

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

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EMMA GORDON, AUG 3 2011

Introduction

Dominic Ongwen is the first known person to be charged with the war crime of which he is also a victim – the abduction of child soldiers (International Criminal Court, 2005). Originally abducted walking home from school aged 10, Ongwen has since risen through the ranks of the Lords Resistance Army (LRA) to become one of the five commanders the International Criminal Court (ICC) deems most responsible for atrocities in northern Uganda. Although an extreme example, this case reveals the inherent duality of 'child soldiers'; this apparent oxymoron – the contradicting images of an innocent child juxtaposed with that of a powerful professional adult – implies both a victimhood and a level of responsibility.

Child soldiers feature throughout history,[1] however, transformation of war in the developing world and an influx of cheap, light weaponry has led to an increase in their usage (Singer, 2010). Often abducted at a young age, brutally initiated and forced to commit heinous atrocities, they are undoubtedly victims of these conflicts (e.g. Cohn and Goodwin-Gill, 1994; Honwana, 2006; Wessells, 2006). However, these children remain active participants and even if granted amnesty, can still struggle to reintegrate into society due to their role as perpetrators; affecting not only community relations, this role can also hinder psychosocial development. International law adopts a "straight-18" approach, which ignores their status as perpetrators and liberates those below this "childhood threshold" from responsibility (United Nations, 1977a, 1977b, 1998, 2000; African Union, 1990). By refusing to tackle child soldier's liminal position, which breaks down the simple dichotomy of victim and perpetrator, programs and approaches to child soldiers remain ill-adapted to their reality (Honwana, 2005: 32)

This paper will seek to investigate the ambiguous status of child soldiers[2] – including those that remain in armed forces beyond the age of 18 – looking at their victimhood, their level of agency and the resulting post-conflict implications.[3] It will argue that although local communities and child soldiers themselves understand their inherent duality, the international discourse has yet to incorporate it, which leads to an inadequate response.

Victims and perpetrators?

Abduction, Initiation and Protection under International Law

The brutal nature of forced recruitment and the subsequent initiation of child soldiers has been well documented (e.g. Honwana, 2006; Singer, 2006; Wessells, 2006). Due to their vulnerability, children as young as 7 or 8 are easily seized either while lacking adult supervision (walking from school, working in the fields etc) or in attacks on communities. Brutal beatings combined with ritualised initiation processes that often draw on local practices – such as drinking the blood of those they killed in order to foster fearlessness in Angola (Honwana, 2005: 42) – contribute to extreme indoctrination. This forms part of the process of 'moral splitting' that forces children to dehumanise others (Deutsch, 1990). As Deutsch (1990) writes, once a boundary between 'us' and 'them' has been established, and 'them' are gradually excluded from the moral community, one can then consider oneself moral for engaging in otherwise 'depraved actions' (1990: 24).

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

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It is unconceivable that this altered world-view combined with memory of atrocities committed does not have a bearing on a child's psychosocial development. This view has led to journalistic reports of generations of "damaged, uneducated pariahs" (New York Times cited in Blattman and Annan, 2010: 882; Boothby, 2006: 245). Many feared involvement in war would cause children to lose the ability to empathise with others and begin to internalise violent behaviour as normal practice (Boyden, 2003). Global humanitarian discourse is that children's vulnerability stems from their lack of complete cognitive development, including in the moral sphere (Lee, 2009: 9). As a result children are more impressionable and any prolonged trauma is liable to cause future psychological damage. Numerous studies have been carried out on the levels of post-traumatic stress disorder present in former child soldiers and although the findings are not unanimous, there is always some level of psychological distress visible (e.g. Bayer et al., 2007; Boothby, 2006; Leatherman and Griffin, 2009).

The conception of childhood as a period of underdevelopment and innocence has led to the general discourse taking a rights-based approach that renders all forms of children's military participation barbaric and abhorrent (Lee, 2009: 4). Both in International Humanitarian Law (United Nations, 1977a, 1977b) and in International Human Rights Law (African Union, 1990; United Nations, 1998, 2000; International Criminal Court, 1999), the "straight-18" approach means that states should ensure persons under 18 are not involved in direct hostilities (and those under 15 are not recruited). Thus, customary international law enshrines the innate vulnerability of children and the victimisation of child soldiers. However, this relies on a fairly modern conception of childhood (Cairns, 1996: 8) – a conception based on a Western idea of a period of innocence and education; a period distinctly separate from adulthood.

Voluntary recruitment

Childhood is now seen to be a social artefact, and whereas international law portrays children as pre-social and passive recipients of experiences, age is not the defining characteristic in all cultures; often 'young adults' can bear significant social, economic and political responsibilities (Honwana, 2005: 34; Lee, 2009: 15). These responsibilities can lead youths^[4] to join armed forces voluntarily – the Liberation Tigers of Tamil Eelam (LTTE) had a large body of voluntary youth recruits, as do the Mai Mai militias in Eastern Democratic Republic of Congo (DRC) (Cohn and Goodwin-Gill, 1994: 35; Redress, 2006: 18). Berry (2003) found that boys in Afghan militias were fully aware of the risks of military recruitment, however they understood that it was necessary to compromise their personal safety for their family and community (Berry cited in Lee, 2009: 16).

In their review of why youths choose to fight, Brett & Specht (2004: 123-128) identify five key areas including familial or societal pressure, poverty and employment concerns. Analysis of these areas soon reveals a network of push-and-pull factors, which leave volunteering as a last resort. In war-affected communities the clearest method to gain upward mobility is through armed groups – Assal and Farrel (1992) reported a Lebanese school girl whose teacher earned \$160 a month and had to stand in line for bread, whereas her brother, a militia man, earned nearly double and could walk to the front of any line (Assal and Farrel cited in Cairns, 1996: 123). Youth in Sierra Leone cited a lack of educational access as the primary reason for joining the RUF; military training was better than no training whatsoever (Wessells, 2005: 365; Richards, 1996: 24). In this sense the use of the term 'voluntary' should be treated with scepticism, however, by presuming victimhood and ignoring youths' active decision to participate in armed conflict, humanitarian agencies lose an opportunity to better understand youths' grievances and concerns.

Coping mechanisms and agency

Despite the presumption that former child combatants will return from conflict as damaged social pariahs, there is evidence to suggest a level of resilience which allows children to reintegrate back into civilian life (Wessells, 2004: 515; Blattman and Annan, 2010: 882; Boothby et al., 2006; Shepler, 2005). In what she labels the 'Beah phenomenon', Lee (2009: 10) describes that despite UNICEF using Beah's *A Long Way Gone* (2008) as evidence of a 'traumatised child soldier who reclaimed his humanity', the book shows ample evidence of bravery, resilience and active participation in war. In spite of indoctrination, children still carve out a mental space for emotions and other coping mechanisms. Often they give a false name on capture, they feign stupidity in order to avoid certain tasks, they sneak out of camp at night (Honwana, 2005: 47). Simultaneously they find ways to excuse or rationalise their more violent acts – for example, in the LRA there is a mix of Christianity, local spiritualism and politics to justify the cause.

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

Far from being purely passive victims, child soldiers hold a level of agency, and often a greater understanding of the political situations they are party to than they are given credit for. Alcinda Honwana's work (2005, 2006) has been at the forefront of this agency debate. She concludes that children have a 'tactical agency' – one that is 'devised to cope with and maximise the concrete, immediate circumstances of the military environment in which they have to operate' – as opposed to 'strategic agency' which requires an understanding of the consequences and often an expectation of personal enrichment (Honwana, 2005: 32).[5]

By displaying 'tactical agency' children are able to make the best of their situation, however, it is the very possession of this agency which leads to the complexity in defining child soldiers – the 'all-as-victims' discourse implies a total lack of agency, but once agency is acknowledged there must also be a level of responsibility assigned. While there are those who reject the resilience concept (Punamaki, 1987 and Dawes, 1989 cited in Cairns, 1996: 30-31) acknowledging agency allows for a more nuanced view of the differing roles played by child soldiers.

Complex Political Perpetrators

Attempting to define the dual status of child soldiers in a way that encompasses both lack of responsibility and the presence of agency, Baines (2009) arrives at 'complex political perpetrators'. This term encompasses a broader group of not just child soldiers, but those who grew up in the bush, and are now classed as adults. It is a lack of moral responsibility – a prerequisite for accountability – that complicates child soldiers' position as perpetrators (McMahan, 2010: 34). It is possible to argue that even the most heavily indoctrinated youth should understand that killing innocent civilians is wrong, however, due to the context they operate in it is still reasonable to see child soldiers as having a diminished capacity for morally responsible agency (McMahan, 2010). This applies even more so to cases such as Ongwen – children who have grown up as part of an armed force, or those who were born in the bush (as is the case with a large majority of the remaining LRA fighters). Those who spend their entire developmental and adolescent stage with armed groups form valuable identities linked to their role as combatants, identities which do not exist in peace time (Cohn and Goodwin-Gill, 1994: 43). Although these perpetrators are responsible for their actions, they cannot be solely defined by their acts of violence; they too must be seen as victims (Baines, 2009: 181, 186).

Initially seen as victims, child soldiers can be converted into perpetrators through the atrocities they commit, unwillingly or willingly. However, as this paper has tried to demonstrate thus far, this is not a linear process but a complex mesh of reinforcing acts of violence (Baines and Boniface, 2008: 16). As such, it is hard to assign levels of responsibility – an action that has proved necessary for post-conflict justice and successful community integration. The general discourse needs to move away from presuming distinct victim-perpetrator dichotomy and understand that many child soldiers fall into a much more complex interstitial position.

Implications

The repercussions of child soldiers having elements of both innocence and responsibility are felt at each stage of the conflict. Prohibiting their recruitment is the main focus of international law, being the most easily codified area; and issues are raised over how to fight against them – is it morally wrong to kill them even though often they pose as much threat as adults (McMahan, 2010: 28)? However, this paper will focus on the post-conflict[6] implications since these are the most extensive.

Disarmament, Demobilisation and Reintegration (DDR) Programs

DDR programs for child soldiers are notably different from their adult counterparts, mostly due to the complete removal of agency from children. Often, however, these programs are underfunded and unsuitable to the complexities of the character of child soldiers. In Sierra Leone, despite a large section of troops being under 18, of the \$34m the UN ear-marked for DDR in the mid-1990s, only \$965,000 was for child soldiers; as a result, a year into the operation only 30% of them had been disarmed and demobilised (Singer, 2006: 184, 186). Mozambique provides an even more dramatic example – although an estimated quarter of the total troops were child soldiers, neither the parties to the war nor the UN acknowledged this and as a result the formal DDR programs did not include special

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

provisions for children (Singer, 2006: 185).

Through research conducted in Thailand with former young members of the Khmer Rouge, Neil Boothby (cited in Cohn & Goodwin-Gill, 1994: 107) found that their psychological distress was most acute after laying down their weapons, and their 'rediscovery of killing as a moral transgression.' This is reflected in the structure and emphasis of most DDR programs which, after a period of rehabilitation, focus on 'normalisation' activities, basic schooling and recreational programs (Singer, 2006: 196). Herein lies the major flaw in many of these programs – by presuming victimhood and ignoring the existence of voluntary recruitment and the power wrought by 'tactical agency', they encourage a return to an idyllic concept of childhood. The majority of child soldiers have missed their formative school years, and are interested in their earning capacity rather than catching up on education, which to many would seem like a regression. In many of the studies of former child soldiers it becomes clear that they themselves see the loss of economic opportunity and training as the most damaging long-term effect of their time with armed groups (e.g. Blattman and Annan, 2010: 883; Boothby, 2006: 254). In Sierra Leone many of the former child combatants realised this weakness in the DDR program, resulting in an entry drop from 31% out of the total demobilised combatants in October 1999 to less than 7% by April 2000 (Shepler, 2005: 190).

As well as failing to address their economic needs, DDR programs also tend to ignore the challenge of giving up power and influence. Returning child soldiers, especially those fighting for longer periods, tend to view themselves as former soldiers not civilians, yet DDR programmes fail to acknowledge them as such (Hill and Langholtz, 2003: 280). Instead, they require them to conform to a largely Western conception of childhood, which, as already discussed, is culturally specific. Many adults in Sierra Leone struggled with the alien notion that was being encouraged of what a child should experience – children were being given perfect education and played on the beach all day, whereas they themselves suffered throughout the war and continued to do so (Lee, 2009: 30). This resentment can be further added to bearing in mind that often these adults suffered at the hands of the children, yet they are absolved of responsibility. Resentment can also occur amongst other war-affected youth who suffer similar mental health problems but do not receive the same care, having never been combatants (Betancourt, 2008: 140).

These flaws in DDR programmes stem from an inability to recognise the complicated roles established by conflict, especially that of the 'complex political perpetrator'. Children are presumed as passive victims, with all responsibility removed, and are then returned to a life they feel they've outgrown. But where do combatants such as Ongwen, or those born in the bush fit in? Even though they emerge as adults they don't have the same basis for reintegration as those who joined (forcibly or voluntarily) as adults; they are unsuited to 'normalisation' activities since they often have never known the 'normal' life.

Post-conflict justice

The discussion up until this point has demonstrated that child soldiers need to be seen as more than just victims and that complex political perpetrators need to be identified and treated as a separate group. These statements have their largest ramifications in post-conflict justice. By describing any person as a 'perpetrator' and assigning them a level of responsibility, they must be handled by the post-conflict justice system. The tension between types of justice is particularly useful in this context since although most international institutions encourage at least a level of retributive justice (e.g. Amnesty International, 2000), many feel that restorative justice is sufficient for child soldiers, due to their lack of moral responsibility; complex political perpetrators are not given the same consideration.[7]

The retributive model – that crimes need to be punished according to their severity – argues for punishment to avoid creating a culture of impunity and often to allow for a system of reparations to the victims (Wessells, 2006: 218; Amnesty International, 2000). Obviously it is not possible to hold every perpetrator to account in this manner, nor would it be appropriate to try every foot soldier for example, and as such this model seeks to identify those deemed most responsible. As concerns child soldiers, the innate problem with the retributive model is that it requires, and in fact enforces, a distinction between victim and perpetrator. Trying children in court would not only add to their potential stigmatisation and reintegration difficulties, but by making children relive trauma could delay their recovery (Grossman, 2007: 351; Wessells, 2006: 219). In order to overcome this it is generally accepted that there should be a separate juvenile justice system (United Nations, 1985) which emphasises flexibility (Rule 6, 1985) and the well-

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

being of the juvenile (Rule 5, 1985). However, these are not binding and as the case of Omar Khadr[8] demonstrates, they can be easily flouted (Happold, 2008; Tietz, 2006).

In the case of Sierra Leone there was lengthy debate over whether the Special Courts should be able to try child soldiers, especially those who participated without obvious coercion (Wessells, 2006: 221). Eventually it was agreed that, in line with international customary law on youth recruitment, those under 15 would not be held accountable but that those between 15 and 18 could be prosecuted (United Nations, 2002; Government of Sierra Leone, 2002). Interestingly this ability was never invoked and child soldiers were left to the Truth and Reconciliation Commission; it was felt that even the most brutal of child soldiers did not hold a high enough level of responsibility to fall under the mandate of the Special Courts, which were designed only to try a select few individuals (Rosen, 2007: 302). To be fully blameworthy in a retributive model there needs to be *mens rea* and criminal responsibility, however due to a lack of awareness of the consequences of their actions it is hard to assign either of these to child soldiers, and hence it is difficult to hold them accountable through retributive justice (Happold, 2008: 72-76).

Attribution of a high level of responsibility does not have to be linked with justice through prosecution (Asimakopoulou, 2010: 45); often, restorative justice can achieve the same ends but simultaneously contribute to helping community reintegration. Generally speaking restorative justice involves the offending party making offerings (of goods or services) that signal a recognition of guilt and remorse (Wessells, 2006: 221); the cultural significance of the offerings, as well as the local understanding of the accused's unique situation as a victim means it helps towards reintegration. As such, it is seen to have more of a rehabilitative element hence making it more suited to holding child soldiers to account (Grossman, 2007). However, local justice mechanisms cannot address national or international crimes – fine for a low ranking child soldier but not for those who have risen higher through the ranks – and places the burden of responsibility squarely on the accused (Baines, 2009: 185). As such, much like retributive justice, restorative justice also reifies the idea of victims and perpetrators as opposing homogenous groups, which can be damaging in terms of community reintegration.

Community Reintegration

It is beyond the scope of the paper to detail the methods of community reintegration for child soldiers and complex political perpetrators, but it is relevant to note that the narrow view of international discourse overlooks some of the possible complexities of the situation, as demonstrated in the discussion on DDR. During the reintegration process child soldiers need to be forgiven by the very people whom they victimised; while it is easy to say that as children they do not possess full moral responsibility, those who suffered at their hands may find this hard to accept. However there are also examples of extreme empathy and forgiveness. In his discussion of the Aguentas[9], Vigh (2006: 221) writes that the 'routinisation' of conflict as a context gave people an understanding over why others took up guns. He also describes how in the context of reintegration, the community redefined the Aguentas as children, even if at the time they were over 18, in order to better allow for reconciliation (Vigh, 2006: 224); the Acholi in northern Uganda adopt the same approach, reclassifying escapees as children (Finnstrom, 2008: 228). In both these cases, the communities understood them to be children because they are victims, whereas international law sees them as victims because they are children. This complex interplay between innocence, childhood and responsibility is ignored by international discourse, which prefers to adhere to a dichotomous definition of combatants, confining them to either innocent victims or guilty perpetrators.

Conclusion

Investigation into the role played by child soldiers clearly demonstrates that they are simultaneously victims and perpetrators; moreover, it shows that it is counter productive to view these as distinct and opposing categories. The intertwined effects of victimhood and responsibility combine to create 'complex political perpetrators', not just in child soldiers but also those who have matured above 18 while still part of fighting forces. By ignoring evidence of voluntary recruitment and 'tactical agency', child soldiers are treated as passive sufferers of war, and as a result DDR programs can be ill-suited to their needs, and justice measures taken against them can overlook certain needs within the community. The passivity is clear in the trauma idiom that sees psychological damage as the primary concern, rather than the loss of economic and educational opportunities.

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

It is not a simple case of shelving the universalist victims discourse. It is also necessary to extend the idea of victimisation beyond an age-related threshold; one can assume that any dysfunction exhibited in a child does not disappear the day he/she turns 18 (Baines and Boniface, 2008: 16). An arbitrary assignation of victimhood, based on a Western conception of childhood, ignores cultural contexts and glosses over the reality of child soldiers – that they are simultaneously victims and perpetrators. By acknowledging this, the relevant DDR and post-conflict justice approaches can adapt to better respond to the needs of former child soldiers.

Discussion

This paper has touched on some of the major issues, but due to spatial limitations its focus was not exhaustive, ignoring most notably a gendered approach. There needs to be a renewed focus on female child soldiers who experience the process differently. Social and cultural norms in their societies tend to view them as tainted due to their role either as fighters, generally associated with masculinity, or as sex slaves returning from the bush with children of their own (Lamberg, 2004). Further discussion on the moral complexities of fighting against child soldiers, and more detail on reintegration would also have been beneficial.

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Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

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Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

Written by Emma Gordon

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[1] From medieval pages to the recruitment of young boys into the English Navy in the eighteenth and nineteenth century (Singer, 2006: 1)

[2] The definition of a child soldier applied here is that given in the Cape Town Principles (UNICEF, 1997) as any person under 18 years of age who is part of any regular or irregular force in any capacity – it does not refer only to those carrying arms. While there is discussion in the literature over the terminology it is not relevant to this paper which uses 'child soldiers' more as a descriptive term than a technical one

[3] The implications are most severe in post-conflict setting, so due to spatial limits this will be the focus of the final

Victims and Perpetrators: the Implications of the Dual Status of Child Soldiers

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section.

[4] 'Youths' in this context refers to persons between 15 and 18 years of age

[5] Honwana is not alone in suggesting this notion, Erica Bouris (2007, cited in Baines, 2009: 177) introduces a theory of 'victim agency'

[6] In this context post-conflict is being treated on an individual basis. Most of the discussion relates to the ending of hostilities, but it is also relevant for when a child escapes or is captured

[7] The discussion of complex political perpetrators is particularly important here since any child soldier released even just a day after his/her 18th is held responsible for his/her actions.

[8] In 2002 in Afghanistan, 15-year-old Khadr killed a US green beret, and wounded another. He was held in Afghanistan until he turned 16 at which point he was transferred to Guantanamo. Since he arrived there aged 16 he was treated as an adult rather than being detained at Camp Iguana (the camp for juvenile offenders). He is being tried as an adult.

[9] A notoriously vicious youth militia in Guinea-Bissau

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