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*Children's Cognitive Development  
and Moral Capabilities to give  
Informed Consent during Armed  
Conflict*

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## Abstract

The recruitment of children into military entities and their participation in warfare has increased in the past 20 years (Bloom, 2018) with an estimated 300,000 children worldwide identifying as members of armed forces (Kohrt, Rai, and Maharjan, 2015). A child soldier is considered as anyone under the age of 18 who is part of any regular or irregular armed forces. The popular image of child soldiers depicts them as vulnerable victims of violent conflict. Several studies have illustrated that children join armed forces ‘voluntarily’. Legal instruments, relevant to child rights, demonstrate ambiguities and fail to acknowledge children’s cognitive and moral development to give ‘voluntary’ consent to military recruitment and other types of armed groups. This work aims to determine whether children possess the ability to give informed consent to recruitment. To that end, Piaget’s cognitive and moral developmental theories and Vygotsky’s sociocultural theory were integrated into the analysis of children’s cognitive ability to consent and their capabilities to give informed ‘voluntary’ consent in context settings of armed conflict. It was found that children’s cognitive and moral development only allows for decision making judgments when they are in their adolescent ages, 12 years and above. Yet, they understand the difference between ‘just’ and ‘unjust’ acts of moral behavior from as young as 6 years. Additionally, the socio-economic context of armed conflict that child soldiers are usually brought up in creates a barrier for ‘voluntary’ recruitment to be perceived as children genuinely giving informed ‘voluntary’ consent to join military services. In the presence of war, becoming a child soldier is the best available option for some children. Therefore, ‘voluntary’ recruitment into military service cannot be considered to be a ‘voluntary’ consent by children as they are presented with a no-choice situation. A number of policy recommendations are subsequently given with the crucial aim of preventing children’s participation in armed conflict.

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# I Introduction

*“Children, my dear brother, are the best fighters of the century. They have more energy than old people. They resist without feeling physical pain” (Della, 2011).<sup>1</sup>*

Children are humans and have rights, for this very reason, they have a right to dignity (Archer, 2018). Protecting children all over the world, particularly those in armed conflict, is one of the most pressing human rights issues in contemporary society (Child Soldiers International, 2018). With the increase of ‘new wars’ children have become the focus of recruitment due to the creation of light and automatic weapons, enabling the usage for children (Kaldor, 2013). Besides, it is cheaper for the respective armed groups and organizations to recruit children as opposed to adults (Schauer and Elbert, 2010). In such a context, children are vulnerable to the recruitment of armed forces. Yet, as long as political leaders are more interested in military strategies and potential gains rather than the wellbeing of the child the participation of children in warfare will continue. Legislative documents that have been set in place to ensure the best interest of the child have established principles, guidelines, and regulations on the best implementation strategies (Archer, 2018). Conventions have epitomized a utopia for child rights, the guidelines and implementations outlined in the conventions are blemished, and crucial factors on children’s cognitive and moral development are disregarded (Hannum, 2016). Consequently, creating significant ambiguities within conventions that will be scrutinized throughout this thesis. To begin with, a statistical overview of the representation of children in armed conflicts will be given to provide a perspective on the relevance of the issue at hand.

Worldwide more than 240 million children are living in countries affected by conflict; children face grave violence, displacement, hunger, and exploitation by armed forces (Child Soldiers International, 2018). In 2017 alone, the UN Secretary-General named 56 armed groups and 7 state forces that are guilty of child recruitment. In South Sudan, over the past 4 years, 19,000 children have been recruited by armed forces. Since the latest conflict started, 6 years ago, in the Central African Republic, an approximated 14,000 children have been recruited by armed forces. Since 2016, there have been at least 18 conflicts around the world where children participated in hostilities. Additionally, the exploitation

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<sup>1</sup> Quoted by Lucien, a former child soldier from the Democratic Republic of Congo (DRC). For further information see: Della (2011). *Child Soldiers – Humanium*. Available at: <https://www.humanium.org/en/child-soldier/>

of girls and their association with armed forces has been steadily rising. Since 2012, the number of children used in armed conflict around the world has doubled, with a 159% increase and 30,000 recruitment cases verified (Matthews, 2019). The International Labour Office (2003) estimates that there are more than 300,000 children under the age of 18, worldwide, who are recruited, to participate in armed conflict. Although, Hart (2006:217) proclaimed that “the total number of child soldiers in each country, let alone the global figure, is not only unknown but unknowable”, due to the unlawful nature of child recruitment (Mekki and Saheb, 2017). Nonetheless, Matthews (2019) argues that this increase is partly due to improvements in verification methods, yet, these numbers are not absolute and are difficult to collect in conflict zones. The growing prevalence of children in armed conflict is alarming and creates major issues within national and international communities. Despite legal prohibitions, the use of child soldiers in armed conflicts has risen in the past 20 years (Bloom, 2018).

For these reasons, it is essential to investigate children’s capabilities to give informed consent to ‘voluntary’ recruitment into armed forces. It is crucial to change national laws and international standards, to work with governments, the UN, NGO’s, and the affected communities and children in order to identify and implement effective practical measures to prevent child recruitment, and to ensure children who escape or are released from armed groups and armed forces can rebuild their lives’ (Child Soldiers International, 2018:7). The process would result in actions that are essential to cease the existence of child recruitment and exploitation. Yet, to discontinue these trends, measures must be taken to improve prevention and assistance at the international, national, and local levels. Matthews (2019) alludes that because not all countries are in the same position economically, politically, and socially the one-size-fits-all approach cannot be regarded as preventative or an assisting strategy. Families and communities are fundamental to prevention methods, and returning children need to be supported by their communities.

This thesis will present a compelling case in the reconceptualization of ‘voluntary’ recruitment of child soldiers into armed entities by critically examining the primary components and assumptions of child soldiers and their ‘voluntary’ and non-voluntary recruitment into armed entities. A brief overview of the global humanitarian discourse on child soldiers will be given to allude some key issues that have set in motion the recruitment and use of children in warfare. Child soldiers may fight and experience military recruitment in ways that contemporary discourse on child soldiers is unable to capture or preempt (Lee, 2009). Subsequently, a precise definition of a ‘child soldier’ and what activities characterize them as soldiers will be given. The synergy between cognitive development and universal

child rights in the context of children's cognitive ability to give *voluntary* informed consent will be derived as the primary analytical tool on the matter. To analyze children's cognitive and moral development, Piaget's stage theory and Vygotsky's sociocultural theory will be introduced to conceptualize whether children have the capabilities to decision-making skills. Therefore, possessing the ability to make informed voluntary decisions to join military entities. These two theories have never been used concurrently to analyze children's ability to give consent in the context of armed conflict. They provide a powerful tool to better design policies regarding child soldiers and their place in armed conflict as they allow us to better understand the underlying mechanism of child soldier recruitment. This dissertation aims to investigate the complex issue of consent, *voluntary* and *non-voluntary* recruitment of child soldiers into armed forces, as legal documents are currently disregarding children's cognitive developmental ability. Ultimately, this thesis will argue that children have no place in war under any circumstance and that child soldiering is an unambiguous violation of universal children's rights<sup>2</sup>.

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<sup>2</sup> Institutions and Organizations that have played a predominant role in forming the universal children's rights and guiding the universal discourse on children in armed conflicts such as: Amnesty International, Human Rights Watch, Child Soldiers International, International Save the Children Alliance, and the International Committee of the Red Cross (ICRC). Lee (2009) adds that many of the above-named organizations serve on the steering committee for the Coalition to Stop the Use of Child Soldiers.

## II Definition of a Child Soldier

The definition of a ‘child’ varies and therefore the description of child soldiers differs across countries, regions of a country and cultures (Druba, 2002). Thulin (1992) has argued that it can also differ between individuals due to cognitive growth, divergent backgrounds, responsibilities, and gender. The Convention on the Rights of the Child (1989) in Article 1 broadly defined a child as “every human being below the age of 18 years unless, under the law applicable to the child, the majority is attained earlier”. The African Charter on the Rights and Welfare of the Child (1999) in Article 2 defines a child as “anyone less than eighteen years of age without exception”. Yet, the same definition cannot be applied to a child soldier as there is no universally agreed-upon age limit for children in armed conflicts (Thulin, 1992). Nonetheless, governments and non-governmental organizations concurred that children need the same, if not special, protection in armed conflicts as in all other situations, and that the age limit should prevail concordantly throughout Conventions regarding the rights of the child (Thulin, 1992).

The Coalition to Stop the Use of Child Soldiers (Child Soldiers International, 2016B; CSUCS, 2019) has clarified that there is no precise definition. Nonetheless, many scholars, institutions, and conventions, such as the Paris Principles and guidelines on children associated with armed forces or armed groups (2007)<sup>3</sup>, which draws upon the 1997 Cape Town Principles, refers to a ‘child’ as anyone under the age of 18’ (Gallagher, 2010). This defines a ‘child’ and a ‘child soldier’ in terms of chronological age of 18. However, beyond the legal rational, the explanation does not address why anyone under the age of 18 should be considered a child and why military participation should be permitted to an 18-year-old whilst prohibited to a 17-year-old (Lee, 2009). For this thesis, a ‘child soldier’ is defined as:

‘A person who is below the age of 18, who is attached to government armed forces or has been recruited or associated with armed forces or armed political groups in any capacity, whether or not armed conflicts are present. Child soldiers, both boys and girls, not limited to children, perform a range of tasks including, used as fighters during combat, laying mines and explosives; scouting, spying, acting as decoys, couriers or guards; logistics and support functions, portering, cooking and domestic labor; and for sexual slavery or other sexual purposes. This

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<sup>3</sup> From here on forwards referred to as The Paris Principles (2007)

definition does not only refer to a child who is taking or has taken a direct part in hostilities.’ (International Labour Office, 2003; UNICEF, 2007; UNICEF and Coalition to Stop the Use of Child Soldiers, 2003).

UNICEF and the Coalition to Stop the Use of Child Soldiers (2003) have elucidated that the broad definition of a ‘child soldier’ is intentional, to extend protection, under international human rights and humanitarian law, to as many children as possible and to ensure their inclusion in demobilization and reintegration programs. Inevitably, the interpretation of a ‘child soldier’ can be anything from a cook to a fierce combatant. Inevitably, this definition of a ‘child soldier’ is vague and fails to distinguish the various types and nature of work that children undertake in the military (Lee, 2009). Additionally, all children identified as ‘child soldiers’ are presumed to share fundamentally the same experiences or characteristics (Schauer and Elbert, 2010). Nonetheless, this cannot be assumed as children which are recruited or abducted are of different genders, at different ages, and abduction occurs in varying manners, and for these reasons they have divergent moral compasses<sup>4</sup> (Blattman and Annan, 2009); implying that each child lives in their complex reality and interprets situations differently.

Furthermore, the definition of child soldiers categorizes all children under the age of 18 into one group. This poses a misperception of children’s tasks and capabilities as they extensively change between the ages of 6, youngest child observed to have been recruited, and 18, the international age for recruitment of a child (Andvig and Gates, 2007). A similar discourse may be raised for the age limit of 15. Nonetheless, the capabilities of a child changes drastically from the ages of 6 to 12 allowing children to transition and performing adult work (Andvig and Gates, 2007), including changes in active sexual behavior. Subsequently, posing a challenge for female recruits of armed forces as they are exposed to unprotected sex. Therefore, higher chances of sexually transmitted diseases (STDs) and unwanted pregnancies occur (International Labour Office, 2003).

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<sup>4</sup> Moral compass is constructed through a child’s divergent social interactions and social experiences (Smetana, 2013). Nonetheless, children’s thinking across social worlds and cultures differentiates. Yet, it incorporates the coexistence of moral, social-conventional, and personal concepts (Smetana, 2013). Kohlberg and Hersch (1977) argue that an individual’s moral compass is acquired through learning. Hence, a child’s moral development differs from an adult’s moral development. Smetana (2013) adds that it is during early childhood when children begin to focus on moral concepts, such as concrete physical harm and concerns with welfare, fairness and equality, and equal treatment. Additionally, the development of the moral compass in a child will be further explored and discussed in chapter VII – Children’s Cognitive and Moral Development vs. Environment.



The International Labour Office (2003) has argued that it is crucial to distinguish the vulnerability of girls as they are often used as sex ‘slaves’ but can also be sent into combat. Girl roles usually includes working as spies, intelligence and communications, and as military trainers and combatants (Schauer and Elbert, 2003). Additionally, girls are often ‘allocated’ to partners or a commander and simultaneously take care of housing chores such as cooking and washing (International Labour Office, 2003). Girls that are partners of commanders receive better treatment hence, better standards of living. Furthermore, organizations and scholars have argued that the stigmatization of girls or women child soldiers is more severe than for boys and men (Schauer and Elbert, 2010). Adolescent girls often fall pregnant, and become demobilized from their armed group, and are banished from families and communities they belong to and are left without an income, shelter, and medical aid. There have also been numerous recordings of child soldiers marrying commanders, the International Labour Office (2003:82) has referred to this to be “particularly tragic”. This creates an obstacle for females to reach out to aid or rehabilitation centers, thus becoming marginalized members of societies (International Labour Office, 2003).

Furthermore, Andvig and Gates (2007) have argued that the recruitment of girls may cause an increase in the voluntary supply of boys, especially in African countries where traditional marriage<sup>5</sup> has broken down due to an increase of land scarcity. Voluntary recruitment, in this case implies, context-setting circumstances. Due to political conflicts in the country; schools relinquish, job opportunities diminish and the economy is often in distress. Subsequently, it leads to strenuous living conditions for civilians that ‘encourage’ them to take drastic measures, such as joining armed forces ‘voluntarily’. However, divergent genders usually join with different motives; girls join to get protection as opposed to boys who join due to the lack of better opportunities. Nonetheless, both genders have ‘voluntarily’ joined due to boredom and the absence of divergent opportunities and adequate living standards at home. This type of voluntarism will be further discussed in the coming chapters, particularly by Eyal (2011; 2014) who delves deeper into three types of barriers to voluntary consent. Moreover, the next chapter will give a brief overview of the global humanitarian discourse on child soldering that will incorporate approximated statistical figures of child soldiers; the emergence of new wars and how it has facilitated the recruitment, participation, and use of children.

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<sup>5</sup> African marriage is a complex institution, according to Meekers (1992:61). In the past, the wealth of an individual’s bride, in part or full, guaranteed the husband rights to the sexual and economic service of his wife. This includes the bride’s families possessions of land that are divided among male descendants. The husband also gains the right of future born children from his wife (Meekers, 1992). Children of African families are taught from birth to be responsible and relevant, to himself, family and the entire community. Additionally, children are taught to be hard working, to be moral (Ogoma, 2014:97).

Furthermore, it will allude the interpretation of childhood in perspective to cultural relativism and children's decision-making capabilities and their portrayal as vulnerable and innocent victims of atrocities, which will be expanded on in the coming chapters.

### III Use of Children in Armed Conflict Around the World and the Global Humanitarian Discourse on ‘Child Soldiering’

The global humanitarian discourse on child soldiering will elaborate on the numerous instabilities that factor into the development of a child. Consequently, resulting in the recruitment and use of children in armed forces. Ethnographic research has suggested that conception of a ‘child’ is regarded differently across cultures, and what this implies for a child’s development, cognitive and physical. Additionally, it briefly raises the discussion on children’s decision-making capacities. Children being part of military services and warfare is not a new phenomenon, throughout World War II (WWII) children were used as couriers, porters, and spies (Sanders, 2011). Despite, legal prohibition on the recruitment and use of children below the age of 18, in some countries 15, it is both state armed forced and non-state armed forces that recruit children into their military entities (Thulin,1992). Nonetheless, the last few decades have constituted of dominant forms of violent conflict, represented as ‘new wars’, that have not only enabled but increased the recruitment and use of children into armed forces (Kaldor, 2013). The humanitarian discourse on child soldiering usually depicts children as vulnerable and innocent victims of violent conflicts (Schmidt, 2007). However, this is not always the case, some children ‘voluntarily’ consent to join military entities for numerous reasons, but whether it can be considered genuinely ‘voluntary’ in the context of armed conflict is debatable and will be further discussed in the upcoming chapters.

Numerous instabilities factor into child development, whether that be economic instability, employment instability, child care instability, instability of education and so forth. Sandstorm and Huerta (2013:9) state that for a child to develop their ‘full potential’ it needs a “safe and stable housing, adequate and nutritious food, access to medical care, secure relationships with adult caregivers, nurturing and responsive parenting, and high-quality learning opportunities at home, in child care settings and in school”. Furthermore, education plays a crucial and critical role during the development period of children, it has been linked to both socio-emotional and cognitive gains (Carter, 2019). Shonkoff and Phillips (2000), Sandstorm and Huerta (2013) both agree that normal experience supports normal brain development, for example, good nutrition, opposed to abnormal experience such as, parental consume of alcohol and drugs, that can cause abnormal neural and behavioral development. Furthermore, there are certain necessities for a child to develop their full potential for them to become a responsible member

of society that is often overlooked in countries of plight, opposed countries with political and economic stability.

### 3.01 Different Concepts of Childhood

Cross-cultural ethnographic research has suggested that the comprehension of children and childhood varies. The mainstream discourse on who a child soldier is has become defined through a chronological age system, the “Straight-18” approach (Lee, 2009). Reflecting upon a child’s dependency, innocence, and immaturity. The idea of defining a child soldier through chronological age seems absurd when only 1 in 2 births are registered (Elder and Yameogo, 2018), meaning that many children may not know their exact age (Lee, 2009). Children in different ethnographic locations and from divergent social and economic background may be regarded as ‘young adults’ that have significant social, economic, and political responsibilities for their families and their community (Del Guidice, 2014; Ogoma, 2014), where childhood overlaps with adulthood. The teenage years are generally understood as the time between childhood, 11, and adulthood, 18. The conception and definition of a ‘child’ and a ‘childhood’ differs around the globe. In Western societies, version of childhood refers to a time of play, freedom, and education (Del Guidice, 2014) In contrast, for example, Sierra Leone where childhood is practically defined by the various types of labor (Francis, 2007). In these circumstances’ children are expected to perform domestic labor from a young age to help family and the community. In particular in poor rural areas, in these areas’ children are a key component and a valuable asset to the workforce. The period of adolescence is, as childhood, interpreted variously in different parts of the world. In Western societies, adolescence is a time of transition, education, and the lack of responsibilities, hence, the incorporation of younger children with adolescents into one category of ‘children’ (Lee, 2009:15). Elsewhere, the age of adolescence is a period of responsibility, conceptualizing children as vulnerable and in need of protection; as children have not fully outlived the western principle of childhood.

Subsequently, this collides with society’s perception of the transition, for boys, from child to adult by displaying physical strength and tolerance for pain resulting in the encouragement of military participation. In countries such as Sudan, Sierra Leone, and Afghanistan it is not uncommon to believe that adulthood is associated with warriorhood (Deng, 1972: 68-73). Within these socio-cultural norms and practices, it can be understood that many societies regard military recruitment, especially of boys, as understandable and may even be considered natural in countries of conflict. The definition of a ‘child’

and what constitutes a ‘normal childhood’ embodied in the global discourse on ‘child soldiers’ is relatable to Western societies, yet, it is distant for the local lived realities (Lee, 2009).

Andvig and Gates (2007) argue that children and adult behavior varies only a small degree. Therefore, it has been argued that children’s decision-making capabilities are not significantly different from those of adults (Andvig and Gates, 2007). Therefore, once children possess sufficient physical strength they are, to a degree, substituted for adults. These kinds of ideals do not conform to Western attitudes and expectations about childhood. Nonetheless, in low-income countries, children must work from an early age onwards to support their families economically or as caregivers, opposed to what is the general practice in high-income countries where priority is given to education. While children are usually limited in their physical capabilities, in comparison to adults, psychological evidence has indicated that children display certain tendencies that military leaders may find appealing.

### 3.02 The Development of the use of Child Soldiers

The recruitment of child soldiers is not a new phenomenon. Children have been participating in war and conflict zones for centuries. For example, during WWII countries recruited children from the ages of 13 to be soldiers. These children were physically trained and indoctrinated with Nazi ideology, the children that had been recruited and participated have been referred to as ‘Hitler’s Youth’ (Sanders, 2011). It cannot be disregarded that there are countries that allow recruitment into the military under the age of 18. Even though they recognize a child as anyone under the age of 18; which will be further discussed and presented through legal documents in the coming chapters. However, Kaldor (2013) and Schauer and Elbert (2010) have highlighted that it is the creation of light and automatic weapons, which has increased the recruitment, use, and participation of children from much younger ages, sometimes as young as seven or eight years old.

The development of ‘New Wars’ must also be considered, which have enabled the use and the rise of child soldiers in armed conflicts (Schauer and Elbert, 2010; Kaldor, 2013). ‘New Wars’ typically find justification on identities of the conflict partners, based on their affiliation to different ethnic groups, cultures, or religions (Elbert et al., 2006:23). ‘New Wars’ have enabled the development of light weapons, the distribution of automatic guns suitable for children and easy to use, where only faint prior skills are needed (Schauer and Elbert, 2010). Furthermore, Elbert et al. (2006) describe that it is through the targeting and frightening of civilians and expelling any civilians that do not belong to the group,

that power is obtained. Additionally, the reason for the use of children as combatants in hostilities is that it assumes that children are malleable. Therefore, easier to indoctrinate and manipulate and to shape into young, energetic, unscrupulous fighters (Elbert et al., 2016). For these reasons' and more children have become active soldiers in conflict settings. Subsequently, Andvig and Gates (2007) have stated that the rate of child participation and child labor is higher in more rural areas of the country, due to the lack of educational and occupational opportunities in rural areas.

Thulin (1992) elucidates that it is both government troops and armed non-government entities that enlist and recruit children as soldiers. Elbert et al. (2006) argue that the recruitment of children is usually dominated by irregular forces<sup>6</sup> that intervene in civil wars on the opposing side. The strategies of recruitment encompass systematic atrocities that indubitably constitute crimes against humanity, for example kidnapping, massacres, mass rape hunting humans, mutilations, and killings amongst many more (Schauer and Elbert, 2010; Elbert et al., 2006). Furthermore, Schreiber (2002) argues that the majority of all combating forces have limited military training. Hence, the recruitment of child soldiers as part of governmental or irregular forces is a persisting repertoire for most entities (Kaldor, 2013).

### 3.03 The Conceptualization of Child Soldiers as Victims

The global humanitarian discourse presumes that children are innocent and vulnerable due to their lack of psychological, physical, and moral capabilities (Schauer and Elbert, 2010). Associating this perception of a child conceptualizes child soldiers as victims (Schmidt, 2007). This is partially because forced recruitment is overly emphasized (Della, 2011) and child soldiers are believed to have no real agency in their military participation (Lee, 2009). Subsequently, granting child soldiers a certain amount of immunity, without accounting for the complexity of the issues and the will of the child soldiers (Della, 2011). Paradoxically, the Paris Principle (2007) in Article 3.5 states that 'children who are accused of crimes while they were associated with armed forces or armed groups should be considered primarily as victims; not as perpetrators', locating the cause of the phenomenon in children's vulnerability (Lee, 2009). This framework manifests the assumption that children have no real capacity to exercise social or political choices in their recruitment and according to Schauer and Elbert (2010:317-318) their recruitment cannot be considered 'voluntary'. Whilst, this may be true to a certain

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<sup>6</sup> Including paramilitary units, rebel forces, mercenary troops, and foreign armies

extent it should not be disregarded that child soldiers commit and continue to commit horrific crimes in times of war, it will be analyzed if children are aware of their actions from a cognitive point of view.

As discussed in this chapter the occurrence of child soldiering is not a new phenomenon, child soldiers have been active agents of war for centuries. It is partially due to the invention of light weapons that children have been recruited from younger ages than in the past. It is not only non-state entities that recruit children but also government forces which paradoxically coincide with legislations, Conventions and other legal documents agreeing on a child's age for recruitment, which will be analyzed in the next chapter. This chapter has also touched on cross-cultural perceptions of 'childhood' and what it entails to be a child in different societies. Due to children 'voluntary' recruiting into armed forces, there are important factors that must be scrutinized before referring to it as 'voluntary' recruitment such as consent. To discern whether children obtain the capacity to give informed consent to 'voluntary' recruitment into armed forces, consent must first be explained.

## IV The Concept of Informed Consent

There is an ambiguous concept that children have a special status, one that varies from the status adults receive (Schapiro, 1999). The basic conception of a child is an individual who is not fully developed in some of the most fundamental ways. Nonetheless, a child has been categorized as an individual undergoing the process of development (Schapiro, 1999). Due to this ongoing development process of children adults feel a special obligation including the duty to protect, nurture, discipline, and educate them. These are paternalistic features of humans and individuals feel bound to fulfill them regardless whether or not the child consents to being protected, nurtured, disciplined, and educated. ‘Individuals think of children as people who have to be raised, whether they like it or not’ (Schapiro, 1999:716). Therefore, Schapiro (1999) has argued that children do not obtain the same significance of authority and moral consent or dissent as those of an adult. This will be demonstrated through Kant’s paradigm and the Georgetown Principles results in a detailed definition of informed consent.

Kant’s paradigm will allude, as well as the Georgetown mantra of principles that will establish the perception of contemporary consent in the context of child soldiers. There are several different types of consent depending on the field of study, for this thesis informed consent will be scrutinized. The simple rationale for informed consent requires the protection, health, and welfare of participants (Eyal, 2011). Eyal (2011) states that informed consent is voluntary and “decisionally-capacitated consent”. Subsequently, informed consent requires that full disclosure of the informed practice is given and the individual understands fully what has been disclosed, and only under the basis of genuine voluntary consent can the individual participate (Eyal, 2011). If participants are deceived or not fully informed about the possible consequences, they are unable to give informed consent and it is, therefore, a violation of their rights. However, the applicability of informed consent, in the context of conflict, is problematic when appertaining it to the illegality of child soldiering. Due to children’s malleability, they become vulnerable to deception, resulting in frequent coerced recruitment. Nonetheless, Eyal (2011) discloses states that consent can only be given by a participant who is “fully competent”. Consent must be scrutinized by its components that Kant held to be autonomy and dignity. Additionally, Immanuel Kant held that “every rational being had both an innate right to freedom and a duty to enter into a civil condition governed by a social contract to realize and preserve that freedom” (Rauscher, 2007).



Coercion and deception are a part of Kant's paradigms of "treating someone as a mere means" that is acceptable to society's moral theories (Dougherty, 2013:719). Kant derived the categorical imperative, which he defined as the moral obligation from which other obligations and duties derive and which has turned into a universal moral law that is accessible to all humans (Donaldson, 2017). The components of autonomy and dignity, that have since been used for the purpose of informed consent, advocating the role of personal preference of the individual that needs to give consent to a given situation (Donaldson, 2017). However, Kant interpreted autonomy as an individual acting in accordance with reason.

Beauchamp and Childress (2013) highlight the Georgetown mantra of principles to create principles or values of ethical decision-making, which can be applied to voluntary consent. These principles will demonstrate that it is through autonomy that an individual is perceived to have the capabilities for decision-making skills. The Georgetown mantra principles consist of four principles that have taken a universal and cross-cultural appeal. The four principles include the following – 1. Autonomy, the right for an individual to make his or her own choices; 2. Beneficence, the principle of acting with the best interest of the other in mind; 3. Nonmaleficence refers to the "do no harm" principle; and 4. Justice – has been defined as the concept that emphasizes fairness and equity among individuals (Aldcroft, 2012). From these principles, a definition of informed consent can be made.

Informed consent involves a formalized process in which participants receive explanations of their purpose and duties, methods, risks, benefits, and alternatives to partake, as well as other matters before any form of formal or informal informed consent is procured. Foremost, informed consent allows and requires individuals to partake voluntarily in their duties. Informed consent, in this thesis, will be understood as 'when a sufficiently capacitated adult does not give sufficiently informed and voluntary consent to participate in tasks or duties the intervention is impermissible' (Eyal, 2014). The individual must give voluntary consent and cannot be "coerced by explicit or implicit means"; consent must be "freely and voluntarily given" (Sommers and Bohns, 2019:1962). Nonetheless, for the individual to be able to give consent it is fundamental that all duties of participation are elucidated and explained to the individual. Additionally, it is about the authority figure displaying a trustworthy and solicitous character of well-being and concern for the participating individual (Baumrind, 2015).

The four Georgetown mantra principles can since then be found in the social as well as the legal aspect of human rights, which will be explained in detail in the next chapter. Not all nation states follow the principle generating a domino effect of human rights violations, particularly for children. Additionally,

the first out of four principles – autonomy – may be considered inappropriate for children as it can be argued that children are not fully capable of making their own decision. The topic of decision-making capabilities will be explored in detail through the coming chapters. The principle of beneficence has been applied to child rights in the sense that the best interest of the child must be paramount. The “do not harm” principle has been embodied in the fundamental guidelines and rules of the UN as well as other non-governmental organizations. The fourth principle – justice – is reflected in the preparation and implementation of legal documents. However, the context setting of nation states varies drastically and some nation states do not have the rigor in implementing fundamental conventions such as the Convention on the Rights of the Child (CRC). It is not only the fault of nation states that fail to fully implement child rights but the lack of description in conventions. Subsequently, in the following chapter, the concept of consent in conventions will be analyzed and discussed. This discussion will further draw on the concept of consent by scrutinizing the conventions in regard to ‘voluntary’ consent for children to enroll in armed forces. Conventions that entail child rights will be explored in detail and the barriers they pose for children to give informed ‘voluntary’ consent.

## V The Concept of Consent in Conventions

### 5.01 Principles and Theories for Moral Guidance

Distributive justice became a topic of discussion when realizing that governments affected the distribution of economic benefits and burdens across their society (Favor and Lamont, 2017). Each society has its own economic, political, and social framework - its laws, institutions, policies, etc.- consequently differing in the distribution of benefits and burdens across members of society; resulting in human political processes that vary across societies and time (Favor and Lamont, 2017). Principles of distributive justice provide moral guidance for political processes and structures affecting the distribution of benefits and encumbrance of societies<sup>7</sup>. Considering countries in conflict, where there are high levels of economic deficit and political unrest it automatically results in an unequal distribution of benefits and burdens (Feldman and Skow, 2015). Consequently, as the most vulnerable of the population children are the first to suffer in deprived countries. This is due to a multitude of reasons that will further be alluded throughout this thesis. Furthermore, the distributive principle is interlinked to the welfare-based principle which draws on the primary moral importance of an individual's level of welfare (Feldman and Skow, 2015). Scholars and utilitarian's have linked it to theory or game theory by clarifying that the consequences of individual actions are rarely determined in isolation, but rather in conjunction with the actions of many others (Sher and Hardin 1991); hence, the introduction of morality.

Scanlon (2000) introduced *contractualism* which concerns itself with which acts are right and wrong and with what reasons and forms of reasoning they are justifiable (Ashford and Mulgan, 2007); this is where the terms "just", right, and "unjust", wrong, have been applied to wield the theory of legitimacy (Lovett, 2004). "Just" acts are realized through moral behaviors that are comprised of "mutual recognition", opposed to "unjust" acts that are unjustifiable; *ergo* cannot be justified to others (Ashford and Mulgan, 2007). For example, the theory of "just" war, which deals with the justification of how and why wars are fought, are a set of mutually agreed rules of combat; usually evolved between two

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<sup>7</sup> There are numerous dimensions to the distributive principle which will not be discussed in this thesis. For further information see Favor, C. and Lamont, J. (2017). *Distributive Justice (Stanford Encyclopedia of Philosophy)*. [online] Plato.stanford.edu. Available at: <https://plato.stanford.edu/entries/justice-distributive/>

culturally similar enemies. This occurs when an array of values shared by two warring countries, alliances, or people, find implicitly or explicitly agreed-upon limits of warfare (Moseley, n.d). However, when the two enemies have significantly greater divergent religious beliefs, race, or language, they deem each other as “less than human”, and therefore war conventions are rarely applied (Moseley, n.d). Furthermore, portraying another individual as ‘less than human’ or a member of a sub-group or disease, also referred to as dehumanizing (Stanton, 2016), results in denying individuals their rights. “Just war” only seems to occur when enemies perceive one another as individuals that share a moral identity, with the potential of doing business when peace is established, and what rules should be applied in the aftermath of war (Moseley, n.d).

The meaning of war involves the intentional infliction of harm on others, that often results in ‘disabling resources and supplies for comfortable living, forcibly imposing a new rule of law on people, and of course the injury and killing of the enemy forces’ (Scholz, 2011). Scholz (2011) explains that during war common held rights may be temporarily suspended, such as “do not kill”, not only harming enemy forces but innocent civilians. It is often prior to suspending the “do not kill” right, that military forces are recruiting for an army. However, in many countries, particularly on the African continent (Schauer and Elbert, 2010), children are recruited as part of military entities. Despite, the recruitment of child soldiers being deemed as illegal and “unjust” the recruitment is by no means justifiable. Children are individuals who have secured rights from the moment of birth. From the moment children are recruited, in most cases coerced into armed forces, a human rights violation has been set in motion. Child soldiers are deprived of essential childhood experiences that form healthy and strong relationships, and the possibility of cognitive and physical stability in the future.

## 5.02 Application of Different Concepts in the Context of Consent

Consent-based theories are currently the most popular amongst political philosophers. According to Lovett (2004), consent-based theories operate on crucial ambiguity as to whether they are supposed to be understood as voluntarist accounts of justice, as opposed to rationalist accounts. Lovett (2004) further argues that in the former case, consent-based theories fail due to their indeterminate and incoherent ways causing a superfluous in the field. Applying *contractualism* to the social sphere<sup>8</sup>, further three key

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<sup>8</sup> Social sphere will be interpreted as an individual’s development and their expression in forming their individual identity as this is a function of the relationship people form with friends, community members, and community institutions. For more information see: Welch (2012:118-120).

issues arise. Welch (2012) firstly argues that it overlooks the extent to which many social relations are not voluntary. Secondly, it presumes that although individuals coexist in relations, ultimately people exist independently of one another. Thirdly, it disregards how oppression hinders the individual's ability to voluntarily be liable. Moreover, this implies the perceived conception of the assumed *hypothetical* consent as opposed to *actual* consent (Stark, 2000).

These two previously mentioned types of consent must not be confused with one another. *Hypothetical* consent is a counterfactual structure, insinuating that a rule is justified if individuals in ideal circumstances would agree to it (Stark, 2000). It aims at justifying principles by taking an idealized situation, with idealized individuals who must decide upon, or consent to, rules that should govern their interactions with one another when they are in reality part of a nonidealized society (Stark, 2000). For instance, Member States, signatory to conventions protecting the rights of children, will hypothesize and assume that countries who have set their military recruitment age to 15 will have established and implemented: regulations of the hours and conditions of employment in order not to neglect educational participation, and have taken safeguards to assure children's 'voluntary' consent (Human Rights Watch, 2014). Alas, due to political, social, and economic factors, and children potentially not having sufficient autonomy in their decision-making, it should not be assumed that Member States, signatory to conventions, are able to safeguard children's rights as societies characterized by armed conflicts are nonidealized societies. Additionally, hypothetical consent can establish an individual's reasons for following certain moral principles of their own volition.

*Actual* consent, also known as *tacit* consent, implies an individuals' actions are taken, in a particular context, as an indicator of the individuals consent to the "benefit-conferring arrangements" (Scanlon, 2000). In the enforcement of rules through political authority, with regards to consent, only *actual* consent sanctions enable the legal coercion of another individuals' rights (Stark, 2000). For example, a commander of a governmental military entity who recruits individuals from the set age in Conventions through informed 'voluntary' recruitment, enables the child to have fully developed cognitively, morally, and physically. The commander of the military entity will have gained a new member to his military forces that are cognitively stable to have made an informed decision. Hence, both benefitting from the conferred arrangement. Moreover, it is vital that the set age of recruitment stated in the Convention is maintained and that recruitment is carried out through the process of 'voluntary' informed consent, to not violate the rights of the child and their overall human rights.

Building upon Kant's previous alluded theory, on the sovereign autonomy each person has whose consent is not to be bypassed, Shapiro (1999:716) states that all human beings have the same moral responsibility. Alderson and Goodey (1998) have argued that the two main components of modern consent are understanding and voluntariness. Beauchamp and Childress (2008:99-100) have interpreted autonomy as "the autonomous individual acts freely in accordance with a self-chosen plan, analogous to the way an independent government manages its territories and establishes its politics". According to Taylor the notion of autonomy whose value is derivative from the subjective wellbeing of people; ergo it is wellbeing that forms an ethical foundation for informed consent (White, 2013). Furthermore, Beauchamp and Childress (2013) argue that theories of consent are the foundation of personal and social beliefs about human nature. Yet, the act of consent can invoke feelings of complex desires and resistances; confusing reasoning and logical decision and reason making but may also be able to enrich it. It is through the demonstration of profound understanding and reframing of concepts of altruism or autonomy, responsibility, and risk that individuals are able to make autonomous judgment decisions (Alderson, 1990). Moreover, Alderson and Goodey (1998:1324) argue that outsider influence tends to be seen as a threatening coercive pressure, and autonomy is seen as free-floating individualism.

Consent has played a prominent role in individuals moral and legal lives (Sommers, 2016), yet how individuals perceive consent is ambiguous. Sommers (2016) argues that consent, under the philosophical perspective, is morally important as it expresses an individual's autonomous will. Consent must be given competently, knowingly, and freely (Sommers, 2016:4). Sommers (2016) proposes the folk theory of consent, which 'accommodates significant forms of fraud, which perceives the purpose of consent as protecting autonomy' (Sommers, 2016). Some factors compromise autonomous decision-making, for example, coercion, incapacity, or fraud (Sommers, 2016:3,4). Consequently, individuals often conceive deception to be compatible with autonomous decision-making. For example, Sommers (2016) argues, in the medical sphere, individuals often assume that patients give valid consent, due to a signed contract, to surgery when their doctors lie to them. Despite this act being fraudulent many people believe that victims of deception act autonomously and voluntarily in a number of ways. In addition, this may lead their moral community to lack or fail to protect their autonomy-based rights (Sommers, 2016).

### 5.03 Consent in the Context of Child Soldiering

Child soldiering is an illegal act in all countries, this will later be presented through conventions and it will become apparent that all countries strictly forbid the recruitment of any child under the age of 15. Although child soldiers are often regarded as innocent and vulnerable by western society it is important to mention that some children ‘voluntary’ recruit into armed forces. Firstly, the term ‘voluntary’ is debatable for a child who may or may not be aware of the consequences of her or his decision-making. Secondly, despite Kant arguing that autonomy is part of every individual who acts accordingly to reason (Rauscher, 2007), he does not specify whether autonomy is inborn or learned. Nonetheless, it can be assumed that it is learned as he states “acts accordingly to reason”, ergo, the individual must have obtained a certain degree of knowledge and moral compass to act with reason. Yet, it is still arguable whether or not children are autonomous and possess the right to free will. Thirdly, due to context setting children, often have no better alternative than to join armed forces. However, this cannot be considered ‘voluntary’ consent.

Miller and Wertheimer (2010) have argued that consent is a basic component of the ethics of human relations. Consent distinguishes the difference between employment and slavery, permissible sexual relations and rape, selling or borrowing and theft, participating in research and being a human guinea pig (Miller and Wertheimer, 2010). The issues of consent range from philosophical questions concerning human autonomy, to the nature and functions of informed consent, as to when consent is legally applicable (Gray, 1978). Nonetheless, consent elevates substantial practical difficulties when analyzing informed consent. Gray (1978:38) has examined three areas of difficulty when examining informed consent: 1. the communication of appropriate information, 2. the absence of coercion or undue influence, and 3. a degree of maturity and mental competence on the part of the individual subject to involvement. Informed consent is a principal feature of government regulations pertaining to military and armed conflicts.

### 5.04 Legal Instruments to Safeguard Child Rights in Situations of Armed Conflict

The action of informed consent has emerged as an issue, especially considering children and adolescents who are perceived as minors. Historically, it has been assumed that parents were natural advocates for their children and would, in most cases, act in the child’s best interest (Melton, Koocher and Saks, 1983). It is presumed by law that children lack the cognitive ability and capacity of adults. Therefore,

they were denied the same rights as adults and instead were granted special protection by the State (Landau, 1986). Children's rights under the law of consent, and the ethics associated alongside consent focuses on arbitrary ages at which minors may consent. Despite, considerable variations of legal codes and conventions across countries; both in regards to the legal age of consent and in the extent to which international law principles are reflected in consent legislation (Hesson, Bakal, and Dobson, 1993). Decisions regarding competence to consent should be made on the bases of cognitive capacity, and not age, of children and adolescents. Consequently, the complexity and evident contradictions of the law, the circumstances under which minors may consent to military practice remains nebulous.

Without doubt, have children's rights changed in the last 100 years. There have been various movements worldwide to promote the recognition of child rights as a distinct subgroup to adults (Wald, 2015). Wald (2015:485) considers the Convention on the Rights of the Child (CRC) to be the most comprehensive and detailed international human rights instrument, as it has been ratified by 192 out of 194 UN Member States. The vagueness of obligations listed within the CRC may account for rapid ratification and the full support of almost all UN Member States (Druba, 2002). Despite the widespread acceptance of the concepts of child rights, the idea that children are independent and should have their own rights poses difficulties in political and philosophical terms (Wald, 2015). Firstly, children non-autonomous figures as they are usually dependent on others. Additionally, Goldstein et al. (1974) suggest giving children rights can lead to an incompatibility with respect to the child developments their intellectual and emotional capacities develop gradually. Nonetheless, parents or guardians do not always have the child's 'best interest' at stake. Wald (2015) states that primarily a child needs to be recognized as a person and therefore be entitled to basic human rights, including the right not to be 'owned' by another (Wald, 2015:485). This can only occur when children are regarded as autonomous figures who are provided with their basic human rights.

A person is autonomous when she or he has the capacity to govern herself, to make choices, and to formulate goals unimpeded by the choices and goals of others; which under international legislation occurs at the age of 18. This type of policy reflects the widespread perception that the age of majority is also the age of valid consent (Hesson, Bakal, and Dobson, 1993:317). The following international conventions protect children in hostile situations: "the Four Geneva Conventions (1949), the Additional Protocols I and II to the Geneva Conventions of 1949 (1977), the Convention on the Rights of the Child (CRC) (1989), the Convention 182 of the International Labour Organization (ILO) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)



and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (2000)” (Druba, 2002; International Committee of the Red Cross, 2003). Additionally, to the international agreements, there are also local agreements such as the African Charter on the Rights and Welfare of the Child (1990) (Centre for Human Rights, 2016).

The Geneva Convention unequivocally aimed at seventeen provisions at children in times of international conflicts (Druba, 2002). The Conventions’ distinguishes children under the age of 15 and the age of 18 years old (Bennett 1998). Nonetheless, it does not mention the recruitment of children into armed forces or armed groups (Druba, 2002). The Additional Protocols of the Geneva Convention of 1949 (1977) regulate non-international armed conflicts. However, the vague phrases, such as Contracting Parties “agree to take all feasible measures to prevent children under the age of 15 from taking a direct part in hostilities” permits the issue of general prohibition to be avoided (Thulin 1992:142). Bennett (1998:32) subsequently argues that youths between the ages of 15 and 18 are no longer considered children insinuating that children are perceived as legitimate targets of war. Moreover, this allows the voluntary enlistment of children as soldiers (Cohen and Goodwin-Gill, 1994:61). Subsequently, unfolding the ambiguous perception of voluntary recruitment of children into armed forces. The Additional Protocol II of the Geneva Conventions applies to conflicts amidst government and an organized armed group, which denotes civil war. The Protocol “absolutely prohibits all forms of direct and indirect participation of children under the age of 15” (Druba, 2002:273). Yet, both Additional Protocols of the Geneva Conventions leave loopholes, there is no set minimum age limit for childhood, no definition of the terms “direct” and “indirect participation” (Bennett, 1998:37).

The CRC (1989) incorporates all children’s rights and establishes the “best interest of the child” as the fundamental principle for all actions. Article 39 of the CRC obliges States Parties to guarantee children that are war victims’ psychological and physical recovery and social reintegration. Despite, virtuous intentions the CRC reiterates the failings of the Additional Protocol I to the Geneva Conventions (Druba, 2002). For instance: there is no explanation or definition to the words “to take all feasible measures to prevent children from taking direct part in hostilities”. Additionally, it fails to define an agreed age limit of recruitment into armed forces (Dorsch 1994). In contrast to the African Charter on the Rights and Welfare of the Child (1990) that has explicitly defined the minimum age for recruitment of child soldiers and prohibits the recruitment and *direct participation* of children under the age of 18 in armed conflicts. The Optional Convention Protocol to the CRC on the involvement of children in armed conflicts (2000) prohibits the recruitment of all armed forces, yet it permits government forces

to recruit volunteers under the age of 18 (Druba, 2002). Any State Party contracted to this Convention is required to set a binding declaration stating the minimum age of voluntary recruitment they will respect (Druba, 2002).

The 194 countries who have ratified the CRC pledge to protect children from economic and sexual exploitation, violence, to perform any hazardous work, and other forms of abuse and to encourage and advance the rights of children to education, health care, and a decent standard of living (CRC, 1989; Human Rights Watch, 2014). However, it seems paradoxical to state, that anyone under the age of 18 is deemed a child yet declaring that “State 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” (CRC, 1989: Article 38.2). Despite, Article 32.1 to 32.2c encouraging measures of protection, including setting an age cap for admission to employment and appropriate working conditions and hours. Nonetheless, the Human Rights Watch (2014) has stated that children under the age of 18 should be encouraged to attain their education. Yet, this is hardly possible when the recruitment age is set to 15 years, regardless of children participating in ‘direct’ or ‘indirect’ hostilities. Furthermore, there is no elaboration or explained bilateral convention defining ‘direct’ and ‘indirect’ hostilities, which results in the possibility of member state assuming and creating confusion due to vagueness.

The ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, such as pornography, child pornography, and child soldiering adopted in 1999 forbids any kind of coerced or compulsory recruitment. However, it does not eliminate the option of voluntary enlisting of children under the age of 18 years into an armed conflict.

Table 1. (Below) Demonstrates a synopsis of the beforementioned legal instruments covering children’s direct or indirect participation in armed conflict (Druba, 2002: 274-275; OPAC, (2000) and authors compilations).

<i>Treaty</i>	<b>Refers to</b>	<b>Age limit for recruitment</b>	<b>Prohibition of direct participation</b>	<b>Prohibition of indirect participation</b>
<i>Geneva Conventions (1949)</i>	Conflicts of an international nature	No	No	No
<i>Additional Protocol I to the Geneva Conventions of 1949 (1977)</i>	Conflicts of an internal nature, such as fighting against colonial domination or alien occupation	15 years of age  Priority shall be given to those who are the oldest	“all feasible measures” to prevent children from taking a direct part in hostilities	No
<i>Additional Protocol II to the Geneva Conventions of 1949 (1977)</i>	Conflicts of an internal nature, such as conflicts between state armies and organized armed groups	15 years of age	Yes	Yes
<i>CRC (1989)</i>	States parties, that are to take special care and to provide protection for children	Was raised from 15 to 18 years of age (Gallagher, 2010:119)  Priority shall be given to those who are the oldest	Yes	No
<i>African Charter on the Rights and Welfare of the Child (1990)</i>	Members of the Organization for African Unity	18 years of age	Yes	No

<i>ILO Convention 182 (1999)</i>	Members of the ILO	18 years of age for forced or compulsory recruitment	Yes	Prohibition of “dangerous work”
<i>Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and on the sale of children, child prostitution and child pornography (2000)</i>	States parties, that are to take special care and provide protection for children	18 years of age for recruitment into non-governmental entity	Yes	No
<i>Optional Protocol to the convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2000)</i>	States Parties are to assure special protection from harmful effects of recruitment and use in hostilities	18 years of age in the direct participation of hostilities	Yes	No

Furthermore, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) (2000) focusses on ending military exploitation of children (Child Soldiers International, 2016A). The OPAC has been adopted by 167 Member States, that have since then banned the use of children in armed conflict. The OPAC prohibits the enlistment of children under the age of 18 and their participation in hostilities. Although it prohibits voluntary recruitment of children by non-state armed forces, it allows state armed forces to recruit from ages as early as 16, if children that are recruited are not sent to war (Child Soldiers International, 2016A). The OPAC is the only legal document to make a remark of ‘informed consent’, which is achieved by maintaining and ensuring the set safeguards are met. The safeguards are, as stated in the OPAC (2000: Article 3), a.) “recruitment is genuinely voluntary”; b.) “recruitment is done with informed consent of the person(s) parents or legal

guardians”; c.) “persons are fully informed of the duties involved in such military service”; d.) “persons provide reliable proof of age prior to acceptance into national military service”. OPAC’s efforts at integrating ‘voluntary’ informed consent into its conventions are remarkable. However, the adoption of a convention does not immediately imply the implementation or enforcement of it.

Although 167 out of 197 Member States who are parties to the OPAC, only 130 Member States are signatory to it (United Nations Treaty Collection, 2019). Insinuating that recruitment of children under the ages of 18 is a continued act by both state and non-state armed forces. There may not always be safeguards in place for ‘voluntary’ recruitment and ‘informed consent’ with state armed forces, and indubitably with non-state armed forces. For the OPAC to become effective signatories must ensure that Article 3 is implemented and sustained to eliminate the use of child soldiers. Subsequently, since the adoption of the OPAC (2000) approximately 85 Member States have criminalized child recruitment (Matthews, 2018). As it currently stands more than 20% of the 197 United Nations (UN) Member States are still enlisting children into their military forces, including 17 that are recruiting youths as young as 16 years of age (Matthews, 2018). According to Druba (2002), the reduction of children in armed conflict is only possible if political leaders are more committed to improving the welfare of the child than the implementation of military strategies. This would reflect the implementation of the “best interest of the child” principle.

Although, Conventions and legal codes have been signed and adopted many countries struggle to implement them. For example, on the African and Asian continent, there are only a few regulations and laws enforced protecting children from abuse and even fewer laws for enforcing preventative measures where children have been conscripted into armed forces (Kohrt, Rai, and Maharjan, 2015).

### 5.05 The Aspect of Voluntary and Non-Voluntary Consent

In the preamble of the OPAC (2000) children’s vulnerability to recruitment in hostilities is recognized and economic, social, and political factors are recognized as root causes for the involvement of children in armed conflict. It must be acknowledged that political, social, and economic unrest in a State is a grave loss of childhood. *Ergo*, the recruitment or enlisting of child soldiers cannot be assumed to be voluntary. Furthermore, none of the above Conventions, Additional Protocols, or Charters include an explicit definition of “voluntary” or “non-voluntary” consent, hence, creating a loophole to the safety of children and youth particularly those in armed conflicts.

Eyal (2011) conveys three possible barriers to voluntariness that can be applied to children in hostile countries' reasoning to join military forces. First, is *literal coercion* which is unfitting to the understanding of voluntary consent. It is the act of making an individual seriously worse off than he or she should be unless the person consents (Wertheimer, 1987). Children who are raised in armed conflict may not be a state acting in a child's best interest. Nonetheless, the active recruitment of children into military entities is considered *literal coercion*. Methods of recruitment primarily consists of children being kidnapped or recruited, which does not present the opportunity of voluntary consent at any point. Additionally, *literal coercion* curtails a person's options even when what curtails their options is primarily their own uncertainty (Eyal, 2011). This is especially the case for children who may or may not be considered autonomous and may not have the full potential to give 'informed consent', which pertains to the following barriers to voluntariness.

Second, *undue inducement* is another conflicting occurrence undermining voluntariness. Wilkinson (2003) describes it as an alluring method to cloud rational judgment when there is a proposition or offer that is too good to decline. Commanders of armed forces use methods of indoctrination to lure and cloud children's judgment so they participate, continue, and remain to engage in hostile activities (Schauer and Elbert, 2010). Olsson (2017) conducted an interview with former girl child soldiers, who claim that they heard they would be able to get money if they joined armed forces, which the children or family members never received. Furthermore, armed forces use deceitful language and messages to lure children and family members into joining military forces. It is "deceit and hypnosis, proper reasoning and decision-making about it becomes impossible" (Wilkinson, 2003:117-118), at least for some individuals and it is irrefutably the case for children.

Third and lastly, Wertheimer (1987:13) explains and denominates it the "no choice" circumstance, which is the lack of decent alternatives to a bad proposal. Consequently, the person is compelled or coerced to choose the offer, yet, indecent alternatives in principle remain as it is not physically imposed, as is the choice, on the individual which undermines the act of voluntariness (Cohen, 1977). Such is the instance for children who are living in conflict-prone areas that are suffering from destitution usually due to political and social unrest. Consequently, children are not enrolled in school programs, their parents are commonly not able to provide for them and are not able to find an occupation. However, professional jobs usually require a certain level of education, which is usually not obtained by children

residing in conflict settings. Miller and Wertheimer (2010) have asserted that due to the individuals' unfair curtailed options, consent is insufficiently voluntary.

Besides, to the three barriers to voluntariness, as described by Eyal (2011), there is the children's limited cognitive ability to make rational, judgment decisions (Hein et al. 2015). Schauer and Elbert (2010) have stated that children are more vulnerable due to their malleability compared to adults who have a more rigid understanding of decision-making skills due to experience and their cognitive development. However, it is difficult to assess whether children fundamentally differ to adults in regard to decision-making abilities, emotional maturity and psychological stability (Andvig and Gates, 2007:5). Furthermore, children's decision-making capabilities will be discussed in detail in Chapter 6 and Chapter 6 will examine a child's cognitive development through Jean Piaget's cognitive development theory to explore whether children have the cognitive capacity to give informed consent, in settings of conflict that include high levels of distress.

Psychologically consent can sometimes be interpreted as *hypothetical* consent, and it can be identified as a "state of mind of acquiescence" (Eyal, 2011). "Acquiescence" is described as a reluctant acceptance of something without protest, which is yet an "act of will- a subjective mental state" (Eyal, 2011). The "reluctant acceptance" is what defines it as non-voluntary for example, child soldiers in a "no choice situation" would not protest; children coerced into military recruitment are too scared to protest (Kohrt, Rai, and Maharjan, 2015; Wald, 2015). In both of these scenarios the mental state of "acquiescence" occurs. However, each individual experiences a different type of 'acquiescence' based on behavioral expressions (Eyal, 2011). Eyal (2011) explains that it is through presumed consent that legitimization is invoked. However, Eyal's (2011) psychological consent indirectly insinuates that there is a submissive and a dominant character. Ergo, the state of 'acquiescence'. Despite, children being kidnapped, abducted and coerced into joining armed forces, once they become a member of the in-group<sup>9</sup> they usually are submissive and obtain an acquiescent state of mind. As alluded by several scholars', children avoid protesting due to fear of being severely beaten, maimed or killed (Schauer and Elbert, 2010; Kohrt, Rai, and Maharjan, 2015; Wald, 2015). Commanders possess a great amount of

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<sup>9</sup> Cuhadar and Dayon (2011) explore the social psychology of identity and social identity theory. In-group and out-group behavior are part of the social identity theory. Through methods of social comparison individuals who are similar to the self are categorized as self and are labeled as an ingroup member (Stets and Burke, 2000). Individuals who differ from the self are categorized as out-group members (Stets and Burke, 2000). This allows people to recognize other individuals by type and draws on mental constructs that set expectation and guide behavior as they navigate their social interactions.

control and power due to their methods of indoctrination and manipulation, as children's moral development is not at its full potential (Sandstorm and Huerta, 2013) and listen to authority without questioning (Schauer and Elbert, 2010). Owing to prolonged oppression, children joining armed forces or associated with armed forces will endure detrimental cognitive and physical development in the future (Derluyn et al., 2015).

Hence, child soldiers are perceived as victims, and not perpetrators of inhuman and degrading treatment. Eyal's (2011) three voluntary barriers are relevant to children associated with armed forces, who have joined armed forces, who have become child soldiers, and who are former child soldiers. However, a child under the age of 18, in some countries 15, can only be recruited if parents or guardian gives their consent. This is the case for state armed forces but cannot be applied to non-state armed groups. Despite, the adoption of the OPAC and its implementation in some countries, most countries suffering from conflict-stricken zones, signatories to the OPAC, have not implemented the OPAC. Therefore, children are unable to validate their voluntariness into joining armed forces and give informed consent.

Nonetheless, the analysis of the inclusion of the aspect of consent in Conventions and other legal instruments has shown not only to be ambiguous but scarcely existent. The age limit for recruitment differs in each Convention and countries ranging from the recruitment ages of 15 to 18 years old, in regards to the Conventions explored in detail above. Druba (2002:274) suggests raising the minimum age of, informed consent for voluntary enlistment to 18 years. Up to the present date the OPAC has highlighted key measures in ensuring voluntary consent for the recruitment of armed forces. ILO Convention No. 182 explicitly forbids any potentially dangerous labor for children and alludes child soldiering to be the worst form of child labor. Moreover, the phrase "to take all feasible measures to prevent children from taking a direct part in hostilities" leaves space for open interpretation; Druba (2002) proposes to create a unilateral declaration interpreting the above phrase.

Subsequently, it has been demonstrated that legal instruments fail to define "voluntary" and "non-voluntary" enlistment into armed forces. They also do not consider the barriers to voluntariness, illustrated by Eyal (2011), that can be applied to children in hostile states. Conventions fail to define between direct and indirect hostilities in which children can and cannot partake. Currently, legal documents protecting the rights of children are vague and can lead to confusion and potential misinterpretation, which can result in human rights violations.



Moreover, legal documents do not consider the crucial psychological aspect when interpreting “voluntarily” enlisting children and youth into armed military, particularly in belligerent countries. Additionally, legal documents have struggled to establish a universal definition of a child, as well as that of a child soldier including their specific tasks and creating a universal cap on the age of recruitment for children into armed entities. Consequently, it can be deduced that legal documents fail to acknowledge the importance of cognitive child development altogether and their ability to consent.

In the following chapter, the topic of consent will be further elaborated by scrutinizing Milgram’s study of obedience and associating it to child soldiers and their levels of obedience to commanders and soldiers in their in-group. It will analyze children’s cognitive ability to make judgment decisions in situations of distress. Additionally, Milgram’s study has been claimed to have been carried out unethically, for contemporary research ethics, but will aid the process of understanding the difference between obedience and loyalty, particularly in child soldiers. As previously mentioned, to give informed consent a certain level of decision-making capacity is required. For decision-making skills, the individual must have a progress in cognitive development and life experiences; as will be discerned in the following chapter.

## VI When Subjects become Objects

### 6.01 The Importance of Milgram's Study of Obedience for Achieving Consent

Exploring the aspect of consent in the context of child soldiering further, it is important to assess the relationship of the recruiter and the child being recruited as well as the techniques used. Most ethicists argue that the general public would agree that lying is wrong, and requires justification (Bok, 1978). Baumrind (2015) states that lying is not always wrong, yet deception is. Deception has been identified as one of the techniques of child recruitment (Schauer and Elbert, 2010). Griggs (2017) argues that by violating the fiduciary obligation of an authority figure to be trustworthy and respectful in their relation to the individuals, who have accepted the role of subject, by lying to potential participants is ethically wrong. When consent is given by an individual it usually involves fundamental moral principles of reciprocity, justice, and respect; along with cooperation and compliance and the individual's belief that the authoritative figure is trustworthy and solicitous of their well-being (Baumrind, 2015). Milgram's study of obedience will be used as an example to portray deception in obtaining 'informed consent' and 'dehoaxing' participants (Baumrind, 2015).

Milgram's obedience study, conducted as a laboratory experiment, showed that most ordinary people are willing to inflict dangerous electric shocks on an innocent, protesting victim when directed to do so by a person of authority (Milgram, 1963)<sup>10</sup>. Milgram (1963) misrepresented his study with a false content description of his research. Through newspaper advertisements, Milgram recruited volunteers ostensibly by alluding his research to be one of memory and learning at Yale (Baumrind, 2015). Upon their recruitment participants were 'falsely told they were to act as teachers in a learning experiment in which they would punish the learners with increasingly powerful electric shocks whenever the learner made a mistake' (Baumrind, 2015:692). However, participants were deceived as the electric machine was a prop. Milgram (1963:198) justified his use of deception by the generalizability to the atrocities of the holocaust, and the obedience of soldiers to their military superiors. Baumrind (2015) further explains that participants who are lied to are deceived without their informed consent, for the interest of the authority figure.

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<sup>10</sup>For a detailed explanation on Milgram's Behavioral Study of obedience see: Milgram, S. (1963). Behavioral Study of obedience. *The Journal of Abnormal and Social Psychology*, 67(4), pp.371-378.

Further research has been carried out indicating that obedience to authority is deeply ingrained and “people will obey authority even when it is not in their own best interest to do so” (Sommers and Bohns, 2019:1979). Furthermore, Barrio's experiment suggests that the authority figure, which in the case of child soldiers is their commander, will compel their victim, in this case, child soldiers, to carry out their orders without questioning (Sommers and Bohns, 2019:1979). Nonetheless, participants of Milgram's study were paid and recruited on the basis that they would contribute to scientific research. The compliance of Milgram's participants may reflect a sense of employee loyalty rather than obedience. Moreover, Baumrind (2015:695) interviewed one of Milgram's previous participants who recalled the study with pride and warm feelings rather than ambivalence and anger. This behavior can be seen in ex-child soldiers who, years later, greet their ex-commander and still refer to him as ‘commander’ (Szeltner, 2017A), displaying a sense of pride and is still consider him an authority figure.

Obedience has been categorized as a basic element of social life. It is a system of authority that is a requirement of all communal living (Milgram, 1963). According to Milgram (1963:371) obedience is the psychological mechanism that links individual action to political purpose. For most people obedience is a deeply ingrained behavior, a prepotent impulse that overrides training in ethics, sympathy, and moral conduct (Milgram, 1963). Obedience is to serve numerous productive functions within society. Mandel (1998) states that it is evolution that makes individuals favor social coordination. Humans developed in order to obey authority figures, and children from a young age learn that it is their role to obey authority and follow this expectation in an unthinking manner (Mandel, 1998:82). Despite, obedience being ennobling, educative, and creating acts of charity and kindness it also possesses a power of destruction (Milgram, 1963). Through Milgram's (1974) obedience experiment, it became evident that an individual's willingness to obey is not the same as the act of obedience. Additionally, Milgram's study elucidated that individuals believed to be ‘only following orders’, which applies to the phenomenon of child soldiers as they believe to be following orders of their commanders, the authority figure. These acts of obedience that child soldiers carry out are socially organized acts of evil (Mandel, 1998). Due to children being deceived and manipulated through recruitment strategies; they are not informed of their tasks and their implications and are therefore not able to give informed consent.

Informed consent, as previously mentioned is given by a ‘sufficiently capacitated adult’ (Eyal, 2014). Research has suggested that children are affected by manipulations of decision-making situations (Davidson and Hudson, 1988). Nonetheless, Davidson and Hudson (1988) also argue that basic decision processes in children, for example, their ability to seek out pre-decisional information evolves more

rapidly with age than previously predicted. The following chapter will explore children's decision-making capabilities in relation to their context setting, their age, and whether children are able to give informed consent to join military entities. Additionally, it will discuss an individual's ability to act sensibly and make rational decision-making judgments, which is what may distinguish a young mind from an adult mind.

## VII Decision-Making Capabilities of Children

Consent is an umbrella term that cannot be interpreted singularly as already previously discussed; not only does it incorporate aspects of obedience but it also about depends on decision-making capabilities. Donaldson (2017) has explained that decision making involves active steps. Firstly, it must be recognized that a decision must be made, the individual must understand the goal he or she hopes to attain, making a list of options, determining the consequences - negatives and positives – of each option, determining the desirability for each consequence, and integrating all the information. Researchers have criticized the ethical examination of decision making as there is a possibility for the principles to contradict one another (Donaldson, 2017). For example, the context or circumstance setting of an individual's, mental state, emotional state, or physical state, and the lack of education can cause them to envisage only certain consequences and options which might not be in the best interest of the child. (Fishhoff, Crowell, and Kipke, 1999). The Georgetown principles of autonomy, beneficence, or justice are capable of influencing one another due to a child or even an individual's, in certain context settings, inability to process complex information (Donaldson, 2017). Additionally, the four Georgetown principles and its criticism that it has received can be applied to children, and into the context of this thesis, it will be applied to child soldiers.

Child soldiers have been defined as any individual below the age of 18. This is due to children, below the age of 18, not having reached their full cognitive or physical potential, therefore, they do not have the full capacity to make informed decisions and cannot be categorized as an adult. Before the age of 18 parents, guardians, or another authority figure are expected to seek the best interest of the child and perform his or her decisions and actions (Beauchamp and Childress, 2013). However, research has suggested that adolescents between 12 and 13, obtain a similar ability to identify and evaluate possible consequences of engaging in risky behavior (Fishhoff, Crowell, and Kipke, 1999). Adolescence is a period of cognitive, physical, social, and emotional growth and change. It has been asserted that during adolescence, there is an increased capacity for “abstract reasoning, counterfactual reasoning, reasoning from premises that are not trues, systematic reasoning, and a growing capacity for probabilistic reasoning”, which are all relevant abilities to possess when decision making occurs (Fishhoff, Crowell, and Kipke, 1999). Moreover, increased comprehension of the concept of probability should encourage a more thought through and realistic understanding of the chance of the divergent outcomes that could occur. Nonetheless, these abilities are not acquired until adolescence (Fishhoff, Crowell, and Kipke, 1999). Ergo, children from young ages are able to give understood informed consent through and during their decision-making processes. Yet, the humanitarian discourse on child soldier's depicts them as

vulnerable and victims of recruitment because of the context (Wald, 2015). Consequently, children become victims of exploitation through context setting and exposure to military associations (Wald, 2015).

Furthermore, Donaldson (2017:844) has argued that the strength over the words “should” or “ought”, reflect the actual obligation organization, institutions, and society as a whole has towards child soldiers. Nonetheless, the phenomenon of child recruitment is constant and continuous. Children living in a war-stricken zone are vulnerable, because of factors such as, unstable political and social ties of the country, lack of education, mental and emotional instability, which are all contributing factors that contribute to vulnerability and malleability in children. Besides, due to children’s lack of cognitive and physical development, their decision-making capabilities, their capacity to obtain informed knowledge about their rights are further reasons as to why child soldiers, are not autonomous and, are not able to give informed consent when joining armed forces. Moreover, the recruitment of armed forces is often coerced. Usually, recruitment of children occurs through abductions, kidnappings, deception, manipulation techniques, indoctrination, and failed promises. However, the innocence of child soldiers cannot be assumed, and they cannot be automatically be regarded as victims (Kohrt, Rai, Maharjan, 2015).

Recruitment tactics of armed forces often include deception which Dougherty (2013) has states as a wrongful act that invalidates an individual informed consent. However, Dougherty (2013) argues that it is ultimately the individual’s decision to decide the importance of details and the weight the decision and situation carries. Due to young children’s inability to make judgmental decisions, it creates a barrier for them to give any sort of informed consent. Although, consent is regarded differently across countries, cultures, and traditions, there are certain moral paradigms that everyone adheres to. Principles, rules, obligations, and rights are not rigid or absolute, they allow room for compromise (Dougherty, 2013). The principles must be balanced and specified to function in particular circumstances (Beauchamp and Childress, 2013).

Subsequently, informed consent, according to how it has been interpreted, can only be given by “a sufficiently capacitated adult” (Eyal, 2014). Hence, Milgram’s participants were all between the ages of 20 and 50. When encompassing it with decision-making capabilities it becomes evident that a child of such a young age as a child soldier, under the age of 18, would not classify as being “sufficiently capacitated” to make such a crucial and firm judgment appeal (Eyal, 2014). This cannot be bluntly

stated and must be put into the context with children's cognitive development. The following chapter will discuss the cognitive process of a child's development, primarily focusing on the cognitive development of children between 2 and 18. This is essential to grasp cognitive changes, in children, at puissant years of their life and how their context setting can affect their psychological stability and how this forms their malleability of becoming targets for recruitment of armed forces. Additionally, I seek to elucidate that children, who are incapable of making judgment decision, are not capable of giving informed consent, particularly in a context where consent is not an option. Ergo, children do not have the full potential to voluntarily recruit to armed forces.

## VIII Children's Cognitive and Moral Development vs. Environment

### 8.01 Piaget's 4 Stage Concept of Child Development

Child development must be fully understood before elucidating child soldiers' acts of voluntariness and consent to military recruitment. The CRC (1989) states in Article 3.1 that "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". Although, the careful scrutinization of legal documents, discerned that voluntary informed consent is not encompassed. Additionally, children's cognitive development is not integrated into any of the legal documents, and therefore, disregarding how cognitive development may affect children's capacity in giving their voluntary consent. Only, once a child has achieved a certain level of competence can the child perceive what would happen in a mentioned scenario, the implications and consequences of it (Archer, 2018).

Subsequently, I will be alluding the importance of a stable, loving, and healthy environment for children in their early years of cognitive development to obtain their 'full potential'. In this thesis 'full potential' will be referred to as the cognitive development of a child's untapped intellect to its ability to achieve fully functioning cognitive performance. Important determinants, for this are for example, child health care is up to national and international standards, children learning their native language, learning and using critical analysis in their social sphere, and unlocking the potential of emotional intelligence in the transitional ages of adolescence. All this resulting in a healthy psychological and physical being able to produce and provide a healthy and stable environment for further generations (Newcombe, 1996; Piaget and Inhelder, 2000; National Scientific Council on the Developing Child, 2007; Sandstorm and Huerta, 2013).

Jean Piaget revolutionized the psychology of child development, categorizing the development of children into four subsequent stages. The stages represent the learning process from childhood into adolescence and further into adulthood. Thereafter, Piaget's cognitive development theory will be associated to children's vulnerability and malleability and applied child soldiers. The purpose of this will be to comprehend the interrelations between cognitive development and the ability to give consent in the context of child recruitment. Jean Piaget, as the most influential researcher of development



psychology, he is best known for his theory of cognitive development (Huitt and Hummel, 2003)). Piaget developed a theory of discrete developmental stages in children, which is divided into four separate stages in accordance to chronological age. Commencing with the sensorimotor stage (birth to 18 months), followed by the pre-operational stage (18 months to 7 years). Subsequently leading to the concrete operational stage (7 years to 12 years) and concluding with the formal operational stage (12 years and over) (Newcombe, 1996:132). Predominantly Piaget's theory is that humans are active, curious, and inventive through life (Newcombe, 1996). Additionally, Piaget made a careful distinction, between development and learning- 'development being a spontaneous process tied to embryogenesis, learning being provoked by external situations' (Guavain and Cole, 1997). With this distinction Piaget revolutionized the understanding of child development and how humans attain knowledge.

Commencing with Piaget's *sensorimotor stage*<sup>11</sup> where an infant relies on 'reflexes', the sensory and motor schemes it has been born with. The infant at this stage begins to progressively master the world through interacting with it (Muthivhi, 2015). Piaget found that children around 18 months acquire object permanence, the child becomes aware of an object's continuous existence even when it is removed from the child's spatial field (Guavain and Cole, 1997; Muthivhi, 2015:127). Throughout the *pre-operational stage*, there is a change in characteristics and mental representation, the structuring of organized thinking in the form of operations or systems of actions that are internally connected is developed. Children at this stage begin with symbolic play, which Piaget categorizes as a crucial life skill as it leads to the use of language and social functioning in later development. Theory of mind forms as the child develops an understanding of its intentions, goals, and emotions, and how these mental states can be affected by another individual's actions (Thompson, 2012). A preoperational child must integrate the knowledge of the sensorimotor activities to construct an internal, mental coordinations, which is a form of knowledge, predominantly deriving from the child to master the external world and to master oneself (Muthivhi, 2015:128). To achieve the mastery of self, children's mode of thinking is dominated by egocentrism.

The cognitive capabilities for reflecting on own and other people's perspectives, in order to compare and analyze, emerges at the *concrete operational stage* (Muthivhi, 2015). This stage, between the ages 7 and 12, has been characterized by dramatic the acceleration in children's growth of development in

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<sup>11</sup> For a more rigorous explanation of Piaget's children's cognitive development stages, see: Piaget, J. and Inhelder, B. (2000). *The psychology of the child*. 2nd ed. New York: Basic Books.

language and acquisition of basic skills (Ojose, 2008). A concrete operational change enables the child to make the necessary analysis of the situation, taking all information available into account, to arrive at a valid conclusion (Muthivhi, 2015). The aim of the concrete operational stage is for children to master abstract cognitive activities ‘internally’, which is critical for a good foundation for successful learning (Muthivhi, 2015). A study carried out by Muthivhi and Broom (2009) highlight that learners, who are at the concrete and formal operational stage, are at a critical stage and need adequate teaching to form the matter on subject knowledge. At this point, the child is still incapable of ‘imagining or hypothesizing issues’ (Mitchell and Ziegler, 2007). Additionally, at this stage developments in theory of mind provide the child with a nonegocentric awareness of goals, feelings, and desires of people and how those mental states are affected by other individual’s actions (Thompson, 2012:426). Piaget assumed that individuals will automatically move to the next cognitive stage as they biologically mature (Huitt and Hummel, 2003).

*Formal operations* is the transformation from a child into adolescent years (12 years and over), where expertise in areas such as hypothetical thinking, rationalizing, as well as problem-solving of real issues is developed. Children recognize rules, submission to authority figures, and are able to recognize that the rules are arbitrary and can be changed with group consensus (Pantella, 2011). Children become aware of the possible consequences of their actions. It is the growth of more complex representations of relational obligations and their moral implications, especially the reciprocity of sociomoral behavior (Thompson, 2012:426). Furthermore, Muthivhi (2015:129) explains that children at this stage enter a world of abstraction, of logical and propositional forms of thinking, which is essential to create a product of mental coordination’s<sup>12</sup>. Thompson (2012:426) elucidates that the individual becomes increasingly capable of psychological informed person-based evaluations of moral conduct, which extends their moral sensitivity to people outside of their personal awareness. Thompson (2012:427) adds that moral development is furthered through numerous explorations and relates to earlier growth such as, the context of growing adolescent autonomy, parent-adolescent autonomy, establishing a moral conduct in relation to developing an understanding of the self-emotions and expectations, increasing understanding of ingroup and outgroup relations and its relation to race and gender exclusion amongst peers, and other areas.

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<sup>12</sup> According to Piaget this is done by the child being an active, rather than passive, learner; integrating knowledge into preexisting structures. Resulting in the knowledge being assimilated and transformed to fit into existing mental structures. Muthivi (2015:126) has defined mental coordinations as “a process explained through the concept of equilibration”. Muthivi further states that equilibration is a motor for human development and is a self-regulated process evolving the structural organization or international coordination of knowledge (Muthivi, 2015:126).

## 8.02 Limitations of Piaget's Theory

Piaget's theory of the formal operation stage has been criticized as it cannot be applied universally and is limited to an individual's context (Markovits and Barrouillet, 2002). Huitt and Hummel (2003) quote that for formal operation 'it appears that maturation establishes the basis, but a special environment is required for most adolescents and adults to attain this stage'. Vygotsky's, cognitive development theory, as opposed to Piaget's stage theory, postulates that social interactions are fundamental to cognitive development (Flavell, Miller and Miller 2002). Vygotsky encompasses the importance of concepts such as culture-specific tools, language, and thought interdependence, and the zone of proximal development (ZDP)<sup>13</sup> (Shabani, Khatib, and Ebadi, 2010). Vygotsky emphasized language as the most integral part of human culture (van der Veer, 1996). The reason being that 'without verbal concepts and without words as internal means humans would have remained savages, words and the creation of language was the first and fundamental progress and development' (van der Veer, 1996:249). However, Vygotsky points out one of the limitations of language by expressing that 'ideas are not expressed but born in language' (van der Veer, 1996:251). Humboldt argued that individuals are confined within the boundaries of their own language, this can only be subdued by stepping into another language (van der Veer, 1996). Subsequently, this does not only enable the communication and relationship between two different cultures, but it also allows for cultural sensitivity to become integrated into fundamental mental processes. Bennett (1998) argues that it is the individual's sense of culture that presupposes their conviction of differing from other groups. Hence, the significance of a successful justification of moral social practices on the grounds of cultural needs to create an 'audience sympathetic to cultural relativism'<sup>14</sup> (Bennett, 1998:2).

Vygotsky's theory primarily argues that cognitive abilities are socially guided and constructed (Flavell, Miller and Miller 2002). It is through observations, the building of relationships, understanding the behavior of in-and out-groups and where to place the self. It is about constructing a culture-sensitive

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<sup>13</sup> Vygotsky (1978:86) has defined the ZDP as the "distance between the actual developmental level as determined by independent problem solving and the level of potential development as determined through problem solving under adult guidance, or in collaboration with more capable peers". Furthermore, Shabani, Khatib and Ebadi (2010) have written an excellent paper examining the notion of ZPD for further details, see: Shabani, K., Khatib, M. and Ebadi, S. (2010). Vygotsky's Zone of Proximal Development: Instructional Implications and Teachers' Professional Development. *English Language Teaching*, 3(4).

<sup>14</sup> Carter and Baghrmian (2015) point out that 'individuals are unable to apprehend another individual's imagination as neatly as the self's'. Therefore, the Universal Declaration of Human Rights (1948) has expressed an 'audience sympathetic to cultural relativism' by raising their standards of other cultures: "what is held to be a human right in one society may be regarded as anti-social by another people" (Bennett, 1998:2).

environment for the self and others, through methods of relations, behavior, and language. Therefore, culture serves as a mediator for the formation of development of specific abilities for example learning, memory, attention, and problem solving (Holt et al. 2012). Additionally, to the socio-cultural perceptions, during adolescence, there are contextual changes rooted in the developmental system. This includes a change in the prefrontal cortex, an increase in the interconnectivity among brain regions, and increases in dopamine levels (Lerner et al., 2015). Consequently, resulting in vulnerabilities to risk and opportunities for growth in cognitive control and self-regulation (Steinberg, 2010). Moreover, Muthivhi (2015:130) states that children are not passive learners as they are actively learning reactions to stimulations around them at all times.

Although Piaget's model of child development revolutionized cognitive child development it was heavily criticized by newer scholars. Bomba and Siqueland (1983) conducted a study that illustrated that infants, at 3 months, have the ability to process situations they have never seen before the same way adults do. Arguing that infants from a very early age manage to memorize how to achieve desired ends in the world (Newcombe, 1996:140). This conveys that children must explore and act on their environment to attain knowledge (Newcombe, 1996:140). However, the acquisition of knowledge in children is not a gradual process as Piaget hypothesized; it is a rapidly evolving process, newborns learn from a very early age (Flavell, Miller and Miller, 2002). Additionally, Piaget primarily observed children based on their performances rather than their competencies. It has since been suggested that development is a continuous occurrence through life (Lourenço and Machado, 1996). Hence, it can be argued that, despite Piaget's theory being accurate, recent research has suggested that development cannot occur in stages and is rather a continuous and lifelong process. All individuals undergo the process of cognitive development, yet it varies due to sociocultural influences, individual differences, financial status, the economic and political situation of the country, and many more factors.

“The Stages of the Intellectual Development of the Child” by Jean Piaget developed a sophisticated stage theory of structural cognitive development (Matthews, 2002). Piaget primarily interpreted the nature of a child as a configuration of deficits, referring to the capacity's adults have that children have not yet acquired. However, Matthews (2009) has argued that Piaget's conception undervalues or potentially ignores children's ability to, for example, learn a second language quicker and better than adults. Piaget's theory restricts the range and value of relationships adults believe they may have with their children (Marlowe and Canestrari, 2005). Nonetheless, it is Piaget's theories that have been most influential in the sphere of cognitive development of children (Matthews, 2002).

### 8.03 Theories on Moral Development of Children

It is important to highlight Piaget's research on moral development, later refined by Kohlberg. Moral development, as Piaget highlights, represents the transformations that occur in an individual's structure of thoughts (Kohlberg and Hersch, 1977). Once again, Piaget has structured his theory of moral development into stages, three stages, that are defined by the following characteristics. Firstly, he elucidates the *preconventional level* where a child becomes more responsive to 'cultural rules and labels of good and bad, right or wrong, yet interprets these labels either in terms of physical or the hedonistic consequences of action, through punishment, reward, exchange of favors, or in terms of the physical power of authoritative figures who set forth regulations and labels' (Kohlberg and Hersch, 1977:54). Secondly, the *conventional level*, which has been defined as maintaining the child's family, group, or nation's perceived values as their own right, regardless of immediate and obvious consequences. Piaget clarifies that this attitude is not purely based on conformity to personal expectations and social order, but also loyalty. Thirdly, there is the *postconventional level*, which has also been referred to as the autonomous or principled level. This last stage clarifies moral values and principles that have validity and application. In early childhood, children construct moral, societal, and psychological concepts in parallel, rather than in succession, as it is proposed by the stage theory (Zelazo, 2013).

Social domain theory encompasses the study of moral development in the social world. It has been described as one method of children developing social knowledge. Morality has been defined to 'regulate individuals' social interactions and social relationships within societies and includes individuals' understanding of how individuals are to behave towards each other' (Zelazo, 2013:833-834). These moral principles, within the social domain theory, 'concerns itself with morality, by including concepts of justice, welfare, and rights, coexisting with matters of authority, tradition, and social norms, also personal struggles and problems, which are part of privacy, bodily integrity and control, and a delimited set of choices and preferences' (Zelazo, 2013:833). Smetana argues that morality is perceived as "normatively binding", hence, moral rules are hypothesized to be unchangeable (Zelazo, 2013:834). Children's understanding of morality in social relationships varies depending on their descriptive social systems and across cultures.

The process of moral development commences by children acquiring an understanding of the diverse societal circumstances, the context of different social relationships and societal arrangements. These must be understood to create an awareness of expectations and rules in particular social contexts

regulating human social relationships (Killen and Smetana, 2006) Not all social rules are moral, some may be needed to regulate social interactions, yet lacking the prescriptive and obligatory basis of moral rules (Killen and Smetana, 2006). Children's moral thinking varies across cultures, but the concept remains the same. Throughout early childhood children's moral compass forms primarily around concrete physical harm and concerns with welfare (Zelazo, 2013). Arguably, the social domain theory and the concept of moral development can be applied to a child's cognitive development during its early years, as children need an environment that encourages the stimulation of active neural synaptic production and which is nurturing, caring, and safe for the child to can grow up in. Subsequently, the child begins to develop the concept of fairness from the understanding of equality and equal treatment. This understanding is formed by the time they reach the middle of childhood<sup>15</sup> and lasts until early adolescents (Zelazo, 2013). Blume (2014) states that at this stage emerging cognitive abilities develop enabling children to handle more complex intellectual problem-solving. This illustrates that children can distinguish between right and wrong from as early as six years old. Smetana argues that children take both moral and factual beliefs when making moral judgment decisions (Zelazo, 2013:832).

Furthermore, environmental factors, as illustrated by Vygotsky, impact children's malleability, vulnerability, cognitive and moral development. Academic scholar, as well as non-governmental organizations (NGOs), have stated that it is due to the income status of families, disabilities, religion, sexual orientation, but most of the time it is due to geographical location, which affects children's development (Shonkoff and Phillips, 2000). Numerous instabilities factor into child development whether that be economic instability, employment instability, child care instability, instability of education and so forth. Statistics from UNICEF (2013) present that, 7.6 million children under the age of 5 worldwide die each year, due to malnutrition, lack of sanitation, and living in impoverished areas (Sandstorm and Huerta, 2013), 200 million children survive. Yet, children who survive under these circumstances do not manage to reach their full potential. Consequently, their countries have an estimated 20% loss in adult productivity (UNICEF, 2013). Sandstorm and Huerta (2013:9) state that for a child to develop their 'full potential' it needs a "safe and stable housing, adequate and nutritious food, access to medical care, secure relationships with adult caregivers, nurturing and responsive parenting, and high-quality learning opportunities at home, in child care settings and in school". Furthermore, education plays a crucial and critical role during the development period of children, it has been linked to both socio-emotional and cognitive gains (Carter, 2019). Shonkoff, Phillips (2000),

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<sup>15</sup> Middle childhood is the developmental stage between early childhood and early adolescence. There is a considerable debate about the age parameter of 'middle childhood' but for this thesis it will be between the ages of 6 to 10 years (Blume, 2014).

Sandstorm, and Huerta (2013) both agree that normal experience supports normal brain development, for example, good nutrition, opposed to abnormal experience such as, parental consume of alcohol and drugs, that can cause abnormal neural and behavioral development. Furthermore, there are certain basic necessities for a child to develop their full potential for them to be recognized as a responsible member of society that are often overlooked in countries of plight, opposed to economic and politically stable countries.

Despite Piaget's lack of recognizing social and environmental factors in children's cognitive development, his theory provided knowledge on children's maturity of cognitive capabilities in their development. Subsequently, Vygotsky states that children are active learners of the environment arguing that children learn through relationships and interactions with other humans and animals (Flavell, Miller and Miller 2002). Through human interactions, children learn moral requirements that later allow them to distinguish right from wrong (Zelazo, 2013). However, often individuals become strongly influenced by others that do not have a positive impact on their cognitive and moral development. This type of influence and behavior will be further explained through the identity and social identity theory in the next chapter. Furthermore, the following sub-chapter will discuss Piaget's theory of an obsolete learning point which will be done by the examination of a case study of a feral child named Genie Wiley.

#### 8.04 The Genie Wiley Phenomenon

The notorious case study on Genie Wiley allows for further demonstration of Piaget's theory demonstrates the value of Vygotsky's theory, and the impacts the environment has on a child's cognitive development. Vygotsky previously illustrated through his theory how important the social field is for a child to learn a language and to conform to its culture. Although, Genie Wiley's case is extreme and rare it is analogs to child soldier's experiences of neglect, living in an unhealthy, disturbing, and abusive environment that incapacitates a child's cognitive development. It reveals how powerless, helpless, and vulnerable children are when they are born into this type of context in which no form of consent exists.

Genie Wiley<sup>16</sup>, also referred to as a feral child<sup>17</sup>, was the name given to a 13-year-old girl who suffered severe abuse, neglect, accompanied by extreme social isolation and experiential deprivation since the day of her birth (Fromkin et al., 1974; Villarreal, 2019). This deprived her of the hypothesized ‘critical period’<sup>18</sup> and the implication of cognitive development as related to ‘hemispheric maturation and the development of lateralization’<sup>19</sup> (Fromkin et al., 1974:81). The plasticity of the brain in infants and children leads to adaption and vulnerabilities. Subsequent to a child’s birth certain environmental information can lead to the process of synaptic overproduction (Shonkoff and Phillips, 2000). Shonkoff and Phillips (2000) have argued that it is between birth and the age of three that the human brain develops most of its neurons and is most receptive to learning; adding that the intake of new information is critical to the formation of active neural pathways. The lack of active neural synaptic production creates a deficit of active brain stimulation. According to Villarreal (2019) Genie’s mental age, when she was taken out of captivity, was at the level of a 13-month-old child.

Moreover, neuro systems are responsible for speech and language, and in Genie’s case these were not stimulated, resulting in a deficiency to develop, understand and learn new content and the application of it (TLC, 2013). Although Genie experienced a steady and rapid learning curve, at the beginning of her extrication, it quickly deteriorated after her arrival at a mental health facility. Despite, the hypothesized ‘critical period’, Genie was able to learn vocabulary, yet she struggled to produce grammar or to create sentences (Villarreal, 2019). Therefore, the ‘critical period’ does conform to a level of accuracy. Besides, the neglect, abuse, social isolation, and experiential deprivation caused Genie to develop high levels of emotional distress, which began to interfere with her progress (Villarreal, 2019). The research conducted on Genie Wiley’s case suggests that the hypothesizes ‘crucial period’ has a certain amount of scientific truth to it.

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<sup>16</sup> For a more extensive description and excellent debate on Genie Wiley and the ability of language acquisition beyond the ‘critical period’ see: Fromkin, V., Krashen, S., Curtiss, S., Rigler, D. and Rigler, M. (1974). The development of language in genie: a case of language acquisition beyond the “critical period”. *Brain and Language*, 1(1), pp.81-107.

<sup>17</sup> Hudson (2000:175) defined a feral or wild child as a child who grew up abandoned or in isolation without the normal condition for language learning, and so without language, without or little human contact. Therefore, little experience of human care and behavior. The effect of neglect on the child may have severe

<sup>18</sup> The critical period is referred to as the early postnatal years when the brains plasticity is heavily dependent on environmental influences, beyond the ‘critical period’ it is hypothesized that learning cannot take place (Shonkoff and Phillips, 2000; Sandstorm and Huerta, 2013).

<sup>19</sup> Hemispheric maturation refers to society’s overall cognitive ability to grasp the concept of ‘normal’ and ‘abnormal’ development. Fromkin et al., (1974) have stated that the development of lateralization, occurs around the age of puberty, and refers to the acquiring of an ability and its completion of development of cerebral dominance, such as language.



Piaget, mentions the importance of play, imitating, and mimicking has from birth and onwards. Vygotsky discusses the importance of a child's environment and relationships from which it learns and grows. Despite the fact that Genie Wiley's case is extremely rare, it must be recognized how crucial child development is at such young ages. Genie Wiley was not presented with the chance to mimic, imitate, or learn from her surroundings, she was completely deprived of loving human contact. Hence, Genie Wiley's cognitive development became obsolete at a certain period. Although, child soldiers may not be as severely neglected as Genie Wiley; the in-group behavior that child soldiers experience is not of a positive kind. If children experience negligence and an abusive environment their cognitive capabilities become degressive and obsolete.

Genie was extricated out of her prior deprived living condition at the age of 13. Nonetheless, Genie experienced severe traumatization and continues to experience the ramifications of her severe traumatization, developing a high-level acute case of post-traumatic stress disorder (PTSD) that will reside for the rest of her life. Analogous to children exposed to conflicts, child soldiers, and in general any other individuals who have suffered from social isolation and experiential deprivation, neglect, and/or abuse will be afflicted with higher levels of PTSD, depression, anger, aggressiveness, fear, anxiety, and violence (Schauer and Elbert, 2010). Due to the child's mind and brain being plastic the exposure to stress enhances the effect of cognitive and affective development (Schauer and Elbert, 2010). The ensuing sub-chapter will proclaim the exposure of traumatic stress in both Genie Wiley's case and that of child soldiers.

## 8.05 Consequences of the Exposure to Traumatic Stress in the Context of Armed Conflict

Genie had experienced a great deal of instability in her life, homologous to child soldiers. Social isolation, neglect, experiential deprivation, and the lack of security and the continuity of abuse can have deep and lasting impacts on children's development physically, emotionally, and cognitively (Sandstorm and Huerta, 2013). Reports of sexual abuse have been reported, and are part of all wars, yet particularly on the African continent reports are high (Kohrt, Rai, and Maharjan, 2015). Several studies have been conducted and found that 70% of child soldiers had been severely beaten by commanders, boys and girls reported similar rates of abuse. Sexual abuse rates have been observed more prevalently

in girls, also due to the commanders taking female soldiers as wives, servants, and cargo carriers as is the case in Mozambique (Boothby and Thomson, 2013). Although marriage is regarded as a legalized procedure this cannot be assumed in cases of child soldiers as the recruitment itself is not always considered voluntary. Additionally, this does not mean that young child soldiers give their informed consent to be the wife of the commander or soldiers. Children's lives become shattered as they continuously live through dehumanizing experiences of war, drugs, and crime; being forced to commit atrocities themselves (Kohrt, Rai, and Maharjan, 2015). The experience children go through prior to being recruited and becoming child soldiers are threats to a child's well-being that are structural conditions in a pre-soldier context (Kohrt, Rai, and Maharjan, 2015). For children, armed conflict often results in a deprivation of basic needs such as housing, education, food, etc. This situation creates vulnerabilities and higher chances of children being recruited into armed forces (Kohrt, Rai, and Maharjan, 2015).

The toxic effect of longstanding instabilities in a child's life affects child development (National Scientific Council on the Developing Child, 2007). The human body is built to respond to environmental stress factors to protect humans from harm. Stress is a normal factor, and part of every individual's life, and it is essential for a healthy development hence it has been coined as positive stress (Sandstorm and Huerta, 2013). This is characterized by a brief increase in heart rate and mild elevations in stress hormone levels (Sandstorm and Huerta, 2013:13). However, exposing children to strong, frequent and/or prolonged adversities, referred to as toxic stress, potentially leads to them suffering from cognitive impairment and the development of post-traumatic stress disorder (PTSD). This was illustrated by a study of selected internally displaced persons (IDP) in camps of Northern Uganda from 2007 to 2008 (Schauer and Elbert, 2010). Schauer and Elbert (2010:322) demonstrated that rates of PTSD of children who were never abducted were 8.4%, opposed to a rate of 33% for children who had been abducted; the PTSD rate of children and youth who spend more than 1 month in captivity was measured at 48%. Another larger study carried by Vinck et al. (2007) also in Northern Uganda, found that the rate of PTSD among formerly abducted children stood at 82%.

Moreover, child soldiers and other trauma survivors, frequently report rates of physical illness, and within physiological systems (Schauer and Elbert, 2010). A positive correlation has been established between psychiatric illness and prior trauma, and between the amount of exposure to trauma and poor physical health outcomes (Schauer and Elbert, 2010). It must be stressed, that children and their family members living in post-conflict regions, who remain in the area or are forced to migrate, have survived

a number and types of traumatic stressors; prior to enduring poverty-related stressors and other social adversities, as for example, domestic violence, family separation, and child labor (Catani et al. 2009). Furthermore, throughout childhood and adolescence, plasticity in the mind and brain can easily occur and hence, potentially affecting cognitive and affective development due to high levels of stress factors. Consequently, the brain compartmentalizes danger by ‘enhancing an individual’s capacity to rapidly and dramatically shift into an angry, aggressive, or fearful fleeing state when threatened, to facilitate the survival in a world of deprivation’ (Schauer and Elbert, 2010:332).

### 8.06 Deducing Remarks on the Importance of Cognitive and Moral Development of Children in the Context of Child Soldiering

Chapter VII in detail scrutinized children’s cognitive and moral development through Piaget’s developmental stage theory and Vygotsky’s sociocultural cognitive theory. Presenting the Genie Wiley case has depicted that individuals have a crucial learning period that becomes obsolete when neurons are not stimulated. Additionally, due to Genie Wiley’s social isolation and experiential deprivation, it becomes evident that children’s environment is a prime contributor to their cognitive and moral development. Genie Wiley’s compelling case juxtaposed with child soldiers displays the importance of integrating cognitive development into conventions and legal documents that, are ostensible to, act in the best interest of the child. Moreover, the Genie Wiley case heavily focused on one specific case of an individual and has not been taken into a group setting as opposed to child soldiers that live and operate as a group. This aspect will be examined and assessed in the next chapter; by exploring in-group and out-group behavior; behavioral in-group stimulation, encouragement, and motivation for committing horrific human atrocities and grave violations of human rights.

## IX Identity Theory and Social Identity Theory in the Context of Child Soldiering

### 9.01 The Importance of Social Identity Theory for Armed Groups

In the case of child soldier recruitment, it is important to examine the social identity theory as they begin to categorize themselves as pertaining to a specific armed group, and begin to share common characteristic, values, and goals that distinguish them from other armed groups (the out-group), or in general other people such as civilians (Bochatay et al.,2019). In addition, children begin to view their in-group as the more favorable group becoming more aggressive to the out-group. This section of the thesis will create a compelling case for the relationship between in-group and out-group members; how group and peer pressure, as well as obedience to authority is part of being a group member. This will convey a fragmented part of how the process of indoctrination occurs in child soldiers, creating an advantage for armed forces to ensure that children remain in armed groups.

The social identity theory, from here on out referred to as SIT, which is often linked to the concept of identity will be associated with reasons for children ‘voluntary’ recruiting to armed forces and their stay with armed forces. Social identity is an ‘individual’s knowledge of belonging to a social group or category; who hold a common social identification or view of themselves as members of the same social category’ (Stets and Burke, 2000:225). It is through processes of social comparison that determine another person similar to oneself, who is then classified as an in-group member; as opposed to individuals who differ from oneself who are labeled as out-group (Stets and Burke, 2000:225). Because of self-categorization, greater emphasis is placed on perceived similarities between the in-group and self. This emphasis leads group attitudes, beliefs, and values, affective reactions, behavioral norms, styles of speech, and other properties that are believed to be correlated with relevant ingroup behavior (Stets and Burke, 2000). Consequently, Stets and Burke (2000) have stated that social comparison processes will lead to self-enhancing outcomes for the self, and in particular one’s self-esteem which is enhanced through in-group validation and being positively judged. Additionally, the SIT can be applied to both the macro and micro scale (Stets and Burke, 2000); which will be used to explain child soldier’s loss of identity through the process of recruitment and indoctrination, until they view themselves, and the other armed group members, as part of an in-group.

Identity has been categorized as the core of the self ‘as an occupant of a role, and the incorporation, into the self, of the meanings and expectations associated with that role and its performance’ (Stets and Burke, 2000:225). Moreover, McCall and Simmons (1978) have clarified that identity theory includes things, incorporating the self and others, that take on meaning in relation to our plans and activities. Burke (1997) argues that the role within what is governed by the identity revolves around the control of resources, this distinctive attribute also distinguishes social structure. Scholars have recently drawn the relationship between identity theory and social identity which incorporates the concept of resources, things that sustain persons and interactions. However, for this thesis, a focus will be placed on SIT and in-group belonging. Group identity also means to fulfill expectations of the role, coordinating and negotiating interactions with role partners, and manipulating the environment to control the resources for which in-group members are responsible. In-group based identity and behavior is depicted in armed forces, their recruitment tactics, and children’s need for approval of their in-group members.

In-group belonging fosters an individual’s self-esteem and encourages group behavior. For example, child soldiers who have participated in armed groups for an extended period of time usually suffer from higher rates of PTSD than other children (Schauer and Elbert, 2010). As a coping mechanism against PTSD generals or commanders of armed forces will routinely provide child soldiers with drugs. This further contributes to the desensitization of child soldiers’ prolonged exposure to violent aggression (Schauer and Elbert, 2010). Additionally, drug abuse is not uncommon for child soldiers. Utas and Jörgel (2008:502) state that ‘drugs enable soldiers to act courageously and ultra-violently, and to relax soldiers in context of extreme fear’. This type of in-group behavior that becomes encouraged is detrimental to children’s cognitive development and their ability to consent, due to intoxication. Nonetheless, generals do not ask soldiers, they insist that they take drugs to keep them lucid and to further cloud judgment capabilities. The upcoming section will examine drug abuse with more precision, connecting it to previously mentioned themes: Piaget theory, Genie Wiley’s case, and child soldiers’ capabilities to give consent which becomes even more obscure with the intake of drugs.

## 9.02 The Importance of Drug Abuse in Armed Groups

Systematic drug abuse in child soldiers has been especially reported amongst West-African militia groups (Schauer and Elbert, 2010). The intake of hallucinatory drugs contributes to the desensitization of child soldiers during prolonged exposure to violent aggression and in preparation for combat (Schauer and Elbert, 2010:332). Utas and Jörgel (2008) have identified the most used hallucinatory

drugs for child soldiers are: crack cocaine, smoked heroin, ephedrine, benzodiazepines, and marijuana. When under the consumption of these drugs children act courageously and ultra-violently. Additionally, hallucinatory drugs enable fighters to feel relaxed in situations of extreme fear (Utas and Jörgel, 2008:502). Substance abuse has also been used as a coping mechanism to escape emotional burden, which can be associated with extreme poverty and unemployment, thus, it has been categorized as a form of self-medication (Schauer and Elbert, 2010:333). Subsequently, the abuse of drugs contributes to a coping mechanism to post-traumatic stress disorder (PTSD) (Shipherd, Stafford, and Tanner, 2005). Furthermore, studies have shown that the intake of self-medicate drugs vary across countries. For example, in Somalia leaves of the khat shrub are used to induce an amphetamine-like cathinone rush. Odenwald's et al. (2005) study illustrates that PTSD leads to a higher intake of khat shrub which in return risks higher development of psychotic symptoms. A cross-sectional study was carried out in Hargeisa, Somaliland 12 years after the end of the liberation war and 6 years post the last combat. Odenwald et al (2005) found that 16% of former combatants were severely impaired by psychological suffering and severe psychotic disordered intermingled with drug abuse, trauma-related disorders, and emotional issues, which often provoke uncontrollable behavior such as aggressive outbursts in survivors. In most cases, this type of behavior will affect the household and it will lose a family member, which is the case for child soldiers.

This has been depicted through Kabala's interview where he states - "We attacked many soldiers. We killed many of them. I was joyful killing them. I was transformed into another spirit to fight. I couldn't feel that killing was bad. I was numb. It was all a lie. I saw my friends dying" (Save the Children, 2018:23). Kabala's story demonstrates child soldiers struggle with drugs and their transformation from being a child to becoming an abusive drug user, which has severe ramifications on cognitive development in individuals. Furthermore, Kabala clearly states that having been a child soldier has made him lose his childhood and affected his development (Save the Children, 2018:23). Although, there are cultures, traditions, and values that portray childhood differently it can also be understood that no child associates being a soldier with childhood.

Through Piaget's stages, and the Genie Wiley case, it becomes evident that children have a crucial learning period. If turmoil occurs during those years it can have a detrimental effect on a child's cognitive development. Particularly, the exposure to trauma and the abuse of drugs has great potential to affect cognitive development. It can cause the brain to develop a stress-responsive pathway (Schauer and Elbert, 2010). Consequently, Schauer and Elbert (2010:332) allude that the mind and brain will

reorganize itself in such a way to facilitate the survival in a world of deprivation and danger, enhancing an individual's ability to shift dramatically and rapidly between intense feelings of anger, aggressive behavior, and fear when presented with a threatening situation. Although, Genie Wiley may not have been a victim of drug abuse, she was and still is a victim of severe neglect through her thirteen years of incarceration. Wiley's case was extremely rare, it must be recognized how crucial a child's development is at such a young age. Child soldiers are not necessarily neglected as they are experiencing self-assertive behavior to their in-group, share group values and characteristics. However, the environment in which they are raised and are living in are of impairment to their cognitive development.

The use of drugs amongst child soldiers, particularly in Africa, is high and it is another obstruction that clouds individual's judgment capabilities. Kabala's story depicts the horrendous instance of child soldiering and how drugs transformed his behavior and physical capabilities. It is obvious, that child soldiers often have been, requested or coerced, to take drugs in order to "cope" with the atrocities of their actions that have caused them detrimental psychological and physical impairments. Despite the heterogeneity between Genie Wiley and child soldiers, there is still a correlation through their experience of lacking a child-friendly environment, a positive role model, and degressive cognitive development presents immense difficulties for children to give informed consent. Although child soldiers all experience, see, and do things differently, as depicted in Kabala's story, it is something that is not associated with the concept of childhood. Each individual is their own self and each child soldier experiences the same instance of child soldiering in a different way due to various methods of: recruitment, forms of abduction, duties, age, gender, and in-group relationships it can still be assumed that child soldiering remains a morally abhorrent instance of a child victimization in all circumstances at all times (Lee, 2009).

Thus far, this chapter has portrayed the sheer vulnerability of children and the impact a child's social environment can have on its cognitive development. However, a country enduring armed conflict often has higher rates of children being cognitively impaired, creating higher levels of vulnerable children. Moreover, the recruitment of child soldiers is mostly coerced, making younger children more prone to recruitment as opposed to adolescent children or adults (Olsson, 2017). Children's vulnerability in armed conflict combined with Piaget's stage theory and Vygotsky's sociocultural theory displays that children are able to actively process the five steps in decision-making, as described by Donaldson (2017). Although children from as young as 12 are able to make decision-making judgments in the context of armed conflict children often become child soldiers because 'it is the best available option'

(Schmidt, 2007); not because they have given informed ‘voluntary’ consent to military entities. Additionally, the use and abuse of drugs cannot be considered to be consumed ‘voluntarily’ as the context has previously already clouded their decision-making skills. Moreover, there are a multitude of reasons why armed forces recruit children, whether that is through non-voluntary measures and using coercion as a means for children to stay; or whether through children ‘voluntarily’ joining armed forces. The abundant varieties of non-voluntary and ‘voluntary’ recruitment into armed forces will be outlined in the coming chapter.



## X Reasons for Child Recruitment into Armed Forces

Recruitment into armed forces is whether it is ‘voluntarily’ or non-voluntarily will be scrutinized in this chapter. This chapter will provide an understanding of child soldiers ‘voluntary’ recruitment into armed forces and the coerced recruitment of armed forces and their forms of indoctrination and manipulation to encourage children’s stay and use in combat. Nonetheless, political leaders remain more interested in military strategies and potential gains as children have become a regular use in methods of warfare (Druba, 2000). This chapter will be discussing the abundant use of child soldiers in armed conflict and the reasons for their recruitment<sup>20</sup>. It will highlight, that due to the context setting child soldiers are in it becomes increasingly difficult to have their voice heard, to have their rights acknowledge and for them to be implemented, resulting in the worst forms of child labor – child soldiering (International Labour Office, 2003).

It can be argued that in certain context settings even voluntary recruitment is non- voluntary recruitment; which has been depicted through Eyal’s (2011) three potential barriers to voluntary consent. Informed consent has been roughly understood as a ‘sufficiently capacitated adult’ (Eyal, 2014) who seeks a mutual understanding and agreement between the self and the controller of the operation. The authority figure is expected to look out for the well-being of the participating individuals (Eyal, 2014; Baumrind, 2015). Through the antecedent chapters and this chapter, it will become apparent that commanders of armed forces due not bare the best interest of the child in mind, at any given point of a child’s recruitment, use, and operation. Druba (2002) has argued that it is only possible to act in the best interest of the welfare of the child if political leaders, like those of armed forces, reduce the involvement of children in war and armed forces.

Children and youth have become the focus of recruitment due to automatic ammunition and light weapons, enabling the usage for children (Schauer and Elbert, 2010). Countries of plight became growing, and the largest, populations of child and youth recruitments ever, which made this age group the most available for abduction and recruitment. The International Labour Office (2003) emphasized that children portray fearlessness, stamina, stealth, and the will to fight. However, Brett and Specht

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<sup>20</sup> It is important to clarify that the reasons and use for child recruitment are not meant to be construed as a justifiable act under any circumstance throughout this thesis. The subsequent alluded reasons of child soldiers deems as an understanding to their vulnerability and the barriers children face to give informed consent.

(2004) have argued that this could be due to children's limited ability to assess risks, feelings of invulnerability, and shortsightedness. Consequently, resulting in higher death toll rates in child soldiers opposed to adult soldiers, also because they are used as suicide bombers and are ordered to lay or clear mines because due to their innocence they raise less suspicions to the public (Schauer and Elbert, 2010:316). Moreover, children are easily used in battle, they are quick learners, pose a moral challenge for enemies, and present no competition for leadership roles (Brownell and Praetorius, 2017). Additionally, the recruitment of child soldiers is cheaper than recruiting adults for the respective organizations or groups. Children receive fewer resources, smaller and fewer weapons, and equipment during combat (Schauer and Elbert, 2010:316). Children become casualties due to their limited experience, little military training, maturity level, knowledge; hence, commanders and military forces consider children to be expendable (Brownell and Praetorius, 2017:453).

Particularly children and youth are more vulnerable to underage recruitment, whether that is voluntary or forced (Brownell and Praetorius, 2017). In most conflict-stricken countries children are taken from the poorest, least educated, and disenfranchised communities (Peters, 2005). Andvig and Gates (2007) have included factors such as poverty, lack of education, war, limited security at refugee camps, religious or ethnic identity, family or its absence, and friends all play a role in determining the supply of children available for recruitment. Through abduction, by militia groups, from homes, schools, and streets or through forceful inductions (Andvig and Gates, 2007). Additionally, these factors create diverse incentives for children and adolescents to join armed forces. Furthermore, Schauer and Elbert (2010) have argued that it is easier to retain children in armed groups, not only due to incentives, but due to children's malleability and adaptability, ergo they are easier to indoctrinate. Nonetheless, children are not only coerced into joining military forces but often join 'voluntarily'.

Despite the commonly held assumption that child soldiers are victims of recruitment, a large-scale study by the International Labour Office in 2003 has found that two out of three present or former child soldiers took self-initiative in joining military entities- they were not kidnapped, coerced, or under threat. Implying that they joined 'voluntarily'. Schmidt (2007) states that the majority of children joined armed groups hope to escape marginalization, which links back to children's want of approval of in-group members. International Labour Organization (2003) further states that children's voluntary recruitment demonstrated their desperate search for subsistence and due to the context of war, the most plausible solution for survival was to join military forces. Schmidt (2007:51) argued that there are an additional six major factors for 'voluntary' participation, in the named order these are "material needs,

ideology, prestige of the army, feeling of exclusion, desire for vengeance, and fear”. Additionally, voluntary recruitment could have occurred due to a number of reasons. However, Schmidt (2007) argues that children ‘voluntarily’ join military entities due to the combination of factors that are prevalent during war. For example, risk factors such as family members dying or joining armed groups, the lack of income and food, closure of schools, presence of armed groups in the immediate vicinity of children, and poverty are some of the most influential factors (Schmidt, 2007:52). ‘Voluntary’ recruitment due to these reasons is not genuinely ‘voluntary’ and cannot be considered as children giving their ‘voluntary’ informed consent. Schauer and Elbert (2010:318) state that “children’s choices to join and remain in armed groups cannot be considered ‘voluntary’”.

### 10.01 ‘Push’ and ‘Pull’ Factors for Children Joining Military Entities

There are a multitude of reasons why children and youths join military entities voluntarily. Some significant factors to consider are the push and pull factors. ‘Push factors’ are components that place individuals at risk of recruitment such as, limited economic conditions, unemployment, and inability to meet basic needs which have all been mentioned as reasons for joining military entities. Retracting Eyal’s (2011) three barriers to voluntary recruitment will allude that due to children’s settings and circumstances it is part of an *undue inducement*. Certain political contexts in countries promote the recruitment of children into armed groups. Subsequently, this is the result of larger national and international processes that produce local vulnerabilities (Kohrt, Rai, and Maharjan, 2015:432). The lack of quality education reduces the chance of opportunities for children and youth to find a sustainable income after school so in some cases the only option for an income might be joining the armed forces.

Former girl soldiers said they joined armed groups for protection instead of being forcefully married or engaging in an abusive marriage (Kohrt, Rai, and Maharjan, 2015). Yet they often are forced to marry to commanders or soldiers and endure significant sexual abuse. Some former child soldiers have stated that they have joined armed forces to seek protection and in the hope to aid family members financially (Schmidt, 2007; Olsson, 2017). Scholars have stated that the reasons for their voluntary recruitment were because of boredom (Olsson, 2017). Joining militia forces gave them purpose and something to do. Additionally, many sought protection within military entities because there was no better option, which Eyal (2011) defines as the ‘no-choice’ situation. Despite, child soldiers joining armed groups without conscription or press-ganging, this type of recruitment is rarely truly ‘voluntary’ (Lee, 2009).

‘Pull factors’ to join armed groups are those that include both methods of recruitment, enticement, and promises that are made to children to sway and cloud their judgment (Kohrt, Rai, and Maharjan, 2015:432). Abduction has been categorized as the worst ‘pull factor’ and has been reported as the primary mechanism used by armed groups and for the involvement of children into armed groups. A study conducted in Uganda, by Klasen et al. (2013) used 330 sample child soldiers that showed 99.9% of children had been forcefully abducted. Another study carried out in Mozambique by Boothby and Thomson (2013) indicated that children had been forced to join armed groups due to their coerced recruitment. Prior to children’s integration into armed forces, they underwent a series of cohesive and degrading inhuman trainings. Commander’s had used methods of indoctrination, confusing the children’s decision-making process, the children were separated gender-wise, boys had been forcibly sent to armed forces whilst the girls served the soldiers (Boothby and Thomson, 2013).

Eyal’s (2011) three voluntary barriers theory applies to child soldier’s recruitment, use and stay in armed forces. This is particularly the case for girls who are part of armed forces, regardless of ‘voluntary’ or non-voluntary recruitment. To apply the three voluntary barriers to child soldiers, an interview of former child soldiers will be used, which was conducted by World Vision of former child soldiers (Szeltner, 2017B). Florence was abducted by a rebel group in Uganda. In this case Eyal’s (2011) first barrier, *literal coercion*, which is only relevant to a certain extent. Florence was abducted, and not threatened; consent cannot be incorporated into abduction due to its abhorrent brutality. However, her life was better before her recruitment; ergo, the occurrence of *literal coercion*, making someone worse off than the individual should be. In Florence’s instance, and usually for coercively recruited children, *undue inducement* cannot be fully applied without depicting her ‘no-choice’ situation. Florence quotes “When I was 13, I was raped for the first time”, “He told me that I was his wife, I did not know what that meant. But I understood and learned quickly... I tried to defend myself but the commander struck me with his gun” (Szeltner, 2017B). ‘The commander threatened her, that if she would not hold still he would shoot her, this is how Florence became his wife’ (Szeltner, 2017B). Florence states that the second time he had sex with her, she was still, but could not hold back her tears. Lee (2009) suggests that humans, just like any other mammal, have a survival instinct which leads them to act in their current instances best interest. Florence was forcibly coerced into sex, she was uninformed and did not consent. Eyal’s (2011) *no-choice situation* applies to ‘voluntary’ and non-voluntary recruiters, as is *literal coercion*. All child soldiers are worse off than they were before, due to the horrific acts they witness and commit, impairing them cognitively. However, Eyal’s (2011) theory on *undue inducement* can only be applied to ‘voluntary’ recruiters.

Schauer and Elbert (2010) carried out several interviews with former child soldiers that can be linked back to Milgram's obedience study. A former, boy, child soldier who spent 3 years as an active member of the Mai Mai armed forces in North Kivu, DRC. He quotes "When you would not follow the commander's rule, he could get very angry. People would get beaten terrible for disobedience or if they were trying to escape... You had to follow the rules or you would lose the 'protection. When people did something really wrong, they got killed as a punishment...I have seen 5 people being killed for severe disobedience during my time with the group" (Schauer and Elbert, 2010:318). An individual's willingness to obey is not the same as the act of obedience (Mandel, 1998). Milgram (1963) has suggested that obedience is a deeply ingrained behavior. From young ages children are taught, and is their role, to obey authority following expectations in an unthinking manner (Mandel, 1998). However, in regards to child soldiers, their only other option is an indecent alternative, death, yet it remains in principle an open option (Eyal, 2011). In a *no-choice situation*, in this case, children being brought up in the context of war, resign to the best available option.

The context setting of war results in produced local vulnerabilities through destroyed communities and has created thousands of child soldiers, 40% of them are girls (Olsson, 2017). An interview by Child Soldiers International in the DRC was conducted with 150 former associated girl child soldiers. Of the 150 girls, a 100 stated that they had been abducted by armed forces, while the other 50 had joined 'voluntarily'. Over a dozen girls had reported that they heard armed groups would give them money if they joined. South and North Kivu and Hautuélé had collided into conflict due to financial hardship in households. Most of the interviewed girls stated that they wanted to join to get enough money and go back to school. Olsson (2017) estimates that primary school education is attained by 80% of boys as opposed to only 60% of girls. Due to the impoverished situation and the ongoing conflicts in Congo, many girls expressed that the lack of education was a reason for them to join armed forces. Another girl expressed that her parents were unable to pay for school and joining armed forces seemed a better option than to roam aimlessly around town. For some others, the motivation of joining armed groups was to avenge the death not just of oneself but of a family member or friend (Olsson, 2017). Others mentioned community threat and exclusion from their communities and joined armed forces as a means for seeking protection (Kohrt, Rai, Maharjan, 2015). As these children hope for a better life, their mental and physical health capabilities diminish.

However, living in impoverished countries that have ongoing international and local conflicts produce local vulnerabilities and consequently, the recruitment of child soldiers becomes more available. Hence, it can be argued that children do not join ‘voluntarily’. If children were enrolled in education or some form of occupation it would make children less likely to join armed forces. As Vygotsky and other researchers have established, children develop cognitively through their experiences, forming new cerebral pathways allowing them to conceptualize and interpret their world better. Children who ‘voluntarily’ recruit are doing it because it is the best solution for survival, in addition to being in the presence of war. Nonetheless, this cannot be regarded as ‘voluntary’ recruitment into military services (Schauer and Elbert, 2010). The cognitive impairment that are caused due to severe exposure to trauma, stress, and vulnerabilities is an effect that can be carried onto following generations.

## 10.02 Transgenerational Effect

It is evident that extreme forms of stress can have long-lasting impacts on development, it is possible for the trauma to cripple individuals and families into the next generations (Schauer and Elbert, 2010:338). Chronic maternal stress during pregnancy interrupts healthy regulation of hormonal activity including cortisol, which can easily be passed on through the placenta during the first two trimesters (Phillips, 2007). This in return can cause a change in hormonal regulation developing a range of emotional and cognitive impairments in the fetus and later child. Additionally, causing generations to be more vulnerable to mental illnesses. Schauer and Elbert (2010:338) further argue the ability of attachment between mother and child, that it is the “care that alters the expression of genes in the child that regulates behavioral and endocrine responses to stress, and the hippocampal plasticity and development”. This implies that children are sensitized, to a certain level of adversity, from an early age resulting in experiencing hypersensitivity to stress later on, as well as being more prone to adult depression (Schauer and Elbert, 2010). Parent et al. (2005) have stated that beyond epigenetic factors, it is fear and nurturance that transmit through generations of maternal behavior. For mothers to live in hostile countries creates a range of domino effects for not only one child but for generations to come.

The transgenerational effect is simultaneously transferred through the behavior of the father, grandmother, grandfather, or anyone suffering from traumatization can act distance, fearful stranger, someone unable to tolerate closeness or emotional expression, even with the family unit (Schauert and Elbert, 2010:340). These types of self-expression are normally displayed through jumpiness, irritability, and hypervigilance, which in return can cause fear, confusion, and a sense of powerlessness within the

family (Al-Turkait and Ohaeri, 2008). Additionally, Lauterbach et al. (2007) allude that ex-child soldiers or ex-combatants can be equally affected due to their parents' symptoms of avoidance and numbing, consequently leading to a decline in parent-child relationship. Children growing up with a limited amount of family intimacy become severely impaired (Schauert and Elbert, 2010). As a result, children may become more vulnerable to forces that incite violence (Uppard, 2003).

## XI Conclusion and Policy Recommendations

Thus far, this paper has examined child soldier's cognitive ability to give informed 'voluntary' consent to join armed forces during armed conflict. In the first chapter, the definition of a 'child', anyone under the age of 18, was set up in interrelation with the definition of a 'child soldier'. A conceptualization of a 'normal childhood' was conjoint with the previous definitions of a child soldier and the global humanitarian discourse on child soldiering, which entailed – refraining from children's participation, recruitment, and use into military entities at all times, as it is an “abhorrent violation of universal children's rights” (Lee, 2009:32). Drawing, on the perception of informed consent, dates back to Kant's paradigm of autonomy and dignity, which has since been used for the purpose of informed consent (Donaldson, 2017). Additionally, Beauchamp and Childress (2013) elucidate four principles that establish informed consent and must be part of the process – autonomy, beneficence, nonmaleficence, and justice. Followed by the ambiguity of consent in conventions, which has highlighted the lack of precise definitions for 'voluntary' and 'non-voluntary' recruitment, participation in 'direct' and 'indirect' hostilities, and the interpretation of phrases from conventions. Additionally, legal documents have failed to incorporate cognitive development and children's ability to give informed consent to military entities, in the context of armed conflict.

Furthermore, Milgram's obedience study was introduced to demonstrate, that the majority of ordinary people are willing to inflict pain on an innocent, protesting victim when directed to do so by authority (Milgram, 1963). Particularly, in a situation as Eyal's (2011) coined “no-choice situation”, that child soldiers experience and are faced with other indecent options. Nonetheless, Mandel (1998) has stated that the acts of obedience carried out by child soldiers are socially organized acts of evil, due to children being manipulated and indoctrinated through coerced recruitment. Hence, children's non-voluntary recruitment. Subsequently, unraveling decision-making skills in children in regard to their capabilities in giving informed 'voluntary' consent to join military services. However, through Milgram's obedience study (1963) and Eyal's (2011) three barriers to consent findings suggested that children under the age of 18 are not sufficiently capacitated to with decision-making capabilities that they need in order to make an informed decision on consent. Yet, assess this statement Piaget's theory on cognitive and moral development as well as Vygotsky's theory on sociocultural theory was introduced.



Moreover, Piaget's cognitive and moral theory and Vygotsky's sociocultural theory was outlined and explained, to illustrate that children's development needs to be considered prior to their capabilities in decision-making processes, and in establishing a legal framework that states to protect and encourage the best interest of the child. Piaget's theory emphasized the importance of cognitive development from the pre-operational stage to the formal operational stage. Children begin to conceptualize the world and start to change characteristics and mental representations that will help them to understand intentions, goals, and emotions that will allow them to master their external world and to master the self (Muthivhi, 2015). Vygotsky's theory looks at the social and cultural aspects of children's cognitive development, such as language acquisition, thought interdependence, understanding the relationship between in-and out-group behavior and where to place the self (Holt et al., 2012). Additionally, a careful distinction was drawn between development and learning – development being a spontaneous process opposed to learning which is provoked by external factors (Guavain and Cole, 1997). Nonetheless, Genie Wiley's case study clearly depicts cognitive development and learning to be interlinked and stimulated through one another and by external factors.

Withal, identity and social identity theory were included to illustrate child soldiers' in-and out-group relation and how the characterization of in-groups can result in encouraging acts of courageous and ultra-violent behavior, and the abuse of drugs, as is the case for child soldiers (Utas and Jörgel, 2008). Additionally, the social identity theory facilitates the understanding of 'voluntary' reasons children decide to join into military entities. Nonetheless, through Eyal's three barriers to 'voluntariness' it has been presented that context setting cannot be disregarded when consenting to 'voluntary' recruitment. The context setting in armed conflict is fragile. Despite, children and the general public assuming or believing that children are 'voluntarily' joining military forces, this is not the case. Piaget's and Vygotsky's theories have demonstrated that children lack significant decision-making skills up until a more adolescent age. Furthermore, due to children growing up in armed conflict their 'voluntary' recruitment is due to numerous reasons that in some cases are cumulative, as previously described. Yet, for these reasons children's consent to join and remain in armed groups cannot be considered 'voluntary' (Schauer and Elbert, 2010). The following sub-section will discuss policy recommendations based on the research of this thesis.

## 11.01 Policy Recommendations

Whilst, it is beyond the scope of this paper to provide a detailed discussion and analysis of recommendations, I make several suggestions, that focus on enhancing the best interest of the child based on my research. Although, some statements are general, as to prevent the participation of children in war, the recommendation made do not go beyond improving scrotal conditions in terms of material, education, and socio-political factors (Schmidt, 2007). Nonetheless, I have expanded and explained the reasons for why these suggestions should be implemented into legal documents. Foremost, the recommendation focusses on the best interest of the child at all times.

First, it is essential to establish a universal definition of a ‘child’ and concept of ‘childhood’ in the context of armed conflict, that will be used unilaterally with all conventions and declarations regarding children in armed conflict. Member States need to agree on a set age cap for a child (birth to the age of 10), adolescent (11 until the age of 18), and adult (18 and older). The years from childhood to adulthood should be categorized between birth and 18 years of age. Nonetheless, cognitive development and capabilities achieved by children at significant ages must be considered in order to establish a definition of child, adolescent, and adult. The reason for the age cap of a child must be explained and detailed to fully respect and treat children in their best interest. Additionally, the best interest of the ‘child’ can only be attained by States if the following are taken into consideration- cultural, traditional, religious, values. This will further promote the signatory Member States to be more willing to sign the legal documents. Foremost, the best interest of the child must be the primary goal at all times.

It should be a prerequisite to set the age cap for military recruitment to 18 and above, in all countries. The reason for this statement is due to the cognitive and physical development of an individual, which have been previously discussed and, highlighted by Piaget’s cognitive developmental theory and Vygotsky’s sociocultural theory. A child and an adolescent undergo critical stages of development and aids them in achieving full potential. Therefore, it is crucial to maintain children’s environment as stable as possible. Although, studies have displayed that adolescents obtain similar decision-making skills as adults (National Scientific Council on the Developing Child, 2007). Nonetheless, the study showed that adolescents overall based their decision-making around their peers and family as opposed to adults who are more rational due to their ability to think of possible consequences of their decisions (Fischhoff, Crowell, and Kipke, 1999). Additionally, another reason for setting the age of recruitment to 18 is due to countries setting their voting age to 18. Any individual who is mature enough to make a serious

political impact also obtains the knowledge and power of decision-making skills, to understand the consequences of their decisions. Hence, the age cap of military recruitment should be set to 18 years of age.

The raised age cap of military recruitment will include forms of ‘voluntary’ recruitment from children, family members, or next of kin to reduce, and subsequently eliminate, the recruitment and use of child soldiers worldwide. A universal prohibition on the use of children under the age of 18 in armed conflicts should be implemented, as stated in the OPAC (2000). It should also prohibit voluntary recruitment under the age of 18 and their participation in hostilities. Additionally, any recruitment of children under the age of 18 by non-state armed groups and state armed groups is to be strictly forbidden recruit. This encourages future generations to fully live a healthy and well-balanced childhood that can be ramified by future generations.

However, for children who want to voluntarily join military entities under the age of 18, worldwide, ought to be only recruited through the means of explicit measures. Children under the age of 18 are only to recruit to state armed entities and are not to be younger than 16 years of age. Firstly, children must genuinely want to voluntarily join military armed groups (OPAC, 2000). To ensure that children are voluntarily recruiting, the child must be recruited with full informed consent. This means to fully inform them of their future duties involved in military service (OPAC, 2000) Secondly, the state needs to collaborate with professional child psychologists who are able to design sessions with the individual to see if the child has cognitively advanced to its full potential; which will be followed by an examination to test a child’s decision-making skills. The examination should simulate Beauchamp and Childress (2013) four principles that will determine whether or not the child has sufficient decision-making skills to understand the ramifications of his or her actions; ergo, being able to give voluntary informed consent. Thirdly, children are to provide reliable proof of their age prior to the acceptance into national military service (OPAC, 2000). These three conditions are to be respected and implemented by Member States at all times, to ensure the best interest of the child.

Second, children grasp a variety of moral and social concepts through family and community relationships. In many countries’ pre-primary education is unavailable or unattainable to families and their children. Resulting in children missing critical investment opportunities and suffering from deep inequalities from the start (UNICEF, 2019). UNICEF (2019) study depicts that children who attend pre-primary education are more than twice as likely to be on track in early literacy and numeracy skills than

children who do not attend pre-primary or any other form of education. Hence, the importance of education for a child to obtain its full cognitive potential. Additionally, it is critical for a child not to be neglect of his or her basic needs, that are needed for the development of an individual's full potential (Sandstorm and Huerta, 2013). However, children that are not enrolled in pre-primary education are deprived of essential education that contributes towards their cognitive development and the unlocking of their full potential. The children who are deprived of pre-primary education are often raised by family and community members and are introduced to forced child labor from a young age.

Nonetheless, children that are denied or unable to attend pre-primary education usually form closer in-group characterizations to their communities, opposed to pre-primary children who form a multitude of in-group characterizations depending on their divergent environments (Stets and Burke, 2000; Schmidt, 2007). It is important for a child's well-being, cognitive, emotional and physical that even during times of conflict, the family and community holds together in order to provide a safe environment to raise a strong and independent child. It is important for families to show emotional support towards the child, to enable a loving, caring, and nurturing relationship in the future. Through the building of relationships, group experiences enable young children to play and imitate which Piaget carefully demonstrated as a vital learning skill in understanding social relationships. Albeit, the knowledge that is obtain the first 2 years of life are essential and provide for the child's mental stability in the future

Third, as previously alluded, education is a key tool for children to achieve full potential, which is due to the stimulation of cell passage ways in the brain that will allow the child to create more synaptic passage ways over its lifespan (Lerner et al., 2015). As presented by Piaget, a child between the ages of 2 to 12 not only learns intuitive problem solving but the acquisition of language is a crucial aspect of being a human. The child becomes able to think more rigid, which results in a more systematical and logical reasoning, and becomes less egocentric. Piaget states that it not until adolescence that the child begins to think abstractly and hypothetically. Nonetheless, for these tasks to occur it is essential that children attend schools to become academically educated and to prevent and reduce rates of 'voluntary' recruitment. Education has been presented as a key for children's development and for future sustainability in peace. Despite, the difficulty of continuing education during armed conflict it is important that children have a place to develop, learn, and feel safe. Therefore, it is fundamental that education systems adjust to context settings, especially in countries that are prone to political, religious, social, and financial instabilities.

This involves the school curriculum to incorporate current social phenomenon's, to promote children's safety even during hardship. Due to the context setting, it can be assumed that children are not informed about their rights and where to seek justice and those of their family members. Hence, the importance of incorporating child rights into pre-primary and primary education. Another significant subject that should be taught in primary, particularly in Africa, is sex education. For example, currently, sexual education in many countries is often a taboo subject or is usually taught later on when children become adolescents and sexually active. However, sexual education must be openly spoken about to reduce and prevent cases of unwanted pregnancy, sexually transmitted diseases, especially HIV on the African continent. It is important to not neglect important social factor in education to raise awareness in children from a young age.

Moreover, the school curriculum should incorporate different religious, cultural, and traditional values that children must be taught from a young age, in order to respect one another. This would also reduce rates of discrimination that should under no circumstance occur due to any religious, ethnic, cultural, values, traditions, gender, etc. This kind of open-mind teaching will allow children to understand that there is no superior religion, and voluntarily recruitment into armed forces, due to religious reasoning, will eventually cease to exist. Additionally, schools would enact a type of safe space for children to develop. This will be done by encouraging, promoting, and applying a 'safe space'<sup>21</sup>, no violence, no abuse, physical harm of any sort to children and family members. To achieve this, international, national, and local institutions must organize workshops and tutorials for the civilian population. The institutions should form alliances with the civilian population to establish a long-lasting and sustainable safe space that is meant to grow and spread to family homes, which will impact relationships on a macro and micro level.

Fourth, Druba (2002) has argued that there needs to be a unilateral declaration interpreting phrases from current declarations and conventions stating phrases such as, "to take all feasible measures". Consequently, such an action should result in less room for vagueness, misinterpretation, and confusion. Additionally, this will attribute Member States to adhere to the measures in the declarations and conventions and allow them to target their goals more efficiently. However, to realize and achieve the setout goals countries signatory to the previous declaration must give their statements as in how they

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<sup>21</sup> A safe space, for the purpose of this thesis, will be defined as a space within the public and sphere. This place allows children and family members to promote and encourage an environment free of any forms of - violence, sexual violence, abuse, hate speech, and any other sort of harming and discriminatory behavior. It is a space to encourage and promote - freedom of expression, mutual respect, and constructive dialogue.

will realize and achieve “all feasible measures”. The reason for each countries statement is due to the different financial capacities of each country and its ability to allocate a budget to take all feasible measures. This way it will be more realistic to achieve set out targets. Nonetheless, this does not mean that countries ought to disregard to ‘take all feasible measures’, they must reflect upon their political, financial, and social state to come up with a realistic target, whilst keeping their population safe and considering the child’s best interest at all times.

Fifth, Druba (2002:274) explained that past research has shown the application of international humanitarian standards to be more effective when achieved in an informal manner. Druba (2002) further argues that the juridical project should be combined with a stronger political will and with further comparative education research. Yet, it is only possible to reduce the involvement of children in war if political leaders are more willing and more interested in the welfare of the child than in military strategies (Druba, 2002:271). International organizations and institutions must realize the ‘uselessness’ of a UN member state, who is in political unrest and is affected by armed conflict, does not have the political or economic power to implement these conventions. Subsequently, causing further human rights violations. In such context settings, it is important to form a different type of agreement in an informal matter, an international and national relationship set on trust.

International organizations and institutions must establish a common goal-oriented relationship with national and local organization within the country. The relationship will not only be based on common goals but trust between nations. This will be done through on-site research and including civil population. Civilians need to be encouraged to participate in any governmental and law changes as it will primarily affect them, those in deprivation. National and local organizations, depending on the set-out target, need to be questioned on their needs and wants, and what they regard as the important factors that need change. Hence, it is vital to encourage and to include citizen participation also to achieve sustainability.

Sixth, all international and international cooperation’s must follow the “do no harm” principle. In conflict settings, research and intervention methods have the potential to violate the ‘do no harm’ ethic (Kohrt, Rai, Maharjan, 2015). The international community should support and abide by the ‘do no harm’ principle whilst being a mediator for issues. The ‘do no harm’ principle avoids exposing people to additional risks through international or national corporations, mitigating potential negative effects on social fabric, economy, and the environment. Additionally, continuous national and international

legal observations must be carried out to ensure the protection of civilians and that set targets are efficiently met (Druba, 2002).

The recommendations that have been outlined above are not fully developed and have not included fundamental aspects such as the stigma child soldiers and former child soldiers face by their families and communities. Preventing reintegration into a healthier environment, refusing them to pursue a profession or attempt to live a normal life; a life without guns, violence, abuse, drugs, and further psychological impairment. A normal lifestyle would enable former child soldiers to regain their identity and build a more sustainable relationship with the self and others Kohrt, Rai, and Maharjan (2015:430). Moreover, the six suggestions have elucidated gaps within conventions that have not been addressed to a proper extent. The avoidance of such crucial factors has instead created vague components in conventions that need to be thoroughly addressed, for countries to implement them accordingly. States are obliged to make sure that measures are acknowledged and protected, if not it is a violation against people's human rights. These measures will ensure that children under the age of 18, or solely through an examination procedure no earlier than at the age of 16, are not recruited by military entities and only join military entities under governmental jurisdiction with informed voluntary consent. Additionally, setting the age limit of recruitment into armed forces to 18 years, allows a child to outlive its childhood, and mature into a healthy environment, with normalized stress levels, enabling cognitive and moral development. Lastly, the fact that an individual, that is in line with his or her cognitive and moral development, is able to consent to recruitment into armed forces at an adolescent age should not imply that state should encourage this; following the CRC (1989) and guaranteeing the child's best interest at all times is crucial for children's cognitive and moral development.

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