

Chapter 1

An Introduction to Child Soldiering, Its Images, and Realities

Abstract Child soldiers are often victims of grave human rights abuses, yet, in some cases, they also participate actively in inflicting violence upon other persons. Nonetheless, the international discourse on child soldiers often tends to ignore the latter dimension of children’s involvement in armed conflict and instead focuses exclusively on their role as victims. While it might seem as though the discourse is hence beneficial for child soldiers as it protects them from blame and responsibility, it is important to realize that the so-called passive victim narrative entails various adverse consequences, which can hinder the successful reintegration of child soldiers into their families, communities, and societies. The first chapter provides an overview of the images and realities of child soldiering. After discussing the definition of the term child soldier, it gives a brief introduction to the relevant provisions in international law. Subsequently, the dominant images of child soldiers, as featured in the discourse on children’s involvement in armed conflict, and their influence on international policy will be discussed. The chapter then analyzes the recruitment of child soldiers as well as their experiences during and after armed conflict. Hereafter, it concentrates on determining why the exclusive focus on child soldiers’ victimization is not only inadequate but can even be harmful, before exploring notions of agency and accountability.

Keywords Definition • Policy • Images • Recruitment • International Law • Gender • Victim • Perpetrator • Passive Victim Narrative • Demon • Hero • Stigmatization • Agency • Accountability • Children’s Rights • Reintegration

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1.1 Introduction

It is commonly assumed that approximately 300.000 children¹ worldwide participate actively in armed conflict.² The most recent comprehensive report on the use of child soldiers, undertaken by the NGO Child Soldiers International, highlights that between January 2010 and June 2012, child soldiers were used in Afghanistan, Central African Republic, Chad, Colombia, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Iraq, Israel, Libya, Myanmar, the Philippines, Rwanda, Somalia, South Sudan, Sudan, Thailand, United Kingdom, Syria, and Yemen.³ The 2016 annual report of the UN Secretary-General on children and armed conflict, covering the period from January to December 2015, describes the recruitment of child

¹ The term "child" will be used to describe any person under the age of 18 years, see also UN General Assembly, Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3, Article 1 (hereinafter: CRC). While it is clear that a universal definition of childhood is fraught with contradiction (see hereinafter), legal scholarship requires clear categorizations and hence, this book will use the term "children" to describe individuals under the age of 18 years.

² See Office of the Secretary General's Envoy on Youth 2015. See also Rosen 2012, p. 1; Singer 2006, p. 30; Wessells 2006, p. 9. Reasons as to why it proves difficult to estimate the exact number of child soldiers are that commanders often hide child soldiers, that children often hide their age, that they are re-recruited, located in remote locations, perform non-visible functions, and often cross borders, see Drumbl 2012, p. 26.

³ See Child Soldiers International 2012, p. 20 et seq. The inclusion of the United Kingdom on this list of states might perhaps be surprising but it due to the fact that the UK deployed under-18-year-old soldiers into conflict zones. The report even contains an example of a 17-year-old child participating actively in combat during such deployment. See *ibid*, pp. 21–22.

soldiers in Afghanistan, Central African Republic, Democratic Republic of the Congo, Iraq, Mali, Myanmar, Somalia, South Sudan, Sudan, Syrian Arab Republic, and Yemen.⁴

While the participation of children in armed conflict was common throughout history,⁵ the recruitment and usage of child soldiers have only recently begun to garner international attention and condemnation.⁶ Scholars suggest that this growth in concern correlates with changed views about childhood and war,⁷ which have led to a common understanding of childhood and soldiering as diametrically opposed concepts.⁸ Yet, many scholars have also drawn attention to the fact that such an understanding is not universal but entirely dependent on the cultural context,⁹ as is true for concepts of childhood and adulthood in general.¹⁰

The stereotypical image of a child soldier is that of a pre-adolescent African boy, often posing with an AK-47,¹¹ yet it is important to draw attention to its main shortcomings: First, it must be noted that child soldiering is not an African phenomenon but exists in many other parts of the world.¹² Furthermore, estimates

⁴ UN General Assembly/Security Council, Children and Armed Conflict: Report of the Secretary-General, A/70/836-S/2016/360, 20 April 2016.

⁵ See e.g. Drumbl 2012, p. 26 et seq.; Denov 2010, pp. 21–23; Happold 2005, p. 4; Macmillan 2011, p. 67 et seq.; Rosen 2012, p. 3 et seq.

⁶ Happold 2005, p. 1. See also Beier 2011, p. 1 et seq.; Rosen 2005, p. 6; Rosen 2012, p. 3.

⁷ Happold 2005, p. 5; Rosen 2012, p. 3.

⁸ See Rosen 2012, p. 3.

⁹ For instance, as Myriam Denov describes: “The mobilization of the young is [...] not an unfamiliar reality in Sierra Leone and, in many instances, childhood and military life are not necessarily understood as either incompatible or contradictory”, see Denov 2010, p. 59. See also Rosen 2012, p. 47 et seq.; Utas 2003, p. 115 et seq.

¹⁰ See e.g. Agathangelou and Killian 2011, p. 17; Archard 2015, p. 41 et seq.; James and Prout 1997, p. 202 et seq.; Boyden and Levinson 2000, p. 28; Denov 2010, pp. 2–3; Drumbl 2012, p. 44 et seq.; Rosen 2012, p. 24 et seq.; Schafer 2004, p. 88; Schnabel and Tabyshaliev 2013, p. 11; Wessells 2006, p. 5 et seq. On the concept and definition of “youth”, see Kemper 2005, p. 8.

¹¹ See Beier 2011, p. 5; Denov 2012, p. 280; Happold 2005, p. 7. It is interesting to note that this stereotypical image is closely connected to assumptions about gender: For instance, if one would use the search engine Google to conduct an image-search for the term “child soldier,” 95 of the first 100 images portray pre-adolescent boys, most of them holding a large automatic weapon. Only five pictures are of girl soldiers. See <https://www.google.de/search?q=child+soldier&biw=1680&bih=897&tbm=isch&tbo=u&source=univ&sa=X&ei=pLfgVOCnJqSaygPx-IDwDg&ved=0CCMQsAQ> (last accessed March 2017).

¹² See Child Soldiers International 2012, p. 20 et seq.; UN General Assembly/Security Council 2014. See also Beier 2011, p. 3: “Too exclusive a focus on the global South has the unintended effect of pathologizing it and its childhoods, inscribing them once again as dangerous and either in need of ‘civilizing’ or simply beyond all hope;” Denov 2010, p. 6: “[H]ighly racialized and imbued with stereotypes, these child soldiers act as fodder for those ‘who seek to present African warfare as inexplicable, brutal and disconnected from ‘civilized’ world order,’” quoting: Aning and McIntyre 2004, p. 77.

suggest that the majority of child soldiers are adolescents,¹³ and lastly, this common image conceals the fact that a large number of child soldiers are female.¹⁴

It is important to note that child soldiers often fall victim to grave criminal offenses and human rights abuses, yet they also participate actively in inflicting violence upon other persons. Nonetheless, the international discourse on child soldiers tends to ignore the latter dimension of children's involvement in armed conflict and instead focuses exclusively on their role as victims. While it might seem as though the discourse is hence beneficial for child soldiers as it protects them from blame and responsibility, it is important to realize that this has also led to various adverse consequences, which can hinder the successful reintegration of child soldiers into their families, communities, and societies.

1.1.1 Aim and Structure of the Book

The aim of this book is to explore approaches towards addressing child soldiers' involvement in crimes under international law.¹⁵ The focus on crimes under international law was chosen because these crimes are defined as "the most serious crimes of concern to the international community as a whole."¹⁶ Hence, when a child soldier commits a crime under international law, this constitutes a particularly grave infringement of victims' rights and of the values of the international community. As a result, the exclusive focus on child soldiers' roles as victims seems inadequate in this case. The focus on crimes under international law is, however, not intended to suggest that the deliberations contained in this book¹⁷ are of relevance only for these crimes. Rather, it is suggested that their relevance for the gravest crimes should implicate their applicability to less grave violations.

The book is structured as follows: The first chapter will provide an overview of the images and realities of child soldiering. After discussing the definition of the

¹³ Betancourt et al. 2008b, p. 10; Brett and Specht (2004), pp. 2–3; Drumbl 2012, p. 50; Wessells 2006, p. 7; Schmidt 2007, p. 54.

¹⁴ It has been argued that 40% of all child soldiers worldwide are girls, see Bartolomei 2012, pp. 497, 501. Despite this, the international discourse on child soldiers has for a long time focused almost exclusively on the situation of boy soldiers, see Denov 2010, p. 11.

¹⁵ The term "crime under international law" refers to any violation of international law which entails the perpetrating individual's criminal responsibility. See Werle and Jeßberger 2014, p. 31 marg. no. 89. Its exact content will be discussed later on, see Sect. 1.3.2. The focus on crimes under international law also implies that this book will primarily deal with the experiences of child soldiers in conflicts where their participation in severe forms of violence is common. While some of the themes discussed herein are of relevance for all child soldiers (such as, for instance, some of the negative implications of the passive victim image), the emphasis lies on child soldiers who actively participate in atrocities.

¹⁶ Rome Statute of the International Criminal Court, 17 July 1998, Preamble, para 4 (hereinafter: Rome Statute of the ICC).

¹⁷ In particular the approach developed in Chap. 4 of this book.

term child soldier, it will give a brief introduction to the relevant provisions in international law. Subsequently, it will focus on discussing the dominant images of child soldiering, as featured in the international discourse on children's involvement in armed conflict, and consider how these can influence international policy. It will also analyze the recruitment of child soldiers as well as their experiences during and after armed conflict. Thereafter, the chapter will concentrate on determining why the exclusive focus on child soldiers' victimization is not only inadequate but can potentially even be harmful, before exploring notions of agency and accountability.

The second chapter is concerned with how non-prosecutorial transitional justice processes have addressed child soldiers' involvement in armed conflict, in particular their participation in atrocities. As such, it will analyze truth commissions, traditional processes, amnesties, reparations programs, and disarmament demobilization reintegration (DDR) processes that have been implemented for child soldiers in a variety of different states in the past.

The third chapter then deals with child soldiers and prosecutorial transitional justice. It will establish whether child soldiers can be held criminally responsible and prosecuted for having committed crimes under international law. It will also analyze selected issues of substantive international criminal law of relevance for child soldiers and discuss states' authorities and duties to prosecute perpetrators of crimes under international law before exploring the legality of amnesties for such crimes. Lastly, it will also consider the procedural rights of child soldiers who are prosecuted by criminal courts and the sentencing process as applicable to them.

The fourth chapter of this book is aimed at developing a new approach to achieve accountability for crimes under international law committed by child soldiers, which is called restorative transitional justice. The chapter will focus on the suitability of this approach with respect to crimes under international law and on its practical implementation in transitional societies. The analysis will then turn towards conceptualizing it as a means to address crimes under international law committed by child soldiers and discuss a variety of processes as well as their practical implementation.

The last part of this book contains the final conclusions, which have been developed in the form of 50 theses.

1.1.2 Definition of the Term Child Soldier

The first universal definition of the term child soldier was adopted at the "Symposium on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa," held by the NGO Working Group on the Convention on the Rights of the Child and UNICEF in Cape Town in 1997. The so-called Cape Town Principles define a child soldier as:

[A]ny person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms.¹⁸

Subsequently, UNICEF initiated a review of the Cape Town Principles, which led to the adoption of two new documents in the year of 2007: “The Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces or Armed Groups,”¹⁹ and “The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups.”²⁰ The Paris Principles use the term child associated with an armed force or armed group instead of child soldier and define this as:

[A]ny person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities.²¹

This definition is, in its content, similar to the definition adopted in Cape Town, however somewhat narrower in scope as it requires that the child has been “recruited or used” by an armed group or force whereas the Cape Town Principles even encompass “anyone accompanying” an armed group or force. Nonetheless, both definitions have in common that they are not limited to those children who participate actively in combat. Furthermore, both do not distinguish between forced and voluntary recruitment. This is of great importance because the distinction between forced and voluntary recruitment is very difficult to draw, which has even prompted some scholars to conclude that the recruitment of children in armed conflict can never be considered as truly voluntary.²²

The usage of the term “child associated with an armed force or armed group” in the Paris Principles constitutes a suitable alternative to the term “child soldier,” which seems to misleadingly imply a necessity to actively participate in hostilities in order to fall under the definition, and can also potentially conceal the

¹⁸ The Cape Town Principles and Best Practices (1997) Annex: Definitions, available at: http://www.unicef.org/emerg/files/Cape_Town_Principles%281%29.pdf (last accessed March 2017) (hereinafter: Cape Town Principles).

¹⁹ The Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces or Armed Groups (2007), available at: https://childrenandarmedconflict.un.org/publications/ParisCommitments_EN.pdf (last accessed March 2017) (hereinafter: Paris Commitments).

²⁰ The Paris Principles: Principles and Guidelines on Children associated with Armed Forces or Armed Groups (2007), available at: <http://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf> (last accessed March 2017) (hereinafter: Paris Principles).

²¹ Paris Principles, Principle 2.1.

²² The distinction between voluntary and forced recruitment will be discussed below, see Sect. 1.3.1. It will also be analyzed in Chap. 2, section “[The Recruitment and/or Usage of Child Soldiers as a Gross Violation of International Human Rights Law and/or Serious Violation of International Humanitarian Law](#)”.

involvement of women and girls.²³ However, at the same time, as Myriam Denov correctly points out, it poses the danger of “fail[ing] to adequately connote children’s active contribution to contemporary war, implying that they remain at the periphery.”²⁴

This book will employ the definition stipulated in the Paris Principles but it will nonetheless use the term child soldier due to its linguistically more convenient handling as well as the fact that this work deals with children who actively participate in armed conflict by committing crimes under international law. It is, however, of great importance to note that the term child soldier is a gender-neutral term which includes both boy and girl soldiers.

1.1.3 Child Soldiers in International Law

International law protects child soldiers by prohibiting their recruitment and usage in armed conflict. The prohibition of the recruitment and usage of child soldiers under the age of 15 years forms part of customary international law²⁵ and treaty law: The Rome Statute of the International Criminal Court criminalizes the recruitment and use of child soldiers under 15 years by labelling it as a war crime.²⁶ The Additional Protocols to the Geneva Conventions²⁷ prohibit the recruitment of children under 15 years into the armed forces and their direct participation in

²³ Denov 2010, p. 3: “[T]he stereotypical conceptualization of ‘soldier’ conceals the realities of women and girl’s participation in war as well as the many supporting roles that children take on during conflict.”

²⁴ Denov 2010, p. 3.

²⁵ See Palomo Suárez 2009, p. 253 et seq.; Waschefort 2015, p. 98 et seq.

²⁶ Rome Statute of the ICC, Article 8(2)(b)(xxvi) and (2)(e)(vii). It is noteworthy that while both cases prohibit the conscription and enlistment of child soldiers under the age of 15 years, subparagraph (b), applicable to international armed conflicts, refers only to “national armed forces” while subparagraph (e), applicable to non-international armed conflicts, refers to “armed forces or groups.” This distinction can be explained with reference to the travaux préparatoires, which demonstrate that the limitation to “national armed forces” was lobbied for by a number of Arabic states in order to avoid the Rome Statute’s application to young Palestinians joining the Intifada. See Cottier and Grignon 2016, Article 8 marg. no. 813; Waschefort 2015, p. 117. This issue also arose in the ICC’s Lubanga-trial, before the Trial Chamber held that the conflict was of non-international character. See ICC, Lubanga Dyilo, Pre-Trial Chamber, 29 January 2007, para 268 et seq.

²⁷ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 UNTS 3 (hereinafter: Additional Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 609 (hereinafter: Additional Protocol II).

hostilities,²⁸ and the Convention on the Rights of the Child prohibits the recruitment of child soldiers under 15 years into the armed forces.²⁹

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict³⁰ takes this protection a step further and stipulates that states parties shall take all feasible measures to ensure that members of their armed forces under 18 years do not take a direct part in hostilities.³¹ It also states that persons under 18 years of age shall not be compulsorily recruited into armed forces,³² and that armed groups are prohibited from recruiting and/or using persons under 18 years in hostilities.³³ The International Labour Organization Convention 182³⁴ categorizes forced or compulsory child recruitment for use in armed conflict as one of the worst forms of child labor and lists it as a form of slavery or practice similar to slavery.³⁵

It becomes clear that international law concentrates on restricting the participation of children in armed conflict. As a result, child soldiers—at least explicitly—feature only as victims in international law.³⁶ It has therefore been argued that due to this exclusive focus on prevention of and protection from recruitment and usage in armed conflict, international law tends to neglect the regulation of children's actual participation in armed conflict.³⁷

The previous considerations of the status of child soldiers under international law also raise the question as to whether it is correct to automatically categorize all child soldiers as victims in a legal sense.³⁸ While it is clear that child soldiers often suffer from specific violations, such as e.g. sexual violence or torture, it remains questionable as to whether the fact that they are recruited and/or used as child soldiers is sufficient to establish their status as victims. As has been discussed above, international criminal law, international humanitarian law, and international human rights law protect the following groups of child soldiers: child soldiers under

²⁸ Additional Protocol I, Article 77; Additional Protocol II, Article 43. See also Chap. 3, Sect. 3.2.3.1.

²⁹ CRC, Article 38. See also Chap. 3, section “[Convention on the Rights of the Child](#)”.

³⁰ UN General Assembly, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 25 May 2000 (hereinafter: Optional Protocol to the CRC on Armed Conflict). See also Chap. Two 4 (a) (1) (a).

³¹ Optional Protocol to the CRC on Armed Conflict, Article 1.

³² Optional Protocol to the CRC on Armed Conflict, Article 2.

³³ Optional Protocol to the CRC on Armed Conflict, Article 4(1).

³⁴ International Labour Organization (ILO), Worst Forms of Child Labour Convention, C182, 17 June 1999, C182 (hereinafter: ILO Convention 182).

³⁵ ILO Convention 182, Article 3(a). See also Rishikesh 2008, pp. 85–86.

³⁶ See James and Prout 1997, p. 198: “[I]nternational law has traditionally embodied the image of the dependent child, the potential victim;” Manirakiza (2008–2009), p. 719.

³⁷ See Happold 2005, p. 1. See also Chap. 3, Sect. 3.7.

³⁸ The concept of a victim in a legal sense is here understood to require a concrete violation of legal rights. A victim in a legal sense can, for instance, have suffered from a criminal offense, a international human rights law violation, or a violation of international humanitarian law.

the age of 15 years recruited, both voluntarily and/or forcibly, and/or used by both armed groups and armed forces;³⁹ child soldiers over the age of 15 years recruited, both voluntarily and/or forcibly, and/or used by armed groups;⁴⁰ and child soldiers over the age of 15 years recruited forcibly and/or used by armed forces.⁴¹ Child soldiers over the age of 15 years who are recruited voluntarily by armed forces are, however, not protected under any of these legal regimes. Despite the fact that this exclusion can rightly be regarded as highly problematic,⁴² the current legal situation bears the consequence that it would be incorrect to automatically categorize all child soldiers as victims in a legal sense in absence of any specific violations.

1.2 Images of Child Soldiers and Their Influence on International Policy

Media coverage, literary fiction, reports by NGOs and humanitarian organizations, and policy papers by governmental and inter-governmental institutions all paint certain images of child soldiers. These can be divided into two predominant, seemingly contrastive, categories: the image of a passive victim without agency and the dangerous demon image.⁴³ As Myriam Denov describes, child soldiers are either portrayed as “hapless victims”⁴⁴ or, on the other hand, as “dangerous and disorderly”⁴⁵ and as “evil sociopaths.”⁴⁶ It is important to note that these images serve to underline and further different objectives.

1.2.1 *The Passive Victim Image*

The passive victim image serves to arouse attention and concern, often times in order to ensure support and funding for a certain humanitarian or other

³⁹ Rome Statute of the ICC, Article 8(2)(b)(xxvi) and (2)(e)(vii); Additional Protocol I, Article 77; Additional Protocol II, Article 43; CRC, Article 38.

⁴⁰ Optional Protocol to the CRC on Armed Conflict, Article 4(1); ILO Convention 182, Article 3(a).

⁴¹ Optional Protocol to the CRC on Armed Conflict, Article 2; ILO Convention 182, Article 3(a).

⁴² See Chap. 2, Sect. 2.6.1.

⁴³ Denov 2010, 6-7; Happold 2005, p. 1; McEvoy-Levy 2011, p. 157. These images of child soldiers also, on a broader scale, reflect images of childhood in general: As Jo Boyden has pointed out, “highly selective, stereotyped perceptions of childhood - of the innocent child victim on the one hand and the young deviant on the other - have been exported from the industrial world to the South”, see James and Prout 1997, p. 197.

⁴⁴ Denov 2010, p. 7.

⁴⁵ Denov 2010, p. 6.

⁴⁶ Denov 2010, p. 6.

organization's mandate.⁴⁷ In the case of child soldiers, it therefore emphasizes children's vulnerability and innocence.⁴⁸ It is important to realize that eliciting sympathy for victims requires the construction of a completely helpless victim "spontaneously acceptable to Western viewers,"⁴⁹ without any form of agency or any form of involvement in the conflict.⁵⁰ Hence, humanitarian organizations construe victims as "unambiguously innocent."⁵¹ This is of particular importance in the case of child soldiers, because the voluntary participation of children in violence stands in diametrical opposition to the entrenched modernist concepts of childhood, which emphasize the vulnerability and innocence of childhood.⁵² It should be noted that the victim image is particularly often used in the portrayal of girl soldiers,⁵³ *inter alia*, because gendered stereotypes feed into the innocent victim construction.⁵⁴ Mark Drumbl draws attention to the ambiguities inherent in the passive victim image, construing the child soldier as "a helpless object manipulated locally by adult malevolence, yet at the same time to be rescued transnationally by adult humanitarianism."⁵⁵

Furthermore, it must be noted that the passive victim image frames children's participation in armed conflict, and particularly their participation in violence, exclusively in coercive terms: As such, it is claimed that their "so-called 'voluntary recruitment' is always a misnomer."⁵⁶ Moreover, according to this narrative, child

⁴⁷ Drumbl 2012, p. 36; Hart and Tyrer 2006, p. 9; Okano 2013, p. 191 et seq.

⁴⁸ See Schafer 2004, p. 87; Wessells 2006, p. 28 et seq.

⁴⁹ Braumann 1993, p. 150.

⁵⁰ Braumann 1993, p. 150 et seq.

⁵¹ Carpenter 2005, p. 316.

⁵² Honwana 2005, p. 37. See also Martins 2011, p. 437: "The construed features of this patterned characterization [of child soldiers] are obvious. First, it is deeply rooted in a concept of childhood as a state of passivity and vulnerability, which demands protection and is connected to the sheltering functions of family and formal schooling. This explains why 'childhood', though biologically defined through a rigid age-threshold, can be considered 'lost' when the standards of protection and education defined by the North are violated. Second, these descriptions aim at creating a status of unquestionable victimhood and innocence, regardless of the particularities of age, context and culture." It must also be noted that because childhood is connected to innocence and because of the required unambiguously innocent victim construction, older children, i.e. youth, often remain absent from humanitarian organizations' portrayals of child soldiers and in some cases even from their work. See also Schwartz 2010, pp. 11–12.

⁵³ Denov 2010, p. 13.

⁵⁴ Carpenter 2005, p. 316: "Due to deep-rooted gender assumptions, because adult men and boys may be viewed as 'potential participants' in any society, journalists assume evidence of male victimization will elicit less sympathy; women make better symbolic victims, especially in war-time, precisely because they - either as bystanders or as mothers of helpless children - can be seen as innocent." This issue will be explored further on in this chapter, see Sects. 1.3.3 and 1.4.

⁵⁵ Drumbl 2012, p. 6.

⁵⁶ No Peace Without Justice and UNICEF Innocenti Research Centre 2002, p. 73. See also Sect. 1.3.1 and Chap. 2, section "The Recruitment and/or Usage of Child Soldiers as a Gross Violation of International Human Rights Law and/or Serious Violation of International Humanitarian Law".

soldiers only commit crimes because they are forced to do so, because they are brainwashed and manipulated by adults, because the frequent use of drugs and alcohol has impaired their senses, and/or because extreme fear of their commanders pushed them to do these things.⁵⁷ No child soldier ever commits a crime in the absence of coercive external circumstances, nor can he/she ever derive any form of satisfaction from the participation in violence, and hence, no form of responsibility whatsoever—be it legal or even just moral—can be imposed on the child.⁵⁸ It is interesting to note, that this framing stands in stark contrast to the treatment of children who commit criminal offenses—even much less grave offenses than the ones often committed by child soldiers—outside the context of an armed conflict.⁵⁹ Moreover, as Drumbl rightly points out: “This juxtaposition does not align with international law’s perception of extraordinary crimes under international law as being of greater gravity than ordinary common crimes.”⁶⁰

1.2.2 *The Dangerous Demon Image*

The second dominant image of child soldiers—that of a demon—also serves as a strategy to attract attention and elicit concern, but through shocking the audience. This can serve to fulfill a sensationalist appetite, which is why it is common in media reporting.⁶¹ The dangerous demon image thus often goes hand in hand with a sensationalization of violence,⁶² and in case of adolescent girl soldiers sometimes a sexualization of violence.⁶³ It is also important to note that the demon image is

⁵⁷ Drumbl 2012, pp. 15, 81; Martins 2011, p. 437: “There is never room for the possibility of agency, even of a limited or tactical sort. When children are authors of war crimes, these are either omitted from the global portrait (harassing, looting and raping defenceless civilians are never mentioned) or said to have been committed under the effect of drugs, under death threats or as a result of brainwashing.” See also No Peace Without Justice/UNICEF Innocenti Research Centre, International Criminal Justice and Children, 2002, p. 34: “Children, mostly from poor families, may be coerced into participating in crimes, either threatened, indoctrinated, manipulated or drugged.”

⁵⁸ Drumbl 2012, p. 15; Martins 2011, p. 437.

⁵⁹ Drumbl 2012, p. 128 et seq.; Fisher 2013, pp. 72–73.

⁶⁰ Drumbl 2012, p. 128.

⁶¹ Denov 2010, p. 6, giving the following examples from newspaper articles: “drug crazed child soldier kill like unfeeling robots,” “Liberian boy soldiers leave a swathe of ruin,” “When they do return to civilian life, they are walking ghosts – damaged, uneducated pariahs.” See also Boothby et al. 2006, p. 88: “[J]ournalistic accounts labelled Mozambique’s children as a ‘lost generation’ and ‘future barbarians.’”

⁶² See also McEvoy-Levy 2011, p. 157.

⁶³ Coulter 2009, p. 140. See also Itano, The Sisters-in-Arms of Liberia’s War, The Christian Science Monitor, 26 August 2003: “Black Diamond could be the prototype for an action hero, a sort of African ‘Lara Croft.’ She’s all sleek muscle and form-fitting clothes, with an AK-47 and red beret. She has a bevy of supporting beauties, equally stylish, who loiter nearby, polished

particularly prevalent when it comes to a specific group of child soldiers, namely those involved in terrorist activities.⁶⁴

1.2.3 *Common Features*

While both images seem to stand in diametrical opposition, there are some features that both have in common, such as, for instance, the portrayal of child soldiers as damaged goods: In the victim image, child soldiers are damaged because they are severely traumatized,⁶⁵ and in the demon image, they are damaged because the participation in conflict has rendered them evil and dangerous. Furthermore, in both images “child soldiers are exoticized, decontextualized and essentialized,”⁶⁶ and both images portray and maintain “prevailing colonial and paternalistic relations.”⁶⁷ Similarly, it has been noted that while the demon image is of particular prevalence in the depiction of conflict in the global South, notably Africa, and thereby reinforces racial stereotypes,⁶⁸ the same is true for the passive victim image, which can “inadvertently pathologize entire social structures by presenting children as needing to be saved from their communities, from their cultures, and from their families.”⁶⁹

1.2.4 *Influence on International Policy*

It is important to realize that these images of child soldiers also form part of the international policy on child soldiers.⁷⁰ This is particularly true for the victim image: National and international institutions and agencies as well as governmental and non-governmental organizations, especially those with a focus on humanitarian work, strongly propagate the passive victim image of child soldiers.⁷¹ As such, this

(Footnote 63 continued)

fingernails clutching the cold steel of semi-automatic weapons.”, available at: <http://www.csmonitor.com/2003/0826/p07s01-woaf.html> (last accessed March 2017).

⁶⁴ Foran 2011, p. 205 et seq.: “[N]arratives of childhood innocence can be problematic via a reading of children and youth whose race is deemed dangerous within the ‘war on terror.’ These children are more often afforded articulations that fall in line with ideas of deviance, though often not without the former assumption of an inherent innocence that must be restored.”

⁶⁵ Drumbl 2012, p. 7.

⁶⁶ Denov 2010, p. 13.

⁶⁷ Denov 2010, p. 9.

⁶⁸ Drumbl 2012, p. 10.

⁶⁹ Drumbl 2012, p. 10.

⁷⁰ Denov 2010, p. 7.

⁷¹ Denov 2010, p. 8; Drumbl 2012, p. 8-9, 51 et seq.; Lee 2009, p. 9 et seq.; Liefwaard 2013, p. 162; McEvoy and McConnachie 2012, p. 533.

image can be regarded as the most dominant and formative image in the international discourse on child soldiers.⁷² Nonetheless, it must be noted that even the demon image has influenced international policy on child soldiers: For instance, former US Ambassador to the UN, Madeleine Albright, in her statement to Security Council in 1996, described child soldiers in Liberia as “toting automatic weapons, slaughtering innocent civilians, and ignoring the rule of law” while stating that they “have no identity other than through the weapons they carry.”⁷³

The first case before the International Criminal Court (ICC), dealing with the recruitment and usage of child soldiers in the Democratic Republic of the Congo by the Union of Congolese Patriots (UPC) commander Thomas Lubanga Dyilo, serves as an interesting example of how international policy can influence international criminal justice. In this case, ICC Prosecutor Luis Moreno Ocampo described child soldiers in the following way during the opening remarks:

Hundreds of children still suffer the consequences of Lubanga’s crimes. They were 9, 11, 13 years old. They cannot forget what they suffered, what they did, what they saw. They cannot forget the beatings they suffered, they cannot forget the terror they felt and the terror they inflicted. They cannot forget the sounds of the machine guns, they cannot forget that they killed. They cannot forget that they raped, that they were raped. Some of them are now using drugs to survive, some of them became prostitutes and some of them are orphaned and jobless.⁷⁴

The picture painted by Moreno Ocampo portrays child soldiers as severely traumatized, permanently damaged victims. As such, it freezes child soldiers’ identities to a state of permanent victimhood.⁷⁵ While the narrative does not deny their active participation in violence against others, this violence is framed in terms of how it harms child soldiers themselves.

1.2.5 *The Hero Image*

Alongside these two dominant narratives on child soldiers, which have also influenced international policy, exists a third image, namely that of child soldiers as

⁷² Drumbl 2012, p. 8.

⁷³ Denov 2010, p. 7, citing to: Cain 1999, p. 296. Similarly, in 2007, the former French foreign minister, Philippe Douste-Blazy, at a conference on children and armed conflict depicted child soldiers as a time bomb that threatens stability and growth. See Denov 2010, p. 7, citing to: BBC News, Child soldiers ‘are a time bomb’, 5 February 2007, available at: <http://news.bbc.co.uk/2/hi/europe/6330503.stm> (last accessed March 2017).

⁷⁴ ICC, Lubanga Dyilo, Opening Statement Luis Moreno-Ocampo and Fatou Bensouda, 26 January 2009 (no page numbers) (on file with author).

⁷⁵ Mark A. Drumbl, in this regard, speaks of the portrayal of child soldiers as “prisoners of their past”, see Drumbl 2012, p. 154. See also Fisher 2013, p. 49.

heroes. While this image was common in the past, for instance with regard to young people's participation in the American Civil War or in the two World Wars,⁷⁶ it is far less common nowadays and differs significantly from the traditional hero image. The latter celebrated young people's bravery and military ability and their young age was seen as a particularly heroic characteristic.⁷⁷ This was at a time when childhood and war were not seen as irreconcilable opposites but, on the contrary, their interrelation was perceived as desirable. In contrast, the new hero image instead focuses on the ability to overcome immense difficulties as a heroic quality: The child soldier does not become a hero because of his/her soldiering but despite it.⁷⁸ This implies that child soldiers are not celebrated for their heroic actions during participation in conflict but for their capacity to leave this past behind, i.e. for their civilian redemption.⁷⁹

However, beside this prevailing new hero image, there are instances in which the old hero conception still seems to hold, such as the image of a young freedom fighter who selflessly participates in a rebellion to save his/her people from oppression. Yet, it must be noted that this image tends to exist only on a local level,⁸⁰ while remaining absent from the international discourse on child soldiers.

1.3 Child Soldiers' Experiences and Their Gendered Dimensions

The experiences of child soldiers can generally be divided into three stages: recruitment, experiences during conflict, and post-conflict experiences.

⁷⁶ Martins 2011, p. 435; Rosen 2005, pp. 5–6. See also McEvoy-Levy 2011, p. 161, reflecting on this image in Northern Ireland.

⁷⁷ See Drumbl 2012, p. 27 et seq.; Rosen 2005, p. 6.

⁷⁸ See Denov 2010, p. 9 et seq.

⁷⁹ A child soldier, according to this new hero image, overcomes the hardships suffered and still manages to become a successful adult, such as a famous writer or musician, at best while using his/her status as a former child soldier to raise awareness for the cause of ending the recruitment of child soldiers in armed conflict. See Denov 2010, pp. 9–10. This hero image can, for instance, be found in US media coverage on child soldiers. Particularly well-known examples are US-based former child soldiers Grace Akallo (former child soldier from Uganda, who has written a best-selling biography and subsequently founded an NGO in the US working towards ending the use of child soldiers), Ishmael Beah (a former child soldier from Sierra Leone, published his bestselling biography and a second novel, and is advocating against the use of child soldiers), and Emmanuel Jal (a former child soldier from South Sudan, now a famous musician and peace activist).

⁸⁰ Drumbl 2012, pp. 8–9.

1.3.1 Recruitment

Child soldiers are recruited into armed forces or armed groups in multifold ways, which can generally be divided into three categories: compulsory, forced, and voluntary forms of recruitment.⁸¹

Compulsory recruitment or conscription refers to cases where the recruit is under a legal obligation to perform military service.⁸² Forced recruitment means that the recruit has no choice but joining the group, for instance because he/she is abducted.⁸³ Voluntary recruitment is based on an exercise of free will on part of the recruit.⁸⁴

1.3.1.1 The Voluntary Recruitment Controversy

While the distinctions between the different forms of recruitment are clear on paper, they are difficult to draw in reality as the extremely constrained sets of choices available to children affected by armed conflict blur the line between forced and voluntary recruitment.⁸⁵ Hence, the voluntary recruitment of child soldiers is a highly controversial topic. Scholars often draw attention to the fact that child soldiers find themselves in highly coercive environments and hence argue that the voluntary nature of their actions can be doubted.⁸⁶ Some even claim that the recruitment of child soldiers can never be considered as truly voluntary because children lack the capacity to volunteer to join armed forces or groups.⁸⁷

⁸¹ Happold 2005, p. 8.

⁸² Happold 2005, p. 8.

⁸³ Happold 2005, p. 8.

⁸⁴ Happold 2005, p. 8.

⁸⁵ Goodwin-Gill and Cohn 1994, pp. 23–24.

⁸⁶ See e.g. Brett and Specht (2004), p. 105 et seq.; Honwana 2006, p. 37; Wessells 2006, pp. 32–33.

⁸⁷ See e.g. No Peace Without Justice and UNICEF Innocenti Research Centre 2002, p. 73; Singer 2006, p. 62; UN General Assembly 1996, para 38. With regard to child soldiers under the age of 15 years, this argument was made during the trial of Thomas Dyilo Lubanga before the ICC, where two expert witnesses claimed that children under 15 years lacked the capacity to consent. See ICC, Lubanga Dyilo, Trial Chamber, 14 March 2012, para 610: “The expert witness, Elisabeth Schauer (CHM-0001), suggested in her report and during her evidence before the Chamber that from a psychological point of view children cannot give ‘informed’ consent when joining an armed group, because they have limited understanding of the consequences of their choices; they do not control or fully comprehend the structures and forces they are dealing with; and they have inadequate knowledge and understanding of the short- and long-term consequences of their actions. Ms Schauer (CHM-0001) concluded that children lack the capacity to determine their best interests in this particular context;” and para 615: “In Ms Coomaraswamy’s expert testimony before the Chamber she suggested that since children under the age of 15 cannot reasonably give consent [...] Children who ‘voluntarily’ join armed groups mostly come from families who were victims of killing and have lost some or all of their family or community protection during the

It is important to acknowledge that the factual determination of the mode of recruitment is complex, particularly for children. Even if one views children as capable actors and hence recognizes their capacity to make their own decisions for their future, one must acknowledge that children have a very limited set of possibilities in armed conflict. If we consider, for example, a child whose parents were killed and who joins an armed group to get better access to resources and protection, we are able to understand the disconcerting effect of labelling such actions as voluntary and hence may comprehend the vehement opposition to the concept of voluntary recruitment of child soldiers exhibited by some scholars. It is therefore important to realize that voluntary recruitment must always be interpreted in relation to the limited set of possibilities that a child has in an armed conflict situation,⁸⁸ and thus, labelling a certain recruitment situation as voluntary ought to be treated with great caution.

Nonetheless, it would be equally problematic to conclude that voluntary recruitment should be completely disregarded. On the contrary, acknowledging and accepting the concept of self-defined voluntary recruitment is of great importance in acknowledging child soldiers as capable social actors. Self-defined voluntary recruitment refers to cases where the child soldier him-/herself sees his/her recruitment as voluntary. Denying child soldiers' capacity to join an armed force or group voluntarily in these cases would also mean that children's own views of their experiences are not taken seriously. The way of joining an armed group often determines the way in which a child perceives its role within the armed group, and some studies show that the different forms of recruitment can have a decisive impact on the psychosocial health of former child soldier: Children who volunteered are less likely to suffer from psychosocial problems after their demobilization than children who were forcibly conscripted.⁸⁹

Furthermore, if the child's reasons for joining are not taken seriously, an invaluable opportunity to explore possible underlying root causes of the conflict is missed. As a result, these causes might not be addressed and resolved, thereby hindering the transition into a peaceful society. Hence, it is important to pay attention to the particular way in which a child soldier joins an armed group or force in order to be able to adequately respond to his/her involvement in armed conflict. It is therefore important to realize that while some children are abducted and forced to

(Footnote 87 continued)

armed conflict," and para 617: "In all the circumstances, the Chamber is persuaded that the Statute in this regard is aimed at protecting vulnerable children, including when they lack information or alternatives. The manner in which a child was recruited, and whether it involved compulsion or was 'voluntary', are circumstances, which may be taken into consideration by the Chamber at the sentencing or reparations phase, as appropriate [...]."

⁸⁸ See Denov and Ricard-Guay 2013, p. 477.

⁸⁹ Kohrt 2007; Kanagaratnam et al. 2005, p. 511.

join, other children make a conscious decision to join an armed group or force.⁹⁰ This realization is of great significance due to the fact that some studies suggest that the majority of all child soldiers define their own recruitment as voluntary.⁹¹

It is, however, equally important to emphasize that the acknowledgment of children's capacity to join armed forces or groups voluntarily, should in no way diminish the protections granted to child soldiers. It is therefore of essential importance to point out that voluntary recruitment does not provide a defense to the crime of conscripting, enlisting and/or using child soldiers as contained in the Rome Statute of the ICC,⁹² nor should it have the effect of excluding child soldiers from the right to receive reparations.⁹³

1.3.1.2 Child Soldiers' Reasons for Recruitment

If we examine the reasons as to why children choose to join an armed force or group, it becomes clear that one important reason is ideology.⁹⁴ Other reasons are getting better access to necessary resources, and to escape from poverty, domestic exploitation, violence, or sexual abuse.⁹⁵ Some children assume that they will be safer when associated with an armed group.⁹⁶ Others join to ensure the safety of their families or to seek revenge because they and their families have been victimized by other armed groups or forces.⁹⁷ Some girls have also explained that they

⁹⁰ The prevalence of either form of recruitment seems to largely depend on the conflict context and on the identity of the armed force or group. In Northern Uganda, for instance, most children reported that they had been abducted. See e.g. Coulter et al. 2008, p. 9. In Sierra Leone, on the other hand, one has to distinguish between recruitment by the RUF and recruitment by the CDF and the Kamajors: In the former case, the vast majority of children were abducted while in the latter two cases, most children joined voluntarily. See Human Rights Watch 2005, p. 11.

⁹¹ See e.g. Dumas and de Cock 2003, p. viii: In Burundi, the Congo, the DRC and Rwanda "two out of three present or former child soldiers surveyed said that they took the initiative of enrolling themselves 'voluntarily'"; UNICEF 2002, p. 19: "According to the children, 57 per cent of the children had volunteered and 24 per cent stated they were forced or coerced to join." See also Drumbl 2012, p. 62 et seq. (with further references); Waschefort 2015, p. 47.

⁹² See ICC, Lubanga Dyilo, Pre-Trial Chamber, 14 May 2007, para 247; ICC, Lubanga Dyilo, Trial Chamber, 14 March 2012, para 616 et seq. However, the court held that the voluntary nature of recruitment (i.e. enlistment) can be taken into account at the sentencing stage, see ICC, Lubanga Dyilo, 10 July 2012, Trial Chamber, paras 37, 98. But see ICC, Lubanga Dyilo, 10 July 2012, Trial Chamber, Dissenting Opinion of Judge Odio Benito, para 24 et seq. See also Chamberlain 2015, p. 114 et seq., arguing that "consent is impossible and legally irrelevant" for children under 15 years of age.

⁹³ This will be discussed further on in this book, see Chap. 2, section "The Recruitment and/or Usage of Child Soldiers as a *Gross Violation of International Human Rights Law and/or Serious Violation of International Humanitarian Law*".

⁹⁴ Wessells and Kostelny 2009, pp. 110–111; UN General Assembly 1996, para 43.

⁹⁵ Denov and Ricard-Guay 2013, pp. 476–477.

⁹⁶ Denov and Ricard-Guay 2013, pp. 476–477. See also Bartolomei 2012, pp. 497, 503.

⁹⁷ Wessells 2006, p. 49; UN General Assembly 1996, para 41.

saw joining an armed group as a way of empowerment and to gender equality.⁹⁸ Many children also join because they expect power, glamour, and excitement.⁹⁹

1.3.1.3 Recruiters' Reasons for Recruitment

If we now turn to the reasons as to why children are targeted by armed forces and armed groups for recruitment and usage in armed conflict, we find that these include manpower shortage, the alleged increased stamina and docility of children, the fact that they are seen as manipulable and easily indoctrinated, their alleged tendency to follow orders, the fact that they are viewed as less rational and hence fearless, and that they are seen as having a lesser developed sense of self-preservation.¹⁰⁰

1.3.2 *Experiences During Conflict*

Both girl and boy soldiers serve multiple roles during armed conflict. As one can see from the above definitions of the term child soldier, they are used, *inter alia*, as spies, messengers, porters, medics, bodyguards, and domestic workers.¹⁰¹ Additionally, many are trained as fighters and participate actively in combat.¹⁰² Child soldiers' experiences can generally be categorized by a high degree of violence of which they are both victims as well as perpetrators.

1.3.2.1 Child Soldiers as Victims

While this book concentrates on the role of child soldiers as perpetrators of serious crimes, understanding how child soldiers are victimized is of utmost importance in any discussion on child soldiers as perpetrators, as their victimization sets the frame in which the discussion of their participation in violence needs to be situated: Only through understanding their victimization, is it possible to understand their perpetration and to adequately address this issue.

As for the multiple ways in which child soldiers are victimized, it is important to realize that in some conflicts, such as in Colombia, Sierra Leone, and Uganda, child soldiers are initiated into armed groups by being forced to commit violence,

⁹⁸ Brett 2004, p. 33 et seq.; Denov and Ricard-Guay 2013, p. 477; Denov 2010, pp. 40–41, giving multiple examples from a range of different countries.

⁹⁹ Wessells 2006, p. 50 et seq.

¹⁰⁰ Happold 2005, pp. 10–11; Rosen 2012, p. 41; UN General Assembly 1996, para 34; Wessells 2006, p. 33 et seq.

¹⁰¹ See Happold 2005, pp. 10–11; Rosen 2012, p. 41; UN General Assembly 1996, para 34 et seq.; Wessells 2006, p. 71.

¹⁰² Coulter et al. 2008, pp. 9–12. See also Baines 2011, p. 484; Wessells 2006, p. 97 et seq.

sometimes against their own families and communities.¹⁰³ During their association with an armed force or armed group, child soldiers suffer immensely from psychological as well as physical violence: They are, in many cases, threatened, beaten, tortured, mutilated, sexually victimized, exploited, enslaved, or killed.¹⁰⁴

In order to capture the full dimension of child soldiers' victimization, it is important to pay particular attention to the forms of gender-based violence committed against child soldiers. Gender-based violence has traditionally often been understood as synonymous with violence against women.¹⁰⁵ However, this book will employ a wider definition and understand gender-based violence as "violence that is directed at an individual based on her or his specific gender role in a society."¹⁰⁶ As such, gender-based violence does not only refer to violence committed against girl soldiers but includes violence against boy soldiers if they are targeted because of their socially constructed gender role. Gender-based violence includes sexual violence but it is important to note that the latter is "only one variation of GBV [: gender-based violence] that periods of armed conflict and consequent social disruption exacerbate."¹⁰⁷

As a starting point for reflecting on child soldiers' experiences of gender-based violence, it is useful to emphasize the fact that armed conflict constitutes the ultimate threat to security, which is undeniably a gendered subject. It is contested whether girls and women are more vulnerable due to their gender and physical disadvantages,¹⁰⁸ or whether they are not more vulnerable than men *per se* but are made more vulnerable due to previously existing gender inequalities and power hierarchies.¹⁰⁹ In both cases, it is important to realize that because security is gendered, war has a different impact on women and on men, both during armed conflict and after it ends.¹¹⁰

Beginning with sexual violence as a sub-category of gender-based violence, it is important to highlight that girl soldiers suffer immensely from various forms of sexual violence, including, for example, rape, sexual enslavement, genital violence, enforced sterilization, and forced impregnation.¹¹¹ This is a well-known and widely discussed fact in the literature on girl soldiers.¹¹² Yet, in contrast, very little attention is paid to the fact that boy soldiers suffer from sexual violence as

¹⁰³ See e.g. Denov 2010, pp. 104–105; Human Rights Watch 2008; Wessells 2006, p. 59–60.

¹⁰⁴ UN General Assembly/Security Council 2014; UN General Assembly 1996, para 44 et seq.

¹⁰⁵ Terry 2007, p. xiv.

¹⁰⁶ Benjamin and Murchison 2004, p. 3.

¹⁰⁷ Ward 2002, p. 8.

¹⁰⁸ Denov and Ricard-Guay 2013, p. 478.

¹⁰⁹ Puechguirbal 2012, p. 8.

¹¹⁰ Puechguirbal 2012, p. 4.

¹¹¹ See e.g. Baines 2011, p. 477; Coulter et al. 2008, pp. 9, 12; Mazurana and Carlson 2006, p. 5.

¹¹² With regard to girl soldiers, the focus of the discussion often lies exclusively on their role as victims of sexual violence. This can also have problematic effects. This issue will be explored in more detail below, see further on in this chapter, Sects. 1.3.3 and 1.4.

well.¹¹³ Sexual violence committed against men and boys during armed conflict has been described as “human rights’ last taboo,”¹¹⁴ which seems like a fitting description when taking into account the lack of documentation and research surrounding this issue. While human rights organizations have, in recent years, begun to acknowledge that men and boys are victims of sexual violence as well, this has often not been explored in further detail. Scholars have provided meaningful contributions to the general understanding of sexual violence against men during war time,¹¹⁵ however, what is still missing, is a more nuanced empirical examination of this topic, particularly with regard to the identities and social roles of victims. This has hindered a more thorough exploration of how sexual violence is used against boy soldiers during armed conflict as they constitute a sub-group of the

¹¹³ Studies suggest that the sexual victimization of adult male combatants in certain conflicts is widespread: For instance, a study conducted in Liberia examined sexual victimization and its health and mental health outcomes for adult combatants, including men and women. It found that 32.6% of adult male former combatants had experienced sexual violence compared with only about 7% of civilian men. It also found that both male and female combatants were forced to be sexual servants/slaves (35.3% of female and 16.5% of male combatants). These results are astounding when taking into account that there are no reports by human rights organization or similar institutions on the sexual victimization of male soldiers during the conflict in Liberia. Furthermore, these high numbers become even more surprising when taking into account that the authors of the study allege that “it is possible that ethnicity, sex, and unfamiliarity of the data collectors as well as other unidentified characteristics may have limited truthfulness of respondents to sensitive questions such as sexual violence and thus we may have underestimated sexual violence.” See Johnson et al. 2008a. Another study on the association of sexual violence and human rights violations with physical and mental health in territories of the Eastern Democratic Republic of the Congo, which did not specifically focus on combatants but whose respondents included 20% combatants, found that rates of reported sexual violence were 39.7% among women and 23.6% among men. If one breaks down this result according to combatant status, the study suggests that 52 of 106, i.e. 49.6% of respondents who were former male combatants were sexually victimized. Interestingly, it was reported that women perpetrated conflict-related sexual violence in 41.1% of female cases and 10.0% of male cases. See Johnson et al. 2008b. These studies pose the question as to whether the result found with regard to adult male combatants can give any indication as to the scope of sexual violence committed against child male combatants. Authors tend to agree that children associated with armed forces or groups are generally more vulnerable to sexual exploitation than adults. Hence, there is a possibility that the prevalence of sexual violence against boy soldiers in these contexts is even more widespread. Yet, it must be noted that this only amounts to an unfounded presumption due to the lack of information on boy soldiers. Furthermore, it must also be noted that a study on child soldiers conducted by the Harvard Humanitarian Initiative in Sierra Leone found that 45% of girls and 5% of boys had been raped or sexually abused by their captors. This study also found that boy survivors of rape in the sample evidenced higher levels of anxiety and hostility symptoms than girl survivors of rape. Interestingly, the authors noted that “boy survivors of rape may suffer from hidden sources of stigma and shame, which could contribute to the heightened levels of anxiety and hostility among male rape survivors in this sample.” Thus, the little evidence available suggests that boy soldiers who have experienced rape are perhaps a particularly vulnerable group within the larger group of former child combatants in a given context. See Betancourt et al. 2011.

¹¹⁴ DelZotto and Jones 2002.

¹¹⁵ See e.g. Carpenter 2006; DelZotto and Jones 2002; Lewis 2009; Russell 2007; Sivakumaran 2005, 2007, 2010; Zarkov 2001, p. 72.

group of male victims of sexual violence which has thus far received little to no focused attention. This is all the more surprising when taking into consideration that both the fact that girl soldiers suffer immensely from sexual violence as well as the general increased vulnerability of children to sexual violence are well documented.¹¹⁶

The silence surrounding sexual violence committed against boy soldiers seems to, at least initially, have influenced international law and policy regarding child soldiers: The first universal definition of the term “child soldier” in the Cape Town Principles serves as an example:

[A]ny person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms.¹¹⁷

It is astounding that this widely accepted definition explicitly referred solely to girls recruited for sexual purposes and thus excluded boys. This serves to illustrate the ignorance existent with regard to the issue of sexual violence committed against boy soldiers. Fortunately, UNICEF initiated a review of these principles, which led to a new definition in the Paris Principles. These new principles fixed this critical flaw of the Cape Town Principles and included all children recruited for sexual purposes.

While the sexual victimization of girl soldiers can be considered as a well-known fact, much remains to be done in terms of exploring and understanding the sexual victimization of boy soldiers during armed conflict. This is of particular importance because, as Fionnuala Ní Aoláin et al. rightly explain: “The taboo on addressing male victimization trickles down from the dominance of hegemonic masculinity in which to be a victim is to be relegated to a domesticated and vulnerable status.”¹¹⁸ Hence, the acknowledgment of such victimization is necessary not only in order to be able to adequately address these violations of boy soldiers' rights but also with regard to the promotion of gender equality.

1.3.2.2 Child Soldiers as Perpetrators

Child soldiers actively participate in inflicting violence against other persons and commit serious human rights violations and criminal offenses.¹¹⁹ This is true for

¹¹⁶ As such it might be more fitting to speak of ignorance instead of a taboo, as a taboo would at least require some knowledge about the problem. On the general increased vulnerability of child soldiers (as compared to adult soldiers), see Sivakumaran 2010, p. 270 et seq.; Russell 2007, p. 22.

¹¹⁷ Cape Town Principles, Annex: Definitions.

¹¹⁸ Ní Aoláin et al. 2011.

¹¹⁹ UN General Assembly 1996, para 250; Wessells 2006, p. 78 et seq.

both boys and girls,¹²⁰ and includes participation in torture, beatings, killings, and various forms of sexual violence—in some cases against other children.¹²¹

The participation of child soldiers in atrocities has been explained from a psychological perspective by referring to the following factors: Children participate in atrocities because of their will to survive, out of obedience, because of the normalization of violence, due to the satisfaction derived from violence, and for reasons of ideology.¹²² Hence, it becomes clear that some of the same psychological processes leading children to voluntarily join an armed force or group also affect their participation in violations of other persons' rights.

It is important to note that, in some cases, child soldiers' participation in violence amounts to a crime under international law.¹²³ The content of the term "crime under international law" is not fixed as such¹²⁴ but this book uses it to refer to the so-called core crimes.¹²⁵ These core crimes are defined in the Rome Statute of the ICC and include genocide, crimes against humanity, war crimes, and the crime of aggression.¹²⁶

1.3.3 *Post-conflict Experiences*

While it is difficult to find universally valid truths about the post-conflict experiences of child soldiers, it must be noted that after the cessation of hostilities and upon the return of child soldiers to their communities of origin or to new

¹²⁰ Denov 2010, pp. 124–125; Wessells 2006, p. 97 et seq.

¹²¹ Denov 2010, pp. 118, 128–129; Wessells 2006, p. 51 et seq. See also Fisher 2013, p. 1. It must be noted that sexual violence is particularly inconsistent with childhood innocence and hence with the passive victim narrative and therefore often remains absent from discourse, see Martins 2011, pp. 437, 439.

¹²² Wessells 2006, pp. 79–80.

¹²³ See Happold 2006, p. 70: "[C]hild soldiers have frequently committed acts amounting to international crimes;" Olusanya 2006, p. 87, who even argues: "Unlike in the past when children were the main victims of international crimes committed in armed conflict, today the pendulum is swinging in the opposite direction. Children are increasingly becoming involved in the perpetration of international crimes;" UNICEF Innocenti Research Centre and ICTJ 2010, p. 17: "While children experience war crimes, crimes against humanity and genocide first and foremost as victims, they are sometimes also involved in committing these crimes."

¹²⁴ See Cassese et al. 2013, p. 21.

¹²⁵ See Broomhall 2003, p. 10; Schabas 2010 p. 101 et seq.

¹²⁶ Rome Statute of the ICC, Article 5(1). It must, however, be noted that the crime of aggression can only be perpetrated by the top military and political leadership. (See Werle and Jeßberger 2014, p. 550 marg. no. 1476) Hence, it is of very limited relevance when it comes to child soldiers and will as such not form part of this book.

communities, their post-conflict experiences are often characterized to a large degree by stigmatization and rejection.¹²⁷ As Michael Wessells describes:

Former child soldiers who attempt to return home enter a difficult terrain awash in unhealed grievances, vigilante justice, and contested privileges. In some cases, villagers' strong feelings of injustice block child soldiers' attempts to reenter the community.¹²⁸

It is worth mentioning that these post-conflict experiences stand in contrast to historic accounts of the perceptions on children's involvement in armed conflict, where children's heroism was celebrated upon their return home and their participation in wars enabled them to earn the respect of their communities and societies.¹²⁹ While such reactions are not wholly impossible nowadays, it must be realized that they occur only in rare situations.¹³⁰

1.3.3.1 Participation in Violence as a Source of Stigmatization and Rejection

While stigmatization and rejection are not experienced by all child soldiers and some are able to reintegrate without any difficulties,¹³¹ there is one group of child soldiers where such negative experiences are very common and that is the group of child soldiers who have (allegedly) participated in violence, especially if this violence was inflicted upon the receiving communities themselves.¹³²

The participation in atrocities is a predominant reason for the stigmatization and rejection of former child soldiers because it can lead to feelings of fear, grievance, and anger, as well as a desire for revenge in receiving communities.¹³³ This has even resulted in attacks by communities on rehabilitation camps for child soldiers as a form of revenge for the atrocities committed by child soldiers against the communities.¹³⁴ The situation is particularly difficult in cases where child soldiers committed atrocities, either forcibly or voluntarily, against their own

¹²⁷ See e.g. Briggs 2005, pp. 30–31; Mawson 2004, p. 138; Singer 2006, pp. 53, 115, 200 et seq.; Villanueva O'Driscoll et al. 2013, pp. 61–62; Wessells 2006, p. 218 et seq.

¹²⁸ Wessells 2006, p. 218.

¹²⁹ See Drumbl 2012, p. 27 et seq.; Lee 2009, p. 3; Martins 2011, p. 435; Rosen 2005, p. 6.

¹³⁰ One such example are the child soldiers fighting in the Eastern DRC, as a report by the NGO Redress details: "Children, who participated widely in the ongoing conflicts in eastern DRC since 1996, are more readily perceived as war heroes, fighting to defend ethnic or political affiliations against external aggressors or to overthrow unpopular political leaders, than as victims of crime." See Redress 2006, p. 18.

¹³¹ See e.g. Annan et al. 2006, p. 63; Drumbl 2012, p. 192; Humphrey and Weinstein 2007, pp. 542–543.

¹³² See e.g. Annan et al. 2006, p. 66; Blattman and Annan 2009, p. 115; Drumbl 2012, p. 193; Duthie and Specht 2009, p. 192; Veale and Stavrou 2007, p. 273.

¹³³ Singer 2006, p. 53.

¹³⁴ Briggs 2005, pp. 102–103; Singer 2006, p. 180.

communities,¹³⁵ and when certain child soldiers are known for having committed crimes, especially particularly heinous crimes.¹³⁶

In addition to feelings of anger and resentment, the stigmatization and rejection of former child soldiers is often also based on feelings of fear and mistrust.¹³⁷ Child soldiers can be seen as dangerous, immoral, and permanently damaged, and are thus viewed as exerting a bad influence on other children.¹³⁸ Moreover, in some cases, there is an added spiritual connotation to this fear as child soldiers are perceived as spiritually unclean and ill, or as being possessed by evil spirits.¹³⁹ This spiritual illness goes beyond the directly affected former child soldier and is seen as potentially harmful for the family and the whole community.¹⁴⁰

The effects of such rejection and stigmatization are not only detrimental to the reintegration and rehabilitation process, but they can also negatively impact the mental and physical health of former child soldiers. Furthermore, it must be noted that, in some instances, due to fear of rejection and stigmatization, child soldiers do not even attempt to reintegrate back into their communities: Wessells delineates that in Sierra Leone “[f]earing retaliation or harsh treatment, former child soldiers who have committed atrocities may decide quietly never to go home, preferring instead to live in the anonymity of a large city.”¹⁴¹

1.3.3.2 The Gendered Dimensions of Stigmatization

It is important to realize that the situation is often worse for girls because, in addition to being stigmatized because of the alleged participation in atrocities, girls are also stigmatized because of their alleged sexual victimization.¹⁴² Anthropologist Erin K. Baines even describes that for girls, being a victim of sexual violence is viewed as more problematic than having participated actively in violence.¹⁴³ This finding is unsettling in two regards: First, it emphasizes gender stereotypes by viewing boy soldiers as active combatants and girl soldiers as sex slaves. Secondly, the stigmatization of girl soldiers is not based on the alleged perpetration of serious

¹³⁵ Peter Singer explains that “[i]t is very difficult to convince family and community members who witnessed the children taking part in the destruction of their towns and villages that they must now be forgiven.” See Singer 2006, p. 114.

¹³⁶ Michael Wessells refers to a boy who used to cut the letters RUF into people’s chests, and describes how community members stated that “his return ‘wouldn’t be right’ because his actions had severed his bonds with the community.” See Wessells 2006, p. 218.

¹³⁷ Mawson 2004, p. 135; Singer 2006, p. 53; Wessells 2011, p. 192.

¹³⁸ Crewe and Axelby 2013, p. 199.

¹³⁹ Mawson 2004, p. 135; UN General Assembly 1996, para 55; Wessells and Kostelny 2009, p. 117.

¹⁴⁰ Wessells and Kostelny 2009, p. 117; UN General Assembly 1996, para 55.

¹⁴¹ Wessells 2006, p. 218. See also Aning and McIntyre 2004, p. 76.

¹⁴² Denov and Ricard-Guay 2013, pp. 481–482; Wessells 2011, p. 192.

¹⁴³ Baines 2011, pp. 485–486.

crimes but based on crimes that have been committed against them. This stigmatization upon returning to their communities can thus be seen as a form of re-victimization of former girl soldiers.

The question arises as to why these gendered differences in the root causes for stigmatization exist and whether this means that communities perceive female criminal behavior differently than male criminal behavior. First, it is important to realize that while some evidence might suggest that participation in atrocities is less common for girl soldiers than for boy soldiers, it is by no means unheard of.¹⁴⁴ Nonetheless, it seems as though communities ignore this fact and focus solely on the sexual aspect as a source of rejection and stigmatization. This poses the question as to whether girls' participation in violence generally tends to be viewed as less problematic than boys' participation. It must be noted that active participation in conflict through inflicting violence challenges the stereotypical notion of girls as passive victims. One could hence assume that girl soldiers who have committed criminal acts would be rejected precisely because they have challenged these traditional perceptions, yet this does not seem to be the case.¹⁴⁵ It is, however, possible to interpret this focus on sexual victimization as the cause for rejection and stigmatization as an attempt to reinforce traditional gendered roles and hierarchies by purposely ignoring non-compliant behavior of girls: By emphasizing girls' reduction to victimization, there is no need to address the impact of armed conflict on gender roles and to address the developments and changes.

These differences between the root causes of community rejection and stigmatization for boys and girls as well as the underlying perceptions regarding violence and gender become more comprehensible when exploring feminist critiques of juvenile justice. As criminologist Anne Worrall explains:

- (a) the youth justice system both reflects and reinforces myths that bad boys are criminal, while bad girls are immoral;
- (b) the symbolic core of bad girls' immoral behaviour is sexual precocity, which, it is argued, may lead to early pregnancy and prostitution;
- (c) preoccupation with girls' sexual precocity reflects a traditional view of women's social role and sexuality;
- (d) these conventional assumptions result in discriminatory juvenile justice practices, with girls being dealt with more punitively (being more frequently incarcerated) than boys for behavior that would not be regarded as criminal in adults; [...]¹⁴⁶

Worrall's explanation and critique is useful in highlighting that the stigmatization practices described above reflect a broader trend within the field of juvenile justice, namely the preoccupation of juvenile justice with female sexuality and immorality as opposed to male criminality. Similarly, Baines prompts us to

¹⁴⁴ See Coulter 2009, pp. 135, 143; Liu Institute for Global Issues and Gulu District NGO Forum 2006, p. 4.

¹⁴⁵ Baines 2011, p. 486.

¹⁴⁶ Worrall 2000, p. 153.

critically reflect on how gender influences an individual's involvement in armed conflict and shapes the perception of responsibility. She explains that, despite the fact that women's roles in armed groups or forces are as important as those of men, women tend to be thought of more as victims and not as perpetrators, due to "gendered assumptions about responsibility."¹⁴⁷ Baines argues that hegemonic masculinity relies on both men and women, and that if one were to assign moral responsibility to boy soldiers who serve as commanders, one would have to assign the same responsibility to girl soldiers who serve as "wives" of these commanders as they play a similarly important role, and because both were coerced into acting according to their socially constructed functions.¹⁴⁸ These concerns are valid in that there is a general trend to view boy soldiers who perpetrate atrocities as responsible agents while failing to assess how these acts can manifest themselves as consequences of gendered role expectations. While these reflections should not be misunderstood as an appeal to assign responsibility to girl soldiers, they serve as an important reminder to understand the actions of child soldiers and situate questions of moral responsibility in the context of gendered role expectations and the consequential constraints.

1.4 The Ambivalence of the Passive Victim Discourse

While it might seem obvious that the image of child soldiers as dangerous demons is utterly deficient if not wholly inaccurate, the insufficiency of the passive victim image might be less clear. Some might think that propagating an image of a child soldier as a passive victim is in his/her best interest as it shields him/her from responsibility and blame. And indeed, the benefits of this narrative should not be dismissed upfront: The passive victim image has, for instance, directed the international community's attention towards the suffering of child soldiers, thereby contributing to strengthening the general protection of children from armed conflict, and it has served as a highly influential tool in shielding child soldiers from criminal responsibility.¹⁴⁹ Nonetheless, it is important to realize that portraying child soldiers solely as passive victim also has various adverse consequences.

¹⁴⁷ Baines 2011, pp. 482–483: "Despite the fact that the women's functions and roles were as important to the rebel group as that of Commander Ongwen, I assigned them less responsibility; I thought of them more as victims than as perpetrators. I am not alone in such gendered assumptions about responsibility: Women and men on return from the LRA to home are treated differently, each with different associations of innocence or guilt." Dominic Ongwen was a senior Lord's Resistance Army commander, against whom the ICC issued an arrest warrant for crimes against humanity and war crimes in 2005. In January 2015, Ongwen was captured and transferred into the ICC's custody. His trial began on the 6th of December 2016. Interestingly, Ongwen was allegedly recruited as a child soldier by the LRA when he was only about 10 years old. See Baines 2009.

¹⁴⁸ Baines 2011, p. 485.

¹⁴⁹ See Drumbl 2012, p. 210 et seq. See also Shepler 2005, p. 200: "Child rights discourse and practice in some ways ease the reintegration of child excombatants by buttressing these 'discourses

1.4.1 *Adverse Consequences of the Passive Victim Image*

1.4.1.1 For Child Soldiers

For the children themselves, the passive victim image is insufficient for the following reasons: It can have the effect of constraining the experiences of child soldiers in a way that labels victimhood as the sole acceptable identity,¹⁵⁰ while at the same time pinning child soldiers to this identity with the effect that child soldiers become “frozen in a single identity of victimhood.”¹⁵¹ It is of great importance to realize that the reduction to a passive victim identity generally has a disempowering effect as it denies victims’ capacities for future decisions and tends to portray them as damaged and incapable.¹⁵² Furthermore, it must be noted that, in many cases, the passive victim image does not reflect how children view themselves and their participation in conflict, and hence does not do justice to their experiences.¹⁵³ For instance, some children perceive their participation in war as meaningful because they view it as part of an important political cause.¹⁵⁴ The following statement of a child soldier involved in the struggle against apartheid in South Africa serves as an illustrative example:

I missed out on many things and I wish I had a better education. But when I think back, I have mostly good memories of fighting for freedom. If we had not fought, we would have lived as less than people. I’m proud of what we did.¹⁵⁵

(Footnote 149 continued)

of abdicated responsibility’ in children’s narrations of their war experiences, thereby facilitating forgiveness and acceptance.” Yet, Shepler also finds that “in some ways child rights discourse and the practices of the child protection NGOs make reintegration more difficult.” See *ibid.*, p. 205.

¹⁵⁰ See Coundouriotis 2010, pp. 193–194; Honwana 2006, p. 15; Shepler 2005, p. 198 et seq.; Utas 2004, p. 209.

¹⁵¹ Note that victimhood then becomes a permanent identity. See Valji 2009, p. 229: “The focus on ‘the’ incident strips it of meaning in a wider context, as well as subverts or fails to acknowledge resilience and the complexity of identities which are not frozen in a single identity of victimhood.” See also Ross 2010, p. 76: “Most writing about rape [...] treats victims as though frozen in time at the event of violence, as though they cannot move beyond it. The event of rape is presented as an ending that inaugurates a new persona. It is a reduction model that assumes a direct congruence between a particular aspect of one’s experience and one’s identity. The effect is to dehistoricize violence and to reify the subject.” Both Valji and Ross refer to sexual violence directed against women, but their arguments are equally relevant for the experiences of child soldiers as well.

¹⁵² See also Drumbl 2012, p. 37; Wessells 2006, p. 134.

¹⁵³ Schafer 2004, p. 90.

¹⁵⁴ Lee 2009, p. 19 et seq.; Wainryb and Pasupathi 2008, p. 171; Wessells 2006, pp. 52 et seq., 140. On the general political consciousness of children involved in political violence, see Hart 2008, p. 287 et seq.

¹⁵⁵ Wessells 2006, p. 140.

Reducing these children to the role of passive victims of adult criminals is inadequate because it may not correspond with their own appreciation of their experiences. Hence, children can perceive it as infantilizing.¹⁵⁶ In addition, it must be noted that focusing exclusively on the passive victim image can have the effect of tabooing any discussion of children's participation in violence, and thereby isolate children who feel the need to discuss and address these events.¹⁵⁷ Child soldiers are hence unable to process their active participation in violence as they cannot express and process feelings of guilt and remorse for their actions.¹⁵⁸ At the same time, the passive victim narrative does not allow children to process possible positive experiences during their time with an armed force or group.¹⁵⁹ Some children join armed forces or armed groups because of legitimate societal or personal grievances and in hope for a better life, and, in some cases, their experiences within these groups actually live up to these expectations.¹⁶⁰ Reducing these children to passive victims will not resonate with them and hinder an exploration of their legitimate concerns. Moreover, it is of great importance to note that the passive victim narrative has a depoliticizing effect: Jo Boyden explains that children, including child soldiers, are often more politically aware than is generally assumed by adults and that they hence must be regarded as "political actors with the capacity to make conscious decisions that are informed by analysis of personal and collective history and circumstances."¹⁶¹ Yet, construing children as faultless passive victims renders them silent and apolitical, with the effect that they lose their political agency.¹⁶² This apolitical notion can in turn hinder the meaningful participation of children in efforts directed at peacebuilding and societal reconstruction.¹⁶³

1.4.1.2 For Children's Rights

On a broader scale, a children's rights perspective strongly suggests the need to move beyond the passive victim image if one wants to see children as capable and

¹⁵⁶ Fisher 2013, p. 59; Lee 2009, p. 27.

¹⁵⁷ See Virginie Ladisch, *Child Soldiers: Passive Victims?* Al Jazeera, 21 November 2013, available at: <http://www.aljazeera.com/indepth/opinion/2013/11/child-soldiers-passive-victims-2013111853742192541.html> (last accessed March 2017).

¹⁵⁸ Akello et al. 2006, p. 236; Betancourt et al. 2008a; Fisher 2013, p. 59; Honwana 2006, p. 108; Keairns 2002, p. 15; Liefwaard 2013, p. 170; Klasen et al. 2015; Wainryb and Pasupathi 2008, p. 185; Wainryb 2011, p. 279 et seq.; Wessells and Kostelny 2009, p. 117.

¹⁵⁹ See Virginie Ladisch, *Child Soldiers: Passive Victims?* Al Jazeera, 21 November 2013.

¹⁶⁰ Lee 2009, p. 22.

¹⁶¹ Boyden and de Berry 2004a, p. 250.

¹⁶² Shepler 2005, p. 206.

¹⁶³ Drumbl 2012, p. 208: "Fulsome protectionism can be silence."

knowledgeable social actors and as full citizens with full rights.¹⁶⁴ As Druml delineates:

Conceptualizing juveniles as non-responsible for systematic breaches of the rights of others during conflict does not augur well for their proactive status as rights-holders – and as stakeholders in a shared civis – following conflict.¹⁶⁵

1.4.1.3 For Receiving Communities

Moving away from the reasons as to why the passive victim image is insufficient if not detrimental when looking at the child soldiers themselves and towards the receiving communities, it becomes clear that the passive victim narrative often does not resonate with these communities either.¹⁶⁶ As has been discussed previously, child soldiers are frequently rejected and stigmatized upon their return from an armed force or group.¹⁶⁷ This behavior of receiving communities often roots in feelings of grief, anger, or fear.¹⁶⁸ It is clear that if these feelings are left unaddressed—as is part of the passive victim approach—community rejection and stigmatization are left unaddressed as well and might even be exacerbated.¹⁶⁹ Furthermore, it must be noted that feelings of anger, grief, or fear might not be entirely unfounded, and the desire for accountability and redress might well be regarded as legitimate concerns. If, for instance, communities have been severely victimized by child soldiers, their rejection is often rooted in fears of continued violent behavior of former child soldiers, and this fear might, in some cases, even be justified.¹⁷⁰ Moreover, Wessells notes that one of the main fallacies regarding child soldiers is that they are worse off than the rest of the population.¹⁷¹ Yet, in many cases, this is neither true during the conflict, where they tend to get better access to

¹⁶⁴ See also Doek 2012, p. xix; Happold 2006, p. 84; Veale 2006, p. 103; Watson 2011, p. 43: “Child soldiers truly inhabit the borderlands of international relations, their status as ‘victims’ sealing their fate as a group for whom policy happens, as opposed to one whom the fulfilment of their own agential needs is possible.”

¹⁶⁵ Druml 2012, p. 207.

¹⁶⁶ Liefwaard 2013, pp. 166–167.

¹⁶⁷ See Sect. 1.3.3.

¹⁶⁸ See Sect. 1.3.3.

¹⁶⁹ See also Fisher 2013, p. 15.

¹⁷⁰ See e.g. Akello et al. 2006, p. 229: “[D]ata show that over 70% of prisoners in the juvenile crime unit in the Gulu District, Uganda are former child soldiers, incarcerated on charges of rape, assault and theft (among other crimes, information supplied by a regional psychiatrist);” Schauer and Elbert 2010, p. 335: “Research shows that former child soldiers have difficulties in controlling aggressive impulses and have little skills for handling life without violence. These children show on-going aggressiveness within their families and communities, even after relocation to their home villages;” Wessells and Kostelny 2009, p. 118: “Experience in many countries indicates that youth who take on military identities are at risk of increased aggressive behavior.”

¹⁷¹ Wessells 2006, p. 23.

food and other resources through looting, nor after the conflict, when they are often found eligible to receive support through DDR programs and other humanitarian assistance efforts.¹⁷² This can spark feelings of anger and resentment in the communities if they do not receive this kind of assistance.¹⁷³ In addition, the passive victim narrative regarding child soldiers restricts the acknowledgment of the rights and interests of their victims. Even victims of child soldiers have rights, and this should not be disregarded simply because the perpetrator was a child soldier. This becomes very clear in situations where the victims of child soldiers are children as well. The “it’s not their fault” approach, often pursued by international NGOs during sensitization campaigns where local communities are educated about returning child soldiers,¹⁷⁴ could hence, from a victims’ rights perspective, be viewed as utterly misguided.¹⁷⁵

1.4.1.4 For Societies

On a societal and global scale, it is important to realize that transcending the passive victim narrative and acknowledging child soldiers’ agency can be an important step towards preventing the re-recruitment of child soldiers and even towards minimizing the use of child soldiers in armed conflict. In the former case, this is because failing to acknowledge children’s agency in joining and during involvement with an armed group or force also means ignoring potential legitimate reasons for participation and the underlying causes of conflict.¹⁷⁶ Going even further, minimizing the use of child soldiers in conflict requires not just a focus on the adults through the criminalization of recruitment and usage but requires a focus on the children themselves: Because many children volunteer to join armed forces or groups, it is of great importance to establish why exactly children volunteer and this requires recognizing their agency.¹⁷⁷

1.4.1.5 For Gender Equality

Furthermore, from a gendered perspective, there are several reasons why it is insufficient to focus solely on this aspect of girl soldiers’ involvement in armed

¹⁷² Schwartz 2010, pp. 47–48; Wessells 2006, pp. 23, 169. See also Betancourt et al. 2010, p. 1091: “Overall, our findings indicate no justification for an approach to targeting services at war-affected youth based on simple labels such as former child soldiers without individualized assessment.”

¹⁷³ Rosen 2012, p. 70.

¹⁷⁴ Beah 2007, pp. 131–166; Drumbl 2012, p. 37 et seq.; Mergelsberg 2010, p. 65; Shepler 2005, p. 200.

¹⁷⁵ See Fisher 2013, p. 39.

¹⁷⁶ See also Lee 2009, p. 29.

¹⁷⁷ See also Sect. 1.3.1.

conflict. While describing the role of girl soldiers in armed conflict is impossible without emphasizing their victimization and while this does indeed constitute an important perspective on their involvement in armed conflict, it is of utmost importance to transgress the passive victim image due to the following reasons: First, it must be noted that concentrating on the passive victim image reinforces gender stereotypes. Valorie Vojdik explains that “[m]asculinity is not merely an ideology or belief [...] but a social practice within the military that constructs warriors as male and masculine.”¹⁷⁸ These stereotypes regarding feminine identities affect the portrayal and perception of women’s and girls’ involvement in armed conflict.¹⁷⁹

¹⁷⁸ Vojdik 2005, p. 341.

¹⁷⁹ Even adult female soldiers serving legitimately in state armies have long been and continue to be subjected to discriminatory policies: Taking the United States army as an example, we find that women were prohibited from serving in combat positions until as recently as January 2013, when the Defense Secretary lifted the military’s official ban on women in combat and gave the military branches until January 2016 to decide which units would allow women to serve in combat positions. Excluding women from combat positions can reinforce gender stereotypes by portraying women as less capable than men and thus emphasizing female vulnerability and inferiority to men. The reasons stated for this exclusionary policy are based on gender stereotypes regarding women’s traditional roles in society: Not only are women unable to serve in combat due to physical inferiority, they are also unsuitable combatants due to their sexuality, i.e. their effects on male soldiers, and their societal roles. (Even though most critics of women in combat talk about the effects of women on troop cohesion and discipline without referring to sexuality, the latter clearly factors into the argument, see. e.g. Browne 2001, p. 56: “Some of the questions that must be answered are whether men have an innate predisposition to resist introduction of women into certain all-male groups; whether introduction of women will disrupt cohesion by creating competition among men for the attentions of women; whether introduction of women will impair effectiveness by causing men to be overprotective of women; whether women can elicit following behavior in men to the same extent that other men can; and whether introduction of women will diminish the willingness of men to risk their lives and make the military less attractive to potential male ‘warriors’.” (emphasis added)) One of the most insightful quotes from a military leader on the women combat exclusion comes from former Chief of Staff of the US Air Force, General Arthur McPeak, who stated at the 1992 Congressional hearings on eliminating the combat exclusion: “I still think it is not a good idea for me to have to order women into combat. Combat is about killing people; and I am afraid that even though logic tells us that women can do that as well as men, I have a very traditional attitude about wives and mothers and daughters being ordered to kill people.” (See Gender Discrimination in the Military: Hearings Before the Subcommittee on Military Personnel and Compensation and Defense Policy Panel of the Committee on Armed Services, 102 Cong. 78 (1992) (statement of General Merrill A. McPeak, United States Air Force)) McPeak explicitly refers to women as wives, mothers, and daughters. He thus defines women by their traditional societal roles, by their accepted feminine identities rather than viewing them as subjects themselves. Unfortunately, this is no exception: Post-conflict mechanisms often see and deal with women and girls as wives, mothers, and daughters of men. This became evident in the work of the South African Truth and Reconciliation Commission: During the first five weeks of commission hearings, 60% of all testimonies were made by women, however 75% of these testimonies dealt only with crimes committed against men—the sons, fathers and brothers of the women testifying. Many women did not talk about their own experiences of victimization at all. Subsequently, the commission set up separate hearings for women in order to enable them to speak about their own experiences during apartheid. (See Krog 2001, pp. 203, 208).

One of the greatest paradoxes with regard to war is that it can, in some ways, actually have positive effects on gender equality. This may sound cynical at first, especially if one thinks about the prevalence of gender-based violence against women and girls during armed conflict. However, if one considers how armed conflict changes the socially accepted roles of women and girls, it becomes clear that armed conflict affects and changes their role in society: This is true both for the women and girls who stayed at home while the male family and community members left to fight, and for those women and girls who became actively involved in armed conflict. Women and girls at home perform tasks that were formerly carried out only by men and in some cases not accepted for women. For instance, they become heads of households, settle disputes and reach decisions in their community, make financial decisions, and seek employment in order to be able to support their family.¹⁸⁰ Similarly, women and girls associated with armed forces or groups can learn skills that were formerly considered suitable and tolerable only for men. Being part of an armed group can be empowering in certain ways: Especially in societies with profound gender injustices, some girl soldiers emphasized the fact that within the armed groups, unlike in society in general, they were treated the same as boys, that their voices mattered, and that they were able to assume positions of leadership.¹⁸¹ This is not to say that all women and especially girl soldiers get emancipated through war and hence see it as a positive experience but it is important to realize that, under certain circumstances, this can be the case and thus we should not rule out this possibility right from the beginning.

This paradox illustrates the necessity to transgress the passive victim image and recognize girls' agency. Armed conflicts and the needs for rebuilding and restructuring the foundations of the state and society can and should be seen as an opportunity to improve societal justice, including gender equality. Focusing solely on the victimhood of girls without recognizing their active participation is a way of re-victimizing girls by enforcing gender stereotypes, reducing them to one aspect of their experiences, and putting them back in their "proper place" by expecting them to assume the roles they held prior to the war. It is also important to realize that this focus on victimization can lead to an easily justified exclusion of women and girls from key decision-making processes, such as peacebuilding processes. This result is further exacerbated by the stereotypical assumption that women are *per se* more peaceful than men. As Nadine Puechguirbal explains:

Associating women with peace and men with war reinforces a gender hierarchy because it reduces the value of women's efforts in peace building and allows men to continue to

¹⁸⁰ See e.g. Cockburn 2001, pp. 13, 26–27.

¹⁸¹ Baines 2011, pp. 484–485; Denov and Ricard-Guay 2013, p. 479; Lee 2009, p. 22; West 2000, pp. 117–118; Veale and Stavrou 2007, p. 288; West 2000, pp. 117–118; Wessells 2006, pp. 98–99.

dominate the agenda in international relations. Women's voices are deemed inauthentic in matters of peace and security issues.¹⁸²

It should therefore be noted that the portrayal of women and girl soldiers solely as passive victims is highly deficient as the female victim image has serious negative consequences for gender equality because it reinforces gender stereotypes and strengthens gendered power hierarchies.

1.4.2 Conclusion: The Need to Acknowledge Child Soldiers' Agency

In summary, it can be concluded that the passive victim narrative can bear a variety of negative consequences, not only for child soldiers themselves but also for their communities and societies, as well as for children's rights and gender equality in general. It can therefore be argued that this narrative is not in the best interest of child soldiers.¹⁸³ Yet, moving away from the passive victim narrative requires acknowledging the agency of child soldiers. Norman Long defines agency in the following way:

The notion of agency attributes to the individual actor the capacity to process social experience and to devise ways of coping with life, even under the most extreme forms of coercion. Within the limits of information, uncertainty and other constraints that exist, social actors are 'knowledgeable' and 'capable'.¹⁸⁴

Agency thus does not require absolute freedom from constraints but it can be exercised "even under the most extreme forms of coercion,"¹⁸⁵ and must be understood within these constraints. It is now generally accepted that children

¹⁸² Puechguirbal 2012, p. 8. One of the root causes of this problem lies in the masculine, militarized definition of security: Because peace negotiations aim to achieve security and because "insecurity that is male on male [...] is more detrimental to political stability and stable governments than male on female violence is," there is no need to involve women in peace negotiations. See Enloe and Puechguirbal 2004, p. 8.

¹⁸³ The so-called "best interest principle" stems from Article 3 of the CRC, and is one of the—if not the—most important principle contained in this convention. Yet, as Michael Freeman, points out "[t]he best interests principle is, of course, indeterminate. One of the dangers of this is that, in upholding the standard, other principles and policies can exert an influence from behind the 'smokescreen' of the best interests principle." See Freeman 2007, p. 2. See also Archard 2015, p. 112 et seq.

¹⁸⁴ Long 1992, p. 22.

¹⁸⁵ Long 1992, p. 22.

possess agency,¹⁸⁶ and so do child soldiers, despite the fact that they, in most instances, find themselves in a situation of extreme coercion.¹⁸⁷

Agency can be understood as having both a negative and positive dimension: In its positive form, it views children as capable social actors able to cope with negative experiences. They can participate meaningfully in conflict resolution and peacebuilding mechanisms, and are capable of forming an important part of society, i.e. becoming productive citizens. In its negative form, agency also refers to the wrongs done and the harms committed and it establishes a responsibility to form part of the resolution. It must be noted that both dimensions of agency are denied by the passive victim image:¹⁸⁸ Negative agency is denied because child soldiers are portrayed merely as passive victims. Positive agency of child soldiers is denied because they are viewed as passive and incapable and hence their own views regarding their past and their future are not given their due weight. Furthermore, any possible positive experiences of child soldiers within the armed group or force are disregarded, as are acts of positive agency, such as acts of resistance or mutual assistance.¹⁸⁹

1.5 Agency and Accountability

The previous section has shown some of the main shortcomings of the passive victim narrative surrounding child soldiers and hence illustrated the need to acknowledge negative and positive agency. Agency, however, is a concept intertwined with accountability because taking negative agency seriously also requires dealing with the active participation in harmful behavior, including the participation

¹⁸⁶ See Corsaro 2005, p. 231: “The notion that children are active agents in their own development and socialization is now generally accepted in psychology, sociology and education;” Hart 2008, p. 279 et seq.; James and Prout 1997, p. 8. The acknowledgment of children’s agency is also in line with Article 12 of the CRC, which holds: “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.”

¹⁸⁷ Alcinda Honwana refers to their tactical agency, see Honwana 2005, p. 31 et seq. Myriam Denov writes about structure and agency, see Denov 2010, p. 39 et seq. Mark A. Drumbl proposes a model of circumscribed action, see Drumbl 2012, p. 98 et seq. See also Akello et al. 2006; Fisher 2013, p. 58 et seq.; Virginie Ladisch, *Child Soldiers: Passive Victims?*, Al Jazeera, 21 November 2013; Ochen 2015; Veale 2006, p. 99.

¹⁸⁸ See Watson 2011, p. 46: “[D]espite the fact that children are disproportionately affected by conflict, the contemporary construction of childhood and the attitudes and frameworks that have created it, have arguably resulted in a situation where children are still very much perceived as being victims of militarization, as opposed to active agents either in its promulgation or prevention.”

¹⁸⁹ Drumbl 2012, p. 86 et seq.; Fisher 2013, p. 59.

in atrocities.¹⁹⁰ Even though the concept of agency is commonly seen as a positive and empowering concept, it would be dangerous to ignore its negative dimensions.¹⁹¹ A true concept of agency cannot be reduced to its positive notion, if we would again allow this to guide our perception of child soldier, we would be reinforcing the passive victim narrative with its various adverse effects. However, at the same time, the acknowledgment of negative agency and the connected questions of accountability constitute a complex moral dilemma. This complexity stems from the fact that child soldiers themselves are subject to intense victimizations during armed conflict, as Graça Machel delineates:

The dilemma of dealing with children who are accused of committing acts of genocide illustrates the complexity of balancing culpability, a community's sense of justice and the "best interests of the child."¹⁹²

Acknowledging that there is a connection between the concept of negative agency and the need for accountability seems perspicuous but it does not answer the question as to whether holding child soldiers accountable for their actions is necessarily in their best interests. As a starting point, it seems useful to situate the question of child soldiers and accountability within a legal context. It has already been established that international law primarily treats child soldiers as victims, and hence, their victim status sets the framework in which questions of agency and accountability need to be situated and interpreted.

Thus, when looking at child soldiers' participation in criminal activities, we have to keep in mind that they hold the dual status of being a perpetrator and a victim at the same time. This consideration of international law might prompt us to assume that recognizing agency does not necessarily require holding child soldiers accountable for their actions. However, this assumption is flawed because it views this complex question too narrowly and disregards one important element, namely that achieving accountability can be in the best interest of child soldiers.

We have already seen that there are numerous reasons supporting the presumption that acknowledging the agency of child soldiers is in their best interest. Accountability can be understood as inherent in the acknowledgment of (negative) agency.¹⁹³ The reasons as to why accountability is in child soldiers' best interests is

¹⁹⁰ See also Hans van Ginkel, who links agency with criminal accountability: Van Ginkel 2006, p. 184: "If we regard children as having agency and children as young as twelve to be fully capable participants in peace building and post conflict reconstruction and development [...], then we could, and according to some we should, similarly expect children to be capable of behaving badly, up to the intentional commission of international crimes. The ultimate consequence could then also be to resort to criminal prosecution, even in international procedures when appropriate and possible."

¹⁹¹ See also Butalia 2001, p. 109: "Feminists have always celebrated the fact of women's agency, assuming all agency to be positive. Yet [...] this is not always the case. Ought women, then, to be speaking of only certain kinds of agency?"

¹⁹² UN General Assembly 1996, para 250.

¹⁹³ This concept will be developed further later on in this book, see Chap. 4, Sects. 4.2.1.2 and "Accountability".

that accountability measures can facilitate and promote community reintegration through addressing communities' feelings of fear and anger, and providing redress for crimes committed against them.¹⁹⁴ Furthermore, they can form an important part of the personal recovery process of child soldiers and help to alleviate feelings of guilt or remorse experienced as a result of the participation in violence.¹⁹⁵ On a societal level, one could argue that ignoring the rights of victims of serious crimes and human rights violations, even though they were "only" committed by child soldiers, might not serve as a good starting point for restructuring a peaceful and just society.¹⁹⁶ Furthermore, from a children's rights perspective, the status of children as rights-holders could be strengthened by assuming a relationship between rights and responsibilities.¹⁹⁷

Yet, despite this, it must be noted that the discourse around acknowledging child soldiers' agency often remains entirely disconnected from notions of accountability: Even amongst those scholars and NGOs who acknowledge child soldiers' agency, there is a general trend to shy away from accountability, presumably because it is commonly connected with criminal prosecution and punishment. It could, however, be argued that this skepticism is based on a common misconception and narrow view of the concept of accountability. Holding someone accountable for his/her actions does not necessarily and in all cases require criminal prosecution.¹⁹⁸ Criminal accountability might be a suitable and favorable option in some cases, whereas in the case of child soldiers alternative accountability measures might constitute a more adequate possibility.

With regard to the question who should be held accountable, it is important to acknowledge that there are two groups of perpetrators when it comes to child soldiers' involvement in armed conflict: Child soldiers who commit atrocities and adult commanders who recruit and use children in their armed forces and groups.¹⁹⁹ The latter group is without doubt the most responsible group and the need for accountability is clearly required under international law.²⁰⁰ The need for accountability in the case of child soldiers, on the other hand, is far more complex. Nonetheless, I hold the view that child soldiers can benefit from accountability

¹⁹⁴ See also Coalition to Stop the Use of Child Soldiers 2008, p. 36.

¹⁹⁵ See also Coalition to Stop the Use of Child Soldiers 2008, p. 36.

¹⁹⁶ See UN General Assembly 1996, para 247 et seq.

¹⁹⁷ See Doek 2012, p. xix: "It is in my opinion not a contribution to full recovery and social reintegration just to ignore the (suspected) commission of crimes or, even worse, to treat it as a taboo issue (don't ask, don't tell). It is in line with respect for the child as a rights-holder also to hold him/her responsible for the serious violations of the rights of others he/she may have committed;" Drumbl 2012, p. 207; Happold 2006, p. 84.

¹⁹⁸ See Happold 2006, p. 84.

¹⁹⁹ It is not intended to suggest that the persons who recruit and use children are necessarily adults—children can serve as commanders as well and they can also recruit and use other children. This is often ignored in scholarship, law, and policy, but should not be forgotten when discussing the criminal responsibility of recruiters and commanders.

²⁰⁰ See Rome Statute of the ICC, Article 8(2)(b)(xxvi) and (2)(e)(vii).

under the condition that the accountability measures are crafted and executed in a child-adequate fashion, incorporating both the agent and victim perspective and the corresponding experiences of child soldiers.

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Child Soldiers as Agents of War and Peace
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