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International Peacekeeping and Child Soldiers: Problems of Security and Rebuilding

Franklyn Bai Kargbo†

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Introduction

I am profoundly honored for the opportunity to deliver the keynote address at this gathering. I congratulate the organizers on the choice of a conference topic that is also at the heart of the global human rights, peace, security, and development agenda.¹ The political landscape of the world is dotted with theaters of conflict in which children are direct participants. The United Nations (“UN”), regional, intergovernmental, and nongovernmental organizations continue to call the attention of the international community to the ongoing recruitment, deployment, and misuse of persons under the age of eighteen years² in armed conflicts. Various actors in

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1. See *Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children, Report of the Expert of the Secretary-General, Graça Machel*, U.N. GAOR, 51st Sess., Agenda Item 108, U.N. Doc. A/51/306 (1996).

2. See U.N. Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, art. 1, 28 I.L.M. 1457 (“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”).

the human rights, humanitarian, political, and social sphere have joined in the effort to eradicate the use of children in armed conflicts. Considerable progress has been made, although there is still a long way to go. It is therefore fitting that such a renowned forum as the Cornell International Law Journal should at this time strive to make its own contribution to the discourse and assist in the search for solutions to the pervasive problem of child soldiers.

I. Child Soldiers—An Overview of the Problem

There are several characteristics that areas around the world which use child soldiers in conflicts have in common: They are more likely than not to be low-income developing countries with collapsed infrastructure, high unemployment, moribund economic and educational systems, and non-functioning governments. Bad governance, ethnic rivalry, or high illiteracy rates may be the cause for this. These conditions tend to entrench disparities in economic or social circumstances, causing affected youth to feel particularly marginalized. Consequently, these children become alienated, distrust the system, and are available as cheap manpower to form factions in an armed conflict.

The main business of the UN is the maintenance of world peace and security. The charter of this international body calls upon it to “save succeeding generations from the scourge of war.” Within this context, the UN continues to lead the fight to contain conflict through peacekeeping operations. Relating to the problem of child soldiers, the UN has led in the development of a legal framework to protect children from the harmful effects of war. This has led to the establishment of international legal standards regulating the use of children in armed conflict. It has also sought to focus the attention of the UN Security Council, regional political bodies, intergovernmental organizations, as well as nongovernmental organizations on this problem.

I shall begin by briefly examining the involvement of child combatants both as victims and as perpetrators of atrocities in various armed conflicts, the impact of such involvement on children and on the communities, and the international legal regime intended to thwart the phenomenon. I will then address the difficulties involved in using the international criminal justice system and in holding children accountable for crimes they committed during a war. I will also examine the role of the much-acclaimed and successful UN mission in Sierra Leone (“UNAMSIL”) in the disarmament, demobilization, and reintegration of child ex-combatants, as well as other peace-building efforts in the Sierra Leone peace process.

I wish at this juncture to make two observations: First, peacekeeping is not solely the domain of the UN; the North Atlantic Treaty Organization (“NATO”), the Commonwealth of Independent States (“C.I.S.”), and the Economic Community of West African States (“E.C.O.W.A.S.”) have also undertaken peacekeeping or peace enforcement operations. Also, under the auspices of the African Union, “homegrown” initiatives for military

intervention in conflict countries by African continental and sub-regional institutions have been contemplated as well as implemented. It is noteworthy at this stage that the African Union Protocol on Peace and Stability explicitly authorizes the organization to “intervene in a member state in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity.” Doubtless, implementing these proposals will have its advantages as well as pitfalls. In any case, it is encouraging that it is beginning to create a capacity within the African continent to solve problems including armed conflicts.

II. Child Soldiers—In Context

“If you grown-ups know that wars are bad, why do you start them and involve us children?”

—An 11-year-old Eritrean girl in a UN-organized video link-up on World Peace Day, May 29, 2002

It is well-documented that in many instances local law sanctions or even reinforces the practice of state and nonstate armed actors’ recruiting children to participate in armed conflicts and hostilities.³ The Coalition to Stop the Use of Child Soldiers lists in its January 2004 Global Report some 85 countries that utilize child soldiers in armed forces, militias, and paramilitary groups, and highlights an even larger number of countries debilitated by intrastate wars in which child combatants have participated. The Coalition estimates that about 500,000 people under eighteen belong to either state or nonstate armed groups—approximately 300,000 of these children are thought to be in engaged in active combat. In the Mano River Basin⁴ and the Ivory Coast, faction leaders or their representatives even participate in a thriving cross-border recruitment effort.⁵

The methods by which children become members of regular military forces and nonstate armed groups are a matter of public knowledge and, no doubt, of international concern. Children may join the army because they are compelled to do so by law⁶ through conscription, or in other cases they voluntarily enlist or are forcibly recruited.⁷ Fighting factions in

3. See COALITION TO STOP THE USE OF CHILD SOLDIERS, *CHILD SOLDIERS 1379 REPORT* (2002); see also JO BECKER, *CHILDREN AS WEAPONS OF WAR* (2004), available at <http://www.hrw.org/wr2k4/11.htm> (providing an overview over the practice of using child soldiers in armed conflicts and the efforts to end it).

4. The Mano River Union is an economic subregion composed of Sierra Leone, Guinea, and Liberia and named after the Mano River, which flows through all three countries. It is located southwest of the Ivory Coast.

5. Interview by Human Rights Watch with Roland B, youth leader for Liberians United for Reconciliation and Democracy (“L.U.R.D.”), in Montserrado County, Liberia (Nov. 5, 2003).

6. In Eritrea, military service is obligatory for all citizens between the ages of 18 and 40, but doubt has been expressed as to whether this minimum age is being respected.

7. See Silvie-Stoyanka Junod, International Committee of the Red Cross, *Commentary on the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts*, in COMMENTARY ON THE

armed conflicts consider children easier soldiers to manage during hostilities. Thus, children are often abducted or press-ganged, and follow instructions on pain of death. Others sometimes “volunteer” in desperation because they see the armed groups as an escape route from poverty or as an opportunity to obtain protection for themselves and their families. Induction in most cases takes the form of forcing the child to inflict horrific violence on family members or members of the children’s community. Thereafter, the boys and girls as young as ten years old live lives of painful servitude filled with brainwashing, sexual exploitation, forced marriage, drugs, and other human rights abuses.⁸ The psychosocial effects of losing their childhood and the impact on communities are immeasurable, and the future of the entire society is jeopardized. A Liberian in an interview with Human Rights Watch characterized the situation thus:

Most of our brothers, they have been fighting since 1990, so all they think about is war. But if you are educated, you can think of other things. Many do not know right from wrong; they don’t know the danger of carrying arms and the damage they have done to our nation for our children and grandchildren.⁹

This is not to say that children are always victims throughout a conflict. They have been known to inflict horrific acts of violence on civilian populations during situations of conflict, including on their peers. For example, “Base Marine,” a recently demobilized ex-child combatant, addressed the Sierra Leone Truth and Reconciliation Commission:

Commissioners, I [would] be telling a lie if I deny killing people whilst I was with the Revolutionary United Front. I killed civilians, soldiers of the Sierra Leone Armed Forces, as well as Kamajors [a pro-government militia during the Sierra Leone conflict]. The only thing that I did not do was to carry out [an] amputation of limbs.¹⁰

III. International Legal Standards Governing Child Soldiers

Over the years, various international organizations have developed legal standards governing child soldiers. Apart from the protection accorded children as human beings under the International Bill of Human Rights, the following instruments form the core of the protection instruments for children.

ADDITIONAL PROTOCOLS OF 8 JUNE 1977 TO THE GENEVA CONVENTIONS OF AUGUST 1949, 1380 (Y. Sandoz et al. eds., 1987)

8. See generally UN OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, IRIN WEB SPECIAL ON CHILD SOLDIERS, at www.irinnews.org (Dec. 2003) (discussing hardships child soldiers face).

9. Interview with Tony Tate Roland B in Montserrado County, Liberia, reported in *How to Fight, How to Kill: Child Soldiers in Liberia*, 16 HUM. RTS. WATCH, Feb. 2004.

10. Human Rights Watch, *Children’s Rights: International Legal Standards Governing Child Soldiers*, at www.hrw.org/campaigns/crp/int-law.htm.

First, Additional Protocol I to the Geneva Conventions¹¹ broadly urges that international humanitarian laws relating to children be respected. Second, various agreements sharply limit the recruiting of child soldiers: Thus, the African Charter on the Rights and Welfare of the Child (“African Charter”)¹² and, by implication, the International Labor Organization’s Worst Forms of Child Labor Convention¹³ completely disallow any recruitment of children younger than eighteen. The Additional Protocol I, which relates to international conflicts, and Additional Protocol II,¹⁴ which relates to domestic conflicts, set a minimum age of only fifteen for recruiting. Lastly, the UN’s Optional Protocol¹⁵ on the Convention on the Rights of the Child prohibits only recruitment that is either compulsory or for a nonstate armed group. With regard to voluntary recruitment, the Optional Protocol encourages States Parties to raise the minimum age for recruitment—hinting that eighteen might be the proper age since children under eighteen are afforded special protections under the Convention on the Rights of the Child. The Optional Protocol further directs those states that have a minimum age for voluntary recruitment that is younger than eighteen to ensure that any recruitment of children younger than eighteen years old is truly voluntary, that the children and parents are fully informed of the duties involved in military service, that the parent or legal guardian gives informed consent, and that the children tender reliable proof of age.

Third, several of these agreements also sharply limit when children may participate directly in armed conflicts: With regard to international armed conflicts, the Additional Protocol I to the Geneva Conventions requires States Parties to implement feasible measures to prevent children under fifteen from participating directly in hostilities, while the Additional Protocol II flatly states that such children “shall. . . [not be] allowed to take part in hostilities.” The African Charter provides additional protection for children under eighteen, requiring States Parties to implement “all necessary measures” to prevent such children from participating directly in hos-

11. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, art. 77(2), *opened for signature* Dec. 12 1977, 16 I.L.M. 1391 (1977) [hereinafter “Additional Protocol I”].

12. African Charter on the Rights and Welfare of the Child, July 11, 1990, OAU Doc. CAB/LEG/24.9/49 (1990), *available at* http://www.unhcr.ch/refworld/refworld/legal/instrume/children/afr_e.htm [hereinafter “African Charter”]. The African Charter was adopted by the Organization of African Unity in 1990 and came into force in November 1990.

13. Worst Forms of Child Labor Convention, No. 182, June 17, 1999, 38 I.L.M. 1207, *available at* <http://www.ilo.org/ilolex/english/convdisp1.htm>. It requires signatory states to prohibit and eliminate the “worst forms of child labor,” defined as including the forced or compulsory recruiting of children for use in armed conflict. The term “children” is explicitly defined as referring to children younger than 18 years old.

14. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of victims of Non-International Armed Conflicts, art. 4(3)(c), *opened for signature* Dec. 12, 1977, 16 I.L.M. 1442 (1977), *available at* <http://www.unhchr.ch/html/menu3/b/93.htm> [hereinafter “Additional Protocol II”].

15. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000, G.A. Res. 54/263, U.N. Doc. A/RES/54/263, *available at* <http://www.unhchr.ch/html/menu2/6/protocolchild.htm>.

ILITIES. The Optional Protocol requires that those states that voluntarily recruit children under eighteen into the state armed forces do not use these young recruits in armed conflicts.

Finally, the Rome Statute¹⁶ of the International Criminal Court confers upon the Court jurisdiction over the war crime of conscripting or enlisting children younger than fifteen years of age for use in hostilities.

Commentators have been quick to point out that reality does not always conform to the standards set forth in international agreements. Commanders of armed groups are usually illiterate, unaware of these standards, and out of the reach of state authority. Even when the standards are understood, they are often deliberately flouted without repercussions because the enforcement mechanisms available to the international community are weak—consisting mainly of diplomatic and international pressure, and at worst, “naming and shaming” by the UN Security Council. Practically, peacekeeping operations with their multidimensional mechanisms, including Disarmament, Demobilization, and Reintegration (“D.D.R.”) programs, are proving to be more reliable instruments for tackling the menace of child soldiers in armed conflicts and restoring security to societies that have disintegrated or crumbled.

IV. Peacekeeping Operations

The main business of the UN is the maintenance of peace and security.¹⁷ The peacekeeping operation is perhaps the most visible security policy instrument. It was initially conceived and used as a mechanism for separating the fighting forces in interstate conflicts by establishing and patrolling buffer zones across agreed national boundaries. However, the nature of war has changed over the years. In the 1990s, more wars were fought between armed groups within the same country than between groups in different countries. Realigning itself to this new reality, Kofi Annan, the UN Secretary-General, called upon “[a]ll who are engaged in conflict prevention and development—the UN, the Bretton Woods institutions, governments and civil society organizations—to address these challenges in a more integrated fashion.”

The report of the panel of UN Peacekeeping Operations, the “Brahimi Panel,” reinforced this philosophy in its report, the “Brahimi Report.”¹⁸ The backdrop of the Brahimi Panel was the checkered history of peacekeeping; thus, failures, such as Bosnia, Somalia, and Rwanda were touted more loudly than its successes, such as El Salvador, Cambodia, Namibia, Mozambique, and Sierra Leone. There was a need for an overhaul. The most fundamental recommendation that the panel advanced was that

16. Rome Statute of the International Criminal Court, July 17, 1998, U.N. Doc. A/Conf. 183/9 (2002), 37 I.L.M. 999, available at <http://www.un.org/law/icc/statute/romefra.htm>.

17. U.N. CHARTER, pmbl.

18. Report of the Panel on United Nations Peace Operations, UN Doc. A/55/305-S/2000/809 (2000) (Brahimi Report), available at http://www.un.org/peace/reports/peace_operations/.

peacekeeping operations should be conceived, planned, supported, and executed in a more integrated, unified fashion. The panel took the view that this was the only way that missions might be able to meet “the lingering forces of war and violence, with the ability and determination to defeat them.”

V. The Brahimi Report Definition of Peace Operations

With the needs above in mind, the report defined United Nations peace operations to consist of the following three components: a conflict prevention and peacemaking component, a peacekeeping component, and a peace-building component. Long-term conflict prevention addresses the structural sources of conflict with the goal of building a solid foundation for peace. Where those foundations are crumbling, conflict prevention attempts to reinforce them, usually through diplomatic measures. Such preventive action is low-profile activity—when successful, it may even go unnoticed altogether.

Peacemaking addresses conflicts in progress, attempting to bring them to a halt using the tools of diplomacy and mediation. Peacemakers may be envoys of government, groups of states, regional organizations, or the United Nations, or they may be unofficial and nongovernmental groups, as was the case, for example, in the negotiations leading up to a peace accord in Mozambique. Peacemaking may even be the work of a prominent personality, working independently.

Peacemaking is often a long-term endeavor. This mechanism has taken longer than fifty years and has developed rapidly in the past decade from a traditional, primarily military model of observing ceasefire and forcing separations after interstate wars to a complex model of many elements, military and civilian, interacting to build peace in the dangerous aftermath of civil wars.

Peace-building is a term of more recent origin that, as used in the Brahimi Report, refers to activities undertaken after the conflict has ended to reconstruct the foundations of peace and to provide the tools for building on those foundations something that is more than just the absence of war. It includes, but is not limited to, measures to reintegrate former combatants into civilian society, strengthen the rule of law—for example, through training, educating, investigating past and existing abuses, and providing technical assistance for democratic development, including electoral assistance and support for free media—and techniques to promote peaceful conflict resolution and reconciliation.

VI. Complex Operations and the UN Charter

While traditional peacekeeping missions typically utilize military units and observers to implement and police ceasefire agreements aimed at forcing separations between warring states, complex operations address civil wars that are stalemated on the battlefield or terminated by outside

political or military pressure and aim to redirect the conflict that triggered the military action to be solved politically.

Complex operations may be authorized in whole or in part by Chapter VII of the UN Charter,¹⁹ which affirms the rights of UN Member States to individual and collective self-defense²⁰ and empowers the Security Council to define threats to the peace,²¹ apply sanctions,²² and take military action by air, sea, or land forces.²³

Most peacekeeping operations from 1948 to 1991 were established without reference to Chapter VII, but all of the complex operations begun since 1999 function in whole or in part under Chapter VII. Even traditional peacekeeping, which can involve the use of force in self-defense, goes beyond the mediation and conciliation measures contemplated by Chapter VI, which refers to “[p]acific settlement of disputes.” Thus, the guiding principles and practices of peacekeeping have become known as authorized by “Chapter six-and-a-half”—consistent with the spirit, but not the letter of the Charter.

VII. Other Key Recommendations

The Brahimi Panel proceeded to make far-reaching recommendations intended to make peacekeeping operations leaner and more efficient from inception to exit. In this regard, emphasis was placed on the need for the following:

- Clear and concise mandates for the peacekeeping operations;
- Provision of adequate manpower, equipment, and financial resources to enable missions to execute mandates;
- Exhibition of a robust profile by show of force that leaves no doubt in the minds of the warring parties that force will be used if necessary; and
- Strategies addressing the conflicts created by troop presence and laying a sound foundation for a durable peace.

The above considerations have influenced the mission mandates of all current UN missions, including various factfinding missions, thirteen peacekeeping operations, and twelve peace-building and political missions in postconflict societies around the world.

A. Reestablishing Security—The UNAMSIL Success Story

The United Nations Mission in Sierra Leone (UNAMSIL) is now generally acclaimed as a success story in peacekeeping. Originally established as an Observer Mission in July 1998, the mandate of the mission was strengthened in February 2000 through two UN Security Council resolu-

19. U.N. CHARTER, arts. 39–51.

20. *Id.* art. 51.

21. *Id.* art. 39.

22. *Id.* art. 41.

23. *Id.* art. 42.

tions²⁴ that increased its troop level to 17,500 and its civilian support staff to 2,500 at the height of its activities. This followed serious challenges encountered during efforts by the mission to stabilize the situation in the country and assist in the implementation of the Lomé Accord, which laid out a peace plan for the resolution of the conflict. In one such incident, some 500 peacekeepers were abducted and taken hostage by the Revolutionary United Front rebel faction. A Rapid Reaction Force, dispatched from the United Kingdom, defused the situation and secured the release of the peacekeepers. A "Technical Training Team" later augmented this force. Thus, the mission was able to consolidate and implement its mandate effectively.

In keeping with the Brahimi recommendations, the mission was organized around a UN Country Team. The head of the UN Country Team, the "Resident Humanitarian Coordinator," who was at the same time the United Nations Development Program ("U.N.D.P.") Resident Representative, was appointed one of the two Deputy Special Representatives of the Secretary General ("D.S.R.S.G."). This person was responsible for furthering governance, stabilization and rehabilitation. In this position the D.S.R.S.G. bridged the gap between the UNAMSIL military component and the humanitarian operations undertaken by the Direct UN Development Group ("U.N.D.P."), the United Nations Children's Fund ("UNICEF"), the World Food Program ("W.F.P."), the United Nations Population Fund ("U.N.F.P.A."), the United Nations High Commissioner for Refugees ("U.N.H.C.R."), as well as international nongovernmental organizations ("NGOs") that undertook humanitarian activity in the country. Today, the mission is involved in institution-building at all levels as well as in restructuring the society through commissions and projects intended to create lasting peace and security. Goals of the mission include alleviating the consequences of and reducing poverty and unemployment, encouraging good governance, restoring and consolidating government authority, resuscitating the education system, rebuilding infrastructure, restructuring the judicial and legal system, and improving a war-ravaged economy.

I will highlight three institutions of the Sierra Leone peace process with an international dimension that impacted the rehabilitation of ex-combatants. When I use the term "ex-combatants" I intend to include child soldiers and youth, because a large proportion of ex-combatants were recruited when they were children but gave up arms as youths or adults at the end of the 11-year conflict.

B. Ex-Child Combatants and the Peace Process

More than 50 percent of the population of Sierra Leone consists of youths and children. Therefore, the major involvement of this large segment of the population in the conflict was perhaps inevitable. The parties

24. See S.C. Res. 1289, U.N. SCOR, 4099th mtg., U.N. Doc. S/RES/1289 (2000); S.C. Res. 1346, U.N. SCOR, 4306th mtg. at 1-2, 12 (Mar. 30, 2001), U.N. Doc. S/RES/1346 (2001).

to the Lomé Accord recognized that the violence in the conflict had devastating effects on the child combatants who participated in the Sierra Leone conflict and consequently provided for their reintegration into society. The Lomé Accord had become necessary after the Abidjan Peace Accord failed to secure lasting peace despite the institution of a D.D.R. program. Thus, Article XXX of Lomé provided:

The Government shall accord particular attention to the issue of child soldiers. It shall, accordingly, mobilize resources, both within and from the International Community, and especially through the Office of the UN Special Representative for Children in Armed Conflict, UNICEF and other agencies, to address the special needs of these children in the existing disarmament, demobilization and reintegration processes.

This area was rightly given priority in the implementation of the peace agreement.

C. Disarmament, Demobilization, and Reintegration.

Lasting peace and security can only be created in a postconflict situation if the atmosphere is conducive to peace. The first step is to ensure that the fighting parties on both sides lay down their arms, as they did in Sierra Leone in a phased disarmament. Some 72,490 ex-combatants—including 6,845 ex-child combatants—were disarmed in a period of just over six months.

The UN and a consortium of agencies, including the World Bank, the African Development Bank, and donor countries, funded the program. UNAMSIL provided security support to the process and took responsibility for the storage and destruction of the weapons, which was contracted out to the German Association for Technical Cooperation (“G.T.Z.”). UNICEF took responsibility for caring for the disarmed child combatants and implemented support programs to enable the children to reenter civilian life and become productive members of society.

Demobilization took the form of receiving the ex-combatants and providing them with basic necessities. They were then inducted into civilian life through orientation activities such as trauma healing, psychosocial counseling, information sessions, sensitization seminars, and civic education.²⁵ The ex-combatants were thereafter given transitional allowances to support them during their first three months in the places where they chose to resettle. Ex-child combatants were reunited with their families and communities of origin, where possible, after orientation.

Of course, the D.D.R. process was not without challenges and problems: The former child combatants were stigmatized as war criminals and ostracized by society. Furthermore, those who were conscripted as children but demobilized as adults did not enjoy as many benefits or as much attention as those who were classified as children at the time of demobilization. Some members of this group may not be able to sustain

25. MARK MALLAN ET AL., *SIERRA LEONE: BUILDING THE ROAD TO RECOVERY* (Inst. for Security Stud., Monograph Series No. 80, 2003).

the hope of becoming useful members of society again. Finally, the D.D.R. program aimed mainly at providing child ex-combatants with “life skills” – psychological, intellectual, social, technical, and vocational skills in the hope that they would thereafter be absorbed into the economy. However, the Sierra Leone economy is weak and rife with unemployment, and the danger therefore is that these children and young adults will remain idle hands and vulnerable to being re-recruited to fight in other conflicts in the region.

D. The Truth and Reconciliation Commission

The Sierra Leone Truth and Reconciliation Commission (“T.R.C.”) was established as part of the peace process pursuant to the Lomé Accord.²⁶ The Commission’s mandate was to create an impartial historical record of the violations of human rights and humanitarian law in the Sierra Leone conflict; to address impunity; to respond to the needs of victims; to promote healing and reconciliation; and to prevent a repetition of such abuses and violations in the future,²⁷ always paying special attention to women and child victims of the conflict.

The T.R.C. collected approximately 9,500 statements from all target groups in the country and the West African subregion, including child ex-combatants, relating to violations of human rights and humanitarian law during the conflict. The Commission then heard some 450 witnesses in its hearings phase. Approximately 13 percent of these were ex-combatants. If the ex-combatants were under eighteen years old, the hearings were closed. Without exception, the ex-child combatants expressed apprehension over returning to their communities for fear of retribution. A study of traditional methods of conflict management and resolution of all fourteen ethnic groups of Sierra Leone was conducted prior to the operational phase of the Commission. This enabled the Commission, in its work to utilize the procedures applicable in the respective localities, to initiate reconciliation between child ex-combatants and their communities. Subsequent monitoring teams of the Commission revealed the children’s fears of retribution to be unfounded.

E. The Special Court for Sierra Leone

This unique institution was established by a United Nations Security Council Resolution²⁸ and at the request of the Sierra Leone government. It is charged with trying persons who “bear the greatest responsibility” for

26. U.N. CHARTER, art. 27.

27. Truth and Reconciliation Commission Act (2000) (Sierra Leone), available at <http://www.sierra-leone.org/trcact2000.html>.

28. See S.C. Res. 1315, U.N. SCOR, 4186th mtg., U.N. Doc. S/RES/1315 (2000) (urging Sierra Leone to prosecute crimes committed against child soldiers); see also Statute of the Special Court for Sierra Leone, U.N. SCOR, 55th Sess., 4186th mtg., Enclosure, at 21, U.N. Doc. S/2000/915 (2000), available at <http://ods-dds-ny.un.org/doc/UNDOC/GEN/N00/661/77/PDF/N0066177.pdf> (establishing the Special Court for Sierra Leone pursuant to Security Council Resolution 1315).

violations of human rights and of international humanitarian law during the conflict in Sierra Leone. Certain individuals were charged with and indicted for having recruited children for use in conflict and with having arranged forced marriages. This is the first time that such charges have been brought against persons before an international tribunal. No doubt, if the charges result in convictions this will make bush commanders think twice before forcibly abducting children for use in armed conflicts.

Conclusion

I have attempted to give a brief overview of the current situation of child soldiers from a legal as well as from a practical perspective. Before taking my seat, however, I want to play the devil's advocate by raising a few issues in the hope that they might be useful for our deliberations in the next two days. First, in some African societies, children traditionally attain "adulthood"—with the accompanying rights and responsibilities of an adult—by completing certain rituals or joining certain secret societies. Is it right that international norms should supersede cultural practices that these societies have followed for centuries? Is there any place for cultural relativism in implementing some of these international edicts? Second, the flow of information from governments to the governed in third world countries is usually weak, and thus citizens are often not aware or do not understand the international treaties that the governments sign on the citizens' behalf. Should ignorance of these treaties constitute a mitigating factor despite the cliché that "ignorance of the law is no excuse"? Lastly, my presentation is not exhaustive. I look forward to the question and answer session that will follow shortly as well as to the discussions by experts, colleagues, and participants in the following day. Once again, I thank you very much for the honor of allowing me to present the keynote address and for your kind attention this afternoon.