

**Eradicating Child Soldiers:
Human Rights Approaches to Engagement with Armed Groups**

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Abstract

This research paper examines models of engagement to address the continued recruitment and use of child soldiers by armed groups. Traditional mechanisms to institute compliance by armed groups to international humanitarian and human rights obligations have been met with minimal success. Despite a rich body of international laws and instruments condemning the use of children in armed conflict, child soldiers continue to be the weapon of choice in combat, particularly for armed groups. A series of Security Council resolutions have established a framework to prevent the use of children in conflict; however, these universally mandated responsibilities to protect children have yet to be fully realized. According to Human Rights Watch, “in over twenty countries around the world, children are direct participants in war. Denied a childhood and often subjected to horrific violence, an estimated 200,000 to 300,000 children are serving as soldiers for both rebel groups and government forces in current armed conflicts” (HRW 2007).

As a result, international law can offer no guarantee of protection, particularly for children. Armed groups have proved to be far less amenable to the pressures exacted through traditional diplomatic means. Engagement with armed group necessarily involves different models, policies, and approaches to problem-solving, including varying applications of coercive force. In analyzing the noncompliance/compliance patterns in the experiences of Sri Lanka and Myanmar (Burma), this paper argues that a framework of direct engagement, through a comprehensive approach to protection and prevention, must be seriously considered and included as an element to any strategy that will ultimately lead to the end of child soldiering practices by armed groups.

“In considering the future of children, we must be daring. We must look beyond what seems immediately possible and find new ways and new solutions to shield children from the consequences of war.”

-Graça Michel, *The Impact of Armed Conflict on Children* (1996)

INTRODUCTION

This research paper examines models and frameworks of human rights-based approaches to dealing with the active recruitment of child soldiers around the world, with particular reference to the practices of non-state armed groups. With an estimated 300,000 children believed to be participating in current armed conflicts, child soldier use is particularly endemic among armed groups. Engaging with these groups and ultimately securing compliance through traditional means of enforcement has proved to be challenging and limited in its success. Privileging the engagement model inherently recognizes that giving full responsibility of compliance to the state or international community ignores important factors that contribute to the continued recruitment of child soldiers by armed groups.

The internal, protracted nature of today's armed conflicts only highlights the fact that armed group involvement is likely to remain a key element of the child soldiering problem. The research and analysis in this paper will address to what extent the direct engagement model works, and under what circumstances it does, in the range of coercive and inclusive human rights approaches and strategies that exist. Although coercive tools are necessary, they are limited; direct engagement has been under-utilized as a framework to encourage armed group to respect human rights and eradicate the use of child soldiers.

The historical focus of human rights advocacy and the framework of international law has been structured around the conduct of and between states, within a wider community of international organizations, non-governmental organizations (NGOs) and various related agencies. However, in an era of modern warfare that is increasingly characterized by highly influential rebel armed groups and forces, eliminating the practice of child soldiering requires, at

the very least, recognition of the importance of directly engaging with armed groups and instituting a culture of dialogue as the norm.

Direct engagement with armed groups, therefore, must be seriously considered as an element to any strategy that will ultimately lead to the end of child soldiering. Strategies that seek to change the behaviors of an armed group by dehumanizing it even further - no matter how dehumanized it might already be - are unlikely to succeed; ultimately, effective engagement with armed groups requires a dispassionate analysis, which subsequently presupposes a local, context-sensitive understanding of the situation as well as the key distinctions between the types of actors that are considering intervention (Petrasek 2006).

This paper will also analyze compliance/noncompliance practices of armed groups' adherence to international laws against child soldiering, examining experiences of engagement in Sri Lanka and Myanmar (Burma), two notable cases where non-state armed groups have actively recruited (and continue to recruit) child soldiers. Myanmar's sustained counter-insurgency operations are believed to contain thousands of children (CSUC 2008) and Sri Lanka's Liberation Tigers of Tamil-Eelam (LTTE) extensively recruited children since 1987, despite continued pledges during the civil conflict to end all child recruitment (Wessels 2006). The analysis of both states' compliance/noncompliance patterns in regards to child soldiering will seek to provide insight into cases of successful and unsuccessful human rights approaches in engaging armed groups to respect international human rights law.

In reviewing the body of literature and international legislation on child soldiering practices, principles and norms that shape the basis for the prevention of child soldiering, and understanding what treaty obligations mean in practice for non-state armed groups, this paper

endeavors to take a more systematic, well-rounded approach to analyze the recruitment of child soldiers by armed groups and to develop an applicable “best practices” framework/model of engagement to effectively enable demobilization efforts and eradicate the global recruitment and use of child soldiers.

BACKGROUND

It has been estimated that over two million children have been killed in war zones over the past two decades, with more than a quarter of a million exploited as child soldiers in at least 30 countries (Security Council Report, 2008). While the majority fall between the ages of 15 and 18, many are as young as 10, with the youngest recorded age at 7 (Congo: War is International, 2003). The realities of contemporary warfare and the overwhelming exploitation of civilians in modern civil conflicts have perpetuated the use of children as part of a deliberate strategy to achieve control in military activity. Despite a rich body of international laws and instruments condemning the use of children in armed conflict, the global phenomenon of child soldiering persists “in over twenty countries around the world [where] children are direct participants in war” (HRW 2007). An estimated 200,000 to 300,000 children, defined under international law as individuals under 18 years of age, are serving as soldiers for both non-state groups and government forces in armed conflicts around the world.

Child Soldiers International (previously the Coalition to Stop the Use of Child Soldiers), an international human rights research and advocacy organization which campaigns for an end to the military use of children in any capacity, has documented research on 21 countries where children were deployed to areas of conflict between April 2004 and October 2007. The majority

of these children serve in non-state armed groups, where “in at least 24 countries located in every region of the world [armed groups] were known to have recruited under-18s...and use them in hostilities” (CSUC 2008). Subsequently, the recruitment and use of young boys and girls by non-state armed groups remains widespread in countries such as the Central African Republic, Colombia, DRC, Iraq, Lebanon, Liberia, Myanmar, Nepal, Philippines, Somalia, Sri Lanka, Sudan and Uganda (CSUC 2008).

It is generally understood that where armed conflict exists, child soldiers will almost certainly be involved (CSUC 2008). In the latest UN Secretary-General’s report on Children and armed conflict, of approximately 47 parties in 15 countries that have been listed to recruit or use children in situations of armed conflict, 34 are non-state armed groups (Office of the Special Representative of the Secretary-General for Children and Armed Conflict 2011). By definition, over half of the actors in the most widespread of non-international armed conflicts around the world are non-state armed groups (Sassoli 2003).

Prevailing international law prohibits the recruitment and use of child soldiers under the age of 18 by non-state armed groups and criminalizes the recruitment and use of children under the age of fifteen by both state and non-state entities. It is considered a war crime to conscript or enlist children under the age of 15 into armed forces or groups or use them to participate actively in hostilities. Further, the abduction and forced recruitment of children under the age of 15 years into armed forces or groups can amount to crimes against humanity.

Despite the high level of international attention on the issue, numerous codified prohibitions and international instruments to prevent the use of children in conflict and the fact that armed groups have been bound to stricter recruitment and deployment obligations, as

outlined in the Optional Protocol on the Convention on the Rights of the Child, these mandated human rights responsibilities of armed groups must be carried forward by states (Ward 2004). Only state governments can sign and ratify legal treaties, and it is ultimately the responsibility of the government to enforce international humanitarian and human rights law on domestic rebel, opposition and armed groups .

It is generally the case, however, that the leadership of armed groups chooses to disregard international human rights law, with even less of an inclination to commit to any type of obligation. Lacking global recognition as legitimate bodies, these groups are able to function beyond the scope of international human rights laws. Further, in countries where the power of armed groups overrides that of a corrupt or failed state, armed groups are generally accepted by citizens and/or the local community as the legitimate authority, and domestic prosecutions are unlikely. In communities ravaged by violence, poverty and instability, the practice of child recruitment into armed groups, whether forced or voluntary, is often met with little opposition as many children have few alternatives to joining armed groups, which they view as a means to fulfill basic needs (CSUC 2008).

Working Definitions

While the universal emphasis on the definition of a child as any individual under 18 years of age has sparked lively debate concerning the appropriateness with local cultural definitions, the Convention on the Rights of the Child (Article 1) and the Optional Protocol to the Convention, the African Charter on the Rights and Welfare of the Child and the International Labour Organization's Convention on the Worst Forms of Child Labour (Article 2) all identify

18 as the minimum age for involvement in armed conflict. In the documentation of the use of child soldiers across differing contexts, it has been determined that, although the definition of a child can be articulated in a variety of ways across cultures, “in most cases, traditional values around the protection of children in conflict will be virtually identical to those contained in international humanitarian and human rights law and standards” (Withers 2007: 9). While recognizing that no single and universal concept of what it means to be a child exists, for the purposes of this research paper, a child shall be defined as “every human being below the age of eighteen years”, based on the generally accepted legal definition of childhood in the Convention of the Rights of the Child, the most widely ratified human rights treaty in the world (CRC 1990).

In addition to establishing the definition of a child as any person under the age of 18, there is also the need to clarify the definition of a “child soldier”. As it has been acknowledged in numerous reports and studies that children fulfill a myriad of roles during armed conflict, a child soldier will be defined as “a child associated with an armed force or armed group...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” (Paris Principles, 2007). Furthermore, in discussing non-state armed groups as key actors in the framework for direct engagement, the neutral terminology of “armed groups” is to be understood as “groups that are armed and use force to achieve their objectives and are not under state control” (Petrasek 2006: 6).

Child Soldiers

Child soldiers vary in age, in how they are recruited and by whom, and in the treatment they face during their military service. Within armed groups, child soldiers perform a diverse variety of roles, in addition to front-line combatant positions. Depending on the context of the conflict and the armed group itself, child soldiers may serve as porters, bodyguards, spies, sex slaves, cooks, recruiters and sentries (Wessels 2006). Gender often conditions the treatment they receive, as boys and girls serve in both combatant and auxiliary roles. Desperate children are easy to sustain, have no real sense of fear and can be easily manipulated; often, the lure of ideology, combined with the child's macro socio-economic and political environment, generates vulnerable conditions for child soldier recruitment. It can also be argued that, from a military perspective, there is a tactical advantage of using children in war.

Existing literature provides the background on the patterns and factors that are linked to the recruitment of child soldiers. In essence, many people stand to benefit from exploiting children as soldiers (Wessels 2006). Child soldiers "continue to be used in conflicts throughout the world because there are leaders - political and military, governmental or non-governmental, soldiers or thugs and thieves - who have achieved "success" through using them" (Dallaire 2010: 123).

The first global study on the prevalence of child soldiering, the 1996 Machel Report which was sponsored by the United Nations to summarize the impact of armed conflict on children, and subsequent reports have estimated that there are approximately 300,000 child soldiers enlisted at any point in time, with the largest numbers found in Africa and Asia. Children have been used to support warfare for centuries, and as the distinction between combatant and

civilian becomes increasingly blurred given the nature of contemporary conflicts, there has been a marked increase in the use of children as combatants (Machel 1996).

The most common form of armed conflict today consists of interstate war and civil conflicts, often characterized by guerilla warfare and rebel groups (Wessels 2006). Contemporary conflicts are often fought internally rather than between states and involve a wider range of political and military actors, resulting in “a bewildering variety of organizations, in widely different contexts, [that] have taken up arms against the state (or are armed and outside state control)” (Petrusek 2006: 1).

As a result, child soldiers continue to be the weapon of choice in contemporary combat and conflict (Dallaire 2010). The widespread availability and proliferation of lightweight, inexpensive weapons, including AK-47 assault rifles, have enabled children as young as ten to become effective combatants in the field. The low cost of an AK-47 has made it possible for armed groups to utilize the practical, economical means of contemporary civil warfare to establish a large constituent of combatants and achieve military goals (Peters & Richards, 1998). In combination with the overabundance of light arms and weapons, the overpopulation of children has only called attention to their availability and seemingly expendable nature, and, in many cases, making them preferable to adults by armed groups.

Modern conflicts are often sustained by a multitude of social and historical factors, including, poverty, instability and disparities that extend from periods of power-sharing in the post-Colonial era. In these environments, where countries are seemingly locked into a cycle of constant conflict, violence poverty, children are particularly vulnerable. “Most of the conflicts ... that have employed, or are employing, child soldiers, occur in countries where there is an

unstructured political, economic and social environment” (Dallaire, 2010: 114). As a result, the emotional and physical vulnerability of children, particularly of those who are too young to resist or are displaced from their families, is often a key factor in the decision, whether voluntary or forced, to join an armed group.

Psychologically, children can be tightly controlled and easily manipulated. They require minimal skills training or knowledge when compared to adult combatants; in fact, in countries like Sri Lanka, children are not only disciplined and well-trained, they are used specifically because they can perform at similar standards as adults (Human Rights Watch 2003). Armed groups have also recognized the impact that children with guns can have on adults, exploiting their tactical advantage to be superior fighters based on their speed, agility and resilience.

Why Children Fight

There is great variance in children’s reasoning to join armed groups. One consistent commonality that resonates, however, is that the environment in which these children live are often characterized by failed governments, broken political systems, cycles of violence and conflict and minimal, or a lack thereof, of social services.

In countries where violence permeates social and cultural norms, a process of socialization transforms children into soldiers with the ability to fight and kill (Ozerdem and Podder 2011). The success to which armed groups develop and imbed these norms ascertains its ability to retain control and maintain compliance. Within the structures of a “new identity”, the re-identification process is a powerful socialization mechanism, particularly for children and young adolescents as the process can parallel coming-of-age ceremonies and other

transformative rituals (Ozerdem and Podder 2011). These contextual factors of socio-economic conditions, religious and/or ethnic identity and poverty inherently heighten a child's desire to regain a sense of control and power in what has come to be a life of uncertainty and fear.

The potential rewards - financial, ideological or economical - of joining an armed group also play a role in enticing children to voluntarily join armed groups. It has been argued that “the prospect of even marginal payment...appears to be a strong incentive for children to enlist, particularly in situations when their parents are missing or they have a hard time providing for themselves in terms of basic security and food” (Ozerdem and Podder 2011: 35). The challenging existence of children in difficult socio-economic environments conditions the allure of joining an armed group, which can often offer food, shelter, basic needs and some sense of belonging, particularly to those who have been displaced from their families and simply cannot provide for themselves and/or survive on their own. “Although it is easy to moralize against soldiering, it is important to remember that for some young people, soldiering means access to basic health care, more regular meals, or protection where none had been available” (Wessels 2009: 409). Ultimately, joining an armed group can appear to be the best choice out of several extremely poor alternatives.

Children also join on the basis of revenge, to avenge the killings of family members or to join a cause that is directed against the state or another opposition group, and to establish a personal perception of physical power, achievement and a strong sense of agency or meaning in life. Some children have also revealed that their decision to join an armed group is based on the opportunity to gain skills and training that is not necessarily available to them through typical civilian channels, given the context of their surroundings (Wessels 2006).

Whether children want to become soldiers, however, is often besides the point for many commanders of armed groups who utilize fear as a cause for joining, as well as staying. Children are particularly susceptible to forced recruitment due to the ease in which they can be intimidated (Wessels 2006). Forced recruitment through abduction, intimidation and coercion are common ways in which armed groups fill quotas and institute large armies of easily manipulated, subservient fighters. Ultimately, a child's choice to join an armed group is seldom based on one motive, with multiple causal elements embedded in the reasoning to join an armed group. In most cases, a child may be responding to a variety of economic, cultural, social and political pressures that limits his/her freedom of choice.

INTERNATIONAL LAW

International prohibitions against the use of child soldiers are found in several treaties under international humanitarian law, human rights law and additional legal instruments, norms and principles. Following the publication of the Machel report in 1996 was a call on the international community to respond. Machel's report indicated that both governments and non-state armed groups participated in the use of children as soldiers, recruiting between the ages of 15 and 18 - and in many cases, much younger - and concluding that the practice was increasing (Machel 1996: 11). The Machel report presented the following recommendations:

- a) *“...a global campaign should be launched, ... aimed at eradicating the use of children under the age of 18 years in the armed forces. The media, too, should be encouraged to expose the use of child soldiers and the need for demobilization;*

- b) *United Nations bodies, specialized agencies and international civil society actors should ... encourage the immediate demobilization of child soldiers and adherence to the Convention on the Rights of the Child;*
- c) *All peace agreements should include specific measures to demobilize and reintegrate child soldiers into society ...;*
- d) *States should ... rais[e] the age of recruitment and participation in the armed forces to 18 years.*” (Machel 1996: 21).

International Humanitarian Law

The first treaties including provisions about children’s recruitment and use in hostilities were the two Additional Protocols of 1977 to the four Geneva Conventions. This was the first time the child soldiering issue was addressed in a binding international document. All states have ratified the Geneva Conventions, and since 1949, not one of them has withdrawn its ratification (Bangerter 2011). Additional Protocols I and II were established based on the recognition that international humanitarian law was in need of progressive development, particularly with the shift towards a growing number of internal civil conflicts and wars of rebellion (Happold 2005). The Additional Protocols established special protections for children, setting the minimum age for recruitment and use of any child in armed conflict at 15 years of age. They also “marked the beginning of the legal regulation of children’s participation in hostilities”, with Additional Protocol II binding not only states, but also on armed groups fighting against the governments (Happold 2005: 68).

International Human Rights Law

The 1989 Convention on the Rights of the Child (CRC), one of the first human rights treaties restricting the use of child soldiers, substantiated the definition of a child as anyone under the age of 18. As of 2004, only two UN member states, Somalia and the United States, are not parties to the Convention (Happold 2005). However, the CRC did not raise the age of recruitment to match the definition (as defined in the Additional Protocols), stating that “*parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a direct part in hostilities*” (Article 38[2], CRC 1990).

As a result, numerous child rights advocates decided that an Optional Protocol, drafted by a United Nations working group, was necessary in order to specifically establish 18 as the minimum age for both compulsory and voluntary recruitment and participation in conflict. The 2000 Optional Protocol to the Convention on the Rights of the Child explicitly states in Article 4 that “*armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years*” (Article 4[1], Optional Protocol 2000).

Additional international law includes the 1999 International Labour Organization (ILO) Convention on the Worst Forms of Child Labour, which prohibits the “*forced or compulsory recruitment of children under the age of 18 for use in armed conflict*” (Article 3[a], Convention 182 1999). As the first specific, legal recognition of child soldiering as a form of child labor, the forced or compulsory recruitment of children for use in armed conflict was viewed as a practice similar to slavery. The ILO’s Convention solidified preceding international norms, as set out in

the CRC and Optional Protocol, and was quickly ratified, entering into force 18 months after it was adopted (Happold 2005: 83).

International Criminal Law

The 1998 Rome Statute, the basis for the creation of the International Criminal Court, has further deemed the conscription/enlistment of children under the age of 15 to actively participate in hostilities in both international and internal conflicts as a war crime (Articles 8[2][b][xxci] and 8[2][e][vii], Rome Statute 1998). War crimes are considered “violations of the law and customs of war incurring individual responsibility”, and even armed groups are liable to be criminally indicted for the crime (Happold 2005: 122). It has been argued that a drawback of the Rome Statute is the continuation of the standard age of 15 years of the 1977 Additional Protocols to the Geneva Convention.

COMPLIANCE STRATEGIES

There are generally three ways in which international humanitarian and human rights law can be enforced against armed groups (Sassoli 2003). First, the behavior of the armed groups may be attributed to the state or government in power, which often requires traditional enforcement mechanisms against such responsible states, such as sanctions and other international diplomatic pressures that utilize a top-down approach. These are often cases in which a state may be responsible for an armed group fighting under its jurisdiction, either because it controls it (or is under the effective control of the armed group), directs it, or adopts its conduct as its own.

Second, international criminal law possesses mechanisms (International Criminal Court, international criminal tribunals) which directly address individuals in that the breach of international criminal law, including war crimes and crimes against humanity, may be committed not only by individuals acting for a state, but equally by individuals acting for an armed group. The third possibility, which has been explored less than individual criminal responsibility as an avenue of engagement, is enforcing humanitarian and human rights law directly against the armed group through inclusive, direct engagement, which can include assistance for reform, developing codes of conduct/deeds of commitment and direct substitution of services (Petrasek 2006).

This paper will focus exclusively on the third approach and the need to utilize a model of direct engagement, noting that traditional coercive enforcement mechanisms are necessary but limited, given the nature of armed groups. This approach also recognizes that in countries where armed groups exist, states or governments will have likely lost control of these groups, many of which have established a mandate that seeks to change or remove the existing government with the desire to establish an independent state. Combining “advocacy, shaming and accountability measures with practical assistance for the demobilization and rehabilitation of former child soldiers, and educational and vocational alternatives” establishes new norms for engagement, in creating a sense of ownership among armed groups to involve them in reaffirming their human rights obligations, and develops promising new avenues for addressing the child soldier problem (Becker 2003: 7).

Enforcement exclusively through the territorial state and traditional state-centric international mechanisms, therefore, is less effective as a deterrent than directly enforcing

international obligations on an armed group. International law's implementation mechanisms often exclusively apply to states. As a result, it is evident that, when influencing armed groups, models of engagement must reflect the realities of the political conditions and order within inter-state armed conflicts, in which a variety of actors -indigenous/local communities, non-governmental organizations and armed groups - play an important role.

Current Efforts & Strategies

In addition to international humanitarian and human rights law provisions, there have been numerous initiatives to establish guiding principles to approach the problem of children associated with armed forces and armed groups based on international law and standards, including the 1997 Cape Town Principles, the 2007 Paris Principles and international conferences with governments committing to protect children from unlawful recruitment (i.e. 2007 Free Children from War Conference). Further, the 1990 African Charter on the Rights and Welfare of the Child is one of the only regional instruments that exists at this time addressing the issue of child soldiers. The language of the African Charter is stronger than that in the CRC as it requires state parties to “...*take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain...from recruiting any child*” (Article 22[2], African Charter 1990), and also includes articles relevant to the issue of sexual exploitation in the context of child soldiering. These initiatives underscore the humanitarian imperative to seek the unconditional release of children from armed forces or groups at all times.

The United Nations Security Council has also taken progressively stronger measures in addressing the issue of child soldiers. The Council's first resolutions on the issue in 1999 and

2000 simply urged UN member states and parties to armed conflict to abide by international standards and support rehabilitation efforts for former child soldiers. Beginning in 2001, however, the Secretary-General established the “name and shame” initiative, listing specific parties to armed conflict that were responsible for recruiting and using child soldiers and violating international obligations. The Secretary-General’s decision to implement this coercive measure was founded on “exposing those who violate standards for the protection of children to the light of public scrutiny, ... serving notice that the international community is finally willing to back expressions of concern with action” (Secretary-General Ban Ki-moon 2003). Further, the “name and shame” approach added several additional elements to urge parties named to end their use of child soldiers: entering into dialogue with parties using child soldiers to develop action plans to end the practice, calling for specific information from the parties on steps taken, and requesting a progress report from the parties listed in the Secretary-General’s report.

There has also been headway in establishing criminal responsibility for those who recruit and use children in armed conflicts, through convictions in the Special Court for Sierra Leone and indictments in the International Criminal Court. In 2003, the Special Court for Sierra Leone charged former president of Liberia, Charles Taylor, with the charge of recruiting child soldiers; this was the first time an international court affirmed the recruitment and use of child soldiers as a war crime. This momentum also led to the International Criminal Court issuing a warrant for the arrest of Joseph Kony and other commanders of the notorious Lord’s Resistance Army, a militant group formed in Northern Uganda, on charges of war crimes, including the forcible recruitment and use of thousands of child soldiers in hostilities. In 2007, establishing another international precedent at the time for convicting on charges related to child soldiers, the Special

Court for Sierra Leone sentenced Alex Tamba Brima and two other militia leaders of the Armed Forces Revolutionary Council on eleven charges, including conscripting and enlisting of children under the age of 15 into armed forces or groups and using children to participate actively in hostilities. Most recently, in March 2012, the International Criminal Court found the Congolese warlord, Thomas Lubanga, the court's first convicted war criminal, guilty of recruiting and using child soldiers.

Notwithstanding, in spite of landmark progress since 1998 when the use of children and armed conflict was first placed on the agenda of the UN Security Council, little progress has been made in concretely eradicating the use of child combatants, particularly in modern conflicts where "children have been recruited much more deliberately, not just due to their availability and relative cheapness, but because they are more easily indoctrinated into violence and thus more willing than adults to carry out atrocities" (Machel 2000: 13). The contemporary picture is "one of armed groups that have ignored international law and standards, that renege on commitments, are resistant to pressure and persuasion, or have so far proved to be beyond the reach of efforts to end the involvement of children in conflict and political violence" (CSUC 2008: 25). As will be discussed, detached coercive measures such as the UN Secretary-General's "name and shame" list have yet to yield concrete, positive results; in fact, from 2002 to 2003, the list of violators on the list actually increased from 23 to 31 (Becker 2003) and, as of 2011, stands at 34.

It can be argued, therefore, that the foundations on which international law had been established - a system of functioning states - have disintegrated, or in some countries, simply never existed, and the parallel coercive mechanisms to engage with armed groups that reflect this framework have yet to successfully address impunity. State-centered international law cannot

properly protect child soldiers who exist in these conditions, because it is based on the presupposition that some type of structure exists in the society. Armed groups often act solely to protect their own interests and priorities, ignorant of the consequences in their pursuit to achieve their objectives, whether political, ideological or economic.

As a result, international law can offer no guarantee of protection, particularly for children. Because armed groups are not signatories to these international treaties and conventions, they are far less amenable to the pressures exacted through traditional diplomatic means. Although the widespread permeation of international standards and norms has cultivated a general understanding that recruiting children into armed conflicts is a gross violation of human rights, there have been numerous challenges in holding these international standards to armed groups to influence their willingness and ability to comply. Few armed groups that are engaged in conflict will cease their use of child soldiers unless they recognize that there is some positive benefit of doing so that supersedes the military advantage that children provide. Thus, a direct engagement model, linked with coercive measures to engagement and monitoring through UN-based charter mechanisms, establishes a more pragmatic, inclusive approach that focuses solely on the human rights issue at hand and encourages positive action from within the armed group itself.

Compliance/Noncompliance with International Law

Current monitoring and enforcement mechanisms and efforts to persuade armed groups to adhere to international standards have been met with only limited success because “persuading armed groups to be bound by an international treaty to which only states can become party, or

indeed by relevant provisions of international humanitarian law, represents a formidable challenge” (Withers 2007: 4). The limits of the international legal system present the inherent complexities in translating international law into domestic enforcement mechanisms.

There are a variety of reasons behind armed groups’ compliance/noncompliance with international law. One of the most powerful factors in generating adherence to international law is that of self-image. The convictions and character of a group, in terms of its aims and ideologies and how it shapes its ultimate goals - whether political, ideological, moral or cultural - are reflected in concerns of its public image and perception by others. Particularly the case for armed groups whose driving force is founded on political aims, it might be important to provide an image of respectability and a capacity to comply with commitments (Bangerter 2011). For example, in response to international pressure, several armed groups in Cote d’Ivoire, Sri Lanka and Myanmar have committed themselves to ending the recruitment and use of children, albeit symbolically (CSUC 2008: 14).

The decisive advantage in adhering to international law can present numerous tactical military advantages for armed groups, in enforcing a respect for law within the armed group itself, as well as sustaining a more positive long-term image for groups who desire to govern and represent their country in the future. In addition, gaining support from the local constituents in respecting human rights obligations can establish a sense of well-being in the community and secure loyalty of civilians. In terms of sustaining morale and discipline, it can also be important to recognize that attacking vulnerable people stands in opposition to the values that effectively preserve an armed group’s self-image.

For those armed groups that choose not to comply with international law, it can be generally assumed that these groups are simply prepared to go to any lengths to challenge what they perceive as a threat, regardless of whether they are violating human rights and humanitarian standards. Faced with the threat of extinction at any point in time, this situational context enhances the desire to allow normally unacceptable acts. The systematic recruitment of children, therefore, appears to have little attachment to international law, as many armed groups continue to view themselves as “beyond the reach of international justice, remain[ing] confident that national-level prosecutions are unlikely” (CSUC 2008: 27).

In some cases, allegiances to other laws (religious/moral/ideological) that establish segregate codes of conduct for armed groups effectively justify human rights violations. Seemingly vindicated by a noble aim, armed groups choose not to comply based on their founding objectives. A lack of complete comprehension of international humanitarian and human rights law can also be seen as a reason for noncompliance. Using violations instead as political leverage, armed groups have played into the “politics” of gaining sufficient international attention to continue to be perceived as a threat in both domestic and global politics (Bangerter 2011).

In addition, as there are military advantages to complying with international law, there are short-term benefits to having children perform military tasks (particularly when the armed group’s priority is to establish as large of a combatant base as possible). “Few armed groups that engage in armed conflict will relinquish their use of child soldiers unless they perceive that the positive benefits of doing so (or conversely, the negative consequences of failing to do so) outweigh the military advantage that children provide” (Becker 2003: 6). Combined with a

“nothing left to lose” attitude, most armed groups no longer see any benefits to complying with international law, choosing to focus on the short-term advantages of utilizing fear and terror as a means to control local populations and constituencies. In countries where state governments are viewed as illegitimate, as is often the case in states where an armed group has established its presence, and cannot protect the local people from rebel attacks, it is likely that civilians will ultimately seek refuge with the armed group (Bangerter 2011).

The impact of short and long-term aims are significant in determining armed groups’ compliance/noncompliance to international standards. When survival is at stake, acts that violate international humanitarian and human rights law can be more easily justified. Subsequently, when the actions of an armed group are shaped by the conflict itself, rather than the groups’ ultimate aims and objectives, the chances of violating international law increase. Recognizing the “diversity of armed groups also means recognizing the diversity of the reasons that prompt them to respect the rules of [international humanitarian law] - or not” (Bangerter 2011: 31).

CASE STUDIES: Experiences

The following case studies present experiences that reflect the growing number of public commitments by armed groups to end the use of child soldiers, as by the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka and several ethnic armed opposition groups in Myanmar (Burma). Such commitments have led to successes while others have remained largely symbolic gestures while the status quo persists. An important caveat to recognize in both examples is the assumption that these armed groups are to some degree sensitive to international opinion and human rights norms. In order for a direct engagement model to produce effective results, it must

be presumed that the armed group in question has, at the minimum, some regard for international norms and human rights as well as a willingness to change.

Sri Lanka

Sri Lanka experienced conflict for over three decades, with the civil war being fought largely between the Sri Lankan government and the LTTE, a Tamil separatist group fighting for independence from Sri Lanka (CSUC 2008). In 2009, the Sri Lankan government declared an official end to the civil war, defeating the LTTE. From the earliest years of the conflict, however, the LTTE employed child soldiers to fight on their behalf. Based on Child Soldiers International's 2008 Global Report, the total number of children known to have been recruited since 2002 was well over six thousand (CSUC 2008). As early as 1998, the LTTE made repeated commitments to the UN that it would cease its recruitment of children. Although the United Nations, UNICEF and the UN Special Working Group on Children and Conflict consistently made efforts to condemn the use of child soldiers in Sri Lanka, there was little impact to change their practices.

Internationally, the LTTE is considered to have been one of the largest users of child soldiers; since the start of the civil war in 1983, however, both the government and the LTTE actively recruited and used child soldiers in Sri Lanka in some respect. The LTTE consistently denied the use of child soldiers, and made numerous pledges to stop recruiting children. According to Human Rights Watch, Tamil children were "vulnerable to recruitment beginning at the age of eleven or twelve" (HRW 2004: 2). The recruitment of children by the LTTE was fueled by four major factors: LTTE propaganda, children seeking to avenge their families due to

government abuses, deprivation as a result of poverty and lack of socio-economic opportunities and forced recruitment and coercion.

In 2003, the LTTE and the Sri Lankan government signed a formal Action Plan for Children Affected By War (Action Plan) that included a pledge by the LTTE to end its recruitment of children and to release its current child soldiers back to their families and demobilization “transit centres”. This engagement model was intended to provide comprehensive support for conflict-affected children and also included a framework for the release and demobilization of child soldiers.

The Action Plan gave UNICEF, the main implementing partner, a formal monitoring role regarding violations of the rights of children. UNICEF publicized the outlined commitments in a public awareness campaign, specifically referring to the LTTE’s commitment not to recruit child soldiers. The Plan also included vocational training for young people between fifteen and eighteen to anticipate training former child soldiers in learning transferable skills such as construction, agriculture, tailoring, welding, etc. (HRW 2004). A key component of the plan was to release and reintegrate child soldiers into three transit centres that would facilitate the return of children to their communities. The Tamil Rehabilitation Organization (TRO) was given funds to establish these centres and co-manage them with UNICEF. Through a program of counseling, a full series of activities and follow-up visits to ensure the reintegration process, the former child soldiers would ideally be successfully rehabilitated into their communities. As of October 2004, however, UNICEF documented 3,516 new cases of underage recruitment following the ceasefire agreement and the commitment to the Action Plan (HRW 2004). UNICEF recognized that the

cyclical nature of child recruitment occurred as a result of the civil conflict, ultimately leading to the dramatic increase in May and June of 2004.

The Action Plan and UNICEF's role have been heavily criticized with a significant controversial element being that of the large allocation of funds to the TRO, a known affiliate of the LTTE, for construction and operation costs. As the LTTE ultimately failed to comply with the conditions of the Action Plan, UNICEF was criticized for "not working closely enough with [local activists], for not placing enough emphasis on recruitment prevention and follow-up on individual cases, and for failing to communicate its activities effectively to local communities" (HRW 2004: 60). UNICEF's most significant oversight was its decision not to coordinate with local and other international activist groups on the ground who were also seeking to respond to the release of child soldiers. One local activist noted that, in such a situation, "coordination amongst all the actors is critical to ensure that protection and monitoring can be spread out over as broad an area as possible" (HRW 2004: 61).

In 2007, the LTTE pledged to eliminate those under the age of 18 from their military forces by the end of the year, the first time in which the group had established a specific deadline (CSUC 2008). Submitting an action plan to the Office of the Secretary General for Children and Armed Conflict, the LTTE also committed to raise the minimum age of recruitment to 18 years. Although the child recruitment rate was noted to have fallen steadily initially, with the LTTE reportedly using media notices to demonstrate its commitment to releasing underage recruits, in the final months of the conflict, the LTTE intensified its forcible recruitment of children, some as young as 14 years old, through the implementation of a quota system (CSUC 2010).

In analyzing the engagement model utilized in Sri Lanka to prevent the use of child soldiers by the LTTE, it becomes clear that the fact that the LTTE put its military objectives above all and any commitments made hindered any progress towards eliminating the practice of child soldier recruitment. The engagement model utilized by UNICEF in 2003 failed to include several elements that are fundamental to achieving success through direct engagement: coordination between actors, a tangible commitment that outlines the regulations of behavior and provides an element of ownership, and a mechanism to respond to non-compliance when the commitment was not being successfully implemented.

As discussed, UNICEF's Action Plan was criticized for its operation in isolation from local and community organizations, denouncing UNICEF for not sufficiently involving local community-based organizations, stating that UNICEF needed "more representation from remote areas...especially in remote areas where recruitment [was] high". The lack of coordination between actors, and the decision to involve the TRO, an organization controlled largely by the LTTE, whose "credibility [was] riddled with allegations about its political motives" (HRW 2004: 61) delegitimized the ability of UNICEF's Action Plan to bring about tangible results on the ground. An effective engagement model requires an understanding of the environment in which the armed group operates; any approach to successfully engaging with armed groups "will need to take into account of other initiatives that may be underway which could impact on the situation for the children and/or the relationship with the armed group" (Withers 2007: 12).

In addition, the Action Plan model in Sri Lanka lacked the technical assistance and monitoring to prevent the use of child soldiers. Dialogue in a framework for engagement is carried out with the purpose of eliciting some type of commitment to international standards.

Drafting some type of deed of commitment or code of conduct that explicitly outlined the acceptable behaviors and regulations of the group implements a sustained sense of engagement, in the recognition that a commitment is “only the beginning of the process” (Withers 2007: 11). The LTTE reverted to recruiting child soldiers during the times that the civil conflict required more substantial numbers of combatants to fight; it appears that the lack of firm deadlines and benchmarks for the LTTE’s compliance with its agreements under the Action Plan, and encouraging the group to understand and recognize the meaning of its human rights commitments through tangible measures, allowed the group to easily rescind on its commitments in times of heightened demand during the conflict.

Initially, it appears that the element of the traditional international condemnation concerning the situation in Sri Lanka bore some element of coercion on the LTTE’s practices. In addition, groups such as Human Rights Watch and the CSUC continually cited Sri Lanka for violations of international laws regarding the use of child soldiers. Described as a group with a keen awareness to establishing international legitimacy, the element of self-image appears to have been a central element of agreeing to commit to Action Plans in both 2003 and 2007. The CSUC attributed the LTTE’s stated agreements to release child soldiers to be linked to “increasing international condemnation, in particular the [continued] call for targeted sanctions by the UN Secretary-General” (CSUC 2008: 313).

However, in analyzing the 2003 Action Plan, the LTTE’s unwillingness to abide by the Action Plan from the outset renders questionable UNICEF’s decision to continue to cooperate with the LTTE in light of the group’s non-compliance with the Action Plan. Both 2003 and 2007 Action Plans lacked any tangible mechanism to respond to non-compliance. As a result, the

LTTE appeared to view these commitments as largely symbolic gestures as the patterns of recruitment fell and then subsequently increased based on demand, following its commitments. Continuing to engage with the LTTE in this manner, regardless of the group's trend of non-compliance, effectively permeated a sense of impunity. For example, had UNICEF established specific benchmarks in the release of child soldiers within a designated time frame, and the LTTE failed to meet those targets, UNICEF could have reacted by suspending its funding to the TRO for the Action Plan centre's operations.

Sri Lanka's experience demonstrates a model of engagement that achieved little; the framework for engagement neglected to address several of the key elements of a direct, inclusive approach. UNICEF's efforts alienated grassroots initiatives and the community of local actors who were mobilizing to raise awareness and establish preventative measures to the recruitment of child soldiers. Communities are essential to understanding why children are recruited. The lack of coordination, particularly during the mass release of children in 2004, who were then subsequently at high risk of re-recruitment, with other local and international groups who were trying to respond to the same challenge presumes a fundamental misunderstanding of the importance of grassroots initiatives within a community.

Further, the Secretary-General's standalone efforts to "shame" the LTTE into compliance were not successful. Had the coercive element of the approach been combined with engagement on the ground - given the knowledge that the LTTE had demonstrated interest in improving its international image - the LTTE might have been held accountable for its continued recruitment of child soldiers if it saw concrete punitive measures to the funding it was receiving from UNICEF's Action Plan. Fundamentally revising the Action Plan itself, directly engaging with the

LTTE on the matter of noncompliance, or even implementing a broader sanctions regime might have established conditions more conducive to achieving success. Seemingly, in the case of Sri Lanka, a combined coercive and direct engagement model might have proved to be more effective, particularly due to the lack of LTTE's sense of ownership to its commitments and continued noncompliance with international humanitarian and human rights law.

Myanmar (Burma)

In terms of child soldier use, it is widely believed that Myanmar uses more child soldiers than any country in the world (CSUC 2008). Fighting between Myanmar's armed forces and opposing armed groups has been largely concentrated in Myanmar's states bordering Bangladesh, India, China, Laos and Thailand. In the 1990s, the Myanmar government's armed forces, the State Peace Development Council (SPDC), entered into cease-fires with most of the armed groups; however, the military wing of several armed groups continue to operate along the eastern and western borders, and several groups, including the Karen National Union/Karen National Liberation Army (KNU/KNLA), the Karenni National Progressive Party/Karenni Army (KNPP/KA), the Shan State Army South (SSA-S) and the Chin National Front/Chin National Army (CNF/CNA) remain in low-level armed conflict with the SPDC in parts of the Karen, Karenni, Shan and Chin states.

While the majority of child soldiers are found in the national army, the SPDC, they are also present in a myriad of opposition armed groups. Over thirty armed groups are continuing to recruit child soldiers, with Human Rights Watch estimating that, in combination, armed groups have recruited as many as 6,000-7,000 child soldiers in the past twenty years (HRW 2002). The

United Wa State Army (UWSA) is the largest armed group, with approximately 2,000 of its 20,000 troops likely to be children, many of which are forcibly conscripted. The UWSA reportedly requires each family to contribute one son to the war efforts, and has allegedly accepted boys as young as 12 years old in non-combatant roles, and boys from the age of 15 years in combatant functions. God's Army, a breakaway group of the Karen National Union, is led by two child soldier twins and heavily composed of other child soldiers who are generally accounted to be under 13 years of age. Many children join armed groups opposed to the SPDC voluntarily to earn a living, to join in the armed struggle against the Myanmar authorities, or to defend themselves and their families from human rights violations by the SPDC (Watchlist 2009). Several of these armed groups have imposed recruitment quotas on households, and families who only have children under the age of 18 often send their underage children to fill those quota, as they depend on their older children for family survival.

Interestingly, Myanmar displays a marked contrast to other countries that use child soldiers. In contrast with most other war-ravaged regions around the world, where civilian abuses are perpetrated primarily by armed groups, the overwhelming majority of Myanmar's child soldier practices occur under the hand of its ruling junta. The government openly recruits children extensively and has made little effort to conceal this practice, recruiting and using children for more than 20 years (Watchlist 2009). Evidence gathered by Human Rights Watch indicates that there may be "70,000 or more child soldiers in the Burma army, with several thousand of these being boys under fifteen years old...mak[ing] the Burma army the single largest user of child soldiers in the world (HRW 2002: 199).

On the basis of international law, Myanmar has only ratified the CRC (in 1991) and has made it quite clear that the government has no intention of ratifying the Rome Statute or to participate in the ICC in any capacity, continuing to deny that any children are being recruited or deployed in its armed forces. The proliferation of international condemnation and widespread criticism of the regime's use of child soldiers appears to have had a negligible impact on the government. Although the UN has stated its interest in pursuing economic sanctions and arms embargoes, no formal resolutions imposing sanctions on Myanmar have passed.

While armed groups have taken the initiative upon themselves to condemn the practice of child soldiering, supported by networks of national and international NGOs, the government has chosen to assume no responsibility in implementing any feasible measures to prevent recruitment and use of children by armed groups. The UN Secretary-General's 2011 report on Children and armed conflict reported that "patterns of recruitment of underage children into the [SPDC] did not alter significantly, and still included the recruitment of working and unaccompanied children from the streets, railway stations or other public places, although the majority of children were recruited from their homes or villages" (Office of the Special Representative of the Secretary-General for Children and Armed Conflict 2011: 24). This case study and the analysis of Myanmar's armed groups' compliance to international law presumes a recognition and focus on understanding that armed groups may ultimately be part of the solution in establishing best practices that can help other armed groups and state governments to meet their international obligations.

There are numerous armed groups that have previously expressed interest and intent to end child recruitment by signing deeds of commitment not to recruit or use child soldiers,

including the Karen National Union (KNU) and the Karenni National Peoples Party (KNPP)/ Karenni Army (KA) (CSUC 2011). In addition, in March 2009, the Chin National Front/Chin National Army signed a deed of commitment in which they pledge not to recruit or use any person under 18 in its armed forces; representatives of the Kachin Independence Organization/ Kachin Independence Army have followed this lead, indicating their willingness to commit to agreements to prevent the use of child soldiers.

Several of these armed groups have been listed on the Secretary-General's "name and shame" list, but UN agencies have never met with these groups or had only limited interaction with these groups on child recruitment concerns. For example, although there have been no recent reports of child recruitment in the KNPP/KA, the Secretary-General has not removed them from the list of parties to armed conflict, stating a lack of access to verify these claims (Watchlist 2009). Although these armed groups having expressed interest in taking the steps to be de-listed, including groups that have signed deeds of commitments, the Special Representative for the Secretary-General has not appeared to proactively respond to these commitments. This raises important questions regarding a coercive approach of engagement and whether it inherently discourages positive actions. Ultimately, the "failure to engage with these groups might further dissuade them from accepting or maintaining a commitment to avoid the recruitment and use of child soldiers" (Watchlist 2009: 44). Recognizing the impact of segregating coercive measures from direct engagement, or choosing not to alter a coercive approach in response to positive actions taken by a perpetrator, raises important questions in the discussion of implementing a successful strategy for engagement with an armed group when addressing its child soldiering practices.

Although the UN's "name and shame" strategy might persuade an armed group to stop an abuse of human rights, it has yet to produce concrete results as an isolated approach. The limited impact of the list is reflected in the fact that it "has not been used extensively as an advocacy tool at the field level, where its potential may not be understood, or it may be seen as irrelevant to the local situation", and the fact that the scope of the list only addresses countries on the Security Council's agenda, while excluding others with significant child soldier recruitment practices, has resulted in a questioning of its validity (Becker 2003: 5). The lack of systematic dialogue in the aforementioned coercive approach to engaging armed groups to prevent the use and recruitment of child soldiers significantly hinders its legitimacy. Most importantly, however, "the Council has not yet demonstrated its willingness to take concrete action against parties on the list that have shown no improvement" (Becker 2003: 5).

In an effort to improve its monitoring practices, the UN did implement its Monitoring and Reporting Mechanism (MRM) in 2005, under the issuance of Security Council Resolution No. 1612, which includes three vital components of monitoring, reporting and response to prevent occurrences and trigger some type of immediate response to grave child rights violations. In Myanmar, an MRM Task Force was established in June 2007, consisting of the International Labour Organization (ILO), UNICEF, the United Nations Development Programme (UNDP), the UN Resident Humanitarian Coordinator, Save the Children and World Vision. The Task Force in Myanmar has achieved the release of a number of children, initiated dialogue with SPDC authorities, and established action plans with two armed groups to end the recruitment and use of child soldiers. However, the model of engagement the Task Force utilizes is not without challenges: the lack of regular and systematic interaction in the establishment of specific

deadlines has hindered armed groups' compliance with international standards, and the numerous restrictions that the Myanmar government imposed on international missions to freely investigate and monitor recruitment practices has made it difficult for the Task Force to effectively enter into dialogue and formalize commitments with armed groups.

Consequently, NGOs in Myanmar have achieved far greater levels of success through a framework of direct negotiations with armed groups to provide training and acting as an intermediary for the release of children. The Human Rights Education Institute of Burma (HREIB) launched a project in 2004 to protect children from grave child rights violations in Myanmar. With an "inbuilt flexibility to work with [armed groups] across the international border between Thailand and Burma, [HREIB] can offer targeted interventions in local languages that are culturally relevant, low cost and are implemented within a short time-frame" (HREIB). When compared to international agencies, including UNICEF and the MRM Task Force, that have been prevented from working on the ground, HREIB has been able to establish an important role in Myanmar, developing relationships with armed groups through a model of direct engagement. Building greater understanding and recognition of armed groups' legal obligations has been an important element of HREIB's approach.

The implementation of a series of workshops from 2009 to 2011 with soldiers from nine armed groups, produced post-training results that indicated significant changes in participants' attitudes about children. For example, a soldier changed his opinion about his son's involvement in an armed group after attending a workshop on the UN Convention on the Rights of the Child. Training with armed groups and education are important components of HREIB's direct engagement model; as a result of these training workshops, soldiers from armed groups and

community leaders in areas affected by armed conflict have begun to recognize the importance of protecting child rights and their human rights obligations, particularly for future generations.

Geneva Call, an international humanitarian organization dedicated to engaging armed non-state actors towards compliance with the norms of international humanitarian and human rights law, has also developed an innovative approach to engagement, primarily through direct dialogue with the armed group, attaining compliance through a deed of commitment framework, in which armed groups ascribe to specific norms (see Annex A). The deed of commitment on children and armed conflict - similar to its predecessor banning anti-personnel landmines - includes provisions on implementation and verification by both external monitoring and self-compliance. While it is important to include the MRM Task Force oversight mechanism in a framework for engagement with armed groups, the deed of commitment provides a complementary approach in attaining commitments and compliance with international norms for child protection.

Geneva Call's approach focuses on engaging and listening with armed groups, learning their policies, behavior and conduct, in an effort to gain the support of the armed group. The aspect of recognition for armed groups that choose to sign a deed of commitment, and the system of incentives that Geneva Call offers for those who make that commitment, is based on a framework of confidence building measures within a peace process. For example, in Geneva Call's work in encouraging armed groups to engage in the process of implementing an anti-personnel landmine ban, armed groups who sign a deed of commitment for adherence to a total ban on anti-personnel mines and for cooperation in mine action, are provided with incentives for

doing so, including mine risk education, mine victim assistance, mine clearance and destruction of stockpiles as well as building the expertise of concerned community groups and organizations.

In partnership with HREIB, the Geneva Call is currently engaging with 7 armed groups in Myanmar. In collecting perspectives of armed groups on the protection of children from the effects of armed conflict, Geneva Call uncovered compelling feedback on the MRM Task Force process from those armed groups listed as violators on the Secretary General's "name and shame" list. While there is recognition of the important role of the UN and the international community in preventing the recruitment and use of child soldiers, several armed groups expressed that the MRM process was inaccessible to them and did not "grant non-state actors a fair process to refute the allegations leading to their listing" (Geneva Call 2010: 7). The KNU/KNLA reported that its letters to UNICEF expressing a desire to enter into an Action Plan with the UN have remained unanswered, even after it signed a deed of commitment with UNICEF.

In the case of Myanmar's compliance patterns in eliminating the use of child soldiers, it is clearly evident that the under-utilization of the direct engagement model approach has slowed the process of armed groups' commitment to eradicate the use of child soldiers. On its own, the Secretary-General's "name and shame" list ceases to recognize the positive actions taken by an armed group, even when armed groups sought to initiate an Action Plan process. This demonstrates the inherent limitation of only utilizing a coercive approach. It is important to recognize the potential impact that a combined coercive-engagement approach bears on armed groups' ultimate compliance and commitment to concrete agreements/deeds of commitment.

Further, a model of direct engagement that provides a system of benefits/incentives to the community that is implemented upon adhering to a deed of commitment, for example, creates an

environment of cooperation rather than confrontation. The opportunity to learn the behaviors and policies of the armed group, and subsequently provide them an opportunity to be held accountable is an under-utilized element of the direct engagement model. The focus on making armed groups part of the solution requires a culture of direct dialogue that recognizes that armed groups are diverse and have different needs; elements of education, training and provision of social services, particularly for children who seek out armed groups looking for protection, care or the chance to seek revenge, are important elements of a direct engagement model that a coercive or sanctions-based approach inherently ignores.

As Geneva Call and HREIB achieve success in their direct approaches to engage armed groups to commit to eliminating the practice of child soldiering, it is important to recognize the value of these NGOs' direct engagement models that utilize elements such as human rights education as an entry point to raise the issue of child soldiers in the community, initiation of dialogue with leaders of the armed groups, and grassroots training and awareness programs for members of armed groups and community organizations. Adhering to and upholding the standards of international law to armed groups has succeeded in entrenching and promoting the norms of human rights obligations for all state and non-state actors; however, to prevent continued underage recruitment in armed conflict, any initiative must take into account the context of the conflict and the armed group itself and rely on more than international legal mechanisms to garner sustainable commitments from armed groups that effectively establish patterns of compliance.

ENGAGEMENT/INTERVENTION: Models & Frameworks

Engagement with armed group necessarily involves different types of policies, activities and approaches to problem-solving, including varying applications of coercive force.

Implementation efforts directed at armed groups must be strengthened in order to ensure that international law is upheld and applied both by states and armed groups. As reported by the Child Soldiers International, armed groups' widely diverse characters, aims and methods, and the varied environments in which they operate militate against generic solutions.

As a result, generalizations should be avoided in understanding the behaviors and actions of armed groups; a dispassionate analysis can lead to important understandings on how to engage in dialogue or establish a negotiation process. Most importantly, "understanding what motivates an armed group to recruit and use children is important to designing effective protection strategies, including whether, when and how to enter into dialogue with such groups" (Withers 2007: 3). When directly engaging with armed groups, there are three major contextual elements to consider: the character of the armed group, the role and capacity of civil society and the role of the state (Petrasek 2006).

As previously discussed, there are some conditions that motivate an armed group to demonstrate compliance or noncompliance to international standards. Armed groups are very diverse, in their degree of organization and control over their members, and particularly in their inclination to respect human rights and humanitarian rules. Some armed groups have specific political aims while others act on fundamentally ideological goals. An armed group's statement of aims can often reflect its commitment, or not, to respecting human rights. Further, short and long-term objectives will frame how the group intends to achieve its goals, and whether it views

respect for human rights as a standard to be upheld or justifies violations as collateral damage in the process of executing and meeting its desired objectives.

The role and capacity of civil society has important implications on influencing and improving the behavior of armed groups. Which actor ultimately carries the most legitimacy? As viewed in the analysis of the LTTE case in Sri Lanka, an international organization (UNICEF) did not demonstrate capacity or competence in implementing a successful Action Plan to prevent the continued recruitment of child soldiering and implement a process for reintegration/rehabilitation. In Myanmar, civil society organizations such as Geneva Call and HREIB were able to develop a stronger understanding of the policies regulating armed groups' behavior, directly engaging with these groups to provide tools and incentives to effectively garner a commitment from armed groups to comply with international humanitarian and human rights law. Where it is demonstrated that local/national groups can successfully mobilize efforts to engage with armed groups in culturally-sensitive contexts, a collaborative effort between international agencies and NGOs might achieve greater success on the ground.

Factors such as the “legitimacy of the state itself, the degree to which the state and its armed forces violate human rights, and the state’s tolerance for any forms of independent action” are often preconditions for the existence and/or abundance of armed groups within the country (Petrasek 2006: 35). As seen in the case of Myanmar, the resistance of the government to allow international agencies and NGOs to engage directly with armed groups challenged UN-led enforcement mechanisms, such as the MRM Task Force to be met with success. However, in recognizing the effectiveness of direct engagement approaches by organizations such as HREIB and Geneva Call, it is important to note the initiative of several armed groups in Myanmar that

have demonstrated the important role they have to play in establishing constructive solutions and best practices to prevent the continued recruitment of child soldiers by both states governments and armed groups.

There are two generally recognized approaches in negotiating with armed groups to prevent child recruitment in times of armed conflict: inclusive (holistic, soft law) approaches and coercive (non-military, hard law) approaches. Soft measures include advocacy, direct negotiations, mediation, dialogue and liaison interactions amongst all actors involved, while hard measures call for targeted sanctions and criminal prosecution.

Coercive Approaches

Hardline, coercive approaches to approaching armed groups includes sanctions (disciplinary or penal), public denunciation (naming and shaming) and individual criminal prosecutions. Sanctions against armed groups can take several forms: foreign travel restrictions for identified individuals, trade bans, bans on weapons transfer, freezing of foreign assets and prohibitions of activities by members abroad (Petrasek 2006: 44). Successful implementation of sanctions on armed groups, however, can be difficult, in that they can have an adverse effect on civilian populations and usually lack the means to ensure compliance.

While the power of naming and shaming should not be underestimated, as it can be argued that the Secretary-General's annex list of countries that actively recruit and use child soldiers can alter armed groups' behaviors, most armed groups care less about their public image and will choose to prioritize military objectives when the context of the environment requires them to do so (as seen in Sri Lanka's cyclical pattern of child recruitment). In addition, individual criminal prosecutions of armed group members (i.e. criminal indictments of leaders of

armed groups) have established important precedents in indicting armed groups' senior leadership; however, in considering the broader context in which armed groups and national and international actors operate, criminal indictments have been seen as jeopardizing grassroots initiatives and local processes to negotiate the release of child soldiers or establish a basis for any type of direct, constructive dialogue to implement proactive independent initiatives by armed groups themselves.

Context: "Global War on Terror"

Given the post-9/11 environment, there are several factors that make engagement, particularly direct engagement, difficult (and in some cases, potentially illegal). Primarily, there has been an increased international movement to designate armed groups in "terrorist lists" (Thorne 2006). The UN, European Union, United Kingdom and United States all maintain lists with mechanisms, including sanctions, decreasing and/or freezing financial and material support and assets, criminalizing certain acts, implementing travel bans for those on international lists and introducing embargoes on the sale and transfers of arms or related materiel. Targeted groups differ in all of the lists; the UN list targets only Al-Qaida and the Taliban, while in the US, many different types of lists exist, earmarking different behaviors on the basis of a variety of criteria and mechanisms for enforcement.

In the United States, a 2010 Supreme Court decision has put international humanitarian workers at risk for being prosecuted if found assisting a terrorist group under the Foreign Terrorist Organization (FTO) designation. The law bans "material support", and is reportedly aimed at putting an end to terrorism, making it a federal crime to provide *any* help or support to a

designated “terrorist group”, even support that trains/educates violent armed groups on using peaceful, human rights approaches.

For human rights engagement, “terrorist lists” can significantly impact the ability to engage directly with armed groups. While there are “no known cases where an organization has been actively prevented from working as a result of terror lists or funding restrictions...it is not possible to know whether any projects have been scrapped or not started because of a lack of funding” (Thorne 2007: 13). The subsequent loss of humanitarian space in which grassroots organizations and NGO work has led to a institutionalization of increased bureaucracy and complexities in monitoring where funds are (or cannot be) allocated. In many cases, the targeted groups are deeply embedded in the society, providing an alternative governance structure in cases where the state government is inaccessible or illegitimate (Thorne 2007).

The Centre for Humanitarian Dialogue suggests that a longer-term solution in engaging these groups with humanitarian commitments and principles within the context of the “global war on terror” is to implement a mechanism of general humanitarian exemption to be applied in relation to funding agreements and specific organizations, on a case-by-case basis. In effect, however, there appears to be a growing tendency to embrace a coercive or sanctions-based approach to engagement, given the context of a post-9/11 environment, which presents significant challenges to implement models of direct engagement with armed groups.

Arguments Against Isolated Coercive Approaches

Nevertheless, “it is wishful thinking to expect that any single tool such as in [the] case [of] the MRM - a highly political and process-driven mechanism - can maximize protection on

its own” (Somer 2012: 18). The fact that the UN and international law are founded on and operate within a state-centric and state-based system limits enforceability to international institutions (Thorne 2006). In fact, a recent study has reported that “a number of interlocutors have cast doubt on the extent to which [UN action plans] have led to positive change by concerned [armed groups]” (Somer 2012: 18). Within the UN, there has also been an ongoing discussion about the effectiveness of sanctions in general (Thorne 2006). It is unlikely that armed groups maintain property or bank accounts under their name; thus, any mechanism of asset-freezing or decreasing financial support would require targeting against individuals.

The impact of de-linking coercive measures from direct engagement, or choosing not to alter a coercive approach to include elements of direct engagement when it continues to result in noncompliance, is clearly demonstrated in the experiences of Sri Lanka, where an isolated UN action plan lacking elements for direct engagement was viewed by many as an engagement model that failed, and in Myanmar, where armed groups’ interest in implementing positive actions to de-list themselves from the Secretary General’s “name and shame” list were met with minimal acknowledgement or response.

When a coercive, punitive approach does not prove effective, it is important to recognize that other frameworks for engagement exist that provide a more comprehensive approach to protect children under the control of armed groups. The model of direct engagement has been under-utilized, and should be recognized as an important addition to any coercive tool.

Implementing a human rights-based approach to engage with armed groups, through inclusive approaches that includes all relevant community actors and establishes a sense of ownership and accountability within the leadership of the armed group itself, has the potential to reverse the

existing incentive system that encourages violence, ultimately replacing it with a structural framework within which armed groups are encouraged to moderate their behavior through achieving some level of recognition at the international level or through education and training of international humanitarian and human rights law and support to demobilize and reintegrate child soldiers back into the community.

Armed groups represent sizable constituencies, and when they experience grievances, they have the ability to sustain armed conflict and sabotage any agreement or commitment from which they are left out of. As a result, there is an imperative need to engage with those armed groups who have had primary roles in perpetrating an environment of conflict through direct channels of communication. Acquiring a greater understanding of the armed group's motives and its capacities for engagement is likely to produce sustainable results in demobilizing child soldiers and preventing any possibility of re-entry into armed groups.

Inclusive Approaches

The complexities of international law and potential state hostility to allowing engagement notwithstanding, there are compelling arguments for developing a more coherent, inclusive, soft law framework for dealing with armed groups, and for treating their actions and behavior as more than public security, terrorist threats. In fact, the limited reach of coercive methods and international legal obligations should not be used as an excuse not to engage with armed groups. In fact, by denying direct dialogue and engagement, human rights organizations strip themselves of a crucial piece of leverage, one which they have been able to utilize effectively with the traditional state subjects of human rights scrutiny. “If humanitarian and human rights standards

are to mean anything, they have to be applied - and enforced - in all contexts, including those of fragmented sovereignty. Doing this forces human rights and humanitarian agencies to deal with groups directly” (Policzer 2005: 6).

Inclusive approaches encompass a variety of possible actions: dialogue/negotiation, training/capacity building, mediation, service delivery, etc. Successful dialogue requires linking humanitarian/human rights principles to local contexts to be culturally sensitive and resonate with the local community and their values. Speaking the “right language” requires sensitivity to, and awareness of, local and cultural contexts. Negotiation through dialogue can include seeking tangible commitments from armed groups, and training/capacity building efforts can be sustained around awareness campaigns and a focus on education. Service delivery, through provisions of social assistance and community development, can involve communities at the grassroots level to recognize the advantages of preventing child soldiering and linking rehabilitation/reintegration efforts to infrastructure development or other initiatives and projects where the rest of the community can experience the benefits as well.

The framework of inclusive approaches inherently recognizes a model of direct engagement with the armed group itself. It is important to note that this approach is often most successful in armed groups that present a clear leadership structure and have a minimal regard for international law. If humanitarian and human rights standards are to hold any validity, they need to apply to all relevant actors, not only states. This requires an understanding of legitimacy not as something that belongs purely to states (Policzer 2005); in fact, in directing the evolution of engagement with armed groups to become the norm, rather than the exception, extracting commitments from an armed group on the foundations of a dispassionate perspective becomes

increasingly feasible. Although the concerns of conferring legitimacy on an armed group are well-founded, when the protection of children is of utmost priority, then direct engagement must be considered (Withers 2007). Any form of direct engagement should also include participation by the state authority in order to ensure the reinstatement of the legitimate governing authority (likely the state government) in the future.

In most cases, the environment of conflict, violence and poverty conditions armed groups to behave in a certain manner, with their decisions and behaviors reflecting their inherent desire to survive; as a result, any general acceptance for international law breaks down or is ignored/dismissed in an effort to meet short-term demands and/or aims (i.e. to recruit as many combatants as possible). It is important to recognize that these values can be reclaimed or upheld within armed groups' own codes of conducts or deeds of commitment.

Simply criminalizing or dehumanizing any and all armed groups is counterproductive (Bangerter 2011). While it remains important to condemn behavior/acts that violate international law, applying a generalization onto all armed groups will only result in further radicalizing them. In order to establish a minimal culture of dialogue, a dispassionate engagement is required. Therefore, striking a balance between complete recognition and labeling is fundamental to initiate productive dialogue and mobilize grassroots efforts to prevent child soldiering. In most cases, local constituents and civilians are monopolized through fear and power by the armed group itself, particularly in countries where the state no longer protects the rights of its people. This can lead to local community leaders engaging directly with armed groups, mediated by an NGO or human rights organization, and can also empower the community to report cases of forced recruitment or abduction of children instead of accepting it as the norm. As seen in the

success of HREIB's work, education and training, elements of a direct engagement framework, produce more sustainable legacies of understanding within the community itself of the need to prevent the recruitment and use of child soldiers.

Because international law is established by states, and in some cases, simultaneously violated, this can give even fewer reason for armed groups to abide by humanitarian or human rights law. In fact, reprisals that seek to demonstrate revenge to the state are “one of the most powerful driving forces behind the spiral of violence set in motion in many conflicts, some lasting for decades or even centuries” (Bangerter 2011: 27). If a deep concern for human rights is not enough to induce compliance to international laws, an additional factor that must also be considered is an armed group's desire to adhere to global norms for purposes for political legitimacy. Ethical principles establish the core of international humanitarian and human rights law; if an appeal to common values and human rights fails based on the fact that armed groups view these standards as Western ideals imposed on their personal ideological values, then a more constructive approach would be to utilize context and armed group-specific codes of conduct as tools for respecting international law.

“If integrated properly, international humanitarian law can be stated in a way that is easy to understand and to be followed by members of the armed group. Complex legal texts are unlikely to capture the attention of fighters” (International Review of the Red Cross 2011: 3). Codes of conduct provide a point of entry for substantive dialogue and, more importantly, a basis for engaging armed groups in addressing violations (Bangerter 2011). As powerful tools for compliance, codes of conduct reflect a more comprehensive framework to curb human rights violations by armed groups as it moves beyond the simple state/non-state dichotomy. In addition,

“these codes of conduct give some shape to a very grey area of decision-making...and are a first step towards eroding the arbitrariness that is a hallmark of many armed groups” (Petrasek 2006: 52).

Welcoming and encouraging tools that establish international standards in a more culturally sensitive context (i.e. codes of conduct, deeds of commitment), while providing a series of reference points for monitoring and evaluation, assigns responsibility directly to the armed groups to ultimately be held accountable for their actions. It has been reported that it is increasingly likely that an armed group will comply with standards that it has bestowed on its members. If armed groups are to be held accountable for violations of human rights and humanitarian norms, they must be assigned ownership for their actions. Organizations “like UNHCR, UNICEF, UNDP, ICRC, MSF and a legion of NGOs engage with armed groups on a daily basis” (Capie and Policzer 2004: 2). In upholding a collaborative approach, addressing armed groups directly through dialogue can promote awareness and general debates between right and wrong and facilitate a movement towards reform through a process of gradual understanding (Petrasek 2006). The Geneva Call’s report on “Perspectives of armed non-state actors on the protection of children from the effects of armed conflict” (2010) presents the understanding that an environment of cooperation rather than confrontation reveals important nuances in how armed groups view the recruitment and use of children in times of conflict (Geneva Call 2010).

Collaborative efforts that focus on child soldiering prevention through awareness raising can also help build community resistance to child recruitment (Withers 2007). Clearly expressing the position and role on the issue of child soldiers and emphasizing the importance of raising a

generation that is not founded on the basis of violence and conflict re-emphasizes the international norm that children deserve special protections in times of conflict. Human rights education can also be a point of entry to raise the issue of child soldiers when engaging with armed groups that appear more receptive to discussing human rights and humanitarian issues. Training of armed groups in international humanitarian and human rights law should take into account the unique circumstances of armed groups themselves. Framing these standards in terms of locally sensitive contexts will prove to be more useful and sustainable mechanisms for education in the long-term.

Bangerter (2011) states that it is “ill-conceived to continue reiterating that the recruitment of child soldiers is ‘wrong’ and it is against the law”(Bangerter 2011: 31). Circular statements hinder any constructive movement towards a culture of impunity in regards to armed groups child soldiering practices. As is evident, “efforts to persuade armed groups to adhere to international standards on child soldiers have so far met with only limited success” (Withers 2007: 1). Despite the fact that there have been significant advances in the international legal framework in the protection of children against recruitment into armed groups, these traditional mechanisms of pressure and coercion-persuasion have yet to establish any type of widespread movement to eradicate the practices of child soldiering.

Arguments Against the Engagement Model

There are two main objections in attempting to directly engage with armed groups. First, it is argued that engaging with armed groups inherently encourages them to continue fighting and ultimately enhances their legitimacy. However, as realized through Geneva Call’s consultations

with armed groups with respect to child soldiers, the “use and recruitment [of children] is often a consequence of inadequate protection environments for children, and therefore needs to be addressed as part of a comprehensive approach to child protection and care” (Somer 2012: 8).

Utilizing only a coercive method of engagement ignores the importance of taking an objective view of armed groups and disseminating the reasons to continue child soldiering practices. Understanding key contextual factors, particularly in cases where armed groups demonstrate a tolerance and respect for their international legal obligations, provides points of entry to engage in dialogue. “If it is acceptable to sit down and discuss human rights with any state, the same should be true of any armed group, whatever the perception of its abuses, tactics or objectives” (Petrasek 2006: 69). As Geneva Call states, “armed groups will not disappear if we ignore them - just as armed conflicts would not disappear if there was no body of [international humanitarian law]” (Geneva Call 2008).

An additional argument against a model of direct engagement is the challenge posed by states which deny or obstruct access to armed groups or territories on which they operate. This includes third states, such as the United States, that have drafted legislation criminalizing engagement with armed groups on targeted lists. A comprehensive approach, however, as seen in HREIB’s training and provision of workshops on child rights, can exist, even in conditions of state hostility in allowing engagement. Lower-level initiatives that are not associated with international diplomatic or political status ease the pressure on the state involved by addressing issues directly with the armed group and remaining independent from the state-centered political sphere. NGOs also bear the capacity to facilitate between state actors and armed groups, acting as a mediator with regard to humanitarian and human rights matters. In stimulating interaction

with armed groups outside of the traditional diplomatic, internationally-sanctioned, “high politics” arena, NGOs and grassroots initiatives have noted abilities to aid and support increased interaction between armed groups and the state. Thus, “informal relations with [armed groups] not only present the opportunity to tackle humanitarian issues on all levels involved, namely programmes dealing with consequences as well as prevention programmes, but also present the prospect of institutionalizing contact with [armed groups] to a certain extent” (Hofmann 2006: 406).

Contemporary armed groups command unprecedented attention and will not simply disappear if ignored; from a diplomatic perspective, it is important to acknowledge that armed groups must be directly engaged in order to redress the continued practice of child soldiering. As discussed, there are various levels of engagement, but future efforts to prevent child soldiering must be multi-faceted and recognize that confronting the challenge of addressing armed groups directly can create a culture of protection for children in armed conflict, beyond what is established in current international rhetoric. “A stranger arriving from the West waving an international treaty” has been demonstrated not to work (Withers 2007: 11). Consequently, establishing a prudent relationship that is cognizant of local values and possesses knowledge of the conflict itself and the inherent characteristics/aims/ideologies/behaviors of the armed group will predicate the basis of commitment and ownership to, at the very least, address the issue of child soldiering.

CONCLUSION

Respecting children's human rights is an essential component for healthy and prosperous development into the future. For children who are socialized to know only abuse, violence, hardship and poverty, their experience will ultimately shape them as adults. Thus, the use of child soldiers is not a subtle or surreptitious practice of which the international community can claim ignorance, as the recruitment and use of boys and girls by armed groups continues to remain widespread. Development of international law thus far largely reflects what the majority of states already do. While this results in a general understanding of international humanitarian and human rights obligations, what is required is advancement towards the application of a model of direct engagement with armed groups to implement a systematic prevention of the recruitment and use of child soldiers within the country.

Ending this culture of impunity requires an inclusive, holistic approach to engage with perpetrators, establishing an effective mechanism for compliance that is sensitive to local contexts and behaviors of the armed groups themselves. It is critical to recognize that "in many instances, the perceived deterrent value of punishment for violations of rules stipulated by the group itself may be greater than the threat of international prosecution" for violations of international standards (International Review of the Red Cross 2011: 4). Successfully achieving compliance by armed groups to eliminate the recruitment and use of child soldiers requires a systematic prevention strategy that favors the engagement model - or at the very minimum, includes an element of direct engagement. Tools that establish a sense of ownership and accountability within the armed group itself are fundamental to achieving sustainable commitments to adhere to international law. Favoring the engagement model recognizes that

traditional, isolated coercive strategies might further dehumanize an armed group, which would only result in a continued ignorance of international law and human rights obligations and resistance to pressure and persuasion.

International condemnation and the threat of coercive measures such as sanctions may, at the outset, limit the extent of child recruitment. However, the *full* effect can only truly be achieved through a model of direct engagement that combines the entire range of national, international, and non-state actors - including armed groups - and community organizations. A stated commitment is only the first step; establishing entry points for engagement with *all* those involved and efforts to influence the policies and behaviors of armed groups must become the norm. Implementing a coordinated, collaborative approach that is founded on a framework of dialogue, with the inclusion of coercive/sanctions-based mechanisms as required, is critical to the design of an effective strategy that prevents, and ultimately eliminates, the global recruitment and use of child soldiers.

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