The battle against child soldier engagement
An evaluation of the different implementation and enforcement mechanisms currently existing in international law regarding child soldier recruitment

Author: Kathy Justine Peter Rombouts
Supervisor: Prof. Dr. Hans-Joachim Heintze
Table of contents

TABLE OF CONTENTS .......................................................................................... I

ACKNOWLEDGMENT .......................................................................................... III

ABSTRACT ............................................................................................................. IV

ABBREVIATIONS ................................................................................................. V

1 INTRODUCTION ................................................................................................. 1

1.1 THE SUBJECT ............................................................................................... 1
1.2 THE RESEARCH METHODOLOGY ............................................................... 2
1.3 THE STRUCTURE ............................................................................................ 3

2 UNRAVELLING THE PUZZLE – LEGAL FRAMEWORKS .................................. 5

2.1 FOUR CATEGORIES OF SOURCES ............................................................... 5
2.1.1 AN OVERVIEW PER CATEGORY ............................................................... 5
2.1.2 TABLE 1: A TIMELINE OF ALL SOURCES ........................................ 13
2.2 DIFFERENT STANDARDS EQUAL DIFFERENT PROTECTION ............... 15
2.2.1 THE DEFINITION OF CHILD SOLDIER RECRUITMENT .......................... 15
2.2.2 TABLE 2: COMPARING THE SCOPE OF PROTECTION ............................ 30
2.2.3 THE NEED FOR CONSENT ..................................................................... 32

3 TRANSFORMING INTERNATIONAL STANDARDS – A STUDY ON
IMPLEMENTATION MEASURES ............................................................................ 36

3.1 DEVELOPING NATIONAL LEGISLATION .................................................... 36
3.1.1 INTERNATIONAL OBLIGATIONS ............................................................. 36
3.1.2 TABLE 3: OVERVIEW OF OBLIGATIONS TO IMPLEMENT .................. 49
3.1.3 POLICY CHOICES .................................................................................. 51
3.2 MONITORING MECHANISM ........................................................................ 53
3.2.1 INTERNATIONAL SUPERVISION ............................................................ 53
3.2.2 HOME CONTROL ................................................................................... 67
3.2.3 TABLE 4: OVERVIEW OF MONITORING MECHANISMS ........................ 69
4  NO STRINGS ATTACHED – A STUDY ON (IN)EFFECTIVE ENFORCEMENT

4.1  INTERNATIONAL PRESSURE ................................................................. 72
4.2  NATIONAL EFFORTS ............................................................................. 73
4.3  THE WAR CRIME OF CHILD SOLDIER RECRUITMENT ................. 77
  4.3.1  THE JUDGMENT ............................................................................. 77
  4.3.2  ENFORCEMENT OF JUDGMENTS .................................................. 80
4.4  OPIC COMMUNICATIONS PROCEDURE .............................................. 82

5  WHAT IS OFTEN FORGOTTEN – VICTIM COMPENSATION .......... 86

5.1  THE TRADITIONAL APPROACH ............................................................ 86
5.2  THE MODERN APPROACH .................................................................. 87

6  CONCLUSION .......................................................................................... 93

7  BIBLIOGRAPHY ....................................................................................... 96

  7.1  LEGISLATION ....................................................................................... 96
  7.2  CASE LAW .......................................................................................... 97
  7.3  BOOKS AND ARTICLES ..................................................................... 98
  7.4  DOCUMENTATION OF INTERNATIONAL ORGANISATIONS ........ 101
  7.5  INTERNET SOURCES ......................................................................... 105

8  ANNEXES .................................................................................................. 112

  8.1  ANNEX I: OVERVIEW OF STATES SUSPECTED OF CHILD SOLDIER RECRUITMENT AND THEIR MEMBERSHIP TO RELEVANT TREATIES .................................................. 112
  8.2  ANNEX II: MONITORING BY THE ILO .............................................. 115
  8.3  ANNEX III: STATE REPORTS SUBMITTED UNDER THE MONITORING FRAMEWORKS OF THE CRC AND THE OPAC ........................................................................ 117
Abstract

This research draws upon the recent attention for the issue of child soldier recruitment by the international community. In this context, many international frameworks have been developed to prevent child soldier recruitment. This paper intends to investigate the effectiveness of the implementation and enforcement mechanisms currently existing within the frameworks of international labour law, humanitarian law, human rights law and criminal law.

This work uses a classical legal approach: it analyses existing legislation, case law and legal literature. Initially it provides an overview of the different legal frameworks, their respective terminology and coverage. Once the set-up has been made clear, the research introduces the existing implementation mechanism. It focuses on the development of national legislation and on (international or national) monitoring-systems. Hereafter the research directs itself towards enforcement, by looking at the effectiveness of international and national mechanisms. The last focal point of this research is the often forgotten issue of victim compensation.

As this research will indicate, there are quite some existing frameworks dealing with the subject of child soldier recruitment. After a close evaluation of the existing implementation and enforcement mechanisms, it seems that much work is needed in order for these legal frameworks to be truly effective.

(Master thesis of 29854 words)
The battle against child soldier engagement: an evaluation of the different implementation and enforcement mechanisms currently existing in international law regarding child soldier recruitment

Rombouts, Kathy Justine Peter

https://doi.org/20.500.11825/331

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository