

2023

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Recommended Citation

Moore, Adam (2023) "TOO MANY BEASTS: THE FICTION AND REALITY OF CHILD SOLDIERS," *Ohio Northern University International Law Journal*: Vol. 1, Article 4.
Available at: <https://digitalcommons.onu.edu/ilj/vol1/iss1/4>

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Too Many Beasts: The Fiction and Reality of Child Soldiers

ADAM MOORE*

INTRODUCTION

In the book, *Beasts of No Nation*,¹ author Uzodinma Iweala gives a gripping portrayal of life as a child soldier in an unnamed West African nation. Through the eyes of this child— orphaned by the political, social, and military chaos that is engulfing his nation—one gets a glimpse of the reality faced by thousands of children around the world. While exact statistics are hard to come by, it is estimated that hundreds of thousands of children serve in government militaries or armed rebel groups.² Despite an abundance of international legal instruments and mechanisms available to address this crisis, the use of child soldiers continues to plague our world.

In the following pages, I give an overview of the fictional story presented by Iweala, discuss the current state of international law related to the use of child soldiers, and discuss a recent international criminal case and several issues surrounding the implementation of certain international conventions. In Part I, I review the fictional account presented by Iweala in his novel and discuss the themes relating to the use of child soldiers. Part II is a brief overview of the existing conventions and international legal norms relevant to the use of child soldiers. Part III examines the recent International Criminal Court case of Bosco Ntaganda,³ a former rebel leader found guilty of, among numerous other crimes, using child soldiers in the Democratic Republic of the Congo. The crimes and witness testimony found in the case mirror many of the themes presented in the book. Part IV looks at additional literature on the use of child soldiers and critiques of its current implementation, noting some of the problems faced by those seeking the protection of children and prosecution of abusers. Finally, I conclude with thoughts on the comparative fiction and reality of the child soldier as presently understood, as well as critiques of the current international response and ideas on how to better address this scourge of society and prevent the further use of child soldiers.

I. BEASTS OF NO NATION, THE BOOK

The novel, *Beasts of No Nation*,⁴ is the debut release of Nigerian author, Uzodinma Iweala.⁵ Originally begun as his senior thesis at Harvard University, the story was developed into

¹ UZODINMA IWEALA, *BEAST OF NO NATION* (2006).

² *Facts About Child Soldiers*, HUMAN RIGHTS WATCH (Dec. 3, 2008 10:22 AM), <https://www.hrw.org/news/2008/12/03/facts-about-child-soldiers>; see also Emeline Wuilbercq, *Factbox: Ten Facts About Child Soldiers Around the World*, REUTERS (Feb. 12, 2021, 12:08 AM), <https://www.reuters.com/article/us-global-childsoldiers-factbox-trfn/factbox-ten-facts-about-child-soldiers-around-the-world-idUSKBN2AC0CB> (noting 7,740 children reported recruited in 2019 alone, primarily in Africa, and the likely future rise in recruitment as a result of the ongoing Coronavirus health crisis).

³ *Prosecutor v. Ntaganda*, ICC-01/04-02/06, Judgment (July 8, 2019), https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_03568.PDF [hereinafter Ntaganda case].

⁴ IWEALA, *supra* note 1.

⁵ Boris Kachka, *Young Gun*, NEW YORK (Nov. 16, 2005), <https://nymag.com/nymetro/arts/books/reviews/15105/>.

a full novel that has received much “praise from reviewers for the frighteningly convincing voice of the preteen soldier.”⁶ Through personal research and interviews with former child soldiers, Iweala conveys the story and atrocities committed by these individuals in a realistic and sympathetic way.⁷

The book’s prose is a bit disjointed, almost purposely flawed. Sentences flow together, words repeat, tenses are misused, and there is no separation between words that are thought and words that are spoken. At first, it is quite awkward. But at some point, it becomes most endearing, as if someone has taught themselves English without ever hearing it spoken. Iweala describes it as, “it’s not pidgin English, it’s not proper English; it’s just sort of the way I hear people speak.”⁸ Initially disorienting and even frustrating, you ask yourself why an author would force his readers to endure such a style. Soon, however, you realize the first-person narrative used is its essential nature. This is a story conveyed by a child; how they see the world around them, how they understand these horrible events, and this is how they would describe them.

The book opens with the main protagonist, Agu, a young child of unknown age in an unknown West African nation. The reader is instantly introduced to his child-like, broken English. “BRIGHTNESS! So much brightness is coming into my eye until I am seeing purple spot for long time. Then I am seeing yellow eye belonging to one short dark body with one big belly and leg thin like spider’s own.”⁹ You are put into the mind of Agu. He is alone, on an unknown road, with no family around him. He is discovered by a rebel soldier just as young as he, looking disheveled with skinny legs and a bulging belly from malnutrition.¹⁰

Then, the reader is instantly met by the villain of the book. Though there are many villains in this book, both real and metaphorical, the character of Commandant is primary. “He is moving slowly like important person to make sure everybody looking at him is knowing he is chief. All of the other soldier is staring at him like he is king. I am also staring.”¹¹ With these words, you understand the commanding presence Commandant has over Agu, and will continue to have as the book progresses. Agu, a young boy left to fend for himself in the bush due to the warfare raging in his nation and the loss of his family is desperate for some type of salvation, someone to care for him. The recruitment of Agu by Commandant into this rebel group is not difficult. “If you are wanting food, you will eat. And if you are wanting drink, you will drink...”¹²

Agu tries to speak but is barely able to get out his own name. He is frozen with fear at the sight of Commandant standing before him with his hand on his gun.¹³ This is the pivotal moment

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ IWEALA, *supra* note 1, at 2.

¹⁰ *Id.*

¹¹ *Id.* at 5.

¹² *Id.* at 8.

¹³ *Id.* at 9.

for Agu and for Commandant. Will Agu join the rebels, or will he be another body on the side of the road as they march on? The sales pitch Commandant gives to Agu is one all too common to children in similar circumstances; faced with no family, no sustenance, no aid or refuge provided by their government or an outside organization. “Do you want to be a soldier, he is asking me in soft voice? If you are staying with me, I will be taking care of you and we will be fighting the enemy that is taking your father.”¹⁴

As you read, it is easy to see why this offer is so appealing to Agu. A coup has broken out in his nation, his mother and young sister have been swept off to safety, his father and older brother were killed by government forces after being accused of being rebel spies, which they were not. He lost everything he has ever known; his family, his school, the peaceful world that he once enjoyed without question. Now, as he struggles on his own, a young boy on the cusp of adolescence, he is faced with a life-or-death decision. It is easy to see why Agu, and real-world children similarly situated, would choose to join the rebel group. Survival mode kicks in, and it is easy to accept the first hand that reaches out to help you.

As Agu is initiated into the rebel group, his adulation for and emulation of the Commandant and older soldiers begins to grow. “I am liking the older men and how they are carrying gun and always looking so tough like they are in movie and I am trying to be acting like them...”¹⁵ This is a common feature of child soldiers and why some opportunistic commanders seek their recruitment. People of such an impressionable age are easily manipulated. This follows in the book as you see Agu wanting to be more and more like the older boys he sees soldiering around him. He wants to carry a knife like them, then a gun like them, then partake in the drugs they use, then pillage and rape like them. If this is the only source of behavior you are exposed to, and you know that those who do not follow in these actions are not taken care of or even murdered, how could you not want to be exactly like them.

We soon read how ingrained in Agu the actions of a soldier have become. As the rebel group ambushes a government convoy, Agu looks on with excitement. Once nearly all in the convoy are dead, Commandant summons Agu to his side to view a man on his knees begging for his life. “[Commandant] is taking my hand and bringing it down so hard on top of the enemy’s head and I am feeling like electricity is running through my whole body.”¹⁶ This is Agu’s first kill. While hesitant at first, he takes to the action with some relish after the first few strikes. He appears to enjoy the power he has been given, and the positive response from the Commandant and the other soldiers give him a sense of pride. Agu killed an unarmed and captured prisoner of war. He committed his first atrocity. He will commit many more.

As the story progresses, Agu more and more comes under the influence of Commandant. He continues to emulate and admire these grotesque and murderous role models. He sees them as powerful and strong and wants to be like them. As he follows their directions and emulates their

¹⁴ *Id.* at 11.

¹⁵ *Id.* at 13.

¹⁶ *Id.* at 21.

actions, Agu views himself as becoming an adult. He is transformed. “All we are knowing is that, before war we are children and now we are not.”¹⁷ It is hard to argue with this view. The age at which one transitions from childhood to adulthood can be quite relative, based on culture, religion, or any number of factors. Does committing the actions typically associated with those of an adult actually make one an adult? In Agu’s eyes, he is a soldier and an adult. He is no longer a child.

As Agu falls further under the influence of Commandant, he is made one of his personal bodyguards. At first, Agu is elated with this prestigious position and its proximity to his leader. Soon, we find out the terrible reason he has been promoted to the inner circle like Strika before him. “I do not want to be taking off my clothe, but I am not saying so because Commandant is powerful more than me and he is also sometimes giving me a small favor...”¹⁸ Agu, like so many real-world child soldiers, is sexually abused. This is a common phenomenon with child soldiers, both boys and girls. They are treated as property, sexually abused, traded among commanders, and sold off to outside groups.

After weeks of trench life—no food or fresh water, living in feet of dirty water, being strafed by government soldiers—the rebels rise in revolt against Commandant. They announce, one by one and soon in unison, their intention to leave. Commandant, sitting on his makeshift throne of dirt and a few banners, challenges their assertion, and calls them fools. Without a thought, Rambo, so nicknamed by Agu for his fearlessness and likeness to the movie character of the same name, shoots Commandant. “Then he is just taking his gun and shooting him. Only one shot just right in the chest . . . his body is just falling and making the water that is running down the trench red like that.”¹⁹ This sudden act hits Agu like a bolt of lightning. He did not realize it was so easy to kill Commandant. Just like the civilians he has seen die so many times before, Commandant was simply shot and fell to the ground. A sudden fear of realization washes over Agu. He is no longer subject to Commandant. He is free. With that, however, comes uncertainty. He has been a soldier for some time and his path forward is uncertain and terrifying. Slowly, he follows the other soldiers out of the makeshift camp and begins the wandering trek back to civilization.

After Agu’s journey to salvation, he is taken to a mission to recover and live. He and the other boys are looked after by Amy, a missionary, and Father Festus. They are given clothes, their own bed, books to read, and more food than they can eat. They play on the beach and sit by the fire at night. Agu is finally at peace and happy. He discusses his future with Amy and his desire to keep learning like he was with his father and mother before the war. Despite all this, he is haunted by his past actions and experiences. Sitting with Amy one day, as she tries to help him open up about his experiences, he tells her,

¹⁷ *Id.* at 36.

¹⁸ *Id.* at 84-85.

¹⁹ *Id.* at 122-23.

I am saying to [Amy] sometimes, I am not saying many thing because I am knowing too many terrible thing to be saying to you. I am seeing more terrible thing than twenty thousand men. So if I am saying these thing, then it will be making me to sadding too much and you to sadding too much in this life. I am wanting to be happy in this life because of everything I am seeing. I am just wanting to be happy.²⁰

He still has the visage of a young boy, but he has lived the life of many men and the horrors he experienced will live with him for the remainder of his life.

So ends the struggle of Agu and his time as a rebel soldier. While the novel closes on a positive note, with Agu safe and cared for, it reminds us of the scars, both seen and unseen, that he will live with for the remainder of his life. This is fiction, but it is also the reality of the child soldier. Those who are lucky enough to survive the battles and atrocities remain haunted by their experiences and actions. They have suffered a trauma that will follow them the remainder of their lives.

II. INTERNATIONAL LAW AND CHILD SOLDIERS

The field of international law is often viewed as daunting and ambiguous. It is sometimes hard to tell where national sovereignty ends and international law begins, particularly when dealing with conflicts internal to a nation's borders. Despite its often-maligned applicability and adherence, international law has done much to address issues common to all nations and condemn those actions universally viewed as contrary to the modern moral standards of society. To understand the role of international law, and more to the point, international criminal law, as it is applied to the use of child soldiers, it is helpful to briefly review four international conventions: the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention),²¹ the Convention on the Rights of the Child,²² the African Charter on the Rights and Welfare of the Child,²³ and the Rome Statute of the International Criminal Court.²⁴

A. The Fourth Geneva Convention

The four Geneva Conventions are a series of attempts by the global community to lessen the harsh effects of war and mandate some civility in its conduct. Starting with the first in 1864, and leading through to the second, third, and fourth—all of which followed the devastation of World War II in 1949—the Conventions as a whole have become a part of customary international law, applicable upon all nations, and seek to ensure the honorable conduct of war operations and the protection of soldiers, prisoners, wounded, sick, and civilians.

²⁰ *Id.* at 141.

²¹ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), Aug. 12, 1949, 75 U.N.T.S. 287 [hereinafter the Fourth Convention].

²² Convention on the Rights of the Child, Sept. 2, 1990, 1577 U.N.T.S. 3 [hereinafter the Convention].

²³ African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49 [hereinafter the African Charter].

²⁴ Rome Statute of the International Criminal Court, July 1, 2002, 2187 U.N.T.S. 90 [hereinafter the ICC Statute].

While the Geneva conventions did not specifically address the use of child soldiers in armed conflict, the Fourth Convention did recognize those civilian children under fifteen as a protected class. In particular, Article 14 mandates that all State Parties shall “...protect from the effects of war...children under fifteen...”²⁵ Article 24 goes on to state, “[t]he Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or separated from their families as a result of the war, are not left to their own resources.”²⁶ Finally, Article 77 of the Additional Protocol I, adopted in 1977, of the Geneva Conventions adds that State Parties shall protect children “against any form of indecent assault.”²⁷

These articles, limiting as they may appear, have served as a foundational basis for the future protection of children in times of armed conflict. Given their time in existence and near-universal adoption and adherence, they have become *jus cogens*—norms of international law to which no state can deny adherence. With that universality also comes their applicability on non-state actors and to non-international armed conflicts—those wars and skirmishes taking place outside the traditional nation on nation setting. The articles serve as a last resort for the protection of children and as a foundation for all other protection-oriented conventions that followed.

B. The Convention on the Rights of the Child

This Convention has become one of the fastest and most universally adopted international conventions in history, with less than a year passing between its introduction and its entry into force.²⁸ As the politics and borders of the world began to change in the late-80s, the world recognized a need to ensure the protection of children from the harmful effects of war, famine, and poverty.

In contrast to the previous Geneva Conventions, the Convention specifically prohibits State Parties from using child soldiers in armed conflicts. Article 38 states, “State Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces.”²⁹ The article goes on to mandate a broader protection in that “State Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.”³⁰

The first Optional Protocol to the Convention, entered into force in 2002, has since extended the age of minority from fifteen to eighteen. This Protocol, not surprisingly, was the subject of much debate on the issues of cultural relativism and the recognition of adulthood by various

²⁵ Fourth Convention, *supra* note 21, at art. 14.

²⁶ *Id.* at art. 24.

²⁷ Helen Berents, ‘*This Is My Story*’: *Children’s War Memoirs and Challenging Protectionist Discourses*, 101 INT’L REV. RED CROSS 459, 469 (2019).

²⁸ The Convention, *supra* note 22.

²⁹ *Id.* at art. 38(3).

³⁰ *Id.* at art. 38(4).

nations and peoples.³¹ Despite this, a majority of State Parties to the Convention have adopted the additional Protocols and thereby ensured the continued protection of minors from the recruitment into armed forces and use in armed conflicts.

C. The African Charter

This Charter was adopted by the Organization of African Unity (subsequently the African Union) in 1990 to address the serious problem of the use of child soldiers in armed conflict that was prevalent on the African continent. While it is only a regional convention, it is notable for going beyond the previous international agreements.

Articles 1 and 2 mandate that all State Parties shall abide by international humanitarian law and ensure that no child is recruited or takes direct part in hostilities.³² Article 3 goes beyond the traditional notions of treaty adherence and imposes the obligations of protection of children from hostilities on non-state actors by noting the provisions “shall also apply to children in situations of internal armed conflicts, tension and strife.”³³ This additional mandate addresses the issue, prevalent in many African nations at the time of its adoption and up to the present, of internal rebellions, civil wars, and coups d’état. Despite its non-applicability to nations not party to the African Union, it does provide a guide to future conventions and protocols that would impose a duty on all parties, state and non-state alike, to protect children from recruitment and use in armed conflicts.

D. The ICC Statute

After decades of debate and negotiation, the Rome Statute entered into force in 2002 and ushered in a new era of international criminal law. With this new international court, the perpetrators of the worst atrocity crimes would not be able to avoid justice. The International Criminal Court, established by the statute, seeks to investigate, prosecute, and hold responsible those individuals responsible for war crimes and crimes against humanity when their home nations are unable or unwilling to do so.

Of particular note for this discussion is Article 8, which lists the war crimes over which the Court will have jurisdiction. Subsection (2)(b)(xxvi) makes it an international war crime to conscript or enlist children under the age of fifteen into armed forces or to use them in hostilities.³⁴ Through this article, those within the borders of State Parties, either at the time of commission of the crime or subsequently when an arrest warrant is issued, become subject to the Court’s jurisdiction when they are found to have recruited or utilized child soldiers in armed

³¹ Alison Dundes Renteln, *The Child Soldier: The Challenge of Enforcing International Standards*, 21 WHITTIER L. REV. 191, 196 (1999).

³² African Charter, *supra* note 23, at art. 1-2.

³³ *Id.* at art. 3.

³⁴ ICC Statute, *supra* note 24, at art. 8(2)(b)(xxvi).

conflicts. As will be seen in the next section, this article has been utilized to bring to justice some of the worst abusers and opportunists in terms of the use of child soldiers.³⁵

III. CHILD SOLDIERS AND THE INTERNATIONAL CRIMINAL SYSTEM

To gain a better sense of the reality of the use of child soldiers and the application of the international criminal law system, it is helpful to look to a recently decided case before the International Criminal Court. The Prosecutor v. Bosco Ntaganda³⁶ concerns the recent conviction of a former rebel leader from the Democratic Republic of the Congo (DRC).³⁷ Among his eighteen charges was violation of the ICC Statute in recruiting and using child soldiers under the age of fifteen in armed conflict.³⁸ While all of his war crimes and crimes against humanity were severe, I feel, given the theme of this paper, focusing on the charge of recruitment and use of child soldiers is the most germane.

Bosco Ntaganda was a former rebel commander of the Forces Patriotiques pour la Libération du Congo (FPLC), the military wing of the rebel group Union des Patriotes Congolais (UPC), operating in the resource-rich Ituri region of eastern DRC.³⁹ Upon referral of his crimes in 2004 to the ICC by the DRC, a state party to the ICC Statute, an investigation was commenced, and subsequent arrest warrants issued.⁴⁰ In March 2013, in Kigali, Rwanda, Ntaganda surrendered himself to ICC custody.⁴¹ His subsequent trial, lasting from September 2015 to July 2019, ended with a verdict of guilty and a sentence of thirty years being imposed upon him for his multiple war crimes and crimes against humanity.⁴²

For the purposes of this paper, this case is relevant in that a notorious user and abuser of child soldiers was brought to justice. Additionally, some of the testimony of former child soldiers, under Ntaganda's command, can shed light on the reality of child soldiers as compared to the fictionalized portrayal of Beast of No Nations. By understanding these witness statements, one can better understand the unfortunate and brutal reality of child soldiers and see that the fiction presented by the book mirrors the reality faced by countless children in our modern world.

³⁵ See *infra* Part IV.

³⁶ Ntaganda case, *supra* note 3.

³⁷ See Crystal E. Lara, *Child Soldier Testimony Used in Prosecuting War Crimes in the International Criminal Court: Preventing Further Victimization*, 17 SW. J. INT'L J. 309, 310 (2011) (discussing the first case before the ICC of Thomas Lubanga (Prosecutor v. Thomas Lubanga Dyilo, ICC-01/04-01/06 (2012)), the supreme commander of the FPC/UPLC, and noting the conflicts in the DRC have led to 5.4 million deaths, with children accounting for 47 percent despite comprising only 19 percent of the general population).

³⁸ News Release, *ICC: Congo Warlord Guilty of Crimes Against Humanity*, HUMAN RIGHTS WATCH (July 8, 2019, 6:50 AM), <https://www.icc-cpi.int/drc/ntaganda>.

³⁹ Ntaganda Case, *Timeline*, INTERNATIONAL CRIMINAL COURT <https://www.icc-cpi.int/drc/ntaganda> (last visited April 17, 2021).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

In reviewing the testimony of one witness for the prosecution, designated P-0898 for anonymity purposes, the judgment opinion noted the witness,

[T]estified that in August 2002, when he was 13 years old, and at a time when the Lendu and the APC attacked Hema villages, killing people, including his uncle, he decided to join the UPC to protect the Hema civilian population. For that purpose, he told the soldiers who were already being trained that he wanted ‘to become like them’. The soldiers informed him that he needed to follow military training, whereupon he went to the training centre at the UPC HQ. He arrived at the centre with other people from the neighbourhood, some of whom were older than him and some of whom were of his age.⁴³

In this testimony, we are presented with a young man, thirteen at the time, who was put into a situation where he felt compelled to join the rebel group. The loss of family members, coupled with the death and chaos around him, led this young man to join, train, and act as a soldier. The parallels between this witness and the story as presented in the book discussed above are poignant. In a similar way, Agu was surrounded by fighting, chaos, and death. He had lost members of his family to the conflict ongoing in his nation. While witness P-0898’s joining of the rebel group may seem voluntary compared to the pressure-filled situation in which Agu joined, both illustrate the fine line between voluntary and involuntary service of child soldiers. It could be argued that both P-0898 and Agu voluntarily joined. For example, in the book Commandant asked, “[d]o you want to be soldier,” and Agu nodded in the affirmative.⁴⁴ These two child soldiers, one fiction and one not, illustrate that such a fine line can often be hard to distinguish. Was there enlistment in these rebel groups truly voluntary, or had the circumstances surrounding them compelled their enlistment?

Another witness for the prosecution, designated P-0010, illustrates the reality of rebel commanders utilizing child soldiers. The judgment opinion noted,

The witness testified to having been enlisted with the UPC/FPLC in 2002, when she was 13 years old. She stated she followed training in Rwampara and Mandro, served in Mr Ntaganda’s personal escort, and participated in UPC/FPLC military operations. She further testified about sexual violence she witnessed and experienced during her time with the UPC/FPLC.⁴⁵

In reading *Beasts of No Nation*, one can only hope that the use of child soldiers and infliction of such brutality upon their minds and bodies is solely the realm of fiction. As can be seen by the facts offered by witness P-0010, that is not the case. Much like Agu, this witness was enlisted by the FPLC at a very young age, was trained to be a fighter, and acted as a personal escort for Ntaganda. Despite Ntaganda’s refusal to acknowledge such things occurred, the

⁴³ Ntaganda Case, *supra* note 36, at ¶ 353.

⁴⁴ IWEALA, *supra* note 1, at 11.

⁴⁵ Ntaganda Case, *supra* note 36, at ¶ 89.

prosecution offered video evidence showing young children, armed with assault rifles, acting as his personal escort during recorded visits to training camps. Much like Agu, this witness found themselves recruited into a rebel group, trained to be a soldier, taken in by the commander, a person of strong personality and presence, and subjected to continuous physical, sexual, and emotional abuse. The power these rebel commanders have over the child soldiers under their charge, as depicted in the book, is all too real.

Finally, a witness for the prosecution, designated P-0883, demonstrates the unwelcoming reality many child soldiers face when they attempt to return to their previous lives. The judgment opinion noted,

The witness testified to having been abducted in October 2002, when she was 12 years old, on her way home from primary school, and taken to Bule camp for training, where she was mistreated and sexually abused. She stated that after having received treatment for an injury inflicted during a battle in Largu in March 2003, she returned to her village, where both her parents had passed away, and gave birth to a child without knowing who the father was.⁴⁶

This witness, abducted, forced to train and fight, sexually abused, and left with a fatherless child to care for, once again demonstrates the tragic reality of child soldiers. Despite some differences between this witness' reality and the fiction presented by Agu, the pattern of abuse and consequences of these events is most similar. Both the story presented in the book and this testimony presented in the trial demonstrate the difficulty faced by child soldiers, at least the ones who are lucky enough to return to their homes after the conflicts have ended. All too often, they are unable to process their new situations or come to terms with their past actions. More often than not, they are shunned by their communities for the actions they have committed and the involuntary abuses they have suffered.

IV. THE CONTINUED USE OF CHILD SOLDIERS AND CRITIQUES OF THE CURRENT SYSTEM

The use of child soldiers in armed conflicts is an injustice that continues to plague our world. One of the primary issues is the cultural differences in identifying the age of majority for participation in combat. Depending on the nation, region, history, or culture, the age of identifiable majority can vary by many years. After all, children in combat are not an uncommon part of history.⁴⁷ While they were traditionally in auxiliary roles, playing the battle calls or carrying supplies, their presence on the front lines was not uncommon.⁴⁸ For some, overcoming

⁴⁶ *Id.* at ¶ 174.

⁴⁷ MARK A. DRUMBL, REIMAGINING CHILD SOLDIERS IN INTERNATIONAL LAW AND POLICY 27-8 (2012).

⁴⁸ *Id.*

this historical tradition is not an easy task.⁴⁹ Some cultures do not see being a child and being a soldier as being incompatible.⁵⁰ Some traditional societies, adhering to past tribal and cultural norms, identify no fixed age at which children were permitted to participate in hostilities.⁵¹ There is a stark societal difference between these categorizations as understood in Western societies compared to those of other cultures, particularly in Africa and other regions that still practice more traditional ways of child-rearing.

Without global agreement and understanding of a fixed age of majority for participation in armed conflicts, the use of child soldiers will persist, particularly among those cultures that see nothing wrong with such participation or adhere to an earlier age of majority than that identified by the relevant international treaties. Without consensus and promoted awareness of the currently convention-recognized minimum age of eighteen, it is problematic to fault those who permit the voluntary admittance of child soldiers into their military ranks.

As can be seen in the fictional story and real-life witness excerpts from the Ntaganda case, it can be hard to draw an identifiable line between voluntarism and coercion by circumstance when it comes to children under eighteen enlisting with military groups.⁵² Are these child soldiers aware of what they are enlisting to do, or are they simply desperate to survive? As previously noted, cultures and even scholars differ on this issue. Despite the international conventions identifying eighteen as the appropriate age for such combat participation, debates—both psychological and anthropological—persist over the mental and emotional capacity of children to make such an informed decision.⁵³

Some scholars view the use of child soldiers as a modernized form of slavery and, at the very least, human trafficking.⁵⁴ Their vulnerability makes them easy prey, and it is hard to argue that their actions can be viewed as voluntary.⁵⁵ A problem at the heart of the issue is instability and a lack of rule of law. Developing nations, suffering from “political, economic, and social instability” are fertile ground for the coerced enlistment of children into armed groups.⁵⁶ Commanders are constantly looking for bodies to fill out their ranks. As older soldiers die in battle and become less readily available—often due to ongoing conflicts, shifting alliances, and disease—child soldiers are an “easily obtained” source of fighting power.⁵⁷ During the Sierra Leone civil war of the 1990s, it is estimated that roughly one million children were displaced and

⁴⁹ *Id.*

⁵⁰ DAVID M. ROSEN, *CHILD SOLDIERS: A REFERENCE HANDBOOK* 14 (2012).

⁵¹ *Id.* at 47.

⁵² See Renteln, *supra* note 31, at 202-3 (Discussing the phenomenon of child soldiers as a rite of passage in many societies, or the military serving as a substitute family, or religious, political, or economic motivations.).

⁵³ DRUMBL, *supra* note 47, at 17-18.

⁵⁴ Susan Tiefenbrun, *Child Soldiers, Slavery and the Trafficking of Children*, 31 *FORDHAM INT’L L.J.* 415, 417 (2008).

⁵⁵ *Id.* at 420.

⁵⁶ *Id.* at 421.

⁵⁷ Lara, *supra* note 37, at 314.

twenty-five thousand were forced to participate in hostilities.⁵⁸ Under such chaotic circumstances, it is hard to show that a child enlisting—even with a justifiable motivation to defend family, nation, and beliefs—is acting under a purely voluntary mindset. The prevalence of “forced conscription,” of children who have lost everything they know—their families, their homes, and their innocence—calls into question their ability to do anything on a voluntary basis.⁵⁹ Can actions taken through an innate will to survive truly be classified as voluntary?⁶⁰

In terms of liability, it can be argued that any actions in which a child soldier participated were done under duress and, therefore, lacked the necessary awareness and intent to show culpability.⁶¹ Of course, to hold this assessment as true we must again go to the debate of voluntarism versus coercion, and measure the totality of the circumstances to determine whether their actions were voluntary or if their age, maturity, and circumstances negated that possibility.

As was illustrated in the book with Agu being resettled at a mission along with the other boys, or some of the witnesses in the Ntaganda case being brought forth to give testimony and not to face charges, common decency and prosecutorial discretion mean many former child soldiers will not face charges for the actions they committed. However, this does not address the scars, both figurative and literal, they must carry for the rest of their lives. While there are many noteworthy programs that assist in their reintegration post-conflict, it is often hard to remedy the emotional and reputational damage done to them.

The international conventions and current international criminal system have come a long way in addressing the issue of child soldiers, clarifying the age of majority, and bringing to justice those who utilize minors in combat situations. Despite these great strides, much remains to be done. Unfortunately, the current focus of the international system, as is often the case, is on post-conflict remedies and prosecutions. This does little to protect those children whom now and, in the future, will be subjected to enlistment as soldiers. Without a realignment of the current system to focus not only on punishment but also on prevention, it seems likely that this problem will persist for the foreseeable future. Awareness of the current international understanding on the age of majority being eighteen must be made a priority. Additionally, addressing the root causes of enlistment, whether arguably voluntary or coerced, of child soldiers (i.e., social, economic, and political instability) is needed to ensure that situations do not continually arise where children are placed in impossible situations where a choice between fighting or death is their only option. Given the scale of addressing such issues, and the inability of the international community to come together on such issues, the concept of humanitarian intervention on behalf of affected children should be given greater weight. Once the world becomes aware of such illegal use of child soldiers, whether the conflict be international or non-international in nature,

⁵⁸ *Id.*

⁵⁹ *Id.* at 427.

⁶⁰ *Id.* at 314.

⁶¹ *Id.* at 80.

the global community should devise a system that recognizes the need for intervention and protection of the children affected, despite any issues related to regional or global politics or claims of sovereignty.

CONCLUSION

As one reads the novel, *Beasts of No Nation*, you are struck by the brutality of Agu's life. The actions by Commandant seem monstrous, almost inhuman. It is hard to imagine such things can be conjured onto a page by an author. As you continue through the story, through the abuse and killing, you must remind yourself that this is fiction. You tell yourself that this is an imagined world that is meant to keep the reader entranced and turning each page to see what happens next. Then, you seek out the reality of the child soldier and a case like that presented by the ICC's prosecution of Bosco Ntaganda. The comfort of a fictional shield is shattered. You realize all too clearly that the fictionalized story presented by Iweala is the unfortunate reality faced by numerous children throughout the world.

Iweala does an amazing job of presenting the themes of desperation, isolation, revenge, obedience, emulation, family, belonging, abuse, development, and rationalization in his novel. While the story is hard to endure, it provides a realistic glimpse into the lives of child soldiers and their motivations.⁶² You can see how a child can find themselves confronted with the often-limited option of death or participation in a violent military group. You can see how they progress, both in life experience and brutality. You better understand how someone so young becomes capable of actions so terrible. The novel gives you a foundation with which you can read the testimony of a former child soldier and have a better understanding for how and why they can participate in atrocities many of us would find unimaginable. The novel presents the world with a harsh reality that can better inform how we address the scourge of child soldiers so prevalent in our modern world.

The progression of international law over the past century has attempted to address and criminalize the use of child soldiers in armed conflicts. The Convention has outlawed their recruitment and use in conflicts, and the African Charter has extended that mandate, on a regional level, to non-international conflicts. The ICC Statute imposes criminal liability on those who violate these international norms. Some of the first cases before the newly constituted ICC in the early 2000s included charges of using child soldiers in violation of international conventions and resulted in convictions of those perpetrators.

Despite progress and some success, there is still more to do. Awareness of this problem is key. Understanding and agreement across nations and cultures of a standardized age of majority of eighteen needs to continue. A realistic and unified approach to protection and intervention of

⁶² See Madelaine Hron, "*Ora Na-Azu Nwa*": *The Figure of the Child in Third-Generation Nigerian Novels*, 39 *Research in African Literatures* 2, 28-29 (2008) (noting the child figure as critical in African and Nigerian literature and their place within the literature and debates of culture and society).

children at risk of recruitment must be sought by the international community. Absent prevention, the world must ensure that former child soldiers receive every needed resource necessary to reintegrate into society and address the trauma issues that are pervasive for survivors.

The fiction and reality of child soldiers is tragic. Whether reading a novel telling a fictionalized story or reading a witness statement recounting a lived or committed atrocity, this is an issue of a global society. It is disheartening when the most tragic and compelling work of fiction is only a small window onto the reality faced by so many child soldiers. Despite this, such fiction provides awareness and creates new dialogues. Hopefully, exposure to this problem and discussion of future solutions will lead to continued progress and lessen, or someday end, the terrible crisis of child soldiers.