreting and synthesising the data contained in the documents. The purpose of this analysis is to extract partial data, which is then organised and used as evidence to support the developing argument. This technique can be combined with other methods for purposes of triangulation, through which the key results of the document analysis can be corroborated by evidence from other sources. For more information, see Glenn A. Bowen, 'Document Analysis as a Qualitative Research Method' (2009) 9(2) *Qualitative Research Journal* 27.

⁶⁹ Autobiographical narratives must be distinguished from autobiographical memoirs in that the former transforms the latter into a 'cultural artefact projected in a language that generates new opportunities for learning and transformation'. In Anthony Walker, 'Critical Autobiography as Research' 2017 22(7) *The Qualitative Report* 1896-1908, 1901 quoting Andrea Smorti, 'Autobiographical memory and autobiographical narrative: what is the relationship?' (2011) 21(2) *Narrative Inquiry* 303-310), 304.

⁷⁰ 'Autobiographical narratives as reflective depictions that mirror how an individual recalls memories of life's occurrences'. Andrea Smorti, 'Autobiographical memory and autobiographical narrative: what is the relationship?' (2011) 21(2) *Narrative Inquiry* 303-310), quoted in Walker, above n 79, 1900.

⁷¹ Walker, above n 79, 1904.

⁷² Jens Brockmeier, 'Localising oneself: Autobiographical remembering, cultural memory, and the Asian American experience' (2012) 62(203/204) *International Social Science Journal* 121-133, cited in Walker, above n 79, 1898.

⁷³ Walker, above n 79, 1898.

⁷⁴ Pranee Liamputtong and Douglas Ezzy, *Qualitative research methods: a health focus* (Oxford University Press, 1999) 126.

from individual meanings to cultural narratives and their influence on people's lives.⁷⁵ The aim of narrative inquiry is therefore not to find one generalisable truth, but rather to 'sing up many truths/narratives'.⁷⁶ However, according to Twining, there are some challenges in narrative analysis:

[S]tories may legitimately be used to attract and retain interest, set a comprehensible context, and provide concrete illustrations to assist understanding. They may, of course, be used to distract attention or win sympathy for the speaker or the victim independently of what is at issue and so on. So, some of the dangers are to do with communication rather than argumentation.⁷⁷

Of these 'dangers' facing the narrative inquiry researcher, I worried particularly about the 'crisis of validity' and the 'rights of representation'.⁷⁸ If we accept the belief that narratives are co-constructed between the narrator and the reader/listener in a particular social, cultural and historical context, this raises issues about the sense in which the narratives and the research findings can be seen as generalisable. This narrative inquiry approach inevitably leads to questions about the validity of the narratives told by individuals, including the question of whether or not they represent memory reconstruction versus 'facts'.⁷⁹ However, my research has demonstrated that narratives are dependent on the context of the teller and the listener and they are not intended to represent 'truth'.⁸⁰ Additionally, narrative analysis can be used as a research tool to investigate cultures, since the evaluation section of a narrative presents the speaker's perspective on the content. However, if it is true that narratives of personal experience highlight culturally relevant material in the evaluation,⁸¹ it is also true that, in the case of child soldiers' narratives, the cultural element of the story

⁷⁵ Hilary Byrne-Armstrong, 'Whose show is it? The contradictions of collaboration' in Joy Higgs, Debbie Horsfall and Hilary Byrne-Armstrong (eds), *Critical moments in qualitative research* (Butterworth-Heinemann, 2001) 106, 110.

⁷⁶ Ibid 112.

⁷⁷ William Twining, *Rethinking evidence: exploratory essays* (Cambridge University Press, 2006) 337.

⁷⁸ Mary M. Gergen and Kenneth J. Gergen, *Social construction: a reader* (SAGE, 2003).

⁷⁹ D. Jean Clandinin and F. Michael Connelly, *Narrative inquiry: experience and story in qualitative research* (Jossey-Bass Publishers, 2000).

⁸⁰ See D. Tannen, 'A comparative analysis of oral narrative strategies: Athenian Greek and American English' in W.L. Chafe (ed), *The pear stories: cognitive, cultural and linguistic aspects of narrative production* (Ablex, 1980); Sally Hunter, 'Analysing and representing narrative data: The long and winding road' (2009) 1(2) *Current Narratives* 44.

⁸¹ Martin Cortazzi, 'Narrative analysis' (1994) 27(3) *Language Teaching* 157, 160.

is confused. In chapter VII, we will see in more details the reasons for this confusion, but for now let us just remark that the resettlement of the former child soldier in a different country and culture will, without any doubt, influence the cultural content of the narrative.

In keeping with my goal to identify the positions of the main stakeholders involved,⁸² my choice of autobiographies was based on the necessity to present different images of child soldiers. Therefore, I decided to analyse *A Long Way Gone: Memoirs of a Boy Soldier* by Ishmael Beah, *War Child: A Boy Soldier's Story* by Emmanuel Jal, and *Child Soldier* by China Keitetsi.⁸³ The first two were written by men and the third by a woman. All three authors are originally from Africa, although from different countries: Beah is from Sierra Leone, Jal is from Sudan, and Keitetsi is from Uganda. All three focus on the involvement of the protagonists with armed forces; however, only Beah fought with a national army, while Jal and Keitetsi were involved with rebel groups. The violence and violent acts that each child soldier was part of differ significantly, and so do their feelings on these regards. After differing periods of time, the three children were able to leave the military groups, but each in a different way: respectively, through demobilisation programs, with the help of someone, and by voluntary escape. Finally, all three authors were able to be resettled overseas, in the United States, the United Kingdom and Denmark respectively. Since each book told a different story, all three were extremely helpful in challenging the stereotypes surrounding child combatants and discovering, with some limits, how they perceive themselves.

In my initial approach to these narratives, I completed a first reading of the three autobiographies at a superficial level, trying to take in the story as a whole and to gather information about the involvement of the child in the conflict. Despite my best

⁸² See section 1 of this chapter.

⁸³ The choice of these biographies over others commercially available was based on the variety of context, age and gender they provided; the modality of recruitment, length of stay and mode of leaving were also different from one narrative to the other and were therefore suited for comparison. The other biographies I considered and analysed were *Tamil tigress* by Niromi de Soyza, *J'étais Enfant Soldat* by Lucien Badjoko, *Boy soldier* by Cola Bilkuei, *The boy who wouldn't die* by David Nyuol Vincent. Although interesting in their own rights, these narratives were not chosen for direct comparison as several took place in the same context and conflict of one of the three analysed, in addition to providing less details and/or a less specific case for comparison.

efforts to keep an open mind and to abstain from any judgment, the earliest reading of the books shaped some preconceived representations of the authors, which, in turn, influenced my approach to the interview with Shena.⁸⁴ However, as a consequence of my discussion with Shena and additional analysis of the narratives, I was able to leave these preconceived ideas behind and focus on the actual content of the stories. Initially, I analysed the data by autobiographical externalities, looking for explanatory factors such as age when the enrolment took place, gender of the participant, family situation and so on. I then conducted a thematic analysis of the data,⁸⁵ coding by significant sentences, paragraphs relating to themes, and narratives about particular incidents. I used the NVivo program to assist me in this process, but mainly for data management. At this stage, I constructed a life history for each participant by reducing and re-ordering their narratives into a brief summary of their stories told in their own words. I then analysed individual pieces of text, trying to ascertain the influences of social discourses as revealed in these texts. I grouped narratives according to common core concepts in relation to the construction of a sense of self as a child soldier and a victim.

The processes that I found particularly useful at the analysis stage were summarising each participant's story in a few pages; coding the data into themes and sub-themes using the participants' own language to describe each theme; highlighting 'quotable quotes' early in the process; pulling out one phrase to represent each participant; using one phrase to summarise the main theme of the thesis; using many different analysis techniques; continuously interrogating the data; and understanding that analysis and writing up are interwoven processes. As will be seen in chapter VII, the analysis of all the narratives, including official reports and court transcripts, did not provide me with the answers I was looking for, but rather made me question even more the origin and role of representation. Consequently, I planned an experiment to analyse the mechanisms of representation through focus groups.

In the context of my research, the autobiographies analysed provided a rich source of primary information about the ways in which child soldiers interpret

⁸⁴ See Annex H: Interview with Shena Gacu.

⁸⁵ Ezzy Douglas, *Qualitative Analysis: Practice and Innovation* (2002).

themselves, as well as the ways in which other stakeholders understand and act upon their interpretations.⁸⁶ Considering the above-mentioned troubles in directly reaching the children, the study of their autobiographies appeared to be the only chance to actually hear what these youths had to say. These data sources therefore served to uncover richer meanings and to allow me to develop a deeper understanding of the issue under investigation. In the end, with 'narrative inquiry plac[ing] strategic, intentional emphasis on participant voice and the processes involved in making meaning of the experiences discussed by participants',⁸⁷ examining autobiographies written by former child combatants about their time in the armed forces allowed me to partially discover their voices.⁸⁸ Finally, this allows me to vouch for the validity of autobiographies 'as a meaningful and important contributor to research',⁸⁹ which 'empower[s] researches to analy[s]e past events and actions as a means to examine previous outcomes as well as the planning for possible future outcomes'.⁹⁰

4.3. Focus Groups

If the children's point of view is not given significance, if their voices are not heard, and if others feel entitled to speak on their behalf, then what are the portrayals based on? To answer this question, I developed a secondary hypothesis that would help me assess how representations of child soldiers are created. My postulation was that portrayals of child combatants are based on assumptions and stereotypes, which rely on certain factors – in particular, age, gender and mode of recruitment. Consequently, it is possible to create in the mind of a person a specific view of child soldiers and a response to it simply by the way the phenomenon is constructed and presented. Hence, I chose to conduct focus groups in order to explore the key prompts of representation.⁹¹

⁸⁶ Which is consistent with Walker's view.

⁸⁷ Walker, above n 79, 1898.

⁸⁸ See chapter VII in order to understand why I was only able to partially uncover the children's voices.

⁸⁹ Walker, above n 79, 1898.

⁹⁰ Walker, above n 79, 1905.

⁹¹ Catherine Marshall and Gretchen B. Rossman, *Designing Qualitative Research* (Sage, 5th ed, 2011).

The focus groups were mainly composed of university students of different ages and faculties, recruited via the circulation of fliers,⁹² with the help of lecturers, through announcements on bulletin boards, and through word of mouth. Keeping in mind that 'the intent of focus groups is not to infer but to understand, not to generalize but to determine the range, and not to make statements about the population but to provide insights about how people in the groups perceive a situation',⁹³ a degree of randomisation was used, but it was not the primary factor in selection. According to Hammersley,

the fact that every informant has background assumptions, preferences, interests, etc. does not automatically mean that their accounts are biased, even less that they are simply expressions of these characteristics. At least occasionally, such assumptions, preferences or interests may even encourage accurate representation, for example, because they involve relevant local knowledge or cultural experience. Even where they do have a negative effect, this may not be significant for the purposes for which the researcher wants to use the account. And, even where it is significant, it may still be possible to detect and discount the bias through methodological assessment.⁹⁴

During the focus group sessions, although I had a general guide, which sought to cover the theme that was to be developed in depth, I also sought to follow the major concerns or points of view of the participants. After the completion and transcription of the first focus group sitting, some preliminary analysis was conducted with a view to refining or amending the focus group schedule as themes emerged. In particular, my input to the initial brainstorming and to the final discussion was modified after the pilot test, in order to give the participants more room for debate. In this case, although I set out with a phenomenological approach, the conduct of the focus group also had a grounded theory influence. As well as audio-recording (with the consent of participants), I took field notes immediately after interviews. These notes included descriptive information about the interview, such as the location and interpersonal dynamics. These notes were used primarily as aides-memoire rather than being included in any form in the thesis.

⁹² See Annex C: Focus Groups Recruitment Flier.

⁹³ Richard A. Krueger and Mary Anne Casey, *Focus Groups. A Practical Guide for Applied Research* (Sage Publications, 3rd ed, 2000) 96.

⁹⁴ Martyn Hammersley, *Questioning qualitative inquiry: critical essays* (SAGE, 2008) 97.

The focus group sessions consisted of two parts. The first aimed at exploring the existing stereotypes of child soldiers: participants were simply asked to portray the child soldier of their imagination. Age, gender, race and religion were all factors discussed, as well as the mode of recruitment, the actions taken, the length of the stay and the consequences of the involvement in the armed conflict. Annex F: Focus Group Questions provides a detailed list of the questions and themes discussed. This initial exercise was to produce a portrayal of child soldiers as represented by mass media, humanitarian agencies, judicial bodies and so on. As expected, the result was consistent with the stereotypical image of a child soldier: a young black boy, brainwashed or forcibly recruited, staring aimlessly at the camera while armed with an AK-47.⁹⁵

The second part of the meetings was designed to challenge the existing stereotypes, through the use of real-life scenarios meant to shape a precise portrayal in the minds of participants. I asked the candidates to read two passages extracted from real stories⁹⁶ and to reflect on how these narratives compare with the images of child soldiers previously discussed. The candidates were then asked to share their opinions about the protagonists of the stories, revolving around key aspects such as the children's age and gender, their recruitment, their active participation in fighting, their feelings, and their reintegration. This second exercise was designed to uncover the triggers of representation: in particular, as anticipated, in comparing the two stories, participants seemed to label the children as 'victims' or 'perpetrators' based on their age, gender, mode of recruitment and involvement in violence.⁹⁷ However, as noted in chapter I, not all of these factors seemed to have equal importance in the portrayals of the children: for example, the fact that a child was only eight years old and female appeared to be more significant than her voluntary enlistment in labelling her as a 'victim'. At the same time, the involvement of a male teenager in killings had

⁹⁵ Focus group discussion (Sydney, 24 November 2014).

⁹⁶ See Annex G: Focus Group Scenarios for a copy of the passages provided during the focus group, taken from China Keitetsi, *Child soldier* (Souvenir Press, 2004); Ishmael Beah, *A Long Way Gone: Memories of a Boy Soldier* (Sarah Crichton Books, 2007); Models of Achievement, *Deng Adut* <<http://www.modelsofachievement.org/?p=181>>.

⁹⁷ See chapter VIII for a more in-depth analysis of the focus group discussions.

a greater impact in making him a 'perpetrator than the fact that he was forcibly recruited'.⁹⁸

The focus group discussions were transcribed with major fluency disruptions included for completeness, and without corrections or use of *sic*. They were anonymised at the time of transcription with pseudonyms assigned and identifying features such as names edited out. The transcripts were imported into QSR 102 NVivo and coded using that program.

Although I recognise that this methodology has some limitations – in particular one could criticize the membership to the focus groups as not representative –, the use of focus groups has been a useful and effective method to test the assumptions of this research. In particular, the sessions were guided by the first assumption of this thesis, which stipulated that representations of child soldiers are predetermined by externalities – such as age, gender, race and geographical location. The main goal of the focus groups was indeed to challenge the influence that these externalities have on portrayals of child soldiers and the results of the focus group sessions did indeed confirm the first assumption of this thesis. In addition to this, the focus groups were also able to address the third assumption of this thesis: that representation varies according to the distance of the stakeholder from the action and subject represented. If my postulation is that the further the actor is from the act, the more the representation becomes 'stereotyped', during the focus group discussions I could effectively take notice of how the initial representations of child soldiers by the participants were a reflection of the stereotypes associated with images of child combatants broadly presented by the media. Overall, the focus groups have proved to be an excellent method to test at least two of the assumptions of this thesis.

5. Conclusion

This chapter has introduced and discussed the choice of grounded phenomenology as a suitable research methodology for this study. Given the objectives of this thesis to

⁹⁸ Focus group discussions (Sydney, 24 November 2014 and 29 June 2015). Chapter VIII will discuss in more details the findings of the focus groups.

explore child soldiers' voices and the ways they are depicted by various stakeholders, this methodology proved adequate for two reasons. First, by taking the insider's perspective, it allowed me to capture the views and opinions of individuals in a rich and detailed manner through interviews and focus groups. Second, I could rely on a wide range of sources to paint the most complete picture possible of child soldiers. Through this methodology, I was then able to explore how the nature of representation, as perceived and modified through social interaction, impacts on the way we create strategies to manage child soldiers, as well as the course of action that former child soldiers took after being disarmed, based on the portrayal that was attached to them. The chapter has explained in great detail the original approach to fieldwork; the problems encountered with reluctance, concealment and avoidance; and the subsequent data collection phase. As has been seen throughout the chapter, my methodological approach allowed me to gain an understanding of why it was difficult to reach key informants directly, a deeper comprehension of the ways professionals and agencies may create meaning, and a clearer appreciation of the phenomenology of representation.

The next chapter presents in detail the dominant Western discourse surrounding child soldiers. It offers an analysis of the contexts and purposes for the creation of common portrayals and representations of child combatants created by key stakeholders.

CHAPTER III: PORTRAYALS AND MISREPRESENTATIONS OF CHILD SOLDIERS

1. Introduction

Hundreds of thousands of children are affiliated with fighting forces around the world. Their photos fill the news, NGO websites, and fundraising campaigns, slowly making their way into people's consciences and imaginations.¹ Because of the conflicting nature of child soldiers across the categories of children and adults, civilians and combatants, innocents and perpetrators, individuals may feel more in control of the situation in labelling child soldiers in one way or another. However, people's attitudes towards and representations of child combatants are heavily influenced by the way they are portrayed, especially by persuasive humanitarian organisations and the media. Yet more importantly, these depictions influence post-conflict assistance programs, and the roles that former child soldiers are expected to take once they return home. It is, therefore, crucial to explore the different ways child soldiers are portrayed and the reasons behind these representations.

This introduction is followed by section 2 of this chapter, which reflects on the importance of representation and the role media play in creating portrayals and opinions, particularly when dealing with child soldiers. In section 3, portrayals of the child soldier as 'innocent victim', 'dangerous and disorderly', 'rational agent' and 'redeemed hero' are explored. Section 4 focuses on the analysis of the contexts and purposes for the creation of common representations of child combatants. The starting point of this discussion is the possibility of inferring a motivation for a particular representation from the self-interest of the actor. Additionally, this allows me to

¹ As has been proved by focus group discussions.

analyse how the representation becomes 'stylised' the further we move away from the act of soldiering itself. In fact, if it is true that the self-perceptions of child soldiers are heterogeneous and ambiguous, it is also true that when actors detached from the children – such as NGOs and court professionals – portray them, children are more likely to fall into categories and stereotypes. In order to explore this, the representations by scholars, the media, NGOs, tribunals, communities and the child soldiers themselves are considered.

2. The Importance of Representation and the Role of the Media

According to Kaufmann, 'representation is a crucial moment in the dialectical process of constructing reality'.² Representation refers to the construction in any medium – especially the mass media – of aspects of reality such as people, places, objects, events, cultural identities and other abstract concepts. Representation requires interpretation and therefore is unavoidably selective. The questions here are these: Do media construct social reality or do they simply report on it? How much are they able to define it? By asking these questions, this chapter draws attention to how the status of youth and the phenomenon of youth combatants come to be defined in particular circumscribed ways. Considering evidence that media influence our awareness and experience and play on existing representations of others,³ it should not surprise that the way certain groups of individuals are represented in and by the media can have a huge social impact.

Popular media have a well-documented ability both to influence national perceptions and to reflect the prevailing attitudes of an era. They do not simply reflect reality; they perceive it and define it in a particular way. In Jewkes's words, the media 'are not a window on the world but a prism subtly distorting and side-stepping

² Jean-Claude Kaufmann, *L'entretien compréhensif. L'enquête et ses méthodes* (Armand Colin, 2011) 58–9.

³ For more information on this subject, see Bernard Schissel, *Blaming Children: Youth Crime, Moral Panics and the Politics of Hate* (Fernwood: Halifax, 1997).

“reality”⁴ As Schissel points out, by living in a media and consumer society, we are more likely to passively accept the information we are given instead of question and challenge the content and moral message.⁵ Moreover, the media have been considered the ‘consummate ideological tool’, shaping and reflecting particular worldviews. As Kellner argues:

Media images help shape our view of the world and our deepest values: what we consider good or bad ... moral or evil ... who has power and who is powerless, who is allowed to exercise force and violence and who is not. [Media culture] provide[s] materials out of which we forge our very identities, our sense of selfhood; our notion of what it means to be male or female; our sense of class, of ethnicity and race, of nationality, of sexuality, of ‘us’ and ‘them’.⁶

In keeping with Kellner’s analysis, the representations of child soldiers in Western media present, represent and depend on Western ideologies and values surrounding the concepts of ‘childhood’ and ‘innocence’.⁷ Moreover,

the representations both display and concurrently replicate hierarchies based on race, class and ethnicity, essentialize culture, and emphasise paternalistic power relations between the global North and South. [Child soldiers’] representations fuel the demonization of African youth, and simultaneously create a dichotomy between those children deemed ‘worthy’ of protection and rehabilitation and those not. They may also work to drive and/or legitimate local, national and international policy responses (or lack thereof) in relation to children, war and insecurity.⁸

Consequently, a recurring theme in media representation of child soldiers is the juxtaposition of childhood innocence and children as inherently evil. On the one hand, Western media portray child soldiers through their own cultural lenses. As we will see in the next chapter, in the last centuries the ideology of childhood in the Western world has shifted from a perception of children as active members of society,⁹ able to work and take responsibility for their own actions, to a belief that children are

⁴ Yvonne Jewkes, *Media and crime* (Sage Publications, 2004) 45.

⁵ Schissel Bernard, 'Youth crime, moral panics, and the news: the conspiracy against the marginalized in Canada' (1997) 24(2) *Social Justice* 165, 169.

⁶ Douglas Kellner, *Media Culture: Cultural Studies, Identity and Politics Between the Modern and the Postmodern* (Routledge, 1995) 5, quoted in Myriam Denov, 'Child Soldiers and Iconography: Portrayals and (Mis)Representations' (2010) *Children & Society* 42, 281, 290.

⁷ See chapter IV.

⁸ Denov, above n 6, 290.

⁹ See child labour and children’s employment during the Industrial Revolution in Western Europe.

physically vulnerable, morally incomplete and legally innocent.¹⁰ This imagery of children has contributed to the infantilising of the global South and the portrayal of child soldiers as innocent victims.¹¹ On the other hand, in some instances, media have forced us to confront the uncomfortable notion that children as young as nine or ten may not be totally innocent, and might be among the cruellest perpetrators of human rights abuses.¹²

The notion of secondary representation through this analysis of the role of the media is particularly important in regards to portrayals of child soldiers. Considering that former youth combatants are often resettled in Western countries, where the majority of individuals are not familiar with this phenomenon, and given the difficulties in researching these communities,¹³ media become not only the messenger, but also the author of the message. As emerged during thesis fieldwork focus group discussions, most of the information that non-experts have about child soldiers comes from the media.¹⁴ Consequently, the image that many of us have of a child soldier corresponds to the stereotypical '13 or 14-year-old black boy staring aimlessly at the camera with AK-47',¹⁵ or a 'brainwashed and indoctrinated orphan who did not have any other choice but to join'.¹⁶ As will be explored in further detail in section 3, child

¹⁰ I am aware that the notion of legal competence and legal accountability is a complex one, but an in-depth analysis of this concept is outside the scope of this chapter. Further information on the subject can be found in chapter IV.

¹¹ The New York Times, 'Let's save child soldiers', *Star - Phoenix* (Saskatoon, Sask), 1998, A.4; Elise Zoker Elise and Bax Pauline, 'A generation lost in Liberia; Tens of thousands of young people, many former civil war child-soldiers, are missing out on a recovering economy', *The Ottawa Citizen* (Ottawa, Ont), 2013, B.13; 'Save the child soldiers', *The Globe and Mail*, (Toronto, Ont), 2005, A.12; 'Plea on "child soldiers"', *The Times*, (London), 2013, 16; Ivan Watson, 'Returning child soldiers to boyhood', *Boston Globe* (Boston, Mass), 2001, A.8.

¹² 'Drug crazed child soldiers kill like unfeeling robots', *The Montreal Gazette* 9 August 1999; David Blair, 'Child soldier, 14, already a veteran of South Sudan's civil war' (2015) *The Telegraph* <<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/south-sudan/11934820/Child-soldier-14-already-a-veteran-of-South-Sudans-civil-war.html>>; Cassandra Jardine, 'Child soldiers: the brothers trained to kill each other' (2009) *The Telegraph* <<http://www.telegraph.co.uk/news/worldnews/4360268/Child-soldiers-the-brothers-trained-to-kill-each-other.html>>.

¹³ Reference to methodology.

¹⁴ Focus group discussion (Sydney, 24 November 2014).

¹⁵ Ibid.

¹⁶ Ibid.

soldiers rarely fit these stereotypes and, more often than not, entirely contradict these descriptions.

With this in mind, in the next section I will present the most common portrayals of child soldiers: the 'innocent victim', the 'dangerous and disorderly', the 'rational agent' and the 'redeemed hero'.

3. Portrayals of Child Soldiers

In the last 20 years, the topic of child soldiers has been at the centre of much debate among scholars and policy makers. At the same time, the topic has also grown in popularity among the Western news media and filmmakers, through movies such as *Beasts of No Nation* (2015), *Rebelle* (2012), *Johnny Chien Méchant* (2008), *Ezra* (2007) and, in part, *Blood Diamond* (2006).¹⁷ Autobiographical testimonies, journalistic reports, documentaries and even novels and films fill the market and the internet: in Luscombe's words, 'the celebrity-entertainment complex has its huge eyeball trained on the issue of child soldiers'.¹⁸ Yet, or perhaps because of this worldwide attention and this abundance of material, children who have been involved in armed conflicts have been portrayed by the media, by scholars and by policy discourse in largely incomplete and contrastive ways, reinforcing inaccurate and limiting opinions of their lives. For simplicity of presentation or lack of information, too often the variety and complexity of the experiences of child combatants have been reduced to one-dimensional typecasts. In turn, literature, media and policy discourse have variously portrayed child soldiers as 'helpless victims', 'dangerous and disorderly', 'rational agents' and, most recently, 'redeemed heroes'.

The common theme across all of these portrayals is the concept of responsibility: what distinguishes one category from the other is, indeed, where the responsibility for decisions and actions is placed. As we will see in the next sections, in the case of the 'helpless victim' scenario, the responsibility is completely external to the child: he is

¹⁷ Denov, above n 6, 281.

¹⁸ Belinda Luscombe, 'Pop culture finds lost boys', *Time Magazine* 2007 <<http://www.time.com/time/magazine/article/0,9171,1584807,00.html>>.

forced to fight and forced to kill, he is too young and immature to be able to take decisions, and the responsibility for all the acts he commits falls upon his commander. In the 'dangerous and disorderly' setting, the child is yet again deprived of his responsibilities because he is too immature and impulsive and is thus the victim of his own instincts. In contrast, in the 'rational agent' situation, the child is considered at least partially responsible for the actions he undertakes. Although limited by his age, this child is, however, believed to be capable of rational thinking, therefore taking up some responsibility. Finally, in the 'hero' scenario, the responsibility shifts from the child to the country, the society and the community from which the child comes. Fighting for the cause, for 'the greatest good', the child becomes a pawn in the bigger scheme of things. This classification and labelling in one way or another frames all treatments that child soldiers receive until they are able to win reallocation to another category,¹⁹ or sometimes it sticks to them for the rest of their lives.

3.1. Helpless Victim

The most common representation of child soldiers by literature, media and NGOs is that of the helpless victim. When people think of a child soldiers, they may picture a heartbreaking young African boy with an AK-47, twice his size, slung over his shoulder.²⁰ People often imagine an innocent child who is forcibly recruited and is forced to commit violence, completely against his or her will. Therefore, it is not surprising that, over the last decade, many authors contributing to the literature on children and war have argued that children in conflicts are the quintessential victims who need to be saved.²¹ According to this argument, the atrocities of war witnessed

¹⁹ For example, from victim to witness in court, or from disturbed and dangerous to rehabilitated.

²⁰ Lucille Grétry, 'Child soldiers: our representation challenged by their reality' (2011) 31(9/10) *International Journal of Sociology and Social Policy* 583. This is also consistent with the findings from my focus groups.

²¹ Ilene Cohn and Guy S. Goodwin-Gill, *Child soldiers: the role of children in armed conflict* (Oxford University Press, 1994); Rachel Brett and M. McCalling, *Children: the Invisible Soldiers* (Radda Barnen, 1998); Lorraine Macmillan, 'The Child Soldier in North-South Relations' (2009) 3(1) *International Political Sociology* 36; David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005); Susan Shepler, 'The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone' (2005) 4(2) *Journal of Human Rights* 197.

by children will significantly disrupt their development in their most important formative years. Separated from their families and communities, children are deprived of relationships and stability, which would normally help their physical, intellectual and moral development. Under such conditions, Garbarino et al tell us, 'children may be socialized into a model of fear, violence and hatred'.²² Because children carry the scars of trauma for the rest of their lives, it is argued that they come to constitute a 'lost generation'.²³

Within this construction, literature frequently describes children associated with fighting forces as 'the pawns of deceitful yet powerful warlords, as well as broader undemocratic regimes and social forces'.²⁴ By viewing child soldiers as passive victims, people are forced to automatically perceive them as innocent.²⁵ If what happens to child soldiers is done *to them* without their consent, they consequently do not hold any responsibility.²⁶ Such depiction draws from some of the most romanticised ideals of childhood, perceived as a time of innocence and vulnerability in the vast majority of contemporary Western societies.²⁷ As we will see in the next chapter, according to this notion, children are 'dependent, helpless, victimised and incapable of rational decision-making';²⁸ they are 'forced into service, forced to fight, and forced to kill'.²⁹ As the UN Secretary-General's Special Representative for

²² James Garbarino, Kathleen Kostelny and Nancy Dubrow, *No place to be a child: Growing up in a war zone* (Jossey-Bass, 1991) 16.

²³ Neil Boothby, 'What Happens when Child Soldiers Grow Up? The Mozambique Case Study' (2006) 4(3) *Intervention: The International Journal of Mental Health, Psychosocial Work and Counselling in Areas of Armed Conflict* 244, 245.

²⁴ Denov, above n 6, 282.

²⁵ Kathryn E. Brons, *Assessing the innocence and victimisation of child soldiers* (Master of Science Thesis, The University of Alabama, 2013) 11.

²⁶ Margaret Angucia, Jacques Zeelen and Gideon de Jong, 'Researching the Reintegration of Formerly Abducted Children in Northern Uganda through Action Research: Experiences and Reflections' (2010) 20(3) *Journal of Community & Applied Social Psychology* 217.

²⁷ Denov, above n 6, 282. According to this notion, children are innocent, children should not work, children should be in school, children should live with their families, and children should be allowed to express themselves. Within this framework, child soldiering is wrong because it contravenes the notion of an ideal childhood. See chapter IV.

²⁸ *Ibid.*

²⁹ Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 6-7.

Children and Armed Conflict, Radhika Coomaraswamy, pointed out during her testimony in front of the ICC,

there is a clear pattern that when they join the armed groups they are completely unaware of what it entails, what it was for. The notion that they gave consent knowing the full circumstances of what they were getting into, informed consent as we would call it in other parts of the world, that just does not exist for the vast majority of these children and they join these armed groups because of pressure, because they find themselves there, or because they have been abducted. Rarely have they joined understanding what it means, what death means, what fighting means and therefore their vulnerability is quite extensive and extraordinary, and it is heartbreaking for anyone who meets them.³⁰

However, this diminishing image of children is the result of a specific historical and political process, which dips its roots into colonialism and capitalism.³¹ As Jo Boyden puts it, '[t]he norms and values upon which the ideal of a safe, happy and protected childhood are built are culturally and historically bound to the social preoccupations and priorities of the capitalist countries of Europe and the United States'.³² The rise and spread of this Western representation of children must therefore be analysed within the context of its birth and it cannot be generalised to be a global perception.

Indeed, this notion of childhood is in stark contrast not only with domestic perspectives of and attitudes towards juvenile offenders,³³ but also with regional and even national perceptions of childhood around the world. Here, local communities do not merely absorb global forces passively; they react to them according to their specific social, economic and cultural conditions.³⁴ As Rosen points out, influential intergovernmental organisations and UN agencies, along with NGOs and other actors, have sometimes strategically propagated representations of child soldiers as quintessential victims in order to capture world attention,³⁵ and this image has

³⁰ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 07 January 2010) 28, lines 2–10.

³¹ Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 6.

³² Jo Boyden, 'Childhood and the Policy Makers: A Comparative Perspective on the Globalization of Childhood' in Allison James and Alan Prout (eds), *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood* (Falmer Press, 2nd ed, 1997) 192, quoted by Shepler, above n 31, 6.

³³ For the treatment of juvenile offenders in Australia, see, for example, *Australia's Shame* (Directed by Caro Meldrum-Hanna, Mary Fallon and Elise Worthington, *Four Corners*, ABC, 25 July 2016) <<http://www.abc.net.au/4corners/stories/2016/07/25/4504895.htm>>.

³⁴ Karen Wells, *Childhood in a global perspective* (Polity Press, 2009).

³⁵ Rosen, above n 21, 1.

consequently come to dominate the international discourse.³⁶ Media responded with articles with titles such as 'Let's Save Child Soldiers',³⁷ 'Returning Child Soldiers to Boyhood'³⁸ and 'Child Soldiers Need Healing',³⁹ and with widely broadcast campaigns such as 'Kony 2012' launched by Invisible Children in 2012.⁴⁰

While it is immediately apparent that such headlines and initiatives are crucial in raising awareness on the subject, the negative consequences of such portrayals are somewhat less obvious. I find Burman's labelling of children's imagery in Third World crises as 'the iconography of emergencies', or 'disaster pornography'⁴¹ particularly indicative of the First World 'gruesome fascination with depicting and commercially benefiting from people's suffering and degradation'.⁴² Additionally, while categorizing children in developing countries in general, and child soldiers in particular, as victims may grant them legal protection in the international law sphere, from a moral point of view this may lead to a dehumanisation of the children, as well as their families and their cultures.⁴³ In Denov's words, '[t]hey are transformed into passive objects of a Western gaze which "seeks to confirm its own agency and omnipotence to ward off its own insecurities"'.⁴⁴ Despite the good intentions that drive NGOs and other interested parties in depicting child soldiers in this way, 'the victim portrayal ultimately disempowers, decontextualises and eradicates any potential agency⁴⁵ or active decision-making'.⁴⁶

³⁶ Drumbl, above n 29, 8.

³⁷ The New York Times, above n 11.

³⁸ Watson, above n 11.

³⁹ Donna Nebenzahl Donna, 'Child soldiers need healing', *The Gazette* (Montreal, Que), 2002, D.5.

⁴⁰ The campaign's purpose was to make Ugandan cult and militia leader, indicted war criminal and ICC fugitive Joseph Kony globally known in order to have him arrested by the end of 2012. Although the campaign went viral with more than one hundred million views on YouTube and it contributed to the decision by the African Union to send troops, it did not lead to Kony's capture. For more information, see <<http://invisiblechildren.com/kony-2012>>.

⁴¹ Erica Burman, 'Innocents abroad: Western fantasies of childhood and the iconography of emergencies' (1994) 18(3) *Disasters* 23829, 246 cited in Denov, above n 6, 283.

⁴² Denov, above n 6, 283.

⁴³ David M. Rosen, 'The Politics and Culture of Childhood Vulnerability' in David M. Rosen (ed), *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015) 174, 179.

⁴⁴ Denov, above n 6, 283 quoting Burman, above n 41, 238.

⁴⁵ The term 'agency' in this thesis refers to the ability to make choices, express own ideas, take direction in life, and play a part in bringing about changes in the wider society. See Rosen, above n 43, 176.

3.2. Dangerous and Disorderly

In stark contrast with the first representation, increasingly the literature has also focused on how children are drawn into violent conflict as combatants and as perpetrators of the violence. These works seek to demonstrate that the roles of victim and perpetrator are not necessarily mutually exclusive.⁴⁷ As noted by some authors, including Honwana,⁴⁸ Macmillan,⁴⁹ Rosen⁵⁰ and Skinner,⁵¹ child soldiers have been stigmatised as dangerous and evil sociopaths – as ‘bandits’, ‘vermin’, ‘barbarians’, ‘beasts’⁵² and ‘monsters’⁵³ – who are often fully aware of their actions.⁵⁴ It is from this viewpoint that it becomes possible to see child soldiers as the ‘most vicious, brutal fighters of all who are happy to torture’.⁵⁵ Analyses of child soldiers in Sierra Leone have referred to such youth as an assortment of ‘misguided revolutionaries’ and ‘lumpen delinquents’,⁵⁶ who were ‘knowing agents of terror and destruction’.⁵⁷ While scholarly discourse may attribute the brutality of child soldiers to ‘primitive

⁴⁶ Denov, above n 6, 283.

⁴⁷ Katherine Fallah, 'Perpetrators and victims: prosecuting children for the commission of international crimes' (2006) 14(1) *African Journal of International and Comparative Law* 83; Alcinda Honwana, 'Innocents et coupables: les enfants-soldats comme acteurs tactiques' (2000) (80) *Politique africaine* 58; Chen Reis, 'Trying the Future: Avenging the Past: The Implications of Prosecuting Children for Participating in Internal Armed Conflict' (1997) 28 *Columbia Human Rights Law Review* 629.

⁴⁸ Alcinda Honwana, *Child soldiers in Africa* (University of Pennsylvania Press, 2006); Honwana, above n 47; Alcinda Honwana, 'Negotiating post war Identities: Child soldiers in Mozambique and Angola' (1999) 1 and 2 *CODESRIA Bulletin*.

⁴⁹ Macmillan, above n 21.

⁵⁰ Rosen, above n 21.

⁵¹ Elliott P. Skinner, 'Child soldiers in Africa: A disaster for future families' (1999) 16(2) *International Journal on World Peace* 7.

⁵² Danny Hoffman, 'Like beasts in the bush: synonyms of childhood and youth in Sierra Leone' (2003) 6(3) *Postcolonial Studies* 295.

⁵³ Chris Coulter, 'Female Fighters in the Sierra Leone War: Challenging the Assumptions?' (2008) 88(88) *Feminist Review* 54, 57.

⁵⁴ Myriam Denov, *Child soldiers: Sierra Leone's revolutionary united front* (Cambridge University Press, 2010) 6.

⁵⁵ Janet Fleischman, 'Easy Prey: Child Soldiers in Liberia' (1994) <<http://www.hrw.org/legacy/reports/1994/liberia2/>>, 31.

⁵⁶ I. Abdullah et al, 'Lumpen Youth Culture and Political Violence: Sierra Leoneans Debate the RUF and the Civil War' (1997) 22(3/4) *Africa Development* 171.

⁵⁷ Ibrahim Abdullah and Ishmail Rashid, 'Smallest victims; Youngest Killers'; Juvenile Combatants in Sierra Leone's Civil War' in Ibrahim Abdullah (ed), *Between Democracy and Terror: The Sierra Leone Civil War* (CODESRIA, 2004).

excitement'⁵⁸ and a lack of self-discipline, it abstains from implying an innate evilness in children's nature that has currency elsewhere.⁵⁹ On the contrary, newspapers have described child soldiers as 'chillingly efficient killing machines'⁶⁰ that hold little remorse for their victims.⁶¹ Explanations for such extreme descriptions can be found in the above-mentioned need of media outlets to publish whatever makes people buy their newspapers, listen to their radio programs, or tune into their TV shows and stay tuned through the commercial breaks.⁶²

According to this portrayal, 'child soldiers are deeply embedded in representations of physicality, irrationality and uncontrollability, a tendency which stems from the foregrounding of these elements in Western imaginaries of childhood'.⁶³ Valley signals such 'primordially' with his use of the term 'insatiable bloodlust'⁶⁴ to describe the behaviour of child soldiers. Ignatieff's description of the 'wild sexuality of the adolescent male'⁶⁵ soldiers at Bosnian checkpoints, who create 'a zone of toxic testosterone',⁶⁶ echoes the same theme. Additionally, the almost exclusive association of child soldiers with Africa in the Western news and literature leads the discourse towards the racial dimension, which infantilises non-Europeans and highlights their barbarity and irrationality. Although child soldiers have been a

⁵⁸ James Marten, 'Memory and Meaning' in James Marten (ed), *Children and War: A Historical Anthology* (New York University Press, 2002) 5.

⁵⁹ Macmillan, above n 21, 40.

⁶⁰ Corinna Schuler, 'Special report from Sierra Leone', *National Post* 15 September 1999, quoted in Denov, above n 6, 282.

⁶¹ 'Drug Crazed Child Soldiers Kill Like Unfeeling Robots', *The Montreal Gazette*, 9 August 1999, cited in Denov, above n 6, 282; Alcinda Honwana, *Okusiakala ondalo yokalye: Let Us Light a New Fire: Local Knowledge in the Post-war Healing and Reintegration of War-Affected Children in Angola* (Christian Children's Fund, 1998) 21.

⁶² Catching the attention of the audience by presenting something spectacular, unusual and emotionally touching, and something that people can identify with, is what newsworthiness really is about. Topics such as danger, food and sex make people pay attention. News about deviance, crime and disaster is particularly salient, constituting more than half of the news. See John Whale, *The politics of the media* (Manchester University Press, 1977) 82; Joseph Turow, *Media system in society: understanding industries, strategies, and power* (Longman, 1992) 97; Steven M. Chermak, *Victims in the News: Crime and the American News Media* (Westview Press, 1995).

⁶³ Macmillan, above n 21, 37.

⁶⁴ Paul Valley, 'Geldof near to Tears as Child Bandits Tell of Horror', *The Times (UK)* 14 December 1987.

⁶⁵ Michael Ignatieff, *The Warrior's Honor: Ethnic War and the Modern Conscience* (Chatto and Windus, 1998) 127.

⁶⁶ Ibid.

feature of conflicts in most continents,⁶⁷ international media coverage of child soldiers has focused in particular on Africa, emphasising the portrayal of 'a chaotic continent plunging into anarchy'.⁶⁸ Indeed, the crisis of child soldiers has been taken as symbolic of the barbarity of contemporary warfare and the breakdown of African states and societies.⁶⁹ As Macmillan argues, 'by cementing notions of race, physicality, irrationality and barbarism to child soldiers and their societies, the discourse buttresses age-old hierarchies between the global North and South'.⁷⁰ This abundance of representations of child soldiers as amoral, instinctive or even animal-like⁷¹ contributes to their dehumanisation and their positioning as pre-rational subjects.

The general assumption in this portrayal is that children who have lived with armed forces for an extended period of time become accustomed to violence. If 'brutalised in [their] formative years [child soldiers become] primed to perpetuate a cycle of killing and lawlessness'.⁷² In addition, Cohn points out how those children have come to 'feel little fear or revulsion for the massacres they carry out with greater enthusiasm and brutality than adults',⁷³ and they may find it difficult to disengage from the idea that violence is a legitimate means of achieving their aims. Accordingly, children who have been involved in armed conflicts and violence have generally been assumed to be 'permanently scarred'⁷⁴ and part of the 'lost young souls':⁷⁵ 'fluent in the language of violence, but ignorant to the rudiments of living in a civil society ... it is often too late to salvage their lives'.⁷⁶ Consequently, according to former child

⁶⁷ See, for example, Human Rights Watch, *Child Soldiers Worldwide* <<https://www.hrw.org/news/2012/03/12/child-soldiers-worldwide>>.

⁶⁸ Harry G West, 'Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"' (2000) 73(4) *Anthropological Quarterly* 180, 180.

⁶⁹ David M. Rosen, 'The Child Soldier in Popular Culture' in David M. Rosen (ed), *Child Soldiers in the Western Imagination* (Rutgers University Press, 2015) 102, 104-5.

⁷⁰ Macmillan, above n 21, 37.

⁷¹ Canadian International Development Agency, 'I Was a Child Soldier. Global Citizenship in Action Special Edition: War Affected Children' (2000) <<http://www.acdi-cida.gc.ca>>, 10.

⁷² T.W. Bennett, *Using Children in Armed Conflict: A Legitimate African Tradition? Criminalising Recruitment of Child Soldiers* (Institute for Security Studies, 1998), quoted in Macmillan, above n 21, 44.

⁷³ Cohn and Goodwin-Gill, above n 21, 26.

⁷⁴ *The Ottawa Citizen* 13 May 1998, quoted in Denov, above n 6, 282.

⁷⁵ *The Los Angeles Times* 18 October 1999, 18A, quoted in Denov, above n 6, 282.

⁷⁶ 'Special report: boy soldiers', *Newsweek* 7 August 1995, quoted in Denov, above n 6, 282.

soldier and autobiographer Shena Gacu, even after the conflict is over, even after having lived in a Western country for fifteen years, people 'still are not sure if you are human enough'.⁷⁷

In contrast with portrayals that root the behaviour of child soldiers in the physical nature of the children, others derive such behaviour from irrationality, which has many different aspects. The first can be associated with a naivety about the consequences of actions: as Fleischman remarks, 'it is easier to convince kids [than adults] to fight for almost nothing'.⁷⁸ In a second appearance, child soldiers' irrationality is associated with a malleability that makes them behave as 'robot[s], trained to pull the trigger and shoot'.⁷⁹ Thinking that children are easy to groom into unquestioning, ruthless killers, commanders often consider them the perfect frontline weapon of choice.⁸⁰ Irrationality also surfaces as ignorance that results from poor schooling or normal life experiences, such as the lack of 'respect of the laws of war or any specific rules of engagement',⁸¹ which in turn has been used to explain and excuse child soldiers' human rights violations. The last form in which irrationality is perceived is an excess of instinct and passion: in this sense, young soldiers differ from more detached and rational adults, displaying exuberance in killing without pity or fear, or with extreme indifference.⁸²

As Denov points out, '[t]hese portrayals of child soldiers as dangerous and disorderly have, to some extent, also influenced the language and thought of

⁷⁷ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

⁷⁸ Quoted in Macmillan, above n 21, 39.

⁷⁹ Ibid.

⁸⁰ Roméo Dallaire, *They fight like soldiers, they die like children* (Hutchinson, 2010).

⁸¹ Macmillan, above n 21, 39.

⁸² There are a number of neuroscience studies that confirm this view of the impulsiveness and irrationality of young soldiers and discuss the link with criminal responsibility. See, for example, Elizabeth Cauffman and Laurence Steinberg, '(Im)maturity of Judgment in Adolescence: Why Adolescents May Be Less Culpable than Adults' (2000) 18 *Behavioral sciences & the law* 741; Carrie Fried and Dickon Reppucci, 'Criminal Decision Making: the Development of Adolescent Judgment, Criminal Responsibility, and Culpability' (2001) 25 *Law and Human Behavior* 45; Kathryn Monahan, Laurence Steinberg and Elizabeth Cauffman, 'Affiliation with Antisocial Peers, Susceptibility to Peer Influence, and Antisocial Behavior During the Transition to Adulthood' (2009) 45 *Developmental Psychology* 1520; Laurence Steinberg and Elizabeth Scott, 'Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty' (2003) 58 *American Psychologist* 1009.

policymakers'.⁸³ As evidence of this, she quotes the US ambassador to the United Nations Madeleine Albright, who, while addressing the UN Security Council in 1996, referred to child soldiers in Liberia as 'toting automatic weapons, slaughtering innocent civilians and ignoring the rule of law', children who 'have no identity other than through the weapons they carry'.⁸⁴ Echoing Albright, a similar warning was raised by the French foreign minister, Philippe Douste-Blazy, while speaking at a conference on children and armed conflict in 2007, when he referred to child soldiers as 'a time bomb that threatens stability and growth'.⁸⁵

While portraying child soldiers as damaged, dangerous and uncontrollable individuals may help 'to convey the horror of childhood perverted from its 'natural' course of innocence, fragility and purity',⁸⁶ this flawed image is very hazardous. The risk of this imagery is to 'pathologise' children who participated in armed conflict, which in turn, as Drumbl rightly points out, entails the futility of investing in the rehabilitation of former child soldiers, therefore often undermining the outcomes of after-war programs.⁸⁷ In fact, one of the goals of most post-conflict programs in relation to child soldiers is the rehabilitation and reintegration of the children back in their families and communities. However, if these children are perceived to be a 'lost cause' or 'damaged goods',⁸⁸ unable to leave their brutal past behind and return to a peaceful civilian life, such programs may not be considered worthy of financial and human investment. And statements such as '[w]hen they do return to civilian life, they are walking ghosts – damaged, uneducated pariahs'⁸⁹ certainly do not appear very optimistic about the possibility of child soldiers returning to a normal civilian life.

⁸³ Denov, above n 54, 7.

⁸⁴ Quoted in *ibid* 7.

⁸⁵ Quoted in *ibid* 7.

⁸⁶ *Ibid* 7.

⁸⁷ Drumbl, above n 29, 8.

⁸⁸ According to Rosen, this notion can also 'blind us to children's ability to take charge of their own lives' and it is extremely disempowering for children. See Rosen, above n 43, 179.

⁸⁹ 'Armies of children', *New York Times* 12 October 2006 <http://www.nytimes.com/2006/10/12/opinion/12thu3.html?_r=0>, quoted in Denov, above n 6, 282.

3.3. Rational Agent

Empirical investigations, however, have challenged the assumption that young people are irrevocably scarred by violence. Indeed, studies on child soldiers in a variety of contexts have highlighted children's capacity for rational choice and agency.⁹⁰ Even Graça Machel's report on child soldiers for the United Nations encourage us to see child combatants as more than just victims:⁹¹ indeed, 'as rational human actors, they have at times quite surprisingly mature understanding of their situation'.⁹² As Honwana points out, the particular position of child soldiers across the categories of children and adults does not deprive them of their agency; on the contrary, these young soldiers are actors in their own right, even if their action space is limited. In agreement with this theory, it is my opinion that child soldiers show 'tactical agency': that is to say, they react to the concrete and immediate conditions in which they live, aiming to maximise the efficacy of their reactions. Although they might not have many choices, not may they be able to anticipate the final goal of their actions, child soldiers are fully aware of the immediate consequences of their acts,⁹³ as shown in their interviews and autobiographies.⁹⁴

Accounts of armed conflicts around the world have, at times, portrayed child soldiers committing violence with alacrity and fully aware of the effects of their actions.⁹⁵ Peters asserts that child soldiers are 'for the most part, knowledgeable young people who take rational and active decisions to maximise their situations under difficult circumstances' and that it 'is dangerous to overlook the agency of youth'.⁹⁶ Other important research studies have emphasised the importance of agency

⁹⁰ With the term 'agency', I indicate the human capacity to initiate meaningful action and speech.

⁹¹ Machel, Graça, Expert of the United Nations Secretary-General, *Impact of Armed Conflict on Children*, Submitted Pursuant to General Assembly Resolution 48/157, UNGA, UN Doc. A/51/306 (26 August 1996) cited in Krijn Peters and Paul Richards, 'Why we fight: voices of youth combatants in Sierra Leone' (1998) 8(2) *Africa: Journal of the International African Institute* 183, 183.

⁹² Peters and Richards, above n 91, 183.

⁹³ Honwana, above n 48, 60.

⁹⁴ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

⁹⁵ Peters and Richards, above n 91, 183.

⁹⁶ Krijn Peters, 'Re-examining voluntarism: youth combatants in Sierra Leone' (2004) <<http://www.iss.co.za/pubs/Monographs/No100/Contents.html>> 30-31.

in understanding the experiences of child soldiers. For example, Veale⁹⁷ conducted a study of female ex-combatants who had been recruited between the ages of five and seventeen into the Ethiopia's Tigray People's Liberation Front. Her research highlights that these former child soldiers were highly politically aware, and that none of the women regarded themselves as powerless or victimised. Moreover, Veale notes that being an ex-fighter was not something that women had relegated to the past; it continued to be an active part of their identities. The women felt that they were changed by their experience as fighters and overwhelmingly saw this as positive, compared to women who had never been fighters.

Drawing upon examples from war-affected youth in Palestine and Afghanistan, Boyden emphasises that children are often more aware, more politically active, and more morally and socially developed than adults assume. However, they have rarely acted as principal informants: 'they are considered, in other words, as the receivers of – rather than contributors to – adult culture'.⁹⁸ Even former child soldier Shena Gacu declared that 'child soldiers are not helpless children, but brave little kids. Many of them had military ranks and they commanded others. Child soldiers should be taken as beings and they need to take charge of their lives'.⁹⁹ According to this author, even more than a decade after being demobilised, people 'still want to look into your brain, what it is there', and they wonder whether 'you [can] take your own decisions',¹⁰⁰ independently from what the child has actually experienced during the armed conflict.

A crucial topic of debate in relation to the rational abilities of child soldiers relates to their recruitment in the armed groups. The abductions of children to become soldiers has always got considerably more attention than voluntarism, notwithstanding the fact that voluntary enlistments often outnumber abductions in certain locations.¹⁰¹ In particular, the kidnapping of children directly from schools

⁹⁷ Angela Veale, *From child soldier to ex-fighter. Female fighters: demobilisation and reintegration in Ethiopia* (Institute for Security Studies, 2003).

⁹⁸ Jo Boyden and Joanna de Berry, *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement* (Berghahan Books, 2004) 255.

⁹⁹ Email from Shena A. Gacu to Claudia Arici, 24 March 2015.

¹⁰⁰ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

¹⁰¹ Peters, above n 96, 1.

makes for the most headline-grabbing abductions of all,¹⁰² especially when teachers are found to be accomplices. Indeed, voluntarism provides far less catchy news captions and, when discussed, is usually depicted as an irrational action taken by those too naive to understand the consequences.¹⁰³ This would seem to suggest that children are not rational for deciding to join the army instead of starve; however, this fails to recognise the local environment in which children's choices, limited and desperate though they are, can be rational acts.¹⁰⁴ In general, child ex-combatants always exercise agency, even, 'paradoxically, through their claims of wartime "non-agency"'. Youth in this post-war context [can be] strategic and skilful users of different discourses as they move through different contexts'.¹⁰⁵

3.4. Redeemed Hero

The last portrayal finds its roots in ancient history and in heroic representations of children and youth participating in wars and armed struggles. Some of the early examples include hundreds of drummer boys, some as young as nine, who served in the Union and Confederate armies during the American Civil War,¹⁰⁶ but also Jewish children who played a significant part in partisan resistance against the Germans during World War II.¹⁰⁷ Recent involvements of youth in armed conflicts include the Israeli-Palestinian conflict, where, Baker argues, 'a strong sense of political identity has allowed Palestinian youth to cope with the complex psychological consequences

¹⁰² 'More Child Soldiers: Congo', *Birmingham Post* 22 September 2007, in Peters and Richards, above n 91.

¹⁰³ Similar considerations were indeed made by focus group participants (Sydney, 24 November 2014).

¹⁰⁴ Macmillan, above n 21, 43.

¹⁰⁵ Afua Twum-Danso and Robert Ame (eds), *Childhoods at the intersection of the local and the global* (Palgrave Macmillan, 2012) 176.

¹⁰⁶ James Marten, *Children for the Union: The War Spirit on the Northern Home Front* (Ivan R. Doe, 2004), cited in Denov, above n 6, 283 and Denov, above n 54, 9. See also David M. Rosen, *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015).

¹⁰⁷ See David M Rosen, 'Child Soldiers in World War II' in David M Rosen, *Child Soldiers in the Western Imagination: From Patriots to Victims* (Rutgers University Press, 2015) 76.

of their participation in the Intifada'.¹⁰⁸ Additionally, as Pigou remarks, during the antiapartheid movement in South Africa, 'children and youth were directly engaged in the resistance and struggle ... and in many instances played a catalytic and leading role'.¹⁰⁹

According to Denov, children and adolescents are '[d]riven into warfare by a combination of necessity, honour and moral duty'¹¹⁰ in addition to 'unique social and cultural rewards',¹¹¹ often imagining 'themselves as a revolutionary vanguard, overturning conventional thinking that child soldiers are victims of their recruiters'.¹¹² Take for example Aziz, a Pakistani boy interviewed by Brett and Specht, who describes in this way his reasons for taking part in the hostilities: 'Besides religious inclination and spirit, it was my dream to take part in a combat [Jihad] and I got a chance to fulfil my dream.'¹¹³

Notwithstanding the historical presence of youth in armed conflicts, Denov points out that 'it is only quite recently that Western media discourses¹¹⁴ have linked the contemporary image of child soldiers with heroism, often assigning celebrity status to former child soldiers, particularly those living in the West'.¹¹⁵ Examples of former child soldiers who have gained international attention in Western countries, despite their involvement in violence and atrocities, include the universally known

¹⁰⁸ Ahmad M. Baker, 'Psychological Response of Palestinian Children to Environmental Stress Associated With Military Occupation' (1991) 4(3) *Journal of Refugee Studies* 237 quoted in Boyden and de Berry, above n 98, 108.

¹⁰⁹ Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 117.

¹¹⁰ Denov, above n 54, 41 citing Rosen, above n 21, 20.

¹¹¹ Denov, above n 6, 283.

¹¹² Denov, above n 54, 41.

¹¹³ Rachel Brett and Irma Specht, *Young Soldiers: Why They Choose to Fight* (Lynne Rienner Publishers, 2004).

¹¹⁴ There are some inconsistencies in the way former child soldiers are perceived and represented in Western countries, based on the relation between said children and governments. For example, while the United States has celebrated former child soldier Ishmael Beah as a hero, in the same period it held Omar Khadr in Guantánamo Bay for crimes he allegedly committed as a child soldier. The difference in treatment is presumably linked to the fact that Khadr was allegedly responsible for the death of a US marine, while Beah did not pose any detectable threat to the country.

¹¹⁵ Denov, above n 6, 283.

Ishmael Beah¹¹⁶ and Emmanuel Jal,¹¹⁷ a South Sudanese rapper and the author of *War Child*. As Luscombe points out, it seems that Western society currently holds 'a cultural sweet spot for the African child soldier' and that 'the kid-at-arms has become a pop-cultural trope of late. He's in novels, movies, magazines and on TV, flaunting his Uzi like a giant foam hand at a baseball game'.¹¹⁸

Given the limits and marginalised perspectives of these one-sided representations, this author can only join forces with the existing literature that calls for alternative imagines of child soldiers 'that are grounded in the perspectives of the children themselves'.¹¹⁹ In the next section, the context and purposes for the creation of common verbal depictions and representations of child soldiers will be explored. In particular, the section engages with all the stakeholders in order to analyse how representation varies according to the physical distance between the representer and the represented.

4. Spatial Analysis: Contexts and Purposes for the Creation of Meaning

In this section, I explore the change in portrayals of child soldiers carried out by various stakeholders due to a number of factors, mostly related to the contexts and the purposes behind these representations. My argument is that the further away we move from the act of soldiering itself, the more the representations become stylised. In fact, if on the one hand we have the heterogeneous and ambiguous self-perceptions of child soldiers, on the other hand we find stereotypical portrayals by detached actors.

¹¹⁶ Ishmael Beah, *A Long Way Gone: Memories of a Boy Soldier* (Sarah Crichton Books, 2007). For some example of articles and literature dedicated to him, see for example Edward Guthmann, 'Once a Drugged Child Soldier, Beah Reclaims His Soul', *The San Francisco Chronicle* (online), 27 February 2007 'Once a drugged child soldier, Beah reclaims his soul', *The San Francisco Chronicle* 27 February 2007 <<http://www.sfgate.com/entertainment/article/Once-a-drugged-child-soldier-Beah-reclaims-his-2645611.php>>; Andrew Gumbel, 'Escaping the Battle: From Child Soldier to Poster Boy', *The Independent* (online), 22 January 2007 'Escaping the battle: from child soldier to poster boy', *The Independent* 22 January 2007 <<http://www.independent.co.uk/news/world/americas/escaping-the-battle-from-child-soldier-to-poster-boy-433138.html>>

¹¹⁷ Emmanuel Jal, *Warchild: A Boy Soldier's Story* (Abacus, 2009).

¹¹⁸ Luscombe, above n 18.

¹¹⁹ Denov, above n 54, 17.

The richness and diversity of the different experiences of child soldiering are lost with distance: everything is reduced to one stereotype. In this sense, ambiguity and reality are confronted with models and typecasts, and the effects of this on child soldiers are quite significant.¹²⁰ In the next sections, the representations by scholars, the media, NGOs, tribunals and communities, as well as the self-depictions of child soldiers, are considered, moving from the closest to the act to the furthest from it.

4.1. Self-Perceptions of Child Soldiers

As we will see in more detail in chapter VIII, the notion of childhood in Third World countries differs greatly from the same concept in Western countries. Just as it was in Western nations a few centuries ago, the role of children in these societies is often to help their parents and community elders. Children bear responsibility from a very young age, being generally expected to 'contribute to the family livelihood by undertaking responsibilities such as herding cattle, gathering wood, carrying water, harvesting crops, cooking or going to the market'.¹²¹ Especially in a situation of conflict, the young are often faced with the burden of being the only income source for what is frequently a large family. According to Shena Gacu, if we compare an average 18-year-old girl in Denmark and a five-year-old child in Africa

who has no good home, no mother, and who lives in difficulties, that five years old can survive more than the eighteen years old from Denmark, because that five years old child has developed very strong instincts and because she's not allowed to be five years old. She actually has to think and do things like a twenty years old or beyond.¹²²

Therefore, in my opinion, due to these profound cultural differences, the perception that a non-Western child has of himself, his role and his level of maturity is necessarily different from the perceptions of any Western stakeholders.

¹²⁰ See section 2 of chapter II for a discussion of methodology and symbolic interactionism, according to which people do not respond to reality directly, but rather to the social understanding of reality – to the meaning that things have for them as a result of social interaction. Hence, the importance of representations made by others for the individual.

¹²¹ Redress, 'Victims, Perpetrators or Heroes? Child Soldiers before the International Criminal Court' (2006) <<http://www.redress.org/downloads/publications/childsoldiers.pdf>> 7.

¹²² Interview with Shena A. Gacu (Skype interview, 10 April 2015).

The first actor and context of analysis is clearly the child soldier. Being the author of the act of soldiering, the child should be considered the main actor; however, greater concerns for peace and justice often move the child soldier's voice and experience to the background.¹²³ As Madlingozi rightly points out, '[i]t is true that in some post-conflict situations or in circumstances of prolonged authoritarianism, victims often lack the space or skills to speak for themselves'.¹²⁴ Nevertheless, as we will see, even in other circumstances, professionals such as humanitarian officers and international tribunal staff often claim the right to speak on behalf of the children in order to pursue their own agenda, ignoring the children's points of view. Consequently, the self-perceptions of child soldiers rarely correspond to the stereotypes broadcast by the media and NGOs, who portray the children far from the reality. 'Westerners have sought to include all "war-affected" youth under the protective umbrella of their interventions, but some distinctions resist that inclusion':¹²⁵ indeed, not every child involved in an armed conflict reacts in the same way to the identity of 'child soldier'.¹²⁶

A child soldier's self-perception is very heterogeneous and it varies according to the age and time spent with the armed forces, and in relation to the audience he faces.¹²⁷ According to my research, former child soldiers tell different stories to different audiences at different times: this behaviour as strategic self-presentation is not only an important part of the creation and practice of post-war social identities,¹²⁸

¹²³ See chapter V for further information on how humanitarian organisations speak on behalf of children and see chapter VII for an in-depth discussion of the ability of child soldiers to speak for themselves.

¹²⁴ Tshepo Madlingozi, 'On Transitional Justice Entrepreneurs and the Production of Victims' (2010) 2(2) *Journal of Human Rights Practice* 208, 210.

¹²⁵ Shepler, above n 31, 131.

¹²⁶ This state of affairs flies in the face of the universalising discourse of youth innocence and reveals in greater detail the ways a globalising model of childhood intersects with already existing ethnic and gender dynamics.

¹²⁷ According to Shepler, the benefits, real or perceived, associated with the term "child soldier" and consequent demobilisation programs run by Western NGOs 'led to strategic decisions on the part of ex-combatants about how to position and define themselves'. Soldiers considering demobilisation would therefore decide whether to qualify themselves as child soldiers or adult soldiers on the basis of many different and personal factors, including 'future aspirations, personal history of school attendance, and an assessment of which promises were more likely to be kept'. See Shepler, above n 31, 110.

¹²⁸ *Ibid* 163.

but it 'is the first step in making child soldiers'.¹²⁹ In general, what child soldiers actually say about their involvement with the armed groups is usually contradicted by the way these experiences are broadcast by external stakeholders. In interviews, for example, former child soldiers often describe themselves as returning heroes or as brave survivors,¹³⁰ often admitting having volunteered for service. However, these admissions are often overlooked and ignored by researchers and humanitarian officers,¹³¹ since the children are 'of an age at which they are not capable of making mature decisions'.¹³² According to Drumbl, 'this strategy, though well-intentioned, depletes the informational record and leads to misguided recommendations',¹³³ as it risks presenting youth as objects of study rather than subjects with thoughts, beliefs and information. Like visually impaired people who are methodically encouraged to play the blind role and are required to learn incapacity by conforming to embedded institutional definitions of blindness,¹³⁴ in the same way former child soldiers are taught to play the helpless victim role.

In reality, based on existing literature, child soldiers' relationship and experience with authority and violence differs greatly from child to child. According to Drumbl, some children risk their own safety in order to protect civilians by lying 'to and manipulating commanders'¹³⁵ or by simply refusing 'to inflict gross human rights abuses upon third parties or combatants. Other child soldiers, however, torture, rape and kill in order to navigate volatile militarised hierarchies, either gratuitously or to pursue lucre'.¹³⁶ Examples of this heterogeneity and variety of self-perceptions can be found in former child soldier Shena Gacu's interview, when she states that '[i]t seems that many have taken child soldiers as helpless and victims. ... All this might confuse

¹²⁹ Ibid 110.

¹³⁰ Which, to a certain extent, is a self-protection against the stigmatisation associated with being termed a victim.

¹³¹ Drumbl, above n 29, 14–15.

¹³² P. W. Singer, *Children at war* (University of California Press, 2006) 62.

¹³³ Drumbl, above n 29, 15.

¹³⁴ David Downes and Paul Rock, *Understanding deviance* (Oxford University Press, 6th edition ed, 2011) 186.

¹³⁵ Drumbl, above n 29, 16.

¹³⁶ Ibid.

[them] because child soldiers are not helpless children, but brave little kids'.¹³⁷ Additionally, Drumbl refers to Jessica Schafer's work in Mozambique, where she witnessed child soldiers who refused to be labelled 'as innocent children, co-opted into a war without knowledge or understanding'.¹³⁸ On the contrary, however, institutions seemed to play a deaf ear at the multitude of circumstances that lead children to be involved in war and 'the idea that most fighters were unwilling, coerced and often uncomprehending children was implicit in the design of reintegration programmes'.¹³⁹

Children and adolescents' time in the armed forces may vary from few weeks to many years and the tasks they may perform can vary tremendously: in any case, this experience results in the creation of a new identity, different from the one they had before the war. But this new identity generally does not coincide with the term 'child soldier' as globally understood. Most former child soldiers only learn and apply the term to themselves once removed from the conflict and in the care of humanitarian institutions.¹⁴⁰ It is often only within the context of reintegration programs run by NGOs that children have the opportunity to explore and come to terms with their own experiences within the armed forces.¹⁴¹ Consequently, while these children may at first refuse the label of innocent victims that they are given by others,¹⁴² and not appreciate the usefulness of these reintegration programs, as Drumbl rightly points out, '[e]ventually, however, the incentives offered by victimhood status may come to suffuse how former child soldiers originally saw themselves'.¹⁴³ By constantly being told that what happened was 'not their fault', some former child soldiers eventually

¹³⁷ Email from Shena A. Gacu to Claudia Arici, 24 March 2015.

¹³⁸ Jessica Schafer, 'The Use of Patriarchal Imagery in the Civil War in Mozambique and Its Implications for the Reintegration of Child Soldiers' in Jo Boyden and Joanna de Berry (eds), *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement* (Berghahn Books, 2004) 87, 90 quoted in Drumbl, above n 29, 37.

¹³⁹ Jessica Schafer, 'The Use of Patriarchal Imagery in the Civil War in Mozambique and Its Implications for the Reintegration of Child Soldiers' in Jo Boyden and Joanna de Berry, *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement* (Berghahn Books, 2004) 87.

¹⁴⁰ Shepler, above n 31, 6.

¹⁴¹ See chapter V.

¹⁴² Interview with Shena A. Gacu (Skype interview, 10 April 2015); Email from Shena A. Gacu to Claudia Arici, 24 March 2015.

¹⁴³ Drumbl, above n 29, 37-40.

start believing it and can, eventually, 'develop "victimcy", a term that cultural anthropologist Mats Utas uses to denote child soldiers displaying "individual agency by representing themselves as powerless victims"¹⁴⁴ and thereby "hiding ... actions in passive victimhood and reaping the benefit of other people's pity"¹⁴⁵

From the few published interviews with current and former child soldiers carried out by anthropologists in the field, it appears clear that the real experiences of these children have little or nothing in common with the portrayals in media and literature.¹⁴⁶ For example, Paul Richard's interviews with child combatants in Sierra Leone show that

many underage combatants choose to fight with their eyes open, and defend their choice, sometimes proudly. Set against a background of destroyed families and failed educational systems, militia activity offers young people a chance to make their way into the world.¹⁴⁷

Among these fighters was a 28-year-old boy who joined the armed forces at age 13 'as a matter of revenging'¹⁴⁸ after the rebels killed his brother and took his parents. When asked if he liked staying in the army, he admitted that he loved it because he was 'saving life and property'.¹⁴⁹ Likewise, a female combatant who joined the forces at age 16, following her boyfriend, disclosed that she never felt it was wrong to fight since she was defending her country.¹⁵⁰ Finally, another boy, 16 years old at the time he joined the army, admitted that he was never afraid of fighting as a man for his rights, his property and his land against the rebels.¹⁵¹

Similar reactions were witnessed by West¹⁵² during his interviews with Mozambican women who had served as child soldiers in FRELIMO. Despite the length of time passed between the interview and when they first joined the liberation

¹⁴⁴ Mats Utas, 'Fluid Research Fields: Studying Ex-Combatant Youth in the Aftermath of the Liberian Civil War', quoted in *ibid* 37.

¹⁴⁵ *Ibid*.

¹⁴⁶ For more information, see the analysis of memoirs by former child soldiers in chapter VII.

¹⁴⁷ Peters and Richards, above n 91, 183.

¹⁴⁸ *Ibid* 189.

¹⁴⁹ *Ibid* 190.

¹⁵⁰ *Ibid* 191.

¹⁵¹ *Ibid* 197.

¹⁵² Harry G. West, 'Girls with Guns: Narrating the Experience of War of Frelimo's "Female Detachment"' (2000) 73(4) *Anthropological Quarterly* 18068.

struggle, 'these women viewed their participation in combat as both empowering and liberating. Moreover, many of these fighters perceived their wartime experiences as a way out from colonial rules and from predominant patriarchal structures of dominance in Mozambican society'.¹⁵³

Undoubtedly, child soldiers' perceptions of their role in the armed conflict are heavily influenced by the way they became involved in the war. Brett and Specht bring together in their book the children's own views about why they took part in the hostilities. In highlighting a number of factors contributing to their joining up,¹⁵⁴ and how these diverse risk factors interact, the authors also examine the question of how 'voluntary' the young soldiers' participation really is, and whether this difficult choice should ever be presented to a child. While all the adolescents interviewed to having enlisted voluntarily, however, the research raised numerous doubts and questions on the free nature of their, 'as well as more generally the question of how "voluntary" is defined'.¹⁵⁵

Evidently, not all former child soldiers joined voluntarily: many were forcibly recruited and compelled to commit atrocities in order to stay alive. Those who had no choice are burdened by the horror of what they did and suffered, but also know that they did not in any way choose this course.¹⁵⁶ Many children,¹⁵⁷ however, utilise what Shepler calls 'discourses of abdicated responsibility':¹⁵⁸ they did not choose to fight, were forced, were drugged, were too young to know any better, and so on. These claims of innocence ease children's return into their communities, especially for those struggling to reintegrate, and make it easier for community members to live with

¹⁵³ Ibid cited in Denov, above n 54, 41.

¹⁵⁴ Including the nature of their socio-economic environment and vulnerable personal circumstances.

¹⁵⁵ Rachel Brett and Irma Specht, *Young Soldiers: Why They Choose to Fight* (Lynne Rienner Publishers, 2004) 109.

¹⁵⁶ Ibid 112.

¹⁵⁷ But, surprisingly, not many girls used this discourse of abdicated responsibility. The reason can be found in the stigma associated with rape and sexual intercourse, which prevents many former girl soldiers from remarrying, while boys and men do move on and start new families. See Binta Mansaray, 'Women Against Weapons: A Leading Role for Women in Disarmament' in Ayissi Anatole and Robin-Edward Poulton (eds), *Bound to Cooperate: Conflict Peace and People in Sierra Leone* (United Nations Institute for Disarmament Research (UNIDIR), 2000) 44.

¹⁵⁸ Shepler, above n 21, 199; Shepler, above n 31, 90.

former fighters.¹⁵⁹ In these ex-combatants feelings of anger, remorse and embarrassment often co-exist with the acknowledgement of 'the skills and bravery that helped them survive the conflict'.¹⁶⁰ As a result, these children's emotions and opinions regarding their post-conflict status and identities are often contradictory and mixed:

I see myself as a hero because I was able to go through all the difficulties and survive ... but I am also a victim because I was forced to join and I have suffered a lot ... but I also did horrible things.¹⁶¹

I see myself as a warrior because I was a brave and good fighter and I did it for more than three years ... I am a hero because I managed to survive so many times in combat ... I am a victim because I have two children and I'm finding it difficult to take care of them ... but I'm a survivor because I'm still able to withstand all the challenges.¹⁶²

As a consequence of all the roles they play, '[t]heir postwar identities are partly structured by the institutions that assist them, and partly made in overlapping arenas of social practice as individuals react to and negotiate with the system for their own needs'.¹⁶³ Consequently, as Shepler points out, former child soldiers act in different ways according to the context they are in:

Among their friends and fellow soldiers, they try to maintain the status that being part of the fighting gives them. They wear combat clothes and sunglasses, and brag about firing rocket-propelled grenade launchers. With NGOs they adopt the persona of the traumatized innocent, usually requesting aid in furthering their education. With community members and in school they act like normal kids, never mentioning the past. Thus their 'reintegration' is achieved in social practice across a variety of contexts using a variety of strategically adopted identities.¹⁶⁴

To conclude, this presentation shows that child soldiers see themselves in many and often conflicting ways; however, this does not mean that external players 'should give [child soldiers] an identity'.¹⁶⁵

¹⁵⁹ Adult combatants use some of the same strategies, of course, but there is something quite specific to the case of children.

¹⁶⁰ Denov, above n 54, 185.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Shepler, above n 31, 17.

¹⁶⁴ Shepler, above n 21, 198–9.

¹⁶⁵ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

4.2. Child Soldiers and Communities

The second stakeholder considered is the child soldiers' immediate communities, which, by the same token as the child soldiers, are often overlooked. Local communities are themselves victims of the armed conflict that deprives them of, among other things, their children, often turning them against their own families and peers. In spite of this, professionals repeatedly neglect to consult with the communities in regards to after-conflict programs¹⁶⁶ and the reintegration of former child soldiers. Even though many communities do welcome their youth back, the reintegration of child soldiers is still a complex and painful experience and, in order to be long-lasting, reconciliation processes and initiatives should come from within the immediate communities, not imposed by external actors.

The perception of child soldiers is very different in each community and among members of the same community.¹⁶⁷ While parents are generally more likely to welcome their children home,¹⁶⁸ the process of reintegration into the community is often a slower and more difficult one for the majority of children.¹⁶⁹ From a Western point of view, it is easy to believe that afflicted families would want their children back home and would welcome the return of former child soldiers with open arms. In some cases, this is the reality and these communities are more likely to excuse crimes

¹⁶⁶ For example, often interim care centres are set up in an area without consulting with the surrounding communities, resulting in tensions. In fact, some people are afraid of having 'rebel children' in such close proximity, while some others are unhappy with the extra benefits that former child soldiers receive. See Shepler, above n 31, 97.

¹⁶⁷ For the purpose of this thesis, the term 'community' is used to refer to the territorial community, in which people share the same locality. They might not necessarily share other factors, such as ethnic origin, religious belief or historical background.

¹⁶⁸ According to a qualitative study done by the Coalition to Stop the Use of Child Soldiers, the majority of the children were happily welcomed by their parents: 'Some were "received in the traditional way", with their families initiating traditional spiritual or cleansing ceremonies which served both to cleanse them of evil spirits and to welcome them back into the community.' In a few cases, when the children's return did not happen through the mediation and assistance of humanitarian organisations, 'the initial reception by their families was more problematic. It seems that the reluctance of some parents to take in their child can largely be explained by fear; they were scared that the children had come to kill or abduct them. ... It should be noted, however, that none of the children were rejected by their families. Despite some difficulties during the first encounter with their returned child, all parents ultimately accepted them back into their families'. See Vera Chrobok and Andrew S. Akutu, 'Returning home. Children's perspectives on reintegration: A case study of children abducted by the Lord's Resistance Army in Teso' (Coalition to Stop the Use of Child Soldiers, 2008) <<https://www.child-soldiers.org/shop/returning-home-childrens-perspectives-on-reintegration-1>> 13.

¹⁶⁹ Ibid 14.

committed by the children while with the armed groups. For example, local communities in Northern Uganda witness the extreme brutality of the children's abductions and were more prone to accept their children as victims upon their return.¹⁷⁰

However, with a more careful look, it appears evident that communities care about the reasons for, and the mode of, recruitment into the fighting forces and the child's conduct during the conflict. In addition, in some cases, the feelings towards the returning soldier are influenced by the political/ethnic relationship that the community had with the particular faction with which the child was associated.¹⁷¹ Therefore, if communities do not react to all returnees in the same way, it is unsurprising that certain subgroups of former child combatants face harder reintegration hurdles than others. These include especially children who (or are believed to) have committed heinous crimes, child soldiers who have stayed with armed forces for a long time,¹⁷² and, to an extent, girls with babies of their own.

These subgroups are at risk for marginalisation and return to militarised life, crime and violence simply because their home communities do not accept the general 'faultless passive victim narrative as applied to them as individuals'.¹⁷³ As a result, many, especially the older children and those with physical reminders of their time as soldiers, are confronted with 'a great deal of hostility from community members, which [takes] the form of isolation, stigmatisation, and the use of unfriendly and abusive language'.¹⁷⁴ According to Chrobok and Akutu, it would seem that a community's hostility towards child soldiers is due to three reasons. First, the children's association with the violence that occurs when the armed groups attack the civilian population and the refusal of the local community 'to accept those who have been involved in brutal violence against their own people'.¹⁷⁵ Second, there is the fear that these children will continue to act violently, which is in part justified by the

¹⁷⁰ Redress, above n 121, 12.

¹⁷¹ Ibid 15.

¹⁷² Drumbl, above n 29, 22-3.

¹⁷³ Ibid 22.

¹⁷⁴ In particular, the peers of former child soldiers were responsible for the most hostile receptions. Chrobok and Akutu, above n 168, 14.

¹⁷⁵ Ibid 15.

occasional aggressive behaviours from former child soldiers after their return home. Third, there is the hostility of parents whose children have not returned yet toward those who have been disarmed and reintegrated.¹⁷⁶

In addition, the perceptions of local communities are influenced by monetary aspects of demobilisation. The practices of some NGOs indeed harden the identity of child soldiers through labelling and list making, which provoke mixed reactions in the afflicted communities. Some react with anger and resentment at the unequal distribution of benefits – such as food and school supplies – to child ex-combatants to the exclusion of civilian victims, while others embrace the idea of ‘children damaged by war’ and the material benefits that go with it. Among these aids, Shepler lists for example, ‘money from the United Nations Children’s Fund (UNICEF) to rebuild schools that register child ex-combatants¹⁷⁷ and micro-credit loans from the Catholic Church for families that foster former child soldiers’.¹⁷⁸ Within the interest of gaining better and more access to international aid, ‘[t]hese communities learn quickly to ‘talk the talk’ of children’s rights and to cast their problems as problems of youth’,¹⁷⁹ knowing that they would get more aid if they could show that they welcome child soldiers back.¹⁸⁰

Similarly, rehabilitation programs targeted at former child soldiers can also be perceived by local communities as discriminatory toward other children, who were negatively affected by the conflict although they were not abducted to become combatants. According to the Redress Trust’s report on child soldiers before the ICC,

[s]everal humanitarian organisations reported that they had to give up specific rehabilitation and reintegration activities for particularly vulnerable former abductees – such as girls or those who had spent many years with the armed forces – due to criticism from the local community, which viewed such programs as giving ‘unfair’ priority to a ‘privileged’ group of former child soldiers.¹⁸¹

¹⁷⁶ Ibid 15.

¹⁷⁷ This was in addition to UNICEF building water pumps for the schools, providing principals and teachers, and paying the school fees for every child enrolled, uniquely because the school enrolled ex-combatants. See Shepler, above n 31, 97-8.

¹⁷⁸ Shepler, above n 21, 202; Shepler, above n 31, 125.

¹⁷⁹ Shepler, above n 31, 125.

¹⁸⁰ See also Paul Richards, Khadija Bah and James Vincent, 'Social Capital and Survival: Prospects for Community-Driven Development in Post-Conflict Sierra Leone' (World Bank, 2004) 26.

¹⁸¹ Redress, above n 121, 14.

As Shepler points out, any kind of assistance program comes with its own problems and people trying to take advantage of it; the issue is the stigmatisation of child soldiers by benefactor NGOs and the issues that can rise when the identity 'child soldier' carries benefits with it.¹⁸²

Reintegration is usually presented by NGOs to the families as a natural obligation without taking into consideration the violence that child soldiers have often committed against their own family members. In Sierra Leone, according to Shepler, 'NGO workers explained to communities that their children were not responsible for their crimes because of their age'.¹⁸³ According to these officers, the notion of innocence that forms the basis of Western constructions of youth¹⁸⁴ should have made it easier for Sierra Leoneans to forgive children for their crimes during wartime. However, in some ways, child rights discourse and the practices of the child protection NGOs 'designed to ease the reintegration of former child soldiers in fact ma[d]e reintegration more difficult'.¹⁸⁵ Shepler remarks that the notion that 'anyone under eighteen years is to be considered a child and therefore not to be held accountable' was a 'newly imported idea' for Sierra Leoneans, who do not necessarily share the same vision of youthful innocence.¹⁸⁶

It is important to keep in mind that international concern about child soldiers stems from a particular conception of childhood, which was developed in Western Europe between the 17th and 19th centuries.¹⁸⁷ Behind the attitudes of these NGOs lies the Western set of concepts concerning not only childhood, but also the role of the family in child protection and care, which excludes other notions of family, community and even the child that, as in this case, include the idea of responsibility and accountability. As will be seen in the next chapter, this concept views childhood as a period characterised by physical and emotional dependence, physical and mental

¹⁸² On the other hand, according to Shepler, 'some of the stigma of having to be marked publicly as a child soldier dissipates as it comes less and less to reflect reality, and to be more a way to work the system': Shepler, above n 31, 124.

¹⁸³ Shepler, above n 21, 200.

¹⁸⁴ See chapter IV for more information on this subject.

¹⁸⁵ Shepler, above n 31, 158.

¹⁸⁶ Shepler, above n 21, 205.

¹⁸⁷ See chapter IV for more information on this topic.

immaturity, and special developmental needs.¹⁸⁸ No matter how natural and universally valid such models may appear to people from a Western European tradition, those from other cultures have an understanding of childhood and of suffering that differs in significant and important ways from this pattern.¹⁸⁹ The distinct culture of Africa,¹⁹⁰ for example, interwoven with its particular social, political and economic threads, influences the way the community both understands and acts on the needs of its children. Unsurprisingly, this typically Western notion of childhood innocence used by the human rights discourse has been 'criticised as an inadequate solution for both an individual and a collective problem' by the local communities that apply 'a notion of childhood and youth that does not comprise innocence as a norm'.¹⁹¹

4.3. Child Soldiers and Humanitarian Organisations

As we will see in more detail in chapter V, humanitarian organisations play a pivotal role in shaping and spreading definitions, opinions and images of child soldiers through their relationships with scholars, the media and the community in general.¹⁹² The portrayal of child combatants as faultless passive victims has proven central to the campaign to end child soldiering, with its compelling and moving images that mobilise the community. In Carpenter's words,

¹⁸⁸ See Rosen, above n 43, 177.

¹⁸⁹ Sara Gibbs, 'Post-war social reconstruction in Mozambique: re-framing children's experience of trauma and healing' (1994) 18(3) *Disasters* 268, 270.

¹⁹⁰ It is worth recalling at this stage the concept of *Ubuntu*, already mentioned on page 83. The *Ubuntu* value system consists of three components: human rights based on human dignity, social solidarity, and human cosmic context. In this tradition, cooperation between individuals and social cultures is vital: whatever happens to an individual affects also the community of which the individual is a member, and vice versa. According to *Ubuntu*, separation between the individual's existence and his community is not only impossible, but inconceivable. Indeed, the whole philosophy of *Ubuntu* can be summarised in this sentence: 'I am because we are; we are because I am.' In this communitarian identity, and consequently in the relevance of the opinions of others, lies the most important feature of this philosophy for the purposes of my research. For more information, see John Mbiti, *African religions and philosophy* (Heinemann Educational Books Inc, 1969); Leonard Chuwa, *African Indigenous Ethics in Global Bioethics: Interpreting Ubuntu* (Springer, 2014).

¹⁹¹ Catarina Martins, 'The dangers of the single story: Child-soldiers in literary fiction and film' (2011) 18 *Childhood* 434, 439.

¹⁹² Rosen, above n 21, 1; Rosen, above n 43, 184.

[a]n important requirement for eliciting sympathy is the construction of a victim who is 'spontaneously acceptable to Western viewers in his or her own right'. Acceptability is dictated foremost by '100% victim status' – the symbolic victim must be seen as entirely lacking agency; s/he must be both unable to help her/himself and an equivocal nonparticipant in the political events from which his/her misery results.¹⁹³

In order to do so, most of the Western humanitarian websites and publications¹⁹⁴ dedicated to child soldiering present the issue following a standardised model that repeats itself. This usually involves the direct use of quotes from child soldiers, recounting some of the terrible experiences they lived and witnessed – including being abducted or forcibly recruited, being forced to fight, torture and kill, being used as sex slaves or force labourers, being beaten and humiliated, or being forced to do all this on other children – and seeking protection and peace 'in the name of all children'.¹⁹⁵ For these organisations and all those actors adopting the "straight 18" theory, formerly abducted children are and remain victims even if they have reached adulthood by the time they leave the armed forces and return to civilian life.¹⁹⁶ In this regard, former child soldier Shena Gacu reflects that 'the child soldier experience will follow [the children] for the rest of [their] lives', since these organisations 'just want to keep [them] as victims even when [they] are old enough'.¹⁹⁷

The position of humanitarian organisations in regards to child soldiers is controversial, as it is in stark contrast with the anthropological and sociological view regarding the legal definition of a child.¹⁹⁸ In Western cultures, representations of child soldiers are based on our own cultural perceptions of childhood, which have

¹⁹³ Charli Carpenter, 'Women, children and other vulnerable groups: gender, strategic frames and the protection of civilians as a transnational issue' (2005) 49(295) *International Studies Quarterly* 316 (citing Braumann), quoted in Drumbl, above n 29, 37.

¹⁹⁴ See, for example, Human Rights Watch, 'Stolen Children' (Human Rights Watch, 29 March 2003 2003) <<http://www.hrw.org/node/12346/section/1>>; United Nations Children's Fund (UNICEF), *I bambini della guerra* (Comitato Italiano per l'UNICEF, 2000); Human Rights Watch, 'Everyday Victims' (Human Rights Watch, 22 December 2003 2003) <<http://www.hrw.org/reports/2003/12/21/everyday-victims>>; Human Rights Watch, 'Sold to Be Soldiers' (Human Rights Watch, 2007) <<http://www.hrw.org/reports/2007/10/30/sold-be-soldiers>>; Amnesty International, 'Cote d'Ivoire: Stop the use of child soldiers' (Amnesty International, 2005) <<http://www.amnesty.org/en/library/info/AFR31/003/2005/en>>.

¹⁹⁵ Martins, above n 191, 437.

¹⁹⁶ Redress, above n 121, 14. On the contrary, for international courts, their abduction as children does not automatically exclude them from criminal liability for crimes committed as adults. See, for example, the case of Dominic Ongwen, in chapter I n 19.

¹⁹⁷ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

¹⁹⁸ See Rosen, above n 43.

been reinforced by international laws and treaties and broadcasted as global by international humanitarian institutions and organisations, such as UNICEF, Save the Children, Human Rights Watch, etc. Based on the Western model of childhood, 'since child soldiers are, after all, *children*, they cannot be held responsible for their actions':¹⁹⁹ consequently, as chapter V will further explain, child soldiers 'should more rightly be seen as victims and every effort should be made to protect them and to reintegrate them into normal childhoods'.²⁰⁰ It should not surprise then that this view draws from some of the most romanticised perceptions of childhood as a time of purity and innocence, and children as vulnerable and in need of protection.²⁰¹ However, how does this perception compare to that of local communities in non-Western countries? Or of the child soldiers themselves? Or of our own criminal justice system?

The disagreement is explained by Rosen through the play of 'international politics in which childhood serves as a proxy for other political interests', by stating that the status of a child cannot be resolved without taking into account cultural and historical contexts.²⁰² Additionally, as previously seen in the helpless victim scenario, notwithstanding strategic advantages, the deployment of this imagery also runs certain risks. The notion of all under-18s as especially vulnerable, innocent and easily manipulated by adult recruiters translates into rehabilitation programs for former child soldiers that intentionally focus solely on community-building, to the exclusion of concerns for personal wellbeing and criminal liability.²⁰³ This follows a belief that avoiding addressing such topics will make the reintegration process easier for former child soldiers, in addition to protecting the children from the

potential pain involved in coping deliberately with what are often volatile and seriously debilitating feelings of guilt and shame. [However], in declining to accommodate the need among demobilised youths to locate some form of responsibility for their part in the conflict, which for many may be a prerequisite to healing, aid groups too often adhere instead to a form of compartmentalisation instead. In practice this amounts to little more

¹⁹⁹ Shepler, above n 31, 4.

²⁰⁰ Ibid.

²⁰¹ Denov, above n 6, 282.

²⁰² Rosen, above n 21, 2.

²⁰³ Rosen, above n 43, 179.

than the repression of undesirable emotions – essentially inhibiting expression of guilt and rage, and imagining that this will not heighten chances of violent acting-out.²⁰⁴

Additionally, according to several authors,²⁰⁵ the biggest risk is the perpetuation of the victims' disempowerment and marginality. When aid workers, NGO officials and academics appropriate the right to speak for victims thanks to their geopolitical and institutional position, they reinforce their 'status as the authoritative knower who is ordained to teach, civilize and rescue the benighted, hapless victim'.²⁰⁶ Although these actors want to help, the victim is in no better position after meeting them; actually, she could be further victimised by this encounter. This is what Razack refers to 'as "stealing the pain of others", dehumanising victims further and reinstalling First Worlders as morally and racially superior in relation to them'.²⁰⁷ According to Madlingozi, 'the "theft of victim" pain' is mostly recurrent in the work of international non-governmental organizations (INGOs) concerned with lobbying and advocacy in the area of transitional justice',²⁰⁸ which requires them to 'speak about and for victims with the aim of inviting others to do something to end victims' suffering'.²⁰⁹

As Mutua and others have pointed out, this attitude echoes the missionary impulse to civilise and save the Third World typical of colonialism: 'Once again, the allegedly superior Europeans and North Americans descend on supposedly backward natives in the Third World with the human rights mission to free them from the claws of despotic governments and benighted cultures'.²¹⁰ Therefore, in these regards the human rights discourse could 'be accused of producing a racially inferior and politically disempowered subject',²¹¹ which depends on powerful institutions in order

²⁰⁴ David Alan Harris, 'When Child Soldiers Reconcile: Accountability, Restorative Justice, and the Renewal of Empathy' (2010) 2(3) *Journal of Human Rights Practice* 334, 335.

²⁰⁵ See, for example, Sherene H. Razack, 'Stealing the Pain of Others: Reflections on Canadian Humanitarian Responses' (2007) 29(4) *Review of Education, Pedagogy, and Cultural Studies* 375; Makau Mutua, 'Savages, victims, and saviors: the metaphor of human rights' (2001) 42(1) *Harvard International Law Journal* 201; Makau Mutua, *Human Rights: A Political and Cultural Critique* (University of Pennsylvania Press, 2002).

²⁰⁶ Madlingozi, above n 124, 211.

²⁰⁷ Razack, above n 205 quoted in Madlingozi, above n 124, 211.

²⁰⁸ Madlingozi, above n 124, 211.

²⁰⁹ Ibid.

²¹⁰ Mutua, above n 205, 19 quoted in Madlingozi, above n 124, 211.

²¹¹ Madlingozi, above n 124 **Error! Bookmark not defined.**, 212.

to survive.²¹² From this perspective, it is easier to see how the politics and culture of the international human rights movement can hinder the empowerment of victims rather than enhance it, through lack of agency and trusteeship.²¹³ Finally then, despite victim empowerment being one of the declared goals of the human rights discourse, the victim produced 'is a helpless, passive victim dependent on others to speak for her and argue her case'.²¹⁴

Keeping these risks in mind is all the more important given that 'the intended beneficiaries – children in armed forces or groups – have very little control over, or say in, the content of the messages disseminated on their behalf'.²¹⁵ Also, the child soldiers' presumptions of vulnerability and victimhood extends further than capturing headlines funds. As we will see in chapter V, these presumptions extend into the actual content of programmatic interventions and judicial proceedings.²¹⁶ The demobilisation policies work under the assumption that even when the children classify themselves as volunteers, it is considered the result of the children's inability to make a free or conscious choice.²¹⁷ Moreover, humanitarian groups have had an enormous influence in shaping the international treaties that seek to ban the use of child soldiers, especially the provisions of the Rome Statute of the International Criminal Court.²¹⁸

4.4. Child Soldiers and Legal Professionals

From a legal point of view, childhood – and consequently the classification of an individual as a child soldier – is defined by age and not by any act of the child nor by

²¹² Michael Neocosmos, 'Can a Human Rights Culture Enable Emancipation? Clearing the Theoretical Ground for the Renewal of a Critical Sociology' (2006) 37(2) *South African Review of Sociology* 356, 357 cited in Madlingozi, above n 124, 213.

²¹³ Madlingozi, above n 124, 213. See also Neocosmos, above n 212; Mutua, above n 205; Robert Meister, 'Human Rights and the Politics of Victimhood' (2002) 16(2) *Ethics & International Affairs* 91.

²¹⁴ Madlingozi, above n 124, 213.

²¹⁵ Drumbl, above n 29, 36.

²¹⁶ *Ibid* 37.

²¹⁷ Bjørkhaug, I., 'Child Soldiers in Colombia: The Recruitment of Children into Non-state Violent Armed Groups' (Research Working Paper 27, MICROCON, 2010), 4.

²¹⁸ Rosen, above n 21, 9.

‘what is considered to be the customary understanding of childhood or adulthood in his/her culture’.²¹⁹ While the debate on the issue is still very much open in the literature,²²⁰ there is an growing consensus that former child soldiers who may have been committed crimes under international law shall be considered primarily as victims.²²¹ This is due to the fact that the international legal community sees all child soldiers who commit acts of atrocity in one of two ways: either as lacking the capacity or maturity to comprehend what they are doing, or as lacking the options to do otherwise.²²² International law has, therefore, come to justify crimes committed by child soldiers with mental incapacity due to low age, brainwashing and re-socialisation into violence, extreme duress,²²³ or intoxication due to consumption of drugs and alcohol.²²⁴ For all these reasons, legal responsibility ‘should be excused, even for grievous acts of violence’.²²⁵

²¹⁹ *Integrated Disarmament, Demobilization and Reintegration Standards* (IDDRS) (2006), modules 5.30, 24 <<http://www.unddr.org/uploads/documents/IDDRS%205.30%20Children%20and%20DDR.pdf>>, quoted in Drumbl, above n 29, 44.

²²⁰ Although this view has been clearly stated in official documents, such as the UNICEF, *The Paris Principles. Principles and Guidelines on Children Associated With Armed Forces or Armed Groups*, February 2007) art 3.6.

²²¹ Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 25.

²²² Rosen, above n 21, 134.

²²³ Despite the fact that the ICTY ruling in the case of Erdemovic concluded that ‘duress does not afford a complete defence to a soldier charged with a crime against humanity and/or a war crime involving the killing of innocent human beings’, but can merely constitute a mitigating circumstance. See International Criminal Tribunal for the former Yugoslavia, ‘ERDEMOVIC CASE: Erdemovic case - The Appeals Chamber rules that Drazen Erdemovic should enter a new plea’ (Press release, 7 October 1997) <http://www.icty.org/sid/7463>>.

²²⁴ There is much debate around this topic. On the one hand, the Rome Statute of the International Criminal Court provides for an intoxication defence. Article 31(1)(b) provides that a person shall not be criminally responsible if, at the time of that person’s conduct: ‘The person is in a state of intoxication that destroys that person’s capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court.’ On the other hand, according to many interviews, child soldiers often chose to use illegal substances in order to give them courage and then quickly became addicted to them, so this might be in contrast with the Rome Statute provision. *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 31(1)(b).

²²⁵ Drumbl, above n 29, 15.

As will be seen in chapter VI, there are several reasons why there have been no criminal proceedings before international institutions against child soldiers.²²⁶ First, the International Criminal Court has 'no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of the crime':²²⁷ consequently, it is up to national jurisdictions or ad hoc tribunals to try juvenile offenders. Neither the International Criminal Tribunal for the Former Yugoslavia (ICTY) nor the International Criminal Tribunal for Rwanda (ICTR) had a specific mandate to deal with young offenders. On the contrary, the Sierra Leone Special Court (SLSC) foresaw a number of provisions dealing with children due to the large number of child soldiers involved in the conflict for which the SLSC had jurisdiction. However, even when the SLSC had jurisdiction over juvenile offenders who were between 15 and 18 years of age at the time of the commission of the offence,²²⁸ and offered measures to ensure that the trial process was in accordance with international legal standards,²²⁹ it was the prosecutor's decision not to bring children to trial. Still, the participation and involvement of former child soldiers in international courtroom proceedings, both as victims and as witnesses, have nevertheless been highly significant. This will be further discussed in chapter VI.

In contrast, the approaches in domestic jurisdictions against former child soldiers have been completely different. Since 2000, the Democratic Republic of the Congo has executed a 14-year-old child soldier, sentenced to death at least another twenty-four children, while several others have been pardoned.²³⁰ While it appears that the DRC has stopped carrying out executions around the second half of the 2000s, it is possible

²²⁶ However, in January 2015, Dominic Ongwen, a former child abductee and the alleged Brigade Commander of the Sinia Brigade of the Lord's Resistance Army, appeared in front of the ICC for crimes committed as an adult in northern Uganda between 2002 and 2005: see chapter I n 19.

²²⁷ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 26.

²²⁸ *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, signed 16 January 2002, 2178 UNTS 137 (entered into force 12 April 2002) annex ('*Statute of the Special Court for Sierra Leone*') art 7.1.

²²⁹ *Ibid* arts 7.2, 13.1, 15.55.

²³⁰ Daniel T. Cook and John Wall, *Children and Armed Conflict: Cross-Disciplinary Investigations* (Palgrave Macmillan, 2011) 181 citing Matthew Haggold, *Child soldiers in international law* (Manchester University Press, 2005) 142; Fallah, above n 47, 98-9, 141-2.

that there are still children under custody.²³¹ In 2002, the United States arrested Omar Khadr, a 15-year-old Canadian, for allegedly throwing a grenade during the firefight in Afghanistan that resulted in the death of a US soldier. After Khadr was arrested, he was brought to Guantánamo Bay detention camp, where he was imprisoned for more than a decade.²³² Eventually, in 2010, he pled guilty to war crimes and accepted an eight-year sentence, not including time served, with the possibility of a transfer to Canada after at least one year to serve the remainder of the sentence.²³³ Still in 2002, the Ugandan government charged with treason two boys aged 14 and 16 for their involvement with the Lord's Resistance Army. Luckily, thanks to pressure from Human Rights Watch and the international community, the boys were able to apply for amnesty the following year.²³⁴ Additionally, Cook and Wall mention reports of children sentenced to death in Darfur,²³⁵ and of others tried and sentenced in Rwanda, in both the criminal and the quasi-judicial *gacaca* system.²³⁶

As chapter VI will show, as a general rule international law does not see judicial proceedings as the best way to deal with former child soldiers as they target primarily persons high in command as they are the ones who bear the greatest responsibility for the crimes. This usually does not include children, who are believed to 'lack the capacity to plan, instigate, order and implement widespread or systematic crimes'.²³⁷ However, this position poses a couple of challenges. First of all, no matter how logical and reasonable this may seem to a Western eye, this approach is a lot less reasonable

²³¹ Child Soldiers International, *Child Soldiers Global Report 2008 - Congo, Democratic Republic of the* <<http://www.refworld.org/docid/486cb0f5c.html>> [accessed 16 September 2018].

²³² Under the Military Commission Act of 2008, Khadr was charged with murder in violation of the law of war, attempted murder in violation of the law of war, conspiracy, providing material support for terrorism, and spying. See *Omar Khadr v United States of America & United States Court of Military Commission Review*, 529 F.3d1112 (DC Cir, 2008).

²³³ For more information, see Michael Friscolanti, 'Who is the real Omar Khadr?' (2010) 123(44) *Maclean's* 18.

²³⁴ Letter from Human Rights Watch to Mrs. Janat Mukwaya, Minister of Justice, 19 February 2003, available at <http://www.hrw.org/news/2003/02/19/uganda-letter-minister-justice> cited in Cook and Wall, above n 230, 181.

²³⁵ Fallah, above n 47, 99 cited in Cook and Wall, above n 230, 181.

²³⁶ See chapter VI for more information on this semi-judicial system.

²³⁷ Alison Smith, 'Basic assumptions of transitional justice and children' in Sharanjeet Parmar et al (ed), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 42.

and fair to the local communities who have often witnessed and suffered the brutality of child soldiers who appeared to be acting of their own will. Secondly, Smith warns that excluding *a priori* any under-18 person who commits crimes under international law from legal accountability may not only mine one of the fundamental goals of justice – deterrence by punishment –, but also run ‘the risk of designating special classes of people to whom the rules do not apply, which is anathema to the rule of law more generally’.²³⁸ Notwithstanding these possible objections, The Paris Principles on Children Associated with Armed Forces or Groups recommend that, where appropriate, accountability for children should be pursued through alternatives to judicial proceedings.²³⁹ ‘Viable alternatives to juvenile justice processing in the form of community-based diversion’²⁴⁰ can, therefore, better respond to the imperative of the best interests of the child:

Programmes that involve settlement by victim restitution and those that seek to avoid future conflict with the law through temporary supervision and guidance are especially commended. The merits of individual cases would make diversion appropriate, even when more serious offences have been committed (for example first offence, the act having been committed under peer pressure etc.).²⁴¹

For these reasons, in countries such as South Africa and Sierra Leone, former child soldiers have only been involved in truth-telling processes.²⁴² For example, the Truth and Reconciliation Commission in Sierra Leone has listened to thousands of children, both as perpetrators and as victims.²⁴³ Having played both roles, children had a key role in addressing crimes of war and in reconciliation and peace-building processes in

²³⁸ Ibid.

²³⁹ UNICEF, *The Paris Principles. Principles and Guidelines on Children Associated With Armed Forces or Armed Groups*, February 2007) 3.7.

²⁴⁰ ‘Diversion, involving removal from criminal justice processing and, frequently, redirection to community support services, is commonly practised on a formal and informal basis in many legal systems. This practice serves to hinder the negative effects of subsequent proceedings in juvenile justice administration (for example, the stigma of conviction and sentence): *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, GA Res 40/33, 96th plen mtg, UN Doc A/RES/40/33 (29 November 1985, adopted 29 November 1985) commentary to rule 11.

²⁴¹ Ibid.

²⁴² Truth-telling processes are part of the restorative justice system, which aims at restoring victims and creating a more victim-centred criminal justice system, as well as restoring offenders and communities. For more information on this topic, see John Braithwaite, *Crime, Shame and Reintegration* (Cambridge University Press, 1989).

²⁴³ See chapter VI for more information on the involvement of former child soldiers in Truth and Reconciliation Commissions.

their communities. The Truth and Reconciliation Commission did not have a punitive prosecutorial role, but rather allowed perpetrators and victims of human rights violations to come forward and account for their actions in the spirit of promoting national peace and reconciliation. Accordingly, it did serve as an effective alternative to the prosecution of juvenile offenders.²⁴⁴ In order to ensure that those children could take part in this process and that their voices could be heard, special measures had to be taken. In the end, a special 'child-friendly' edition of the final report was created.

5. Conclusion

This chapter has drawn attention to how the phenomenon of youth combatants has come to be defined in certain circumscribed ways. In particular, I have shown how the representation changes depending on the contexts and purposes for its creation. In a world where a hundred thousand children serve in fighting forces, whether in national militaries or armed insurgencies, there is a strong international consensus that underage soldiering is a plague that must end. Decidedly less unanimity exists, though, in relation to how to consider child soldiers and how best to address them. Caught up in the Western view of childhood purity, which incorporates moral immaturity and legal innocence, humanitarian workers and scholars too commonly assume that the remedy needed by children entangled in soldiering is an assurance of blamelessness. There is a largely faulty assumption here that shielding child soldiers from prosecution will suffice to erase the past and render these children guilt-free. On the contrary, former child combatants who have participated in human rights crimes need a forum for acknowledging their wrongdoings, and for expressing remorse, before forgiveness can be remotely possible. And this applies '[n]ot only those seeking mercy, but also the community as a whole will benefit meaningfully from this: healing is a collective choice made together in humility and empathy in order to tolerate and forgive'.²⁴⁵

²⁴⁴ Ismene Zarifis, 'Sierra Leone's Search for Justice and Accountability of Child Soldiers' (2002) 9(3) *Human Rights Brief* 18, 20.

²⁴⁵ Harris, above n 204, 351.

This chapter has discussed how the further away from the child soldier we move, the more the representation changes from a rational young adult able to make his own decisions, to a pre-rational child forced to commit atrocities by cruel adults or by his own immaturity. I have shown how the prevailing (mis)representations of child soldiers in media and literature only provide simplistic and one-directional interpretations of an extremely complex and context-dependent problem. On one side, 'the failure to recognise the complexity of wartime experiences and the simultaneous realities of victimisation, participation and resistance may lead to the creation of post-war reintegration programming that corresponds to contrasting portrayals and fails to meet the multifaceted needs of former child soldiers'.²⁴⁶ On the other side, portrayals of child soldiers as dangerous and uncontrollable 'may potentially exacerbate the social rejection and stigmatisation of these children, creating ongoing fear ... and ultimately, prevent long-term reintegration and reconciliation'.²⁴⁷ On the opposite side of the spectrum, the prevailing dogma among humanitarian assistance agencies that the blamelessness of child soldiers must be assured is also misinformed. No doubt, the desire to protect the under-aged from both extrajudicial retaliation and legalised forms of retribution is legitimate. However, this attitude fails to recognise former child soldiers' agency and ability to think rationally, in addition to potentially denying 'accountability and the genuine acknowledgment of wrongdoing among the young'.²⁴⁸

When aid groups, no matter how well intended, claim the voices and experiences of former child soldiers, 'they fail to pay proper attention to the needs of either the children involved or the communities into which they are to be reintegrated. As always, listening to the intended beneficiaries of agency largesse proves vital to making services more meaningful'.²⁴⁹ Indeed, the current literature on child soldiers fails to historically contextualise the emergence of the phenomenon against changing rights discourses, legal standards, and evolving constructions of 'the child'.

²⁴⁶ Denov, above n 42, 291.

²⁴⁷ Ibid 290.

²⁴⁸ Ibid.

²⁴⁹ Harris, above n 204, 351.

Consequently, the next chapter will discuss some of the conditions that brought about a shift in the concept of childhood in Western Europe. It will demonstrate how, during the 18th and 19th centuries, alterations in market necessity, the value of labour, and state intervention shaped a new picture of the child: once a contributing asset to the family income, the child became a vulnerable and innocent individual with a right to state care and protection. This shift in perspective is extremely important in relation to child soldiers, as it forms the basis of the much-broadcast portrayal of child combatants as innocent victims.

CHAPTER IV: IMAGINING CHILDHOOD – CHILD LABOUR AND THE EVOLUTION OF THE CONCEPT OF CHILDHOOD INNOCENCE

The romantic model of the child is a profoundly modern and western construction, emerging in the nineteenth century when industrialization was reallocating the distribution of geographical and psychological space to map onto the divisions between urban and rural, public and private, and 'home' and empire. These domains were all reflected in the split between 'nature' and 'civilisation' that were also inscribed within the theory of childhood.

– Erica Burman¹

1. Introduction

As seen in the previous chapter, the phenomenon of child soldiering is analysed and presented in literature and media mostly from a Western perspective.² However,

[w]hen we in the West think about child soldiers, we tend to do so with our Western notions of what childhood is and should be. We think we know what 'child' means (under 18 years of age, innocent, moving through developmental stages, at school, and not at work) and we think we know what 'soldier' means (adult, well trained and disciplined, fighting for a cause or a state), but these words mean something different from our expectations in the context of non-Western civil wars.³

Indeed, most of the stakeholders involved with former child soldiers and responsible for the broadcasting of their portrayals have a Western background; consequently, they act based on their specific cultural framework, with specific beliefs and expectations. As mentioned in the previous chapter, intrinsically linked to the topic of child soldiers is the notion of childhood innocence that constitutes the basis for the

¹ Erica Burman, 'Innocents abroad: Western fantasies of childhood and the iconography of emergencies' (1994) 18(3) *Disasters* 238, 239 quoted in Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 21.

² This does not mean, of course, that this topic has not been addressed and studied in non-Western countries. However, most of the existing literature comes from Western-based scholars.

³ Shepler, above n 1, 21.

depiction of innocent victims that is generally broadcasted by humanitarian organisations, court professionals and, sometimes, former child soldiers themselves. In order to understand why child soldiers are depicted so often and by so many actors as helpless and innocent victims, it is therefore critical to explore where the notion of 'childhood innocence',⁴ a very space- and time-dependent notion, originates.

Considering that perceptions of childhood have changed throughout history, in this chapter I highlight this changing process by introducing the example of child labour.⁵ I have chosen this topic for two reasons. First, the employment of children in armed groups is a form of child labour, according to international law.⁶ Just like the examples provided in this chapter, the employment of children in armed conflicts poses great dangers to their physical and mental health, in addition to compromising their future by interrupting their education, severing family and community bonds and hindering their socialization.⁷ Second, just as child soldiering is (partially) accepted in non-Western countries today, child labour⁸ was considered a normal practice for centuries all over the world, even in modern Western countries. Therefore,

⁴ The complexity of this concept requires a much more extensive discussion but, for the purpose of my research in this chapter the term 'innocence' refers to the state of vulnerability, ignorance, moral purity and lack of corruption that is typically associated with childhood.

⁵ International Labour Organization (ILO) Convention No 138 specifies 15 years as the age above which, in normal circumstances, a person may participate in economic activity. Following this, most studies treat a working person younger than 15 years as a 'child labourer'. While this is so under 'normal circumstances', Convention No 138 does specify some special cases: thus, for 'light work' the age limit is 13 years, and for 'hazardous work' it is 18 years. See *Convention on the Minimum Age for Admission to Employment*, opened for signature 26 June 1973, ILO C138, (entered into force 19 June 1976) arts 2, 3, 7.

⁶ *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, opened for signature 17 June 1999, ILO C182, (entered into force 19 November 2000) art 3.

⁷ Roos Haer, 'Children and armed conflict: looking at the future and learning from the past' (2019) *Third World Quarterly*, 40(1), 74-91, 74.

⁸ The ILO often distinguishes between 'child work' and 'child labour', the latter being used to describe the more pejorative part of 'child work', whereas 'child work' in itself could include doing light household chores and can actually have some learning value. I shall, however, here use the terms 'work', 'employment' and 'labour' interchangeably, while referring to what the ILO calls 'child labour'. For the purpose of my research, I consider a child to be a 'labourer' if the child is 'economically active'. Governments and international organisations usually treat a person as economically active or 'gainfully employed' if the person does work on a regular basis for which he or she is remunerated or that results in output destined for the market. However, for the purpose of this chapter, I also include those 'invisible' workers who do unpaid work that finds no market outlet, such as work within the household, in the fields, or in illegal factories. See United Nations Children's Fund (UNICEF), 'Children at Work' (UNICEF East Asia and Pacific Regional Office, 1994) for a discussion of Convention No 138 and for alternative conceptions of what constitutes child labour.

it is useful to analyse the evolution that led to its rejection and opposition in order to gain a better understanding of today's stand against child soldiering.

This chapter analyses, through the lens of child labour regulations, some of the conditions that brought about that shift in the concept of childhood in Western Europe,⁹ and introduced the perception of childhood innocence. This is carried out by reference to three scenarios and particular steps in the history of child labour before, during and after the Industrial Revolution.¹⁰ Each one exemplifies a particular factor that has heavily influenced the attitude towards innocence and child labour: the value of labour in the apprenticeship system during pre-industrialisation; the significance of market forces in coal mining during the proto-industrialisation phase; and the role of state intervention in the textile industry during industrialisation. The chapter also demonstrates how the 18th century marked the beginning of a shift in the concept of childhood and how, during the next two centuries, alterations in market necessity, the value of labour, and state intervention shaped a new picture of the child: once a contributing asset to the family income, the child became a vulnerable and innocent individual with a right to state care and protection.

This chapter argues that Western child labour history demonstrates the 'manufacturing of innocence' as a result of historical factors in an era where 'the boundaries between childhood and adulthood were not settled'.¹¹ In section 2, I present my approach to child labour and introduce the factors considered in the analysis of child employment. In section 3, I draw a brief history of Western child labour during the Industrial Revolution, in order to set the considered scenarios in the right historical context. Section 4 reflects on the cultural, social and economic changes that led to the end of child labour and to the introduction of the notion of childhood innocence.

⁹ The main reference will be Britain, as it is there that the effects of the Industrial Revolution were the most evident, allowing then for a better analysis of child labour.

¹⁰ While, historically, attention was drawn to the child labour problem during the Industrial Revolution, there are scholars who have argued that the problem was not especially acute during this time. According to them, child labour was comparably widespread even in the early 18th century, though children did not work in factories at that time. For this reason, in my analysis I begin with exploring the conditions of children's employment before they began working in factories.

¹¹ David M. Rosen, *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015) 12.

2. Manufacturing Innocence: Approach to Child Labour

The term 'child labour' is nowadays commonly used to describe work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.¹² It usually refers to work that is mentally, physically, socially or morally dangerous, and that interferes with children's education by denying them the opportunity to attend school.¹³ Consequently, the term 'child labour' refers to the most extreme forms of children's employment, which involve 'children being enslaved, separated from their families, exposed to serious hazards and illnesses, and/or left to fend for themselves on the streets of large cities, often at a very early age'.¹⁴

Based on this definition, child labour is currently perceived solely as a feature of developing nations; however, it is commonly recognised that all first world nations reached development and advancement also thanks to a pervasive use child labour.¹⁵ All around the world, at different times in history, 'the working child has been a part of economic life':¹⁶ in fact, child labour was not always considered a problem, and such opposition is indeed a comparatively recent phenomenon.¹⁷ What has increased over time is the awareness of, and concern for, children who work as labourers. There have been times when child labour was considered a necessity, and other times when it was treated as unpleasant to the child but nevertheless desirable.¹⁸ Perceptions of childhood and attitudes towards child labour have changed throughout history due to a number of factors, including economic transformations, shifts in family structures, the introduction of workplace legislation, and the evolution of human rights

¹² International Labour Organization (ILO), 'Marking progress against child labour. Global estimates and trends 2000-2012' (International Labour Organization, 2013) <http://www.ilo.org/ipec/Informationresources/WCMS_221513/lang--en/index.htm>.

¹³ By obliging them to leave school prematurely or by requiring them to attempt to combine school attendance with excessively long and heavy work.

¹⁴ See International Labour Organization (ILO), *What is child labour* <<http://www.ilo.org/ipec/facts/lang--en/index.htm>>.

¹⁵ Hugh D. Hindman, *Child labor: an American history* (M.E. Sharpe, 2002), 4.

¹⁶ Kaushik Basu, 'Child labor: cause, consequence, and cure, with remarks on international labor standards' (1999) 37(3) *Journal of economic literature* 1083.

¹⁷ Hindman, above n 15, 5.

¹⁸ Basu, above n 16, 1089.

perspectives. For the purposes of my research, I will, through case studies, focus on three factors that have heavily influenced the attitude towards child employment.

The first factor is the value of labour and human capital, explored through the case study of an apprentice. This factor allows the analysis of the perception of and value attributed to children's employment before the Industrial Revolution and is closely linked to the view in the 18th and 19th centuries of children's work as a remedy to pauperism,¹⁹ idleness and the dependency on poor relief.²⁰ In Cunningham and Viazzo's words, 'the fundamental assumption in working-classes was that children should contribute to the family economy as soon as they were able to. Children themselves naturally accepted this, and often expressed pride in their contributions'.²¹ A close parallelism can be found here with former child soldiers who, when asked about their time spent in the armed forces, have expressed great self-esteem and pride for their role in and contribution to the conflict.²² This is particularly evident when these youth have a strong social, political or ideological connection to the party for which they fought. Indeed, in the 18th and 19th centuries the authorities worried more about the sins of 'sloth and idleness' among the young than about excessive work.²³ In addition to this, child employment, especially in the form of apprenticeships, was often seen as an opportunity for training, granting children the essential skills to practice a trade once they reached adulthood.²⁴

I have chosen the case study of an apprentice because – similarly to the young boys employed as squires to knights in medieval times or as “powder monkeys” in

¹⁹ Hence the creation of pauper apprenticeships.

²⁰ Marjatta Rahikainen, *Centuries of Child Labour* (Ashgate, 2004).

²¹ Hugh Cunningham and Pier Paolo Viazzo (eds), *Child labour in historical perspective 1800-1985. Case studies from Europe, Japan and Colombia* (UNICEF, 1996) 52.

²² Rachel Brett and Irma Specht, *Young Soldiers: Why They Choose to Fight* (Lynne Rienner Publishers, 2004); Myriam Denov, 'Child Soldiers and Iconography: Portrayals and (Mis)Representations' (2010) *Children & Society* 42.

²³ Hugh Cunningham, 'The Employment and Unemployment of Children in England c.1680-1851' (1990) 126(126) *Past & Present* 115, 126. See also Sheilagh C. Ogilvie, 'Coming of age in a corporate society: Capitalism, Pietism and family authority in rural Württemberg, 1590-1740' (1986) 1(3) *Continuity and Change* 279; Thomas A. Krueger, *Crusade for the Children: A History of the National Child Labor Committee and Child Labor Reform in America* (The University of Chicago Press, 1971); Hugh Cunningham, *Children and childhood in western society since 1500* (Longman, 2nd ed, 2005); D. C. Coleman, *The economy of England, 1450-1750* (Oxford University Press, 1977).

²⁴ P. A. Colón and A. R. Colón, *A history of children: a socio-cultural survey across millennia* (Greenwood Press, 2001).

the British Royal Navy ships²⁵ – in my opinion, it best represents the benevolent concept of children's employment as a valuable means to learn skills and a trade.²⁶ Unfortunately, this was all destined to change with the arrival of the Industrial Revolution and its exploitation of children en masse in factories.²⁷ The key aspect of crafts apprenticeships was the training and education that the pupils received: in Dunlop's words, 'the early history of child labour in the industrial world is, therefore, the history of apprenticeship'.²⁸

The second factor is market necessity, analysed through the case study of a mineworker.²⁹ This is perhaps the most crucial factor in order to evaluate the original employment of children during the Industrial Revolution. In fact, with the arrival of industrialisation, children's work was not only considered indispensable for the family economy and a source of training, it was also economically advantageous. The value of child labour was affected by both internal and external market conditions, and in the early phases of industrialisation there were strong economic incentives for employers to provide work for children. In particular, children could be paid less than adults even though their productivity was comparable; there was no need for strength to operate the machines; and, since the industrial system was completely new, there were no experienced adult labourers.³⁰ In addition to this, before primary education became compulsory, there were no real alternatives for children besides working.

Thus, for reasons similar to those for which children are considered the weapon of choice in armed conflicts – namely being readily available in large numbers, being

²⁵ Sabine Collmer, 'Child Soldiers – An Integral Element in New, Irregular Wars?' (2004) *Connections* 3(3), 1-12, 2.

²⁶ Mary B. Rose, 'Social Policy and Business: Parish Apprenticeship and the Early Factory System, 1750-1834' (1989) 31(4) *Business History* 5.

²⁷ Katrina Honeyman, *Child workers in England, 1780-1820: parish apprentices and the making of the early industrial labour force* (Ashgate, 2007).

²⁸ O. Jocelyn Dunlop and R. D. Denman, *English apprenticeship & child labour: a history* (T. Fisher Unwin, 1912) 29.

²⁹ For more information on children in the coal mining industry, see Carolyn Tuttle, *Hard at work in factories and mines: the economics of child labor during the British industrial revolution* (Westview Press, 1999); William Harold Hutt, 'The factory system of the early nineteenth century' in Friedrich A. von Hayek and T. S. Ashton (eds), *Capitalism and the historians* (University of Chicago Press, 1963) Peter Kirby, 'The historic viability of child labour and the Mines Act of 1842' in Michael Lavalette (ed), *A thing of the past? Child labour in Britain in the nineteenth and twentieth centuries* (Liverpool University Press, 1999) 101.

³⁰ Dunlop and Denman, above n 28, 280.

easily trained and easily manipulated, being able to carry out essential tasks and handle weapons, being less reluctant to perform atrocities – children were the labour of choice for manufacturing between the 18th and 19th centuries.³¹ Significant changes to the role of children as workers came only in the mid-19th century, when internal changes such as the introduction of new technologies and an increasing orientation towards productivity in factories, and external transformations in child labour legislation and compulsory education, ensured the placement of children out of work and into schools.³²

The third factor is state intervention through the case study of a textile worker. From the end of the 18th century, changes in the concept of childhood took place in combination with the development of the welfare state. As the state grew, it became more able to protect its citizens, especially the weakest – such as children, women and the elderly. Childhood in this period became institutionalised, professionalised and more homogeneous. At the same time, with the spreading of news regarding the conditions of child workers in factories, opposition among the communities grew,³³ and a new concept of childhood was supported by legislation against child labour – even though this regulation was primarily directed at factory work.³⁴ Additionally, with the universalisation of elementary schooling after the 1870s, education gradually became the main priority and occupation of children.³⁵ At the same time, a series of new initiatives focusing on the child's physical and mental health was linked to schooling: school meals, school baths, school medical inspections, holiday camps, school gardens and playgrounds. In this sense, the 1800s marked the beginning of effective welfare legislation, with the Factory Acts as one of the first examples.³⁶ As a

³¹ Jane Humphries, 'Childhood and child labour in the British industrial revolution' (2013) 66(2) *The Economic History Review* 395, 400.

³² Margaret Hewitt and Ivy Pinchbeck, *Children in English society* (Routledge & K. Paul, 1969) 401.

³³ Basu, above n 15, 1089.

³⁴ Therefore, it affected neither children working in agriculture and in various non-factory forms of urban work nor the unpaid help of girls in cleaning or minding smaller siblings.

³⁵ Cunningham and Viazzo, above n 21.

³⁶ For more information on social welfare in Great Britain, see Gerhard Ritter, *Social Welfare in Germany and Britain: Origins and Development* (Berg, 1986); Peter Baldwin, *The Politics of Social Solidarity: Class Bases of the European Welfare State, 1875-1975* (Cambridge University Press, 1990); Susan Pedersen, *Family, Dependence, and the Origins of the Welfare State: Britain and France 1914-1945* (Cambridge University Press, 1993).

result, by the late 19th century, child labour was on the decline in industrialised nations, although it would soon become a feature of underdeveloped countries through colonialism.

Having highlighted the key factors in the evolution of child labour, which will guide my analysis of child labour, I will now analyse the brief history of this phenomenon to better understand its evolution and its correlation with the case studies.

3. Shifting Paradigms: A History of Child Labour

3.1. Pre-Industrialisation and Apprenticeships

Until urbanisation from the 19th century onwards, the majority of the population – children included – in both Europe and the United States lived in the countryside. Although most agricultural jobs required strength and stamina that were way beyond their capacity, children were nonetheless considered indispensable in most agricultural societies. According to Kirby, ‘most children became accustomed to agricultural work long before they were set to formal occupations, and the tasks they were given at such early ages were usually appropriate to their physical capabilities’.³⁷ Generally, ‘children beg[a]n to have a money value as soon as they [could] shout loud enough to scare a crow, or [could] endure exposure to the weather in watching cows in the lane’.³⁸ In that context, the lines between play and work, as well as between childhood and adulthood became extremely blurry. While younger children would help mothers with chores around the house, older children were instead expected to carry out slightly more complex tasks:³⁹ these included ‘looking after younger

³⁷ Peter Kirby, *Child labour in Britain, 1750-1870* (Palgrave Macmillan, 2003) 56.

³⁸ Quoted from the Newcastle Commission Report in *ibid.*

³⁹ Similar tasks are also often demanded from children associated with fighting groups, especially when very young. The majority of the population of ‘child soldiers’ are children who do standard daily tasks: fetch water, cook, clean, and carry things on their heads. Even those children who do more soldierly things – shooting guns, chopping hands – do it within a system in which it makes sense for children to work alongside adults. See Shepler, above n 1, 32.

[siblings], fetching water and firewood, gathering fruit and herbs, picking stones, scaring birds [off crops], spreading manure, and [tending animals]'.⁴⁰ By their mid-teens, adolescent boys were expected to actively contribute to the family economy through their labour in the fields and around the home, despite being still allowed to hunt, as a subsidiary to the main house production.⁴¹

When they were not involved in domestic chores and agriculture, children could usually be employed in the crafts market, which can, in part, explain the increased popularity of the apprenticeship system at that time. Developed in Europe during the Middle Ages and widespread until the 19th century, this system is exemplary of the working conditions of children before the Industrial Revolution. Without the pressing need for cheap labour that would later characterise the factory production, the system allowed masters to dedicate time and skills to their apprentices in order to train them in a particular trade. Two types of apprenticeships existed: crafts apprenticeships and pauper apprenticeships.

The system of crafts apprenticeships first developed as a local and voluntary custom used by private artisans as a method for training assistants.⁴² From the mid-1400s, it evolved into a public institution enforced by guilds⁴³ and towns. Finally, it became the general legal method for all children who desired to practice any trade.⁴⁴ The key aspect of the long period of craft apprenticeship⁴⁵ was the training and education that the pupils received,⁴⁶ which consisted in more than simply

⁴⁰ Colin Heywood, *A history of childhood: children and childhood in the west from medieval to modern times* (Wiley, 2013) 123.

⁴¹ Peter N. Stearns, *Childhood in world history* (Routledge, 2006) 13.

⁴² Apprenticeship at this stage was a private arrangement: the engagement of the apprentices was left to the discretion of the individual, while the conditions of service were negotiated between father and master.

⁴³ Associations of men who, often, had initially united for religious purposes, but between whom, ultimately, there was a bond based on common occupation. Their organisation was similar to a modern trade union and, in time, nobody was allowed to practise a trade in a town with a guild without being a member of the guild.

⁴⁴ An apprenticeship did not guarantee admittance to a guild, but provided the necessary training to learn a chosen trade.

⁴⁵ An apprentice trained for four to 12 years, although the common period of apprenticeship was seven years. Some trades additionally required a period of internship for apprentices, and interns were known as journeymen.

⁴⁶ Colón and Colón, above n 24, 219–20.

occupational training: '[l]iteracy, numeracy and business management skills, as well as religious and moral teaching, were all important factors in the socialisation and education of apprentices'.⁴⁷

Additionally, since the apprentice would live with his master and was completely under his control, the personal relationship between master and boy became one of the most important features of apprenticeships.⁴⁸ In fact, the master was responsible for both the health and the moral development of the youth, and for his technical training and future career. With the development of industrialisation and the factory system, the bond became looser. In large factories, close personal supervision was problematic and the sense of responsibility towards the welfare and future of the workers became of secondary – if any – importance. Even with the passing of the factory labour laws of that period, which reaffirmed 'the responsibility of the employer for the physical and immediate welfare of his juvenile employees',⁴⁹ that bond and the sense of responsibility between worker and employer were lost forever.

Slightly different was the so-called pauper apprenticeship, organised by parishes in order to provide training for poor children and reduce the burden of poor relief.⁵⁰ This system centred around two closely related subjects: pauperism and education. On the one hand, this system allowed townships to reduce the number of individuals in need of economic assistance; on the other hand, it provided children with training for the future. Evident in this scenario more than anywhere else is the contrast between childhood innocence as we consider it today⁵¹ and the moral value of labour in the era analysed here. At a time when poverty was widespread, a large number of children were left to fend for themselves; without an education or skills, they had no hope for a better future and therefore had to rely on the local authorities for support.⁵²

⁴⁷ Kirby, above n 37, 65.

⁴⁸ Dunlop and Denman, above n 28, 55.

⁴⁹ Ibid 17.

⁵⁰ For more information on pauper apprenticeships in England, see M. Dorothy George and London School of Economics and Political Science, *London life in the eighteenth century* (Routledge/Thoemmes, 1996).

⁵¹ See above n 4.

⁵² Joan Lane, *Apprenticeship in England, 1600-1914* (UCL Press, 1996).

In this context, the benevolent attitude of child work was not the result of a perception of children as vulnerable and in need of protection, but rather was the result of the recognition that learning skills and trades was necessary both for children and for the community as a whole. Despite some problems that inevitably rose,⁵³ the pauper apprenticeship system can be considered a primitive example of welfare intervention, which ensured that poor children received a basic education and skill training. This is in stark contrast with the treatment that children and adolescents received during the Industrial Revolution, when they were considered exploitable human capital rather than developing workers.

Both the crafts and the pauper apprenticeships bear remarkable similarities to the employment of youth for example as squires and as ship's boys, both in peace and war times. In both instances, they were considered as 'an essential reserve of future manpower in training'⁵⁴ and often made their ways to stables and ships to improve their social status or were sent there by local authorities as an alternative to street life or orphanages. As per the apprentices, squires and ship's boys performed duties that were specifically designed for their young age and bodies and that are not dissimilar from the tasks performed by modern child soldiers: carrying weapons and ammunitions, acting as spies and messengers, maintaining and attending to the equipment, etc.⁵⁵ Just as child combatants nowadays, apprentices, squires and ship's boys were separated from their families and communities and their education and well-being "entrusted"⁵⁶ to masters and officers, and often enjoyed better living

⁵³ With the arrival of the Industrial Revolution, many parishes began to apprentice their pauper children to new mills and factories. From the employer's point of view, this offered all the benefits of free child labour with fewer of the disadvantages: parish children were a cheap, stable and renewable workforce, which came without parental baggage. Employers were thus freed from binding conditions on the terms of the service, and from restrictions on discipline and control.

⁵⁴ Philip K Allan, *Nippers and Powder Monkeys* (25 February 2019) <www.philipkallan.com/single-post/2019/02/25/Nippers-and-Powder-Monkeys>.

⁵⁵ Ibid.

⁵⁶ I am fully aware that in the vast majority of modern conflicts, commanders and adult officers do not have the children's best interest in mind. However, there are also many other instances where being part of the army ensures better living conditions, protection and nourishment than being a civilian. See for example Scott Gate, 'Why Do Children Fight? Motivations and the Mode of Recruitment' in Alpaslan Özerdem and Sukanya Podder (eds), *Child Soldiers: From Recruitment to Reintegration* (Palgrave Macmillan, 2011) 29-49, 34-35.

conditions than many other children non-employed in similar trades – such as better diet and an ongoing education among others.⁵⁷

To conclude, during the period analysed, a benevolent perception of child employment prevailed. Thanks to the crafts and parish apprenticeships, the employment of young boys and girls was seen as the best way to provide training to learn a trade and to alleviate the burden of poor relief on municipalities. Children were considered a valuable resource of human capital to be adequately prepared and trained for adult work life.⁵⁸ In general, children were respected and valued, and they were employed according to their age, strength and personal abilities.⁵⁹ As will be shown in the next sections, this is a long way from the reality of child labour during the Industrial Revolution.

3.2. Proto-Industrialisation and Coal Mining

From the 17th until the early 19th centuries, all Western European countries experienced the transition from feudal agrarian to industrial urban economies, in a process known as ‘proto-industrialisation’.⁶⁰ During the initial stage of this phase, the production still took place within the household, directly for the merchant who would initially provide the raw material and later sell the finished products. Children were then involved in various tasks around the house, but since they could work from home directly under the supervision of parents, these early stages retained important

⁵⁷ Philip K Allan, *Nippers and Powder Monkeys* (25 February 2019) <www.philipkallan.com/single-post/2019/02/25/Nippers-and-Powder-Monkeys>.

⁵⁸ Rose, above n 26, 6, for example, emphasises the importance of giving children ‘an honest trade of life’.

⁵⁹ It is worth mentioning here that the apprenticeship system is still in place in many West African countries. Here, aside from formal schooling, apprenticeship is a vital institution for the training of young people into adulthood and often involves fosterage to a master. In particular, it was found to be a very useful way to reintegrate former child soldiers back in their communities. See Shepler, above n 1, 37.

⁶⁰ See Hans Medick, 'The Proto-Industrial Family Economy: The Structural Function of Household and Family during the Transition from Peasant Society to Industrial Capitalism' (1976) 1(3) *Social History* 291; Leslie A. Clarkson and Society Economic History, *Proto-industrialization: the first phase of industrialization?* (Macmillan, 1985).

safeguards for them.⁶¹ In the later phases, the production was progressively removed from the safety and comfort of the home and into the modern factory, passing through larger neighbourhood-based workshops and manufactories where traditional methods were still employed. With the advancement of industrial development, adult and child labourers 'came directly into contact with the market and increasingly fell under the market's sway until, subjected to the laws of the market, labour was ultimately separated from its traditional basis in the household'.⁶²

For some, proto-industrialisation marked the beginning of the exploitation of children in workplaces; for some others, this was simply 'more readily observable in the factory than in the obscurity of the cottage'.⁶³ In any case, the relocation of productions in factories caused a radical change in rural and urban landscapes and in the lives of the people. Factory workers were involved in gathering and then feeding raw material into grinding machines in order to produce goods that were collected and prepared for shipment to buyers. Given that these tasks did not require a high level of training, even the unskilled – or children – could perform the repetitive and automated operations that machine work required.⁶⁴ Consequently, factories employed twice as many children as adults, although this number reduced as the production and workforce became stable.⁶⁵

A comparison can be made here with the economics of employing child soldiers in armed forces and groups. If we assume that, '[f]rom the perspective of economics, the leadership of a military organization must be able to find a way to recruit adequate soldiers to maximize the probability of winning (or sustaining a 'profitable' conflict) with the lowest financial costs',⁶⁶ children may be employed 'if they are sufficiently cheap to compensate for their (potentially) lower military efficiency'.⁶⁷ The reality, however, is that underaged combatants are not necessarily less effective than

⁶¹ Hindman, above n 15, 23.

⁶² Ibid 24.

⁶³ Hewitt and Pinchbeck, above n 32, 406.

⁶⁴ Colón and Colón, above n 24, 363.

⁶⁵ Humphries, above n 31, 404.

⁶⁶ Gate, above n 56, 34.

⁶⁷ Ibid.

adults in combat; often this is due to their fearlessness and lack of understanding of the rules of law, but frequently this is also due to the nature of modern conflicts that does not necessarily require experienced and skills soldiers in order to secure victories.

Returning to the main topic of this chapter, it is essential to stress the importance of the proto-industrialisation era for several reasons. First, the proto-industrialisation market provides valuable information of how markets change due to state intervention and modernisation. Second, this period symbolises the shift in the concept of child labour: from a benevolent concept of child work as training during the apprenticeship era; through a period of exploitation in factories during the Industrial Revolution; and, finally, to a new concept of childhood, characterised by the spread of schools and the idea that children should be protected.

However, in this phase, children were employed not only in factories, but also in other hazardous and dangerous activities, such as coal mining. This scenario has been chosen to analyse the market necessity factor, because it is in this industry that the link between this feature and child labour is the most explicit. Indeed, the beginning of the Industrial Revolution in many Western countries in the 18th century was linked to the availability of coal to power steam engines and furnaces. As the demand for coal increased, coal mines became deeper and deeper and coal mining became more and more dangerous. This new coal mining business that grew in the 19th century depended on men and children working long hours in often dangerous and unhealthy conditions.⁶⁸

Children were abundantly employed because their small size allowed them to penetrate the tightest tunnels and carry or drag coal along the seam to the shaft.⁶⁹ Their working conditions were poor and dangerous at best: they could work for up to 18 hours a day, six days a week. They risked death from explosions, rock falls and

⁶⁸ For more information on children in the coal mining industry, see Tuttle, above n 29; Hutt, above n 29; Kirby, above n 37.

⁶⁹ Technical innovations and geology, therefore, had a profound effect upon both the physical size and the age-structure of underground workers. This is confirmed by evidence of a lower age of recruitment and a higher incidence of younger workers in coal districts where thin seams and primitive technology predominated. See Peter Kirby, *Aspects of the employment of children in the British coal-mining industry, 1800-1872* (Dissertation/Thesis Thesis, University of Sheffield, 1995); Kirby, above n 37, 77.

tunnel collapses;⁷⁰ they risked being jammed by or between cars, or run over by runaway cars. They worked with poor ventilation and lighting and they breathed air filled with dust and sometimes toxic gases, to which they were particularly vulnerable because their systems were still developing.⁷¹ Notwithstanding the risks, just like for child combatants in modern conflicts, there were several jobs that were assigned exclusively to children, often because of their small sizes or for the simplicity of the task. The youngest children were usually the 'trappers' or 'nipplers': their job was to simply open and close the wooden trap doors that allowed fresh air to flow through the mine and to let the coal wagons through.⁷² They would usually sit alone in total darkness for up to 12 hours at a time, waiting to open the door to let the coal tub through. It was not hard work, but it was boring and potentially very dangerous for the rest of the workers, were the boy to fall asleep. From 11 or 12 years of age, children and women were employed as 'drivers' or 'hurriers', pulling and pushing corves full of coal along wooden runners in narrow tunnels, from the coalface to the pit-bottom, which sometimes meant distances of four to six miles a day. Finally, as they reached late adolescence, strong teenagers became 'getters': their job was to work at the coalface cutting the coal from the seam with a pickaxe.

The involvement of children and teenagers in the coal mining industry in this initial phase was essential and strictly dependent on market necessities. As seen in this section, the start of the Industrial Revolution was heavily reliant on the availability of coal; it was also thanks to the coal industry that maritime and railway-based trade expanded quickly to an international level.⁷³ This new coal mining business would not have grown so rapidly in the 19th century if it had not been for the employment of children. Similarly to armed forces and groups responding to the constant demand of soldiers to employ in frontlines and rear echelons by recruiting

⁷⁰ Dunlop and Denman, above n 28, 280.

⁷¹ International Labour Organization (ILO), 'Child labour in gold mining' (2006) <<http://www.ilo.org/ipecc/areas/Miningandquarrying/MoreaboutCLinmining/lang--en/index.htm>>.

⁷² North of England Institute of Mining and Mechanical Engineers, 'Children's Employment Commission. Ages at which children and young persons are employed in coal mines' <https://www.mininginstitute.org.uk/papers/CEC_Ages.html>.

⁷³ Tuttle, above n 29; Hutt, above n 29.

the cheapest and most abundant workforce available, the market demanded large quantities of coal to power steam engine machines, and the industry responded by employing the cheapest and easiest to manage labour, children. In conclusion, the presence of child labourers in the mineshafts was a clear response to market needs and symbolises the horrors of the Industrial Revolution.

3.3. Industrialisation and the Textile Industry

Throughout the 19th century, with the progress of industrialisation and modernisation, the demand for child labour reached its peak before decreasing as the result of both internal and external market changes, new legislation, and the spreading of the school system. Economically, this was due, on the one hand, to the rising of wages during the course of economic development, which made families increasingly reluctant to send their children to work.⁷⁴ On the other hand, it was due to technical progress that reduced the demand for juvenile workers, whose work could be replaced by machines.⁷⁵ Socially, as children's factory labour declined, their attendance at school rose, with new attention being placed to expanding and redefining educational systems from the late 18th century onward. There is debate in the literature about whether this is the result of the decrease in demand of child labour, or the consequence of a new interest in training children for adult employment. There appears to be a certain consensus that compulsory schooling was introduced for a variety of reasons, some of them far-removed from concepts of saving children.⁷⁶ The push for education was the driver, rather than the result of the decline in child labour; nevertheless, it was the key change that made possible the

⁷⁴ Stated simply, children worked in factories because their families were poor; as family income increased, child labour decreased. Indeed, as a given family's income increased, younger children began work at a later age than had their older brothers and sisters.

⁷⁵ Clark Nardinelli, 'Child Labor and the Factory Acts' (1980) 40(4) *The Journal of Economic History* 739.

⁷⁶ For example, families increasingly chose 'to invest in the child's education in order to be able to maximise family wellbeing when the child eventually went to work in a better job than he or she would have had if work had started earlier': Hugh Cunningham, 'The decline of child labour: labour markets and family economies in Europe and North America since 1830' (2000) 53(3) *The Economic History Review* [H.W. Wilson - SSA] 409, 414.

spread of the idea that all children should have a 'proper' childhood.⁷⁷ Culturally, as we will see in the next section, changes in the concept of childhood took place in combination with the development of the welfare state. With the spreading of news regarding the conditions of child workers in factories, the development of a new concept of childhood was supported by legislation against child labour, even though this legislation was primarily directed at factory work.

The British cotton-spinning industry is considered by many historians to be the *locus classicus* of the exploitation of children in the industrialisation phase, which also explains why this was also the sector where the state became the most involved. However, just like the recruitment of children into armed forces is not a novelty of modern conflicts, the involvement of children in the textile industry did not start with industrialisation: children participated in the domestic manufacture of textiles as a matter of routine.⁷⁸ Yet, while preindustrial child labour took place within the family economy and under parental supervision, which allowed time for games and socialisation,⁷⁹ when the production became factory-based in the 1850s the textile manufacture saw rapid changes in its organisation, as technical innovations, such as the steam engine, gave rise to the first forms of factory work. Since early production required water availability all year-round, factories were often located in places where reliable water supply existed. However, as the technological progress entailed the switch from the water frame to steam power, manufactories were increasingly moved away from water sources and closer to existing sources of labour, materials and markets,⁸⁰ which often meant for children being separated from their families and communities.

⁷⁷ The term 'proper' childhood is meant to convey a 'childhood separated from the adult world in innocence and dependence': in Cunningham, *Children and Childhood in Western Society since 1500*, above n 23, 203.

⁷⁸ The influence on household structure upon children's employment has been discussed in research dealing with the textile household economy, such as Michael Anderson, *Family Structure in Nineteenth Century Lancashire* (University Press, 1971); Frances Collier, *The family economy of the working classes in the cotton industry, 1784-1833* (M.A. Thesis, Manchester University, 1964).

⁷⁹ E. P. Thompson, *The making of the English working class* (Vintage, 1963), cited in Honeyman, above n 27, 2.

⁸⁰ Honeyman, above n 27, 2.

Consequently, the Industrial Revolution and factory work broke down the family economy and introduced children to a harsher system. Initially, authorities' attention was drawn to the issue of child labour due to the potential physical dangers and damages to children working in British cotton factories.⁸¹ Consequently, in the 1780s, for the first time doctors recommended that for children under 14 'the active recreations of childhood and youth are necessary to the growth, the vigour and the right conformation of the human body'.⁸² In a ground-breaking first, childhood was being recognised as, at least in part, a time for play, essential, among other things, to develop the bodily strength necessary to grow into adults. It was a revolutionary idea and a turning point in the evolution of the concept of childhood. Since textile factories were infamous for their work conditions,⁸³ they were also one of the first to be investigated in the 1840s and again in the 1860s. This explains the choice of the state intervention factor as the key driver of this scenario. The government investigations, however, were not the result of some push from within the government itself; they were, on the contrary, a response to the external pressure of people confronted with the shock of the new factory system, which seemed to them 'socially unnatural and economically fragile'.⁸⁴ According to Cunningham and Viazzo,

this campaign is central for an understanding of the British experience in combating child labour. It had its origins in the early trade unions in the textile areas, and it was fertilized by a rhetoric drawing on the romantic image of childhood as articulated by Blake and Wordsworth, and by support of middle and upper-class critics of the 'factory system'.⁸⁵

However, according to Hutchins and Harrison, the commissions found that 'children were probably exposed to no worse conditions in textile factories than in other industries'.⁸⁶ Consequently, reformers concluded that child labour had to be regulated in all industries, while still recognising that children's wages were indispensable for families and that child labour was essential for textile factories. Therefore, the use of child labour in British textile factories was simply a matter of cost: child labour was

⁸¹ Cunningham, *Children and Childhood in Western Society since 1500*, above n 23, 139.

⁸² Ibid.

⁸³ Cunningham and Viazzo, above n 21, 29.

⁸⁴ Ibid 48.

⁸⁵ Ibid.

⁸⁶ B. L. Hutchins and Amy Harrison, *A History of Factory Legislation* (P.S.King, 1911) 140.

important, as it was cheap, but not indispensable and, without it, the industry would have developed more slowly through more expensive labour.⁸⁷

In Britain, the first effective Factory Act was passed in 1833, and it banned the use of children under nine years of age in textile mills powered by steam or water, except in silk mills.⁸⁸ The most important feature of the Act was the appointment by the government of inspectors, who could visit factories and make rules and by-law: an arrangement that not only imposed the physical presence of the state in the factories, but that 'effectively defined children as being in need of protection by the law'.⁸⁹ The Act also determined that, at the beginning of the 14th year, 'the period of childhood, properly so called, ceases, and that of puberty is established, when the body becomes more capable of enduring protracted labour'.⁹⁰ For the first time, a child became defined as someone who was not a 'free agent', who was dependent, and who was therefore in need of protection by the state.⁹¹

The Factory Act of 1844 lowered the employment age to eight and established the so-called 'half system': children in textile factories were expected to work a half day and to attend school for the rest of the day. This arrangement became particularly common where trade was expanding most rapidly, especially in areas responsible for the textile boom of the early to mid-1870s. Finally, the 1874 Act raised the minimum employment age to 13. Apart from setting the employment age, the combined effect of the factory Acts was to impose an implicit tax on the employment of children in textile factories,⁹² which meant that employing children was not necessarily convenient anymore. Whether or not as a direct consequence of the Acts, a large decline in child labour took place.

⁸⁷ Clark Nardinelli, *Child labor and the Industrial Revolution* (Indiana University Press, 1990) 107.

⁸⁸ Children under 13 years of age were limited to nine hours of work a day and 48 hours a week, while teenagers could work for up to 12 hours a day or 69 hours a week. See Dunlop and Denman, above n 28, 289.

⁸⁹ Cunningham, above n 23, 140.

⁹⁰ Ibid.

⁹¹ Hugh Cunningham, *The children of the poor: representations of childhood since the seventeenth century* (Blackwell, 1992) 70-83, 94-5.

⁹² Which included the administrative cost of keeping registries and age certificates for all child labourers, increased supervision costs, and the cost of building a school or enrolling children in one. See Nardinelli, above n 75, 743.

To conclude, it appears clear that at this stage in history the modern state was strong enough to take control over many functions of family life and to assert its protection over its citizen, to guarantee their wellbeing, and to encourage their prosperity. Ultimately, it is in this period that the state 'positioned itself as the ultimate protector of children, and assumed regulatory function over compulsory education, the regulation of child labo[u]r'.⁹³ In this sense, the Factory Acts can be considered the first welfare act in British history.⁹⁴ Their only antecedents in terms of welfare acts in Great Britain were the Public Health Acts and the Elizabethan Poor Law, which, since the 17th century, had forced the parishes to maintain the poor through workhouses where they learned to support themselves. However, this law neither alleviated nor solved the problem. The protection of women and children flowed from the original Poor Law, but it was not until the passage of the 1833 Factory Act that there was effective enforcement of such arrangements.⁹⁵ Additionally, it is only with the passing of the Factory Acts that children were officially defined as being in need of special protection by the state, marking the turning point into the ideology of childhood innocence.⁹⁶

4. All a Matter of Cultural Change?

Currently, although children's employment has certainly not disappeared in the developed world, it is certainly much more visible in Third World countries. There, for many children still in the labour force, life resembles what children in Western countries experienced in the 1800s. These countries were, of course, able to progress,

⁹³ Rosen, above n 11.

⁹⁴ Nardinelli, above n 75.

⁹⁵ For more information on social welfare in Great Britain, see Ritter, above n 36; Baldwin, above n 36; Pedersen, above n 36.

⁹⁶ The Factory Acts were followed in 1889 by the *Prevention of Cruelty to, and Protection of, Children Act*, which provided for criminal penalties for any person 'over sixteen years of age who, having the custody, control, or charge of a child ... willfully ill-treats, neglects, abandons, or exposes such child, or causes or procures such child to be ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child unnecessary suffering, or injury to its health'. See section 1 of the *Prevention of Cruelty to, and Protection of, Children Act 1889*, 44 Vict 52 and 53 <http://www.legislation.gov.uk/ukpga/1889/44/pdfs/ukpga_18890044_en.pdf>.

albeit through often painful and difficult processes, towards a more modern notion of childhood that is still somehow in place today.⁹⁷ So, if the mere fact that children work, often in harsh conditions, is not new, what spurs indignation or criticism when news reports show the involvement of children in textile factories or in armed groups in developing countries? As seen in the previous chapter, children's participation in war is certainly not a new phenomenon:⁹⁸ children have played a role in wartimes since the dawn of history, often in worse conditions than those that are reported today. What is new is the international child protection framework, which has constructed the identity 'child soldier' where it previously did not exist, through techniques from the fields of education, psychology and social welfare.⁹⁹ The emphasis here is on change.

From the 17th century, new economic systems on the one hand, and changes in cultures and family structures on the other hand, heavily affected the evolution of childhood in Western countries. According to Basu, 'the increasing prosperity of Europe, the United States and Japan made it easier for parents to pull children out of work without having to fear that this would commit the household to poverty'.¹⁰⁰ Consequently, within a few centuries, children went from being 'economic asset to being liabilities':¹⁰¹ this change brought with it a new valuation of childhood, in that children became, in Zelizer's words, 'economically worthless, but emotionally priceless'.¹⁰² It is hard to say which was the cause and which the consequence; nonetheless, this emotional connection to children and the desire of parents to care for them became more apparent with the development of a new idea of the nuclear family.¹⁰³

⁹⁷ Stearns, above n 41, 131.

⁹⁸ James Marten, *Children and War: A Historical Anthology* (New York University Press, 2002); David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005).

⁹⁹ Shepler, above n 1, 6.

¹⁰⁰ Basu, above n 15, 1090.

¹⁰¹ Stearns, above n 41, 57.

¹⁰² Viviana A. Rotman Zelizer, *Pricing the priceless child: the changing social value of children* (Basic Books, 1985) x.

¹⁰³ Cunningham, above n 76, 414.

In addition to this, as a direct consequence of a more general urbanisation, which complicated caring for children, family size was reduced to unprecedentedly low levels.¹⁰⁴ As families began having fewer children, more attention to their offspring was encouraged: parents becoming more concerned about their children's health, education and general protection.¹⁰⁵ In this new relationship, 'children had a worth higher than that of other members of the family; the balance of power changed and the flow of economic resources began to go from parents to children, not from children to parents'.¹⁰⁶ Consequently, family obligations began to be perceived in a different light: child labour was no longer seen as a natural and necessary contribution to the family's welfare, and children were expected instead to receive the education and training necessary to guarantee them a better future.¹⁰⁷

This new concept of childhood¹⁰⁸ was preceded in the West by some earlier cultural developments that took shape in the late 17th and the 18th centuries. In particular, the Scientific Revolution and the Enlightenment supported the belief that children were not corrupted at birth, as Christian and particularly Protestant doctrines of original sin had insisted.¹⁰⁹ In place of the existing orthodoxy, new philosophies emerged, such as John Locke's argument that children were blank slates at birth, open to learning and essentially good, or Jean-Jacques Rousseau's belief about the importance of education and the intellectual, moral and emotional freedom and independence of children. Certainly, this sentimental approach to childhood championed by the Romantic poets initially reached only the middle-class audience; nonetheless, by the late 19th and early 20th centuries, a general consensus emerged that

¹⁰⁴ Traditionally, in agricultural societies, it was common for parents to have up to seven children; however, such families were simply too large in an urban environment, especially considering that children were now an additional cost to the family.

¹⁰⁵ Stearns, above n 41, 55.

¹⁰⁶ Cunningham and Viazzo, above n 21, 52.

¹⁰⁷ Cunningham, above n 76, 414.

¹⁰⁸ Although the concept of childhood appears to evolve and change shape as lifestyles change and adult expectations alter, for the purposes of this thesis the terms 'new' or 'modern' indicate the notion of childhood that has been broadcast by Western countries since the late 19th century, which characterises childhood as a time of innocence and vulnerability, in contrast to the earlier view of children as economic resources.

¹⁰⁹ Newborn infants were thought to be evil because they were born of carnal knowledge, and were described as young vipers full of sin, who had to be purified and saved by physical measures.

portrayed children as 'innocent, ignorant, dependent, vulnerable, generally incompetent and in need of protection and discipline'.¹¹⁰

One last critical factor that influenced the transition to a modern ideology of childhood is without doubt the emergence of, first, general human rights and, later, children-specific rights. Although the concept of human rights had existed since the 16th century,¹¹¹ it is only in the aftermath of the two World Wars that the international community felt the need to explicitly protect basic human rights with the adoption of modern instruments.¹¹² In the 18th and early 19th centuries, 'children were understood to be functioning within the institutions of the family or the state, and little attention was paid to their rights or concerns as individuals'.¹¹³ However, once it was acknowledged that 'all individuals, children included, were the objects of international law requiring international legal protection',¹¹⁴ the global community became concerned about granting specific rights to children,¹¹⁵ based on their needs as developing organisms. Equally crucial in the shift in the concept of childhood was the emergence of the legal concept of capacity, which took place alongside the evolution of human rights. Legal capacity generally refers to a person's capacity to understand a particular situation to the extent required by the law. It is strictly linked to the 'age of consent', which identifies the age where children have the mental capacity to make autonomous and responsible decisions. Legal capacity often includes the ability to make a decision about the situation, either to create or to enter into a legal relation.¹¹⁶ The concept of legal capacity allows society to protect vulnerable people, and to

¹¹⁰ Harry Hendrick and Society Economic History, *Children, childhood, and English society, 1880-1990* (Cambridge University Press, 1997) 2.

¹¹¹ With ideas about natural law and natural rights in philosophers such as Thomas Hobbes, John Locke and Thomas Paine.

¹¹² Such as the Universal Declaration of Human Rights, international covenants, and the United Nations Charter.

¹¹³ Rosen, above n 11, 33.

¹¹⁴ Geraldine Van Bueren, *The international law on the rights of the child* (Kluwer Law International, 1998) 1.

¹¹⁵ Such as the *Declaration of the Rights of the Child*, adopted 20 November 1959, G.A. Res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354 and the *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹¹⁶ Division for Social Policy and Development, 'Explanatory note on legal capacity and forced interventions' (<<http://www.un.org/esa/socdev/enable/rights/ahc8docs/ahc8idc1218ex.doc>>).

protect itself from incapable people, in that it distinguishes between people who can freely exercise their rights and be held responsible for their actions and those who cannot. Up until that point in history, children were generally considered unable to exercise certain rights, and they were therefore reliant on their carers and/or the state to make decisions for them. However, as a result of this cultural change, children began to be recognised as having legal capacity in proportion to their age.

It was the recognition of children's rights to special protection and the adoption of international legal instruments to ensure said protection that finally put an end to the employment of children in Western countries and led to the establishment of a new concept of childhood.¹¹⁷ From this moment forward, childhood would be characterised as a time of innocence, vulnerability, dependency and incompetency, in contrast with a traditional ideology that saw children as tiny adults, therefore not in need of special care or protection, who were able and expected to participate in work in order to contribute to the family economy.

Consequently, most of the perception of injustice and cruelty in the current condition of children in Third World countries results from this new global standard based on the modern model of childhood. To most Westerners, children simply should not be working, beyond providing some assistance around the house or in a family business, and they should go to school. It appears that we have forgotten our past: we stand tall behind human rights declarations and we judge developing countries based on the modern condition and ideology of childhood, forgetting the long history that led to it.¹¹⁸ This contemporary evaluation is 'important in its own right, but it sometimes complicates a judgment about the novelty of the economic exploitation of children'.¹¹⁹

¹¹⁷ This, however, did not automatically imply that children were no longer used in the military. As Rosen points out, '[m]ilitary service, per se, was understood to be a clear public good, and service in the military was considered to be in the best interests of the child'. Consequently, armies all around the world continued to recruit young people into their ranks. For more information, see Rosen, above n 93, 35.

¹¹⁸ David M. Rosen, 'A Tale of Two Orphans' in David M. Rosen (ed), *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015) 1, 31.

¹¹⁹ Stearns, above n 41, 117.

5. Conclusion

This chapter, through the analysis of case studies, has provided an understanding of different perceptions of childhood innocence, with child labour during the Industrial Revolution representing the background for this study. In particular, it has shown how alterations in market necessity, the value of labour, and state intervention were responsible for shaping a new picture of the child: once a valuable future resource, children went from being a disposable workforce that could be exploited to being vulnerable citizens with a right to state care and protection.¹²⁰ Historians broadly agree that during the time period considered, 'a benevolent child-centred ideology replaced a genealogical one'¹²¹ and, at the same time, attitudes towards child labour shifted from complete acceptance to an insistence on heavy regulation.¹²²

Child labour at an early age was typical of the domestic system and was only seriously challenged with the creation of the factory system, when 'for the first time toiling children were regarded as an outrage, not something to be admired ... something monstrous in the factory system which directed attention to the yet more monstrous exploitation of the labour of young children'.¹²³ In fact, the abuses of child labour are considered one of the most striking features of the Industrial Revolution, albeit they had existed long prior to it. Industrialisation fundamentally altered social and economic relations by turning the domestic economy inside out; furthermore, industrialisation changed relations between and among parents and children, and redefined childhood itself. As the typical child labour arrangement shifted from contribution to production, from as early an age as possible, within the confines of a kinship-based household for the group's own consumption, to factory manufacturing, child labour began to be seen as an evil. What used to be a social 'good' was then transformed into a social and economic 'problem'.¹²⁴ Consequently, society reacted to

¹²⁰ Pedersen, above n 36.

¹²¹ Honeyman, above n 27, 3-4.

¹²² Ibid

¹²³ Cunningham, above n 91, 50-1.

¹²⁴ Hindman, above n 61, 21

protect itself and its children and the first reform movements emerged in an attempt to curb child labour.¹²⁵

To sum up, this chapter has highlighted the forces of change that have created in the Western world the concept of childhood innocence. This shift in perspective, labour reforms, continued technological advancement, and the growing availability of alternatives (especially schools) were the elements that finally put an end to child labour in Western countries. However, child labour in general and child soldiering in particular have not disappeared: they have simply moved out of the factories and ranks of Western countries and into the factories and armed forces of the poorest nations on Earth. According to Rosen, '[t]his shift, this change in place, is the setting for the modern cultural production of the image of child soldiers. Child soldiers now inhabit only one side of the great North–South socio-economic and political divide'.¹²⁶

The next chapter considers the role of humanitarian organisations in disseminating, conventionalising and naturalising the basic assumptions about child combatants. The main aim of the chapter is to analyse how and what kind of child soldiers are 'produced' by international organisations. In particular, I will show how creating a certain image benefits the existence and actions of NGOs and how they distort the children's voices to match the image that they want to convey.

¹²⁵ Ibid 8.

¹²⁶ Rosen, above n 11, 174.

CHAPTER V: NGO ENGAGEMENT WITH CHILD SOLDIERS AND POLITICAL SUBJECTIVITIES

1. Introduction

In the next three chapters, I will discuss the dominant narratives in relation to child soldiers advanced by humanitarian organisations, autobiography authors and international courts. I have chosen these contexts specifically because they provide the most explicatory examples of the utilitarian purpose of representation.¹ In this chapter and the two that follow, I will analyse how the children's stories are filtered through these lenses and I will discuss what types of narratives are created by these interactions. In particular, from these chapters it will emerge how each particular setting leads to a different narrative: legal narratives are constructed around the concept of the value of children as proof, while in non-judicial proceedings it is their value as truthful history. In NGOs,² the aim is the confirmation of the rights discourse, while in autobiographies it is the commercial selling of the children's stories. The overall purpose of these three chapters is to show how the representation context distorts the voice of the children, closes down pathways for its expression, and, ultimately, disempowers the children.

This chapter considers the role of humanitarian organisations in disseminating, conventionalising and naturalising the basic assumptions about child combatants. The main aim of this chapter is to analyse how and what kind of child soldiers are 'produced' by international organisations, revolving around two central concerns.

¹ See chapter I.

² I understand NGOs to be non-state and non-profit organisations that have clearly stated purposes and legal personality in at least one country, and that pursue their goals in non-violent ways. Most of the NGOs under scrutiny in this chapter are transnational NGOs, which are registered and/or active on the issue of child soldiers in more than one country.

First, how does the NGOs' interest in child soldiers translate into the nature of their engagement and the services they provide? Second, what kind of political subjectivities are produced by human rights experts? In particular, this chapter aims at showing how creating a certain image benefits the existence and actions of NGOs, and how they distort the children's voices to match the image that they want to portray. In analysing the approach of NGOs to child soldiers, I refer to Kapoor's interpretation of representation as the merging of two related but discontinuous meanings: '(1) "speaking for" in the sense of political representation; and (2) "speaking about" or "re-presenting" in the sense of making a portrait'.³ I strongly agree with Kapoor, Colvin, Madlingozi and other authors in stating that, since 'the international organisations industry chiefly operates on the basis of these kinds of representations, any discussion of "responsibility to the story" should seriously engage with the political implications of these representations'.⁴

In this chapter, I comprehensively explore the engagement of humanitarian organisations with child soldiers. In section 2, I present the political motivations that drive NGOs to interact with youth combatants and the ways in which these children become a commodity for the organisations. In particular, I discuss the influence of the human rights discourse, advocacy and fundraising needs on the development of the representation of child soldiers.

In section 3, I analyse how humanitarian organisations manufacture an image of child combatants in order to justify their own existence, legitimacy and activities. At the end of this section, it will be clear how the most suitable image for NGOs to broadcast is, once again, that of the helpless victim in desperate need of aid from relief organisations and the donor community.

This leads to section 4, where I discuss how the voices of child soldiers are distorted by NGOs in order for the children to fit the image that the organisations need to broadcast. Here, I debate the practice by humanitarian organisations of

³ Ilan Kapoor, 'Hyper-self-reflexive Development? Spivak on Representing the Third World "Other"' (2004) 25(4) *Third World Quarterly* 627, 628 quoted in Tshepo Madlingozi, 'On Transitional Justice Entrepreneurs and the Production of Victims' (2010) 2(2) *Journal of Human Rights Practice* 208, 210.

⁴ Madlingozi, above n 3, 210. See also Christopher J. Colvin, 'We Are Still Struggling': Storytelling, Reparations and Reconciliation after the TRC' (Centre for the Study of Violence and Reconciliation, 2000) <<http://www.csvr.org.za/docs/trc/wearestillstruggling.pdf>>.

‘speaking on behalf of’ children and other disempowered individuals, allegedly for their own benefit. In reality, as this section highlights, this action only perpetuates the cycle of victimisation and disempowerment of child soldiers.

I proceed then in section 5 to discuss how NGOs ‘speak about’ children, by trying to exercise responsibility to the story through references to child soldiers’ autobiographies and other first-person accounts. However, as this section shows, the engagement of these organisations with the children shapes and edits the content of these publications, which, in turn, impacts negatively on their legitimacy and validity.

Finally, in section 6, I discuss the political subjectivities created by the interaction of NGOs with the narratives of child soldiers. In particular, I discuss how one of the assumptions of this engagement – that children are empowered and move from dependency to agency – meets reality. This chapter shows that a specific type of narrative emerges from NGOs: one that pushes through campaigns, reports, programs and websites a very clear story about child soldiers, arguing for the human rights dimension.

2. The ‘Development of Representation’ and the Legitimacy of Activities

A typical NGO is a not-for-profit organisation which aims at furthering political or social goals, developing programs and raising funds on behalf of certain beneficiaries, usually independently from any government.⁵ Usually NGOs’ day-to-day programs are run by a mix of paid staff and volunteers, while decisions on policies and operations activities are generally made by board of directors.⁶ Although the majority

⁵ Madlingozi, above n 3, 221.

⁶ Take, for example, Save the Children. As stated in the organisation’s ‘Global Accountability Report 2014’, ‘Save the Children is made up of 30 separate national entities, each of which is a member or associate member of the Save the Children Association, and Save the Children International, which manages country, regional and advocacy offices. Save the Children has a combined revenue of over US\$2 billion, works in approximately 120 countries, and has approximately 25,000 staff members around the world. The Save the Children Association is made of 26 full members with voting rights and full membership dues, four associates without voting rights and a minimal flat fee for dues, 16 members that conduct international programs outside their national borders (IP members), and four members whose annual revenue qualifies them for one or more board seats’. For more information, see Save the Children, ‘Save the Children Global Accountability Report 2014’ (Save the Children, 3

of these organisations are independent from governments, thanks to their growing power in the international arena they 'often function as political actors, pursuing specific political agendas'.⁷ Consequently, although the work that humanitarian organisations do is frequently portrayed as 'a form of altruism, a charitable act that enables wealth to flow from rich to poor, poverty to be reduced and the poor empowered',⁸ such claims tend to be 'shibboleths, catch phrases that distinguish believers from doubters. Indeed, they are utterances of belief. At best they are half-truths'.⁹

As has been discussed elsewhere in this thesis, according to Spivak, our discursive constructions are intimately linked to our socio-economic, gendered, cultural, geographic, historical and institutional positioning,¹⁰ which inevitably influence the reasons behind our representations. If the many other organisations involved in the release, rehabilitation and reintegration of child soldiers become involved with child soldiers in order to increase their knowledge so as to better help them, many scholars¹¹ warn that such noble and altruistic claims are never just that:

[K]nowledge is always imbricated with power, so that getting to know (or 'discursively framing') the Third World is also about getting to discipline and monitor it, to have a more manageable Other; and helping the subaltern is often a reaffirmation of the social Darwinism implicit in 'development', in which 'help' is framed as 'the burden of the fittest'.¹²

As this chapter shows, this heavily influences their framing and compromises the legitimacy of their representations.

November 2015)
<<https://i.stci.uk/sites/default/files/stci%20accountability%20report%20final%20031115.pdf>>, 5-9.

⁷ David M. Rosen, 'The Politics and Culture of Childhood Vulnerability' in David M. Rosen (ed), *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015) 185.

⁸ Issa G. Shivji, *Silences in NGO discourse: The role and future of NGOs in Africa* (Fahamu – Networks for Social Justice, 2007) vii.

⁹ David Sogge, *Give and Take: what's the matter with foreign aid* (Zed Books, 2002), quoted in Shivji, above n 8.

¹⁰ Gayatri Chakravorty Spivak and Rosalind C. Morris, *Can the subaltern speak?: reflections on the history of an idea* (Columbia University Press, 2010).

¹¹ Kapoor, above n 3; Spivak and Morris, above n 10; Arturo Escobar, *Encountering development: the making and unmaking of the Third World* (Princeton University Press, 1995); Edward W. Said, *Culture and imperialism* (Knopf, 1993).

¹² Kapoor, above n 3, 632.

As NGOs have become increasingly influential in the specific issue of ending child soldiering, 'their legitimacy¹³ and accountability¹⁴ have become issues of concern to academic researchers, public commentators and activists alike'.¹⁵ Some authors still see NGOs as legitimised by their mission and their achievements, and by the noble, altruistic and progressive goals that they pursue, or the contribution that they make to the common good.¹⁶ On the contrary, others have begun to question their 'representativeness', the democratic quality of their internal procedures, and their external accountability.¹⁷ Since NGOs base their activities, to a large extent, upon the claim that they are speaking for disempowered populations, some authors question whether they are, in fact, acting for the benefit of these persons, especially when the NGOs' beneficiaries are in the developing world and the NGOs are based in industrialised countries.¹⁸

¹³ In the social sciences, the term 'legitimacy' is used in both a normative and an empirical sense. In the normative sense, legitimacy refers to the conditions under which power is rightfully exercised. In a purely empirical sense, by contrast, legitimacy refers to the conditions under which persons or institutions in power manage to gain acceptance and support from the people they rule over. Legitimacy in this sense is a concept that captures the beliefs of people and the actions motivated by those beliefs. Since some normative concepts extensively discussed by theorists also inform the judgments of citizens (democracy, for example), the two notions of legitimacy are obviously related. The notion of organisational legitimacy can provide a conceptual umbrella under which accountability and representation may be subsumed. It is quite clear that accountability and representation are necessary elements, or at least important aspects, of organisational legitimacy. See Jens Steffek, Kristina Hahn and Connect Palgrave, *Evaluating transnational NGOs: legitimacy, accountability, representation* (Palgrave Macmillan, 2010).

¹⁴ Generally speaking, accountability refers to a process in which power-holders are required to explain and justify their conduct towards an audience that can pose questions and that has the ability to impose some form of sanction.

¹⁵ Steffek, Hahn and Palgrave, above n 13, 1.

¹⁶ T. Risse, 'Transnational Governance and Legitimacy' in A. Benz and Y. Papadopoulos (eds), *Governance and Democracy* (Routledge, 2006) 179.

¹⁷ Louise Amoore and Paul Langley, 'Ambiguities of Global Civil Society' (2004) 30(1) *Review of International Studies* 89; Vivien Collingwood and Louis Logister, 'State of the Art: Addressing the INGO 'Legitimacy Deficit'' (2005) 3(2) *Political Studies Review* 175; Ann Florini, 'Is Global Civil Society a Good Thing?' (2004) 21(2) *New Perspectives Quarterly* 72; Jan Aart Scholte, 'Civil Society and Democratically Accountable Global Governance' (2004) 39(2) *Government and Opposition* 211; Steve Charnovitz, 'Accountability of Non-Governmental Organizations (NGOs) in Global Governance' (Paper presented at the Conference on Global Administrative Law, NYU Law School, 22-3 April 2005); Anton Vedder, '"Non-State Actors" Interference in the International Debate on Moral Issues - Legitimacy and Accountability' in Anton Vedder (ed), *The WTO and Concerns Regarding Animals and Nature* (Wolf Legal Publishers, 2003) 173.

¹⁸ Alan Hudson, 'Making the Connection. Legitimacy Claims, Legitimacy Chains and Northern NGOs' International Advocacy' in David Lewis and Tina Wallace (eds), *New roles and relevance: development NGOs and the challenge of change* (Kumarian Press, 2000) 89.

Next, I will proceed to analyse how international organisations and institutions create their own representations of child soldiers. In particular, I will analyse the sources of their perspectives, their motivations (rights, welfare, security), and how this interest translates into the nature of their engagement and the services they provide to (former) child soldiers.

2.1. Political Motivation and the Crafting of NGO Dogma

From an analysis of their websites and publications, it appears that NGOs see themselves as moral agents acting on behalf of others in an altruistic way, while they characterise their beneficiaries as helpless, passive and unable to speak for themselves – in one word: victims.¹⁹ This duality of representation has very practical consequences within the relationship between institutions and children. Indeed, both governments and other stakeholders – such as aid workers, NGO officials and scholars – claim the right to speak for victims not because they have been asked to do so, but because of their geopolitical and institutional privilege. Institutions and organisations ‘seek out the victims, categorise them, define them, theorise them, package them, and disseminate them on the world stage’.²⁰ In what has been referred to as cultural imperialism, which will be further explored later in this chapter, humanitarian organisations retrieve information from the Other ‘not to encounter the Third World on its own terms, but for other, usually First World, purposes’.²¹ As a consequence, they reinforce their status as ‘the authoritative knower[s] ordained to teach, civilize and rescue the disadvantaged, unfortunate victim’.²²

As Madlingozi presents, ‘[t]he “theft of victim” pain’ is mostly recurrent in the work of international non-governmental organizations (INGOs) concerned with lobbying and advocacy in the area of transitional justice’,²³ which requires them to ‘speak about and for victims with the aim of inviting others to do something to end

¹⁹ See, for example, Save the Children <<http://www.savethechildren.net/>>.

²⁰ Madlingozi, above n 3, 211.

²¹ Kapoor, above n 3, 633.

²² Madlingozi, above n 3, 211.

²³ Ibid.

victims' suffering'.²⁴ As seen already, it has been advanced by Mutua and other authors that this NGOs' practice can echo colonial impulse to enlighten the Third World: 'Once again, the allegedly superior Europeans and North Americans descend on supposedly backward natives in the Third World with the human rights mission to free them from the claws of despotic governments and benighted cultures'.²⁵ Further, this idea of victims being between the two fires of 'the ogre' (the state) on one side and the 'redeemer, the good angel' (NGOs) on the other, is summarised by Mutua in what he calls the 'savages-victims-saviours (SVS) construction'.²⁶ Indeed, human rights, as law and discourse, comprise what has been described as a 'cultural package ... of basic assumptions about the individual and his relationship to society' that 'present[s] political democracy, and its institutions of governance, as the sine qua non for a victimless society'.²⁷

As introduced already, in line with the second assumption of this thesis,²⁸ despite their attempts to promote the image of benevolence and neutrality, some NGOs have very materialistic and practical interests in representing child soldiers in particular ways. Some of the most identifiable biases of the humanitarian narrative²⁹ are found in relation to the human rights discourse, advocacy and fundraising, which are the foundation of the legitimacy and activities of most humanitarian organisations. This section examines how these biases may mould the production and dissemination of knowledge about child soldiers and may invest these representations with powerful public appeal.

²⁴ Ibid.

²⁵ Makau Mutua, *Human Rights: A Political and Cultural Critique* (University of Pennsylvania Press, 2002)205, quoted in Madlingozi, above n 3, 211.

²⁶ Ibid 112.

²⁷ Makau Mutua, 'Savages, victims, and saviors: the metaphor of human rights' (2001) 42(1) *Harvard International Law Journal* 201, 237.

²⁸ See chapter I.

²⁹ According to Martinez and Libal, '[t]he establishment of narrative conventions for the representation of suffering was historically central to the emergence of the humanitarian project, broadly construed as the mobilisation of sympathy for humans in severe distress, as well as the development of measures aimed at preventing needless suffering. One guiding principle of that project has been that, to be effective, humanitarian representations must provide a detailed description of an identifiable victim'. See Samuel Martinez and Kathryn Libal, 'Introduction: The Gender of Humanitarian Narrative' (2014) *Humanity* <<http://humanityjournal.org/issue2-2/introduction-the-gender-of-humanitarian-narrative/>> 162.

In relation to the first aspect, human rights-based organisations advocate for the protection of children's rights, for their basic needs to be met, and for better opportunities to reach their full potential as part of a larger program. Indeed, they also help to campaign and lobby 'to change the legal and policy framework of States Parties and to improve understanding of the Convention itself at all levels of society',³⁰ and to ensure that the local, national and international bodies respect laws and conventions.³¹ Organisations that apply this approach to programming – such as UNICEF,³² Human Rights Watch³³ and Amnesty International³⁴ – view human rights norms and standards as the primary frame of reference for everything they do. Consequently, guided by the provisions and principles of the Convention on the Rights of the Child, their mission is to advocate for the protection and promotion of children's rights around the world.³⁵

As in the case of children in courts, which will be discussed in chapter VI, human rights-based programming and legitimacy influence a certain portrayal of child soldiers. Just like children and courts, children and NGOs also have a complex relationship of power and authority, where professionals have control over minors who are the faces – more than the voices – for the existence of the organisations. Children's rights are conditional on this power relationship. However, as this and the

³⁰ United Nations Children's Fund (UNICEF), *Human Rights-based Approach to Programming* <<http://www.unicef.org/policyanalysis/rights/>>.

³¹ In particular, they support ratification and implementation of the Convention on the Rights of the Child; the Optional Protocol on the Involvement of Children in Armed Conflict; the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; and the new Optional Protocol on a Communications Procedure, which allows individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols.

³² United Nations Children's Fund (UNICEF), <<http://www.unicef.org>>.

³³ Human Rights Watch, <<https://www.hrw.org>>.

³⁴ Amnesty International <<http://www.amnesty.org/>>.

³⁵ For example, 'Human Rights Watch is a nonprofit, nongovernmental human rights organization made up of roughly 400 staff members around the globe, ... including country experts, lawyers, journalists, and academics of diverse backgrounds and nationalities. Established in 1978, Human Rights Watch is known for its accurate fact-finding, impartial reporting, effective use of media, and targeted advocacy, often in partnership with local human rights groups. Each year, Human Rights Watch publishes more than 100 reports and briefings on human rights conditions in some 90 countries, generating extensive coverage in local and international media. With the leverage this brings, Human Rights Watch meets with governments, the United Nations, regional groups like the African Union and the European Union, financial institutions, and corporations to press for changes in policy and practice that promote human rights and justice around the world'. Human Rights Watch, above n 33.

next chapters will point out, a 'rights' approach to the child soldiering phenomenon may do little more than conceal the nature of the problem without taking any actual action to put an end to it. Children's voices and their experiences during the conflict must be taken into consideration in transitional justice and post-war programs, not just in name but also in practice. The approach of many organisations to child soldiers solely as innocent victims of unlawful recruitment,³⁶ on the contrary, may result in the children being victimised and excluded and their voices being muzzled.³⁷

In relation to advocacy and fundraising, the numerous campaigns that have been launched over the years rely predominantly on two aspects:³⁸ eliciting people's sympathy and compassion through compelling images and stories of children involved in armed conflicts; and encouraging people to feel part of the issue and useful to the cause by making a donation. In order to exist and to function, non-profit organisations rely on a variety of sources for funding projects, operations, salaries and other overhead costs. Since the annual budget of an NGO can be in the hundreds of millions (or even billions) of dollars, fundraising efforts are important for its existence and success. However, in order to elicit the necessary sympathy and mobilise the community, aid and assistance programs rely on compelling images and words based on one portrayal: children as victims in need of help.³⁹ As chapter III has already shown,

[a]n important requirement for eliciting sympathy is the construction of a victim who is 'spontaneously acceptable to Western viewers in his or her own right'. Acceptability is dictated foremost by '100% victim status' – the symbolic victim must be seen as entirely

³⁶ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 38; *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, opened for signature 25 May 2000, 2173 UNTS 222 (entered into force 12 February 2002) art 3.

³⁷ See the next section.

³⁸ For example, the campaign 'Kony 2012' launched by Invisible Children; 'Somalia: Child Soldiers' launched by Human Rights Watch; 'Child Soldiers Campaign' launched by Amnesty International. Inevitably, the interest and work of NGOs is seasonal: depending on which political crises and natural disasters happen around the world, humanitarian organisations will campaign about one issue over another. The apex in popularity of the topic of child soldiering within NGOs was probably reached in 2012 following the broadcasting of the film *Kony 2012*, which received more than one hundred million views on YouTube. Currently, only Amnesty International has an active campaign on the issue.

³⁹ David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005) 1.

lacking agency; s/he must be both unable to help her/himself and an equivocal nonparticipant in the political events from which his/her misery results.⁴⁰

Thus, humanitarian organisations rely on images and portrayals of child soldiers as innocent and helpless victims, because this image compels and mobilises like no other. It is fair to say that if NGOs were to portray and present former child soldiers as dangerous criminals or irreversibly scarred young adults, they would receive far less support in terms of donations and legitimacy.

In this regard, it is essential for the organisations to be perceived as legitimate. Ultimately, 'NGOs, by their very nature, derive not only their sustenance but also their legitimacy from the donor community'.⁴¹ Indeed, the legitimacy of NGOs comes from two separate factors. The first factor is the claim to work in the best interests of the children, which in turns 'enables NGOs to successfully mobilise membership adherence, funding and public support. In contrast, a lack of perceived legitimacy, or a lack of support towards a specific cause, would lead to disinterest or even resistance against their activities'.⁴² The second factor is that humanitarian organisations legitimise their whole existence on the basis of speaking about and for victims⁴³ – in this case, child soldiers – around the world. The consequence of this need for support and legitimacy is that, no matter what the approach is and the reason that drives NGOs to take an interest in child soldiers, these organisations will always consider and portray children involved with armed forces or armed groups as victims. They are victims in need of immediate help, victims in need of legal protection, and victims in need of global activism.⁴⁴

⁴⁰ Charli Carpenter, 'Women, children and other vulnerable groups: gender, strategic frames and the protection of civilians as a transnational issue' (2005) 49(295) *International Studies Quarterly* 316 (citing Braumann), quoted in Mark A Drumbl, *Reimagining Child Soldiers in International Law and Policy* (Oxford University Press, 2012) 37.

⁴¹ Shivji, above n 8, 31.

⁴² Steffek, Hahn and Palgrave, above n 13, 13.

⁴³ See the next sections.

⁴⁴ See, for example, *Somalia: Child Soldiers* (Produced by Human Rights Watch, 2012) <<https://www.youtube.com/watch?v=XxC5XbR0oGI>>; *Child Soldier Campaign* (Directed by Amnesty International, 2012) <<https://www.youtube.com/watch?v=YH19-IZ52HY>>.

3. The Complex Relationship between NGOs and Child Soldiers

During an armed conflict, humanitarian organisations are the first stakeholders to step in and interact with child soldiers; in the aftermath of a conflict, NGOs are the external actors⁴⁵ with the closest and most consistent relationship with young ex-combatants. Consequently, the connection between child soldiers and humanitarian organisations is a crucial one in the analysis of representation. Since these organisations and institutions are responsible for ‘the formal rehabilitation and reintegration programs for child soldiers,⁴⁶ ... to some extent they create the identity ‘child soldier’ as something with strategic value in postwar’.⁴⁷

I refer here to Shepler’s theory that, in many cases, the strategic representation and self-presentation of child soldiers is influenced by Western models and NGO practices. Indeed, following Shepler’s analysis, in many conflict realities the notion of ‘child soldier’ is created at the intersection of several different contexts, including

local and global models of childhood, in social practice, between partially determining structures⁴⁸ and personal agency’.⁴⁹ The ‘child soldier’ identity is made in and around institutions in multiple and sometimes contradictory ways. The ideological underpinnings of these institutions and organisations is a Western, individualistic framework, yet the actual effects are to be found [in local communities] interacting with (making and remaking) the institutions – that is, the effects are in social practice.⁵⁰

⁴⁵ External to the children’s family and immediate community.

⁴⁶ United Nations Children’s Fund (UNICEF), *Child soldiers* <<http://www.unicef.org.au/Discover/News/March-2012/Child-Soldiers.aspx>>; Daniel T. Cook and John Wall, *Children and Armed Conflict: Cross-Disciplinary Investigations* (Palgrave Macmillan); Child Soldiers International, *Child Soldiers Global Report 2008 - Congo, Democratic Republic of the* <<http://www.refworld.org/docid/486cb0f5c.html>>.

⁴⁷ Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 104.

⁴⁸ Such as current and historical local practices regarding childhood and youth and the Western model of childhood.

⁴⁹ That is to say, children and adults using the Western model of childhood for their own purposes.

⁵⁰ Shepler, above n 47, 83. In relation to the construction of child soldiers, this begins with the labelling of all child soldiers as innocent helpless victims by external stakeholders according to the dynamics analysed in this thesis. Subsequently, this definition comes to have physical and material effects, shaping policies and programs and influencing the roles that former child soldiers take once they have demobilised. Finally, this label is internalised by the children, who reinterpret their experiences in light of this portrayal, and it influences their definitions with their families, local communities and external stakeholders.

As seen already in chapter I and again in chapter III, one of the assumptions of this thesis is that actors relate to and represent child soldiers on the basis of their own interests: consequently, child soldiers become a tool in order to pursue these interests. As the previous section has shown, NGOs have, above all other stakeholders, the most obvious connection between motive and representation. In their respective areas of competence and interest, each actor produces and reproduces portrayals of child soldiers,⁵¹ and, as chapter III has shown, the most popular image among NGOs is that of the helpless innocent victim, blameless of wrong and stripped of all agency.⁵² This chapter will shed some light on the use of this portrayal by humanitarian organisations.

It is worthwhile to remember here, as discussed already, how the innocent victim image championed by humanitarian organisations is only a partial representation of reality. However, this limited and one-dimensional portrayal is relevant when considering the original purpose for the use of the image by NGOs: not to describe the actual experience of child soldiers, but to advocate the rights of all children. For this reason, in NGO advocacy activities aimed at protecting children in armed conflicts, the image of child soldiers as quintessential victims is highly visible.⁵³ Considering the ideological contrast between the concepts of *childhood* in Western countries and *child soldier*,⁵⁴ the image of child combatants works as a tool to advocate the rights of the child and the norm that children should be protected by adults and by laws.⁵⁵

⁵¹ Okano Hideyuki, 'Too extreme to be True: Unshared Images of Soldiers in Sub-Sahara Africa' in Helga Embacher (ed), *Children and war: past and present* (Helion & Company Ltd, 2013) 190, 190.

⁵² See chapter III for more information on this portrayal.

⁵³ Hideyuki, above n 51, 193. See, for example, Maren Burkhardt, *Victim participation before the International Criminal Court* (Humboldt-Universität zu Berlin, Juristische Fakultät, ; United Nations Children's Fund (UNICEF), *Child recruitment by armed forces or armed groups* <http://www.unicef.org/protection/57929_58007.html>; United Nations Children's Fund (UNICEF), *Protecting children from violence, exploitation and abuse* <http://www.unicef.org/protection/57929_57972.html>.

⁵⁴ In the concept of universal childhood, children are subjects who should be protected by adults. On the other hand, the concept of child soldiers emphasises that they are not protected, but they are exploited and abused.

⁵⁵ Hideyuki, above n 51, 194.

In this context, the universality and victimhood of child soldiers play a very strategic role in order to justify the validity of the representation,⁵⁶ and are exploited by humanitarian organisations in order to draw attention on the ‘universality of children’s suffering.’⁵⁷ Thus, for NGOs the concept of child soldiering is ‘a tool for sensitisation’.⁵⁸ As this chapter will show, whether it is through ‘fact-finding’ reports, conference papers, academic journal articles, field notes or funding proposals, the core task of an aid agency is to speak about or for victims – in this case, child soldiers. Additionally, by theorising the field, setting the agenda, legitimising what constitutes an appropriate ‘victim’ for their work, influencing the flow of financial resources, and assisting governments in transition, relevant local NGOs and other grassroots organisations ultimately not only represent and speak for victims but also ‘produce’ the victim.⁵⁹ As already discussed in this thesis,⁶⁰ the child soldier’s victim identity is often the result of the interaction between child ex-combatants and humanitarian personnel in the context of after-war programs. Until then, the children usually do not perceive themselves in these terms, nor are they considered as such by their families and communities.⁶¹

Consequently, as in the case of courts, the relationship between children (and, in particular, child soldiers) and humanitarian organisations is also characterised by power and authority, as opposed to rights. However, while tribunals recognise the need for children to be involved and given voice, in the relationship with NGOs there is a constant muzzling of the children’s voices (figure 2). Indeed, as this chapter will

⁵⁶ In considering issues of ‘representation’ and ‘realism’, references to the visual are inevitable. Yet, in the current Western episteme, the relationship between the visible and the readable constitutes an enduring problem in which the image is generally subordinate to the text. Thus, in the case of NGOs, compelling images that invoke pity and compassion are common features of all campaigns and calls for action. For more on the impact of visual representation, see Cate Watson, ‘Picturing Validity: Autoethnography and the Representation of Self?’ (2008) 15(3) *Qualitative Inquiry* 526.

⁵⁷ Hideyuki, above n 51 citing Rachel Brett and M. McCalling, *Children: the Invisible Soldiers* (Radda Barnen, 1998).

⁵⁸ Hideyuki, above n 51, 194–5

⁵⁹ Colvin, above n 4. See the beginning of this section.

⁶⁰ See, for example, chapter III, in addition to the beginning of this section.

⁶¹ See, for example, the autobiographies Ishmael Beah, *A Long Way Gone: Memories of a Boy Soldier* (Sarah Crichton Books, 2007); Emmanuel Jal, *Warchild: A Boy Soldier's Story* (Abacus, 2009); China Keitetsi, *Child soldier* (Souvenir Press, 2004); Niromi De Soyza, *Tamil tigress: my story as a child soldier in Sri Lanka's bloody civil war* (Allen & Unwin, 2011).

show, the representation of child soldiers by humanitarian organisations requires that the children's voices and images are ignored.⁶²



Figure 2: UNICEF infographic on children associated with armed forces or armed groups.⁶³

Therefore, the next section will show how this identity – this labelling of child soldiers as quintessential victims – necessarily translates into the nature of the engagement of humanitarian organisations with former child combatants. In the next section, I will focus on the NGO practice of speaking for others and, in Madlingozi's words, debate 'whether it is ever legitimate for others to speak about or for the victim'.⁶⁴ This will also address the more general – and perhaps important – question of whether the victim, in this case child soldiers, is ever able to speak for himself.

⁶² This is why the relationship between these two actors constitutes the first of the analyses undertaken respectively in chapters V, VI and VII: the rapport between children and NGOs offers the clearest example of that subsumption.

⁶³ United Nations Children's Fund (UNICEF), above n 53.

⁶⁴ Madlingozi, above n 3, 210.

4. 'Speaking for' and the Legitimacy of Representation

Politics begins when one decides not to represent victims ... but to be faithful to those events during which victims politically assert themselves.

— Alain Badiou⁶⁵

Regarding the practice of 'speaking for others', Alcoff poses the following question: 'Is the discursive practice of speaking for others ever a legitimate practice, and if so, what is the criterion for its validity? In particular, is it ever valid to speak for others who are unlike me, or who are less privileged than me?'⁶⁶ Kapoor takes the issue even further and raises the following questions:

What are the ethic-political implications of our representations for the Third World, and especially for the subaltern groups that preoccupy a good part of our work? To what extent do our depictions and actions marginalise or silence these groups and mask our own complicities? What social and institutional power relationships do these representations, even those aimed at 'empowerment', set up or neglect?⁶⁷

This section aims at answering these questions in relation to NGOs speaking for child soldiers. In particular, I first explore how humanitarian organisations muzzle the children's voices in an act of further victimisation and disempowerment, and then how they claim legitimacy and responsibility to the story.

4.1. Voice Muzzling and Victimisation

As chapter III has already argued, child soldiers are presented in many contrasting ways by different stakeholders. On the one hand, they are portrayed as helpless victims, brainwashed and forced to fight by irresponsible adults;⁶⁸ on the other hand, they are depicted as rational agents who 'choose to fight with their eyes open, and

⁶⁵ Alain Badiou, *Peut-on penser la politique?* (Seuil, 1985) 20, quoted in Michael Neocosmos, 'Political Subjectivity and the Subject of Politics: Thinking Beyond Identity from the South of Africa' (2012) 47(5) *Journal of Asian and African Studies* 465, 466.

⁶⁶ Linda M. Alcoff, 'The Problem of Speaking for Others' (1991) 20 *Cultural Critique* 5, 7 quoted in Madlingozi, above n 3, 210.

⁶⁷ Kapoor, above n 3, 628 quoted in Madlingozi, above n 3, 210.

⁶⁸ Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 7.

defend their choice, sometimes proudly'.⁶⁹ Or again, child soldiers are demonised as dangerous youth irrevocably scarred by violence, or they are idolised as patriotic heroes. Each representation legitimises the other: one purports to be a social mission, saving innocent children from cruel adults; the other a reward, allowing the children to fight for the cause they believe in. But all the while, the children's own voices are ignored. As this and the next chapters show, the figure of the child soldier disappears. There is no space from which the child can speak and, even when he does, he cannot be heard.

As Madlingozi rightly points out, '[i]t is true that in some post-conflict situations or in circumstances of prolonged authoritarianism, victims often lack the space or skills to speak for themselves'.⁷⁰ However, it is more common that stakeholders in charge of child soldiers and other victims claim the right to speak on their behalf, notwithstanding the children's ability or willingness to speak. Even though both state and other stakeholders⁷¹ who interact with child soldiers have their best intentions at heart,⁷² 'the practice of speaking for and about victims further perpetuates their disempowerment and marginality'.⁷³ The result is that not only is the victim in no better position after meeting them; actually, she could be further victimised by this encounter.⁷⁴ This is what Razack refers to 'as "stealing the pain of others", dehumanising victims further and reinstalling First Worlders as morally and racially superior in relation to them'.⁷⁵

According to Kennedy, NGOs' representatives' opportunity to genuinely connect with the victims they assist is hindered by 'the knowledge that they are heroic

⁶⁹ Krijn Peters and Paul Richards, 'Why We Fight: Voices of Youth Combatants in Sierra Leone' (1998) 8(2) *Africa: Journal of the International African Institute* 183, 183.

⁷⁰ Madlingozi, above n 3, 210.

⁷¹ These can include aid workers and NGO representatives, but also journalists, scholars and other researchers.

⁷² And they are often convinced to be acting in the children's best interests.

⁷³ Madlingozi, above n 3, 210.

⁷⁴ See, for example, Annex H: Interview with Shena Gacu.

⁷⁵ Sherene H. Razack, 'Stealing the Pain of Others: Reflections on Canadian Humanitarian Responses' (2007) 29(4) *Review of Education, Pedagogy, and Cultural Studies* 375 quoted in Madlingozi, above n 3, 211.

agents for an authentic suffering elsewhere'.⁷⁶ This 'voyeuristic and pornographic practice'⁷⁷ is for him 'the most despicable thing about using human rights as the language of emancipation and empowerment'⁷⁸ within the human rights discourse. It is a 'practice that, no matter how carefully or sensitively it is done, transforms the position of the "victim" in his or her society and produces a language of victimization for him or her to speak on the international stage'.⁷⁹ From this point of view, it is easier to see how the politics and culture of the international human rights movement can hinder the empowerment of victims rather than enhance it. Victims in general – in this case, child soldiers – do not get the chance to speak, their voices are muzzled and, when they do speak, others do not hear or understand them.⁸⁰ As a consequence, as the next chapter will explore further, these victims are relegated to the back of the action and their opinions are not taken into consideration, while others feel entitled to make decisions on their behalf.⁸¹

Further, as Neocosmos has argued, human rights discourse politics and practice are 'actually disempowering',⁸² replacing active citizenship and emancipation with statism and top-down delivery and producing 'passive citizenship dependent on power (states, empire, NGOs, etc.) for its existence'.⁸³ In the case of child soldiers and their communities, as we have seen in chapter III, these individuals quickly become reliant on the financial aspects of demobilisation, such as grants to build schools or for existing ones to enrol former child soldiers, or monetary incentives for local families willing to foster these children.⁸⁴

⁷⁶ David Kennedy, 'The international human rights movement: part of the problem?' (2002) 15 *Harvard Human Rights Journal* 101, 112 quoted in Madlingozi, above n 3, 212.

⁷⁷ Kennedy, above n 76, 121.

⁷⁸ Madlingozi, above n 3, 212 citing Kennedy, above n 76.

⁷⁹ Kennedy, above n 76, 121 quoted in Madlingozi, above n 3, 208.

⁸⁰ See the next chapter for more information on why the voices of child soldiers are muzzled.

⁸¹ See Annex H: Interview with Shena Gacu.

⁸² Madlingozi, above n 3, 213.

⁸³ Michael Neocosmos, 'Can a Human Rights Culture Enable Emancipation? Clearing the Theoretical Ground for the Renewal of a Critical Sociology' (2006) 37(2) *South African Review of Sociology* 356, 357 quoted in Madlingozi, above n , 213.

⁸⁴ Susan Shepler, 'The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone' (2005) 4(2) *Journal of Human Rights* 197, 202.

From this perspective, it is easier to see how the politics and culture of the international human rights movement can hinder the empowerment of victims rather than enhance it. According to a significant portion of the literature, the notion that oppressed people cannot fight for themselves produces a lack of agency and the idea that others must represent the victims generates trusteeship.⁸⁵ Finally then, despite victim empowerment being one of the declared goals of the human rights discourse, the victim produced 'is a helpless, passive victim dependent on others to speak for her and argue her case'.⁸⁶ In reality, attempts at speaking for the victim, enabling him to speak but without listening, or indeed reinterpreting what he says, 'can all too easily do the opposite: silence the victim'.⁸⁷

4.2. Legitimacy and Responsibility to the Story

It should be noted that many NGOs officials – as well as scholars and journalists – have the genuine good intention of helping the victims when they speak of and for them. In these instants, as Madlingozi puts it, 'they genuinely attempt to exercise "responsibility to the story"'⁸⁸ by claiming to report facts, quotes and thoughts in the most impartial way. However, how can someone even remotely understand the experience of a child soldier, unless he is a child soldier himself?⁸⁹ According to former child soldier Shena Gacu, this is an insurmountable obstacle between the researcher and the child soldier:

⁸⁵ Madlingozi, above n 3, 213. See also Neocosmos, above n 83; Mutua, above n 25; Robert Meister, 'Human Rights and the Politics of Victimhood' (2002) 16(2) *Ethics & International Affairs* 91.

⁸⁶ Madlingozi, above n 3, 213.

⁸⁷ Kapoor, above n 3, 639.

⁸⁸ Madlingozi, above n 3, 211.

⁸⁹ It is my opinion that in order to better create strategies to efficiently manage child soldiers, one must first really understand the children. Their background, the experience of soldiering, and the short- and long-term consequences are so peculiar that no one without a similar experience could ever claim to understand what they go through. Since, luckily, the vast majority of us do not live in a situation of armed conflict, the only way to gain this knowledge of the subject is to extensively research it by getting as close to the children as possible. For more information on the difficulty in 'knowing' the researched subject and understanding their narrative, see A. Krog, N. Mpolweni and K. Ratele, 'There was this goat; investigating the Truth Commission testimony of Notrose Nobomvu Konile' (0887-3763, University of KwaZulu-Natal, 2009).

It's because of our past, which they don't know about. It's only us who know what happened and what we used to survive, those who survived. And no one can sit there and tell you that they know us. Nobody knows us. It's us who know us. And nobody has the right to call us any names. They want to take control of our life. But they don't know how to take control of our lives, because they don't know us. They think they know us; this is very important. They want to pretend, to heal us. But how can they heal us if they don't know us?⁹⁰

When researchers travel to a different country to conduct research, they are faced with many challenges that hinder the relationship with the subjects of their studies. First, there is the cultural difference between them and their subjects, which influences crucial aspects of the research – such as age and gender-specific roles, the appropriateness of discussing certain topics, and so on. Second, rarely researchers speak the local language fluently enough that they do not need local translators or interpreters – which are themselves obstacles to the direct relationship between expert and subject. Additionally, there could be other constraints related to the type of work that the researcher is undertaking or the obligations included in the contract, such as article submissions – with annexed deadlines –, media interviews, “diplomatic” visits, and ‘the inherited ideological and theoretical baggage that they bring with them’.⁹¹ All restrictions that set the researcher apart from the ‘victim’, establish a relationship of inequality and superiority, and only contribute to the dehumanisation and disempowerment of the ‘victims’.⁹²

So, how can an expert speak on behalf of someone whom the expert does not know or understand? Well, according to Shena, it is not possible to do so.⁹³ Therefore, as anticipated already, one could argue that the relationship between foreign expert and a local victim is always one of power imbalance, that leaves the latter disempowered. According to Madlingozi, in this encounter, ‘the one is the victim and the other is the saviour [and] [p]olitics of disempowerment and trusteeship – with a heavy missionary slant – are reproduced’.⁹⁴ As Hahn shows in her literature, it is ‘the

⁹⁰ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

⁹¹ Madlingozi, above n 3, 211.

⁹² Kopano Ratele, 'Postcolonial African Methods and Interpretation' in Martin Terre Blanche, Kevin Durrheim and Desmond Painter (eds), *Research in Practice: Applied Methods for the Social Sciences* (University of Cape Town Press, 2008) 538.

⁹³ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

⁹⁴ Madlingozi, above n 3, 213.

self-assumed privilege of advocacy groups to speak for or on behalf of someone [that] creates relationships of power and domination'.⁹⁵ It is therefore fair to ask that if 'the story' is the entry point to appropriation, "theft of pain" and cultural imperialism, what is the expert's responsibility'?⁹⁶ While for Madlingozi it 'should certainly extend beyond issues of ethics in research and advocacy, ... and encompass the kinds of political subjectivity that it produces',⁹⁷ it is my opinion that the NGOs' legitimacy of representation is compromised by their political motivations – and the different 'off limits' representations with which they do not engage.⁹⁸ As I have shown already, we cannot encounter the Other without carrying a lot of baggage, as our discursive constructions are intimately linked to our socio-economic, gendered, cultural, geographic, historical and institutional positioning.⁹⁹ According to Spivak, it is dangerous to assume that the relationship between First and Third World could ever be one of balance and equality: as our encounters are inevitably pre-determined by our cultural understanding and positioning, as well as our prejudices and expectations of the other,¹⁰⁰ this unavoidably influences our legitimacy of representation.

Indeed, NGOs' representations are 'determined by [their] favourable historical and geographic position, [their] material and cultural advantages, and [their] identity as privileged Westerner or native informant'.¹⁰¹ As Kapoor argues, when these organisations, 'naively or knowingly, disavow their complicity or pretend they have no "geo-political determinations"', they do the opposite of concealing themselves: they privilege themselves'.¹⁰² As discussed above and detailed further below, when NGOs claim the rights to speak on behalf of the victim-other, they also perpetuate notions of superiority and inferiority, they disempower the disadvantaged and ultimately cause

⁹⁵ Steffek, Hahn and Palgrave, above n 13, 102.

⁹⁶ Madlingozi, above n 3, 213.

⁹⁷ Ibid.

⁹⁸ In chapter III, we saw how the 'helpless victim' is the most commonly broadcast image by NGOs, to the exclusion of all other possible representations.

⁹⁹ Spivak and Morris, above n 10.

¹⁰⁰ Ibid cited in Kapoor, above n 3, 631.

¹⁰¹ Kapoor, above n 3, 631.

¹⁰² Ibid.

more harm the same 'victim' they are allegedly trying to help. As Linda Alcoff writes, '[t]hrough the speaker may be trying to materially improve the situation of some lesser-privileged group, the effects of her discourse is to reinforce racist, imperialist conceptions and perhaps also to further silence the lesser-privileged group's own ability to speak and be heard'.¹⁰³

Considering the conscious or unconscious muzzling of the children's voices by NGOs, one attempt to let child soldiers 'speak for themselves' has been through autobiographical narratives. Without anticipating what will be presented in this regard in chapter VII, in the following section I will examine how the voice of NGOs encounters that of child soldiers. I shall argue that enabling child soldiers to speak does not necessarily mean that their voices are heard: on the contrary, child soldiers' narratives are commodified by NGOs.

5. 'Speaking about' and the Encounter with Child Soldier Narratives

One of the reasons to let child soldiers to speak is to permit them to 'express, enhance, share and analyse their knowledge of life and conditions, to plan and to act'.¹⁰⁴ Allowing children to speak for themselves is not only empowering, but it sets in motion a process where 'outsiders become facilitators of a participatory process, in which the "poor, weak, vulnerable and exploited ... come first"'.¹⁰⁵ However good-intentioned this bottom-up practice may seem, Kapoor warns that

this approach is nonetheless naive in believing that the child actually can speak. Indeed, this idea rests crucially on the notion that allowing children to speak up helps make their voice transparent so that humanitarian organisations can hear it and represent the desires and interests of child soldiers.¹⁰⁶

However, as we have already seen in section 2 of this chapter, NGOs have their own agenda and interests to pursue and, in doing so, they often use children's voices.

¹⁰³ Alcoff, above n 66, 26 quoted in Kapoor, above n 3, 631-2.

¹⁰⁴ Kapoor, above n 3, 636.

¹⁰⁵ Ibid quoting Robert Chambers, *Whose reality counts?: putting the first last* (Intermediate technology Publications, 1997) 54.

¹⁰⁶ Kapoor, above n 3, 636.

Consequently, there has been a proliferation of child soldiers' fiction and fictionalised texts 'that speak overtly to human rights claims, situating their position within the theoretical frameworks of transnational witness literature'.¹⁰⁷ However, the agendas of NGOs are not always compatible with the children's needs: so, what happens when the two are not on the same track? What is the NGOs' reaction when the children do not say what other stakeholders want or need them to say? According to Kapoor, 'far from being neutral relays, [NGOs] filter, reinterpret, appropriate, hijack the subaltern's voice'.¹⁰⁸ Indeed, even when the child-victims can speak, they (like anyone) may not perform the roles that their own communities, the facilitators and the funding agencies expect of them.¹⁰⁹ As a result, the humanitarian organisations – which need the children to play a certain role in order to justify their activities, their funding and even their own existence – may encourage the children to modify or exaggerate their speech in order to please the funder.¹¹⁰

One may assume that allowing child soldiers to tell their own stories would get around this problem, but the reality is that victims' stories are framed, edited and presented in specific ways that achieve the purpose for which they are obtained in the first place. As chapter VII will discuss in more detail, it is worth pointing out how the victimhood specificity of the child soldiers in human rights and humanitarianism is particularly evident through the analysis of their stories, which ultimately makes them seem genuine and compelling.¹¹¹ A useful confirmation of this process may be found in the narrative of a refugee, Valentino Achak Deng, a Sudanese 'Lost Boy' who did not serve as a child soldier:

The tales of the Lost Boys have become remarkably similar over the years. Everyone's account includes attacks by lions, hyenas, crocodiles. All have borne witness to attacks by the murahaleen – government-sponsored militias on horseback – to Antonov bombings, to slave-raiding. But we did not all see the same things. At the height of our journey from southern Sudan to Ethiopia, there were perhaps twenty thousand of us, and our routes were very different. Some arrived with their parents. Others with rebel soldiers. A few thousand traveled alone. But now, sponsors and newspaper reporters and

¹⁰⁷ Martinez and Libal, above n 29, 165.

¹⁰⁸ Kapoor, above n 3, 637.

¹⁰⁹ Part of this topic is discussed in chapter VI in regards to the different expectations that child soldiers and judicial personnel have in relation to the participation of the children in legal proceedings.

¹¹⁰ Kapoor, above n 3, 636.

¹¹¹ Martinez and Libal, above n 29, 164.

the like expect the stories to have certain elements, and the Lost Boys have been consistent in their willingness to oblige. Survivors tell the stories the sympathetic want, and that means making them as shocking as possible.¹¹²

Consequently, despite advocating the use of direct testimonials or multiple narratives as sources of truth,¹¹³ NGOs do not hear and represent 'the pure, unmediated subaltern voice'.¹¹⁴ They are not merely 'speaking for' the victim; they are 'speaking about' them and attempting to produce an 'authentic' and 'heroic' victim by crafting the portrayals by child soldiers. Yet such attitudes – masked as a desire of the intellectual to be benevolent or progressive – are, ultimately, another form of silencing the subaltern. Notwithstanding how compelling child soldiers' stories are, what their publication achieves is really a kind of marketing of their stories. With the commercialisation of their pasts, former youth combatants and authors have learned how to identify themselves as 'child soldiers' for a Western audience, with the hope of getting something in return.¹¹⁵ This is not to say that this is not true or that they do not deserve help; rather, I would like to focus on how the strategic self-presentation of these former child soldiers was influenced by Western models and by NGO practices.

The next section explores what kinds of politics are (re)produced when NGO experts seek out the child soldier victim, elect to rescue him from his marginality, categorise him, and represent him on the world stage.

6. Political Subjectivities: From Dependency to Agency

In this section, I will discuss what light we can shine on the political repercussions of representation by examining humanitarian and human rights narratives through the prism of child soldiers' victimhood. Returning to the argument of my thesis that representation is determined by externalities, in this section I will explore how the mechanical and political interests that guide the relationship between NGOs and child

¹¹² Dave Eggers, *What Is the What: The Autobiography of Valentino Achak Deng, A Novel* (Vintage, 2006) 21.

¹¹³ The concept of 'truth' will be further discussed in chapter VI in relation to the testimonies of children in court.

¹¹⁴ Kapoor, above n 3, 637.

¹¹⁵ Shepler, above n 47, 82.

soldiers determine what kind of victim is produced by human rights experts. The premise for this analysis is that, as far as victims are concerned, the ultimate goal of interventions by humanitarian organisations should be

not just to 'heal', compensate, and honour victims' memories, but ultimately to contribute to the transformation of the political subjectivity of victims in ways that enable them to engage as active citizens, whose capacity to think, to speak, to act, and to revolt is acknowledged and respected.¹¹⁶

Generally, it is assumed that one of the goals of NGO engagement with child soldiers is to work towards their empowerment:¹¹⁷ however, as this chapter demonstrates, in reality NGOs fall short of these expectations. Because of the political purpose that drives the actions of humanitarian organisations,¹¹⁸ the beneficiaries of their activities are ultimately the NGOs themselves more than the children. Consequently, as critical commentators¹¹⁹ have argued, the relationship between the provider NGO and the recipient child soldier produces dependency and inevitable passivity, instead of empowerment. When they are portrayed by humanitarian organisations, child soldiers and their communities are robbed of any agency: they are seen 'either as traumatized victims lacking the ability to make decisions about the future, or as people driven by destructive psychosis that renders them incapable or morally unworthy of positive contributions to peace-building'.¹²⁰ Consequently, in this context, the relationship between NGOs and the children they claim to speak for is much more critically addressed, raising inter alia questions of NGOs' right to representation, especially with regard to the North/South context of NGO campaigns. 'While international NGOs often work as agents on behalf of disadvantaged people in

¹¹⁶ Madlingozi, above n 3, 209.

¹¹⁷ 'Empowering processes are those where people create or are given opportunities to control their own destiny and influence the decisions that affect their lives. Empowering processes are a series of experiences in which individuals learn to see a closer correspondence between their goals and a sense of how to achieve them and to gain greater access to and control over resources. Efforts to gain control, access to resources, and a critical understanding of one's socio-political context are fundamental aspects of empowering processes.' M. Kilroe, 'Psychosocial Workshop Manual: Facilitators' Manual for Khulumani Support Group' (2009), quoted in Madlingozi, above n 3, 218–9.

¹¹⁸ Namely, to justify their own existence and their activities through the funding of specific campaigns and projects.

¹¹⁹ Shivji, above n 8; Michael Neocosmos, 'The State of the Post-Apartheid State: The Poverty of Critique on the South African Left' (2004) 23(3) *Politeia* 137; Mutua, above n 25.

¹²⁰ Patricia Lundy and Mark McGovern, 'Whose Justice? Rethinking Transitional Justice from the Bottom Up' (2008) 35(2) *Journal of Law and Society* 265, 278.

developing countries, how can we be sure that the outcomes are to the liking and benefit of the intended beneficiaries?'¹²¹

Although humanitarian organisations claim to always act on behalf of their beneficiaries, placing victims at the centre of the process is not enough to ensure their empowerment. I argue here that NGOs should not only engage in a victim-centred process, focusing simply on the physical and moral needs of child soldiers,¹²² but should also put in place a victim-driven process. I argue for a process whereby victims provide the primary input in decision-making, policymaking, strategy and communication: (former) child soldiers should be the ones guiding the process, rather than being subjected to it.¹²³ Needless to say, listening to the children's voices and taking into consideration their needs and thoughts should be the priority. NGOs should work towards the empowerment of former child soldiers, rather than treating them solely as victims; therefore, they should attempt to avoid victimising the children by portraying them instead as active and rational actors.¹²⁴ Put simply, stakeholders should 'empower' child soldiers, enter into a dialogue with them, and listen to their voices, rather than merely 'help' these children – who are often unable to help themselves.

Coming back to the issue of representation and production of dependent victims, many former child soldiers are not content with only being 'represented' by NGO staff, and they strive to move from dependency to agency.¹²⁵ Although, as we have seen above, NGOs play a key role in the release, rehabilitation and reintegration of child soldiers, it is beneficial and natural that, over the years, children grow in

¹²¹ Sasha Courville, 'Understanding NGO-Based Social and Environmental Regulatory Systems: Why We Need New Models of Accountability' in Michael W. Dowdle (ed), *Public accountability: designs, dilemmas and experiences* (Cambridge University Press, 2006) 271, 274; see also Hudson, above n 18.

¹²² Such as removing them from the armed groups, attending to their physical and mental needs, and ensuring that they return to school and are reintegrated into their communities.

¹²³ In a similar way to the process that established the Khulumani Support Group, a South African organisation of victims and survivors of gross human rights violations committed during apartheid, with two main aims: first, to ensure that victims took part in the Truth and Reconciliation Commission and that the commission functioned in a 'victim-centred' manner; and second, to contribute to the empowerment of victims. For more information, see Khulumani Support Group, <www.khulumani.net>.

¹²⁴ Steffek, Hahn and Palgrave, above n 13, 230.

¹²⁵ See, for example, Annex H: Interview with Shena Gacu.

confidence and seek to direct their engagement with others. Indeed, as Madlingozi pointed out, ‘increasingly former child soldiers have sought to alter the unequal power relations that are produced during encounters with NGO experts’¹²⁶ – for example, by writing their own narratives.¹²⁷ The move from dependency to agency, however, does not mean that these children should never collaborate with NGO officials and other stakeholders. On the contrary, former child soldiers should continue to speak out and engage in programs and projects that concerns them, to the extent, however, that their voices are ‘only “used” in ways that encourage their empowerment and agency’.¹²⁸ This approach can be summarised in the response provided by the director of the Khulumani Support Group¹²⁹ to a PhD candidate:

Victims and survivors are quite able to express for themselves what needs to be done. An organization like Khulumani, values immensely the intellectual perspectives that researchers can bring, but we wish to see these researchers working from within the organization, not applying an external lens, to advance their own careers, to some extent at the expense of victims and survivors.¹³⁰

In addition to this, when NGOs or other stakeholders seek out child soldiers in order to solicit their opinion – for example, through focus groups meant to provide victims with a ‘voice’ – the children’s interests need to prevail over those of the organisation.

6.1. Victim Myopia

This analysis is not intended to be an accusation of NGOs and human rights institutions, their programs or intents. Rather, my thesis echoes Spivak’s argument that

our representations of the Third World subaltern cannot escape our institutional positioning and are always mediated by a confluence of diverse institutional interests and pressures, such as those described above. If professional motives dictate, at least to a degree, how and what we do, we cannot pretend to have pure, innocent or benevolent

¹²⁶ Madlingozi, above n 3, 223.

¹²⁷ However, as we will see in chapter VII, even this solution is highly problematic.

¹²⁸ Madlingozi, above n 3, 224.

¹²⁹ Above n 123.

¹³⁰ Marjorie Jobson, quoted in Madlingozi, above n 3, 224.

encounters with the subaltern Other; to do so, as argued earlier, is to perpetuate, directly or indirectly, forms of imperialism, ethnocentrism and appropriation.¹³¹

According to Kapoor, this argument has several consequences. First of all, our cultural, social, geopolitical positioning as First Worlders inevitably influence our interpretations and portrayals of Third Worlders,¹³² In particular, this positioning defines how NGOs' encounter with an relate to child soldiers. Indeed, the framing of a certain issue – in this case, child soldiering – restricts the actions that can be taken on the matter: in Spivak's words, 'if the lines of making sense of something are laid down in a certain way, then you are able to do only those things with that something which are possible within and by the arrangement of those lines'.¹³³ Secondly, Western experts and professionals indeed create images and portrayals of subaltern others in a way that suits their cultural, political and institutional needs and goals. 'Acting in accordance with personal, professional or organisational interests, [they create] representations of the Other that say much more about [them] than they do about the Other – or, at a minimum, [stakeholders] construct the Other only insofar as [they] want to know it and control it.'¹³⁴

A result of this attitude is victim myopia, that is to say that NGOs, researchers and other stakeholders perceive and represent child soldiers in the way that best suits them. Additionally, by conceiving and portraying child soldiers in a certain way, they limit themselves in their responses. Considering that the dominant hegemony surrounding child combatants in the Western world is one in which the child is viewed either as a victim¹³⁵ or as a threat, the possible responses are consequently narrowed to charity or hostility. For Kennedy, this practice is bad for both 'victims' and human rights advocates, because the tendency of human rights to articulate good

¹³¹ Spivak and Morris, above n 10 invoking Foucault, cited in Kapoor, above n 3, 635.

¹³² See chapter III.

¹³³ Spivak and Morris, above n 10, 34 quoted in Kapoor, above n 3, 635.

¹³⁴ Kapoor, above n 3, 635.

¹³⁵ Guided by the Convention on the Rights of the Child, most scholars believe that underage soldiers should not be held legally responsible for their recruitment into fighting forces, nor for the actions undertaken while within those forces, no matter to what extent such acts may have violated either local laws or international treaties. Alcinda Honwana, for example, advocates for immunity for child soldiers based on their psychological state at the time of the commission of crimes.

and evil in abstract terms is extremely limiting for all actors involved.¹³⁶ Regarding the victims, this depiction not only dehumanises them, generalises their individual circumstances, and diminishes their capability as rational actors (and not simply subjects and recipients of other people's actions), it also denies the victims the ability to act as key players, muffling their voices and ignoring their opinions.¹³⁷ Regarding humanitarian personnel, this terminology 'mutes one's capacity for solidarity with those cast as victims, violators, bystanders, and stills the habit of understanding oneself to inhabit the world one seeks to affect'.¹³⁸

7. Conclusion

Throughout this chapter – and the chapters that follow will further this analysis – we have seen how the portrayal of child soldiers as helpless victims is pivotal in the engagement with many stakeholders. However, what is peculiar about humanitarian organisations is that the identity NGOs produce end up becoming institutionalised and having a 'political effect'.¹³⁹ They are introduced in official international instruments, conventions, negotiation agreements and court mandates, consequently influencing legislation on the issue worldwide. Hence, I argue not only that it is in the relationship between NGOs and their beneficiaries that discursive power is involved, but also that this productive power had a very direct political effect on the lives of these beneficiaries. In addition, this discursive muffling of child soldiers in the discourse of NGOs (in which they are portrayed as helpless and speechless victims) is mirrored in the actual post-conflict negotiation process in which the children are neither involved nor listened to.

As highlighted by the Convention on the Rights of the Child and other international instruments, children have the rights to actively participate¹⁴⁰ in matters

¹³⁶ Kennedy, above n 76, 111.

¹³⁷ See Annex H: Interview with Shena Gacu.

¹³⁸ Kennedy, above n 76, 112.

¹³⁹ Steffek, Hahn and Palgrave, above n 13, 234.

¹⁴⁰ Child participation is defined as 'ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how

that concern them as experts in their own lives, to develop leadership skills, to express their views, to be listened to, and to be active in decision-making processes.¹⁴¹ Since the ratification of the Convention, emerging theory and research in both the sociology of childhood and children's rights studies have recognised children as social actors who contribute to shaping and changing families, communities and society.¹⁴² However, according to Prout, 'too often children are expected to fit into adult ways of participating when what is needed is institutional and organisational change that facilitates children's voices'.¹⁴³ A plethora of researchers have documented how children can and do participate in their everyday lives and how they influence decisions that affect them individually and collectively.¹⁴⁴ Others have highlighted how children's meaningful participation (child-led, collaborative and consultative) in decision-making processes has had a significant impact in enabling children to be active social agents in their own development.¹⁴⁵

However, the relationship between NGOs and child soldiers is largely influenced by the fact that, although they play a valuable role in combating the use of child soldiers, these groups are 'first and foremost advocacy groups, not necessarily objective reporters of facts, law, or policy'.¹⁴⁶ If these organisations do not envisage the participation of the children, then their understanding of the whole phenomenon will be limited. And, without a deep comprehension of the child soldiers' experiences, the

their views and those of adults are taken into account and shape the outcome of such processes'. See United Nations (UN) Committee on the Rights of the Child. (2009). General Comment No. 12 (2009): The right of the child to be heard, CRC/C/GC/12, 20 July 2009) 5.

¹⁴¹ See *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) arts 12-3.

¹⁴² Allison James, Chris Jenks and Alan Prout, *Theorizing childhood* (Polity Press in association with, 1998); B. Mayall, 'The sociology of childhood in relation to children's rights' (2000) 8(3) *The International Journal of Children's Rights* 243; E.K.M. Tisdall, 'Children and young people's participation: A critical consideration of Article 12' in Dominic Wyse, Richard Andrews and James V. Hoffman (eds), *The Routledge international handbook of English, language and literacy teaching* (Routledge, 2014) 185.

¹⁴³ Alan Prout, 'Participation, policy and the changing conditions of childhood' in Christine Hallett and Alan Prout (eds), *Hearing the voices of children: social policy for a new century* (RoutledgeFalmer, 2003) 18.

¹⁴⁴ Barry Percy-Smith, 'Councils, consultations and community: rethinking the spaces for children and young people's participation' (2010) 8(2) *Children's Geographies* 107; E. Kay M. Tisdall, Andressa M. Gadda and Udi Mandel Butler, *Children and young people's participation and its transformative potential: learning from across countries* (Palgrave Macmillan, 2014).

¹⁴⁵ Phil Jones and Gary Walker, *Children's rights in practice* (SAGE, 2011).

¹⁴⁶ Rosen, above n 7, 185.

possibility to know how best to care for them becomes strained. Additionally, besides the material consequences of this relationship, it is the political persona created by such engagement that is of key importance. While the status of NGOs as self-proclaimed advocates is seldom questioned, their discourse may have disempowering effects on their beneficiaries,¹⁴⁷ and perpetuate relationships of inferiority and superiority.¹⁴⁸

Although I would not go so far as to say that ‘speaking on behalf of others is in itself disempowering for the intended beneficiaries’¹⁴⁹ in every circumstance, caution at least is required when the voices of the intended recipients of NGO advocacy are dismissed, and when their advocates attribute identities to these beneficiaries that they reject. Here, the ‘power of advocacy’ exerted by the NGOs must be carefully examined, since it involves the risk of paternalism and may be used by NGOs that want to pursue their own political goals. Acting on behalf of others, especially when these others are portrayed as helpless and vulnerable, transfers a lot of reputation to the alleged advocates, which makes it even more necessary to ask for the sources and the adequacy of this reputation. Otherwise, advocacy NGOs, instead of being the ‘mouthpiece’ of their beneficiaries, may even contribute to the silencing of those affected by their work.

In the next chapter, I will investigate the disconnect between the legal manufacturing of the child soldiers’ voices and the child victims’ interests, through the analysis of the conditions under which child soldiers are able to give voice to their experiences. I will examine the involvement of former child soldiers in justice proceedings in order to demonstrate how a mechanical representation not only distorts and delegitimises the voice, but also muzzles the possibility of it being used in a more dignified and integrated way.

¹⁴⁷ Shivji, above n 8.

¹⁴⁸ Madlingozi, above n 3, 213.

¹⁴⁹ Hudson, above n 18, 4.

CHAPTER VI: CHILDREN'S PARTICIPATION IN LEGAL PROCEEDINGS

1. Introduction

The aim of this thesis is to show that understanding the phenomenon of child soldiering requires the richest mix of voices, in which that of the child soldiers themselves should have a prominent place. Since representation is a crucial part of the story – which, as we have seen, is heavily coloured by externalities – courts have a stark mechanical interest in the children that is deeply problematic. The purpose of this chapter is to investigate the disconnect between the legal manufacturing of the child soldiers' voices and the child victims' interests, through the analysis of the conditions under which child soldiers are able to give voice to their experiences. I have chosen to examine the involvement of former child soldiers in justice proceedings¹ in order to demonstrate how a mechanical representation² not only distorts and delegitimises their voice, but also muzzles the possibility of it being used in a more dignified and integrated way. In order to do so, in this chapter I analyse the normative, procedural and critical influences that moderate the children's voices and interpret their meaning through the legal process.

The structure of this chapter aims at showing the distortion and muffling of the children's voices throughout the process of children's involvement in court. In section 2, I introduce the complex context of children in court and I discuss the recruitment of child victims³ and witnesses through outreach programs and the emergence of the children's confusion. In fact, right from recruitment, the child

¹ Both formal (international criminal courts) and informal (Truth and Reconciliation Commissions).

² Which has a clear political function that will be discussed throughout this chapter.

³ Although the term 'victim' is used throughout the chapter, I am mindful of the fact that the notion of victim is a complicated one, especially in regards to child soldiers. Who is the 'victim' is now the subject of a luminous discourse and is a very controversial topic. However, for the purpose of this research, I will not enter into this debate.

becomes a commodity for the court's interests⁴ and, owing to misrepresentations and misconceptions due to total cultural dislocations,⁵ he is confused about his role in the process. In this section, it is essential to highlight that the initial contact between children and the courts through intermediaries is critical in shaping the children's expectations, and consequently their experiences. Following the analysis of the recruitment of child victims and witnesses in section 3,⁶ I consider in section 4 the reasons behind children's participation⁷ in court proceedings through the examination of the expectations of children and courts. This analysis of anticipations is crucial in order to understand the ambiguity and disconnect that characterise children's involvement in court proceedings.

Next, I explore the modes of children's participation. First, in section 5, I analyse the challenges that children must face in court and how these impact on their testimonies. Second, in section 6, I examine the child-specific support and protection programs put in place by the International Criminal Court (ICC) and the Special Court for Sierra Leone (SCSL)⁸ when dealing with child participants. As this section will show, to some extent the courts' awareness that they expose the children to much more than simply the opportunity to tell their story translates into a half-

⁴ The political externality that characterises the relationship between courts and children is oral testimony and the desire to use children as witnesses for the purposes of the court.

⁵ In particular, the children are dislocated from the environment in which they exist, they are moved from the village to the court, and, along the way, they are trying to understand their role.

⁶ Although certainly interesting from a discursive and legal point of view, for the purpose of this thesis, in this chapter I do not explore the issue of the criminal responsibility of child soldiers per se. In particular, I do not linger on this topic because currently there is no set minimum age for criminal responsibility set by international law due to respect for state sovereignty. Unfortunately, the lack of a universal age creates confusion as to how children should be treated in relation to international crimes, resulting in 'discrepancies such that a person could be legally defined in one nation as a child and thus not capable of forming criminal intent, and yet in another nation the same child doing the same act fits the legal definition as capable of forming criminal intent'. See A. Davidson, 'Child soldier: no longer a minor incident' (2004) 124 *Willamette Journal of International Law and Dispute Resolution*.

⁷ Similarly to the notion of 'victim', the concept of 'participation' is a complex one. One of the difficulties regarding this topic is that the courts and the participants have different opinions of what participation entails. While courts anticipate that victims and witnesses will provide useful information to establish the truth, victims just want to tell their stories. Due to misconceptions on authorities, the presence of lawyers and mediators, and the general court environment, victims often feel as though they have not participated at all.

⁸ I explicitly chose these two courts for analysis because they are the first international tribunals before which children have appeared.

hearted protection of child victims and witnesses. Then, in section 7, I explore children's participation in Truth and Reconciliation Commissions (TRCs) – especially that of Sierra Leone – in order to analyse how the different purposes of legal institutions influence the children's participation. Following the argument of my thesis, the assumption would be that in less formal proceedings such as the TRCs, the children's voices would have more open pathways and would more likely be heard. Although the voices of the children have certainly a more prominent place in TRCs than in courts, this section will show that the voices are still subject to the need to represent the broad history of a large population that would complement the idea of truth-telling.

Finally, in section 8, I discuss the reactions to children's presence in court proceedings. This encompasses the point of view of the children, as well as the value added to the trials in terms of the presentation of oral testimony and legitimate critical proofs in the prosecution case. It is important here to explore the impact of the ambiguities and the controversial relationship between the children and the courts in order to analyse the disconnect between the actions of the courts and the perceptions of the children. This chapter will show how the legal process of judicial and non-judicial proceedings prevents the children's voices from being heard. From this point of view, it does not matter whether the courts choose to protect the children or even to vary the adversarial interrogation process:⁹ in the end, the children's voices are delegitimised and pathways for their expression are closed.

2. The Complex Relationship between Children and Courts

In the event of an armed conflict, children – among the most vulnerable individuals of society – often bear the worst consequences: they can suffer directly from violence or forced recruitment, or indirectly through loss of family, property or

⁹ As will be seen in this chapter, the courts have at times allowed witnesses to testify in a free form, without being asked questions or interrupted.

because of displacement.¹⁰ Either way, according to international legal instruments such as the Convention on the Rights of the Child,¹¹ children have the right to participate in decisions affecting their lives,¹² the right to access to justice,¹³ and the right to seek redress for the wrongs suffered. Since transitional justice measures¹⁴ put in place in the aftermath of a conflict will customarily affect the children's lives, it is recognised that they are entitled to participate in those procedures.¹⁵ However, despite these legal provisions that ensure the participation of children in transitional justice mechanisms, the involvement of children in justice processes has only become a reality fairly recently.¹⁶ As seen in chapter IV, in the last two centuries the notion of children and childhood as shifted from the idea that youth could and should take an active participation into the sustenance of the family, to the idea that children are vulnerable and innocent beings in need of protection, to, finally and slowly, the idea that even underage individuals have rights they can and should exercise.¹⁷ However, according to Smith, up until 20 years ago,¹⁸ children's active

¹⁰ Alison Smith, 'Basic assumptions of transitional justice and children' in Sharanjeet Parmar et al (ed), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 64.

¹¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹² *Ibid* art 12(1).

¹³ *Ibid* art 12(2).

¹⁴ According to the United Nations, 'transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation'. In order to do so, accountability, justice and reconciliation mechanisms are designed as part of after-war recovery, specifically in situations where gross violations of children's rights have taken place. While these processes have the potential to enable communities and nations to respond to the crimes of war by bringing to justice those responsible for such violations, transitional justice also aims at preventing future atrocities by creating a more stable society. For this purpose, youth cannot be excluded from the country's agenda. See United Nations, 'Guidance note of the Secretary-General. United Nations Approach to Transitional Justice' (United Nations, 2010); Graça Machel, 'Foreword' in Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) ix, x.

¹⁵ Smith, above n 10, 64.

¹⁶ The very first child witness before an international court took the stand in 2005 at the SCSL, while the first child witness before the ICC took the stand in 2009.

¹⁷ Smith, above n 10, 43.

¹⁸ In 2002, at the time of the entry into force of the Statute of the International Criminal Court (ICC) and the publication of the study *International Criminal Justice and Children*, the relevance of children within international criminal justice was questioned: 'Why children? What do children have to do with international justice?'

participation in transitional justice proceedings was not encouraged. Their personal experiences were considered part of the society's more general experiences, which adults could speak about.¹⁹ Children's direct input was therefore considered unnecessary.

The pivotal change took place with the adoption of the Convention on the Rights of the Child, which legally defined children as rights holders, that giving weight to children's thoughts, needs and perspectives became a priority of transitional justice.²⁰ However, the participation of children in judicial processes is still an issue that provokes debate among child rights advocates and legal experts,²¹ and, so far, international courts and tribunals have only seen the participation of few children as witnesses and victims. According to Aptel, this is due to several reasons: 'few international trials have concerned crimes against children; child victims may be adults by the time they appear in court, due to the length of time usually elapsing between the commission of crimes and a trial; and international criminal prosecutors, like their national counterparts, may be reluctant to rely on the testimony of children'.²² Yet, as will be further discussed in section 8, children's involvement in trials that concern them is highly valuable: this is not only an extremely empowering exercise, but it can also bring unique information and evidence against the individuals under trial.²³

¹⁹ Smith, above n 10, 43.

²⁰ Ibid.

²¹ For more information, see Piers Pigou, 'Children and the South African Truth and Reconciliation' in Sharanjeet et al Parmar (ed), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010); United Nations Mission in Sierra Leone and National Forum for Human Rights United Nations Children's Fund, 'Children and the Truth and Reconciliation Commission for Sierra Leone: Recommendations for Policies and Procedures for Addressing and Involving Children in the Truth and Reconciliation Commission' (UNICEF, 2001) <<http://www.unicef.org/emergencies/files/SierraLeone-TRCReport.pdf>>.

²² Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 28. See also section 5 for more information on the limitations of children's testimony.

²³ Ibid.

However, although children are today understood as being essential to the pursuit of justice,²⁴ as this chapter will show, this does not necessarily mean that children's voices are heard. Children and courts have a complex relationship of power and authority, where tribunals and legal stakeholders have authority over minors who are the voices for the purpose of the court. Children's rights are conditional on this power relationship, and all the talk about children's rights to participate in matters that concern them is illusory if their voices are not given significance. As this chapter will point out, a 'rights' paradigm for approaching the child soldiering phenomenon may do little more than conceal the nature of the problem without taking any actual action to put an end to it. Children's voices and their experiences during the conflict must be taken into consideration in transitional justice – not just in name, but also in practice. If the pursuit of international justice is to deliver peace, the rule of law, and stability to transitional states – in addition to prosecuting the perpetrators of genocide, crimes against humanity, and war crimes²⁵ – then denying children the possibility to significantly²⁶ participate in justice mechanisms not only fails to comply with international law, but also compromises the outcome of the legal processes.²⁷

There is strong consensus in the literature that, 'the impact of armed conflicts on children makes it imperative for transitional justice proceedings to include children's experiences'.²⁸ During armed conflicts especially, children are often victims and witnesses of crimes or war, and this grants them 'a key role in addressing those crimes and in reconciliation and peace-building processes in their communities'.²⁹ It is in the interest of justice³⁰ to include children's evidence,

²⁴ Saudamini Siegrist, 'Child rights and transitional justice' in Sharanjeet Parmar et al (ed), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 3.

²⁵ See Leslie Vinjamuri, 'Deterrence, Democracy, and the Pursuit of International Justice' (2010) 24(2) *Ethics and International Affairs* 191, 191.

²⁶ In order to be 'significantly' involved, children's voices need to be heard and they need to be added to the 'mix'. Any other form of participation that does not include these two aspects is disempowering for the children, as will be shown throughout this chapter.

²⁷ Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) xix.

²⁸ *Ibid* xviii.

²⁹ Machel, above n 14, x.

especially in cases where children may be able to provide the only evidence available.³¹ In these circumstances, excluding children's participation may compromise the case for the Prosecutor and the offender may go unpunished, which would further victimised the children affected. As we have seen in chapter V, adults can and often do act on behalf and in the best interests of children,³² but frequently youth can offer irreplaceable information about the crimes they witnessed or took part in. In fact, according to the *Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crimes*, 'the participation of child victims and witnesses in the criminal justice process is necessary for effective prosecutions, in particular where the child victim may be the only witness'.³³

Additionally, by participating in justice mechanisms, children acquire a sense of control, empowerment, self-respect and dignity,³⁴ which derives from the feeling of taking an active part in 'the establishment of the truth'.³⁵ According to Graça Machel, 'involving children ... builds their confidence and strengthens their bodies, minds and hearts'.³⁶ After having little or no control over what happened to them during the armed conflict, 'this process, this taking of the floor and sharing of their experiences will mean for them recognition of the suffering which they have been through and the crimes at the origin of that suffering'.³⁷ Being part of the trials has the enormous potential of having a cathartic effect for the victims and witnesses:

³⁰ Whether this also translates into the interest of the child depends on how the courts address children's testimonies and voices.

³¹ Don Thomson, 'Reliability and Credibility of Children as Witnesses' <http://aic.gov.au/media_library/publications/proceedings/08/thomson.pdf> 43.

³² See chapter V for more information on how adults generally claim the right to speak for child soldiers.

³³ *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, adopted by ECOSOC Resolution 2005/20 of 22 July 2005, E/2005/INF/2/Add.1 (entered into force 10 August 2005) 2.

³⁴ Parmar et al, above n 27, xii.

³⁵ *Victims' participation before the International Criminal Court* (Directed by International Criminal Court Information and Documentation Section, International Criminal Court, 2013), <https://www.youtube.com/watch?v=chymGL8teX4>.

³⁶ Machel, above n 14, xi.

³⁷ *Victims' participation before the International Criminal Court* (Directed by International Criminal Court Information and Documentation Section, International Criminal Court, 2013), <https://www.youtube.com/watch?v=chymGL8teX4>.

But, the statement-takers came in and encouraged us and made us feel okay ... They told us everything would remain in secret. They also said that if we gave statements it would help bring peace to Sierra Leone. We were all afraid, but the TRC gave us confidence to talk. After talking it took several months to feel good. We thought the TRC were going to take action and take us to court. We thought the TRC would come back, but they didn't.³⁸

However, this sense of, and potential for, empowerment is highly dependent on the relevance that the courts give to the children's voices and experiences. As section 4 will show in detail, there is a disconnect between the legal manufacturing of the child soldier's voice and the interests of victims. This is due to the desire of courts and legal professionals to use children as witnesses for the purposes of the court, as well as the nature of the adversarial system.³⁹ Section 8 will discuss whether children have achieved this sense of empowerment through their participation in justice proceedings.

The next section will explore how this complex relationship between children and the courts is compromised from the beginning by the way child victims and witnesses are recruited. In fact, right from recruitment, the child becomes a commodity for the court's interests.⁴⁰ Owing to misrepresentations and misconceptions resulting from total cultural dislocations,⁴¹ the child is confused about his role in the process. It is essential to highlight that the initial contact between children and courts through intermediaries is critical in shaping the expectations of children, and consequently their experiences.

3. Recruiting the Story

The previous section has introduced the complex relationship between courts and children from a theoretical point of view. This ideological complexity translates into a practical complicated liaison shaped by (mis)representations and (mis)perceptions

³⁸ Parmar et al, above n 27, 179.

³⁹ Section 5 will discuss the nature of the adversarial system and the impact on the children's testimony.

⁴⁰ The political externality that characterises the relationship between courts and children is oral testimony and the desire to use children as witnesses for the purposes of the court.

⁴¹ They are trying to understand their role, having been moved from their village to the court.

that only confuse children about their role in the proceedings. This misunderstanding is apparent right from the recruitment due to the fact that children are removed from the environment which is familiar to them. They are moved from the village to the courtroom and, along the way, they are promised compensations and benefits that they will never receive. At the very least, they hope to find a forum in which to tell their stories, make their voices heard, and have their suffering recognised. However, they are received by courts that have a very practical use for them: the courts need witnesses and victims to come forward to give crucial evidence to ensure the conviction of perpetrators.

This contrast in views and approaches translates into practical and physical attitudes to secure the presence of children in the courtroom. The way participants (especially children) are first approached and recruited is key to their participation in judicial processes, and the mode with which international tribunals ensure the recruiting of child victims and witnesses reflects the utilitarian purpose that children have for the court. 'The process of victims' participation starts on the ground, ... in the affected communities; in the towns and villages where the victims were sited'.⁴² Contrary to domestic proceedings, participants in international tribunals are recruited in one of two ways: either through intermediaries *in loco*,⁴³ or by spontaneously contacting the courts. Intermediaries work on behalf of the courts⁴⁴ and may come into contact with witnesses and victims for many reasons, often independently to the works of tribunals.⁴⁵ Although officially intermediaries only facilitate contact between the courts and the witnesses,⁴⁶ their role is crucial in 'formulating the impressions and expectations that witnesses ha[ve] of cooperating

⁴² Maria Kamara, ICC Outreach Coordinator for Uganda and Kenya, in *Victims' participation before the International Criminal Court* (Directed by International Criminal Court Information and Documentation Section, International Criminal Court, 2013), <https://www.youtube.com/watch?v=chymGL8teX4>.

⁴³ Local persons or staff from NGOs or international organisations.

⁴⁴ *The Prosecutor v. Katanga et al.* (The International Criminal Court, ICC-01/04-01/07-t-81-Red-ENG WT, 25 November 2009) 62 [1]–[3].

⁴⁵ This is the first cause of ambiguity and contrast, since the participants may carry over to the courts similar expectations that they had for the NGO that approached them.

⁴⁶ *Prosecutor v Thomas Lubanga Dyilo (Redacted Decision on Intermediaries)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 31 May 2010) [30].

with prosecutors, and why they look forward to as self-interested outcomes of the court proceedings'.⁴⁷ Indeed, at times they offer inducements of various kinds to children to convince them to cooperate with the tribunals:

The witness heard that intermediary 321 had said that there was an NGO which was going to help the children who had dropped out of school; they were going to be given apprenticeships, taught trades or helped to attend school. ... He talked about money. He told them that they would be given money. He said that the child had to claim to have served as a child soldier in order to get money. He went all over the town recruiting children, and he would tell you what you had to say. He told the children to claim that they had served as child soldiers, but I knew that the child had never been a child soldier. ... Intermediary promised the witness money or give them money and a house, and said that the ICC would be there to help him. The witness said that he lied to the investigators because he merely wanted to have some money.⁴⁸

Consequently, victims and witnesses may be interested in participating in justice proceedings for reasons others than telling the truth. Even if we assume that children want to tell their stories and share their experiences, there are several factors that prevent this from happening. The conflict here is on two levels: institutionally between child/NGO and child/prosecutor, and individually due to progressive self-interest.⁴⁹ It is very hard for the courts to establish and judge the boundaries of the relationship between intermediaries and witnesses,⁵⁰ but certainly there are misconceptions about the role of children in judicial institutions resulting from this connection that impact on their testimonies and overall experiences. As a result, the children's evidence is often compromised and, eventually, disregarded by the judges.⁵¹ However, despite the risks involved and the evidence of misleading conduct, courts still rely on intermediaries as the primary source of witnesses and victims.

On the contrary, when they are not sought out by intermediaries, courts expect victims and witnesses to come forward on their own accord, even if this presents

⁴⁷ Mark Findlay and Sylvia Ngane, 'Sham of the Moral Court? Testimony Sold as the Spoils of War' (2012) 1 *Global Journal of Comparative Law* 73, 80.

⁴⁸ *Prosecutor v Thomas Lubanga Dyilo (Redacted Decision on Intermediaries)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 31 May 2010) [35], [38]–[39].

⁴⁹ Findlay and Ngane, above n 47, 80.

⁵⁰ *Ibid.*

⁵¹ See, for example, the case of W-0298 in the case against Lubanga, who, after an initial testimony, abruptly changed his story, saying that he had lied and claiming that he had been coached on what to say in court: *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 28 January 2009) 40.

several challenges. The participation of victims – especially in the early stages of the proceedings – requires them to know that investigative activities are intended in their countries or even that they are aware of the existence of the international tribunals.⁵² This may represent a great obstacle for a large portion of the population, especially children: they may live in remote parts of the country without access to means of communication, and they may not understand the nature and function of the courts or may not fully comprehend the possibility of participating in the proceedings. As a result, wide dissemination of information about the tribunals' work and the options for victims are essential in order to ensure that all victims who wish to participate can really do so. In order to achieve this, it is important that the outreach be carried out in an effective way to reach all people regardless of literacy, resources or social standing.⁵³

To start with – even if it seems obvious – information must be provided in the languages spoken by the people concerned. Additionally, it should be conveyed orally and by radio, as well as in electronic, print and television media, as appropriate by the social circumstances of the particular country or communities in question. In order to determine the most appropriate means to reach local populations, courts and tribunals should engage with potential partners *in loco* who can assist, such as local authorities and other international organisations.⁵⁴ Unfortunately, this is not always achieved due to a number of reasons, mostly having to do with financial limitations and the political situation of the country.

Outreach is even more necessary in the case of international tribunals that hold trials far away from the scene of the alleged crimes and apply law with which most people in the communities affected by the crimes are unfamiliar.⁵⁵ Consequently, the

⁵² Furthermore, in order to be able to later participate in the proceedings, victims must be aware of this possibility and should also know that early communication with the tribunal can have an influence on whether or not they are subsequently notified of proceedings.

⁵³ Marc Henzelin, Veijo Heiskanen and Guénaél Mettraux, 'Reparations To Victims Before The International Criminal Court: Lessons From International Mass Claims Processes' (2006) 17(3) *Criminal Law Forum* 317, 327.

⁵⁴ *Ibid.*

⁵⁵ Such as, for example, the International Criminal Court, the Special Tribunal for Lebanon, the International Criminal Tribunal for Rwanda, and the International Criminal Tribunal for the Former Yugoslavia.

registry should make outreach one of its central functions,⁵⁶ and the tribunals should not simply rely on the media to do public outreach on their behalf: notwithstanding how independent media may be, some reporting may still be susceptible to polarisation and misrepresentation. Thus, original information is necessary to counter perceptions of the courts' bias and illegitimacy,⁵⁷ which are bound to be fanned by media controlled or supported by those who are targets of investigations.⁵⁸ Nor can the tribunals rely on NGOs to carry out the outreach function: while these organisations can help in various facets of outreach and dissemination, they cannot speak for the courts and NGOs are often tied by limited financial resources.⁵⁹

The approach of courts in recruiting children as victims and witnesses exposes several flaws in the system, in addition to confirming the different attitudes between judicial and non-judicial mechanisms. In fact, as section 7 will show, non-judicial redress mechanisms such as TRCs have a very different and more child-friendly approach to recruiting child victims and witnesses. In contrast, as seen in this section, the engagement of the courts with child soldiers – both through intermediaries and through spontaneous contact – is problematic, as they often do not take into consideration the special needs of children.

⁵⁶ See International Criminal Court, *Rules of Procedure and Evidence*, Doc No. ICC-ASP/1/3 (adopted 9 September 2002) r 13, which states that 'without prejudice to the authority of the OTP under the Statute to receive, obtain and provide information and to establish channels of communication for this purpose the Registrar shall serve as the channel of communication of the Court'.

⁵⁷ According to Findlay and Ngane, the credibility and integrity of international courts rest on their didactic functions: 'The impact of these in the wider victim community is tied to the perceived legitimacy of court decision-making. On the moral and applied fronts, truthful witness testimony underpins credible judicial decision-making and the legitimacy which flows therefrom.' Findlay and Ngane, above n 47, 95.

⁵⁸ Sandra Coliver, 'The contribution of the International Criminal Tribunal for the Former Yugoslavia to reconciliation in Bosnia and Herzegovina' in Dinah Shelton (ed), *International crimes, peace, and human rights: the role of the International Criminal Court* (Transnational Publishers, 2000) 19, 28.

⁵⁹ Although, it seems that the ICC and other international tribunals have had problems establishing an effective outreach strategy for a number of reasons, including insufficient funding. See, for example, Jonathan O'Donohue, 'The 2005 Budget of the International Criminal Court: Contingency, Insufficient Funding in Key Areas and the Recurring Question of the Independence of the Prosecutor' (2005) 18(3) *Leiden Journal of International Law* 591, 601.

4. Tension between Expectations

As the previous section has shown, the relationship between court personnel and child victims and witnesses is characterised by misconceptions and misrepresentations, which produce constant ambiguity.⁶⁰ Two reasons can be identified in order to explain this: the first is the divergence between the individual and institutional expectations about the child's participation in court; the second is the difference in approaches to justice, with international tribunals on one side and non-judicial mechanisms on the other, which I will examine in section 7.

As the previous section has shown, children are recruited, encouraged and convinced to testify in front of courts, usually under false pretexts and with unrealistic promises. Whether they are explicitly told or implicitly led to believe it, most child victims and witnesses have high expectations from justice processes. These include punishment for their perpetrators and compensations for the injustices they suffered, but also 'support ... in finding their families, ... help them return to education, and assist[ance] in learning a trade so that they could find employment and live independently'.⁶¹ At the same time, court personnel also expects a great deal from children's participation in trials. In particular, following the argument of this thesis that stakeholders are driven towards child soldiers by their own interests, the tribunals' interest in children is driven by the political externalities of oral testimony and the desire to use the child as a witness for the purposes of the court. Consequently, in order to meet the courts' expectations, children need to perform in a certain way. Just as humanitarian organisations rely on child victims in order to justify their own existence and activities,⁶² tribunals rely

⁶⁰ As will be further seen in this chapter, this ambiguity depends on different factors, such as the recruitment of the child (Who approached him? How was he convinced to be involved? What was the context of recruitment?), the experience with the tribunal (How was he treated? How was his time on the stand? How was he cross-examined? What was the reaction to his testimony?), and the consequences of his participation (Did he feel good or satisfied? Did he feel that his participation achieved something? What was the reaction of his family and his community? Was he ever in any danger?).

⁶¹ United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 12.

⁶² See chapter V.

on children as sources of truth and facts. As the next section will show, both sets of expectations may not be completely met, and this may leave children and legal professionals disappointed and disillusioned.⁶³

4.1. Children's Expectations

Research has shown that for most children who participate in legal proceedings the underlying goal is for 'perpetrators who committed serious offences during armed conflict to be held accountable',⁶⁴ especially if the perpetrators are still living in the same community or if the children have been victims of direct violence.⁶⁵ By taking an active part in the judicial proceedings, child victims may feel as though they actively contributed to the desired conviction. This is especially critical for former child soldiers: after having little or no control over what happened to them, 'this process, this taking the floor and sharing of their experiences will mean for them recognition of their suffering'.⁶⁶ Nonetheless, the concept of retribution is complex and ambiguous, and differences arise between retribution at a social/community level and at a personal level. In the first case, retribution in a pure sense entails giving the community the chance to express revulsion for the crimes committed, while at a personal level it becomes something more similar to a desire for revenge, which is an expectation largely unmet by the actual participation in justice proceedings.

⁶³ United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 12.

⁶⁴ Ibid. See also Phillip Cook and Cheryl Heykoop, 'Child Participation in the Sierra Leonean Truth and Reconciliation Commission' in Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 159; Theo Sowa, 'Children and the Liberian Truth and Reconciliation Commission' in Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010).

⁶⁵ Cook and Heykoop, above n 64, 183–4 cited in United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 12.

⁶⁶ *Victims' participation before the International Criminal Court* (Directed by International Criminal Court Information and Documentation Section, International Criminal Court, 2013), <https://www.youtube.com/watch?v=chymGL8teX4>.

For many children, though, a conviction is not the only motivation for participation:⁶⁷ they also wish for a restoration of their rights and compensation⁶⁸ for the loss of those rights, which may include restitution, indemnification and rehabilitation.⁶⁹ According to the International Criminal Court, in fact,

the victim-based provisions within the Rome Statute provide victims with the opportunity to have their voices heard and to obtain, where appropriate, some form of reparation for their suffering. It is this balance between retributive and restorative justice that will enable the ICC, not only to bring criminals to justice but also to help the victims themselves obtain justice.⁷⁰

The vast majority of children who agree to participate in justice proceedings do so expecting redress for the wrongs suffered, through monetary benefits, restitution of land and property, or access to employment.⁷¹ However, reparations can take a number of forms, many of which are not completely satisfying for the victims. In fact, courts have the option of granting individual or collective reparation to either a whole group of victims or a community, or both, and often choose to order collective reparation rather than individual. According to the Office of the Special Representative of the Secretary-General for children and armed conflict,

[c]ommunity or collective reparations can include material benefits, but may also include symbolic measures, such as a statement of apology, the establishment of a national holiday for commemoration of the victims, the naming of a street in honour of the victims, the creation of dignified burial sites, and the funding of rehabilitation and community centres.⁷²

⁶⁷ United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 12.

⁶⁸ Gustavo Gallon, 'Deterrence: A difficult challenge for the International Criminal Court' (Working Papers, Kellogg Institute for International Studies, No. 275, 2000) 4. Although participation is not necessarily a precondition to receiving reparations later on, a reparation order against a person still requires the prior conviction of that person.

⁶⁹ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 75.

⁷⁰ See The International Criminal Court, *Victims and witnesses* <https://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/Pages/victims%20and%20witnesses.aspx>.

⁷¹ United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 24.

⁷² *Ibid* 25.

However, the individual always expects a direct and immediate payment, as confirmed by field officers working with victims and witnesses at the ICC: 'the victims do have many expectations in working with the ICC, especially monetary ones, and it has been quite a challenge to meet these expectations'.⁷³

Yet, this first material expectation is criticised by representatives of the restorative approach, who contend that victims in fact want and need healing and forgiveness.⁷⁴ Indeed, for some victims, participating in the proceedings may promote reconciliation and 'rehabilitation', viewpoint that was also stressed during the negotiations of the Rome Statute.⁷⁵ The former can be partly achieved through victims' testimonies regarding the detrimental effects of the defendant's behaviours on their physical and mental wellbeing, while the latter 'can be understood in the sense of an individual healing or regaining his or her dignity, for instance through the court's acknowledgment of the victim's suffering'.⁷⁶ Indeed, as Burkhardt points out, the acknowledgment of the injustices, damages and pain they suffered is particularly important therapeutically, as it generally speeds up the healing process and can provide a sense of closure to the victim.⁷⁷ Understandably, many child soldiers participate in legal proceedings to tell their experiences and they often take advantage of this forum to confess crimes committed during the conflict. However, the limitation of the adversarial system⁷⁸ and the reaction of legal personnel – who often dismiss or ignore such claims – in turn frustrate or anger the children. Effective victim participation – which gives children the opportunity to tell their story as they want to tell it, and for their voice to be given significance – 'is,

⁷³ Aimee Ongeso in *Victims' participation before the International Criminal Court* (Directed by International Criminal Court Information and Documentation Section, International Criminal Court, 2013), <https://www.youtube.com/watch?v=chymGL8teX4>.

⁷⁴ See, for example, Carrie J. Niebur Eisnaugle, 'An international "truth commission": utilizing restorative justice as an alternative to retribution' (2003) 36(1) *Vanderbilt Journal of Transnational Law* 209, 236.

⁷⁵ Maren Burkhardt, *Victim participation before the International Criminal Court* (Humboldt-Universität zu Berlin, Juristische Fakultät, 2010) 61.

⁷⁶ *Ibid* 65.

⁷⁷ *Ibid*.

⁷⁸ Cross-examination is particularly distressing for children, at times to the point of breakdown. As section 4 will show in further detail, under these circumstances children cannot be expected to give effective evidence. Perhaps, then, courts could consider allowing children to speak in a free form, as was the case with the first child witness after he had recanted his initial testimony.

therefore, arguably essential in order to avoid secondary victimisation and victim alienation'.⁷⁹

According to the literature,⁸⁰ the active participation of children and youth in judicial and non-judicial proceedings is believed to have a healing and beneficiary effect for many reasons. The most immediate reason is that taking an active part in a process that affects them directly 'may assist victims in taking back control of their lives and in ensuring that their voices are heard,⁸¹ respected and understood'.⁸² If participation in conflict and violence may, at times, have been forced upon the children, the choice to participate in justice proceedings gives them a sense of empowerment, independence and freewill. Is it often only in the courtroom that former child soldiers regain their voice and are able to break the "conspiracy of silence" between society and survivors⁸³ that they feel around them. This can indeed be broken by the acknowledgement of the pain and wrongdoings suffered by the youth, which in turn 'can play a vital role in the victims' recovery'.⁸⁴

However, it has also been pointed out that the limitations of the arbitrary system can compromise the success of children's participation in justice proceedings and the healing effects of their contribution. This is often due to the misconceptions of authorities, misrepresentations of the whole process, or self-interest of the parties involved. In particular, as introduced earlier, some of the boundaries of the adversarial system 'can have the effect not only of preventing a child witness from describing events in the order in which the child remembers them, but also of maximising the possibility of confusing the child and of contaminating [his]

⁷⁹ Burkhardt, above n 53, 65.

⁸⁰ See for example *ibid* 66; Laura Scomparin, 'Il ruolo della vittima nella giurisdizione penale internazionale: alla ricerca di una possibile mediazione fra modelli processuali' in Antonio Cassese, M. Chiavario and G. De Francesco (eds), *Problemi Attuali Della Giustizia Penale Internazionale* (Giappichelli Editore, 2005) 365.

⁸¹ However, we have already exposed how this usually happens with some limitations.

⁸² Burkhardt, above n 53, 66 citing Yael Danieli, 'Victims: Essential Voices at the Court' (Redress, 2004) <<http://www.redress.org/downloads/publications/ENG01.pdf>>.

⁸³ Burkhardt, above n 53, 66.

⁸⁴ *Ibid*.

memory'.⁸⁵ In particular, the intermediary role played by the counsel itself can aggravate the situation: while the right to appoint a lawyer is undoubtedly in the victims' best interest, their presence and active role during the proceedings – especially when lawyers speak on behalf of their clients, or in case of crimes of collective nature – can have a confusing and, at times, frustrating effect on the children.⁸⁶

This section has explored the most common expectations that children have when they participate in judicial proceedings. As a result of the promises and encouragement that they receive during their recruitment, children expect great things from their involvement in courts: contributing to a conviction, obtaining compensation, promoting reconciliation, or healing themselves. As the next section will show, the courts' expectations diverge from those of the children, therefore increasing the chance of tensions and ambiguity.

4.2. Courts' Expectations

It is normally accepted that the main goal of criminal justice is truth-finding⁸⁷ and the acknowledgment of past injustices in order to secure the conviction of perpetrators. Although there is still debate among the literature on whether this constitute a specific purpose of international criminal law,⁸⁸ there seems to be consent over the fact that '[t]he duty of a criminal court is ... to discover the facts concerning specific cases'⁸⁹ in order to establish whether the accused committed the

⁸⁵ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.110] <<http://www.alrc.gov.au/publications/report-84>> 182.

⁸⁶ Burkhardt, above n 53, 66 citing Emily Haslam, 'Victim Participation at the International Criminal Court: A Triumph of Hope over Experience?' in D. McGoldrick, P. Rowe and E. Donnelly (eds), *The Permanent International Criminal Court. Legal and Policy Issues* (Hart Publishing, 2004) 315, 331; Marie-Bénédicte Dembour and Emily Haslam, 'Silence Hearings? Victim-Witnesses at War Crimes Trials' (2004) 15(1) *European Journal of International Law* 151, 160.

⁸⁷ Truth-finding is a different concept from truth-telling. The notion of truth-finding is complex and ambiguous, changing meaning according to the recipient and the context in which it is set: while for courts, lawyers and judges truth means facts, for victims and witnesses and in the context of a TRC, for example, truth simply means telling one's story.

⁸⁸ Burkhardt, above n 53, 43-4.

⁸⁹ *Ibid* 43.

offences for which he or she is being prosecuted. In order to achieve this goal, it is generally assumed that 'victim participation contributes greatly to this process, ... is essential if the truth is to be discovered and punishment is to be just',⁹⁰ and that 'stories and story-telling are central to fact determination'.⁹¹

When compared to national courts, it appears indeed that contemporary international tribunals rely overwhelmingly on witness testimony as a source of fact.⁹² According to Findlay and Ngane, the reason for this is the 'lack of documentary evidence as a natural consequence of the atrocities not being meticulously documented'.⁹³ Additionally, Goran argues that both the particular features of international criminal prosecution and the unique nature of the crimes of competence of these courts explain the excessive reliance on testimonial evidence.⁹⁴ Either way, the adversarial model of international criminal trials prioritises the witnesses' testimonies as a procedural necessity: without them and their valuable information, courts would hardly have enough evidence to prosecute anyone.

However, the relationship between truth and facts is not always an easy one, especially when children are concerned.⁹⁵ What really happened and what witnesses remember are sometimes two different things. What victims feel and what witnesses say in court are not always the same thing. What victims and witnesses say and what judges want to hear are usually very different things. This conflict necessarily creates a tension, a strain in the relationship between court personnel and participants – especially children. Children in general, and in particular those who may be suffering from trauma, may find it hard to distinguish between truths and lies and between memories and facts. Consequently, they may approach the courts

⁹⁰ Ibid 62.

⁹¹ William Twining, *Rethinking evidence: exploratory essays* (Cambridge University Press, 2006) 336. In literature, there is a thesis that stories and storytelling are psychologically necessary to decision-making; however, the author warns the reader that this might be dangerous in that they often can be used to violate logical standards, appeal to emotion rather than reason, and subvert legal principles and conventions.

⁹² Findlay and Ngane, above n 47, 77.

⁹³ Ibid 91.

⁹⁴ Goran Sluiter, *International Criminal Adjudication and the Collection of Evidence: Obligations of States* (Intersentia, 2002) in Findlay and Ngane, above n 47, 91.

⁹⁵ See section 5 for more information on the challenging context of children in courts.

believing that they are able to provide great help and undisputable truths, while in the end this may turn out to be a very disappointing, if not painful and humiliating, experience.

Generally speaking, it can be said that victims can indeed have an impact on the finding of the truth, however limited this may be. Still, 'contributing to the truth can be seen as one of the aims of victim participation',⁹⁶ especially considering that it might contribute to the secondary goal of giving voices to the victims. Specifically, as mentioned by Burkhardt, 'the ICC Pre-trial Chamber has previously stated that "the Statute grants victims an independent voice and role in the proceedings before the Court"', classifying this as an object and purpose of victim participation, but not as a general object of the proceedings'.⁹⁷ On a similar note, the ICC's victim information booklet states that

[b]y presenting their own views and concerns to the judges, victims are given a voice in the proceedings that is independent of the Prosecutor. This will help the judges to obtain a clear picture of what happened to them or how they suffered, which they may decide to take into account at certain stages in the proceedings. This may lead to having an impact on the way proceedings are conducted and in the outcomes.⁹⁸

While the 'idea of 'giving a voice to victims' has been mentioned relatively frequently⁹⁹ and has been the only purpose of victim participation mentioned by the ICC itself',¹⁰⁰ there are different possible interpretations of this concept, depending on the context, and this ambiguity contributes to the conflicting relationship between children and the courts. In international courts, for examples, this has often

⁹⁶ Burkhardt, above n 53, 65.

⁹⁷ Ibid 47 quoting *Situation in the Democratic Republic of the Congo (Decision on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6 of 17)* ((International Criminal Court, Pre-trial Chamber I, Case No. ICC-01/04, 17 January 2006) [50]-[51].

⁹⁸ International Criminal Court, 'Victims before the International Criminal Court booklet. A guide for the participation of victims in the proceedings of the court' (<<http://www.icc-cpi.int/NR/rdonlyres/8FF91A2C-5274-4DCB-9CCE-37273C5E9AB4/282477/160910VPRSBookletEnglish.pdf>> 16, also mentioned by Burkhardt, above n 53, 47.

⁹⁹ See, for example, Avril McDonald, 'The Role of Victims and Witnesses in International Criminal Trials' in R. Yepes-Enriques and L. Tabassi (eds), *Treaty Enforcement and International Cooperation in Criminal Matters with special reference to the Chemical Weapons Convention* (T.M.C. Asser Press, 2002) 257, 259.

¹⁰⁰ Burkhardt, above n 53, 56 citing *Situation in the Democratic Republic of the Congo (Decision on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6 of 17)* ((International Criminal Court, Pre-trial Chamber I, Case No. ICC-01/04, 17 January 2006) [50]-[51].

been understood as the victims' right to participate in the legal proceedings as 'tellers of the truth' and 'fact providers', usually through a legal representation. In this sense, courts expect children and other victims to be able to provide precise and truthful information throughout an adversarial process.¹⁰¹ However, at times it could also mean, more literally, 'as giving victims the possibility to appear in person and tell their stories',¹⁰² as usually happens in TRCs.¹⁰³ Finally, given the likely discrepancies between the Prosecutor and the victims' interests and expected outcomes for the legal proceedings,¹⁰⁴ 'it has been argued that an independent voice of the victims consists in the right to have the prosecutor's right to punitive justice balanced with the right of victims to restorative justice'.¹⁰⁵ Therefore, the purpose for giving voice is different depending on the context in which it takes place, and this impacts greatly on the participants' experiences.

In conclusion, these past sections have highlighted the divergence in expectations and motivations in relation to the involvement of children in court proceedings. Child victims and witnesses¹⁰⁶ seek or agree to participate in judicial matters expecting to obtain retribution and reparation, to be able to tell their stories, and to have their sufferings recognised. On the contrary, my analysis of courtroom proceedings reveals that courts have a mechanical function for the child witness – that is, the use of oral testimony to secure the conviction of perpetrators. Consequently, this approach closes down pathways and distorts the voices of the children. The next section will analyse the challenging context of children's physical presence in court and how this will have an impact on their testimonies.

¹⁰¹ As we will see in section 5, this rarely happens.

¹⁰² Burkhardt, above n 53, 56.

¹⁰³ Section 7 will explore this possibility and whether children's voices are actually heard in TRCs.

¹⁰⁴ See Burkhardt, above n 53, 56 citing Abraham S. Goldstein, 'Defining the role of the victim in criminal prosecution' (1982) 52(3) *Mississippi Law Journal* 515, 555; Gerard J. Mekjian and Mathew C. Varughese, 'Hearing the victim's voice: analysis of victims' advocate participation in the trial proceeding of the International Criminal Court' (2005) 17(1) *Pace International Law Review* 1, 33.

¹⁰⁵ Burkhardt, above n 53, 56 citing Goldstein, above n 104, 557–8.

¹⁰⁶ But the same could also be said about adult victims and witnesses.

5. The Challenging Context of Children in Court

So far, this chapter has analysed the recruitment of children as victims and witnesses for judicial proceedings in front of international courts. As discussed already, the specific methods with which children become involved – and, in particular, the use of intermediaries – determine the expectations that they will have throughout the whole process. At the same time, the courts also have a very mechanical interest in getting child victims and witnesses involved in legal proceedings, and they do so despite some very practical and material challenges that children have to face while testifying in court.

Once children are thrown into the complex and intimidating judicial system, which is designed for legal professionals, many of them feel distressed and uncertain. Several factors affect their testimonies.¹⁰⁷ Considering the pressure that courts put on children to provide valuable information, the influence that the courtroom environment has on children's testimonies should not be ignored. First of all, during the proceedings, children can be 'easily intimidated by lawyers, judges, [interpreters], courtrooms and criminal procedures, and this is certainly heightened in the case of international trials'.¹⁰⁸ Additionally, children 'may be more inclined to give the answers that they think adults want to hear, and [there is a risk that child witnesses] may learn their testimony as they go, taking their cue from those who interview or assist them'.¹⁰⁹ Finally, taking part in international courts proceedings usually involves travelling to a foreign country, which can be not only stressful in itself (especially for children who may have never left their village or region), but it may 'in turn causes separation from family and absence from school'.¹¹⁰

¹⁰⁷ Kelly McWilliams et al, 'Children as Witnesses' in Gary Melton et al (eds), *The SAGE Handbook of Child Research*, (Sage Publications, 2014) 285, 293.

¹⁰⁸ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 29.

¹⁰⁹ Kyra Sanin and Anna Stirnemann, 'Child Witnesses at the Special Court for Sierra Leone' (War Crimes Studies Center, 2006) 8 quoted in United Nations, 'Children and Justice During and in the Aftermath of Armed Conflict' (Working Paper No 3, Office of the special representative of the Secretary-General for children and armed conflict, 2011) 15.

¹¹⁰ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 29.

Notwithstanding typical concerns about a child's ability to testify in a court of law relating to his linguistic, cognitive, moral and emotional development,¹¹¹ it has already been pointed out how courts still rely on children's testimonies as sources of facts. Given that, by the time they appear in front of a court, child witnesses are usually adolescents, 'their relative maturity alleviates concerns that linguistic or cognitive under-development could affect their ability to testify. However, delays in their moral and emotional development may still have negative effects on both the child witness and the quality of the testimony'.¹¹² In particular, a child's memory seems to be more susceptible to misleading information than does that of an adult,¹¹³ and children's conceptualisation of time, frequency and the ordering of events is also gradually acquired. Moreover, the experience of trauma itself – worsened by the use of drugs for a prolonged period of time, which often characterises child soldiers' time in the army – could affect the ability of a witness to understand or remember timeframes, dates and physical dimensions.¹¹⁴ According to the SCSL's records, this was indeed the most recurrent and challenging problem, clearly affecting the accuracy and relevance of these testimonies:

Testimony of Witness TF1-157:¹¹⁵

Q. And how long did you stay there?

A. How long?

Q. Yes, how long did you stay there?

A. I am confused.

Q. Have you forgotten?

A. If you say a week, maybe I can remember. But when you talk about time, I cannot understand; I am confused.

Q. Did you stay there for one week, two weeks, three weeks? How many weeks did you stay there for?

¹¹¹ John Philippe Schuman, Nicholas Bala and Kang Lee, 'Developmentally appropriate questions for child witnesses' (1999) 25(1) *Queen's Law Journal* 251, 251.

¹¹² Kyra Sanin and Anna Stirnemann, 'Child witnesses at the Special Court for Sierra Leone' (War Crimes Studies Center, 2006) 8.

¹¹³ See Elizabeth F. Loftus, 'Distortions in the Memory of Children' (1984) 40(2) *Journal of Social Issues* 51; Stephen J. Ceci, Michael P. Toglia and David F. Ross, *Children's eyewitness memory* (Springer-Verlag, 1987); Thomson, above n 31; Judith Cashmore, 'Children in Exceptional Circumstances' in Gary Melton et al (eds), *The SAGE Handbook of Child Research* (Sage Publications, 2014) 197; Judy Cashmore, 'Problems and solutions in lawyer-child communication' (1991) 15(3) *Criminal Law Journal* 193.

¹¹⁴ Sanin and Stirnemann, above n 109, 8.

¹¹⁵ *The Prosecutor of the Special Court v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu* (The Special Court for Sierra Leone, Trial Chamber II, Case No. SCSL-2004-16-T, 26 September 2005) 27.

A. Three weeks.

Notwithstanding the obvious implications and although some precautions have been taken in order to avoid a direct confrontation, often children taking part in legal proceedings have the difficult challenge of coming face to face with their perpetrators while in the courtroom. The effect of this can be not only highly distressing for the child witness, but can also cause their memories to become confused and thereby compromise their testimony. Recalling and describing 'in detail traumatic events that they may have painfully attempted to forget'¹¹⁶ could be stressful and upsetting for children, as can be the discovery that 'what they have experienced is wrong',¹¹⁷ regardless of what they may have been told by their commanders. Many former child soldiers grew up fighting in the bush, where wartime morals replaced those that would have been engendered by their families and communities. During the war, rebel leaders substituted for family members as attachment figures for child soldiers, who, in turn, developed loyalty towards them. Under these circumstances, many former child combatants perceive witnessing against their former leaders as a form of disloyalty, even at an unconscious level; they find it hard to discern right from wrong and they 'exhibit a tendency to lie, to disrespect authority figures, and to break rules'.¹¹⁸ Additionally, dissociation during traumatic events, or when recalling them, may hinder a witness's temporal or spatial perception, thereby affecting his ability to recall specific dates, times or locations:¹¹⁹

¹¹⁶ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 29.

¹¹⁷ Ibid.

¹¹⁸ Sanin and Stirnemann, above n 109, 9.

¹¹⁹ A contrasting opinion can be found in the defence closing brief in the Lubanga case: 'Trauma suffered by a person does not affect memory and will not cause the person to lose memory of an event or to forget the truth. The person will simply find it difficult to talk about the traumatic event. ... The occurrence of post-traumatic stress disorder has no impact whatsoever on a person's ability to remember non-violent experiences.' *Prosecutor v Thomas Lubanga Dyilo (Closing submissions of the Defence)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 15 July 2011) 128 [367].

Testimony of Witness TF1-157:¹²⁰

Q. At the time you were taken from Bo-Ngieha were you at school?

A. Yes.

Q. What class were you in?

A. Class two.

Q. And at class two you would be able to tell the days of the week; not so? At that time you could tell the days of the week; you could read them or name them?

A. At that time I was not going to school.

Q. When they took you from Bo-Ngieha you weren't going to school at all?

A. No.

Testimony of Witness W-0298:¹²¹

A. Well, I can't remember the date. Only adults can remember the dates. All I remember is that I heard the information on the radio, but I can't know the exact date. I only got the information through the radio. Only adults might be able to remember the date.

Q. Do you remember what year that happened?

A. Well, you know, my mind isn't functioning very – isn't functioning properly, so I can't really remember correctly.

Q. What do you mean by that, Dieu merci? Are you telling me that you are no longer able to answer my questions?

A. No, I'm able to answer your questions, but what I'm saying is that at the time I was very young. Now I'm here. I might look like an adult, but at the time I wasn't able to remember dates, hours, days. Not all children know how events unfold.

While the experience of telling one's story may produce a sense of relief for some individuals, it can also be traumatising or can exacerbate existing trauma. Disclosing painful experiences can make children feel ashamed and guilty, and can have long-term negative consequences.¹²² One may think that the risk of re-traumatisation is not very high with teenage witnesses: however, one must bear in mind that some of them were very young when these traumatic events occurred, and many children 'are still struggling with the trauma left by acts they saw or committed during the war'¹²³ by the time they appear in court.

Testimony of Witness TF2-080:¹²⁴

Q. So when did you join the CDF?

¹²⁰ *The Prosecutor of the Special Court v Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu* (The Special Court for Sierra Leone, Trial Chamber II, Case No. SCSL-2004-16-T, 26 September 2005) 25.

¹²¹ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 10 February 2009) 42, lines 10–22.

¹²² Schuman, Bala and Lee, above n 111, 253.

¹²³ Sanin and Stirnemann, above n 109, 9.

¹²⁴ *The Prosecutor of the Special Court v Sam Hinga Norman, Moinina Fofana and Allieu Kondewa* (The Special Court for Sierra Leone, Trial Chamber I, Case No. SCSL-2004-14-T, 6 June 2005) 24.

A. I joined the CDF between '97 and '98. I do not know the right month that I joined the CDF. At that time I was a small boy.

Considering that '[t]he earlier a child's age when he is torn from a stable environment, the more damaging the experience of trauma will be to his emotional development',¹²⁵ these traumatic experiences have a deep mental impact that could affect him until and even throughout adulthood. In fact, most of the child witnesses assessed by the Witness and Victim Section of the SCSL during the pre-trial stage show in one form or another symptoms of behavioural disorders and affect-deregulation, in addition to intrusive thoughts and nightmares. In a few cases, the children also report suicidal thoughts.¹²⁶

Finally, because of the different cultural backgrounds of children and legal professionals, there might be additional difficulties with communication. Child witnesses might have cultural restrictions about discussing certain topics with certain people, and might not be comfortable with the formality of hearing processes and cultural characteristics. All this may detract from a particular child's ability to give the necessary information in court, or may affect the weight and credibility of a particular child's evidence.¹²⁷

These testimonies reveal the saddest part of the experience of children in courts. As mentioned already, while courts expect children to provide truths and facts, children are far from able to do so. They are affected by their past experiences and by the traumas they left behind. They are also affected by the current situation in which they find themselves: the courtroom. As a consequence, at best these children cannot always deliver, and at worst they deliberately lie, in front of the whole court and under oath. Sometimes they lie on purpose, sometimes they are coaxed by a third party, and sometimes they lie because they are confused or overwhelmed. In any case, we are left with a sense of sadness and dismay. The fact that a child has lied in front of an international tribunal is not a victory for anyone, but a tragedy for the whole process – a process that is fundamentally flawed when

¹²⁵ Sanin and Stirnemann, above n 109, 9.

¹²⁶ Karin Arts and Vesselin Popovski (eds), *International criminal accountability and the rights of children* (Hague Academic Press, 2006) 136.

¹²⁷ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.121] <<http://www.alrc.gov.au/publications/report-84>>.

it comes to victim and witness participation in judicial proceedings.¹²⁸ Because the biggest flaw of this whole experience is that nobody comes out of it satisfied: not the court, which expects children to provide valuable facts; and not the children, who wish, at the very least, to have their stories heard and their suffering recognised. Both emerge from this process empty handed.

Considering the challenges that children's involvement in court proceedings entails and considering the importance of children's testimonies for the courts, it should not surprise that international tribunals see the need for a number of protections for child witnesses. Consequently, the next section reviews efforts to enable children's participation in justice mechanisms while ensuring their protection and allowing them to feel safe, secure and at ease in front of the ICC and the SCSL.¹²⁹

6. Protections in Place for Children's Participation in Court Proceedings

Although any court of law is primarily concerned with finding the truth and bringing justice for crimes committed, it also has an obligation to protect its witnesses – especially children – against re-traumatisation, to preserve the integrity of the evidence before it, and to safeguard the rights of the accused.¹³⁰ As one commentator has noted, '[t]he court relies on witnesses, and in turn they rely on us to ensure that they are not harmed as a result of their interaction with us. We therefore have to ensure that their interaction with the Court is a successful one'.¹³¹ There is no doubt that 'children who are

¹²⁸ As we have seen, the complete reliance of international courts on intermediaries to establish and maintain contact with witnesses means that there is no guarantee that witnesses do not approach the courts with interests beyond truth-telling.

¹²⁹ This includes supporting the rights of children to choose whether or not to participate and to decide how they wish to be involved, with whom they wish to engage, and when.

¹³⁰ *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, adopted by ECOSOC Resolution 2005/20 of 22 July 2005, E/2005/INF/2/Add.1 (entered into force 10 August 2005) 2.

¹³¹ Silvana Arbia, Speech delivered at the opening of the seminar on the protection of victims and witnesses, The Hague, 26 November 2011) in International Bar Association, 'Witnesses before the International Criminal Court: An International Bar Association International Criminal Court Programme Report on the ICC's Efforts and Challenges to Protect, Support and Ensure the Rights of

victims and witnesses are particularly vulnerable and need special protection, assistance and support appropriate to their age, level of maturity and unique needs in order to prevent further hardship and trauma that may result from their participation in the criminal justice process'.¹³² Additionally, these measures are essential in order to preserve the integrity of the testimony and to ensure that children are able to provide the truths that courts expect from them. 'Recognizing that justice for child victims and witnesses of crime must be assured while safeguarding the rights of accused persons',¹³³ protection in courts requires for both children's safety and wellbeing and the integrity of the testimony to be safeguarded. Courts believe that this balance between the two aspects of protections is critical to the successful involvement of children as victims and witnesses in court proceedings. However, as we will see in section 8, effective protections put in place for children are only one of the elements that determine the success of their participation in justice proceedings – and, at the time, they are not even the most influential factor. Although protection while in court is certainly essential to guarantee the physical and mental wellbeing of the children, in order to have a positive experience child victims and witnesses need to feel that they actually had an impact on the process and that their voices were given due weight.¹³⁴

As discussed at the beginning of this chapter, there is a large consent among scholars and legal experts that children's participation in legal proceedings, with appropriate safeguards in place, is highly valuable.¹³⁵ Consequently, in accordance with international standards that consider child witnesses inherently vulnerable, international tribunals such as the ICC and the SCSL adopted a series of guidelines for their protection. These find their roots in the framework of cooperation established between the SCSL and Sierra Leone's child protection agencies (CPAs).¹³⁶ This resulted in an agreement¹³⁷ and the establishment of a committee,

Witnesses' (July 2013) <<http://www.ibanet.org/Document/Default.aspx?DocumentUid=9c4f533d-1927-421b-8c12-d41768ffc11f>>.

¹³² *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, adopted by ECOSOC Resolution 2005/20 of 22 July 2005, E/2005/INF/2/Add.1 (entered into force 10 August 2005).

¹³³ *Ibid.*

¹³⁴ See section 8 for more information on how the children perceived their experiences in courts.

¹³⁵ Parmar et al, above n 27, 21.

¹³⁶ *Ibid* 13.

tasked with the regular monitoring of the implementation of the agreed principles and procedures.¹³⁸ This arrangement is what later formed the basis for the development of the protection policies and procedures for child witnesses at the ICC.

A fundamental principle of these policies is that

[t]he Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender ... and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. [In addition], it shall take into account the needs of all victims and witnesses ... in particular children, elderly persons, persons with disabilities and victims of sexual or gender violence.¹³⁹

The Rules of Procedure and Evidence specify that children will be assisted through all stages of the proceedings and that psychosocial support will be available before, during and after the court appearance, including experts in trauma related to crimes of sexual violence and violence against children.¹⁴⁰ The protections available include, for example, allowing children to testify through closed-circuit television or shielding them from the defendant, who may be a perpetrator or former commander, as well as protecting the child's privacy at all levels of the proceedings.¹⁴¹

In addition to this, all international tribunals have created, within the Registrar, a Victims and Witnesses Unit (VWU), tasked with taking short- and long-term protective measures when witnesses are called to testify, including 'providing security arrangements, counselling and other appropriate assistance for witnesses

¹³⁷ Principles and Procedures for the Protection of Children in the Special Court.

¹³⁸ Parmar et al, above n 27, 13. While the guidelines suggested that the monitoring committee would convene on a monthly or bi-monthly basis, in reality the members only met once or twice and the effort ultimately disintegrated. Nonetheless, the court psychologist and other Witness and Victim Section staff maintained a close relationship with UNICEF and the CPAs prior to the commencement of trials.

¹³⁹ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 68.

¹⁴⁰ International Criminal Court, *Rules of Procedure and Evidence*, Doc No. ICC-ASP/1/3 (adopted 9 September 2002) r 34(A)(B).

¹⁴¹ In addition to these general safeguard measures, depending on the situation of the individual witness, different levels of protection were provided, from surveillance to care in safe-houses to relocation, either within the country or abroad. See Human Rights Watch, 'Bringing Justice: the Special Court for Sierra Leone. Accomplishments, Shortcomings, and Needed Support' (2004) <<http://www.hrw.org/reports/2004/sierraleone0904/index.htm>>.

and victims appearing before the court and for others who are at risk on account of testimony given by the witnesses'.¹⁴² In particular, 'in order to facilitate the participation and protection of children as witnesses, the unit may assign, as appropriate, and with the agreement of the parents or the legal guardian, a child-support person to assist a child through all stages of the proceedings'.¹⁴³

6.1. Protection in the Investigative Phase

As we have seen already, initial contacts and interactions between victims and vulnerable witnesses and legal staff 'carry the greatest risk for the physical security and mental wellbeing of the children concerned'.¹⁴⁴ It is therefore essential that children and other vulnerable individuals involved in the proceedings are protected as soon as they come into contact with legal professionals. This is particularly relevant if the initial identification of and contact with potential witnesses is done through intermediaries:¹⁴⁵ as will be presented later in the chapter, '[n]ot only is there the great risk for the investigation to be manipulated by such intermediaries, but there are potential security risks for vulnerable witnesses identified and approached in this way, as well as for the intermediaries themselves'.¹⁴⁶

Additionally, during the investigative phase coordination between the different organs of the courts is particularly crucial in order to provide adequate support to victims and potential witnesses early in the process.¹⁴⁷ In particular, in

¹⁴² Parmar et al, above n 27, 30. See *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002), arts 17(2), 43(6), 68; *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, signed 16 January 2002, 2178 UNTS 137 (entered into force 12 April 2002) annex ('*Statute of the Special Court for Sierra Leone*') art 16(4).

¹⁴³ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 17(3).

¹⁴⁴ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 30.

¹⁴⁵ More about the issue of intermediaries will be discussed in section 6.3.

¹⁴⁶ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 30.

¹⁴⁷ *Ibid* 31.

this phase there could be conflict and confusion between the role and actions of the VWU, part of the Registry, which is responsible for the protection of victims and witnesses, and the investigators on the ground, who are coordinated by the Office of the Prosecutor.¹⁴⁸ To ensure further protection, a Gender and Children's Unit has also been established in the Office of the Prosecutor to assist in implementing child-friendly measures during the investigative phase. The unit includes staff with legal and other expertise on sexual and gender violence and violence against children.¹⁴⁹ According to the Regulations of the Office of the Prosecutor, 'the Unit shall be responsible for providing advice to the Prosecutor, ExCom and the Divisions in all areas related to sexual and gender violence and violence against children, and shall contribute to preliminary examinations and evaluations, investigations and prosecutions in those areas'.¹⁵⁰

Given the high need for protection during this initial phase, the Statute of the ICC explicitly stipulates that during investigations the prosecutor should

[t]ake appropriate measures to ensure the effective investigation and prosecution of crimes within the jurisdiction of the Court, and in doing so, respect the interests and personal circumstances of victims and witnesses, including age, gender ... and take into account the nature of the crime, in particular where it involves sexual violence, gender violence or violence against children.¹⁵¹

In particular, 'professionals should also implement measures' to 'limit the number of interviews: special procedures for collection of evidence from child victims and witnesses should be implemented in order to reduce the number of interviews, statements, hearings and, specifically, unnecessary contact with the justice process, such as through use of video recording'.¹⁵²

¹⁴⁸ Ibid.

¹⁴⁹ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 42(9).

¹⁵⁰ *Regulations of the Office of the Prosecutor*, ICC-BD/05-01-09 (entered into force 23 April 2009) reg 12.

¹⁵¹ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 54(1)(b) quoted in Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 31.

¹⁵² *Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime*, adopted by ECOSOC Resolution 2005/20 of 22 July 2005, E/2005/INF/2/Add.1 (entered into force 10 August 2005) 11.

However, the guidelines and procedures foreseen in the Statute are still somewhat unclear and open to interpretation, leading Beresford to recommend that 'the prosecutor should issue guidelines to all members of his staff to ensure that children are treated in a caring and sensitive manner throughout the investigation and prosecution process (taking into account age and level of maturity) and to guarantee that they are effectively protected'.¹⁵³

6.2. Protection in the Trial Phase

Once the proceedings have started, most of the responsibility for ensuring child victims and witnesses' protection and comfort, in addition to making sure that their participation in the trial is given due significance, lies with the judges. In this regard, the Statute of the ICC provides that 'judges with legal expertise on specific issues, including, but not limited to, violence against women or children' should be designated.¹⁵⁴ Considering the pressure that the prosecutor puts on the children to provide valuable information, judges are meant to be 'mediators' for a fair trial, and they therefore have the responsibility of ensuring child witnesses are not harassed or intimidated.¹⁵⁵

One of the most crucial safeguards that judges adopt to protect children and other vulnerable witnesses while giving evidence, is the provision of alternative delivery methods:¹⁵⁶ instead of taking the stand in front of the whole courtroom,

¹⁵³ Stuart Beresford, 'Child Witnesses and the International Criminal Justice System: Does the International Criminal Court Protect the Most Vulnerable?' (2005) 3(3) (July 1, 2005) *Journal of International Criminal Justice* 721, 737 quoted in Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 31.

¹⁵⁴ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 36(8)(b) quoted in Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 33.

¹⁵⁵ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.115] <<http://www.alrc.gov.au/publications/report-84>> 183.

¹⁵⁶ *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) arts 68(2), 69(2).

they have the chance to testify via video conferencing, via closed-circuit television¹⁵⁷ or through previously recorded audio or video testimony.¹⁵⁸ Additionally, in order to protect their privacy and ensure their safety, witnesses' voice and face may be distorted, as well as their names erased from its public records or replaced with a pseudonym or number.¹⁵⁹ Finally, in order to ensure children's testimony runs smoothly, judges may allow witnesses to tell their stories in a free form, without too many interruptions from lawyers,¹⁶⁰ as this example shows:

JUDGE ODIO BENITO: We would ask the Office of the Prosecutor to give very careful consideration now with all of the witnesses that are to come as to whether there are others, and we are particularly thinking of former child soldiers, who should be, as it were, given their head at the beginning of their evidence so they can simply, as it were, tell it in their own words.¹⁶¹

Despite all these remarkable advances in the statutes of international courts, their practice during trials has not been without problems. Cross-examination is one of the most challenging parts of the whole court appearance and, according to Brennan, 'is that part of court proceedings where the interests and rights of the child are most likely to be ignored and sacrificed'.¹⁶² In light of the high relevance that both parties put on the testimonies, it should not surprise that cross-examination is the most delicate and challenging, but also the most crucial, part of the process. Indeed, it is the aim of cross-examination to 'create reasonable doubt by revealing inconsistencies in testimony, ferreting out untruthful testimony and even

¹⁵⁷ International Criminal Court, *Rules of Procedure and Evidence*, Doc No. ICC-ASP/1/3 (adopted 9 September 2002) r 67.

¹⁵⁸ *Ibid* r 68.

¹⁵⁹ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 33-4.

¹⁶⁰ The possibility of witnesses and victims speaking uninterrupted, alongside the possibility of judges 'vigilantly controlling the manner of questioning a witness or victim so as to avoid any harassment or intimidation', is certainly a peculiarity of the ICC, which has resorted to this on several occasions. However, this is not always positively viewed by some defence counsel, who feel unusually restricted in their questioning of witnesses: International Bar Association, 'Witnesses before the International Criminal Court: An International Bar Association International Criminal Court Programme Report on the ICC's Efforts and Challenges to Protect, Support and Ensure the Rights of Witnesses' 31 (July 2013) <http://www.ibanet.org/ICC_ICL_Programme/Home.aspx>.

¹⁶¹ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 11 February 2009) 50, lines 8-13.

¹⁶² Mark Brennan, 'The discourse of denial: cross-examining child victim witnesses' (1995) 23(1) *Journal of Pragmatics* 71, 71.

discrediting the witness',¹⁶³ through the use of evidence, but mostly through deliberately confusing questions.¹⁶⁴ The legal jargon used within a courtroom is often incomprehensible to most children even in First World countries, let alone to children who have received little or no education and who do not speak the same language.¹⁶⁵

In addition, the highly structured interrogation used in cross-examination often calls for child witnesses to repeat certain answers and to focus on minute details. Questions are asked in such a way as to preclude all but a 'yes' or 'no' response and may address events out of time sequence. Lawyers also frequently interrupt witnesses to restrict their accounts and to retain tight control over their testimony. These techniques can have the effect not only of preventing a child witness from describing events in the order in which the child remembers them, but also of maximising the possibility of confusing the child and of contaminating the child's memory.¹⁶⁶

Indeed, because of this potential side effects of the techniques used in cross-examination, in some instances judges have allowed victims and witnesses to tell their story in a free form.¹⁶⁷

It is undoubtedly true that if a witness is harassed and made uncomfortable during cross-examination to the point of breakdown, he cannot be expected to give effective evidence. Additionally, given the unequal relationship between legal personnel and children, '[c]hild witnesses are often taken advantage of because they can be easily confused and intimidated, because they are unable to match the linguistic skills of experienced lawyers, or because, unlike the lawyers, they are in a hostile and alien environment'.¹⁶⁸ In the next section, I will review areas of possible improvements by drawing on the experience of the ICC in the first testimony by a witness who had been a child victim.

¹⁶³ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.111] <<http://www.alrc.gov.au/publications/report-84>>.

¹⁶⁴ Brennan, above n 162, 73.

¹⁶⁵ See Cashmore, above n 113, 199; Mark Brennan et al, *Strange Language: Child Victims Under Cross Examination* (Riverina Murray Institute of Higher Education, 1988); Brennan, above n 162.

¹⁶⁶ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.110] <<http://www.alrc.gov.au/publications/report-84>> 182.

¹⁶⁷ See above n 160.

¹⁶⁸ Australian Law Reform Commission, *Seen and heard: priority for children in the legal process* (ALRC Report 84, 19 November 1997) [14.111] <<http://www.alrc.gov.au/publications/report-84>> 183.

6.3. Learning from the Past, Looking to the Future

There are many lessons to be learned from the very first child testimony before the ICC, W-0298,¹⁶⁹ aged around 17 when he testified before the ICC in the Lubanga trial on 28 January 2009.¹⁷⁰ A former child soldier for the Union of Congolese Patriots (UPC),¹⁷¹ he was called to testify against Lubanga from the crimes suffered, despite having himself committed offences. A crucial initial mistake was the fact that his testimony took place in person in the courtroom, shielded from the public gallery with face and voice distortion, but visible to those present in the courtroom, including Lubanga. His presence had an immediate and visible effect on the witness, who 'appeared concerned and frightened'¹⁷² as soon as he entered the room. Perhaps as a consequence of this, after his initial testimony, he abruptly changed his story, saying that he had lied and had been coached on what to say in court: 'What I said earlier was not what I intended to say. I would like to say what actually happened to myself, not say what some other person intended me to say.'¹⁷³

As a result of his recanting and presumed interference by intermediaries, the witness was deemed unfit to continue and the proceedings were suspended. However, on 10 February 2009, W-0298 was allowed to conclude his testimony 'after a determination by the ICC that he was indeed fit to testify and subject to specific protective measures'.¹⁷⁴ These included not only less spectators present in the room and public gallery, and the possibility for the witness to testify in a free form,¹⁷⁵ but

¹⁶⁹ In some instances also referred to as P-0298.

¹⁷⁰ *Prosecutor v Thomas Lubanga Dyilo (Prosecutor's closing brief)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 1 June 2011) 154, [379].

¹⁷¹ The armed group allegedly led by Lubanga.

¹⁷² Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 35.

¹⁷³ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 28 January 2009) [40].

¹⁷⁴ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 35.

¹⁷⁵ See above n 160.

also, and most critically, the right to be shielded from Lubanga's direct view.¹⁷⁶ In the end, despite the initial difficulty in testifying, the prosecutor considered that W-0298 was able to provide 'a credible and very detailed account of his time within the UPC/FPLC [the Patriotic Force for the Liberation of the Congo] while providing his testimony in a free form narrative'¹⁷⁷ and the Chamber accepted his evidence.¹⁷⁸

Undoubtedly, this first testimony offers important lessons to be learned. The first is procedural and it revolves around the (lack of) protective measures in place by the ICC for child victims and witnesses: clearly, in the instance of the first testimony, they were insufficient or insufficiently applied. Luckily, since then the court has adopted additional measures and safeguards to avoid similar problems in the future, including reviewing its procedures for vulnerable witnesses and hiring 'a psychologist experienced in working with child victims of international crimes, who could assess children's capacities for testifying and the risks they face prior to their court appearance'.¹⁷⁹ However, the powers of the psychologist are relatively limited and, as seen already, there are many other challenges that child victims and witnesses still have to face when participating in legal proceedings.¹⁸⁰

The second lesson is relative to the issue of intermediaries, who, as we have seen already, are highly relevant in the relationship between children and tribunals. During his first testimony, W-0298 stated unprompted that he had been encouraged to lie and that he had been drilled in mendacious statements for three and a half years. He then went on to explain that he had been approached by an NGO, which promised him 'clothes and many other things'.¹⁸¹ Following this and other

¹⁷⁶ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 35.

¹⁷⁷ *Prosecutor v Thomas Lubanga Dyilo (Prosecutor's closing brief)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 1 June 2011) [155].

¹⁷⁸ *Prosecutor v Thomas Lubanga Dyilo (Judgement pursuant to Article 74 of the Statute)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 14 March 2012) [481].

¹⁷⁹ Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 35.

¹⁸⁰ *Ibid.*

¹⁸¹ *Prosecutor v Thomas Lubanga Dyilo (Closing submissions of the Defence)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 15 July 2011) [116].

allegations that prosecution's intermediaries¹⁸² had manipulated and coached witnesses, in addition to having presented many alleged former child soldiers who in reality never served,¹⁸³ the defence filed for abuse of process and requested a permanent stay of proceedings and the immediate release of the accused:¹⁸⁴

All the testimonial evidence concerning witnesses being presented to the Court as former child soldiers has proved to be mendacious. All the witnesses who appeared as former child soldiers, and the intermediaries associated with those witnesses, participated in the elaboration of a mendacious operation intended to mislead the Court.¹⁸⁵

Eventually, the Trial Chamber rejected the application as it would constitute a disproportionate remedy for the issues brought forward by the defence. It reaffirmed, however, its right to reserve judgment on the impact of the intermediaries' involvement on the case evidence, including on the credibility of witnesses, as well as any prosecutorial misconduct or negligence, in its final judgment.¹⁸⁶ In the end, the Trial Chamber dedicated about a third of its judgment¹⁸⁷ on the issue of the intermediaries who may have manipulated the witnesses, 'in order to demonstrate the extent of the problems the investigators faced and the background to the considerable reliance that the prosecution placed on certain intermediaries'.¹⁸⁸ Although the Chamber recognised the need of relying on

¹⁸² Such as the statement from witness W-0297 that intermediary W-0321 instructed him to tell the judges that he was forcibly recruited and promised money in return for testifying against Lubanga: *Prosecutor v Thomas Lubanga Dyilo (Prosecutor's closing brief)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 1 June 2011) [183].

¹⁸³ Institute for War and Peace Reporting, *ICC Intermediaries Allegedly Concocted Evidence. Two witnesses say the intermediaries falsely claimed boys were former child soldiers* (12 February 2010) <<https://iwpr.net/global-voices/icc-intermediaries-allegedly-concocted-evidence>>.

¹⁸⁴ *Prosecutor v Thomas Lubanga Dyilo (Redacted Decision on the "Defence Application Seeking a Permanent Stay of the Proceedings")* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 7 March 2011).

¹⁸⁵ *Prosecutor v Thomas Lubanga Dyilo (Closing submissions of the Defence)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 15 July 2011) 28 [91].

¹⁸⁶ *Prosecutor v Thomas Lubanga Dyilo (Redacted Decision on the "Defence Application Seeking a Permanent Stay of the Proceedings")* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 7 March 2011) [74]-[92].

¹⁸⁷ *Prosecutor v Thomas Lubanga Dyilo (Judgement pursuant to Article 74 of the Statute)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 14 March 2012) [124]-[177].

¹⁸⁸ *Ibid* [124] quoted in Women's Initiatives for Gender Justice, *Lubanga Judgment - The Prosecution's Investigation and Use of Intermediaries* (20 August 2012) Legal Eye on the ICC <<http://www.iccwomen.org/news/docs/WI-LegalEye8-12-FULL/LegalEye8-12.html>>.

intermediaries given 'the extensive security difficulties [the prosecution] faced',¹⁸⁹ it nevertheless recognised the prosecution's negligent oversight of the intermediaries¹⁹⁰ and failure to verify properly the evidence it obtained this way before presenting it to the Court.¹⁹¹

Consequently, the Chamber found that, as a result of the prosecution's lack of supervision and the high chance of improper conduct and manipulation of victims and witnesses by intermediaries, all but two of the alleged former child soldiers called as witnesses by the prosecution to be unreliable and their testimonies to be dismissed.¹⁹² Besides the obvious implications for Lubanga's prosecution and sentence, the Chamber's findings regarding

witness credibility had, in turn, an additional and direct impact on victim participation. Finding their testimony to be untrustworthy, the Chamber reversed its original *prima facie* determination authorising the participation of six prosecution witnesses as victims in the proceedings (five alleged former child soldiers and the father of one alleged former child soldier). The Chamber also withdrew the victim participation status of three victims whom it had authorised to give evidence upon the request of their legal representative.¹⁹³

In the end, the Chamber's analysis of the court's investigative practices through intermediaries revealed the urgent need for formal policies and procedures regulating the ICC and intermediaries, which eventually resulted in the Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel Working with Intermediaries.¹⁹⁴

Having explored the experiences of child participants before international judicial mechanisms, I now move to analysing the involvement of children in non-judicial settings. The reason for doing so is to explore if and how the children's experiences vary from a formal to a less formal setting where the aim of the process

¹⁸⁹ *Prosecutor v Thomas Lubanga Dyilo (Judgement pursuant to Article 74 of the Statute)* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 14 March 2012) [482].

¹⁹⁰ Including failing to verify the intermediaries' backgrounds. See *ibid* [368].

¹⁹¹ *Ibid* [482].

¹⁹² *Ibid* [480]-[481].

¹⁹³ Women's Initiatives for Gender Justice, *Lubanga Judgment – The Prosecution's Investigation and Use of Intermediaries* (20 August 2012) Legal Eye on the ICC <<http://www.iccwomen.org/news/docs/WI-LegalEye8-12-FULL/LegalEye8-12.html>>.

¹⁹⁴ *Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel working with intermediaries*, adopted by the International Criminal Court (March 2014).

is not to secure a conviction, but rather to uncover the truth about the past in order to facilitate reconciliation. Since the judicial and non-judicial mechanisms have different approaches, different structures and different goals, it can be assumed that the children's experiences are different in the two settings. In particular, the assumption is that in the less formal environment of non-judicial proceedings, children find themselves in a more relaxed context, where their presence and contribution are valued and they are able to participate in a more comprehensive way. In this setting, which allows a wider number of children's voices to be heard, it would be expected that stories should be prioritised over 'facts' and feelings over 'truths'.

7. Children's Participation in Non-Judicial Proceedings

As this chapter has already explored, international courts have a very mechanical interest in using children to obtain evidence in order to secure convictions; although this is in line with the aims of justice, it has, however, a negative impact on the children, whose voices are distorted and muzzled. Consequently, children involved in judicial proceedings are often left disempowered and frustrated by a process from which they expected a great deal. Additionally, while international courts traditionally focus their prosecutions only on individuals bearing the greatest responsibility for crimes under international law – and children are rarely among them –¹⁹⁵ there is the possibility that, within these settings, 'questions and concerns about [the children's] roles and accountability'¹⁹⁶ may arise. In order to overcome these problems, one could turn to non-judicial proceedings, which can provide a forum for non-judicial acknowledgment of responsibility, rehabilitation and reconciliation, while still giving 'paramount importance to the safety and physical

¹⁹⁵ Although there are a number of cases in which child soldiers rose to be senior commanders – as in the case of Dominic Ongwen, who became one of the top commanders of the Lord's Resistance Army before even reaching 18 years of age. See *Prosecutor v Dominic Ongwen* (International Criminal Court, Case No. ICC-02/04-01/15) < <https://www.icc-cpi.int/uganda/ongwen>>.

¹⁹⁶ United Nations Children's Fund (UNICEF), 'Children and Truth Commissions' (UNICEF Innocenti Research Centre, 2010) xi.

and psychological protection of children'.¹⁹⁷ The assumption is that in less formal proceedings, the children's voices would be more likely to be heard. Without the requirement of the truth and evidence, and the boundaries of legality, you would expect that pathways for the children's voice to be expressed would open up. This section will explore this assumption, taking as an example the work of the Sierra Leone Truth Commission.

To this day, transitional justice does not rely on standardised rules and norms, 'only [on] customised approaches that must be shaped by local conditions and driven by local actors'.¹⁹⁸ Accountability, acknowledgment, truth recovery and prevention of further abuse are the recognised goals of transitional justice, and in order to be achieved 'active consultation and participation from victim communities, organisations and the public' are required.¹⁹⁹ Transitional and restorative justice mechanisms,²⁰⁰ in particular, have had to face the challenging task of seeking balance between 'respecting children's rights, wellbeing and social reintegration while seeking to involve them in proceedings, to listen to them, and to give due weight to their experiences'.²⁰¹ In order to ensure so, truth commissions have relied on the principles of international human rights law,²⁰² and in particular on The Convention on the Rights of the Child, when engaging with children. As highlighted by Cook and Heykoop, of crucial importance for the work of the truth commissions is the Convention's 'focus on children's best interests and their right to non-discrimination and – not least – the right for children's voices to be heard and their views to be considered in decisions and procedures affecting them'.²⁰³

¹⁹⁷ Ibid.

¹⁹⁸ Ibid 4.

¹⁹⁹ International Center for Transitional Justice, *What is Transitional Justice?* <<https://www.ictj.org/about/transitional-justice>>.

²⁰⁰ Restorative justice can be defined as 'a process whereby all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of an offence and its implications for the future': Tony F. Marshall, 'The evolution of restorative justice in Britain' (1996) 4(4) *European Journal on Criminal Policy and Research* 21, 37.

²⁰¹ Parmar et al, above n 27, 160.

²⁰² It is worth highlighting here that, when talking about 'international human rights' within the context of an international tribunal, the importance of the engagement should always be directed towards the child.

²⁰³ Parmar et al, above n 27, 160.

In this approach, non-judicial proceedings appear to be very different from criminal courts, and this has a huge impact on their relationship with the children involved. In this section, I will explore children's involvement in the work of the truth commissions, and in particular the Sierra Leonean one, whose attention to children's experiences, views and opinions was ground-breaking.²⁰⁴

7.1. Children and Truth and Reconciliation Commissions

Tasked with discovering and revealing past misconduct by a government or other non-state actors in the hope of resolving current conflicts within a certain country, truth commissions have not traditionally involved children in their work nor have they focused on crimes committed against this specific sector of the population.²⁰⁵ While early commissions, such as the ones in Chile,²⁰⁶ El Salvador²⁰⁷ and Haiti²⁰⁸ recorded crimes against children – specifically disappearances,²⁰⁹ tortures and killings –, their focus remained on adults as victims and perpetrators of political violence.²¹⁰

A turning point came with the mid to late '90s commissions of Guatemala²¹¹ and South Africa,²¹² which 'investigated and reported a substantially higher number

²⁰⁴ Ibid 174.

²⁰⁵ United Nations Children's Fund (UNICEF), above n 196, 10.

²⁰⁶ Corporacion Nacional de Reparación y Reconciliación, 'Report of the Chilean National Commission on Truth and Reconciliation' (Center for Civil and Human Rights, 1993).

²⁰⁷ Commission on the Truth for El Salvador, *From Madness to Hope: The 12-year war in El Salvador*, cited as the annex in United Nations, Letter dated 29 March 1993 from the Secretary-General addressed to the President of the Security Council, S/25500, United Nations, New York, 1 April 1993.

²⁰⁸ Commission Nationale de Vérité et de Justice, 'République d'Haïti: Rapport de la Commission Nationale de Vérité et de Justice' (1998) <<http://ufdcweb1.uflib.ufl.edu/UF00085926/00001>>.

²⁰⁹ In particular, a specific focus on kidnapped babies was given by the Truth Commission in Argentina. See National Commission on the Disappearance of Persons (CONADEP), *Nunca Más* (Editorial Universitaria de Buenos Aire, 1984).

²¹⁰ United Nations Children's Fund (UNICEF), above n 196, 10.

²¹¹ Commission for Historical Clarification, 'Guatemala: Memory of Silence – Report of the Commission for Historical Clarification: Conclusions and Recommendations' (1999) <https://www.aaas.org/sites/default/files/migrate/uploads/mos_en.pdf>.

²¹² Truth and Reconciliation Commission of South Africa, 'Truth and Reconciliation Commission of South Africa Report' (South Africa Truth and Reconciliation Commission, 2003) <<http://www.justice.gov.za/trc/report/index.htm>>.

of child and adolescent victims'.²¹³ In the first country, a high number of children, especially of Mayan ethnicity, victims of 'arbitrary execution, forced disappearance, torture, rape and other violations',²¹⁴ in addition to the many who were orphaned and abandoned as a result of the widespread violence in the country was reported. Consequently, a chapter of the Truth Commission's final report was dedicated to children and the formation of a National Search Commission for Disappeared Children was recommended.²¹⁵ The South African TRC, on the other hand, strove to get even further and considered allowing children and adolescents to participate in its special hearings on children and youth.²¹⁶ Eventually, however, the risk of re-traumatization due to 'exposure to the public and political glare of the hearings'²¹⁷ was considered too high and children were then excluded from statement-taking and from testifying at the hearings.²¹⁸ However, it is worth highlighting that although in the end children did not testify, 'their involvement set new international precedents in efforts by truth commissions to address issues surrounding children'.²¹⁹

Finally, the truth commissions of the new century all dedicated significant time and effort in investigating crimes against children. Both the commissions in Peru²²⁰ and East Timor²²¹ included a chapter on children in their final reports, and the latter also held a public hearing for children.²²² But, in the end, it was the Sierra Leone

²¹³ United Nations Children's Fund (UNICEF), above n 196, 10.

²¹⁴ Ibid.

²¹⁵ Ibid. See Guatemala's Commission for Historical Clarification, 'Guatemala: Memory of Silence: Report of the Commission for Historical Clarification' (CEH, 1999).

²¹⁶ Pigou, above n 21, 125 quoted in Parmar et al, above n 27, 17.

²¹⁷ Parmar et al, above n 27, 17-8.

²¹⁸ Truth and Reconciliation Commission of South Africa, above n 212. Although in the end it did not include children in its hearings, the South African TRC still deserves a mention for its public hearings intended to assist in 'the restoration of the dignity of the victims' by 'giving the voiceless a chance to speak, giving the excluded a chance to be centred and giving the powerless an opportunity to empower themselves', while 'promoting transparency, democracy and participation in society ... as the basis for affirming human dignity and integrity' more generally.

²¹⁹ Pigou, above n 21, 119.

²²⁰ Peru's Truth and Reconciliation Commission, 'Comisión de la Verdad y Reconciliación Peru' (2003).

²²¹ Commission for Reception, Truth and Reconciliation Commission for Reception, Timor-Leste,, 'Chega! The Report of the Commission for Reception, Truth and Reconciliation in Timor-Leste' (CAVR, 2005).

²²² Parmar et al, above n 27, x.

TRC that, for the first time, used the argument of the best interests of the child to justify the involvement of children in its work, since they 'were among the primary victims of the civil war in Sierra Leone'.²²³ Lastly, the Sierra Leone TRC's attitude set the precedent for the Liberia commission,²²⁴ that 'systematically includ[ed] children in its activities throughout the country'.²²⁵

7.2. Children and the Sierra Leone Truth and Reconciliation Commission

The Sierra Leone's TRC was the first commission to explicitly mention children in its mandate, in recognition of the serious impact that the armed conflict had on children. It was also the first to actively include children in its operations, including

statement-taking and [involvement] in closed and thematic hearings, as well as in the preparation of a child-friendly version of the TRC report. In doing so, the role of children in the Sierra Leone TRC was also ground-breaking in setting precedent and developing policies and procedures to protect the rights of children in truth commission processes. This had a significant impact on the emerging understanding of children's evolving capacities to contribute to the legal and social aspects of TRC activities.²²⁶

Notwithstanding the premise that in normal circumstances we do not expect children to always tell the truth or to be able to recall significant and precise details of their lives, in this setting there was a genuine interest in their stories. Contrary to the ICC and the SCSL, where the participation of children was aimed at providing facts and truths to secure a conviction, in this context children were involved simply as part of the community. The interest was on their stories, their experiences and their opinions, not on any direct 'benefits' that they could provide to the process.

In 1999, the Government of Sierra Leone and the Revolutionary United Front (RUF) signed a peace agreement in Lomé (Togo). The Lomé Peace Agreement provided for the creation of a TRC 'to address impunity, break the cycle of violence,

²²³ United Nations Children's Fund, above n 21, quoted in Parmar et al, above n 27, 18.

²²⁴ Truth and Reconciliation Commission of Liberia, 'Truth and Reconciliation Commission of Liberia Final Report' (Truth and Reconciliation Commission of Liberia, 2009).

²²⁵ United Nations Children's Fund (UNICEF), above n 196, x.

²²⁶ Parmar et al, above n 27, 161.

provide a forum for both the victims and perpetrators of human rights violations to tell their story, and get a clear picture of the past in order to facilitate genuine healing and reconciliation'.²²⁷ These objectives were to be achieved through the creation of an 'impartial historical record²²⁸ of violations and abuses of human rights and international humanitarian law from the beginning of the conflict in 1991 to the signing of the Lomé Peace Agreement that [could] serve as a significant step in the long term process of healing and reconciliation as preconditions for lasting peace'.²²⁹ Contrary to international courts, where the presence of children was not originally foreseen, a role for children in the TRC was anticipated since the beginning because they had been targeted during the conflict and had suffered devastating consequences.²³⁰ The guiding principles of the TRC were child-centred²³¹ and they called for special attention to children (girls in particular),²³² the protection of children's rights,²³³ equal treatment of all children,²³⁴ voluntary participation, and protection through confidentiality and anonymity.²³⁵

In contrast with the approach of the ICC and the SCSL to the recruitment of child victims and witnesses, which required children either to be contacted by intermediaries or to come forward on their own, the TRC deployed teams throughout the country for four months in order to take statements. These teams

²²⁷ Peace Agreement between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone of 7 July 1999, Lomé, UN Doc. S/1999/777, art XXVI(1).

²²⁸ In this sense, the TRC aims at achieving truth-telling, rather than truth-finding.

²²⁹ The Truth and Reconciliation Commission Act 2000, Supplement to the *Sierra Leone Gazette* CXXXI (9), 10 February 2000, s 6(1).

²³⁰ *Ibid.* Section 6(2b) provides that special attention be given to children; section 7(4) calls for the implementation of special procedures to address the needs of children and individuals who have suffered sexual abuse so as to facilitate their participation.

²³¹ United Nations Children's Fund, above n 21, 15–9.

²³² Children's experiences should play an integral role throughout the TRC process – from the preparatory phase and the undertaking of preliminary background research to the final report and the establishment of a follow-up committee.

²³³ The work of the TRC concerning children should be guided by the Convention on the Rights of the Child, the African Convention on the Rights and Welfare of the Child, and other international legal standards. The 'best interests of the child' shall be a primary consideration.

²³⁴ Without differentiation as to whether they are considered primarily as witnesses, victims or perpetrators. Child perpetrators must be seen and treated primarily as victims.

²³⁵ Any information provided to the TRC by a child should therefore be confidential and should not be shared with, or released to, any person, body or institution outside the TRC, including the Special Court.

obtained more than eight thousand testimonials from victims, witnesses and perpetrators and over three hundred statements were collected from nearly two hundred children across the thirteen districts. This was an unprecedented process for any truth commissions of the time which would, eventually, encourage the development of 'policies and procedures specific to [children's] protection and safety'.²³⁶ The main priority at this stage was to ensure the children's privacy, confidentiality and safety:²³⁷ in order to achieve this, '[a] vulnerability assessment and a safety checklist were developed to help identify child participants and to ensure that procedures were in place to protect children and to confirm their feelings of security and confidence before giving statements'.²³⁸ Finally, after all the statements were collected and reviewed, the TRC invited selected individuals to testify at district hearings, which 'were public for adults but closed for children in order to assure confidentiality'.²³⁹ The Commission also held thematic hearings addressing specific issues, and these included children's hearings that were organised on the Day of the African Child on 16 June 2003 to give visibility to children's issues and to recommend actions to improve the situation of young people in post-war Sierra Leone.

Despite the huge potential of the TRC, its operational guidelines somehow limited the participation of children. In particular, interviews with children over the age of twelve were restricted to one hour, while for children under the age of twelve the interviews lasted only forty-five minutes.²⁴⁰ Under these guidelines, interviews with former child soldiers were understandably going to be superficial, and consequently children were not allowed to fully participate and tell their full story. In spite of the limited impact of these successful hearings due to a lack of sufficient outreach in districts outside Freetown,²⁴¹ 'the consideration given to sharing

²³⁶ Parmar et al, above n 27, 171.

²³⁷ The Truth and Reconciliation Commission Act 2000, Supplement to the *Sierra Leone Gazette* CXXXI (9), 10 February 2000, s 7(3)-(4).

²³⁸ Parmar et al, above n 27, 171.

²³⁹ *Ibid* 173.

²⁴⁰ David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005) 150-1.

²⁴¹ United Nations Children's Fund (UNICEF), above n 196, 40.

children's experiences, views and recommendations was ground-breaking'.²⁴² Particularly crucial was the recognition of the role of the children, both as civilians and as soldiers, as victims and as perpetrators, in recounting the history of the country. In this setting, children were seen as an integral part of the community and their input was pivotal in facilitating healing and reconciliation. This highlights how the different concepts of childhood, the different representations of child soldiers, and the different perception about the role of children in justice proceedings are crucial in understanding the relationship between child soldiers and courts.

To conclude, truth commissions present one venue for children's voices to be heard and for their experiences and needs to be addressed. While they have the significant potential of involving children in their works, nonetheless 'they are temporal bodies with limited mandates, resources and capacities',²⁴³ and their involvement with children still poses several challenges. Additionally, it is worth noting that even TRCs have a hidden agenda: they want children to tell a story that complements this idea of truth telling. If, on the one hand, judicial proceedings need children to testify as evidence, on the other hand non-judicial proceedings need children to come forward as sources of truth with the aim of creating a historical record. In both cases, children are subjected to a manufacturing function and their voices are distorted and reshaped, although certainly the TRCs have shown more attention to and more interest in the children's stories than have international courts.

This chapter has examined the process that involves children as victims and witnesses in judicial and non-judicial proceedings. Recruited by intermediaries who convince or encourage them to participate under the false hope of monetary and other benefits, child victims and witnesses find themselves in a complex and intimidating environment, where they are expected to perform in a certain way. Courts react to the presence of children by foreseeing a number of protective measures that only go so far in actually protecting the victims and witnesses. In the next section, I will discuss the reaction of children to their involvement in justice proceedings in light of the process exposed so far.

²⁴² Parmar et al, above n 27, 174.

²⁴³ United Nations Children's Fund (UNICEF), above n 196, 66.

8. How Did Child Witnesses Perceive Their Participation in Justice Proceedings?

As highlighted above, the expectations that children have about their participation in legal proceedings rarely, if ever, match those of court personnel. Considering that the expectations of the ladder will translate into practical and procedural provisions, which greatly affect the emotional and psychological wellbeing of the children, it should not surprise that the way children are treated in court has a huge impact on the way they perceive their experience.

According to the few post-trial debriefings and follow-up interviews available,²⁴⁴ some child witnesses experience difficulties during and/or after the testimony.²⁴⁵ Some become emotional while remembering the events, experiencing flashbacks and, in some cases, dissociation. In addition to this, some victims show symptoms of traumatic stress in the days following the testimony, including sleeping difficulties, nightmares, increased agitation, and feelings of depression. Many witnesses, especially those who are also victims of crimes, find cross-examination the most painful and humiliating part of testifying, which highlights the fragility and importance of this part of the process. In the case of repeated questions about traumatic events, this sometimes triggers emotional responses, such as frustration and disappointment. Additionally, as it has been reported by Human Rights Watch,²⁴⁶ there have been instances of judges lacking sympathy and kindness when dealing with witnesses in distress, as well as others who went as far as making 'condescending or disrespectful remarks in reference to witnesses, such as comments that a witness cannot understand something because he is from "the bush" or is illiterate'.²⁴⁷ Needless to say, in this case victims would feel a sudden sense of relief at the end of the testimony and in the following days.²⁴⁸

²⁴⁴ The Witness and Victim Support Unit conducted follow-up visits to each witness once he or she had returned home in order to evaluate his or her condition. Psychosocial support and security personnel participated in these visits.

²⁴⁵ For more information, see McWilliams et al, above n 107, 293-5.

²⁴⁶ Human Rights Watch, 'Justice in Motion: The Trial Phase of the Special Court for Sierra Leone' (2005) <<http://www.hrw.org/reports/2005/11/02/justice-motion>>.

²⁴⁷ Ibid 9.

²⁴⁸ Ibid.

Luckily, some initial hiccups in the relationship between judges and child witnesses have improved over time, and children involved in trials have been generally treated with the required respect and sensitivity as this example from Judge Benito shows:

JUDGE ODIO BENITO: Sir, that brings your evidence to a conclusion, and before you leave us, I want to say, as fully as I can, that we are extremely grateful to you for having taken the time and trouble of coming to this court to give evidence. We are acutely appreciative of the fact that this will not have been an easy exercise for you. You have had to travel a very long way, and giving evidence is a very difficult task, and accordingly we want to, as I have said, thank you for the time and trouble that you have taken to come to assist this Court in its attempt to find the truth. Without the assistance of witnesses such as yourself, this Court simply couldn't function, and so we owe you a debt for your cooperation. We wish you a safe journey home. Thank you very much indeed.²⁴⁹

In the end, thanks to many precautions taken by judges and courtroom staff, most underage witnesses have coped relatively well with the stress of being in court. Some of the frequent protections put in place for children and adolescents involved in trials included regular adjournments or assistance from a counsellor from the WVS in case of witnesses in distress. Additionally, also the manner in which judges and courtroom staff have addressed witnesses has been scrutinised carefully and improved over time to avoid harassing vulnerable witnesses.²⁵⁰ The following examples are demonstrative of these considerations:

PRESIDING JUDGE FULFORD: Now, can I reassure you in the sense that there is nothing for you to worry about. The Judges are here to make sure that you're treated properly, and therefore none of what will happen in this courtroom will, I hope, in any way upset you. So listen to the questions that are put to you and answer them entirely in your own way.²⁵¹

JUDGE ODIO BENITO: We wish to stress that this needs to be done with great sensitivity. The questions are not to be put in a challenging or aggressive way, but they are to be put by way of mild inquiry, thereby lessening the possibility of the witness being upset.²⁵²

JUDGE ODIO BENITO: You're absolutely right, Ms. Bensouda. From an answer he gave earlier today, on the face of it, he believes that she is dead. This is certainly an area

²⁴⁹ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 18 March 2009) 38, lines 4–15.

²⁵⁰ Human Rights Watch, above n 246, 8–9.

²⁵¹ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 18 March 2009) 41, lines 3–8.

²⁵² *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 11 February 2009) 7, lines 22–5.

where very considerable sensitivity should be shown given his age and given the potential for him being upset over an area like this. It is incumbent on all members of the bar to avoid unnecessarily distressing a witness.²⁵³

It has been demonstrated that, thanks to the support and availability of protective measures, child witnesses can grow confident during their testimony. Once the most painful part of their testimony is over, children usually feel more empowered and relaxed, in particular in the case of sexual assault or gender-based violence. The feeling of being in control – in contrast to the time the violence occurred – can give the victims tremendous strength and can have a cathartic effect for some children.²⁵⁴

It is not surprising that the level of understanding of and the expectations regarding the judicial process heavily influence the children's perception of their participation. The importance of representation is once again crucial. In the case of children who are convinced to participate in trials with inducements, children who have an ambiguous or fearful relationship with authority, or children with a more limited comprehension of the procedures, there seem to be higher chances of stress and frustration with the whole process. Understanding the need for cross-examination, for example, is a crucial part of this: the more the witnesses feel that cross-examination is a personal attack, the more they feel ashamed and guilty after the testimony. Conversely, when the victims are accurately prepared about what happens during their time on the stand, as in the examples below, they are less likely to react emotionally to the cross-examination. On this regard, it is important to note that the judges and other legal professionals before and during the trial play a crucial role in ensuring that witnesses know what to expect:

PRESIDING JUDGE FULFORD: There are some questions which will be put to you which will reveal your name and the names of your family and some of the other people who you know. For all of those questions they will take place in closed session, which means that only the people in this room can hear what you say, and so your identity and the identity of the people you mentioned will be protected. When we're in open session, then people outside of the courtroom can hear what you say. And rest assured that we will carefully protect your identity and those who otherwise require protection.²⁵⁵

²⁵³ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 10 February 2009) 74, lines 19–24.

²⁵⁴ McWilliams et al, above n 107, 295.

²⁵⁵ *Prosecutor v Thomas Lubanga Dyilo* (International Criminal Court, Trial Chamber I, Case No. ICC-01/04-01/06, 18 March 2009) 41, lines 12–20.

PRESIDING JUDGE FULFORD: And before we do, I just want to reassure the witness that if for any reason he makes a mistake over using a name that should remain private, we're able to correct it because there's a 30-minute time delay before what is said in this court is broadcast publicly. So we can have it deleted from the soundtrack that's played. So the witness isn't to feel nervous about the risk of making mistakes.²⁵⁶

We must keep in mind that the children's perception of their participation in courts is essential to the success of the trial. If child witnesses perceive a negative environment or feel that they are doubted and not appreciated, they will not be satisfied in the delivery of their voice and will not feel encouraged to do their best. Representations are crucial in these regards and, as this chapter has shown, physical protection is not the only requirement in order to ensure that a child's experience in courts is a positive one. In order for courts to ensure that children are treated appropriately, court personnel first must recognise the crucial role that children play in modern transitional justice proceedings. Only by acknowledging that they are indeed essential players in this process can tribunals establish the necessary child-friendly policies, procedures and practices²⁵⁷ in order to protect children and to allow them to feel safe, at ease and, most of all, understood and appreciated. This, in turn, ensures that the children perceive the whole experience in a positive and empowering way.

9. Conclusion

The purpose of this chapter was to show how the law has codified the representation of children in courts and to explore whether the children's voices in court are received. The chapter has shown that courts have a very practical interest in children as evidence, and their stories are commodified into a tool to achieve the courts' aim – that is, to ensure a conviction. In the context of judicial proceedings, the interest is not on the children's stories per se: they are relevant insofar as they provide useful information to bring perpetrators to justice.

²⁵⁶ Ibid 41, lines 13–9.

²⁵⁷ This includes supporting children's right to choose whether or not to participate and to decide how they wish to be involved, with whom they wish to engage, and when.

Consequently, there is a disconnect between the children's assumptions in relation to their participation in justice proceedings and the court's reaction to their involvement. This divergence is not accidental and it does not depend on whether or not the courts chooses to protect the child or even to vary the adversarial interrogation process to make it more child-friendly. We are still left with a stark divide between the children's need to tell their stories and the court's need to use these voices as evidence. The consequence is that the adversarial process closes pathways to the voices being heard, and this further disempowers the children and delegitimises their voices. On the contrary, in non-judicial proceedings, without the pressure of a conviction to secure and with the interest more on the story than on the perpetrators, child soldiers return somehow to the centre of the stage. Their voices are given more authority, although their stories still have a very materialistic use.

Children's participation in judicial and non-judicial proceedings is highly ambiguous and controversial. On the one hand, children's participation in transitional justice mechanisms is an important contribution to both accountability and justice proceedings, as well as to general reconciliation and recovery efforts.²⁵⁸ On the other hand, courts strive for justice. Truth-seeking encourages them to see child victims and witnesses as the depository of (at least partial) truths, and courts rely extensively on their testimonies to ensure prosecution.²⁵⁹ Consequently, children are expected and encouraged to perform in a certain way that meets the needs of the courts. Perception and representation are key aspects in the involvement of children: through their recognition of the complexity of the victim-perpetrator duality, the ICC and the SCSL have set an international legal and procedural precedent for the treatment of former child combatants in judicial proceedings. However, the success of children's experiences in tribunals is highly dependent – not only on practical and functional measures, but also on the ways in which children initially become involved with courts, on the ways they are treated

²⁵⁸ Machel, above n 14.

²⁵⁹ Court personnel have repeatedly asked children to remember and refer to specific details of specific events that happened at specific times, expecting children (like other witnesses) to be able to provide indisputable truths.

while they are working with the courts, and especially on the ways they perceive their participation in the process.

The next chapter introduces the views of former child combatants through the analysis of autobiographies. These narratives are extremely important in order to discover the children's voices. However, the chapter will show that the majority of these autobiographies do not reveal what the children really want to say, as their voices are confused, influenced by the opinions of others, and misinterpreted by the audience. Additionally, the chapter explores the way the child soldier figure is mobilised and challenged and what imaginative cultural and political work is being performed in such narratives.

CHAPTER VII: THE CHILD SOLDIER NARRATIVE AND THE VICTIMHOOD CLAIM

My mother told me that whenever a story is told, it is worth listening to. So please listen. I will tell it quickly.

— Ishmael Beah, *A Long Way Gone*¹

1. Introduction

The previous chapters have shown how portrayals of child soldiers are highly variable and contradictory, depending on the stakeholder involved. In particular, chapter V has analysed how and what kind of child soldiers are ‘produced’ by international organisations, while chapter VI has exposed the distortion and muzzling of the voices of child soldiers throughout the process of children’s involvement in court. In accordance with my thesis argument, depending on the context and the purpose of representation, child combatants can be depicted as victims or perpetrators, rational beings or heroes.² Considering this multitude of portrayals and the different responses that each one entails,³ it can be quite complex for policy and program makers to manage child soldiers. Should they be treated as children or young adults? Victims or perpetrators? Able or unable to decide for themselves? In order to overcome this problem and considering the muzzling of their voices by other actors, one could turn directly to child combatants to hear what they have to say.

However, as the methodology of this thesis has explained,⁴ it can be challenging to reach these individuals directly, especially in resettlement countries. Consequently,

¹ Ishmael Beah, *A Long Way Gone: Memories of a Boy Soldier* (Sarah Crichton Books, 2007) 74.

² See chapter III for more information on these different portrayals.

³ Understandably, considering child soldiers as children or adults, victims or perpetrators, capable or incapable, will imply a different approach.

⁴ See chapter II for more information on the methodology and the problems encountered in the first phase of my research.

it can be quite valuable to turn our attention to the autobiographies of child soldiers, which have steadily proliferated since the beginning of the 21st century. Considering this abundance of first-person accounts, one might think that these represent a significant resource that allows us to hear the children's voices. Indeed, the voices of child soldiers should be the first and most authentic voice of all in these narratives; however, this is not the case. As we will see throughout this chapter, the majority of child soldiers' autobiographies may not reveal what the children really want to say, due to a number of factors. Once again, their voices are muzzled and distorted.

From an academic point of view, these narratives are approached as the source of primary truth, reflecting the initial hypothesis of my research that the closer we get to the child soldier, the more the truth comes out.⁵ However, this chapter shows that perhaps child soldiers are not the ultimate depository of truth: maybe they do not know it, maybe they are too confused to see it, or maybe they want to portray a certain truth. Because, in the end, child soldiers are ambiguous figures to begin with. As soon as they are removed from the conflict, they are re-created and their voices become distorted. This happens in many ways and for various reasons.

First of all, the child soldier's persona is created during the armed conflicts and is re-created during rehabilitation programs run mostly by Western humanitarian agencies.⁶ As seen in chapter V, to some extent the 'child soldier' persona is created by NGOs as something with strategic value in many post-war realities.⁷ Through mental health support,⁸ trauma counselling and art therapy, former child soldiers face their past and prepare themselves for a future as civilians by acquiring education,

⁵ See chapter I for the hypotheses of my research.

⁶ For an example of after-war child protection activities in Sierra Leone, see Susan Shepler, 'Child protection deployed' in Susan Shepler (ed), *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 55.

⁷ Ibid 104.

⁸ According to Western psychiatry, victims of war often exhibit symptoms of what is called post-traumatic stress disorder (PTSD). The notion of PTSD in relation to child soldiers has come under attack from many quarters, but it is still the primary model for dealing with children affected by war. Healing children after war, within a Western framework, has come to be associated with particular psychosocial symptoms of 'trauma' and particular psychosocial remedies, which are largely centred on the individual child. For children, art therapy is often prescribed. Increasingly, though, experts are promoting more culturally appropriate frameworks, in particular dealing with the social aspects of trauma. See Shepler, above n 6, for more information on this topic.

vocational skills and livelihood training.⁹ However, throughout all this, they also gain the label of 'child soldier' and everything that goes with it. Notwithstanding the undisputed need for these programs, it is fair to say that, at the same time, their intensity, short length and cultural orientation can contribute to the confusion of the children. This confusion is at different levels, mainly regarding cultural discrepancies about the children's roles, rights and responsibilities. The confusion arises from the conflict between what they were taught as children by their family and community, what they have learned to believe during their time with the armed groups,¹⁰ and what the humanitarian officers tell them they should believe during the rehabilitation process. The child who has grown up in one culture, but is helped to cope with the horrors of war by the other, is undoubtedly confused.¹¹

Second, all of these autobiographies have been written and marketed in Western countries, where media have recently begun to show interest in former child combatants, often portraying them at times as heroes and celebrities,¹² and other times as 'brave survivors of extreme violence who have overcome great adversity and ultimately, despite their participation in violence, have been redeemed'.¹³ In order to achieve this, the children at the centre of these books need to be portrayed and perceived in accordance with the Western notion of childhood. Framed as victim narratives,¹⁴ according to Rosen: 'In all of these works, the role of the child soldier is at best a terrible tragedy and more profoundly a threat to any sense of morality and social justice. Indeed the contemporary child soldier appears to subvert not just the social order but the natural order as well.'¹⁵

⁹ United Nations Children's Fund (UNICEF), *Child soldiers* <<http://www.unicef.org.au/Discover/News/March-2012/Child-Soldiers.aspx>>.

¹⁰ From their role in society to the validity of the cause they fought for, from their abilities to their hopes for the future.

¹¹ See Annex H: Interview with Shena Gacu.

¹² Belinda Luscombe, 'Pop culture finds lost boys', *Time Magazine* 2007 <<http://www.time.com/time/magazine/article/0,9171,1584807,00.html>>.

¹³ Myriam Denov, 'Child Soldiers and Iconography: Portrayals and (Mis)Representations' (2010) *Children & Society* 280.

¹⁴ Contrary to pre-modern war literature, which framed stories of boy-soldiers as hero narratives, valorising the courage of children who risk their lives for their country.

¹⁵ David M. Rosen, 'The Child Soldier in Popular Culture' in David M. Rosen (ed), *Child Soldiers in the Western Imagination* (Rutgers University Press, 2015) 111.

As anticipated in chapter IV and as we will see in more detail through the current chapter, the concept of childhood in Western¹⁶ and non-Western countries differs significantly; consequently, the roles, rights and responsibilities of the child are quite different in the two contexts. Had these narratives been written and commercialised in the authors' home countries, they would have presented perhaps a different vision and reality of children. However, since the books were all written in contexts of resettlement,¹⁷ and most of the authors were mentored and assisted in the writing stages,¹⁸ while under pressure to write a book that would sell, it is evident that this setting has had an impact on the content of the narratives. In particular, as will be further explored in this chapter, the human rights framework has been applied to the child soldier identity and conditions each writer's story.

To sum up, drawing from previous reflections on the construction of childhood,¹⁹ we can certainly state that the understanding of the child soldier is dependent on the context, changing in time and space. The authors of these narratives have been rehabilitated and have thereby been influenced in what to say, and they have been interpreted by an audience with a completely different cultural background. It is no wonder that we cannot hear their true voices. In this chapter, I do not wish to explore the therapeutic effectiveness of storytelling in writing, or the verisimilitude of the reportages. Instead, I focus on the way the child soldier figure is mobilised and challenged and what imaginative cultural and political work is being performed in such narratives. In particular, this chapter is an expansion of the themes discussed previously, and will therefore expand on themes such as human rights and

¹⁶ For the purpose of this thesis, the term 'Western countries' refers to Western Europe and the United States, since this is where the modern concept of 'childhood' first developed.

¹⁷ Resettlement is one of the three durable solutions used by the UNHCR and states to resolve refugee situations. It involves the selection of and transfer of refugees from a state in which they have sought protection to a third state that has agreed to admit them – as refugees – with permanent residence status. The status provided by the resettlement state ensures protection against refoulement and provides a resettled refugee and his or her family or dependents with key civil, political, economic, social and cultural rights. Resettlement also carries with it the opportunity to eventually become a naturalised citizen of the resettlement country. For more information, see The United Nations High Commissioner for Refugees (UNHCR), *Resettlement* <http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=139&Itemid=60>.

¹⁸ For example, Emmanuel Jal co-wrote his memoir with Megan Lloyd Davies; David Vincent co-wrote his memoir with Carol Nader; and Lucien Badjoko was assisted by Katia Clarens.

¹⁹ See chapter IV.

responsibilities, and the concepts of childhood and innocence. I propose to explore these issues by means of a comparative reading of a selection of autobiographical child soldier narratives.

2. Therapeutic Biographies

Since the late 1990s, there has been a proliferation of representations of child soldiers in contemporary socio-political, legal and cultural discourse. These popular writings about African conflicts as devices for 'processing and presenting suffering'²⁰ and redemption are examples of what Illouz calls 'therapeutic biography'.²¹ The meaning of the word 'therapeutic' is explained by former child soldier China Keitetsi in her memoir:

The more I wrote, the more I felt a little bit relieved, and I could not stop. ... I didn't think about the book, I just wrote for the sake of emptying myself of the stones that I could feel breaking my shoulders. The book has helped me to come to terms with my past, and helped me come closer to myself.²²

Especially in the Western world, writing is a useful way to make sense of an experience, and of reaching a deeper understanding of the self.²³ This is of particular importance in relation to former child soldiers, therefore explaining the abundance of this type of autobiography. Exposed to the complex and challenging world of war and violence during their formative years, these children often are unable to make sense of their past experiences, actions and feelings until after the conflict is over and they are (usually) physically removed from the war zones. Lost in a jungle of perceptions, opinions and representations, it is often only during the process of re-elaborating their past and their story that they are able to 'distance themselves reflectively from the

²⁰ Rita Barnard, 'Oprah's Paton, or South Africa and the Globalization of Suffering' (2006) 7(3) *Safundi: The Journal of South African and American Studies* 1, 13.

²¹ Quoted in *ibid* 9. For more information on the different approaches to the phenomenon of child soldiers, see chapter III.

²² China Keitetsi, *Child soldier* (Souvenir Press, 2004) ix-x.

²³ Adriana Cavarero, *Relating Narratives: Storytelling and Selfhood* (Routledge, 2000).

events and are able to (re)interpret their experiences, (re)evaluate them and (re)position themselves vis-à-vis with story content and social values'.²⁴

From the Western perspective, writing down one's story is one of the best ways to face the past and move on. The use of creative writing therapeutically can complement verbal discussions, and offers a cost- and time-effective way of extending support to distressed patients. According to an expert,

narrative therapy proposes that identity is co-created in relationship with other people as well as by one's history and culture. Thus, being seen by others in a certain way can contribute as much as seeing oneself in a certain way.²⁵ ... In this way, a person's identity is said to be socially constructed. Narrative therapy focuses on the degree to which that socially constructed identity fits for that person.²⁶

However, recognising that our awareness of ourselves is very much influenced by the opinions of others, one must keep in mind that, despite being marketed as authentic, most of the child soldier memoirs are mediated through the process of therapy provided by international organisations.²⁷ As seen in chapter V, consistently with the Western perception of childhood,²⁸ rehabilitation and reintegration²⁹ programs

²⁴ Martin Cortazzi, 'Narrative analysis' (1994) 27(3) *Language Teaching* 157, 161.

²⁵ I refer here to the elements of symbolic interactionism and labelling theory, which form the theoretical foundations of this thesis. In particular, I argue that parties interacting must necessarily take each other's role and that the portrayal of former child soldiers is in part determined by one's appraisals of self from the standpoint of others. See chapter II for more information on symbolic interactionism and the theoretical framework of this thesis.

²⁶ Erik Sween, 'The one-minute question: What is narrative therapy? Some working answers' in Dulwich Centre (ed), *Extending narrative therapy: a collection of practice-based papers* (Dulwich Centre Publications, 1999) 191, 193.

²⁷ There are different kinds of therapy. The most popular technique in humanitarian assistance is known as 'psychological debriefing', in which Western practitioners briefly visit war zones, conduct therapies in which victims talk about their traumatic experiences, then leave. See Theresa S. Betancourt, 'Sierra Leone's former child soldiers: a longitudinal study of risk, protective factors, and mental health' (2010) 49(6) *J Am Acad Child Adolesc Psychiatry* 606. Other types of therapies include narrative exposure, which is a short-term, trauma-focused treatment developed for use in low-resource countries affected by crises and conflict. During narrative exposure therapy, the participant constructs a detailed chronological account of his or her own biography in cooperation with a therapist to reconstruct fragmented memories of traumatic events and to achieve habituation. See 'Treatment intervention for former child soldiers in Uganda associated with reducing symptoms of PTSD' (2011) *NewsRx Health & Science* 3055 August 2011 <<https://www.sciencedaily.com/releases/2011/08/110802162325.htm>>. Others include dance/movement therapy – based in kinesthetic empathy – for fostering a sense of collective agency and self-worth, and a restored capacity for positive interaction. Through improvisational dancing and dramatisations of their time with the rebel army, the youths dispelled long-suppressed rage and practised reconnecting with others. See David Alan Harris, 'When Child Soldiers Reconcile: Accountability, Restorative Justice, and the Renewal of Empathy' (2010) 2(3) *Journal of Human Rights Practice* 334.

²⁸ See chapter IV for more information on the evolution of this concept in Western countries.

revolve around issues of vulnerability, innocence and victimhood. Consequently, this external pressure to tell the story as a way to 'cope with the past'³⁰ can influence the content and the form of the autobiographies, encouraging the production of market-based rather than genuine stories.³¹ This is not a problem for the average reader, who is interested in the story from a narrative point of view; however, for a researcher concerned with the children's perspective, these autobiographies render their true voices opaque. They could have been rare opportunities to publicly articulate the children's own perspectives, knowledge, concerns and needs, but instead they are, once again, examples of adults putting words into the mouths of children.³²

Notwithstanding the importance of storytelling as a means of healing,³³ in non-Western countries the emphasis is often placed on traditional methods, such as purification rituals. As Honwana explains: 'If a person goes to fight a war, he becomes another person, because he learns how to kill other people, even his own mother and father. ... During that time he only thinks of killing. ... When he returns he has to be treated to become his own self again.'³⁴ Rituals of purification, then, become key to the process of reintegration and they 'do not involve verbal exteriorization of the

²⁹ According to the United Nations, 'reintegration is the process by which ex-combatants acquire civilian status and gain sustainable employment and income. It is a political, social and economic process with an open time-frame, primarily taking place in communities at the local level': United Nations, *Disarmament, Demobilization and Reintegration* <<http://www.un.org/en/peacekeeping/issues/ddr.shtml>>.

³⁰ In the case of China Keitetsi, the suggestion to put in writing 'all the pain ... felt' in order 'to help [herself] through' came from the head of the integration office in the Danish commune where Keitetsi resettled. In Keitetsi, above n 22, ix.

³¹ See sections 3 and 4 for more information on this topic.

³² Although from an age point of view, all the authors are adults by the time they write the narratives, from an emotional point of view they usually are still highly vulnerable and susceptible to external influence.

³³ Healing is defined as 'any strategy, process or activity that improves the psychological health of individuals following extensive violent conflict. Strategies, processes or activities aimed at rehabilitating and reconstructing local and national communities more broadly are also integrally linked to this process. As such, healing is not only about assisting individuals to address their psychological health needs in an isolated way, but is dependent upon and integrally linked to repairing and rebuilding communities and the social context. This implies restoring a normalized everyday life that can recreate and confirm people's sense of being and belonging': David Bloomfield, Teresa Barnes and Luc Huyse (eds), *Reconciliation After Violent Conflict*, Handbook Series (International Institute for Democracy and Electoral Assistance, 2003) 77.

³⁴ Alcinda Honwana, *Child soldiers in Africa* (University of Pennsylvania Press, 2006) 105.

traumatic experience of war'³⁵ because 'people would rather not talk about the past'.³⁶ In fact, traditionally, the past is addressed only in culturally appropriate group activities, such as play, singing, storytelling,³⁷ drama and dancing, 'as vehicles for the construction of social meaning as children learned the songs, myths and symbols of their community and ethnic group'.³⁸

An example of this contrast in approaches can be found in the post-apartheid era in South Africa, where several victims' support groups were formed in anticipation of the South African TRC in order to assist survivors in gaining access to it. The Khulumani (Speak-out) groups were founded on the premise that encouraging people to 'speak out' about the atrocities of the past was psychologically beneficial and would advance their goal of being recognised as victims of apartheid violence.³⁹ The groups had a strong focus on advocacy activities with the intention of keeping the TRC and the reconciliation process victim-centred, and, in 1997, the Khulumani Support Group developed a play entitled *The Story I Am about to Tell*, which was taken to communities as a way of educating people about the past. Such activities were linked directly to a healing agenda, where social justice was an integral part of the process: 'speaking out' was not simply about making the individual feel better, it was aimed at changing society.

Contrary to these traditional approaches, Western humanitarian officers deal with child soldiers with Western-style therapy and expert knowledge: 'whether through therapeutic school curricula to ventilate the emotions of a whole generation of children or education in children's rights, societies are given external supervision in how best the needs of their children can be answered'.⁴⁰ According to Macmillan,

³⁵ Ibid 108.

³⁶ Ibid 121.

³⁷ It is worth pointing out that none of these activities involves writing. Writing had not been developed in ancient Africa and so, since ancient times, storytelling in African culture has been a way of passing on traditions and codes of behaviour, as well as maintaining social order. Additionally, in the aftermath of an armed conflict, storytelling becomes an essential tool in addressing the past without necessarily telling one's personal story.

³⁸ Bloomfield, Barnes and Huysse, above n 33, 84.

³⁹ For more information, see Khulumani Support Group, <www.khulumani.net>.

⁴⁰ Lorraine Macmillan, 'The Child Soldier in North-South Relations' (2009) 3(1) *International Political Sociology* 36, 46. See also chapter III for more information on this topic.

while many rehabilitation programs have recently begun to incorporate local practices such as cleansing rituals, the overall meaning of such programs seems to be of Western-induced reform: 'these societies have erred and must be corrected; their knowledge was poor and must be supplemented; their attitude to children was backward and requires updating'.⁴¹ To sum up, the mere existence of these narratives is controversial, as the importance of written storytelling as a way of coping with the past is a point of controversy and debate across cultures. As such, this can affect the value of those narratives.⁴² Next, I will introduce the three case studies that I chose for analysis.

3. Case Studies

The case studies that I chose to analyse feed on what seems to be an demand for 'stories of violence, displacement and lost childhood'.⁴³ In what has been defined as the 'decade of life narratives',⁴⁴ it is important to recognise the way that this demand is both 'ethically and market-based',⁴⁵ since the mass consumption of such texts only reinforces 'global inequities and dangerous stereotypes'.⁴⁶ Along with mass media, life narratives are certainly responsible for broadcasting certain images of child soldiers and for raising awareness of this issue, especially when they receive widespread

⁴¹ Ibid.

⁴² For example, if a child from a certain culture considers the Western way of 'cleansing' as something that does not resonate with their experience or how they would deal with their past.

⁴³ Allison Mackey, 'Troubling Humanitarian Consumption: Reframing Relationality in African Child Soldier Narratives' (2013) 44(4) *Research in African Literatures* 99, 100. As seen in chapters III and IV, in the Western world, childhood is a synonym of innocence. When children take part in armed conflicts, their innocence is perceived to be lost until they are rehabilitated. See also Jimmie Briggs, *Innocents Lost. When Child Soldiers Go to War* (Basic Books, 2005); Elise Zoker Elise and Bax Pauline, 'A generation lost in Liberia; Tens of thousands of young people, many former civil war child-soldiers, are missing out on a recovering economy', *The Ottawa Citizen* (Ottawa, Ont), 2013, B.13.

⁴⁴ Kay Schaffer and Sidonie Smith, *Human Rights and Narrated Lives: The Ethics of Recognition* (Palgrave, 2004) 1 quoted in Mackey, above n 43, 100.

⁴⁵ Mackey, above n 43, 100.

⁴⁶ Ibid. See chapter III for more information on the most common portrayals of child soldiers.

media attention.⁴⁷ As a consequence, the content of such narratives plays a crucial role in the propagation of representations of child soldiers globally and at every level.

The first case study is probably the most famous of the child soldier narratives: Ishmael Beah's *A Long Way Gone: Memoirs of a Boy Soldier*. Although they joined the armed forces voluntarily, Beah and the other authors justify their participation in the war through a strong emphasis on their physical suffering before they joined. In his memoir, Beah explains how, aged 12, surrounded by the Sierra Leonean government forces and rebels fighting each other, he had no other choice but to enlist. Calling attention to necessity rather than absolute coercion, the author places his narrative in line with the findings of researchers who understand that children often 'volunteer' in order to survive:⁴⁸ 'We had no choice. Leaving the village was as good as being dead.'⁴⁹ Beah remained with the government army for two years, until he was demobilised by UNICEF and sent to a rehabilitation centre – much to his dismay. 'We thought we were part of the war until the end. The squad had been our family. Now we were being taken away, just like that, without any explanation.'⁵⁰ During his time with the army, Beah became responsible for the torture and death of numerous rebels: 'I raised my gun and pulled the trigger, and I killed a man. ... Every time I stopped shooting to change magazines and saw my two young lifeless friends, I angrily pointed my gun into the swamp and killed more people.'⁵¹ For all this senseless violence, until he is forced to face the subject during rehabilitation, Beah shows no remorse or guilt:

My squad was my family, my gun my provider and protector, and my rule was to kill or be killed. ... We had been fighting for over two years, and killing had become a daily activity. I felt no pity for anyone. My childhood had gone by without my knowing, and it seemed as if my heart had frozen.⁵²

⁴⁷ As was the case with Ishmael Beah's narrative, which was chosen as the Starbucks featured book in 2007 and consequently received a great amount of media exposure.

⁴⁸ See for example P. W. Singer, *Children at war* (University of California Press, 2006) 62.

⁴⁹ Beah, above n 1, 107.

⁵⁰ Ibid 130.

⁵¹ Ibid 119. This passage in particular was used during focus group discussions.

⁵² Ibid 126.

Beah was eventually resettled in New York and he has been involved in the fight against child soldiering ever since.

The second case study is China Keitetsi's *Child Soldier*, written from her new home in Denmark. Rejected by her father for being a girl, Keitetsi was cruelly mistreated by her grandmother and stepmother, which forced her to run away and into the arms of Ugandan National Resistance Army soldiers at age eight. 'When I looked around, I saw children of different ages marching beside a man in a military uniform. I could feel the excitement growing in my stomach. It was like this brand new game, and I wished that I was there marching along with them'.⁵³ Although Keitetsi also reports episodes of torture and murder, it is not clear from her book to what extent she was involved in them.⁵⁴ What appears obvious from Keitetsi's words is that, although she always fought bravely, she never lost her humanity:

I had come this far, but I never seemed to harden. It was strange to see most other children having a kind of lust for killing and torturing. ... It annoyed me that I always had to feel sorry for others, even the enemy. ... Now it was time to decide, from being a broken, but kind and unselfish individual, to being a strong full-blooded killer, if I only could.⁵⁵

Keitetsi's underlying guilt is forcefully revealed in the way she admits responsibility for all the 'bad' things that she has done – from wetting her bed to stealing food to terrorising civilians. Keitetsi also describes a pervasive feeling of powerless, and an endless quest for love and affection: however, instead of the latter, she encounters verbal, physical and sexual abuse and is forced to witness, experience and participate in atrocities.

Finally, the third case study is Emmanuel Jal's memoir *War Child: A Boy Soldier's Story*, written after the author migrated to England.⁵⁶ He was nine and had been living

⁵³ Keitetsi, above n 22, 114.

⁵⁴ These details of her past were not discussed with the author during the Skype interview I carried out, as they were not relevant for the purpose of that interview.

⁵⁵ Keitetsi, above n 22, 134–5. This passage in particular was used during focus group discussions.

⁵⁶ The three narratives have been chosen, from among the many published, because they are representative of different ages, genders, countries of origin, modes of recruitment, lengths of stay with the armed group, actions committed, and modes of release from the armed group. However, this does not mean that these narratives are more representative of the phenomenon than others. On the contrary, the different scenarios described highlight the complexity of the topic.

in a refugee camp by himself for two years when he volunteered to become a soldier in the Sudan People's Liberation Army (SPLA):

Excitement flooded through me as my body shook. At last I was going to leave Pinyudu, at last I was going to fight to get back home, at last I would be able to do to the *jallabas* what had been done to me and my family.

I lifted my head to look at the *jenajesh* standing in front of me. Holding their guns, they stared ahead. I was going to be like them. I was going to be a soldier.⁵⁷

Jal confesses to torturing and killing at least three enemies during the years he spent fighting with the SPLA: 'One, two, three ... Three *jallabas* whose lives I've taken for all those I've lost. No pain, no disappointment, no regret, no guilt. All I know is that I want to kill again and again.'⁵⁸ From the outside, it appears that even many years after those days at war, Jal continues to feel guiltless about his past because he was 'a child who took part in killings as the hatred and sorrow built up over years was released in mob violence'. He did not 'kill in cold blood', he 'killed in war'.⁵⁹

Despite these narratives – in particular, Beah's story – having come under significant public scrutiny regarding their truthfulness,⁶⁰ what interests me more about these memoirs is their framing of the child soldier identity. In each case, the narrator's personal story of suffering is called on to do specific political work, directly and indirectly, within human rights campaigns and networks. As we have seen in chapters III and V, in the specific case of human rights violations, life narratives have become essential to activist organisations in order to 'bring forward claims of rights abuses, to build awareness, ... to mobilise action, to forge communities of interest, and to enable social change'.⁶¹ These first-person stories help to shed lights on human rights violations and war crimes, while at the same time individualising the suffering

⁵⁷ Emmanuel Jal, *Warchild: A Boy Soldier's Story* (Abacus, 2009) 76.

⁵⁸ Ibid 213.

⁵⁹ Ibid 266.

⁶⁰ Gabriel Sherman, 'The fog of memoir: The feud over the truthfulness of Ishmael Beah's *A Long Way Gone*' (2008) *Slate* <http://www.slate.com/articles/arts/culturebox/2008/03/the_fog_of_memoir.html>; Barbara McMahon, 'Ex-Child Soldier's Literary Bestseller is 'Factually Flawed'', *The Observer* 19 January 2008.

⁶¹ Schaffer and Smith, above n 44, 3. For more information on the relationship between humanitarian and activist organisations and child soldiers, see chapter V.

on a specific person.⁶² Eventually, by gaining individual popularity, the stories create a genre that collects enough popularity to encourage further interest in the topic.⁶³ However, the complexities of self-representation do not always get along easily with the cultural work that these narratives are expected to do in terms of human rights discourse. While this kind of storytelling is linked to human rights claims, it is also important to consider the consequences and complexities of this pressure to 'represent oneself'⁶⁴ on the world stage within contexts of 'extreme duress and unequal power relationships'.⁶⁵

In the next section, the relationship between the narratives of child soldiers and the human rights discourse will be analysed. As will be seen, child soldier memoirs are expected to comply with the campaign to sentimentalise child soldiers as 'pure' victims of violence. However, due to the ambiguous position of child soldiers as both victims and perpetrators, these autobiographies do not always do the same work as the narrative forms of humanitarian intervention.

4. The Complex Relationship between Child Soldiers' Narratives and Human Rights

Despite conforming broadly to the forms of human rights discourse, memoirs by child soldiers also challenge many aspects of it – especially conventional notions about the child as human rights subject. As pointed out by Schaffer and Smith, the narration of child soldiers' experiences and human rights violations is constrained by certain generic conventions that provide a divide between audiences and claimants.⁶⁶ If, as Egan suggests and as has been discussed in chapter V, the 'choice of audience is

⁶² 'The reaction I have got [after publication of my book in Denmark] is beyond my expectations. ... Everyone seems very touched and ready to save someone's child from walking along the same long road as mine. My story seems to reach everyone disregarding rank in society' in Keitetsi, above n 22, ix.

⁶³ Schaffer and Smith, above n 44, 3.

⁶⁴ Leigh Gilmore, *The Limits of Autobiography: Trauma and Testimony* (Cornell UP, 2001) 19.

⁶⁵ Mackey, above n 43, 101.

⁶⁶ Kay Schaffer and Sidonie Smith, 'Conjunctions: Life Narratives in the Field of Human Rights' in Kay Schaffer and Sidonie Smith, *Human Rights and Narrated Lives: The Ethics of Recognition* (Palgrave, 2004) 13, cited in Maureen Moynagh, 'Human Rights, Child-Soldier Narratives, and the Problem of Form' (2011) 42(4) *Research in African Literatures* 39, 42.

political',⁶⁷ the relationship between where child soldiers are being used and where narratives about them are being consumed is a troubled one. Considering former child soldiers are certainly among the most vulnerable sectors of any population, it is particularly important to remain attentive to 'who is able to tell the truth, about what, with what consequences, and with what relation to power'⁶⁸ when examining former child combatants' autobiographies. Part of what has been referring to as the 'culture of testimony ... the genre of the subaltern giving witness to oppression, to a less oppressed other',⁶⁹ these life narratives cannot be analysed without taking into consideration reflections 'about the politics of humanitarian consumption'.⁷⁰

Without any guarantee about how these narratives will be circulated and received by readers who are 'interested in particular kinds of suffering',⁷¹ it is of paramount importance for the audience to have clarity between who is the victim and who is the perpetrator: 'Storytellers in the context of rights campaigns are expected to take up the subject position of "innocent" victims; they are expected to be able to occupy that position unambiguously.'⁷² A useful confirmation of this process may be found in the work of Chris Blattman, who extensively researched child soldiers in Uganda. Blattman raised doubts about the accuracy of Beah's book, stating: 'We are told what we want and expect to hear when we ask for desperate and tragic tales. The truth is of secondary importance.'⁷³ However, as we have seen in chapter III, in the case of child soldiers, such a black-and-white divide between victim and perpetrator is difficult, if not impossible, and 'we remain face to face with the perplexing fact that [child soldiers] ... are both innocent victims and guilty perpetrators'.⁷⁴ There is, consequently, a marked tension between the human rights campaigns, which rely on

⁶⁷ Susanna Egan, *Mirror Talk: Genres of Crisis in Contemporary Autobiography* (University of North Carolina Press, 1999), quoted in Mackey, above n 43, 104.

⁶⁸ Judith Butler, *Giving an Account of Oneself* (Fordham UP, 2005) 131, quoted in Mackey, above n 43, 101.

⁶⁹ Quoted in Mackey, above n 43, 101.

⁷⁰ *Ibid.*

⁷¹ Schaffer and Smith, above n 44, 23.

⁷² *Ibid.* 161, quoted in Moynagh, above n 66, 42.

⁷³ Chris Blattman, *Credibility: A Long Way Gone?* (5 March 2008) <<http://chrisblattman.com/2008/03/05/credibility-a-long-way-gone>>.

⁷⁴ Donald H. Dunson, *Child, Victim, Soldier: The Loss of Innocence in Uganda* (Orbis, 2008) 8.

images of 'victims of injustice' to make their case, and the necessarily compromised status of the child soldier as victim-perpetrator that the narratives present.⁷⁵

Despite the fact that all child soldiers cited in this chapter do admit to having committed acts of violence,⁷⁶ readers still perceive these acts as having been 'thrust upon the child, who fearfully and with revulsion carries out orders he or she cannot refuse',⁷⁷ and humanitarian narratives continue to only 'produce one truth: that of the "victim"'.⁷⁸ It is the humanitarian witness-reader who remains in control of the narrative: he looks elsewhere for the chief agents of corruption, and chooses to represent the soldier as a child and the victim-perpetrator as a victim. It is only by averting the gaze 'from the frightful and disconcerting agency of the child-soldier figure that both former and current child soldiers may be inserted into a human rights framework and claim sympathy'.⁷⁹ On the other hand, it is undeniable that the memoirs make it harder for the reader to ignore the child soldier's participation in violent acts, and force the readers to face the narrator's morally compromised status.⁸⁰

While in the child soldiers' autobiographies analysed here the concept of childhood innocence is somehow compromised, this is nonetheless a tool to underline the unfairness of the child-soldier experience and to shift the blame onto the adults in charge.⁸¹ Edged on by UNICEF, psychologists and journalists to produce sensationalist accounts of trauma and rehabilitation, and by telling stories of victimisation, child soldiers and their advocates confuse the different identities of victim and perpetrator, and blur the lines between innocence and victimisation: "'perpetrators" telling stories in which they position themselves as victims of injustice and abuse, they ask the audience to grant them humanity and to demand redress on their behalf'.⁸² In this respect, the autobiographies also resort to the sentimental social

⁷⁵ Moynagh, above n 66, 42.

⁷⁶ Beah, above n 1, 119; Jal, above n 57, 213.

⁷⁷ Moynagh, above n 66, 45.

⁷⁸ Didier Fassin, 'Humanitarianism as a Politics of Life' (2007) 19(3) *Public Culture* 499, 517 quote in Moynagh, above n 66, 45.

⁷⁹ Moynagh, above n 66, 45.

⁸⁰ Ibid. See chapter III for more information on the different portrayals of child soldiers.

⁸¹ Ibid 48.

⁸² Schaffer and Smith, above n 44, 162.

novel in regards, on the one hand, to the child soldier's dilemma with social injustice and, on the other hand, to a more interior moral dilemma. As in the sentimental narrative, the struggle between a moral education and the immorality of the child's actions replaces 'the virtuous protagonist with one perhaps once virtuous, but no longer able to maintain that innocence and purity while serving as a soldier'.⁸³

According to Moynagh, while questions around the power of choice are rarely if ever posed in the humanitarian narratives about child soldiers, on the contrary 'the decision-making agency of the child soldier is central in the memoirs'.⁸⁴ Many narratives⁸⁵ and research studies,⁸⁶ for instance, acknowledge that child soldiers are not always abducted or forcibly conscripted, and joining an armed group sometimes seems the most strategic option in circumstances of loss and poverty.⁸⁷ What the child soldiers' memoirs underline is the complex agency of the child,⁸⁸ both during and after the child's involvement in the fighting. As noted in chapter III, Honwana has characterised this agency as 'tactical'.⁸⁹ However, the agency and ability for decision-making that is conferred on child soldiers poses a great challenge for the 'construction of the child-as-human in humanitarian and human rights law, and consequently for the vision of the child soldier as a pure and passive victim that we find in the discourse of human rights activism centred on child soldiers'.⁹⁰ In the next section, I

⁸³ Moynagh, above n 66, 48.

⁸⁴ Ibid 48.

⁸⁵ Beah, above n 1; Jal, above n 57; Keitetsi, above n 22; Niromi De Soyza, *Tamil tigress: my story as a child soldier in Sri Lanka's bloody civil war* (Allen & Unwin, 2011); Ahmadou Kourouma, *Allah n'est pas obligé* (Seuil, 2000); Lucien Badjoko and Katia Clarens, *J'étais Enfant Soldat* (Plon, 2005).

⁸⁶ See, for example, Rachel Brett and Irma Specht, *Young Soldiers: Why They Choose to Fight* (Lynne Rienner Publishers, 2004); Krijn Peters and Paul Richards, 'Why We Fight: Voices of Youth Combatants in Sierra Leone' (1998) 8(2) *Africa: Journal of the International African Institute* 183.

⁸⁷ Moynagh, above n 66, 49. The possibility of voluntary or strategic enlistment also emerged during the research focus groups conducted by this author. According to participants, children could be either forcibly recruited, brainwashed and indoctrinated, or they could join up in order to survive, as an adventure, or to feel part of a group.

⁸⁸ The concept of agency and responsibility will be further explored in later sections.

⁸⁹ That is to say, they react to the concrete and immediate conditions in which they live, aiming to maximise the efficacy of their reactions. Although they might not be in a position to foresee the final goal of their actions, they are fully aware of the immediate consequences of their acts. Honwana, above n 34, 32-3.

⁹⁰ Moynagh, above n 66, 49.

will explore how these elements play in the narratives in order to restore the innocence of the child authors.

5. Restoring Innocence

In an effort to restore the childhood innocence of their narrators – which is crucial for the rehabilitation and acceptance of former child soldiers in society – these autobiographies are framed as victim narratives.⁹¹ Consequently, in these books, both the author and the reader tend to overlook the issue of responsibility for atrocities committed, or, when it cannot be ignored, it is attributed ‘either to abuses the child has suffered or to drug addiction from which the child must be rehabilitated’.⁹² Specifically, the authors of these narratives avoid dealing directly with the issue of their own accountability, focusing instead on their path towards rehabilitation and reintegration. Therefore, it can be said that ‘[t]he recovery narrative allows for the problem of responsibility in the war to be shifted onto the task of recovery itself’.⁹³

Within the context of violence, loss and displacement following an armed conflict, storytelling has traditionally been a ‘way in which people form new identities, while, at the same time, they maintain communal identification in the face of loss and cultural degradation’.⁹⁴ According to Linde, in autobiographies authors create and maintain personal identity;⁹⁵ however, as seen in chapter III, in the case of child soldiers it is hard to talk about one identity. They are almost never just innocent victims, nor are they only ruthless killers, nor can they be seen only as purely glorifiable heroes: in reality, they are more likely to be all three of these personas mixed together. The process of becoming and being a child soldier is a multifaceted and multi-layered affair, where multiple identities are negotiated. The process of

⁹¹ Eleni Coundouriotis, 'The Child Soldier Narrative and the Problem of Arrested Historicization' (2010) 9(2) *Journal of Human Rights* 191, 192.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Schaffer and Smith, above n 44, 19.

⁹⁵ Charlotte Linde, *Life stories: the creation of coherence* (Oxford University Press, 1993), cited in Cortazzi, above n 24, 161.

reintegrating into civilian life is similarly complex.⁹⁶ Additionally, as seen in chapter III, in non-Western cultures⁹⁷ the 'self' is often 'not a signifier of one "I" but the coming together of many "I"s' – in this way, the self of the narrative embodies 'collective reality, past and present, family and community'.⁹⁸

In his memoir,⁹⁹ Ishmael Beah recounts how, during his time in the rehabilitation centre, the caregivers helped him to understand that the acts he committed were not his fault, despite him being very reluctant to accept this at first: 'Even though I had heard that phrase from every staff member – and frankly I had always hated it – I began that day to believe it.'¹⁰⁰ This anecdote illustrates the effort involved in turning the child soldier's self-perceptions from that of perpetrator to victim, through someone else's representation.¹⁰¹ This passage is essential in order to elicit sympathy – which, in turn, is necessary in order to mobilise the community: the undisputable victim status of a child soldier is pivotal for the construction of a victim who is 'spontaneously acceptable to western viewers in his or her own right'.¹⁰² In order to accomplish this, it is necessary to deliberately overlook the child soldier's responsibility and violence, even when it continues in a controlled environment such as the rehabilitation centre, as in Beah's case. Moreover, while a victim identity seems important in order to reclaim childhood and some measure of innocence for the child

⁹⁶ Myriam Denov, *Child soldiers: Sierra Leone's revolutionary united front* (Cambridge University Press, 2010) 15.

⁹⁷ A useful definition of 'culture' has been put forward by Bennett, who defines it as 'an amorphous concept denoting anything that contributes to the unique character of a social group, thereby distinguishing it from other groups ... It follows that culture may include artefacts, language, laws, customs and moral codes, in fact, a people's entire intellectual and material heritage': quoted in Afua Twum-Danso, *Africa's Young Soldiers: The Co-optation of Childhood*, ISS Monograph No 82 (Institute for Security Studies, 2003) 27.

⁹⁸ Egan, above n 67, quoted in Mackey, above n 43, 103.

⁹⁹ Chosen for the Starbucks book club program, Beah's memoir sold 62,000 copies in its first three weeks, thus resonating with Rita Barnard's description of how certain life narratives participate in the 'glamour of misery', which 'generates a highly sentimental and commercialized form of global thinking and feeling': Barnard, above n 20, 5.

¹⁰⁰ Beah, above n 1, 165.

¹⁰¹ This process involves two passages: first, the other person must perceive that the child soldier as innocent. Then, that person must convince the child soldier to see himself in the same way. Clearly, in order for the second step to happen, the first must take place.

¹⁰² Charli Carpenter, 'Women, children and other vulnerable groups: gender, strategic frames and the protection of civilians as a transnational issue' (2005) 49(295) *International Studies Quarterly* 316 (citing Braumann), quoted in Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 37.

narrator, victimhood also becomes by extension the condition of possibility for telling a story of perpetration that would otherwise be silenced.¹⁰³

All the memoirs considered here – and most of the published ones – emphasise the protagonist's innocence prior to becoming a soldier, made of close-knit family life, farm work and usually some form of education. In his memoir *The Boy Who Wouldn't Die*, David Nyuol Vincent describes with these words his childhood: 'My life was strangely idyllic; I didn't know what I was missing out on. Playtime was more important to me than eating.'¹⁰⁴ Luckily, the moral self is not forever lost and is recovered once the child is no longer a soldier. From this point of view, according to Moynagh, 'the memoirs of child soldiers are marked by a literary chiasmic structure that is also familiar in slave narratives: ... the child is made a soldier and the soldier is made, if not exactly a child again, then at least a human agent no longer complicit.'¹⁰⁵ Beah in particular makes this narrative structure explicit in his autobiography, especially when he states: 'I have been rehabilitated now, so don't be afraid of me. I am not a soldier anymore; I am a child.'¹⁰⁶ The rehabilitation and redemption circle is complete when former child soldiers – especially and usually those resettled in Western countries – effectively become human rights activists: 'the child who was wronged grows into a righter of wrongs through the act of writing'.¹⁰⁷

As we have seen, despite being marketed as authentic, most of the child soldier memoirs are mediated through the process of therapy provided by international organisations and, thus, are located within what Makau Mutua calls the 'savage, victim, savior'¹⁰⁸ metaphor of human rights narratives. According to Mutua, Africa is the stage where 'victims' and 'savages' are confronted, welcoming the intervention of morally superior outsiders – fundamentally Eurocentric¹⁰⁹ – who undertake this

¹⁰³ Coundouriotis, above n 91, 193.

¹⁰⁴ David Nyuol Vincent and Carol Nader, *The boy who wouldn't die* (Fairfax Books, 2012) 10.

¹⁰⁵ Moynagh, above n 66, 48.

¹⁰⁶ Beah, above n 1, 199 quoted in Moynagh, above n 66, 48.

¹⁰⁷ Moynagh, above n 66, 48.

¹⁰⁸ Makau Mutua, 'Savages, victims, and saviors: the metaphor of human rights' (2001) 42(1) *Harvard International Law Journal* 201.

¹⁰⁹ According to Mutua, the saviour is the human rights corpus itself, with the United Nations, Western governments, NGOs, and Western charities as the actual rescuers, redeemers of a benighted world. In

salvage work in order to be reassured of their superiority.¹¹⁰ Undeniably, armed conflicts have plagued all continents and children serving as soldiers have been a present in wars all around the world. Despite this, it is also undeniable that documentaries, films, talk shows, published memoirs and works of fiction have almost exclusively focused on the 'African child soldier'. 'There is, it seems, a place already prepared in the Western imagination for the African child soldier as a subject of violence in need of human rights intervention and rehabilitation – intervention that threatens to mimic colonial infantilising of Africans as needing the “protection” of European powers’.¹¹¹

To sum up, in order to guarantee the rehabilitation and reintegration of the child-authors, these narratives play on – typically Western – existing concepts, such as the vulnerability and innocence of children.¹¹² Consequently, in the next section, I will discuss another topic that the narratives challenge: the concept of childhood in Western and non-Western countries. It is noteworthy to analyse these differences, considering that the child soldier's narratives are non-Western children's stories written by non-Westerners, but targeted at a Western audience. As seen in section 1, this contrast increases the confusion of the child: in this case indeed, two cultures confront each other, with their differing sets of opinions and beliefs. The next section will highlight the most likely areas of conflict.

6. Constructing Childhood

With more and more stories like those analysed here unfolding around the world, in the last two decades concern about the effect of war and displacement on children's lives has intensified dramatically.¹¹³ As discussed already in chapter IV, at

reality, however, these institutions are merely fronts. The saviour is ultimately a set of culturally based norms and practices that inhere in liberal thought and philosophy.

¹¹⁰ Mutua, above n 108, 202–3.

¹¹¹ Moynagh, above n 66, 41.

¹¹² The concepts of agency and responsibility will be further explored in later sections.

¹¹³ See, for example, the three international conferences on children and war organised by the University of Salzburg and the University of Wolverhampton in 2010, 2013 and 2016, in association

international level much of the alarm stems from a particular concept of childhood that developed in Western Europe between the 17th and 19th centuries.¹¹⁴ This notion of childhood emphasises the distinctive nature and innocence of children: they are perceived as innocent and vulnerable, they lack any kind of legitimate agency, and consequently, can never be the perpetrators of violence.¹¹⁵ As seen already, due to both the consolidation of the nuclear family and children's legally protected status as 'non-workers',¹¹⁶ children are always seen as being dependent on adults.¹¹⁷ Thanks to this image of vulnerability, in times of great suffering – such as during wars or natural disasters – children come to be portrayed as the exemplary victims. In this scenario, 'children as ideally constructed are strangers to the power and violence of the world, should not experience it, and certainly not engage in it'.¹¹⁸ Unfortunately, this is a very different reality from that of a hundred thousand children involved in armed conflicts around the globe.

The reason behind this Western notion of childhood is that period of life is determined by universally by recognisable developmental stages. Consequently, as seen in chapter V, 'many international agencies adopt a universalist approach in their programmes, [...] based on the notion that children everywhere have the same basic needs and that these can be met with a standard set of responses'.¹¹⁹ Humanitarian programs are not, however,

ideologically neutral: most are based on Western constructions of childhood and Western understandings of what is desirable and what is detrimental in child health, welfare and development. [Consequently,] many offer solutions to child distress, such as sponsorship

with the UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict.

¹¹⁴ See chapter IV for more information on the evolution of the concept of childhood.

¹¹⁵ Jo Boyden, 'Children's experience of conflict related emergencies: some implications for relief policy and practice' (1994) 18(3) *Disasters* 254, 260.

¹¹⁶ See chapter IV for more information on the impact of these variables on the concept of childhood.

¹¹⁷ Pia Christiensen, 'Vulnerable Bodies: Cultural Meanings of Child, Body and Illness' (Paper presented at Keele University's medical anthropology seminar series, 1994), cited in Sara Gibbs, 'Post-war social reconstruction in Mozambique: re-framing children's experience of trauma and healing' (1994) 18(3) *Disasters* 268.

¹¹⁸ Andrew Dawes, 'Psychological Discourse about Political Violence and Its Effects on Children' (Paper prepared for the meeting on The Mental Health of Refugee Children Exposed to Violent Environments, Refugee Studies Programme, University of Oxford, 1992), quoted in Boyden, above n 115, 260.

¹¹⁹ *Ibid* 256.

or custodial care in institutions or children's villages, that derive from Western social work practice¹²⁰

and may not be appropriate for the local context in which they are applied.

In the past centuries, colonisation and the global wars led to the exportation of this definition of childhood to other parts of the world.¹²¹ More recently, globalisation and its impact on other countries' societies and cultures as well as their economies, has fast tracked the spreading of this particular notion.¹²² In particular, the dissemination of this concept of childhood has been aided by the development of international legal and economical instruments, which set standards for all children worldwide.¹²³ The 1989 UN Convention on the Rights of the Child¹²⁴ brushed away existing cultural relativist positions and offered a global definition of 'the child' irrespectively of culture, nationality, gender, class and race. As noted in UNICEF's 1990 report 'The State of the World's Children', the Convention produced a 'universally valid basis for advocacy on behalf of children everywhere ... [establishing] a standard below which any civilised nation, rich or poor, will be shamed to fall'.¹²⁵ The rationale for the global attitude¹²⁶ of the Convention is that the physical and mental nature and needs of the child, along with the process of growth, are identical everywhere.¹²⁷ Moreover, the supporters of the Convention invoke that

¹²⁰ Ibid 257.

¹²¹ See chapter IV for more information on the evolution of the Western concept of childhood.

¹²² Afua Twum-Danso and Robert Ame (eds), *Childhoods at the intersection of the local and the global* (Palgrave Macmillan, 2012) 1.

¹²³ See Annex L: Summary Table of International Humanitarian Law Provisions Applicable to Children in War for a list of international and regional legal instruments applicable to children in general, and child soldiers in particular.

¹²⁴ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹²⁵ James P. Gram, 'The state of the world's children' (UNCIEF, 1990) <http://www.unicef.org/about/history/index_sowc.html> 7.

¹²⁶ Unsurprisingly, the Convention has been criticised for 'its Western character, obvious in the primacy awarded to the child's individual rights over other considerations, the failure to balance rights with responsibilities, the emphasis given to a nuclear family structure, the resources demanded by full implementation, and so forth. Even with the occasional references to an extended family, the *kafalah* of Islamic law, and other non-Western features, the Convention remains a decidedly Western instrument'. See Macmillan, above n 40, 39.

¹²⁷ Adam Lopatka, Chairman of the UN Working Group drafting the 1989 Convention, quoted in Erica Burman, 'Local, Global or Globalized?: Child Development and International Child Rights Legislation' (1996) 3(1) *Childhood* 45, 60.

‘what is good and right [in the traditions and cultural values of individual countries] should be continued and developed: what is wrong should be changed in accordance with the requirements of the universal progress of mankind’.¹²⁸

Nevertheless, this definition is in stark contrast with local conceptions of childhood in a large number of non-Western post-conflict societies. It is debatable as to how valid and useful such a perspective is within the very different local cultural contexts of non-Western countries. Although this notion of childhood may seem natural and universally valid to us, it is essential to bear in mind that different cultures have different understanding of childhood and of suffering.¹²⁹ Indeed, Prout and James developed the concept of the social construction of childhood thoroughly, asserting that:

Childhood is understood as a social construction. As such it provides an interpretative frame for contextualizing the early years of human life. Childhood, as distinct from biological immaturity, is neither a natural nor universal feature of human groups but appears as a specific structural and cultural component of many societies.¹³⁰

In response to this global view of childhood, local non-Western communities react according to the framework of their social, economic and cultural conditions, which ultimately determine their response to the cultural homogeneity posed by such globalising forces and projects. Needless to say, the resulting outcome has often been resistance and rejection by other communities around the world, which insist on their own constructions of childhood and child development and, in turn, also disregard policies that have been introduced into their communities from the West.¹³¹

Indeed, in many non-Western countries, the determination of who is a youth is not based simply on age; rather, the transition from child to youth involves a variety of social indicators and ritual ceremonies. According to Shepler, ‘[s]ome events are fairly universal: for example, almost everyone goes through initiations into the secret societies that serve as a formal marker between childhood and adulthood’.¹³²

¹²⁸ Quoted in *ibid* 61–2.

¹²⁹ Gibbs, above n 117, 270.

¹³⁰ Alan Prout and Allison James, *Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood* (Falmer Press, 1997) 8.

¹³¹ Susan Shepler, ‘The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone’ (2005) 4(2) *Journal of Human Rights* 19.

¹³² Shepler, above n 6, 26.

Generally, however, 'a boy is a youth until he is married. A girl is a youth until her first child'.¹³³ Additionally, the local distinctive cultural traditions of non-Western cultures, 'interwoven with their particular social, political and economic threads, influence the way the community understands and acts on the needs of its children'.¹³⁴ One of the most indicative examples of the different view of childhood common in Africa is the following Mozambican tale:

A child is like a banana tree ... once you plant one they will reproduce themselves, after five or six years they will grow alone – independent of their parents. Children are the same, after some years they are independent and can grow on their own. They are survivors, like the banana trees; if there is a forest fire and you go away when you come back you can find a lot of trees burnt, but the banana trees are often alive. Their parents may be dead but they will survive, alone.¹³⁵

This portrayal of children as survivors and as independent challenges the popular Western European image of weak youth, focusing instead on the vulnerability of adults. Childhood in the African context is not a synonym of helplessness; on the contrary, children 'are regarded as powerful, even dangerous, beings due to their intimate connection with the spiritual world'.¹³⁶ In all the child soldier narratives analysed, this is quite apparent when the authors describe their childhoods prior to joining the armed conflict. It has been suggested that this is probably due to the fact that, whereas in Western societies adulthood is the goal, in other societies it is a process, 'a continued becoming, a never completed maturing'.¹³⁷ Thus, even if an individual can acquire the status of adult, it is not a sudden process, and the grown-up can still retain some of the childhood characteristics as he or she ages. For example, in terms of inter-generational obligations of support and reciprocity, the African child is always a 'child' in relation to his or her parents, who expect – and are traditionally entitled to – all forms of support in times of need and old age.

¹³³ Quoted in *ibid.*

¹³⁴ Gibbs, above n 117, 270.

¹³⁵ Scott Gates and Simon F. Reich (eds), *Child soldiers in the age of fractured states* (University of Pittsburgh Press, 2010) 79.

¹³⁶ Rachel Anderson, 'Family involvement in the reintegration of former child soldiers in Sierra Leone: a critical examination' in Grazia Prontera (ed), *Children and war: past and present II* (Helion & Company Ltd, 2016) 105, 111.

¹³⁷ David Archard, *Children: Rights and Childhood* (Routledge, 2004) 36.

This explains in part the responsibilities and duties assigned to children in many non-Western cultures, such as caring for younger children, collecting water and firewood, and attending domesticated animals.¹³⁸ Considered an integral part of the family income, children have responsibilities and they are expected to work according to their age and skills. Shepler maintains that 'child labour almost defines childhood'¹³⁹ in many Third World countries, and that 'a child who does not work is a bad child'.¹⁴⁰ Additionally,

work is an important part of life and learning. Children are expected to take on domestic responsibilities and chores as part of a system that promotes interdependence within household and community relations. In fact, parents who fail to place certain responsibilities on their children can be perceived as neglectful.¹⁴¹

Not distinguishing between work and play, children can certainly be seen from the age of about five or six helping out in the fields. As they grow older, they are expected to contribute more and more productively. According to Bennett, the economic situation of the society will determine the length of childhood: if people live at a subsistence level, children are forced to take on responsibilities early, 'because an average life span is short and survival is a struggle, a long period of dependency as a child is a luxury that families cannot afford'.¹⁴² Indeed, as Gibbs was able to gather from her interviews with Mozambican communities, children are often valued for their contribution to the productive work of the family: 'in this process the western image of the child – in this case as a non-worker – is turned on its head'.¹⁴³ The labour of children is a necessary part of any household in many non-Western countries and locals are very open about their child labour practices. For example, a Sierra Leonean wine tapper told Shepler during her fieldwork that

¹³⁸ Other chores might be running errands, doing laundry (by pounding clothes against stones at the river) or selling goods. The child of a fisherman might have the task of caring for the nets or cleaning the catch. An urban child would have a different set of tasks, but would still be required to work.

¹³⁹ Susan Shepler, 'The social and cultural context of child soldiering in Sierra Leone' (Paper presented at the PRIO-sponsored workshop on the techniques of violence in civil war, Oslo, 2004) 12 quoted in Anderson, above n 136, 111.

¹⁴⁰ Ibid.

¹⁴¹ Shepler, above n 7, 31.

¹⁴² T W Bennett, *Using Children in Armed Conflict: A Legitimate African Tradition? Criminalising Recruitment of Child Soldiers* (Institute for Security Studies, 1998).

¹⁴³ Gibbs, above n 117, 271.

the only reason one has children is so they can work for you. Especially up-country. It is easier to have your children make the farm rather than hire people to do the work. Like now, when I come from work I find my children have cooked and cleaned, and they dish rice for me. At times people can send one child to school, but the rest should be home to work.¹⁴⁴

Therefore, within realities in which, even at times of peace, children's labour is not only expected and appreciated but often vital to the survival of families and communities, the involvement of kids and teenagers in various activities in wartime should not surprise. So often within these contexts, 'this kind of labour is so unremarkable as to be not worth talking about'.¹⁴⁵

The cultural context in which representations are created is vital in order to understand the construction of these portrayals. In turn, placing the study of child soldiers' lives in the context of local ideas about their roles, abilities, rights and responsibilities allows us to better manage responses to child soldiering. Researchers argue that considering the ways in which childhood is conceptualised and experienced within different societies and cultures is vital.¹⁴⁶ Throughout this thesis, the perception of childhood is of particular relevance. This section has shown that this perception is very much culturally dependent, thus adding an element of confusion and contrast in the relationship between the child-author and the reader-audience. In the next section, I will discuss how the rights and responsibilities frameworks, alongside the different notions of childhood just discussed, influence the representation of child soldiers and shape the legal framing of responsibility.

7. Rights vs. Responsibilities

As we have seen throughout this and the previous chapters, child soldiers are not often given the chance to speak, and even when they do speak – as in the case of autobiographies – their voices are not heard, they are confused, and their words

¹⁴⁴ Shepler, above n 7, 30.

¹⁴⁵ Ibid 32.

¹⁴⁶ Prout and James, above n 130; B. Mayall, 'The sociology of childhood in relation to children's rights' (2000) 8(3) *The International Journal of Children's Rights* 243; Jo Boyden, 'Children under Fire: Challenging Assumptions about Children's Resilience' (2003) 13(1) *Children Youth and Environments* 1; Jill E. Korbin, 'Children, childhoods, and violence' (2003) 32 *Annual review of anthropology* 431.

misunderstood. This is often due to cultural differences that shape the relationship between the parties even before the relationship has been established.¹⁴⁷ It is my argument that the human rights discourse is complicit in this: if we want to know how to best manage children, we have to give them the freedom to speak and we have to listen to what they say – even when what they say is not what we would like or need to hear. However, as we have seen, according to the Western concept of childhood,¹⁴⁸ by reason of their mental immaturity,¹⁴⁹ children – and especially child soldiers – are often deemed incapable of rational thinking¹⁵⁰ and not fully able to assert what is best for them.¹⁵¹ Consequently, adults feel the need to speak *about* and *on behalf of* children, instead of speaking *to* them or letting them speak *for themselves*.¹⁵² This can be explained in part by the North vs. South argument on human rights, which can be summarised in the rights vs. responsibilities debate. Should children be protected and marginalised, or should they contribute to society?

7.1. Rights

As seen in section 6, central to the Western notion of childhood has been the development of the 1989 UN Convention on the Rights of the Child (CRC). Being ‘the most widely and rapidly ratified human rights treaty in history’,¹⁵³ the CRC has promulgated values and beliefs that have had a tremendous impact worldwide. In particular, as we have seen, the CRC is responsible for broadcasting a certain concept of childhood that strongly emphasises the rights to which children are entitled, rather

¹⁴⁷ See, for example, the stereotypes that shaped the preconceived ideas about child soldiers in the participants to my focus groups, or in the readers who choose to buy child soldiers’ narratives.

¹⁴⁸ See chapter IV for more information on the evolution of this notion.

¹⁴⁹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) preamble.

¹⁵⁰ Although, at the national level, it is certainly more nuanced than that and, from at least early adolescence, depending on the nature of the decision and the maturity of the child, capacity is recognised.

¹⁵¹ This theme has recurred in numerous narratives and interviews, and has been discussed in chapter VI in relation to the involvement of child soldiers in judicial and non-judicial proceedings.

¹⁵² See chapter V for an analysis of the dichotomy between ‘speaking for’ and ‘speaking about’.

¹⁵³ United Nations Children’s Fund (UNICEF), *Convention on the Rights of the Child, Frequently asked questions* <http://www.unicef.org/crc/index_30229.html>.

than their responsibilities. From the preamble onwards, the Convention characterises childhood as a time of 'special care and assistance',¹⁵⁴ making immediately clear its theoretical – and cultural – foundations. From here follows a long list of rights that children have and that their families, communities and governments must respect, protect and act upon. Within this view, the family has the primary responsibility towards the children and 'should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community'.¹⁵⁵ It is worth pointing out that, according to the CRC, it is the family that will take on responsibilities within the community on behalf of the children, not the children themselves. Consequently, within this view, there is no space to take into account the role that the child plays in society *as a child*; the focus is on the role that he or she will take one day *as an adult*, and therefore on the protection and assistance that is needed in order to achieve adulthood in the future. Within the CRC, children are seen solely as bearers of rights, not responsibilities. In fact, nowhere in the whole document are the responsibilities of children mentioned, while the responsibilities of families and parents are referred to several times.¹⁵⁶ Indeed, the whole Convention fosters the notion of children as physically and mentally immature, in need of 'special safeguards and care, including appropriate legal protection, before as well as after birth'.¹⁵⁷

In relation to child soldiers, as we will see in further details in the next chapter, this instrument undoubtedly propagates the notion of child combatants as innocent victims: children need to be protected from the horrors of war, and if, despite all efforts, they become involved in the conflict, whatever happens is not their fault. They are victims of illegal recruitment, even when they volunteer,¹⁵⁸ and consequently they

¹⁵⁴ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) preamble.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid* arts 5, 18, 27.

¹⁵⁷ *Ibid* preamble. This notion is not so problematic with very young children, but certainly raises the issue that there is not a single ideal of a child as an under 18-year-old.

¹⁵⁸ '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 the 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 endeavour to give priority to those who are oldest': *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts*

cannot be held accountable for the crimes they might commit. As we have seen in chapter V, these beliefs are shared with child soldiers during rehabilitation: no matter what the opinion of the child might be on this matter, the humanitarian officers will persuade him that he is an innocent victim.¹⁵⁹ Adults violated her rights to safety, protection and care, and they forced her to witness or take part in horrendous crimes: in brief, they stole her innocence.¹⁶⁰ This narrative is imposed on both the child soldiers and their communities during sensitisation programs largely implemented by NGOs 'to elicit a local community's agreement to the return of the former child soldier and to facilitate a community's acceptance of the former child soldier'.¹⁶¹ In arguing that children are not to blame for the horrors committed because forced to do so during these programs, humanitarian staff seems to make a priority to 'educate' the local communities on international children's rights.¹⁶²

Due to cultural differences in the concept of childhood, the vast majority of (former) child soldiers (and their communities) become aware of their rights only during rehabilitation programs. Thus, when former child soldiers turn to narratives as a way to cope with their past, they are influenced by these opinions and approaches, and this influence shows in some of the passages in the autobiographies considered here. For example, Keitetsi is often confused between what she felt was right while with the armed groups and what she was told she should feel while in rehabilitation. This confusion emerges in her writing:

In Denmark, life is treated differently. Every living thing has rights. When I arrived here, I learned my human rights, but still I was afraid to say: <No!>.¹⁶³

(Protocol I), opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) art 77(2).

¹⁵⁹ Which is also in disagreement with the legal age for criminal responsibility in most domestic jurisdictions.

¹⁶⁰ Shepler, above n 131; Isobel McConnan and Sarah Uppard, 'Children not soldiers: guidelines for working with child soldiers and children associated with fighting forces' (Save the Children, 2001) <http://www.savethechildren.org.uk/sites/default/files/docs/children_are_not_soldiers_1.pdf>.

¹⁶¹ Anderson, above n 136, 6.

¹⁶² Ibid 6-7. See also McConnan and Uppard, above n 160; Augustine S. J. Park, 'Community-based restorative transitional justice in Sierra Leone' (2010) 13(1) *Contemporary Justice Review* 95; Shepler, above n 131.

¹⁶³ Keitetsi, above n 22, xi.

I was getting confused, having been told that I was fighting for freedom, but I had never imagined that to include stealing from the dead. My excitement turned into sadness, as I saw the wounded enemy scattered around crying for help, suddenly it became hard for me to think of them as my enemy.¹⁶⁴

The NRA [National Resistance Army] gave us weapons, made us fight their war, made us hate, kill, torture, and made us their girlfriends: we had no choice.¹⁶⁵

Most of us were too young to be mothers, but in the NRA there were no age. It was a crime for a child soldier to say: 'I cannot do this, because I'm a child'.¹⁶⁶

The psychiatrist seemed to be helping me in many ways. I started [accepting] of who I was, and learned that the bad things I did was never my fault. I also started coming to terms with myself, by opening up a bit.¹⁶⁷

Beah also gives us evidence of the approach that humanitarian officers have towards child soldiers based on the human rights approach and the children's reaction to this:

'It is not your fault that you did such a thing to me,' he said. ... This made us angry, because we wanted 'the civilians,' as we referred to the staff members, to respect us as soldiers who were capable of severely harming them. Most of the staff members were like that; they returned smiling after we hurt them. It was as if they had made a pact not to give up on us.¹⁶⁸

'None of what happened was your fault. You were just a little boy'. ... I hated that 'it is not your fault' line that all the staff members said every time anyone spoke about the war.¹⁶⁹

'None of these things are your fault,' she would always say at the end of our conversation. Even though I had heard that phrase from every staff member – and frankly I had always hated it – I began that day to believe it. ... That didn't make me immune from the guilt that I felt for what I had done. Nonetheless, it lightened my burdensome memories and gave me strength to think about things.¹⁷⁰

I have been rehabilitated now, so don't be afraid of me. I am not a soldier anymore; I am a child.¹⁷¹

With the 'it is not your fault paradox', Beah introduces perfectly one of the key implications of the disconnect between DDR policy and the local understanding of 'family' and 'childhood': the fact that Western cultures place the emphasis on children

¹⁶⁴ Ibid 117.

¹⁶⁵ Ibid 156.

¹⁶⁶ Ibid 210.

¹⁶⁷ Ibid 263.

¹⁶⁸ Beah, above n 1, 140.

¹⁶⁹ Ibid 160.

¹⁷⁰ Ibid 165–6.

¹⁷¹ Ibid 199.

as rights bearers, while non-Western cultures consider children as responsibilities bearers, as we will see next.

7.2. Responsibilities

As seen already, in non-Western cultures children's ability to actively contribute within the family and society is widely acknowledged. From an early age, children in past and present developing societies have been assigned duties and responsibilities:¹⁷² running errands, carrying goods, gardening, herding and foraging, caring for infants and livestock, fetching water and firewood, and so on. Within this context, these tasks are considered an essential part of the growing up process: 'learning to assume responsibility, acquiring domestic and other skills, and preparing for life itself'.¹⁷³ Children in these non-Western realities are accustomed to taking on responsibility for everyday jobs, and they are accustomed to doing their part for the good of their family and community.¹⁷⁴ Thus, many of them feel that it is their duty to take an active part in an armed conflict, where they are generally employed in the same kind of tasks that they would perform at home: carrying loads, standing guard, acting as messengers, foraging for food, and performing household tasks such as cooking and cleaning. Of course, these are not the only duties that child soldiers are asked to carry out, but, especially for the younger ones, they are the most common.

If the previous section has shown how the CRC does not foresee any responsibilities for children, taking instead a rights approach, the same cannot be said of the African Charter on the Rights and Welfare of the Child. Despite recognising the children's need for special care and protection, in its article 31 the Charter specifically acknowledges the duties expected of young adults. In fact, according to this instrument, individuals – including children – cannot claim rights and freedoms

¹⁷² Twum-Danso, above n 97, 28.

¹⁷³ J. Sloth-Nielsen and B. D. Mezmur, 'A Dutiful Child: The Implications of Article 31 of the African Children's Charter' (2008) 52(2) *Journal of African Law* 159, 171.

¹⁷⁴ As seen in chapter II, an important African tradition is *Ubuntu*, according to which cooperation between individuals and social cultures is of outmost importance, and the individual existence is only possible within a community.

without bearing some responsibilities.¹⁷⁵ In particular, the Charter states that 'every child, subject to his age and ability,¹⁷⁶ and such limitations as may be contained in the present Charter, shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community'.¹⁷⁷ In stating that the child has the duty 'to work for the cohesion of the family,¹⁷⁸ to respect his parents, superiors and elders at all times¹⁷⁹ and to assist them in case of need',¹⁸⁰ it envisages children taking care of family members, which remains one of the features at the heart of the African social system.¹⁸¹ By declaring that the child has to 'serve his national community by placing his physical and intellectual abilities at its service',¹⁸² the Charter recognises that in some cases a child's work can be helpful to the child and to the family, and that working and contributing to society can be a positive experience in a child's growing up.¹⁸³ In asserting that a child has the duty to

¹⁷⁵ Paragraph 6 of the preamble to the African Charter provides clearly that 'the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone'. Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, opened for signature on 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force 29 November 1999) preamble.

¹⁷⁶ This point is particularly relevant as it acknowledges that there can be gradations and that children have different abilities and needs at different times during childhood.

¹⁷⁷ Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, opened for signature on 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force 29 November 1999) art 31.

¹⁷⁸ In the African context, the concept of family is broad, extending to members of the extended family such as grandparents, uncles, aunts, cousins and so forth. This is the basis of the saying, found in many African cultures, that it takes a whole village to raise a child.

¹⁷⁹ The duty to respect parents, elders and superiors is exactly the kind of positive tradition that the African Children's Charter identifies as constituting an asset in the upbringing of African children. It does not entail docility, nor unquestioning subservience. It encapsulates the widely shared value that age brings with it wisdom, knowledge and experience, and that this requires that seniors be given due credit. For further information, see Sloth-Nielsen and Mezmur, above n 173.

¹⁸⁰ Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, opened for signature on 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force 29 November 1999) art 31(a).

¹⁸¹ 'The conception of the individual who is utterly free and utterly irresponsible and opposed to society is not consonant with African philosophy', quoted in Eric Ngonji Njungwe, 'International protection of children's rights: an analysis of African attributes in the African Charter on the Rights and Welfare of the Child' (2009) 3(1) (June) *Cameroon Journal on Democracy and Human Rights* 23.

¹⁸² Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, opened for signature on 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force 29 November 1999) art 31(b).

¹⁸³ Mention must also be made of the laudable characteristic of article 31(b), in that it recognises not only the physical but also the intellectual capacity of the child to serve his or her national community. This is indicative of a child-centred approach, which sees children as capable of developing their minds

‘contribute to the best of his abilities at all times and at all levels, to the promotion and achievement of African unity’,¹⁸⁴ the Charter has the great potential to advance the participation rights of children – including the involvement of children in activities that strive to guarantee African unity.

In this allocation of duties to children depending on their evolving capacity lies the most striking distinction between the Charter and other children’s rights treaties, especially the CRC, which contains no such provision. Article 31 of the Charter appears to summarise the general approach to childhood of non-Western cultures: here, children are not simply bearers of rights; they have a role to play and tasks to perform for the good of their family, community and society.¹⁸⁵ The African child is an obedient and devoted child. If it is true that ‘[i]ndividual rights cannot make sense in a social and political vacuum, devoid of the duties assumed by individuals’,¹⁸⁶ this ‘appears to be truer of Africa than any other place’. It is therefore not by accident that African children were also given responsibilities alongside the guarantee of their rights and freedoms in the Charter.¹⁸⁷

However, how does this sit with the community sensitisation campaigns for child soldiers run by NGOs, which imply children’s blamelessness for any of the atrocities that they committed because they were forced to do these things by ‘evil adults’ and are ‘too young to know any better’? According to NGOs, this approach would appear to have a number of benefits for the former child soldiers, namely facilitating their return and reintegration within their communities by denying or

in society with others and growing into citizens who participate in public life, and not merely as mindless consumers.

¹⁸⁴ Organization of African Unity, *African Charter on the Rights and Welfare of the Child*, opened for signature on 11 July 1990, OAU Doc. CAB/LEG/24.9/49 (entered into force 29 November 1999) art 31(f).

¹⁸⁵ However, this inclusion of the duties of the child under the African Children’s Charter has attracted criticism from some scholars. See, for example, D. Olowu, ‘Protecting children’s rights in Africa: A critique of the African Charter on the Rights and Welfare of the Child’ (2002) 10 *The International Journal of Children’s Rights*; D. M. Chirwa, ‘The merits and demerits of the African Charter on the Rights and Welfare of the Child’ (2002) 10(2) *The International Journal of Children’s Rights* 157; A. Lloyd, ‘Evolution of the African Charter on the Rights and Welfare of the Child and the African Committee of Experts: Raising the gauntlet’ (2002) 10 *The International Journal of Children’s Rights* 179.

¹⁸⁶ Makau Mutua, ‘The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties’ (1995) 35 *Virginia Journal of International Law* 340-1.

¹⁸⁷ Ngonji Njungwe, above n 181, 23.

reducing their responsibility for crimes they committed. However, there are certainly some disadvantages associated with the blamelessness of the child soldier victim: in particular, as their accountability for – good and bad – actions committed during the war is denied, at the same time there is also a rejection of youth’s agency in peacetime.¹⁸⁸ As suggested in a number of interviews and testimonies,¹⁸⁹ many former child soldiers are proud of what they have achieved during the conflict and, for them, the assertion that they were and are not in a position to make any rational decision can be extremely frustrating and disappointing.¹⁹⁰ Additionally, from the community’s point of view, it appears to be generally felt that ‘child rights must be accompanied by child responsibilities’.¹⁹¹

This contrast in attitudes and approaches to children’s responsibilities emerges, once again, from the narratives analysed here. The weight of responsibilities that the authors felt as child soldiers develops in several occasions through the use of the pronoun ‘we’:

The commander stared down at us. ‘Always remember: the gun is your mother and father now.’ I looked at him. I had a family, a home again. The training was over. I was a soldier. I was going to war.¹⁹²

But we could not give up because we had already crossed out hearts to finish what we started.¹⁹³

[Musevini] said that the most important thing for us NRA was to fight with one spirit, so that we could save those who was [sic] in government jails for the crime they never had committed.¹⁹⁴

[The rebels] have lost everything that makes them human. They do not deserve to live. That is why we must kill every single one of them. ... It is the highest service you can perform for your country.¹⁹⁵

¹⁸⁸ Many former child soldiers join voluntarily in a bid to liberate themselves from traditional structures of authority and improve their social standing. A return to the old status quo can be particularly frustrating. See Anderson, above n 136, 114.

¹⁸⁹ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

¹⁹⁰ See Beah, above n 1, 109.

¹⁹¹ Anderson, above n 136, 115.

¹⁹² Jal, above n 57, 94.

¹⁹³ Keitetsi, above n 22, 121.

¹⁹⁴ *Ibid* 123.

¹⁹⁵ Beah, above n 1, 108.

People began shouting, 'We must kill them all. We must make sure they never walk this earth again'. All of us hated the rebels, and we were more than determined to stop them from capturing the village.¹⁹⁶

Our job is a serious one and we have the most capable soldiers, who will do anything to defend this country. We are not like the rebels, those riffraffs who kill people for no reason. We kill them for the good and betterment of this country.¹⁹⁷

We [children] fought with one spirit, totally committed to whatever cause there was, with no turning back in contrast to most of the grown-ups.¹⁹⁸

Additionally, in all three books, the role of child soldiers is presented as an honourable one, a figure that every child should aspire to become. Sometimes, the military training was also accompanied by school education, in order to forge tomorrow's generation of leaders:

'*Jesh a mer*¹⁹⁹ are young people who are trained to fight in war,' the elder told us. 'The gun does not know who is old or young'. ... 'They are lucky,' the elder said solemnly. 'They have been chosen because they are so brave. There is nothing braver than a *jenajesh*. They never run from a battle, they would fight a lion if they had to.'²⁰⁰

'You will soon go to school,' they told me. 'You are a clever boy and you must be educated so that you can help our country when the war is over'.²⁰¹

Some of you are here because they have killed your parents or families, others because this is a safe place to be. Well, it is not that safe anymore. That is why we need strong men and boys to help us fight these guys, so we can keep this village safe.²⁰²

As a consequence of not being considered blameless and passive by their culture, community and family, children do not see themselves in this way. Thus, in the case of child soldiers, they rarely claim to be 'innocent victims', preferring instead to take on responsibilities for decisions made and actions taken. In the next section, I will discuss the evolution of the authors, from the child soldiers they were to the adult writers they have become. In particular, I will consider the impact of the resettlement in a Western country in relation to four key aspects: the cause for fighting, human rights discourse, age and responsibility.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid 123.

¹⁹⁸ Keitetsi, above n 22, 124.

¹⁹⁹ The child soldiers in Sudan were called the Red Army.

²⁰⁰ Jal, above n 57, 65.

²⁰¹ Ibid 147.

²⁰² Beah, above n 1, 106.

8. A New Child?

As this chapter has shown, child soldier narratives are framed as victim narratives and can be inserted, although with some alterations, into the human rights framework. The previous sections have explored how, despite being marketed as authentic expressions of the child soldiers' voices and experiences, these narratives carry out a different purpose. Besides the obvious goal of selling the books, the stories aim at rehabilitating former child combatants into innocent children in the eyes of the Western reader. A new victimised and powerless child is therefore created through these narratives, and this transformation is evident through the books of Keitetsi, Jal and Beah, as well as those of Badjoko,²⁰³ de Soyza²⁰⁴ and Bilkuei.²⁰⁵

In order to be fully accepted by the Western audience, the child-author needs to undertake a quest towards complete rehabilitation. Consequently, he must renounce all the things that made him controversial in the first place. We have seen already that

[a]n important requirement for eliciting sympathy is the construction of a victim who is 'spontaneously acceptable to Western viewers in his or her own right'. Acceptability is dictated foremost by '100% victim status' – the symbolic victim must be seen as entirely lacking agency; s/he must be both unable to help her/himself and an unequivocal nonparticipant in the political events from which his/her misery results.²⁰⁶

These last three factors are of crucial importance in the transformation of the child-authors of the narratives. Let us consider the last factor first. In order to be an 'unequivocal nonparticipant in the political events',²⁰⁷ the children need to reject the cause for which they fought. As seen at the beginning of the chapter, all three authors considered here joined the armed groups 'voluntarily'. While only Jal enlisted in explicit support of the cause,²⁰⁸ the others were very quick to believe and support the rationales of their factions. However, if throughout the books the authors justify their

²⁰³ Badjoko and Clarens, above n 85.

²⁰⁴ De Soyza, above n 85.

²⁰⁵ Cola Bilkuei, *Boy Soldier* (Pan Macmillan Australia, 2010).

²⁰⁶ Carpenter, above n 102, 37.

²⁰⁷ *Ibid.*

²⁰⁸ In his narrative, Jal makes it very explicit that it was the hate towards Arabs and the desire for revenge that fuelled his fighting: 'I will be happy to see the battlefields. I'm a Nuer – the tribe the British described as tall and fearless when they came to try and conquer us. I will not run away from the Arabs on the battlefields. I will kill as many as possible.' See Jal, above n 57, 131.

behaviour for the sake of the cause, in order to secure their reintegration and acceptance into society, the former child soldiers must distance themselves from the political events. Their motives for enlisting are rejected and condemned:

Here I am wondering. ... Even when I go to sleep, in my nightmares, it's you with that old gun in your hands, from the times when you talked and I was trapped by convincing words to shed my own blood for you. ... Why didn't you keep your promises? I have spent years trying to find a reason. ... To put my life in your hands is like falling in love with a lion.²⁰⁹

'We were told that we were fighting for freedom and to end injustice and tribalism', Keitetsi said. 'When we took over, everyone was fighting for riches. They forget everything we were in the bush for'.²¹⁰ In most of the narratives, it is only when the child-author is removed from the conflict that he is able to rationally assess the validity of the cause. It is often heartbreaking for these children to realise that, in the end, the cause that cost so many lives was not worth fighting for.²¹¹

Similarly, the child-author's approach to the human rights discourse changes completely. As mentioned at the beginning of this chapter, all three child soldiers have committed human rights violations: they tortured and killed other soldiers and civilians,²¹² they looted and burned villages,²¹³ and they kidnapped other children.²¹⁴ All acted in cold blood, often without showing remorse, because they believed that these actions were necessary for the good of the cause, to preserve their safety and rank, or to protect their comrades.²¹⁵ 'One, two, three ... Three *jallabas* whose lives I've taken for all those I've lost. No pain, no disappointment, no regret, no guilt. All I know is that I want to kill again and again.'²¹⁶ Although in their narratives the authors

²⁰⁹ Keitetsi, above n 22, 125.

²¹⁰ Alexandra N. Atiya, 'Ugandan Child Soldier Tells Story To Spread Awareness' (2002) *The Harvard Crimson* <<http://www.thecrimson.com/article/2002/11/8/ugandan-child-soldier-tells-story-to/>>.

²¹¹ However, this does not necessarily mean that the children were brainwashed to fight. Often in these circumstances, the 'cause' was presented and pleaded for to the children by their commanders, who encouraged the youth to take an active part in the struggle. Nevertheless, child soldiers are commonly believed to have been indoctrinated into fighting. See, for example, focus group discussion (Sydney, 24 November 2014).

²¹² Beah, above n 1, 119; Jal, above n 57, 144, 163, 213.

²¹³ Beah, above n 1, 122.

²¹⁴ *Ibid.*

²¹⁵ Except for Keitetsi, to some extent: 'As I saw the wounded enemy scattered around crying for help, suddenly it became hard for me to think of them as my enemy.' Keitetsi, above n 22, 117.

²¹⁶ Jal, above n 57, 213.

do not mention whether they were aware that these acts constituted war crimes, readers can assume that they were at least conscious, even at that young age, of the fact that hurting someone was wrong.²¹⁷ However, despite never feeling remorse or guilt,²¹⁸ and despite never claiming excuses (such as duress or intoxication) for the atrocities committed, these authors eventually claim to have been unable to help themselves, and they distance themselves from the crimes they committed. Once these children are rehabilitated and introduced to the Western concept of human rights, they usually become involved in awareness campaign to draw attention to the horrors faced by child soldiers in conflicts. Normally, they work to bring to justice adult military commanders who recruit child soldiers and to give a voice to those children.²¹⁹ They become the defenders and promoters of human rights, perhaps as a way to make amends for what they have done as child soldiers.

Lastly, the most important factor in order for the child-author to be reintegrated and accepted back into society is that he must be seen as entirely lacking agency. This is perhaps the most crucial condition of children's reintegration, considering, as we have seen earlier, how children's blamelessness and lack of agency are the most critical features of childhood in Western cultures. However, this is challenging because, despite never addressing specifically the issue of accountability, in the narratives all three authors reclaim, more or less passionately, a certain degree of independence and decision-making abilities. For example, in her letter to President Museveni, Keitetsi states that he talked 'with convincing words'²²⁰ and that she was 'trapped' into shedding her 'own blood' for him.²²¹ Nevertheless, despite being without any doubt influenced in her choice, Keitetsi was by no means forced to join and fight.²²² It was more a question of gaining attention, acquiring status and enjoying

²¹⁷ Especially when, as in the case of Jal and Beah, the child looked for the most painful way to torture and kill his prisoners.

²¹⁸ On the contrary, even as an adult Jal expresses no regret for what he had done: 'I feel no guilt about that day because I was a child who took part in killings as the hatred and sorrow built up over years was released in mob violence. I did not kill in cold blood, I killed in war.' Jal, above n 57, 266.

²¹⁹ Atiya, above n 210.

²²⁰ Keitetsi, above n 22, 117.

²²¹ Ibid 273.

²²² Ibid 125.

benefits. 'You needed love, you needed attention from your boss and if he patted you on the shoulder and said "good job" it was good — so you ended up doing bad things to please your boss.'²²³ Similarly, Beah passionately defends his role as a child soldier and, until later in his rehabilitation, he fervently rejects the idea that 'it was not his fault'.²²⁴ Beah even admits in front of the UN that he joined the army because he 'wanted to avenge the deaths of [his] family'. He says that he 'also had to get some food to survive, and the only way to do that was to be part of the army'.²²⁵ Finally, Jal's own father joined the rebels as a commander and all his family members were SPLA supporters, believing that they were fighting to keep the population safe from the Arabs and fighting for their freedom to worship. Consequently, his desire to join the rebels had been instilled in him since he was too young to remember and was fuelled by the atrocities that he saw during the war:

Whatever fear I had felt as I ran into the camp was now gone. All I knew was a rage so strong that my body shook, and my heart hammered. Where were those bastards *jallabas*? Where were they hiding? I had to find them. I had to see them face to face. See the men who could do this, the men who could burn villages, rape women, steal children, and destroy their own people.²²⁶

This claim of independence and maturity that emerges from the narratives is consistent with the concept of age, childhood and agency in non-Western countries, which has been analysed in the previous sections. The three child-authors considered here are all from African backgrounds;²²⁷ therefore, it is presumed that, as children, they shared the traditional view that children are able to, and should, take on responsibilities. In fact, in remembering the years before they joined the armed groups, the authors describe, as a matter of fact, helping out with chores around the house, tending the animals, and looking after siblings. From a Western point of view, such activities might be considered excessive for a young child, but, as seen already, they are completely normal in that cultural context. Nowhere in the books do we find

²²³ Laura Smith-Spark, 'Ex-child soldier's path to hope' (2004) *BBC News* <http://news.bbc.co.uk/2/hi/uk_news/3733349.stm>.

²²⁴ 'I hated that "it is not your fault" line that all the staff members said every time anyone spoke about the war', in Beah, above n 1, 160.

²²⁵ *Ibid* 199.

²²⁶ Jal, above n 57, 162.

²²⁷ Beah is from Sierra Leone, Jal is from Sudan, and Keitetsi is from Uganda.

infancy or duress as an excuse for the actions taken and the crimes committed; nor do the authors accuse their commanders of having forced them to fight. The child-authors claim a substantial degree of independence and decision-making ability, from their joining up to all the actions they carried out as soldiers. It is only in the care of Western officers, exposed to Western beliefs and ways of thinking, that the children are forced – willing or not – to rethink their values and culture and to reshape their own past. The autonomy, independence and relative maturity of those children who decided to join the armed conflict are denied in favour of a view of the child as being dependent, immature and vulnerable.

To sum up, in order to be fully reintegrated and accepted in the community, Beah, Keitetsi and Jal must complete a transformation process, with a shift in three key areas. First, the validity of the cause the children fought for is re-dimensioned: although, at the time, defeating the enemy might have seemed worth dying for, in retrospect the authors no longer appear willing or able to justify their involvement in the conflict for a just cause. Second, the attitude towards the human rights discourse is significantly altered. As child soldiers, all three authors committed war crimes, including torture and murder, for which they appear to feel no remorse or guilt. However, as adults, they have distanced themselves from these acts and have become human rights defenders. Lastly, there is a substantial change in the identity of the authors, compared to that of the child soldiers. The decision-making ability and autonomy are denied in favour of a view of the child as a dependent, immature and vulnerable being. This change is compliant with the process of rehabilitation, the resettlement in a Western country, and the influences mentioned throughout the book of Western culture.

9. Conclusion

This chapter has questioned whether it is possible to listen to the voice of the child soldier as a quintessential embodiment of the voiceless when that voice asserts itself within an imagined transnational community of writers/readers of literature. Often framed as human rights literature, the child soldier narrative is 'too often

romanticised and co-opted by ideas of the self that serve its accommodation with a largely distant First World reader'.²²⁸ Focusing only on the children's suffering, without taken into proper consideration the geo-political and historical context in which these stories take place, child soldiers' memoirs and work of fictions often fall short of their potential.

In these works, child soldiers are the victim-perpetrators *par excellence*: however, as we have seen in chapter III, in the eyes of their communities and of their culture in general, child soldiers are often not victims at all. As mentioned throughout this chapter, cultural understandings of child competency, maturity and understanding vary widely. These are linked to expectations of role transitions and observations of readiness or ability to take on adult roles and responsibilities.²²⁹ Furthermore, there are different competencies and maturity demands of children within different socio-economic groups and socially provided opportunities to develop such skills. Normatively, therefore, there is a wide gap in abilities and developmental competency and maturity among children of the same chronological age.²³⁰

In the end, what we read in child soldier narratives rarely correspond to the experience of the vast majority of child soldiers. As a result, they produce a metaphor of African childhood that is politically limiting as a characterisation of the historical agency of the continent's peoples. In Rosen's words, '[t]he child soldier narrative is simply one element of the dystopian fantasy industry that continuously spins out tales of victimization and horror for Western readers about hapless Africans and their troubles'.²³¹ Additionally, the stories told in autobiographies are all success stories. In these narratives, the authors come out of the rehabilitation process completely changed, ready to close the door on their past and to open the door on their future. In reality, not so many are able to put their past behind them and lead a healthy life. In telling only the stories of 'those who made it', we find another typical Western

²²⁸ Coundouriotis, above n 91, 203.

²²⁹ Save the Children, 'Children, Genocide and Justice' (Save the Children USA, 1995) 7.

²³⁰ Barbara Rogoff, *The cultural nature of human development* (Oxford University Press, 2003).

²³¹ David M Rosen, 'The Child Soldier in Popular Culture' in David M Rosen, *Child Soldiers in the Western Imagination: From Patriots to Victims* (Rutgers University Press, 2015) 125.

approach: we do not talk about those who are destined to a life of violence, but only of those who can be redeemed and made to fit again into our standards of innocence.

It has been suggested that,

even though they participate in an ethically and market-based economy of humanitarian consumption, the relational and indirect narrative strategies in these texts trouble the already fraught relationship between the spaces where child soldiers are being used and those where narratives about them are being consumed.²³²

We approach the narratives of child soldiers in search of their true voices, but in reality we find stories shaped by the expectations of sponsors, newspaper reporters and the audience in general. Child soldiers in this sense 'have been consistent in their willingness to oblige', as Eggers notes. 'Survivors tell the stories the sympathetic want, and that means making them as shocking as possible.'²³³

As the past chapters have demonstrated, the stakeholders who come into contact with child soldiers – such as humanitarian and judicial personnel – relate to and represent child soldiers on the basis of their interests. Although they claim to act in the children's best interests and to represent their voices and needs, my analysis has shown how this interaction manufactures the children's voices. But the interaction with external stakeholders not only muzzles the children's voices, it also 'produces' the child soldier identity. Representation (even self-representation) contexts distort and deny the possibility for the child to tell his story: consequently, the children are disempowered, and we are deprived of the possibility to better understand the reality in which they live. While, according to the CRC, the moral responsibility to protect minors lies with the adults, 'a discourse of children as powerless and reliant on adults during and after difficult circumstances does not promote children's coping and resilience, not does it portray their realities'.²³⁴ As this chapter has shown, children in non-Western cultures are often associated with ideas of agency and responsibilities more than incapacity and dependence. Consequently, '[d]isregarding children's own

²³² Mackey, above n 43, 99.

²³³ Dave Eggers, *What Is the What: The Autobiography of Valentino Achak Deng, A Novel* (Vintage, 2006), 21.

²³⁴ Niousha Roshani, 'Changing notions of child soldiers: rethinking children's engagement in the armed conflict in Colombia' in Grazia Prontera (ed), *Children and war: past and present II* (Helion & Company Ltd, 2016) 55, 58 citing Jo Boyden and Joanna de Berry, *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement* (Berghahn Books, 2004).

perceptions can lead to inadequate intervention that is far from the children's real needs and welfare, and can actually cause harm'.²³⁵

The next chapter first draws together and triangulates the results from the different data collection methods in a deconstruction of representation. Empirical findings are contrasted with the literature and synthesised in order to provide a holistic interpretation of the research question on how the creation of representations of child soldiers is carried out. In particular, the concept of age and childhood and the interests of the stakeholders in child soldiers proved to be the crucial drivers of representation. Second, the next chapter reflects on the commodification of the child both in war and in peacetime, in order to show how the representation of child combatants is a tool to an end used by a wide range of stakeholders in different contexts. Third, in order to show how all these elements come together to define a specific portrayal, the chapter presents an analysis of victimhood in the context of innocence and the silencing of child soldiers' voices.

²³⁵ Ibid 58.

CHAPTER VIII: DECONSTRUCTING REPRESENTATION

1. Introduction

This thesis has shown that, in considering the role of children in war, the dominant hegemony surrounding child combatants in the Western world is one in which the child is viewed as either a victim or a perpetrator,¹ with the possible responses consequently narrowed to sympathy or hostility. However, my analysis so far has showed how limiting and unrealistic these dominant views of child soldiers are. Given that these interpretations influence people's attitudes, post-conflict assistance programs, and the roles that former child soldiers are expected to take once they return home, it is therefore crucial to challenge these stereotypes and explore the different ways child soldiers are portrayed.

In an effort to better ensure dignity through empowering the victim's voice,² and in light of what has been examined so far, in this chapter I draw together a deconstruction of representation, before reaching my final conclusions in the next chapter. The purpose is to show that prioritising representations that assist children in having a voice and coming to terms with their story is more likely to ensure their dignity and to facilitate their reintegration. This chapter does so first by examining the various factors that construct representations, on the basis of the assumptions advanced in chapter I of this thesis. In particular, I will discuss how the concepts of age and childhood and the interests of the stakeholders in child soldiers prove to be the crucial drivers of representation. Second, this chapter reflects on the commodification of the child, both in wartime and in peacetime, in order to show how the representation of child combatants is a tool to an end used by a wide range of stakeholders in different contexts. Third, in order to show how all these elements

¹ See chapter III for an overview of the child soldier portrayals.

² Chapters V, VI and VII have shown how the children's voices are muzzled or distorted by various stakeholders for various purposes.

come together to define a specific portrayal, I present an analysis of victimhood in the context of innocence and the silencing of child soldiers' voices.

2. The Construction of Representation

In order to understand the reasons behind the different portrayals of child soldiers presented throughout this thesis,³ my research aimed at uncovering the factors that influence one portrayal over another.⁴ This led to advancing four assumptions in order to analyse the construction of representation of child soldiers, as proffered in chapter I. According to these hypotheses, representations of child soldiers are predetermined by externalities and are socially constructed; they vary according to the distance of the stakeholder from the action and subject represented and, consequently, they craft responses. This section will analyse these assumptions in light of the research carried out throughout the thesis and will reflect on the subsequent construction of representation.

2.1. Representations Are Predetermined by Externalities

As the first two chapters have shown, externalities such as age, gender, race, geographical location, and cultural background are key factors in influencing portrayals. On the one hand, as we have seen in the narrative analysis,⁵ features such as age, developing personality and immaturity muzzle the children's voices, despite this not being in line with the CRC⁶ and other international instruments. On the other

³ See chapter III for an overview.

⁴ See chapter I.

⁵ See chapter VII and also Annex H: Interview with Shena Gacu.

⁶ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) states at article 12 that 'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law' and at article 13 states that 'the child shall have the right to freedom of expression; this right shall include freedom to

hand, these externalities also influence the roles that child soldiers assume once they are demobilised: for example, as seen in chapter VI, their age is the main reason to date why there has been no criminal proceeding before international institutions against child soldiers, even if children have appeared in front of the courts as victims and witnesses.⁷ This first assumption guided me through the narrative analysis and the focus groups that I carried out. I was able to analyse the possibility of creating in the mind of the participants a specific view of child soldiers and a response to it simply by the way the phenomenon was constructed and presented. In order to test my theory and explore the key factors of representation, I was particularly interested in exploring the way the participants portrayed child soldiers based on a set of factors.⁸ From the discussions, it emerged that, in comparing the two case studies provided,⁹ participants seemed to label the children as ‘victims’ or ‘perpetrators’ on the basis especially of two factors: age and the cultural concept of childhood.

2.1.1. Age and the Concept of Childhood

In accordance with the pivotal role that age takes in Western cultures in determining where childhood ends and adulthood begins, age and the subsequent concept of childhood seemed to be the primary factors influencing the representation of child soldiers. As seen in chapter IV, in each context the concepts of age and childhood imply an important set of rights, responsibilities and specific features, which in turn determine the roles and expectations for each age group and gender.¹⁰ For example, during the focus groups, participants relied heavily on and referenced the age of the

seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice’.

⁷ However, in January 2015, Dominic Ongwen, a former child abductee and the alleged Brigade Commander of the Sinia Brigade of the Lord’s Resistance Army, appeared before the ICC for crimes committed as an adult in northern Uganda between 2002 and 2005: see chapter I n 19.

⁸ Such as age, gender and race, as well as the mode of recruitment, actions taken, length of stay and consequences of the involvement in the armed conflict.

⁹ See Annex G: Focus Groups Scenarios.

¹⁰ The issue of her gender was indeed discussed by Niromi de Soyza in her autobiography, where she recounts being initially rejected from the army because she was a girl, and how she pretended to be a male in order to avoid being harassed by the other soldiers. See Niromi De Soyza, *Tamil tigress: my story as a child soldier in Sri Lanka's bloody civil war* (Allen & Unwin, 2011).

child soldiers in order to justify their opinions of them. Indeed, the child soldier in the first scenario¹¹ was considered to be 'less of a victim'¹² because of his older age and his involvement in violence. In contrast, the child in the second story¹³ was believed to be 'definitely "more of a victim" because of her young age', despite her voluntary enlistment.¹⁴ Even when child soldiers were involved in violent acts, it was deemed to be the result of the child's age and immaturity, or of physical or psychological threat – especially in the case of girls.

However, the concept of age and its features is a controversial one, as it relies on cultural, social and historical beliefs and perspectives.¹⁵ This conflict between the stakeholders' approach and the children's response in their narratives is fundamentally the result of a clash between the Western perspective on childhood and the viewpoints of other cultures. The main reason why the victimhood of child soldiers is so controversial globally is that it relies on a concept of childhood that is not global at all. As seen in chapter VII, the Western understanding of childhood, broadcast around the globe as universal, in reality is in stark contrast with regional and even national historical and cultural realities.¹⁶ Consequently, families and communities in non-Western countries have a hard time accepting the notion of reintegration as a natural obligation and the idea that children are not responsible for the crimes they committed simply because of their age.¹⁷ Although the concept of innocence that forms the basis of Western constructions of youth¹⁸ should make it easier for local communities to forgive children for their crimes during wartime, in some ways child rights discourse and the practices of child protection broadcast by

¹¹ An adolescent male who was forcibly recruited, quickly became dependent on drugs, and committed extreme acts of violence.

¹² Focus group discussion (Sydney, 24 November 2014).

¹³ A young female who, despite having voluntarily joined, displayed regret and pity for her victims, even if she herself was never directly involved in the violence.

¹⁴ Focus group discussion (Sydney, 24 November 2014).

¹⁵ See chapters IV and VII.

¹⁶ Karen Wells, *Childhood in a global perspective* (Polity Press, 2009).

¹⁷ Susan Shepler, 'The Rites of the Child: Global Discourses of Youth and Reintegrating Child Soldiers in Sierra Leone' (2005) 4(2) *Journal of Human Rights* 197, 200.

¹⁸ See chapter IV.

NGOs¹⁹ 'designed to ease the reintegration of former child soldiers in fact ma[d]e reintegration more difficult'.²⁰ In fact, the notion that 'anyone under eighteen years is to be considered a child and therefore not to be held accountable' is a 'newly imported idea' for most non-Western societies, who share a much more 'pliable and contingent' vision of youthful innocence²¹ and have a hard time accepting the Western view imposed on them.

It is widely acknowledged that the universal rights of children depend to a substantial degree on the capacity of a society to physically provide for the protected group – in this case, child soldiers. However, the conceptual scope of the CRC and other international instruments does not factor in the experiences of 'children' who assume 'adult' roles in their respective communities. In fact, as we have seen, the CRC has been heavily criticised for its lack of cultural relativism,²² which highlights inconsistencies between children's rights discourse and the reality of such childhoods.²³ Indeed, in many non-Western cultures, it is normal to become parents well before the 18th birthday and to take on the responsibilities and work that come with parenthood. Furthermore, children are often active working members of their community from early youth,²⁴ and they see their labour and economic contributions to their families – as well as their involvement in armed struggles – very positively.

Young people undertake responsibilities that are crucial for family survival in often-harsh ecological settings, and in the process they assume 'adult' tasks, including that of protecting others. Although, to some, this might be seen as an adverse situation, it can be argued that 'it is the roles that young people play in social and economic reproduction that provide them with opportunities to develop life skills

¹⁹ See chapter V.

²⁰ Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 158.

²¹ Shepler, above n 17, 205.

²² Erica Burman, 'Innocents abroad: Western fantasies of childhood and the iconography of emergencies' (1994) 18(3) *Disasters* 238; Sandra Evers, Jennifer Vadeboncoeur and Barbara Weber, 'Situating Children's Rights in Cultural Perspectives on Childhood: Intermedial Dialogue' (2015) 2(1) *Canadian Journal of Children's Rights* 48.

²³ Mindful of this issue, I tried to include in my focus groups participants from different cultural backgrounds, in order to provide a richer discussion from the cultural point of view. Additionally, I analysed literature from various cultural backgrounds in order to bypass any cultural bias.

²⁴ See chapter IV for a reflection on child labour and the concept of childhood.

essential for survival within their community'.²⁵ Consequently, considering working children – including child soldiers – solely in a negative and critical way is 'therefore problematic not only analytically, but also from a policy point of view [as it] offer a partial picture of the negative impacts of work on children's development'.²⁶ From this perspective, labour takes on a different definition in relation to cultural understandings and contextual characteristics. While it might be more or less valued in one society, what labour – including child soldiering – means must be seen as mediated by cultural and contextual perspectives.

2.2. Representations Are Socially Constructed

Consequently, my second assumption stated that, in order to understand how representations are created, it is essential to take into consideration the identity of the actor representing the child soldier and the stakeholder's interest in representation. Indeed, this proved to be the most relevant factor in representation. Understandably, the opinion that a child soldier has of himself rarely matches the way a humanitarian officer perceives him; likewise, the approach that a community member has towards the returning child combatant differs significantly from that of a judge.²⁷ The key element, however, proved to be the interest that each actor has in representing child soldiers in a certain way. The hypothesis of my thesis is that the representation of child soldiers cannot escape the institutional, political and social positioning of the stakeholders. Since '[i]t is not possible to represent or act from the "outside", since everyone is always already situated inside discourse, culture, institutions and geopolitics',²⁸ portrayals are always mediated by a confluence of diverse institutional

²⁵ Evers, Vadeboncoeur and Weber, above n 22, 54.

²⁶ T. Abebe, 'Gendered work and schooling in rural Ethiopia: Exploring working children's perspectives' in Sandra Evers, Catrien Notermans and Erik van Ommering (eds), *Not just a victim: The child as catalyst and witness of contemporary Africa* (Brill Academic Publishers, 2011) 168.

²⁷ See chapter III for the different portrayals constructed by the various stakeholders.

²⁸ Ilan Kapoor, 'Hyper-self-reflexive Development? Spivak on Representing the Third World "Other"' (2004) 25(4) *Third World Quarterly* 627, 640 citing Gayatri Chakravorty Spivak and Rosalind C. Morris, *Can the subaltern speak?: reflections on the history of an idea* (Columbia University Press, 2010).

interests and pressures and by other identifiable externalities: in this regards, representation serves a utilitarian purpose.

As chapter V has shown, the image of child soldiers as innocent children is exploited by humanitarian organisations in order to raise awareness on the topic and to obtain financial support for their projects.²⁹ Even before setting foot in the conflict zone, aid workers have already characterised all child soldiers as helpless victim and they stick to this label, even when they are confronted with a different reality.³⁰ Countless child soldiers have reported extensively about their time in the care of humanitarian organisations and, despite the individual circumstances, all of these accounts seem to agree on one aspect: all children were treated as victims.³¹ As Beah's narrative, analysed in chapter VII, shows, no matter what the children had actually done during the conflict, they were constantly reminded that they were not to blame and that it was not their fault,³² since they were only children at the time.³³ Their acts of violence were blamed on duress³⁴ or intoxication,³⁵ and any decision made by the

²⁹ David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005) 1.

³⁰ For example, children who have consciously committed atrocities, children who have volunteered for enlistment, children who knowingly chose to take an active role in combat when they could have fled, children who believe in the cause, and so on. See chapter VI for more information on this topic.

³¹ See, for example, Ishmael Beah, *A Long Way Gone: Memories of a Boy Soldier* (Sarah Crichton Books, 2007); Emmanuel Jal, *Warchild: A Boy Soldier's Story* (Abacus, 2009); Cola Bilkuei, *Boy Soldier* (Pan Macmillan Australia, 2010); David Nyoul Vincent and Carol Nader, *The boy who wouldn't die* (Fairfax Books, 2012); China Keitetsi, *Child soldier* (Souvenir Press, 2004).

³² Beah, above n 31, 140, 148, 151, 160, 165; Vincent and Nader, above n 31, 59–60.

³³ Beah, above n 31, 160. However, would the approach of the organisations and institutions be the same if the children had become adults by the time they were demobilised?

³⁴ Despite the fact that the ICTY ruling in the case of Erdemovic concluded that 'duress does not afford a complete defence to a soldier charged with a crime against humanity and/or a war crime involving the killing of innocent human beings', but can merely constitute a mitigating circumstance. See International Criminal Tribunal for the former Yugoslavia, 'ERDEMOVIC CASE: Erdemovic case - The Appeals Chamber rules that Drazen Erdemovic should enter a new plea' (Press release, 7 October 1997) <http://www.icty.org/sid/7463>.

³⁵ There is much debate around this topic. On the one hand, the Rome Statute of the International Criminal Court provides for an intoxication defence. Article 31(1)(b) provides that a person shall not be criminally responsible if, at the time of that person's conduct, '[t]he person is in a state of intoxication that destroys that person's capacity to appreciate the unlawfulness or nature of his or her conduct, or capacity to control his or her conduct to conform to the requirements of law, unless the person has become voluntarily intoxicated under such circumstances that the person knew, or disregarded the risk, that, as a result of the intoxication, he or she was likely to engage in conduct constituting a crime within the jurisdiction of the Court'. On the other hand, according to many interviews, children often chose to use illegal substances in order to give them courage and then quickly became addicted to them, so this

children was imputed to brainwashing or infancy: any active agency exercised by the children was therefore denied or ignored. As a result, some children played their part and agreed to be labelled as victims,³⁶ while others defended their rational thinking and decision-making abilities until '[i]t seemed they had gotten the message that we were not children to play with'.³⁷ For example, former child soldier Vincent confessed: 'I felt bad that I couldn't tell the aid workers. They were there to help us, and they would have been horrified if they knew. But I didn't feel like a victim. No-one has forced me to do anything. The army made me tough and I appreciated it.'³⁸

Likewise, as seen in chapter VI, court professionals treat all child soldiers as victims,³⁹ but their rationale lies in the international humanitarian law that establishes 15 as the minimum age for recruitment in armed forces or armed groups,⁴⁰ and in the straight-18 philosophy that would like to raise that age to 18.⁴¹ Since any child under 15 cannot be legally recruited into armed groups or armed forces,⁴² any crime that they may commit falls under the responsibility of their commander.⁴³ However, there are certainly concerns about granting a blanket impunity to a whole section of the

might be in contrast with the Rome Statute provision. *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 31(1)(b).

³⁶ Especially considering the monetary and other benefits that they received.

³⁷ Beah, above n 31, 137.

³⁸ Vincent and Nader, above n 31, 59–60.

³⁹ See chapter VI for more information on the involvement of child soldiers in court proceedings.

⁴⁰ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)*, opened for signature 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) art 77; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) art 4(3)(c); *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 38; *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 8(2)(b)(vi).

⁴¹ This position aims at establishing 18 as the universal minimum age for conscription and enlistment by state armed forces. Although today almost two-thirds of UN member states have committed to a minimum military recruitment age of 18 years, there are still states that, contrary to best practice, continue to permit the voluntary recruitment of children under 18. See Child Soldiers International, *Straight-18* <http://www.child-soldiers.org/theme_reader.php?id=1>.

⁴² *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) art 4(3)(c) states that '[c]hildren 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'.

⁴³ However, this has raised the issue of command responsibility in the event of children with authority over other children.

population solely based on their age, as this may further encourage the continuous recruitment of child soldiers. It has been argued that impunity may also be an incentive to commit further violence, particularly when this is associated to material of financial gains.⁴⁴ Furthermore, ignoring atrocities committed by minors could undermine the wider administration of justice, and the scope for justice systems to maintain credibility.

As the previous three chapters have examined, different stakeholders approach notions of 'children', 'rights', 'work' and 'play' and other central concepts differently, based not only on their cultural background but also on the interest and use that they have for these concepts, which can vary from time to time. On occasion, context-specific assessments of children, adults and communities converge with the internationally determined rights of the child, while at other times such views and practices diverge. The analysis in this thesis has highlighted how and under what conditions the approaches of different stakeholders in the dialogues around children's rights are mediated by cultural paradigms and with what effects.⁴⁵

2.3. Representations Vary According to the Distance

From this reflection, it could be deduced that the different cultural approaches of stakeholders and their representation of child soldiers vary according to the distance that separates the actors from the child. Chapter III has shown that the further the actor is from the act, the more the representation becomes 'stereotyped'. Child soldiers' relationship and experience with violence is extremely various: consequently, portrayals by child soldiers and their communities are very heterogeneous, rejecting the labels and stereotypes in favour of richer descriptions that better reflect their

⁴⁴ A. Mawson, 'Children, impunity and justice: some dilemmas from Northern Uganda' (Presentation to the Conference on 'Children in extreme circumstances', London, London School of Economics, 27 November 1998).

⁴⁵ For more information on this topic, see, for example, Erica Burman, 'Local, Global or Globalized?: Child Development and International Child Rights Legislation' (1996) 3(1) *Childhood* 45; Evers, Vadeboncoeur and Weber, above n 22; Jens Qvortrup and Connect Palgrave, *Studies in modern childhood: society, agency, culture* (Palgrave Macmillan, 2005; Fiona Shanahan, 'Cultural Responses to the Reintegration of Formerly Abducted Girl Soldiers in Northern Uganda' (2008) 1(1) *Psychology & Society* 1.

experiences.⁴⁶ In contrast, portrayals by aid officers, scholars and other professionals are more stylised, with child soldiers fitting comfortably in the one stereotyped victim image.⁴⁷ For example, when presented in reports and websites, child soldiers are portrayed according to the most common stereotypes:

These boys and girls, some as young as 8 years old, serve in government forces and armed opposition groups. They may fight on the front lines, participate in suicide missions, and act as spies, messengers, or lookouts. Girls may be forced into sexual slavery. Many are abducted or recruited by force, while others join out of desperation, believing that armed groups offer their best chance for survival.⁴⁸

In some situations, the involvement of children in conflicts as soldiers may even be accepted or encouraged. Children may 'voluntarily' take part in warfare, not realizing the dangers and abuses they will be subjected to. Most likely these children are responding to economic, cultural, social and political pressures.⁴⁹

Additionally, it appears that the more aloof and distanced the actor is from the child soldier, the more benevolent the actor becomes. In our imagination, child soldiering is a phenomenon to be relegated to faraway underdeveloped countries, where children are most vulnerable and therefore object of our sympathy and charity.⁵⁰ Consequently, we tend to be less forgiving with the 'bad boys' who are attracting attention at 'home', while the Third World children who need to be saved tend to be represented as vulnerable and dependent little boys in need of protection. However, if distance makes us more tolerant and benevolent, it also means that when former child soldiers come too close for comfort to our Western world – for example, as refugees and asylum seekers – we become worried and less compassionate, at times refusing entry to our country because of the children's involvement in an armed conflict.⁵¹

⁴⁶ See, for example, Annex H: Interview with Shena Gacu.

⁴⁷ See chapter III for a more detailed presentation and analysis of this topic.

⁴⁸ Human Rights Watch, *Child Soldiers* <<https://www.hrw.org/topic/childrens-rights/child-soldiers>>.

⁴⁹ United Nations Children's Fund (UNICEF), 'Factsheet: child soldiers' (<<http://www.unicef.org/emerg/files/childsoldiers.pdf>>).

⁵⁰ P. Holland, *What is a Child? Popular Images of Childhood* (Pandora Press, 1992) 150, quoted in Burman, above n 22, 241.

⁵¹ I am aware that this issue would require a much more detailed discussion; however, this falls outside the scope of this research and it will not be analysed further. For more information, see Bryan Longan, 'Sinners or saints: child soldiers and the Prosecutor bar to asylum after *Negusie v. Holder*' (2011) 31(1) *Boston College Third World Law Journal* 71; Sonja Grover, 'Child Soldiers' as 'Non-Combatants': The Inapplicability of the Refugee Convention Exclusion Clause' (2008) 12(1) *International Journal of Human Rights* 53; Tina Javaherian, 'Seeking Asylum for Former Child Soldiers and Victims of Human Trafficking' (2012) 39(2) *Pepperdine Law Review* 423; Matthew Happold, 'Excluding Children From Refugee Status: Child Soldiers and Article 1F of the Refugee Convention' (2002) 17(6) *American*

For example, most of the participants in the focus groups expressed compassionate feelings of concern and sympathy for the child soldiers, advancing excuses for their behaviour⁵² and foreseeing positive outcomes for their futures. However, when they were informed that one of the two protagonists of the stories they had read (and many other former child soldiers) lives in their own country, in their own city, and perhaps in their own neighbourhood, their attitude changed. Only then did they become more concerned about the possible violence that these former soldiers could perpetrate and the possible scars that may prevent them from reintegrating into civil society: 'Resettlement in Australia brings [the child soldiers] home. It is one thing to think about them in some conflict in Africa, but when they are reintegrated in Australia, this becomes our problem too.'⁵³

Shena Gacu witnessed this change in attitude. A while after being resettled to Denmark, she began working in a kindergarten: she loved her job, the children adored her, and the parents and colleagues respected her. Then, after the publication of her autobiography about her time as a child soldier,⁵⁴ a documentary about her and her book was shown on television. Her past was now more public than ever and her position as a teacher was put in jeopardy:

The boss called me in the office and told me that the parents were very angry that I was working there with their children. And I will never forget that. And I was very happy with the kids cause all the things I never did I could do them there. ... I was very happy because I felt secure with the kids. But then someone said: 'Why does she have to be with our kids?'. It's like somebody is again reintroducing myself.⁵⁵

University International Law Review; Elizabeth A Rossi, 'A "Special Track" for Former Child Soldiers: Enacting a "Child Soldier Visa" as an Alternative to Asylum Protection' (2013) 31(2) *Berkeley Journal of International Law* 392.

⁵² For example, a participant said that fighting 'gets away from the child, it is something slightly beyond their comprehension and their control', while another declared that 'if the idea of being a perpetrator is linked to the idea of choice, all the choices he made, were made in a context not of his choosing. He made the choices he could: instead of choosing the school or playmate, he chose weapons, who to kill, how to kill and how many to kill. It is a set of choices that he would not have chosen to restrict himself to. The drugs were just a way to help him cope with the situation. So the key factor was his conscription'. Focus group discussion (Sydney, 24 November 2014).

⁵³ Ibid.

⁵⁴ Keitetsi, above n 31.

⁵⁵ Interview with Shena A. Gacu (Skype interview, 10 April 2015).

2.4. Representations Craft Responses

From all these assumptions, it follows that specific representations of child soldiers craft specific responses. Indeed, a certain portrayal of child soldiers will determine a certain response to it. The construction of humanitarian institutions and human rights discourses is 'simultaneously the circumscription of what and how we can and cannot do':⁵⁶ in short, it is this discourse that defines the stakeholders' type and mode of encounter with child soldiers. Indeed, the framing of a certain issue – in this case, child soldiering – in a certain way, restricts the actions that can be taken on the matter. In Spivak's words, 'if the lines of making sense of something are laid down in a certain way, then you are able to do only those things with that something which are possible within and by the arrangement of those lines'.⁵⁷

This hypothesis has found support in a wide range of operations and attitudes, both in policy and in literature, focus group discussions and narratives. Chapter V has shown how the portrayal of child soldiers as victims is pivotal in shaping interventions by NGOs during and after armed conflicts. In keeping with this portrayal, humanitarian organisations tend to only focus on the physical and mental health needs of such children, ignoring completely the issue of responsibility – which, in turn, prevents children from healing completely.⁵⁸ Were child soldiers to be portrayed as dangerous and permanently scarred individuals, aid agencies would likely not receive the same amount of financial and material support; indeed, that image would also demonstrate the futility of investing in the rehabilitation of former child soldiers, therefore undermining the outcomes of after-war programs.⁵⁹

Several former child soldiers have described their relationship with humanitarian personnel in refugee camps and rehabilitation centres. As discussed in chapter V, from the literature it emerges that all these reports were heavily influenced by the depiction of child soldiers as victims: children were constantly

⁵⁶ Kapoor, above n 28, 635.

⁵⁷ Spivak and Morris, above n 28, 34.

⁵⁸ See chapter I n 33.

⁵⁹ Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 8.

reminded that what had happened was not their fault⁶⁰ and that they were only little children.⁶¹ All of their behavioural problems were deemed to be the result of their experience as soldiers.⁶² In order to accomplish this, it is necessary to deliberately overlook the violence committed by child soldiers, even when it continues in a controlled environment such as a rehabilitation centre – as it did in the case of Ishmael Beah. No child reported being treated as a perpetrator or, for that matter, ever being acknowledged for having taken decisions. Children were treated as children, according to the Western definition:⁶³ innocent, vulnerable and immature.

As we have seen, the fundamental assumption underlying the engagement of external stakeholders with child soldiers is that they are legally innocent, no matter which crimes they may have committed. As a general practice, this notion translates into an assurance of blamelessness and a lack of measures to address the responsibility of child soldiers in acts of violence, both from a legal and, often, a community point of view. Indeed, as analysed in chapter VI, to date former child soldiers have never been brought to trial before international institutions,⁶⁴ although they have been involved as victims and witnesses.⁶⁵ In doing so, transitional and restorative justice mechanisms have struggled with the challenges of respecting children's rights, wellbeing and social reintegration, while seeking to involve them in proceedings, listen to them, and give due weight to their experiences.⁶⁶

However, if the goal of judicial and non-judicial proceedings is to confront past injustices and to heal the suffering caused by such abuses, it would seem that addressing the crimes committed by child soldiers is necessary for their healing. Indeed, a fundamental assumption underlying transitional and restorative justice mechanisms, such as TRCs, is that 'revealing the truth is an important step towards

⁶⁰ Beah, above n 31, 140, 148, 151, 160, 165; Vincent and Nader, above n 31, 59–60.

⁶¹ Beah, above n 31, 160.

⁶² Ibid 140, 148, 151, 160, 165.

⁶³ See chapter IV.

⁶⁴ However, there have been domestic trials against former child soldiers. See chapter I n 18.

⁶⁵ See chapter I n 19.

⁶⁶ Sharanjeet Parmar et al (eds), *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation* (Harvard University Press, 2010) 14.

reconciliation and healing'.⁶⁷ The vast majority of child soldiers experience feelings of shame and guilt for the actions they carried out and the crimes they committed, and many express a desire to confront what they have done and to ask for forgiveness. Consequently, in recent times,

children's participation in truth commissions has been promoted in part because such commissions can provide a non-judicial and non-punitive approach to accountability, [...] and because they may create opportunities for children to express their views, building capacity for active citizenship and democratic processes.⁶⁸ Truth commissions may also be linked to community reconciliation and education activities'.⁶⁹

However, only a minority of former child soldiers are given the opportunity to participate in community reconciliation hearings or in religious or traditional ceremonies.⁷⁰ The rest, due to a combination of lack of opportunities and financial support,⁷¹ are deprived of the possibility to ask for forgiveness. Their needs are dismissed in the hope that ignoring the issue will help the children move on. Indeed, it is quite the opposite: children need to discuss and analyse the crimes that they have committed and to redress the wrongs that they have suffered while they also make their redress to their communities. In Aptel's words, '[f]or children, free and willing acknowledgment of criminal conduct can contribute to their rehabilitation and reintegration into their families and communities'.⁷² Consequently, when children are denied these opportunities, the initial feelings of regret can sometimes turn into anger and frustration at the lack of attention that their needs receive.

⁶⁷ Dominique Le Touze, Derrick Silove and Anthony Zwi, 'Can there be healing without justice? Lessons from the Commission for Reception, Truth and Reconciliation in East Timor' (2005) 3(3) *Intervention: The International Journal of Mental Health, Psychosocial Work and Counselling in Areas of Armed Conflict* 192, 192.

⁶⁸ See chapter VI for more information.

⁶⁹ Parmar et al, above n 66, 12.

⁷⁰ Children's involvement in traditional practices should not be romanticised; rather, the potential of such practices should be further explored in specific situations to assess under what conditions children's participation serves their best interests.

⁷¹ Transitional justice mechanisms face many challenges, such as acquiring the necessary funds from government, international institutions and civil society; settling past accounts without derailing democratic progress; developing judicial or third-party fora capable of resolving conflicts; reparations; and creating memorials and developing educational curricula that redress cultural lacunae and unhealed trauma. See United Nations, 'Guidance note of the Secretary-General. United Nations Approach to Transitional Justice' (United Nations, 2010).

⁷² Cécile Aptel, 'Children and Accountability for International Crimes: The contribution of international criminal courts' (Working Paper No 2010-20, UNICEF Innocenti Research Centre, 2010) 20.

Having deconstructed the mechanisms behind representations, focusing on the interest behind the portrayals of child combatants and its effects, the next section will bring together a reflection on the commodification of child soldiers by a wide range of stakeholders both during the armed conflict and in peacetime.

3. Child Soldiers: Commodities of War and Peace

This thesis does not aim at describing the phenomenon of child soldiering in extensive detail, but only at understanding the representation of child soldiers in order to analyse the impact that this has on policies and on the individuals and communities involved. In the collective imagination, literature and media, child soldiers are pictured as innocent and reluctant tools for violence during wartime. In reality, as this thesis has shown, they are equally tools in peacetime: they are commodified by media, humanitarian organisations, legal professionals and even their own communities for the different purposes that we have uncovered so far.

Despite the obvious particularities of each conflict, the involvement of children with armed forces, whether voluntary or forced, results in the commodification of the children. Uprooted from their villages and trained through often violent physical and psychological techniques, children are turned into fighting machines on the battlefield. Readily available – thanks to the overpopulation in developing countries in conflict⁷³ – and easily trained and manipulated due to their young age,⁷⁴ they have become the ‘weapon of choice’ for rebel leaders and state governments alike in more than 30 conflicts around the world.⁷⁵ In General Dallaire’s words, ‘[m]an has created the ultimate cheap, expendable, yet sophisticated human weapon, at the expense of

⁷³ The current generation of youth is the largest in the history of the world. Today, almost half of the seven billion people on Earth are under the age of 25, and almost two billion are between the ages of zero and 14. In developing countries, the percentage is even higher, with half of the 940 million inhabitants of sub-Saharan Africa under the age of 15. See Index Mundi, *World Demographics Profile 2016* <http://www.indexmundi.com/world/demographics_profile.html>.

⁷⁴ See Drumbl, above n 59; Rosen, above n 29; Angela McIntyre (ed), *Invisible Stakeholders: The Impact of Children on War* (Institute for Security Studies, 2004); Myriam Denov, *Child soldiers: Sierra Leone's revolutionary united front* (Cambridge University Press, 2010); Ilene Cohn and Guy S. Goodwin-Gill, *Child soldiers: the role of children in armed conflict* (Oxford University Press, 1994); Alcinda Honwana, *Child soldiers in Africa* (University of Pennsylvania Press, 2006).

⁷⁵ Roméo Dallaire, *They fight like soldiers, they die like children* (Hutchinson, 2010) 3.

humanity's own future: its children'.⁷⁶ To the leaders who recruit or accept them into their ranks,⁷⁷ children are replaceable and disposable: the perfect weapons of war, they are '[t]ools used by adults to wage war. Much like a soldier would use his gun or grenade, the child had become another weapon in their repertoire'.⁷⁸

The international community has responded to the exploitation of children in war with several legal instruments, such as conventions and treaties.⁷⁹ Most of the international commentary on this issue is very rights-oriented, focusing in particular on the outlawing of child soldiers by international law.⁸⁰ As chapter VI has shown, this 'rights approach', which perceives and portrays children as rights holders and independent actors, has justified the involvement of children as witnesses in transitional justice mechanisms, but not as perpetrators. Drawing from international law⁸¹ and court statutes,⁸² this approach recognises the rights of children to form their own views and to express those views freely in all matters affecting them, while at the same time denying children the ability to consciously enlist for military activities. In this regard, the law has codified the representation of children and has commodified the children themselves: teenagers have been used as evidence, while their stories

⁷⁶ Ibid.

⁷⁷ Indeed, according to the *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 38, not only 'States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces', but they shall also 'take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities', which means not accepting them if they volunteer for service. Similarly, the *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, opened for signature 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) art 4(3) prohibits the recruitment and the participation of children under the age of 15 in hostilities.

⁷⁸ Dallaire, above n 75, 12.

⁷⁹ See Annex L: Summary Table of International Humanitarian Law Provisions Applicable to Children in War.

⁸⁰ However, although these instruments are ratified and implemented by the near totality of states, they are utterly ineffective against child recruitment by non-state actors such as ISIS, the Revolutionary United Front and the Lord's Resistance Army, rendering the UN and any children's rights framework useless in providing security assistance.

⁸¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) arts 12, 13.

⁸² *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 68.

have been used to pursue a specific goal⁸³ – namely, the pursuit of justice and retribution.⁸⁴

This *modus operandi* is seemingly in contrast – at least from a theoretical point of view – with the ‘children’s best interests’ approach championed by humanitarian organisations,⁸⁵ which, as discussed in chapter V, places on adults the responsibility to achieve what is best for any individual child under given circumstances. In the previous chapters, we have explored how NGOs commodify children in order to raise awareness, obtain funds and, at times, justify their own existence. As a consequence, the children’s voices are muzzled and distorted in a process that is not only muting their discourse, but also diverting it so that we cannot listen, even when they try to speak.

However, while child soldiers are used by external stakeholders, such as humanitarian and legal personnel, to achieve certain goals, they often are also exploited by their own families and communities. The main motivation here appears to be the monetary benefits provided by humanitarian organisations to former child soldiers as part of DDR programs, which in turn create distortions in the relationship between the children and their communities. Indeed, some NGO practices harden the identity of child soldiers through labelling and list making, which provoke mixed reactions in the afflicted communities. As a standard practice, the demobilisation and reintegration of child soldiers is accompanied by benefits packages, where soldiers are rewarded for surrendering their weapons⁸⁶ and also receive food supplements and indemnity payments.⁸⁷ In some cases, the ‘compensations’ for child soldiers are seen

⁸³ Far from the benign interest in the stories of child soldiers as a way to uncover the truth.

⁸⁴ In chapter VI, we have explored the conflict between the anticipations of the courts and those of the children: while the former’s main interest is in achieving justice and convicting perpetrators, the latter mostly want their stories to be heard and their suffering to be recognised.

⁸⁵ This contrast between these two didactic and contrary approaches is also highlighted by the publication of the International Bureau of Children's Rights, 'The rights of child victims and witnesses of crime. A compilation of selected provisions drawn from international and regional instruments' (International Bureau of Children's Rights, 2005), which separates the principle of the best interests of the child from the children’s rights as victims and witnesses.

⁸⁶ Following combat in Liberia, for example, children often received US\$300. See Michael G. Wessells, *Child soldiers: from violence to protection* (Harvard University Press, 2006) 169.

⁸⁷ This practice, however, can be highly problematic because community members try to take advantage of the presence of child soldiers in their village for monetary reasons. In a number of cases, families and foster caregivers have rejected child soldiers once their benefits packages ran out, while in

as way of honouring their participation; at other times, community members embrace 'children damaged by war' and the material benefits that go with it, such as money to build schools that enrol former child soldiers or loans to families who choose to foster child ex-combatants.⁸⁸ As a consequence, these 'villagers often bec[o]me quite adept at playing the agency game – knowing how to ask for what agencies had to give even when this [i]s not a local priority'.⁸⁹ Within the interest of gaining better and more access to international aid, '[t]hese communities learn quickly to 'talk the talk' of children's rights and to cast their problems as problems of youth',⁹⁰ at times fighting to get more ex-child soldiers signed up even if they have never been recruited.⁹¹ If before the war children were useful to families and communities because they could help out and contribute to family income, after the conflict youth is seen as a valuable resource in a new way. As Shepler points out, '[i]t cannot be denied that the rise of NGO activity around child rights allows for the provision of much-needed material resources for reconstruction' in many post-war realities.⁹²

Consistent with the literature on the topic, this section has sought to demonstrate that child soldiers are commodified both in conflict and in peacetime by every actor who comes into contact with them and has anything to gain from this relationship. Although there is much talk around the fact that children are commodities of war, and there are engaging debates on the issue of children's rights, few speak about the fact

other cases children who have never served as soldiers have been recruited and presented as child soldiers in order to obtain more money. On some occasions, community members see the demobilisation packages as 'blood money': a reward for killing that can therefore jeopardise the ultimate goal of reintegrating children back into the community. In some other instances, communities react with anger and resentment at the unequal distribution of benefits to child ex-combatants to the exclusion of civilian victims.

⁸⁸ Shepler, above n 20, 97-8.

⁸⁹ Paul Richards, Khadija Bah and James Vincent, 'Social Capital and Survival: Prospects for Community-Driven Development in Post-Conflict Sierra Leone' (World Bank, 2004), 26.

⁹⁰ Shepler, above n 20, 125.

⁹¹ As Shepler points out, for example, in many communities the chief of the village would create a list of child soldiers, so as to be ready in case an NGO with ready funds for reintegration programs came around. However, these lists generally did not reflect the actual participation of children in fighting: 'the chief's son, the imam's son, and those currently attending school sometimes appear[ed] on the list – youth who ha[d] not been former combatants. Inclusion on the list [was] based on connections or on who could best use the aid, not necessarily on who ha[d] actually participated in the fighting'. See Shepler, above n 17, 125.

⁹² Shepler, above n 20, 129.

that child soldiers are a tool in peacetime as well. As this thesis has revealed, each stakeholder has a different interest in and use for the children, both during and after the conflict. In the next section, I will draw everything together once more in the example of victimisation in the context of innocence and the silencing of the children's voices. In particular, I will reflect on the muzzling of children's voices on the basis of the four assumptions of this thesis.⁹³

4. Victimising Innocence and the Silencing of Voices

As discussed previously, it is assumed that stakeholders interact with child soldiers on the basis of their interests and that they show their interpretations of armed conflicts and child soldiers in their respective fields of expertise. For such interpretations, images of armed conflicts and child soldiers are produced and reproduced, more or less consciously.⁹⁴ As argued already, among the most popular images of child combatants – helpless victim, dangerous perpetrator, rational agent and redeemed hero⁹⁵ – that of the helpless and innocent victim is certainly the most often broadcast because it presents the most compelling portrayal.⁹⁶ Although this image does not entirely reflect the reality of all child soldiers, the extremity is relevant when considering the original purpose of the image: not to describe the actual situation, but to advocate for the rights of the child.⁹⁷

The development of the concept of child soldiers only became possible in the last couple of centuries thanks to the advance of the Western-designed notion of childhood as a vulnerable and dependent time of life. As seen in chapter IV, this believed-to-be-universal perception of childhood developed in Europe in the

⁹³ See chapter I.

⁹⁴ Myriam Denov, 'Child Soldiers and Iconography: Portrayals and (Mis)Representations' (2010) *Children & Society* 280.

⁹⁵ See chapter III.

⁹⁶ Charli Carpenter, 'Women, children and other vulnerable groups: gender, strategic frames and the protection of civilians as a transnational issue' (2005) 49(295) *International Studies Quarterly* 316 (citing Braumann), cited in Drumbl, above n 59, 37.

⁹⁷ Okano Hideyuki, 'Too extreme to be True: Unshared Images of Soldiers in Sub-Sahara Africa' in Helga Embacher (ed), *Children and war: past and present* (Helion & Company Ltd, 2013) 190, 194-5.

aftermath of the Industrial Revolution and is the expression of a Western ideology. In this concept of childhood, children are considered helpless subjects who should be protected by adults. However, the mere existence of child soldiers around the world emphasises that in this context children are exploited and abused instead of being protected.⁹⁸ Considering this contrast, the concept of child soldier works as a tool to advocate the rights of children and their need to be protected by adults and humanitarian laws. This also emphasises the gap between the ideal and the real: ideally, the rights of children should be firmly guaranteed (and, on paper, they are); in reality, however, children are victims of violence, both as civilians and as soldiers.⁹⁹ As discussed already, in order to achieve the goal of raising awareness on the issue of children's rights, the universality and victimhood of child soldiers are essential and they are intentionally emphasised by many stakeholders to ensure the delivery of the message.¹⁰⁰

As chapter V has examined, the one-sided image of the helpless child soldier is not used by humanitarian organisations to describe the reality impartially; rather, it is a tool for sensitisation and advocacy.¹⁰¹ However, as highlighted earlier,¹⁰² the danger of oversimplifying the experiences of child soldiers in one stereotyped victim image is that 'it removes the positioning, interaction and assimilation of everything to which child soldiers are exposed'.¹⁰³ As seen in the previous three chapters, the first and most detrimental consequence of victimhood is the silencing of children's voices: 'When the children's opinions and experiences are simplified in one generic portrayal, there may not be the need to ask further questions or to delve into a more complex analysis'.¹⁰⁴ Consequently, stakeholders may rely on other country case studies or

⁹⁸ Ibid 194.

⁹⁹ Ibid.

¹⁰⁰ For example, reports might intentionally disregard specific contexts, in order to highlight the universality of children's suffering. An explicit example of this can be found in Rachel Brett and M. McCalling, *Children: the Invisible Soldiers* (Radda Barnen, 1998).

¹⁰¹ Hideyuki, above n 97, 194-5.

¹⁰² See chapters III and V.

¹⁰³ Christine Ryan, 'An Investigation into the NGOs who Assist Child Soldiers in Souther Sudan' in Helga Embacher (ed), *Children and war: past and present* (Helion & Company Ltd, 2013) 254.

¹⁰⁴ Ibid.

generic information for their interpretation of a specific situation, 'which removes the uniqueness of each case study and each time period'.¹⁰⁵

These stunted conceptualisations by stakeholders deny the ability for a child to have personal and political agency, and to think rationally; additionally, they limit the child's ability to participate in the decision-making process, dismissing the child's opinions and emotional reactions as being immature.¹⁰⁶ As a result, this good-intentioned representation of child soldiers 'further enacts the victim status of the children, disempowering them and disengaging them from interaction with their wartime environment'.¹⁰⁷ In reality, this portrayal neglects to highlight that, notwithstanding the children's limited political or personal agency, they are still in a position to interpret their environment they live in and the experiences they have in it. As child soldiers, they are often the first witnesses – when they are not the perpetrators themselves – of human rights abuses; so, how can these experiences and views be ignored by stakeholders researching child soldiers?

The reality is that, even before NGOs and other external players come into physical contact with child soldiers, children's voices are already silenced.¹⁰⁸ As seen in chapter V, influential humanitarian organisations and institutions define, categorise and label child soldiers *a priori*, as a category, without giving relevance to the individual circumstances. If, as we have seen, all child soldiers are believed to be victims, they are also automatically believed to be forcibly recruited, forced to fight, and coerced into committing violence. They are assumed to be too young to know what is best for them, and too immature to make rational decisions. Consequently, aid officers and other stakeholders – positioned at the height of their education, culture and profession – claim the right to know what is in the best interests of a child soldier and to speak on his behalf.

However, what a child wants and what a professional thinks the child wants are hardly ever the same thing. Indeed, child combatants, when given the chance to really

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ See chapter V for an in-depth reflection on the relationship of NGOs with child soldiers and how this has translated into the silencing of the children's voices.

speak,¹⁰⁹ present a much more diverse reality. They appreciate the possibility to have their voice heard and to tell the world that when children are given the chance to make a decision, they know what is in their best interests and they can speak for themselves.¹¹⁰ The reality, however, is that children are rarely given the opportunity to have their views heard, and even more rarely are those views taken into consideration by the relevant institutions.¹¹¹ This can hardly be ascribed to a lack of desire from the children's part; instead, as I have personally experienced in my research for fieldwork participants,¹¹² it is simply the result of the engagement of external stakeholders with child soldiers on the basis of the externalities analysed so far.

5. Conclusion

In light of the previous chapters of this thesis and to sum up my research, this chapter has sought to carry out a deconstruction of the representation of child soldiers, in order to analyse the factors that contribute to its creation. Drawing from phenomenology,¹¹³ I believe that representation is a message, created by an individual, in a specific context, for a precise purpose. If, during the armed conflict, children are recruited because they are believed to be malleable and disposable weapons of war, in peacetime they are a tool in promoting an interest. From the securing of monetary benefits for returning soldiers of local communities to the awareness-raising campaigns of humanitarian organisations, and from the need to obtain facts in order to secure a conviction of transitional justice to the desire of former child soldiers to present themselves as pure victims in order to be accepted, child soldiers are a tool to an end.

However, these political externalities are met by internalities as well: we care for child soldiers because, as chapter IV has shown, in our Western culture they are

¹⁰⁹ Without interference, without misinterpretation, without misunderstandings.

¹¹⁰ See Annex H: Interview with Shena Gacu.

¹¹¹ *Ibid.*

¹¹² See chapter II section 3.1.

¹¹³ See chapter II on the impact that this theoretical framework had on this research.

perceived as innocent and vulnerable and they play on our own sense of humanity.¹¹⁴ We care for child soldiers because they are children, and we settle for a packaged representation that fits our expectations and our preconceived ideas of childhood innocence. In this sense, I would like to advance a critique of the listener rather than the voice: we need to listen to the child soldiers' stories with ears that are not clouded by representations and we need to recognise that child soldiers have become a code and a tool. The innocent victim frame reveals our attitude towards the story, which illuminates the relationship between its tellers and its hearers.¹¹⁵ In coding child soldiers as helpless victims, we transform them from something we are afraid of and do not recognise because it escapes our cultural reference frame¹¹⁶ into something with which we are comfortable and familiar.

¹¹⁴ See chapter IV.

¹¹⁵ Katharine Young, 'Frame and boundary in the phenomenology of narrative' in Marie-Laure Ryan, James Ruppert and John Bernet (eds), *Narrative Across Media: The Languages of Storytelling* (University of Nebraska Press, 2004) 76.

¹¹⁶ That is, the notion of children as cruel perpetrators.

CHAPTER IX: CONCLUSION

1. Introduction

This thesis has discussed children deployed in battle, but more centrally it has explored the deployment of global representations of child soldiers. The main argument of this thesis is that understanding the representation of child soldiers by unravelling the way it is constructed has a significant impact on policy applications when addressing youth combatants. In broadening the theoretical, conceptual and practical interpretations of the concept of 'child soldier', this thesis has demonstrated some of the political effects of these representations.

Given the multidimensional and multifaceted nature of the child soldiering phenomenon, a cross-disciplinary approach was employed. Perspectives from law, public policy, social sciences and anthropology, in addition to different qualitative methods, were used to explore the representations of child soldiers by key stakeholders. Phenomenology and grounded theory provided the reference framework to discuss how child soldiers can give voice to their experience, while labelling theory allowed me to explore how former youth combatants have internalised the innocent victim label. Particular attention was paid to the notion of childhood and innocence as political and cultural concepts, and this thesis has made clear that the techniques behind the creation of 'child soldier' as a post-war identity have serious and unexpected consequences.

In the previous chapter, I drew together a deconstruction of representation with the purpose of showing that prioritising representations, which assists children in having a voice and coming to terms with their story, is more likely to grant their dignity and facilitate their reintegration. This final chapter summarises the themes emerging from this analysis and discusses the key outcomes of the investigation in relation to the research objectives and questions. Finally, the scholarly contribution of this thesis is examined, and recommendations for further research are made.

2. The Creation of the Child Soldier Identity

This thesis began by describing the relationship context in which child soldiers exist. It has argued that the child soldiers' identity is a complex one that cannot be considered in isolation from the external stakeholders who contribute to its creation. Nor can the representation of child soldiers be dissociated from environmental, structural or cultural factors. As this thesis has shown, while presently 'child soldiering remains a poorly understood scourge particularly susceptible to simplistic thinking',¹ the child soldier identity is political. As Rosen points out, the term child soldier itself 'is intentionally constructed to conflate what in the West are two antithetical and irreconcilable terms',² leading the imagination to conclude that the 'very idea of the child soldier seems both aberrant and abhorrent'.³

Disregarding the historical presence of boy soldiers in conflicts around the world across time and space,⁴ the modern child soldier persona is produced differently in different locations, in multiple and sometimes contradictory ways.⁵ Child soldier is at the same time a top-down and a bottom-up concept. In the first case, as this thesis has discussed at length, it is created by external stakeholders along with the utilitarian interests they have in child soldiers. In the second case, it is partly made through young people's own strategising about location and about self-representation.⁶ It is this interplay of actors, structures and strategies that determines the shape of the 'child soldier' identity.⁷

Politically and materially, the child soldier identity carries with it a range of meanings and implications and serves as a site for both the verbalisation of children's

¹ Mark A. Drumbl, 'The Ongwen trial at the ICC: tough questions on child soldiers' (2015) *Open Democracy* <<https://www.opendemocracy.net/openglobalrights/mark-drumbl/ongwen-trial-at-icc-tough-questions-on-child-soldiers>>.

² David M. Rosen, 'The Politics and Culture of Childhood Vulnerability' in David M. Rosen (ed), *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015) 175.

³ Ibid.

⁴ See David M. Rosen, *Child soldiers in the Western imagination: from patriots to victims* (Rutgers University Press, 2015).

⁵ See chapter III.

⁶ Susan Shepler, *Childhood Deployed: Remaking Child Soldiers in Sierra Leone* (New York University Press, 2014) 145.

⁷ Ibid 146.

rights and the reform of local cultures. As chapter IV analysed, the ideological underpinning of this identity is a Western framework, yet the actual effects are to be found in local social practice. Indeed, some of the complex and contradictory ways in which child soldiers are perceived and portrayed have profound implications in the process of post-war rehabilitation and reintegration of child ex-combatants into society.⁸ In these contexts, 'new meanings of childhood and youth as a political identity [emerge] – meanings that are influenced by international discourse [around children's rights] but resulting from the actions and agency of local community members and child soldiers'.⁹

This thesis has shown how the problem of child soldiering and the children's social reintegration are clearly complex and clearly political, yet my research has demonstrated how policymakers and scholars seem to turn away from that complexity by reducing everything to one stereotype. In fact, as shown throughout this thesis, literature, media and institutions present the experiences of child soldiers as a duality of victim/perpetrator, innocent/guilty, child/adult, civilian/combatant, good/bad. This proves to be challenging for two reasons. First, this pairing is context and culture related, and this can have controversial and contradictory outcomes. In particular, as this thesis has exposed several times,¹⁰ there is a striking gap between international and domestic approaches to youth offenders in general and child soldiers in particular. Besides the conflict in setting the age of criminal responsibility in the domestic vs. international contexts,¹¹ Western countries, such as the United States, that are active in supporting human rights and abolishing the use of children in conflicts 'readily set aside [their] ideals and treaty commitments' when they 'actually come to grips with the reality of child soldiers'.¹²

Second, this juxtaposition so commonly found in literature and policy is problematic because, as their autobiographies and interviews demonstrate, the

⁸ Ibid 130.

⁹ Ibid.

¹⁰ See the explicatory note about former child soldier Omar Khadr, chapter I n 18.

¹¹ For more information, see Child Rights International Network (CRIN), *Minimum age of criminal responsibility around the world* <<https://www.crin.org/en/home/ages>>.

¹² David M Rosen, 'Modern Child Soldiers' in David M Rosen, *Child Soldiers in the Western Imagination: From Patriots to Victims* (Rutgers University Press, 2015) 134, 172.

experiences of child soldiers are much more nuanced than these dualities. The child soldiering phenomenon is way too complex to be reduced to stereotypes and one-size-fits-all type of approaches. Consequently, this thesis has set out to challenge and unsettle the hegemony that 'rests upon the exaggerated [vulnerability of the child] and culpability of the adult',¹³ with its philosophical, ideological and moral limitations. In particular, this thesis has demonstrated that the dominant image of the child soldier as the quintessential helpless victim, forced to fight even if barely able to carry weapons and brutalised by cruel adults, is inadequate and can potentially be detrimental for the children.¹⁴ Without denying or underplaying the atrocities that many child soldiers suffer, 'it is clear that their identities and experiences cannot be absolutely reduced to the simple category of 'victims' that is so prominent in many accounts of child soldiers'.¹⁵

It has been shown in my research that the ambiguous status of child soldiers, witnessed through voluntary enlistment, their actions during the conflict, and the choice not to leave the armed groups, as well as the strategy used to achieve this, brings into question this ideology of helpless victim and the Westernised representation of childhood innocence. However, despite the discrepancies in representation of domestic youth offenders vs. child soldiers, the international community carries a vision of a child in conflict zones as being vulnerable and passive. Consequently, this image influences the representations held by members of the government and local structures, which in turn shape legislation and post-conflict programming.

3. The Significance of Representation

Throughout this thesis, I have recurrently highlighted how the contrasting portrayals of child soldiers are significant not only for what they represent, but also for what

¹³ Rosen, above n 2, 177.

¹⁴ Drumbl, above n 1.

¹⁵ Rosen, above n 4, 152 citing Myriam Denov, *Child soldiers: Sierra Leone's revolutionary united front* (Cambridge University Press, 2010).

they hide.¹⁶ The typical images of forcibly recruited young boys armed with guns and pumped with drugs largely broadcasted by media and fiction, are limited and superficial: but, most importantly, they offer no attempt at capturing or understanding the real experiences of children within the armed groups, or how to best address them in the aftermath of the conflict.¹⁷ These dualities, which shape program responses, are indeed an impediment in understanding the real experiences of child soldiers. In order to effectively strategize how to minimise the social and communal damage to child soldiers and their communities, it is essential to understand the representations of child soldiers by analysing the way they are constructed.

This issue is not only a theoretical one; it can have practical implications for the actions carried out by the entire sector working for the demobilisation of child soldiers. In relation to this, the main hypothesis of this thesis is that the representation of child soldiers cannot escape the institutional, political and social positioning of the stakeholders. It is not possible to represent or act from the 'outside', since everyone is always influenced by the discourse, culture, institutions and geopolitics in which is situated.¹⁸ Consequently, portrayals are always mediated by a confluence of diverse institutional interests, pressures and other identifiable externalities; in this regard, representation serves a utilitarian purpose. As this thesis has highlighted, the analysis of stakeholders' interest in child soldiers helps us to better understand how these actors shape both the perception of the problem and the proposed solutions.¹⁹

Consequently, the analysis of representations of child soldiers conducted in this thesis is extremely important for two reasons. First, this investigation is crucial in order to maximise the strategies to effectively reintegrate child soldiers into their communities. As we have seen, according to this thesis, although the victim portrayal may seem the most appropriate from our point of view, we cannot simply select the

¹⁶ Denov, above n 15, 14.

¹⁷ Ibid.

¹⁸ Sasha Courville, 'Understanding NGO-Based Social and Environmental Regulatory Systems: Why We Need New Models of Accountability' in Michael W Dowdle (ed), *Public Accountability: Designs, Dilemmas and Experiences* (Cambridge University Press, 2006) 271.

¹⁹ Rosen, above n 2, 184.

representation that best suits us. Indeed, we must consider what is in the best interests of the child. If, as Kapoor states, 'professional and political motives dictate, at least to a degree, [how stakeholders approach child soldiers, it cannot be possible] to pretend to have a pure, innocent or benevolent encounter with [these children]. To do so ... is to perpetuate, directly or indirectly, forms of imperialism, ethnocentrism and appropriation'.²⁰

Second, representations craft responses. For example, chapter V has discussed how the portrayal of child soldiers as victims is pivotal in shaping interventions by NGOs during and after armed conflicts.²¹ According to Rosen, '[t]he cultural construction of the child soldier is grounded in the discourse of humanitarian, human rights, children's rights advocacy, and law'.²² In particular, humanitarian organisations provide physical and mental healthcare for such children: however, although these programs deal with physical and psychological trauma, they rarely address the issue of responsibility, categorising child soldiers primarily as victims of criminal adult abuse.²³ In contrast, portrayals of child soldiers as dangerous and permanently scarred individuals may also influence responses, but in a very different way. Indeed, this image implies 'the futility of investing in the rehabilitation of former child soldiers, therefore often undermining the outcomes of after-war programs'.²⁴

At least two implications follow this reasoning. The first is that, 'to the extent that the stakeholders' lenses are institutionally (or geopolitically) tinted, their representations of child soldiers are likewise institutionally constricted'.²⁵ The construction of child soldiers' discourse is 'simultaneously the circumscription of

²⁰ Ilan Kapoor, 'Hyper-self-reflexive Development? Spivak on Representing the Third World "Other"' (2004) 25(4) *Third World Quarterly* 627, 635.

²¹ According to Banks, the Convention on the Rights of the Child itself illustrates the increasing power of NGOs to shape the international legal definitions of childhood and, by extension, the definition of who is a child soldier. See Angela Banks, 'The Growing Impact of Non-state Actors on the International and European Legal System' (2003) 5 *International Law FORUM du droit international* 293.

²² Rosen, above n 2, 175.

²³ Ibid 176.

²⁴ Mark A. Drumbl, *Reimagining child soldiers in international law and policy* (Oxford University Press, Incorporated, 2012) 8.

²⁵ Kapoor, above n 20, 635.

what we can and cannot do, and how we can and cannot do it':²⁶ in short, it is this discourse that defines the stakeholders' type and mode of encounter with child soldiers. Indeed, the framing of a certain issue – in this case, child soldiering – in a certain way, restricts the actions that can be taken on the matter. The second implication is that the image of child soldiers is created to suit our own prejudices. 'When we act in accordance with personal, professional and organisational interests, our representations of [these children] say much more about us than they do about [them]':²⁷ we construct them *only insofar as* we want to know and control them.

4. Silencing the Voices

This thesis does not make the claim that innocent child soldiers do not exist, or that child soldiers are not victims. On the contrary, the literature is abundant with stories of children who are forced to join, forced to kill (often their own family members) and forced to remain with the armed groups against their will.²⁸ However, this research proposes that the international community cannot and should not treat all child soldiers as innocent victims, since their experiences are profoundly different.²⁹ As discussed in chapter IV and subsequent, the main reason why the victimhood of child soldiers is so controversial globally is that it relies on a concept of childhood that, contrary to what may seem logical to us, is in reality geographically- and culturally- dependent.³⁰ Throughout this thesis, different variables were examined to explain why the innocent victim label is often inaccurate, focusing especially on how social labels vary across different societies

²⁶ Ibid.

²⁷ Ibid 835-6.

²⁸ Vera Achvarina and Simon F. Reich, 'No place to hide. Refugees, displaced persons and the recruitment of child soldiers' (2006) 31(1) *International Security* 127; Anna-Liisa Jacobson, 'Lambs into lions: the utilization of child soldiers in the war in Iraq and why international and Iraqi laws are failing to protect the innocent' (2008) 8(2) *Richmond Journal of Global Law and Business* 161.

²⁹ Rosen, above n 2, 181.

³⁰ In particular: 'Although it is self-evident that young children are both vulnerable and in need of nurturing, it is only by international definition that these attributes of infancy, toddlerhood, and early childhood have been extended to apply all persons under age eighteen. ... It is a perspective primarily calculated to assign legal and moral culpability and blame, and it frames virtually all discussions of child soldiers', in *ibid* 177.

and cultures. Consequently, even though the international community views child soldiers as innocent victims, not all communities – or the children themselves – seem to share this view.³¹

As presented in the literature review, many child soldiers enjoy killing and torturing innocent civilians, in addition to looting villages and stealing provisions.³² Nevertheless, although the vast majority of child soldiers commit heinous crimes within their armed groups, all of them are still labelled as innocent by external stakeholders. In particular, as we have seen, humanitarian advocacy groups insist that the issue of child soldiers be primarily framed 'as a matter of childhood innocence distorted and subverted by adult culpability'.³³ If we agree with the principle of labelling theory that we see ourselves as others see us,³⁴ and if the international community considers child soldiers as helpless victims, then child soldiers should also perceive themselves in those terms. Consequently, instead of refraining from committing more deviant acts, they may internalise that innocent victim label and enjoy the psychological, material and social benefits that this identity entails.³⁵ Instead of believing that what they did was wrong, they believe the international laws that assure their innocence and victimisation, potentially encouraging further deviant behaviours.

Following this argument, this thesis has proposed that the blanket representation of child soldiers as innocent victims may be more disadvantageous than beneficial, in particular by disempowering them and muzzling their voices. As literature and interviews have witnessed, 'by adopting the modern notion of youth [broadcasted by Western cultures], former child soldiers gain one type of power and lose another.

³¹ Steven Freeland, 'Mere children or weapon of war – Child soldiers and International Law' (2008) 19 *University of La Verne Law Review* 19, 49.

³² Danny Hoffman, *The war machines: young men and violence in Sierra Leone and Liberia* (Duke University Press, 2011); Danny Hoffman, 'Like beasts in the bush: synonyms of childhood and youth in Sierra Leone' (2003) 6(3) *Postcolonial Studies* 295; Roméo Dallaire, *They fight like soldiers, they die like children* (Hutchinson, 2010).

³³ Rosen, above n 2, 176.

³⁴ Charis Kubrin, Thomas Stucky and Marvin Krohn (eds), *Researching Theories of Crime and Deviance* (Oxford University Press, 2009).

³⁵ Psychological and social benefits vary greatly between child soldiers. They can consist of power, respect and authority. Material benefits can include food, commodities and money, as well as access to education and vocational training, and medical and mental care.

They move from power that comes from the threat of violent response to injustice or inequity to a power legitimated through international structures, one that requires them to take on certain modern identities.³⁶ Following Shepler's argument, this thesis has shown extensively how labelling child soldiers indiscriminately as innocent and helpless victims makes them silent and apolitical actors,³⁷ focusing on their traumatic past rather than their potential.

It has been somewhat astonishing to realise that, notwithstanding their (obvious) pivotal place in all academic studies on child soldiers, and the prevalence of references to children's rights in the literature, the participation of child soldiers in post-war programs is generally absent, suggesting this discourse to have limited relevance to daily practice. Additionally, '[d]espite children being protagonists in contemporary war, their views on armed conflict, its causes and its impact are seldom crucial to the policies and programming of key stakeholders',³⁸ with the result that 'children are often *talked about* by scholars, rather than *talked to*'.³⁹ Consequently, as Downe has observed:

Despite the undeniable visibility of children in ... academic and popular representations of despair, rarely are the experiences, thoughts, actions and opinions of the children explored analytically in a way that gives voice to these marginalised actors or that elucidates what it means to be a child under such conditions. In effect, the children are seen, but not heard.⁴⁰

Additionally, when information on war and its impact is largely drawn from adult informants, 'it implies that children's insights have no relevance or scientific validity as compared with the expert knowledge and interpretative skills of the researcher'.⁴¹ This attitude suggests that children lack the maturity to hold and articulate valid views and do not have the capacity to give a proper account of their lives.⁴² This has

³⁶ Shepler, above n 6, 129.

³⁷ Ibid.

³⁸ Denov, above n 15, 16.

³⁹ Ibid.

⁴⁰ Pamela Downe, 'Playing with names: how children create identities of self in anthropological research' (2001) 43(2) *Anthropologica* 165, 165 quoted in Denov, above n 15, 16.

⁴¹ Jo Boyden and Joanna de Berry, *Children and Youth on the Front Line: Ethnography, Armed Conflict and Displacement* (Berghahn Books, 2004) 248.

⁴² Such an approach contrasts sharply with the modern understanding of children found throughout the humanities and social sciences, which positions children as active players and participants in

extremely negative consequences for the children, who are marginalised and disregarded.⁴³

Distinguishing between 'what' and 'who' child soldiers are,⁴⁴ these children are identified as part of a category and not as individuals. As members of a group, children can only be treated based on stereotypes and generalisations, with little or no regard to the uniqueness of each specific child. Moreover, 'this refusal to recognise their individuality and their unique distinctiveness is profoundly degrading, as it denies a fundamental aspect of their humanity'.⁴⁵ According to Fiske, 'when treated primarily or only as a representative of a group, a person's humanness is not recognised, their ontological equality is denied and they are reduced to a state of animal biology'.⁴⁶ With former child soldiers considered, as a category, immature, irrational and incapable of making decisions in their best interests,⁴⁷ their speech and action are often not recognised, and are therefore made meaningless.⁴⁸

As this thesis has explored, the social labels, definitions and categories applied to child soldiers are not only theoretical, but also shape the reactions of local communities, as well as DDR programming for child soldiers. Consequently, this encounter between a Western construction and perception of the child and local communities can often be counterproductive, resulting in the children being marginalised and their participation and opinions in matters that concern them being disregarded. As this thesis has suggested, a solution would be to place 'greater attention to the child's perspective, their individuality and the cultural, social and political context in which they live'.⁴⁹

society. Central to these contemporary studies is the concept of agency, which builds upon children's interpretative capacity and their ability to act upon such interpretations. Rosen, above n 2, 176.

⁴³ See Annex H: Interview with Shena Gacu.

⁴⁴ See Hannah Arendt, *The Human Condition* (University of Chicago Press, 1958) 179.

⁴⁵ Lucy Fiske, *Insider resistance : understanding refugee protest against immigration detention in Australia, 1999 - 2005* (Ph.D. Thesis, Curtin University, 2012) 99, 100.

⁴⁶ Ibid 91-92.

⁴⁷ See chapter III n 82.

⁴⁸ See Annex H: Interview with Shena Gacu.

⁴⁹ Lynne Jones, 'Responding to the Needs of Children in Crisis' (2008) 20(3) *International Review of Psychiatry* 291, 291.

5. Recommendations for Further Research

There are some clear policy implications that grow out of my research. The most important of these is that policymakers must be aware of the political consequences of their distinction-making with regard to victims/perpetrators, innocent/guilty and so on. As chapter V has presented, child protection programs for war-affected children have historically been rights-based, focusing on universal rights and the presumed needs of children based on Western standard measures and child welfare indicators. However, this thesis makes a call for more rigorous approaches to social policy and towards ‘evidence-based’ programming that includes and relies on the children’s perspectives.

In this regard, child-centered ethnography⁵⁰ could be a particularly useful methodology for the study of child soldiers, since it reveals the life worlds of children from their own perspectives and identifies alternative indicators of wellbeing. Particularly, in what Thorne defines as “learning from the children”,⁵¹ ethnography ‘allows children a more direct voice and participation in the production of sociological data than is usually possible through experimental or survey styles of research’.⁵² As anthropologist David Rosen puts it,

[e]thnography ... has unsettled conventional concepts of childhood and remains the best way to study children. Observing and listening to the voice of the child in natural settings, where children are not disempowered by the regimes of formal interviewing, testing, and measurement, provide the clearest portraits of the competence of children.⁵³

⁵⁰ By “child-centered ethnography” I refer to methodology ‘that seeks to reduce the common-sense, adult-centered adult-child power relationship in order to address childhood agency in research with children’, Emmanuel Mayeza, ‘Doing Child-Centered Ethnography: Unravelling the Complexities of Reducing the Perceptions of Adult Male Power During Fieldwork’ (2017) *International Journal of Qualitative Methods* 16, 1-10, 2 citing Barrie Thorne, *Gender play: Girls and boys in school* (Open University Press, 1993).

⁵¹ Barrie Thorne, *Gender play: Girls and boys in school* (Open University Press, 1993), 11 quoted in Emmanuel Mayeza, ‘Doing Child-Centered Ethnography: Unravelling the Complexities of Reducing the Perceptions of Adult Male Power During Fieldwork’ (2017) *International Journal of Qualitative Methods* 16, 1-10, 1.

⁵² This approach is often referred to as “New Sociology of Childhood”. See Alan Prout and Allison James, *Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood* (Falmer Press, 1997) 8.

⁵³ David M. Rosen, *Armies of the young: child soldiers in war and terrorism* (Rutgers University Press, 2005) 133.

In this sense, by ‘shifting the focus from the dominant adult-centric perspective on childhood to “putting the children first” by engaging children as the experts on their everyday social lives’,⁵⁴ ethnography could ‘contribute to creating more culturally appropriate and therefore more effective programs for war-affected children and youth’.⁵⁵ In lieu of the quantitative and top-down research methods – especially those gathering data from large surveys – that are more popular among scholars and policymakers,⁵⁶ an ethnographic approach to understanding children’s actual lived experience can contribute to more effective policy and programming that will help to support the best interests of the child.

Consequently, if we assume that the main scope of a child-centered research is to ‘seek to learn about childhood issues from the children’s own points of view’,⁵⁷ children’s experiences should be included in efforts to understand social change – in this case, post-war rebuilding – and child protection policy should proceed from an understanding of children’s lives in context, rather than from a set of supposedly universal rights.⁵⁸ Additionally, from an ethnographical and phenomenological point of view, this approach would allow for the interest to be placed not so much on the ‘truth’, but rather on the way the meaning of the experience is being voiced. This is especially important considering that, as my thesis has proved, reaching ‘the truth’ regarding child soldiers can be a particularly challenging task. Through the deconstruction of representation carried out in my research (and contrary to what I had initially foreseen), I have shown that it is not necessarily possible to retrieve the truth from those closest to the story. In particular, child soldiers may be too confused to recognise and appreciate the truth, especially when they are spatially and temporally removed from the experience.

⁵⁴ Emmanuel Mayeza, 'Doing Child-Centered Ethnography: Unravelling the Complexities of Reducing the Perceptions of Adult Male Power During Fieldwork' (2017) *International Journal of Qualitative Methods* 16, 1-10, 2 quoting Deevia Bhana, *Childhood sexuality and AIDS education: The price of innocence* (Routledge, 2016), 14.

⁵⁵ Shepler, above n 6, 162.

⁵⁶ Ibid.

⁵⁷ Mayeza, above n 50, 2.

⁵⁸ The discourse on child soldiers as presented by humanitarian and human rights groups imagines and posits the existence of a universal child whose development, needs and wellbeing are all indifferent to context. For more information, see Shepler, above n 6, 164; Rosen, above n 2, 175.

However, in order to be able to 'tak[e] children seriously and engag[e] them as the experts on their social behaviors, interactions, and relationships',⁵⁹ the researchers are required to redefine the taken for granted adult-child power relation⁶⁰ and 'negotiat[e] child-centered relationships with the children'.⁶¹ Notwithstanding the limitations and challenges of this approach – namely the researched children expressing their own agency to oppose any attempt to alter the existing adult-child status quo –⁶², I strongly agree with Mayeza that child-centered ethnography can offer a 'critical alternative perspective in academic ways of thinking about childhood, which focuses on children as active agents, rather than passive objects, in society and in social identity construction'.⁶³

The goal of this thesis was not to undertake a policy review or a program evaluation: indeed, I have argued that the stakeholders' perspective can blind us to the real lives of former child soldiers.⁶⁴ Consequently, my deconstruction of representation has opened up pathways to future research. The crucial task for researchers now is to develop more powerful understandings of the role of child soldiers in structures of modernity. Research done in a phenomenological way, if this is even achievable, needs to manage dualities and to approach children in an appropriate time and space, before the representation pyramid comes into place and children's voices are muzzled and their perspectives distorted. As my research and this thesis have shown, it must be acknowledged that the simplistic use of one 'helpless victim' image to determine who is the innocent victim and who is the guilty

⁵⁹ Mayeza, above n 50, 2.

⁶⁰ In the case of former child soldiers, this is particularly significant but also challenging, considering their socialisation and relationship with adults is profoundly affected by their recruitment and time in armed forces.

⁶¹ Mayeza, above n 50, 2, citing Thorne, above n 51.

⁶² Mayeza, above n 50, 9.

⁶³ Ibid 3.

⁶⁴ In particular, after examining the key stakeholders' interest in child soldiers, it seems indeed that they are interested not in the truth, but in moulding the children into a portrayal that is useful for them. For the majority of external players involved, the interest in child soldiers is seasonal and it shifts with the political relevance of the issue. See, for example, the huge media attention that the story of Deng Adut, the child soldier who became a criminal lawyer, has received in Sydney and throughout Australia since 2015, when his story was made public by the University of Western Australia. See Models of Achievement, *Deng Adut* <<http://www.modelsofachievement.org/?p=181>>; Michaela Whitbourn, 'Deng Adut named NSW Australian of the Year' (2016) *The Sydney Morning Herald* <<http://www.smh.com.au/nsw/deng-adut-named-nsw-australian-of-the-year-20161106-gsjfvz.html>>.

perpetrator is not really applicable in this context. More complex models should be developed that better capture the social complexity behind the marker 'child soldier'.

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ANNEX A: ORGANISATIONS CONTACTED

Organisation Name
Act for Peace
African Think Tank
Amnesty International
Amnesty International Australia — Refugee Casework Team
Anglicare Refugee Services
Asylum Seeker Centre
Asylum Seeker Resource Centre
Asylum Seeker Welcome Centre
Auburn Diversity Services
Australian Red Cross — ACT
Australian Red Cross — NSW
Australian Red Cross — SA
Australian Red Cross — Victoria
Australian Refugee Association (ARA)
Baptcare Sanctuary
Brigidine Asylum Seeker Project (BASP)
Child Soldiers International
Defence for Children International
Ecumenical Migration Centre, Brotherhood of St Laurence
Edmund Rice Asylum Seeker Project
Fitzroy Learning Network
Goulburn Multicultural Centre (GMC)
Hotham Mission Asylum Seeker Project
Human Rights Watch
Humanitarian Crisis Hub
International Centre for Child and Youth Studies
International Committee of the Red Cross
Jesuit Refugee Service
Liverpool MRC (Liverpool)
Lutheran World Federation
Macarthur Diversity Services (Campbelltown)
Marist Youth Care
Metro Migrant Resource Centre (Campsie)
Migrant Information Centre (MIC)

Mission Australia
Multicultural Sudanese Centre
Nasir Community Development Agency Australia
New South Wales South Sudanese Diaspora Network
NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS)
Refugee Advice and Casework Services (RACS)
RISE (Refugees, Survivors and Ex-Detainees)
SAIL (Sudanese Australian Integrated Learning)
Save the Children
SAYAG (Sudanese Australian Youth Action Group)
St George Migrant Resource Centre (Rockdale)
St Vincent de Paul Refugee Support Service (RSS)
St Vincent's Refugee Service
Sudanese Community Association of Victoria
Sudanese Lost Boys Association of Australia
Survivors of Torture and Trauma Assistance and Rehabilitation Services — SA
Sydney Multicultural Services (Blacktown)
UNHCR
UNICEF
Victorian Foundation for Survivors of Torture
Westgate Migrant Resource Centre
World Vision Australia
World Vision International

ANNEX B: PERSONALITIES CONTACTED

Name	Affiliation
Akoi Guong	author
Catherine Mabile	ICC
China Keitetsi	author
Cola Bilkuei	author
David Crane	SCSL
David Vincent	author
Emmanuel Jal	author
Ishmael Beah	author
Jean-Marie Biju-Duval	ICC
Judge Adrian Fulford	ICC
Judge Bankole Thompson	ICC
Judge Benjamin Mutanga Itoe	SCSL
Judge Elizabeth Odio Benito	ICC
Judge Pierre Boutet	SCSL
Judge Renè Blattmann	ICC
Luc Walley	ICC
Luis Moreno-Ocampo	ICC
Marc Desalliers	ICC
Niromi de Soyza	author

ANNEX C: FOCUS GROUPS RECRUITMENT FLIER

RESEARCH PARTICIPANTS NEEDED

For study on child soldiers' portrayals and representations

We are currently seeking volunteers to participate in a research study titled, **Through the Looking Glass: An Analysis of the Portrayals of Child Soldiers through the Lenses of Communities Members**, conducted by a third year PhD student of the Faculty of Law.

- ❖ **Must be over 18**
- ❖ **No previous knowledge on the topic required**
- ❖ **Must be willing to share opinions on themes related to the child soldiers' phenomenon**
- ❖ **Students from all faculties are welcome**

Participants will take place in 1 focus groups lasting 2 hours max within the University of Sydney Camperdown Campus.

For more information or if you are interested in participating, please contact **CLAUDIA ARICI** at: cari6921@uni.sydney.edu.au.

ANNEX D: ETHICS APPROVALS



Research Integrity
Human Research Ethics Committee

Friday, 2 May 2014

Prof Mark Findlay
Law; Sydney Law School
Email: mark.findlay@sydney.edu.au

Dear Mark

I am pleased to inform you that the University of Sydney Human Research Ethics Committee (HREC) has approved your project entitled "Through the looking glass: an analysis of the portrayals of child soldiers through the lenses of community members".

Details of the approval are as follows:

Project No.: 2014/092
Approval Date: 2 May 2014
First Annual Report Due: 2 May 2015
Authorised Personnel: Findlay Mark; Crofts Thomas; Arici Claudia;
Documents Approved:

Date Uploaded	Type	Document Name
14/01/2014	Interview Questions	Areas of enquiry for (possible) second round of interviews
14/01/2014	Interview Questions	Areas of enquiry for focus groups
27/11/2013	Participant Consent Form	Participant consent form - focus group
27/11/2013	Participant Consent Form	Participant consent form - interview
11/03/2014	Participant Info Statement	Amended PIS focus groups candidates lay language
11/03/2014	Participant Info Statement	Amended PIS interview candidates lay language
11/03/2014	Recruitment Letter/Email	Amended introduction email lay language
6/01/2014	Recruitment Letter/Email	Follow up letter to initial contact
27/11/2013	Safety Protocol	Safety protocol

HREC approval is valid for four (4) years from the approval date stated in this letter and is granted pending the following conditions being met:

Special Condition/s of Approval

The chair notes the difficulties pertaining to the translation/presentation of public documents in appropriate language/dialect prior to determining the language of translation required.

- Approval of this project is conditional on the provision of appropriate information when recruiting, informing (to provide full details) and obtaining consent to participate. It is noted that an interpreter will be used in all cases deemed necessary, and that public documents provided will be translated once identified and lodged with the HREC.

Research Integrity
Research Portfolio
Level 6, Jane Foss Russell
The University of Sydney
NSW 2006 Australia

T +61 2 8627 8111
F +61 2 8627 8177
E ro.humanethics@sydney.edu.au
sydney.edu.au

ABN 15 211 513 464
CRICOS 00025A



Condition/s of Approval

- Continuing compliance with the National Statement on Ethical Conduct in Research Involving Humans.
- Provision of an annual report on this research to the Human Research Ethics Committee from the approval date and at the completion of the study. Failure to submit reports will result in withdrawal of ethics approval for the project.
- All serious and unexpected adverse events should be reported to the HREC within 72 hours.
- All unforeseen events that might affect continued ethical acceptability of the project should be reported to the HREC as soon as possible.
- Any changes to the project including changes to research personnel must be approved by the HREC before the research project can proceed.
- Note that for student research projects, a copy of this letter must be included in the candidate's thesis.

Chief Investigator / Supervisor's responsibilities:

1. You must retain copies of all signed Consent Forms (if applicable) and provide these to the HREC on request.
2. It is your responsibility to provide a copy of this letter to any internal/external granting agencies if requested.

Please do not hesitate to contact Research Integrity (Human Ethics) should you require further information or clarification.

Yours sincerely



Dr Stephen Assinder
Chair
Human Research Ethics Committee

This HREC is constituted and operates in accordance with the National Health and Medical Research Council's (NHMRC) National Statement on Ethical Conduct in Human Research (2007), NHMRC and Universities Australia Australian Code for the Responsible Conduct of Research (2007) and the CPMP/ICH Note for Guidance on Good Clinical Practice.



Research Integrity
Human Research Ethics Committee

Friday, 28 March 2014

Prof Mark Findlay
Law; Sydney Law School
Email: mark.findlay@sydney.edu.au

Dear Mark

I am pleased to inform you that the University of Sydney Human Research Ethics Committee (HREC) has approved your project entitled "Through the looking glass: an analysis of the portrayals of child soldiers through the lenses of organisational representatives".

Details of the approval are as follows:

Project No.: 2014/093
Approval Date: 28 March 2014
First Annual Report Due: 28 March 2015
Authorised Personnel: Findlay Mark; Arici Claudia; Crofts Thomas;

Documents Approved:

Date Uploaded	Type	Document Name
29/11/2013	Recruitment Letter/Email	Follow up email
29/11/2013	Recruitment Letter/Email	Introduction email
11/03/2014	Questionnaires/Surveys	Amended questionnaire
11/03/2014	Participant Consent Form	Participant consent form for questionnaire candidates
11/03/2014	Participant Info Statement	Amended participant information statement

HREC approval is valid for four (4) years from the approval date stated in this letter and is granted pending the following conditions being met:

Condition/s of Approval

- Continuing compliance with the National Statement on Ethical Conduct in Research Involving Humans.
- Provision of an annual report on this research to the Human Research Ethics Committee from the approval date and at the completion of the study. Failure to submit reports will result in withdrawal of ethics approval for the project.
- All serious and unexpected adverse events should be reported to the HREC within 72 hours.
- All unforeseen events that might affect continued ethical acceptability of the project should be reported to the HREC as soon as possible.

Research Integrity
Research Portfolio
Level 6, Jane Foss Russell
The University of Sydney
NSW 2006 Australia

T +61 2 8627 8111
F +61 2 8627 8177
E ro.humanethics@sydney.edu.au
sydney.edu.au

ABN 15 211 513 464
CRICOS 00026A



- Any changes to the project including changes to research personnel must be approved by the HREC before the research project can proceed.
- Note that for student research projects, a copy of this letter must be included in the candidate's thesis.

Chief Investigator / Supervisor's responsibilities:

1. You must retain copies of all signed Consent Forms (if applicable) and provide these to the HREC on request.
2. It is your responsibility to provide a copy of this letter to any internal/external granting agencies if requested.

Please do not hesitate to contact Research Integrity (Human Ethics) should you require further information or clarification.

Yours sincerely



Dr Stephen Assinder
Chair
Human Research Ethics Committee

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Research Integrity
Human Research Ethics Committee

Thursday, 20 March 2014

Prof Mark Findlay
Law; Sydney Law School
Email: mark.findlay@sydney.edu.au

Dear Mark

I am pleased to inform you that the University of Sydney Human Research Ethics Committee (HREC) has approved your project entitled "Through the looking glass: an analysis of the portrayals of child soldiers through the lenses of legal professionals and book authors".

Details of the approval are as follows:

Project No.: 2014/094
Approval Date: 20 March 2014
First Annual Report Due: 20 March 2015
Authorised Personnel: Findlay Mark; Arici Claudia; Crofts Thomas;

Documents Approved:

Date Uploaded	Type	Document Name
11/03/2014	Participant Consent Form	Amended participant consent form
11/03/2014	Participant Info Statement	Amended PIS biographies authors
11/03/2014	Participant Info Statement	Amended PIS court personalities
27/11/2013	Participant Info Statement	Participant information statement - former child soldiers
14/01/2014	Interview Questions	Areas of enquiry with biographies authors
11/03/2014	Questionnaires/Surveys	Amended legal professionals questionnaire
11/03/2014	Recruitment Letter/Email	Amended introduction email in lay language
29/11/2013	Recruitment Letter/Email	Introduction email legal professionals
29/11/2013	Recruitment Letter/Email	Follow up email to first contact biographies authors
29/11/2013	Recruitment Letter/Email	Follow up email to first contact legal professionals

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F +61 2 8627 8177
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sydney.edu.au

ABN 15 211 513 464
CRICOS 00226A



HREC approval is valid for four (4) years from the approval date stated in this letter and is granted pending the following conditions being met:

Condition/s of Approval

- Continuing compliance with the National Statement on Ethical Conduct in Research Involving Humans.
- Provision of an annual report on this research to the Human Research Ethics Committee from the approval date and at the completion of the study. Failure to submit reports will result in withdrawal of ethics approval for the project.
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Please do not hesitate to contact Research Integrity (Human Ethics) should you require further information or clarification.

Yours sincerely



Dr Stephen Assinder
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ANNEX E: FOCUS GROUP PARTICIPANT INFORMATION STATEMENT

PARTICIPANT INFORMATION STATEMENT

(1) What is the study about?

You are invited to participate in a study on the representation of child soldiers and how this impacts on key aspects of their life. The way these children are described has a big influence on their relationship with their communities and the role they are expected to take after the conflict is over. A lot has been written about child soldiers, but not enough has been said about the way the children are represented. In addition to this, what has been written does not necessarily reflect the real experiences of these young soldiers, and this can negatively impact upon their relationship with aid organizations and tribunals.

This research project explores the impact of the representation of child soldiers on key aspects of their lives. In particular, we are interested in analysing how child soldiers are perceived by their communities, media, academics, in opposition to what they think of themselves. The main argument of this research is that the image of child soldiers as victims can be more damaging than beneficial, because it denies any potential agency or active decision-making of the children. Only by recognising that children are able to make rational choices and should be involved in after conflict programmes, former child soldiers can really leave their past behind and be fully reintegrated into their communities.

(2) Who is carrying out the study?

The study is being conducted by Miss Claudia Arici, and will form the basis for the degree of Doctor of Philosophy at The University of Sydney under the supervision of Mark Findlay, Professor of Criminal Justice and Deputy Director of the Sydney Institute of Criminology, and Thomas Crofts, Associate Professor and Director of the Sydney Institute of Criminology.

(3) What does the study involve?

The study will give you the opportunity to express your views and opinion on some key issues related to child soldiers. You will participate in focus-group discussions which will be, with your permission, audio and video taped. If you prefer not to be audio and/or video taped, no recording will take place. What has been said during the discussions will be then transcribed, so that it can be reviewed and analysed. Because this project wants to record your voice and experience, you will be asked to verify the transcription of the discussions, to make sure that it is accurate and it represents your opinions. If you wish to remain anonymous, you will be given a fake name and every detail of your story which might allow others to recognise you will be removed from the transcripts.

During the group discussions, you will be asked questions based on some hypothetical scenarios, in order to explore your views and experiences on child soldiers. This topic might cause you some emotional reactions; if this happens, you can leave the group at any time and as often as you need, for a short period of time or, if necessary, to depart for good. After the focus group discussions, Miss Arici might ask you to meet her again for a one-on-one interview. This interview will serve to better examine some topics covered in the first round of discussions; this meeting will also be audio and video taped, with your permission, and later transcribed.

(4) How much time will the study take?

The focus group discussion will take about 2 hours.

(5) Can I withdraw from the study?

Your participation in this study is completely voluntary. You can leave the study at any time, without ruining your relationship with The University of Sydney. However, if you take part in a focus group and wish to leave the study after the discussion has started, it will not be possible to erase the information you have provided from the records.

(6) Will anyone else know the results?

The results of this study will be published in Miss Arici's final thesis. In addition to this, they might be published in a journal article and/or presented at a scholarly conference, but individual participants will not be identifiable in such a report. Your personal

information will be strictly confidential and only the researchers will have access to them.

(7) Will the study benefit me?

We cannot and do not guarantee or promise that you will receive any material or financial benefits from the study. However, you will have a direct impact on the way people perceive and understand child soldiers and their communities. This research will help you and your community in reaching broader attention.

(8) Can I tell other people about the study?

You may tell other people about this study, but please keep in mind that in order to take part in it the participants

- must be over 18;
- must have arrived in Australia no more than 7 years ago;
- must have experienced an armed conflict;
- must have some relations with child soldiers.

(9) What if I require further information about the study or my involvement in it?

When you have read this information, Miss Arici will discuss it with you further and answer any questions you may have. If you would like to know more at any stage, please feel free to contact

Miss Claudia Arici, PhD student, cari6921@uni.sydney.edu.au, [REDACTED]

Professor Mark Findlay, mark.findlay@sydney.edu.au, [REDACTED]

Dr Thomas Crofts, Associate Professor, thomas.crofts@sydney.edu.au, [REDACTED]

[REDACTED]

(10) What if I have a complaint or any concerns?

Any person with concerns or complaints about the conduct of a research study can contact The Manager, Human Ethics Administration, University of Sydney on +61 2 8627 8176 (Telephone); +61 2 8627 8177 (Facsimile) or ro.humanethics@sydney.edu.au (Email).

This information sheet is for you to keep

ANNEX F: FOCUS GROUP QUESTIONS

Part I

- Have you heard before about child soldiers? Where?
- If I say child soldier, what is the first image that comes to your mind?
- What age is the child soldier in your mind?
- How has that child soldier become involved in the armed conflict?
- What is the community's reaction to the involvement of the child soldier in the armed conflict?
- What sort of training/education does the child soldier received while in the army?
- What does that child soldier do within the armed group?
- How long does the child soldier spend with the armed group?
- How does the child soldier leave the armed group?
- What happens after the child soldier leaves the armed group?
- If the child soldier returns home, what is the community's reaction to that?
- What short-term impact does that war leave on the former child soldier?
- What long-term impact does that war leave on the former child soldier?

Part II

- What is your opinion of these stories?
- How do they relate to your initial thoughts about child soldiers?
- How are the two stories similar and different?
- What do you think is the age and gender of each child soldier?
- What is the impact of the age and gender on your opinion of each child?
- Do you think that they could be rehabilitated?
- Do you think that they will outgrow their violent past?
- Do you think that they will be able to lead a productive life?
- (after revealing the real age and gender) Does this change your opinion?
- Do you now think that they could be rehabilitated and reintegrated?
- (In couples) discuss what do you think is the likely end of each story?
- How did your partner's opinion influence your perception of the story?

ANNEX G: FOCUS GROUP SCENARIOS

Scenario 1

When I grew up in Sudan, I think my life was pretty much normal, like other normal kids. My family was big: my father had a farm there, with banana trees and other plantations in the area. It was an amazing place to live when I was young.

It was 1985 when the government of Sudan started attacking villages. My mother and my other relatives were told that they had to give up a child, and that child would travel to places like Ethiopia for education. It was compulsory. You had to comply with it. In our family there were three of us that were basically given up for compulsory conscription. So we marched with other kids. It took us over a month. We didn't have food, we didn't have anything. We were eating just raw fruit. During our march, we started noticing the signs of war, the atrocities of war. We started seeing people's skulls on the ground. And it wasn't one, two or a dozen skulls. It was thousands skulls everywhere.

We were officially staying in a UN-backed refugee camp and the SPLA wanted it to look like that, but the reality was that it was a military camp in all but name. Two hours' walk from the camp was the real army camp that the UN didn't know about. That's where the SPLA stored their weapons and conducted the training. We went through various military training, proper military training: how to use a gun, hitting the targets, we were armed. That was in 1993. I wanted to be trained properly, straight away and given a gun so I could protect myself. I was impatient now to become a soldier.

Kids going to war, you know that they're not gonna come back. They're gonna put everything they have. We were slaughtered. But nobody cared. We were just kids playing adults' games. With my new life as a soldier, I soon started using drugs, among which marijuana, cocaine and some white pills I quickly became dependant of. These drugs gave me courage to fight and I soon became a merciless killer, killing both rebels and civilians in order to satisfy our needs. When we ran out of food, drugs or ammunition, and gasoline to watch war films, we raided rebel camps, in towns,

villages, and forests. We also attacked civilian villages to capture recruits and whatever else we could find. For us young soldiers war wasn't very different from one of the war movies and our biggest ambition was to be able to replicate the techniques seen in the movies. I still remember the first time I killed a man. I raised my gun and pulled the trigger, and he was dead. Suddenly, all the massacres I had seen since the day I was touched by war began flashing in my head. Every time I stopped shooting to change magazines and saw in my mind all my young lifeless friends, I angrily pointed my gun into the swamp and killed more people.

Scenario 2

I woke up to the voice of a man commanding: 'left right, left right', and when I looked around, I saw children of different ages marching beside a man in a military uniform. I could feel the excitement growing in my stomach. It was like this brand new game, and I wished that I was there marching along with them.

The man from yesterday approached me with friendly but at the same time strange eyes. Before he could speak I asked to join the others, but he refused me because of my swollen feet. ... The third day I was allowed to join and I felt excited as I marched, alongside them. After what might have been two hours of marching, we had a break of 15 minutes. ... After the break, some were lined up behind gun lines at a practice site: 12 children and 12 AK-47s. They got a few seconds to dismantle the gun, for then to put it back together. The following day, we trained in taking cover and charge with bayonets, but the AK-47 was bigger than most of us kids, so we charged with wooden sticks. ...

The training never took long; the simple reason was that the NRA was still short on men and couldn't afford a long training. After getting this little knowledge on warfare, the children were divided into different fighting groups. I was one of those who couldn't carry an AK-47, so we helped carry the leaders' appliances, such as cups, pans and ammunition.

A month had passed since I left the training grounds, and I was picked for a special assignment along with a few other kids. I was excited, because now I would be

seeing the action that I heard so much about from the other kids. We walked through the bush while getting our instructions, and soon we hid in the perimeter of the bush that surrounded the dirt road. The commander told us to go to the middle of the road, sit down and pretend to have a good time playing with the sand. After a while the government troops approached in a huge convoy, but we continued as if being all alone. The convoy stopped with the first cargo truck right in front of us. When most of the soldiers jumped out, we did as instructed, running back into the bush to our fighting group, who then opened fire.

But it wasn't quite as I had been told. The sound was terrifyingly loud and everything on the road seemed to splinter into pieces as RPGs hit the trucks. I was more frightened than ever. ... Our side won, and after the battle everybody ran to the road and began undressing the dead soldiers. Everyone of us, except the senior officers, needed something to wear and it didn't matter that it was the enemy's military uniform: it was ok with us.

I stood and watched from a distance, the enemy's underwear and boots being shared. I was getting confused, having been told that I was fighting for freedom, but I had never imagined that to include stealing from the dead. My excitement turned into sadness, as I saw the wounded enemy scattered around crying for help, and suddenly it became hard for me to think of them as my enemy. These who had surrendered had their arms tied behind their back in the most painful way, but when I looked around at my comrades, as saw that everybody seemed to enjoy themselves, it convinced me to believe that there was nothing on Earth man liked more than to torture and laugh at their prey.

ANNEX H: INTERVIEW WITH SHENA GACU

When Shena Gacu came into my life many years ago, she was still China Keitetsi. I was a master's degree student writing a thesis on child soldiers, and she was a child soldier. Through the pages of her autobiography, *Child Soldier*, I got to know the China she once was: the little girl who did not feel loved, the young girl who decided to join the army, the compassionate combatant who never lost her humanity, the young woman who finally found the strength to run away and seek a better life. China's story englobed all the worst of child soldiering, and her words never left me.

Therefore, in the course of my PhD, when I decided to resort to narrative analysis, her book was once again one of the first I turned to. Her being a girl, her voluntarily joining the army while still very young, her constant choosing military life over civilian life, her determination to make a career in the army, her struggle to break free, her resettlement into a Western country. All these elements of China's experience made her story a unique and crucial one for my research, and I was determined to include *Child Soldier* in my narrative analysis. However, in my quest to uncover child soldiers' voices I did not foresee that China, currently known as Shena, would respond positively to my contact request and that she would be willing to be involved in my research. Indeed, perhaps for the originality of my project, perhaps for my unconventional approach, she was very keen to be interviewed and participate in my study.

Due to my previous failure in contacting other former child soldiers,¹ I realised right away the potential of this unexpected contact. Shena was an unforeseen opportunity for me to have a glimpse into the life of a former child soldier, and I had high expectations for our interview. In the excitement following her acceptance, I predicted that I would be able to probe her to talk about her experience as a child soldier, based on her published memoir. Just like everyone else, I approached our interview with preconceptions, anticipating that she would play the victim part,

¹ See chapter II section 3.1.

blaming others for her past and looking for compassion. However, Shena caught me off-guard in her honesty regarding her actions as a child soldier, and her views and opinions of the phenomenon as a former young combatant.

Instead of focusing on her past as a child soldier, Shena was very much interested in talking about her life as a former child soldier in Denmark, and especially about how her status as a victim has followed her into adulthood. It has been 15 years since China left the military life and found a new stability in Europe, 15 years in which she was able to start a new life and grow into an adult. However, it seems like, even after 15 years, Shena still cannot leave her past completely behind. Indeed, she admitted that even after all this time people still treat her like something in between a victim and a monster: 'after fifteen years it's like they still want to look into your brain, what it's there, it's like they still aren't sure if you're human enough'.²

By all accounts, China was a good soldier, and was quickly promoted to sergeant first, and to a government minister's bodyguard later. For someone who spent 10 years in the army and had military ranks, being told that she was a helpless victim is confusing. For someone who was in a position to command and have responsibility over others, being told that she does not know what is best for her is frustrating. For someone who was able to survive an armed conflict both as a civilian and as a combatant, being told that she cannot be in charge of her own life is disempowering.

Consequently, Shena rejects the stigma of victimhood that has been attached to her for the past 15 years, despite recognising that she was a victim because she did not have a choice at the time. However, if it is true that she was once forced to not think for herself, this does not mean that all her life somebody has to speak for her. According to Shena, external players label child soldiers as helpless victims simply because they were once part of an armed conflict; however, these people do not have any knowledge of what it really meant to be a young combatant, to follow orders, to kill and to survive. They base their judgment on a past they know nothing about, and this is extremely offensive for former child soldiers like Shena: 'No one can sit there

² Interview with Shena A. Gacu (Skype interview, 10 April 2015).

and tell you that they know us. Nobody knows us; it's us who know us. And nobody has the right to call us any names.'³

Unfortunately, in Shena's experience, those individuals or organisations who should help her to move on with her life in reality just want to keep these children victims even when they are old enough to take control of their own lives. Moreover, for the rest of their lives, they will have to depend on people who think they know the children and what is best for them. It is so frustrating for former child soldiers that at times they wish they could hide from their past and never have to face the consequences of it. For example, shortly after her arrival in Denmark, Shena began working in a kindergarten: she was very happy with the children and she enjoyed her work very much. Until one day, a documentary about her came out on the TV, and her past was revealed to everyone; as a consequence, the children's parents were angry that she was working with them, and Shena lost her job. The psychological and moral consequences were very hard, and Shena felt that somebody else was once again reintroducing her: 'You wish you have never told [them] that you were a child soldier because of the people who pretend to tell you who you are. People look at you and they decide that you are this and that, which is not true: we want to tell the world who we are, not the world to tell us who we are because they know what we went through.'⁴

Where does this arrogance of Western organisations and individuals come from? Could it be the result of a Westernised view of children and childhood innocence? Shena seems to believe so: in her opinion, child soldiers in non-Western countries are treated on the basis of Western cultural beliefs. However, the two worlds cannot be compared so easily. 'A girl who is eighteen years old in Denmark and a five years old child in Africa who has no good home, no mother, who lives in difficulties ... that five years old when she's living in certain dangerous places, she can survive more than the eighteen years old from Denmark. You might laugh and say why? Because that five years old child has developed very strong instincts and because she's not allowed to be five years old she actually has to think and do things like a twenty years old or

³ Ibid.

⁴ Ibid.

beyond. So it's totally wrong, you cannot compare the lives of here and there, we went through incredible things: we learnt to survive and we could read people so quickly, because otherwise we couldn't survive. We had to read others, especially our commanders: what they were about to tell you, if they were going to punish you or not. You had seconds to think of all these things.⁵

Despite the criticism, one thing that appeared obvious from Shena's words is the immense gratitude that she feels for the organisations that helped her leave Africa, resettle in Denmark and start a new life. These humanitarian organisations are very kind and they are doing a good job: their only fault is their arrogance in claiming to know what is best for child soldiers. What is needed is for these external players to ask child soldiers what they think, to let them be part of making the decisions of what they think can help them, and then to listen to what the children have to say. Unfortunately, too often these external players, despite having the best intentions, simply do not let children speak for themselves. They overprotect them and disempower them: in one expression, they keep child soldiers 'in a cage like animals'.⁶

The solution according to Shena is for everyone involved with former child soldiers to 'not give them an identity, ask them what they think and let them be part of making the decisions of what they think can help them'.⁷ Additionally, everyone needs to encourage the children to look at themselves not as the victims, but as brave children who survived and made the best of the situation they were given. 'Don't tell them "Oh oh oh no": just tell them how proud you are that they survive, that they are strong, encourage them but don't pity them. That is the worst. Because you have to remember that they are going to grow, then to work, and you cannot treat a 45 years old man as a baby.'⁸ But at the same time, former child soldiers should not be treated as different from other people: 'We are not different, simply we have different past like everybody else. But we are not different. What makes us different? Absolutely nothing. We wish to have boyfriends, we wish to have kids, we wish to get married, to wish to look good, we wish to have a nice mobile phone; we can cry, we can be sad,

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

we have issues, we can have regrets, but there's nothing totally wrong. Just that we have a different past from a different country.'⁹

⁹ Ibid.

ANNEX I: SUMMARY TABLE OF INTERNATIONAL HUMANITARIAN LAW PROVISIONS APPLICABLE TO CHILDREN IN WAR

GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR, 1949 (THIRD GENEVA CONVENTION)

16 Equality of treatment

Prisoners of war must be treated alike by the detaining power, subject to any privileged treatment which may be accorded to them by reason of their age, among other criteria.

49 Labour of prisoners of war

The detaining power may utilize the labour of prisoners of war who are physically fit, taking into account their age, among other criteria.

GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR, 1949 (FOURTH GENEVA CONVENTION)

PART II GENERAL PROTECTION OF POPULATIONS AGAINST CERTAIN CONSEQUENCES OF WAR

14 Hospital and safety zones and localities

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the belligerents, may establish hospital and safety zones and localities with a view to protecting from the effects of war, wounded, sick and aged persons, children under 15, expectant mothers and mothers of children under seven. The ICRC is invited to facilitate the establishment of these zones.

16 General protection

Expectant mothers must be the object of particular protection and respect.

17 Evacuation

The parties to the conflict must endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of medical personnel and medical equipment on their way to such areas.

18 Protection of hospitals

Civilian hospitals organized to give care to maternity cases, in particular, may in no circumstances be the object of attack.

21 Land and sea transport

Convoys on land or sea conveying maternity cases, in particular, must be respected and protected in the same manner as the hospitals provided for in Article 18.

22 Air transport

Aircraft exclusively employed for the removal of maternity cases, in particular, may not be attacked, but must be respected while flying at heights,

23 Consignment of medical supplies, food and clothing

The High Contracting Parties must permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under 15, expectant mothers or maternity cases. The High Contracting Parties may, however, stipulate conditions to prevent the consignments from being diverted from their destination or a definite

advantage from accruing to the military efforts or economy of the enemy through the substitution of those consignments.

24 Measures relating to child welfare

The parties to the conflict must take the necessary measures to ensure that children under 15, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education must, as far as possible, be entrusted to persons of a similar cultural tradition. The parties to the conflict must facilitate the reception of such children in a neutral country for the duration of the conflict. They must, furthermore, endeavour to arrange for all children under 12 to be identified by the wearing of identity discs, or by some other means.

25 Family news

All persons in the territory of a party to the conflict, or in a territory occupied by it, must be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them.

The parties to the conflict concerned may request the assistance of the Central Agency provided for in Article 140.

25 Family news

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The parties to the conflict concerned may request the assistance of the Central Agency provided for in Article 140.

26 Dispersed families

Each party to the conflict must facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It must encourage, in particular, the work of organizations engaged on this task.

PART III STATUS AND TREATMENT OF PROTECTED PERSONS

Section I Provisions common to the territories of the parties to the conflict and to occupied territories

27 Treatment

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, and their family rights.

Section II Aliens in the territory of a party to the conflict

38 Non-repatriated persons

Aliens in the territory of a party to the conflict who have not been repatriated enjoy minimum protection. Children under 15 years, pregnant women and mothers of children under seven years must benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Section III Occupied territories

49 Deportations, transfers, evacuations

When undertaking transfers or evacuations (which are authorized only if the security of the population or imperative military reasons so demand), the occupying power must ensure that members of the same family are not separated.

50 Children

The occupying power must facilitate the proper working of all institutions devoted to the care and education of children. It must take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any circumstances, change their personal status or enrol them in formations or organizations under its authority. The occupying power must make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war. The official information bureau (Article 136) is responsible for identifying children who are orphaned or separated from their families and for recording this information.

The occupying power must not hinder the application of any preferential measures which may have been adopted prior to the occupation in favour of children under 15 years, expectant mothers, and mothers of children under seven years (in regard to food, medical care and protection against the effects of war).

51 Enlistment, labour

The occupying power may not compel protected persons to work unless they are over 18 years of age, and then only under specific conditions.

68 Death penalty

The occupying power may only apply the death penalty in specific cases. In any case, the death penalty may not be pronounced against a protected person who was under 18 years of age at the time of the offence.

76 Treatment of detainees

In the treatment of protected persons who are accused or have been convicted of offences, proper regard must be paid to the special treatment due to minors. This provision also applies to internees who are in the national territory of the detaining power (Article 126).

Section IV Regulations for the treatment of internees

81 Maintenance

The detaining power must provide for the support of those dependent on the internees, if such dependants are without adequate means of support or are unable to earn a living.

82 Grouping of internees

Members of the same family, and in particular parents and children, must be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the application of disciplinary sanctions. Wherever possible, they must be given separate accommodation from other internees, together with facilities for leading a proper family life. Internees may request that their children who are left at liberty without parental care be interned with them.

85 Accommodation, hygiene

Internees must have suitable bedding and sufficient blankets, account being taken of their age, among other criteria.

89 Food

Expectant and nursing mothers and children under 15 years of age must be given additional food, in proportion to their physiological needs.

91 Medical attention

Maternity cases must be admitted to any institution where adequate treatment can be given and must receive care not inferior to that provided for the general population.

94 Recreation, study, sports and games

The education of children and young people must be ensured; they must be allowed to attend schools either within the place of internment or outside. Special playgrounds must be reserved for children and young people so that they can engage in physical exercise, sports and outdoor games.

119 Disciplinary punishments

The disciplinary punishments applicable to internees must take account of their age, among other criteria.

127 Transfers of internees

Maternity cases must not be transferred if the journey would be seriously detrimental to their health, unless their safety imperatively so demands.

132 Release, repatriation and accommodation in neutral countries during hostilities or occupation

The parties to the conflict must endeavour, during the course of hostilities, to conclude agreements for the release, repatriation, return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children.

Section V Information Bureaux and Central Agency

136 to 140 Official Information Bureaux and Central Agency

Each of the parties to the conflict must establish an official Information Bureau responsible for receiving and forwarding information in respect of the protected persons who are in its power. One of the tasks of the Bureau is to notify the families of these persons and to identify children who are orphaned or have been separated from their

families (Article 50). A Central Information Agency for protected persons, in particular for internees, must be created in a neutral country. The International Committee of the Red Cross will offer to organize the Agency. The function of the Agency is to collect information on protected persons and to forward it to the countries concerned. One of its tasks is to forward family news (Article 25).

ADDITIONAL PROTOCOL RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS, 1977 (ADDITIONAL PROTOCOL I)

PART II WOUNDED, SICK AND SHIPWRECKED

8 Terminology

The terms 'wounded' and 'sick' also cover expectant mothers, maternity cases and new-born babies.

PART IV CIVILIAN POPULATION

52 General protection of civilian objects

Civilian objects must not be the object of attack or of reprisals. In the event of doubt, schools are presumed to be civilian objects.

70 Relief actions

In distributing humanitarian aid to the civilian population, priority must be given to children, expectant mothers, maternity cases and nursing mothers, among others.

74 Reunion of dispersed families

The States party to the Protocol and the parties to the conflict must facilitate in every possible way the reunification of families dispersed as a result of armed conflicts. They must encourage the work of the humanitarian organizations engaged in this task.

75 Fundamental guarantees

Women whose liberty has been restricted for reasons related to the armed conflict must be held in quarters separated from men's quarters. Nevertheless, in cases where families are detained or interned, they must, whenever possible, be held in the same place and accommodated as family units.

76 Protection of women

The cases of pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict must be considered with the utmost priority. To the maximum extent feasible, the parties to the conflict must endeavour to avoid the pronouncement of the death penalty on such women for an offence related to the armed conflict. The death penalty for such offences must not be executed on such women.

77 Protection of children

Children must be the object of special respect and must be protected against any form of indecent assault. The parties to the conflict must provide them with the care and aid they require, whether because of their age or for any other reason. The parties to the conflict must take all feasible measures in order that children who have not attained the age of 15 years do not take a direct part in hostilities and, in particular, they must refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, the parties to the conflict must endeavour to give priority to those who are oldest. If, in exceptional cases, children who have not attained the age of 15 years nevertheless take a direct part in hostilities and fall into the power of an adverse party, they continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war. If arrested, detained or interned for reasons related to the armed conflict, children must be held in quarters separate from the quarters of adults, except where families are accommodated as family units. The death penalty for an offence related to the armed conflict must not be executed on persons who had not attained the age of 18 years at the time the offence was committed.

78 Evacuation of children

No party to the conflict may arrange for the evacuation of children, other than its own nationals, to a foreign country except in the case of a temporary evacuation which has become necessary for compelling reasons of the health or safety of the children. In this case, the written consent of the parents or legal guardians is required.

The education of each evacuated child must be provided with the greatest possible continuity. With a view to facilitating the return to their families and country of evacuated children, the authorities concerned must establish

for each child a card with photographs, which they must send to the Central Tracing Agency of the International Committee of the Red Cross. (The Article contains a list of the information to be stated on the card.)

ADDITIONAL PROTOCOL RELATING TO THE PROTECTION OF VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS, 1977 (ADDITIONAL PROTOCOL II)

4 Fundamental guarantees

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

- (a) they must receive an education, including religious and moral education;
- (b) all appropriate steps must be taken to facilitate the reunification of families temporarily separated;
- (c) children who have not attained the age of 15 years must neither be recruited into 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 15 years remains applicable to them even if they take a direct part in hostilities;
- (e) measures must be taken, if necessary, and whenever possible with the consent of their parents or persons who are responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country.

5 Persons whose liberty has been restricted

Women must be held in quarters separated from those of men, except when men and women of a family are accommodated together.

6 Penal prosecutions

Persons prosecuted for a criminal offence related to the armed conflict enjoy minimum protection. In particular, the death penalty must not be pronounced on persons who were under the age of 18 years at the time of the offence, and must not be carried out on pregnant women or mothers of young children.

CONVENTION ON THE RIGHTS OF THE CHILD, 1989

1 Definition of a child

A child means any human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier.

38 Armed conflicts

States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child. States Parties must 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. States Parties must refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, States Parties must endeavour to give priority to those who are oldest. In accordance with their obligations under humanitarian law to protect the civilian population in armed conflicts, States Parties must take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD, 1990

2 Definition of a child

A child means any human being below the age of 18 years.

22 Armed conflicts

States Parties must undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child. States Parties must take all necessary measures to ensure that no child takes a direct part in hostilities and refrain, in particular, from recruiting any child. In accordance with their obligations under international humanitarian law, States Parties must protect the civilian population in armed conflicts and must take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules also apply to children in situations of internal armed conflicts, tension and strife.

STATUTE OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA, 1993

4 Genocide

Genocide means, inter alia, forcibly transferring children of a national, ethnic, racial or religious group to another group with intent to destroy, in whole or in part, that group as such.

STATUTE OF THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA, 1994

2 Genocide

Genocide means, inter alia, forcibly transferring children of a national, ethnic, racial or religious group to another group with intent to destroy, in whole or in part, that group as such.

ROME STATUTE OF THE INTERNATIONAL CRIMINAL COURT, 1998

6 Genocide

Genocide means, inter alia, forcibly transferring children of a national, ethnic, racial or religious group to another group with intent to destroy, in whole or in part, that group as such.

8 War crimes

A war crime is defined to include, inter alia, conscripting or enlisting children under the age of 15 years into the national armed forces or into armed groups or using them to participate actively in hostilities.

CONVENTION ON THE WORST FORMS OF CHILD LABOUR, 1999 (ILO CONVENTION NO 182)

1 and 3 Compulsory recruitment

Each ILO Member which ratifies this Convention must take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency, including the forced or compulsory recruitment of children for use in armed conflict.

OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT, 2000

1 Direct participation in hostilities

States Parties must take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

2 Compulsory recruitment

States Parties must ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

3 Voluntary recruitment

States Parties must raise the minimum age for the voluntary recruitment of persons into their armed forces from that set out in the Convention on the Rights of the Child (15 years), recognizing in particular that persons under 18 years of age are entitled to special protection. Upon ratification of or accession to the Protocol, States Parties must deposit a binding declaration that sets forth the minimum age at which they will permit voluntary recruitment into their national armed forces. If the age of voluntary recruitment is below 18 years, States Parties must adopt maintain safeguards to ensure that:

- (a) such recruitment is genuinely voluntary;
- (b) such recruitment is done with the informed consent of the person's parents or legal guardians;
- (c) such persons are fully informed of the duties involved in such military service;
- (d) such persons provide reliable proof of age prior to acceptance into national military service.

The requirement to raise the minimum age for voluntary recruitment does not apply to military academies.

4 Armed groups

Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years. States Parties must take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.

6 Demobilization and recovery

States Parties must take all feasible measures to ensure that children recruited or used in hostilities contrary to this Protocol are demobilized and must, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social reintegration.