Utilizing the Past to Shape the Future: The Rehabilitation of Child Soldiers in Darfur

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INTRODUCTION

Child soldiering, an unfortunate reality of war, has become increasingly common in modern warfare. With world attention focused on the ongoing genocide in the Darfur region of Sudan, issues regarding the use of child soldiers in the conflict have come to light. This paper analyzes the use of child soldiers globally and examines relevant legal and political issues related to child soldiers in Sudan and Sierra Leone. Based on this analysis, this paper then proposes a framework for comprehensive programs that could be put into action after cessation of hostilities in an attempt to rehabilitate the child soldiers that have been systematically used throughout the conflict.

I. FACTS: THE USE OF CHILD SOLDIERS BOTH GLOBALLY AND IN SUDAN

In a world in which human rights violations are not uncommon, the proliferation of children in combat stands out in the minds of both international scholars and the general public as a particularly disturbing display of both human rights and child abuse. Children are used by rebel militias and government forces alike.2

Although military groups throughout history have utilized child soldiers,3 the world has recently seen an increase in the purposeful recruitment of children in armed conflict.4 This phenomenon is prevalent in parts of Africa, Asia, Latin America, Europe, and the Middle East.5 Since the end of the Cold War, protecting children from this form of exploitation has become more challenging as conflicts have increasingly become internalized and focused on nationalist, ethnic, and

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2 See Norimitsu Onishi, *Children of War in Sierra Leone Try to Start Over*, N.Y. Times, May 9, 2002, at A14 (illustrating how the unconventional wars in Sierra Leone, Liberia, Congo, and Sudan have blurred the distinctions between adults and children in combat situations) [hereinafter Onishi].


4 See Amy Beth Abbot, *Child Soldiers-The use of children as instruments of war*, 23 Suffolk Transnat’l L. Rev. 499, 509 (2000) (discussing that wars have moved from well defined battlefields to populated areas such as villages) [hereinafter Abbot].

religion. It has become increasingly difficult to distinguish between civilians and soldiers, and
between children and adults. Such conflicts involve not primarily government actors, but militias,
which frequently target children rather than protect them from threats inherent to violent conflict.
The opportunity for the forcible recruitment of children stems from the fact that unlike many pre-
World War II conflicts, modern wars play out less on defined battlefields and increasingly in areas
populated by civilians. This provides an opportunity for recruiters to prey upon villages, schools,
and other areas children frequent. In 2008, the Coalition to Stop the Use of Child Soldiers, an
organization made up of six international non-governmental organizations and based out of
London, found that “military recruitment of children (under-18s) and their use in hostilities is part
of a much larger phenomenon that still takes place in one form or another in at least 86 countries
and territories worldwide.” Children are used not only as soldiers but also as “spies, guards, human
shields, human minesweepers, servants, decoys and sentries.” Although estimates vary as to the
number of children currently serving as child soldiers, the use of child soldiers has become more
common over the past three decades. Many organizations conducting studies in recent years,
including the U.S. Department of Labor, estimate the number to be around 300,000 worldwide. In
fact, the use of child soldiers in some areas of the world has become so pervasive that it is no longer

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6 See When Children are Soldiers, N.Y. TIMES, July 5, 1998 (analyzing the changing dynamic and method of warfare).
7 Onishi, supra note 1.
8 Id; see also Abbott, supra note 3.
9 See Abbott, supra note 3; see also Mike Barber, Child Soldiers a Growing Concern on Foreign Battlefields, Seattle Post-
Intelligencer, Apr. 8, 2002 (asserting that conflicts today, in contrast to the Cold War, are driven by non-state actors
rather than traditional states).
11 U.S. Dep’t of Labor, Bureau of Int’l Labor Affairs, The Worst Forms of Child Labor, in CHILD LABOR AND SWEATSHOPS
13 U.S. Dep’t of Labor: Bureau of Int’l Labor Affairs, Children Affected by Armed Conflict,
www.dol.gov/ilab/programs/cfct/armedconflict.htm;
see also Abbot, supra note 3.
the exception but rather the norm.\textsuperscript{14} Child soldiers as a group include children as young as ten who, because of a combination of poverty, isolation, and social upheaval, are particularly vulnerable to recruitment.\textsuperscript{15} One of the central difficulties inherent to the exploitative use of children as tools of war is that, in the areas where this exploitation is most severe, accountability and remediation are often the most difficult to attain.\textsuperscript{16}

The African continent has become a hotbed for conflict in general and the exploitation of child soldiers in particular. The International Criminal Court has recently turned its attention to the continent. Since late 2008, the ICC has been investigating five conflict situations, all in Africa, including the Democratic Republic of the Congo, Darfur, Central African Republic, Kenya and Uganda.\textsuperscript{17} In Darfur alone, an estimated 90,000 people have died as a direct result of the conflict since 2003, with an additional 200,000 dead due to disease and malnutrition.\textsuperscript{18}

The conflict in Sudan began at the time of the state’s independence in 1956, when ethnic strife led to large-scale revolts against the government.\textsuperscript{19} Janjaweed bandits supported by the Sudanese government retaliated against those revolting by systematically destroying villages in Darfur, resulting in the deaths of thousands\textsuperscript{20} and the terrorizing and displacement of millions. Since President Omar Al Bashir seized power in a 1989 coup, his government has maximized its own influence by spreading terror and death throughout its outlying regions.\textsuperscript{21}

\textsuperscript{14} See Amnesty Int'l, \textit{Sierra Leone: Childhood - A Casualty of Conflict} 4-9 (2000) (describing how all four armed groups participating in the civil war in Sierra Leone used child soldiers) [hereinafter Amnesty Int'l].
\textsuperscript{15} \textsc{Catheryne \textsc{l. Schmitz et al.}}, \textit{Child Labor: A Global View} (Catheryne L. Schmitz et al. eds., 2004).
\textsuperscript{16} See Gwen K. Young, \textit{Amnesty and Accountability}, 35 \textsc{U.C. Davis L. Rev.} 427, 433-41 (2002) (discussing how the need for political leadership silences questions of accountability in war-ravaged states).
\textsuperscript{17} Office of the Prosecutor, Letter to senders concerning the situation in Iraq, (Feb. 9, 2006), http://www.icc-cpi.int/library/organ/otp/.
\textsuperscript{19} Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, 18 (Jan. 25, 2005).
\textsuperscript{20} Mika Vehnamaki, \textit{Darfur Scorched: Looming Genocide in Western Sudan}, 51 \textsc{Genocide Research} 8(1) (2006); Eric Reeves, \textit{Darfur Ongoing Genocide}, Dissent, 19 (2004); Darfur: Counting the Deaths (May 26, 2005), http://www.cred.be/docs/cedat/.
began in February 2003 and continues to this day.\textsuperscript{22} Even after the initiation of the peace process, the Sudanese government continues to deploy both air and ground forces.\textsuperscript{23} Since the foreseeable failure of the Darfur Peace Agreement\textsuperscript{24} in May of 2006, violence has continually plagued the country.\textsuperscript{25} Although a more detailed discussion lies beyond the scope of this paper, a factor in the current conflict centers around the differing economic needs of the Arab and non-Arab peoples living in the region, with many of the non-Arab inhabitants living as sedentary farmers and the Arabs as traditional nomadic herdsmen, leading to a conflict over water.\textsuperscript{26}

The prevalence of child soldiers has been widespread on all sides. The United Nations found that government forces, the Sudan People’s Liberation Army, government-backed Janjaweed militias and anti-government Darfuri rebels alike have used child soldiers extensively.\textsuperscript{27} Recruitment into Sudan’s national army in particular takes the form of abduction.\textsuperscript{28} Combating the use of child soldiers in Sudan, UNICEF has become involved in the demobilization of child soldiers. Unfortunately, its operations are focused in the south, and it has been doing little for the Darfur region in the west.\textsuperscript{29} In 2006, UNICEF’s operations in Sudan were aimed at the 4,500 children still in the Sudan People’s Liberation Army and 12,500 still in government and other forces.\textsuperscript{30}


\textsuperscript{23} Eric Reeves, Genocide by Attrition, Dissent 24 (2005).


\textsuperscript{25} Eric Reeves, Genocide Without End? The Destruction of Darfur, Dissent 9 (2007).

\textsuperscript{26} Darfur, Spiritus-Temporis: see spiritustemporis.com and search “Darfur”


\textsuperscript{29} BBC Report, supra note 26; Deutsche Press Agency Release, supra note 26; Sudanese Children Abducted for Fighting and Sex-UN, Geneva: Reuters, June 8, 2007.

An additional problem UNICEF faces is that former child soldiers are often re-recruited when demobilization occurs during a continuing conflict—a problem that is not unique to Sudan.\(^{31}\) In 2000, the Sudan People’s Liberation Army pledged to UNICEF that it would cease recruitment of child soldiers. Over the following year, more than 3,500 children were demobilized from Sudan People’s Liberation Army.\(^{32}\) By 2003, 7,000 to 8,000 child soldiers remained in the Sudan People’s Liberation Army’s ranks, including some demobilized children who had been re-recruited.\(^{33}\) While 15,000 children were in fact demobilized from the Sudan People’s Liberation Army,\(^{34}\) Sudan’s government has refused to work towards ending its use of child soldiers.

The geographic characteristics of Sudan itself significantly affect, and largely complicate, the demobilization and rehabilitation of child soldiers. In Sudan, the largest country on the African continent, child soldiers are transported over far greater distances than those in Uganda, Ghana, or Mozambique.\(^{35}\) Transporting child soldiers back to their place of origin drives up the cost of rehabilitation.\(^{36}\) In 2006, UNICEF’s operational costs for child soldier rehabilitation in Sudan totaled $22 million, $16.5 million of which was for the south alone,\(^{37}\) with little money going to the Darfur region in the west. UNICEF Sudan has so far only received $9,453,202, or six percent out of the UNICEF needs of the $148,531,197 reflected in the 2009 Sudan Workplan. This expense would

\(^{31}\) *Tamil Tigers Will Stop Using Child Soldiers*, Human Rights Watch; *Government and LTTE agree on action plan to address the needs of children affected by war in the Northeast*, UNICEF Press Centre (Feb. 10, 2003) [hereinafter *Tamil Tigers Will Stop Using Child Soldiers*].

\(^{32}\) *Announcing the UNICEF Airlift of Child Soldiers from Sudan Combat Zones*, Geneva, Feb. 27, 2001 [hereinafter *UNICEF Airlift*].


\(^{34}\) *Sudan: SPLA child soldiers demobilised in the south*, New York: IRIN, July 26, 2006; *Sudan: Armed youth voluntarily disarm in Jonglei*, New York: IRIN, 30 Aug. 30, 2006 [hereinafter *Sudan: SPLA child soldiers demobilized in the south*].


\(^{36}\) *Id.*

ideally include the costs of transporting former child soldiers to what will be their new permanent homes, which in many cases will not be the communities from which they originally came.\textsuperscript{38}

The Darfur region, which experiences the most conflict and receives the least aid, covers an area of nearly 200,000 square miles and is home to six million people.\textsuperscript{39} The main ethnic groups in the region are the Fur, the Arab Baggara, and the non-Arab Zaghawa, Masalit, and Midob.\textsuperscript{40} Darfur’s economy is based primarily on subsistence agriculture, including the production of cereals, fruit and tobacco in the south, and livestock herding in the more arid regions of the north.\textsuperscript{41} As of 2009, the per capita income for Sudan as a whole lies just below $1,400.\textsuperscript{42} There is no information available for the Darfur region specifically, which likely is much lower considering the devastation of the crops and livestock in the region.

Although literacy and education have long been inadequate in Darfur, primary school enrollment has increased in recent years from 516,000 in 2006 to more than 976,000 in 2008.\textsuperscript{43} Net primary school attendance rates are estimated at 53.7 percent, and female adult illiteracy is estimated at 62 percent.\textsuperscript{44} In general, less than 20 percent of children ever complete primary education.\textsuperscript{45} Much of this is attributable to the violence that continually plagues the country, as half of those affected by the conflict are children.\textsuperscript{46} Of these, nearly 700,000 (the under-five population) have grown up knowing nothing but the conflict.\textsuperscript{47}

\begin{thebibliography}{9}
\bibitem{38} Funding Appeals and Humanitarian Action Updates, UNICEF, March 16, 2009.
\bibitem{40} Id.
\bibitem{41} Id.
\bibitem{42} Report for Selected Countries and Subjects, International Monetary Fund (Sept. 2009)[hereinafter IMF report].
\bibitem{44} Sudan Background, UNICEF Unite for Children, http://www.unicef.org/infobycountry/sudan_background.html.
\bibitem{45} Id.
\bibitem{46} Id.
\bibitem{47} Id.
\end{thebibliography}
II. LAW, THEORY AND CASE STUDY

In order to set the stage for the comprehensive analysis in section III, the following section presents the relevant legal norms applicable to the child soldier situation in Sudan, as well as a case study regarding the rehabilitative efforts for former child soldiers in Sierra Leone.

A. Relevant Legal Norms

International humanitarian law, sometimes referred to as the law of armed conflict, is a body of law aimed at regulating conduct in armed conflict through the establishment of rules in regards to methods of warfare and protection of victims.\(^ {48}\) A preliminary complication to legal norms relevant to child soldiers regards the issue of illegal acts committed by child soldiers during their time in combat. Adult soldiers are responsible for the illegal actions they carry out, but the story is more complicated for children. Questions arise as to who constitutes a child and whether children are legally responsible for their military actions that violate the law of armed conflict.

There exists a significant cultural difference as to what constitutes childhood—a fact that further frustrates the international ban of children in conflict.\(^ {49}\) While general international usage has settled the definition of “child” as fifteen years or younger when no further description is given,\(^ {50}\) such usage has not become customary international law, and the consensus as it exists is insufficient to constitute opinio juris. In parts of the African continent, for example, 16- and 17-year-old children fight as a ritualistic initiation into adulthood.\(^ {51}\) In short, explicitly defining the term ‘child’ in a global context is for all intents and purposes impossible, as the separation of ‘childhood’ and ‘adulthood’ is a social construct.


\(^{49}\) See Alex Obote-Odora, Legal Problems of Children in Armed Conflict, Murdoch University (2010) [hereinafter Legal Problems of Children in Armed Conflict].

\(^{50}\) See Jean Pictet, Commentary on the IV Geneva Convention 395 (1958).

\(^{51}\) See Legal Problems of Children in Armed Conflict, supra note 50.
While relevant legal norms applying to Sudan are overlapping and sometimes contradictory, they exist in some form on three primary levels: national instruments, African regional instruments, and larger international instruments. The section that follows addresses in particular the Sudanese Child Act 2004, two regional instruments including the African Charter on Human and Peoples’ Rights and the African Charter on the Rights and Welfare of the Child, as well as two international instruments including the International Labor Organization’s Convention No. 182 on the Elimination of the Worst Forms of Child Labor and the U.N. Convention on the Rights of the Child & First Protocol.


The Sudanese Child Act 2004 (the Act) is a national instrument that repeals the Juvenile Welfare Act 1983. The most important sections of the Act for the present discussion are chapters 1 and 2. Chapter 1 of the Act declares that the word “child” shall mean any male or female child whose age is below eighteen years unless the applicable law stipulates that the child has reached maturity. Chapter 2, section 5(b) declares that “child’s protection and their utmost interest shall have the priority in all decisions or measures concerning childhood, family or environment by whosoever issue or enforce these decisions and measures.”

The Sudanese Child Act 2004 is significant in that, as opposed to the other documents discussed herein, it is not an international treaty negotiated with other nations. Rather, it is a domestic document written exclusively for the nation of Sudan, setting out the nation’s policies pursuant to its own constitution. As such, the Act provides a startling juxtaposition between the

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53 Id., chapter 1, section 2.
54 Id., chapter 1.
55 Id., chapter 2, section 5(b).
56 See id. (particularly the introduction, saying that “Pursuant to provisions of Article 90 (1) of the Constitution of the Republic of Sudan 1998, the President of the Republic issued the following Provisional Act”).
nation’s declared constitutional principles with regards to the protection of children, and its actions regarding the forcible recruitment of children into its armed forces.

2. **African Regional Instruments**

On the level of regional instruments, the two most applicable to establishing the illegality of the use of child soldiers in Sudan are the 1981 African Charter on Human and Peoples’ Rights, and the 1990 African Charter on the Rights and Welfare of the Child.


The African Charter on Human Rights was adopted on June 27, 1981, entered into force on October 21, 1986, and has been ratified by 53 countries. Sudan signed onto the Charter on September 3, 1982, and ratified on February 18, 1986.

While the Charter does not speak to the issue of child soldiering specifically, it is useful nonetheless. Article 18, section 3 states that “The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.”

The Charter is useful for three reasons. First, it places the spotlight on women and more importantly children, highlighting these groups’ needs for special protection. Second, it places the burden of eliminating discrimination against these groups on States Parties to the Charter. Third, it refers to “international declarations and conventions” in regards to the establishment of the rights of women and children, thus establishing a point of reference to which the rights of women and children are to be compared.


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58 *Id.*

The African Charter on the Rights and Welfare of the Child entered into force on November 29, 1999. Out of a total 39 signatories, 37 countries have ratified; Sudan ratified on July 30, 2005. The articles applicable to the present discussion include articles 1, 2, 17, and 22. In setting out the obligation of states parties, Article 1, section 1 of the Charter uses affirmative language, placing the burden on states to give effect to the measures. Article 1 declares in full that:

Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake to the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.  

Article 2 is particularly useful as it defines the ever elusive yet vital term “child,” saying “[f]or the purposes of this Charter, a child means every human being below the age of 18 years.”

Article 17, section 1, regarding the administration of juvenile justice, provides for the special treatment of children:

Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.

Finally, Article 22 speaks specifically to the duties of states parties in armed conflicts; particularly in regards to ensuring the protection of children, declaring in full that:

(1) States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts that affect the child.


60 Id.
61 Id.
62 Id.
(2) States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.

(3) States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.\footnote{Id.}

3. International Instruments

The years between 1998 and 2000 saw the adoption of important international instruments for the fight against child soldiering. These include the International Labor Organization’s Convention 182 on the Elimination of the Worst Forms of Child Labor, which prohibits the forced recruitment of children, and the Optional Protocol to the Convention on the Rights of the Child, which establishes eighteen as the minimum age for participation in armed conflict.\footnote{Becker, supra note 32.}


The International Labour Organization adopted Convention 182 on June 17, 1999, and it entered into force on November 19, 2000. There are currently 129 countries that have ratified, including Sudan as of March 7, 2003. Article 1 of Convention 182 requires that “[e]ach Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition

\footnote{63 Id.} 
\footnote{64 Becker, supra note 32.} 
and elimination of the worst forms of child labour as a matter of urgency.”66 Article 2 states that “[f]or the purposes of this Convention, the term "child" shall apply to all persons under the age of 18.”67 Further, Article 3 provides that for the purposes of the Convention, the term “the worst form of child labour” comprises “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.”68

Convention 182 is particularly significant for a number of reasons. Recommendation 190 encourages states to make child recruitment a criminal offense, which violates the provisions of the Convention.69 The Convention is the first time an international treaty of its magnitude definitively sets eighteen as the minimum age for child soldiering. Additionally, the Convention provides the first specific legal recognition of child soldiering as a form of child labor.70

b. United Nations, Convention on the Rights of the Child & First Protocol (Regarding the Involvement of Children in Armed Conflict) 71

The Convention on the Rights of the Child was adopted on November 20, 1989, and came into force on September 2, 1990. There are 140 signatories and 193 parties to the Convention, including Sudan, which signed onto the treaty on July 24, 1990 and ratified on August 3, 1990.72

The most relevant section of the Convention on the Rights of the Child for the issue of child soldiering is Article 38, which addresses the issue of military recruitment of child soldiers. Article 38 provides:

66 Id., art. 1.
67 Id., art. 2.
68 Id., art. 3.
69 Id., Recommendation 190.
(1) State Parties undertake to respect and to ensure respect for the rules of international humanitarian law applicable to them in armed conflicts that are relevant to the child.

(2) State Parties shall take all feasible measures to ensure that persons who have not attained the age of 15 years do not take a part in hostilities.

(3) State Parties shall refrain from recruiting any person who has not attained the age of 15 years into their armed forces. In recruiting among those persons who have attained the age of 15 years but who have not attained the age of 18 years, states parties shall endeavor to give priority to those who are oldest.\(^{73}\)

An interesting and potentially problematic oddity of Article 38 is that it uses fifteen as the minimum age for states’ recruitment of soldiers, while in other areas the Convention on the Rights of the Child defines anyone under the age of eighteen as a child.\(^{74}\) Potentially resolving this issue is Article 41, which allows states favoring the prohibition of recruitment of those under eighteen to interpret Article 38 in light of Article 41’s provision that any conflict between the provisions of the Convention and obligations under municipal or international law must be settled in favor of whichever rule provides the greatest protection.\(^{75}\)

As useful a tool for establishing legal norms in the recruitment of child soldiers as the Conventional on the Rights of the Child is, it nonetheless has two significant limitations. Firstly, while it is meant to apply to all children in all circumstances, the United States and Somalia are not parties to it.\(^{76}\) The fact that the United States has not ratified the Convention undermines its efficacy.\(^{77}\) Secondly, the Convention only pertains to states, consequently excluding non-state

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\(^{73}\) Convention on the Rights of the Child, supra note 72.


\(^{75}\) See Sudan: SPLA child soldiers demobilised in the south, supra note 33.


\(^{77}\) See Renteln, supra note 75.
actors. Where non-state militias as responsible for a significant portion of the recruitment of child
soldiers, this serves as a significant limitation.

Additionally, the Convention uses weak language, obligating states to “take all feasible
measures.” Compare this to Article 1 of the African Charter on the Rights and Welfare of the Child,
which uses affirmative language that “Member States of the Organization of African Unity Parties to
the present Charter . . . shall undertake to the necessary steps . . . to adopt such legislative or other
measures as may be necessary to give effect the provisions of this Charter.”

The UN General Assembly adopted the Optional Protocol in 2000. Until this point, most
efforts to prevent the abusive use of children as soldiers had been diplomatic, carried out by non-
governmental organizations and certain elements of the UN. When the Optional Protocol came
into force in 2002, the Convention raised the minimum age for direct participation in combat, all
recruitment into armed groups, and compulsory recruitment by governments, from fifteen to
eighteen. However, states continue to be permitted to accept volunteers as early as sixteen.

For states to become parties to the Optional Protocol, they must deposit a binding
declaration providing their minimum age for voluntary recruitment, as well as the safeguards they
have adopted to ensure that those under the age of eighteen, if permitted to volunteer, are not
coerced into doing so. Additionally, states must continually maintain standards ensuring that
recruitment of under-eighteens is, in fact, voluntary, that the recruits’ parents or legal guardians
knowingly consent, and that the recruits are fully informed of the duties involved in military service

78 African Charter on Human and People’s Rights, supra, note 58.
80 See id.; see also UNICEF and the Coalition to Stop the Use of Child Soldiers, Guide to the Optional Protocol on the Involvement of Children in Armed Conflict (Dec. 2003).
81 See Appendix 3, supra note 71.
82 See Optional Protocol, supra note 80, art. 3(2).
and provide proof of age. Once submitted, declarations by states parties to the Protocol may only be withdrawn in favor of declarations specifying a higher minimum voluntary recruitment age, or otherwise strengthening the protection of children.

B. Case Study: Sierra Leone

Having discussed the central legal norms applicable to child soldiering in Sudan, the following section provides a case study of Sierra Leone, which saw the implementation of relatively comprehensive rehabilitation programs for child soldiers. By analyzing the use of child soldiers in Sierra Leone and the subsequent programs instituted for their rehabilitation, the following section sets the stage for similar programs that could be instituted in Sudan, learning from the successes and failures of Sierra Leone.

1. The use of child soldiers in Sierra Leone

The small West African country of Sierra Leone stands out as a particularly grim example of a recent conflict in which all sides involved made systematic use of child soldiers. The conflict began in 1991 when the Rebel United Front attempted to overthrow President Joseph Momoh’s sitting government of Sierra Leone. In an attempt to fight off the rebels, Momoh’s ill-equipped government recruited into its ranks anyone it could find, with a particular emphasis on the indigent youth. Unable to hold off the rebels, Momoh was ousted by way of a military coup and was

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83 See id., art. 3(3).
84 See id.
85 Amnesty Int’l, supra note 13.
87 See David Pratt, Sierra Leone: The Forgotten Crisis, Report to the Minister of Foreign Affairs, the Honourable Lloyd Axworthy, P.C., M.P. from David Pratt, M.P., Nepean-Carleton, Special Envoy to Sierra Leone (April 23, 1999) [hereinafter Pratt].
88 See Background to Sierra Leone Civil War, Free Speech, at http://free.freespeech.org/isierra-leone/civilwar/background.htm.
replaced by Valentine Strasser. After a great deal more fighting and a number of changes in government, it was nearly ten years before the dust began to settle and in 2000, the government of Sierra Leone approved a draft resolution requesting the United Nations create a criminal tribunal.

Fortunately for both the children of Sierra Leone and the society as a whole, world attention focused on the conflict and spurred a variety of relatively comprehensive programs for the rehabilitation of former child soldiers. Between May 2001 and January 2002, the U.N. Mission in Sierra Leone demobilized nearly 48,000 total combatants from the ranks of government and rebel forces by bringing them out of combat roles and into rehabilitation camps. This included 6,845 children, boys and girls alike.

Before understanding how child soldiers can be rehabilitated, one must first understand the collective cultural mentality related to the issues of violence and warfare that has developed in Sierra Leone and elsewhere. Of particular importance is that, while forced recruitment is pervasive, it is far from the only way that children become soldiers. Many children choose to join military forces, the rationale for this decision coming in two main forms: those that choose to fight for reasons of survival, and those that choose to fight for reasons of culture or revenge. Oftentimes, however, the line between these rationales is hazy at best.

In countries like Sierra Leone, where children have grown up in a war zone in which the basic necessities of life are often rare or nonexistent, the desire for security and food drives many

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89 See Macaluso, supra note 87, at 349 (explaining that Strasser was deposed in a coup by a military junta that succeeded in organizing the first multi-party elections); see also Pratt, supra note 88 (reporting that Strasser was overthrown by his deputy Brig. Julius Maada Bio); see generally Karen Gallagher, Note, No Justice, No Peace: The Legalities and Realities of Amnesty in Sierra Leone, 23 T. JEFFERSON L. REV. 149, 155 (noting the timeline of the conflict).
90 See Alison Smith, A Response to A ‘Special Court’ for Sierra Leone’s War Crimes, Global Policy Forum, Aug. 15, 2001.
91 Becker, supra note 32.
93 See Amnesty Int’l U.K., In the Firing Line: War and Children’s Rights, 60 (1999) (explaining that many children join armed forces without being forced to do so) [hereinafter Amnesty Int’l UK].
children to take up arms. This phenomenon often occurs if civilian life is unbearable or if children are driven to militias as a form of surrogate family. In such situations, even if children are free from forcible recruitment, they are imprisoned by their hunger.

Cultural values also drive many children into the ranks of military groups. In some families in Sierra Leone, children are encouraged by their parents to join the Civil Defense Forces, which is a civilian militia based on traditional hunters, and provides an elevated social status to its members.

In addition to the challenges faced by all soldiers during times of war, child soldiers in Sierra Leone were intentionally subjected to further abuses including but not limited to constant beatings, long marches carrying heavy loads, and being forced to murder other children and sometimes even their own family members. Children were viewed as less valuable and more expendable than

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94 See id. (describing how children’s choice to join armed forces is a means of survival as the recruiting soldiers provide food to children who would otherwise starve).
95 See Human Rights Watch, War Without Quarter chap. VI (1998) (explaining that "there are areas where children beg insistently to join the guerrillas, but there are also situations in which their very own mothers, who are desperate, take their children to the guerrillas because their families live in misery"). http://www.hrw.org/reports98/columbia/Colom989-06.htm#P1873; see also Amnesty Int'l UK, supra note 94, at 60 (pointing out that armed groups may provide shelter, protection and a surrogate family for children who may have been orphaned or separated from their families during conflict).
96 See Abbott, supra note 3, at 516-17 (arguing that any so-called "choice" children have in joining an armed force is nonexistent, since children do not have the capacity to act in their own best interests); see also Hearing on U.S. Ratification of the Optional Protocols to the Convention of the Rights of the Child Before the Senate Foreign Relations Committee (2002), (explaining how a society breaks down during war and that children who are separated from their homes and families view armed groups as their best chance for survival) [hereinafter Hearing on U.S. Ratification of the Optional Protocols]
97 See Amnesty Int'l UK, supra note 94, at 60 (including ideology as one of the reasons children volunteer to participate in armed conflict); see also Machel, supra note 93, at 11.
98 See Amnesty Int'l, supra note 13 (discussing a story of a twelve-year-old from Sierra Leone who, when he was recruited by the Civil Defense Forces, his parents did nothing to prevent it because of the status associated with the hunters).
99 See The Int'l Save the Children Alliance, Children’s Rights: Reality or Rhetoric? The UN Convention on the Rights of the Child: The First Ten Years 46 (Sarah Muscroft ed., 2000) at 45 (noting that thousands of children have been fighting in Sierra Leone), and at 50 (in armed opposition groups, new recruits are sometimes required to kill other children or family members as a form of initiation) [hereinafter Save the Children Alliance].
experienced adult soldiers. As a consequence, they were forced to carry out more dangerous and sometimes suicidal missions that adult soldiers would have refused.

In Sierra Leone, the rebels regularly drugged children before sending them into battle in order to make them feel invincible. The rebel leaders subsequently exploited children’s natural recklessness, accompanied by the feeling of invincibility, to send them to their deaths. This type of abuse, combined with underdeveloped minds, causes children to be more susceptible to longterm mental impairment and damage. The ultimate result is that, even when child soldiers physically survive the conflict, their mental survival is another story entirely.

2. Disarmament, demobilization and rehabilitation

After civil war had for the most part run its course, it became time for the rebuilding of Sierra Leone. At the core of rebuilding the country was the three-pronged approach necessary to move from a state of war to one of peace. This three-pronged approach includes disarmament, demobilization and rehabilitation.

Disarmament and demobilization, which involve removing child soldiers from military groups and placing them into non-governmental organization programs, occurred in Sierra Leone throughout the course of the war as UNICEF, along with other humanitarian actors, continuously

100 See Hearing on U.S. Ratification of the Optional Protocols, supra note 97 (explaining that armed groups view child soldiers as less important than adult soldiers).
101 See id. (discussing how children are often forced into the most hazardous roles, such as entering minefields before older troops or being sent on suicide missions); see also Amnesty Int'l, supra note 13, at 3 (explaining that armed groups consider children particularly useful because of their size and agility).
102 Save the Children Alliance, supra note 100, at 50 (noting that child soldiers are often provided with drugs and alcohol to reinforce natural teenage recklessness).
103 See Amnesty Int'l, supra note 13, at 4; see also id. at 50 (noting that this type of abuse typically targets children because of their vulnerability).
104 See Children at War, Newsweek Web Exclusive, May 4, 2002 (explaining that from Africa to Asia to Latin America, children are fighting in wars and rebellions and are serving as sex slaves, servants and spies), http://www.msnbc.com/news/747688.asp (asserting that the physical and psychological traumas that child soldiers experience often last well into adulthood).
105 See id. (noting that the rehabilitation needs of children differ significantly from those of adults).
negotiated the release of children and subsequently assisted in their reintegration. A total of 6,845 children were disarmed and demobilized over the course of and after cessation of the conflict. Demobilized adults were given both cash stipends and skills training, while children were reunited with families and given the option of traditional education or skills training. The majority of children then went through interim care centers, which served over 5,000 demobilized child soldiers and an additional 2,166 noncombatant children in need of assistance. Once former child soldiers had been disarmed and demobilized, it was time for rehabilitation, which took the two primary forms of education and job training as well as psychological rehabilitation and maintenance.

3. Education and job training

One of the most significant hurdles facing former child soldiers on their path to reintegration is the education missed during their time in the bush. Although it is often difficult for children to catch up on the learning that they missed, given that education lies at the heart of stability in civilian life, both long-term and short-term education and job training are fundamental elements of the rehabilitation of child soldiers. Studies conducted in a variety of conflicts in which child soldiers were used suggest that there is a direct correlation between the amount of time children spend fighting and the educational gap between them and noncombatants. Some studies

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107 Id.
109 *From Conflict to Hope: Children in Sierra Leone’s Disarmament, Demobilisation and Reintegration Programme*, UNICEF (2004) [hereinafter *From Conflict to Hope*].
suggest that educational and economic challenges for former child soldiers are even more significant than the experience of being a child soldier itself.\textsuperscript{112}

An additional complication in Sierra Leone is that the educational system was problematic even before the civil war began. In 1990, only 55 percent of primary-school-aged children were enrolled in school.\textsuperscript{113} After the conflict, the problem of children being overage for their grade level came to light. In the 2003-2004 school year, over three quarters of students were overage. The older students become, the more likely it is they will drop out of school prior to completion.\textsuperscript{114}

a. Long-term education

Sierra Leone saw two primary programs designed to either educate former child soldiers over the long-term, or alternatively to catch them up to other students in order ultimately to shift them into other education and job training programs. The first was the Rapid Response Education Program. This program ran from 2000 to 2002, preparing 4,190 boys and 2,925 girls in the first year and 3,852 boys and 2,562 girls in the second to move either back into government run schools or into the second program.\textsuperscript{115} The second program, the Complementary Rapid Education for Primary Schools, was designed for children over the age of 16. The aim of this latter program was to accommodate the special requirements of overage students by putting them into peer groups of similar ages and providing them with accelerated learning.\textsuperscript{116} This program ran from 2000-2005,

\begin{itemize}
\item \textsuperscript{112} Maria L. Santacruz and Rubi E. Arana, \textit{Experiences and Psychosocial Impact of the El Salvador Civil War on Child Soldiers}, \textit{BMIEDICA} 22, suppl. 2 (2002), 283–397.
\item \textsuperscript{114} Statistics Sierra Leone, \textit{Republic of Sierra Leone 2004 Population and Housing Census Executive Summary: Education and Literacy}, Report, Statistics Sierra Leone, Freetown (2006).
\item \textsuperscript{116} \textit{Id.}
\end{itemize}
educating 2,188 students in the first year, 6,760 in the second, 11,663 in the third, 11,209 in the fourth, and 9,123 in the fifth.117

b. Short-term job training

In addition to programs for long-term education, other programs focused on providing students with fundamental literacy and life skills, as well as practical vocational training. These types of short-term programs were more appropriate where former child soldiers were unlikely to commit themselves to longterm education.118 One of the more prominent programs of this nature was the United States Agency for International Development (USAID) funded Youth Reintegration Training and Education for Peace program (YRTEP). The USAID ran programs lasting from six months to a year, and operated at 1,300 sites across Sierra Leone. The program itself served 45,000 children in 2001 alone.119

The object of the YRTEP was to provide non-formal education activities to ex-combatant and other war-affected youth.120 The program was designed to include 40,000 participants, roughly 50 percent ex-combatants and 50 percent non-combatants.121 The training included a series of non-formal education modules for youth in areas such as reintegration and sensitization for ex-combatants, vocational and life skills counseling, livelihood skills development in agriculture and other labor-intensive areas, protecting the environment, health issues, civic education, and functional literacy and numeracy.122 Modules were delivered to the participants by teams of two trainers per group of 20 participants, and were designed to use the existing network of community and religious

117 Id.
121 Id.
122 Id.
groups as a delivery system. Groups were offered the opportunity to participate and, if qualified, receive technical assistance, training of trainers, and the full package of materials to impact the training and education modules of the program.

Evaluation of the program utilized a questionnaire designed to elicit responses from program participants that would indicate the type and nature of behavioral change that had occurred as a result of participation. Out of a total 482 interviews, the findings suggested that the program had accomplished what it set out to do, and had made a significant difference in the lives of the participants. Evaluations on its effectiveness included findings that 99 percent of students had increased skills in conflict management, 83 percent were better able to provide for themselves and their families, 98 percent had increased literacy, and 99 percent had improved numerical skills. Other studies also concluded that the initiative improved behavior, leading to fewer violent actions by those that had completed the program.

4. Psychological rehabilitation and maintenance

Having experienced unthinkable forms of trauma, former child soldiers face a significant hurdle and have a need for psychological rehabilitation and maintenance. One study took place in a United Nations refugee camp in Sinje, Liberia, home to approximately 15,000 displaced Sierra Leoneans, and involved more than 500 youths. Researchers described three characteristics as vital for psychosocial recovery after war. These include maintenance of a sense of purpose, control of traumatic memories, and successful protection against destructive social isolation.

123 Id.
124 Id.
125 Id.
126 Id.
127 Id.
128 See id.
130 See id.
For maintaining an intact sense of purpose, youths who have been exposed to the trauma of war demonstrate remarkably diminished future thinking.\textsuperscript{131} They often express extremely pessimistic beliefs and expectations about their future lives to the point of "harboring catastrophic expectations."\textsuperscript{132} The central problem is that the violence and depravation inherent to war undermines youths' assessment of their ability to create satisfying lives, which results in doubting their ability to influence their environment and establish an identity and role that will be valued and respected within that environment. \textsuperscript{133} The rehabilitative programs that proved successful in remedying this problem focused on recognizing the importance of a strong belief in the value and purpose of life. These programs focused on assisting youths to become the "master of his or her future rather than a passive bystander"\textsuperscript{134} and recognized that youth "can exercise significant leadership and creativity in post conflict reconstruction and peace building" to reinforce a sense of value and purpose.\textsuperscript{135}

In regards to control of traumatic memories, the ability to control disturbing images and memories of war is a significant factor in rehabilitation. Effective control of traumatic memories requires youths to master the ability to regulate their cognitive, affective, and behavioral responses to remembering. Effective programs in this regard require the presence of supportive peers and responsive adults, structured remembering exercises and rituals, training in the ability to suspend

\textsuperscript{132} Id., at 629.
\textsuperscript{133} Id.
memories, and assistance in making useful meaning from catastrophic experiences, known as "the fabrication of meaning."\textsuperscript{136}

Regarding the successful protection against destructive social isolation, the inability for youths to maintain healthy attachments to others is a common condition, as well as a serious threat to their ability to be rehabilitated after war.\textsuperscript{137} Death, separation, and disengagement from family and friends cause loss trauma.\textsuperscript{138} Successful rehabilitation requires the use of programs that provide the opportunity, motivation, and ability to establish positive connections to others.\textsuperscript{139} Such programs insulate youths from the despair and hopelessness that otherwise plague youths that feel alone.\textsuperscript{140} Programs must ensure that youths work with others, and have significant positive social contact.\textsuperscript{141}

The relationship between psychological rehabilitation and education is one of give and take, whereby successful psychological rehabilitation programs require successful education programs, and vice versa.\textsuperscript{142} The education and job training discussed above is integral to psychological rehabilitation and maintenance as it serves to help former child soldiers define goals and develop a sense of purpose.\textsuperscript{143} The Inter-Agency Standing Committee, an inter-agency forum involving both UN and non-UN humanitarian partners located in Geneva, produced Guidelines on Mental Health and Psychosocial Support in Emergency Settings, emphasizing the importance of education in the

\begin{flushleft}
\textsuperscript{137} Kline, \textit{supra} note 130.
\textsuperscript{138} Id.
\textsuperscript{139} Id.
\textsuperscript{140} Id.
\textsuperscript{141} Id.
\textsuperscript{142} See Christopher M. Layne, et al., \textit{Trauma/Grief-Focused Group Psychotherapy: School-Based Postwar Intervention with Traumatized Bosnian Adolescents}, 5 \textit{GROUP DYNAMICS: THEORY, RESEARCH, AND PRACTICE} 277 (2001) (explaining that education cannot alone repair the damage done to child soldiers and that their experiences in conflict make it difficult for them to fully benefit from education) [hereinafter Grief-Focused Group Therapy].
\end{flushleft}
psychological rehabilitation of war-effected youth.\textsuperscript{144} Similarly, the Inter-agency Network for Education in Emergencies, an international network of NGOs and UN agencies based out of Paris, set out minimum standards for education in such situations.\textsuperscript{145} Youth who have experienced the intensity of war must learn to control what are otherwise overpowering emotions, and similarly must learn to cope with traumatic stress reactions including flashbacks to particularly virulent moments, as well as a multitude of other concentration problems, if education is to be effective.\textsuperscript{146} Programs in Sierra Leone have tackled this issue in a variety of ways. One such example is a two-pronged approach that utilized academic-focused study sessions in the mornings coupled with trauma-healing activities in the afternoon.\textsuperscript{147}

5. Success and failures of the programs

Sierra Leone’s attempts at rehabilitation have been a mixed bag of successes and failures, which is unsurprising considering the devastation leveled on the country over the course of the decade-long civil war. The country has taken steps ranging from rebuilding schools to shrinking the gender gap in primary school enrollment, which existed long before the war.\textsuperscript{148} One such measure is the elimination of school fees. The Education Act of 2004 eliminated fees and instituted enrollment through junior secondary school.\textsuperscript{149} This Act succeeded in nearly doubling primary school enrollment from 660,000 in 2001-2002 to 1,300,000 in 2004-2005.\textsuperscript{150} Notwithstanding this dramatic


\textsuperscript{146} Leila Gupta and Catherine Zimmer, \textit{Psychosocial Intervention for War-Affected Children in Sierra Leone}, 192 \textit{British Journal of Psychiatry} 212 (2008) [hereinafter Gupta].


\textsuperscript{149} Education Act, 2004, Supplement to the Sierra Leone Gazette 135, no. 19.

\textsuperscript{150} Wang, \textit{supra} note 116.
increase in enrollment, over thirty percent of primary-school-aged children are still not enrolled in school.\textsuperscript{151}

One of the main causes for the failure of education initiatives in Sierra Leone is the expense faced by households. In 2004, households bore approximately half the cost of education.\textsuperscript{152} While this expense is the equivalent of $21 USD,\textsuperscript{153} it is nonetheless significant where per capita annual income is a measly $210 USD.\textsuperscript{154} A number of non-governmental organizations and intergovernmental organizations, including UNICEF’s Community Education Investment Program, sought to remedy the financial difficulties of Sierra Leone’s educational system. UNICEF in particular provided school fee waivers, uniforms, books, and other supplies to former child soldiers.\textsuperscript{155} While this was effective to a certain extent, aid was often ineffectively distributed, resulting in fees not being paid and children being turned away from school.\textsuperscript{156} This UNICEF program ended in 2005, forcing a number of former child soldiers to drop out of school.\textsuperscript{157}

As an additional failure of the system, some non-governmental organizations made the receiving of educational funding contingent on the prior completion of a disarmament, demobilization, and rehabilitation (DDR) program.\textsuperscript{158} Where female former child soldiers were often denied the benefit of DDR programs, they were consequently also denied the benefit of the funding necessary to reinstate their education.\textsuperscript{159} UNICEF estimated that of the 8,466 cases of missing and abducted children, at least half of them were female.\textsuperscript{160} However, UNICEF also

\textsuperscript{151} Monitoring the Situation of Women and Children, supra note 149.
\textsuperscript{152} Wang, supra note 116.
\textsuperscript{153} Id.
\textsuperscript{156} Id.
\textsuperscript{157} Id.
\textsuperscript{159} Id.
\textsuperscript{160} From Conflict to Hope, supra note 110.
reported that of the 6,845 children demobilized through the formal DDR programs, 92 percent were boys and only 8 percent were girls.\textsuperscript{161} Some of the factors causing this disparity include the fact that some programs required children to turn in a weapon and demonstrate proficiency with its use prior to receiving benefits.\textsuperscript{162} Although official procedures did not require the relinquishment of a weapon as a prerequisite for receiving benefits, one study found that 46 percent of girls excluded from DDR programs were turned away for not having a weapon.\textsuperscript{163} Fear and shame also contributed to keeping many female former child soldiers out of DDR programs.\textsuperscript{164} When youth without access to education, rehabilitation, and other such activities are put in a particularly vulnerable position relative to re-recruitment into armed groups, such failures put into jeopardy any success that may have been achieved.\textsuperscript{165}

III. ANALYSIS

A. International Law Violations in Darfur Child Soldier Situation

While it is abundantly clear that the current conflict in Darfur, and particularly the widespread use of child soldiers in the conflict, violates international humanitarian law, what remains to be discussed is precisely why and how the practices of the involved parties violate international law. This section refers back to section II(A) above regarding the relevant legal norms as set out by African regional and international instruments.

1. Violations of African Regional Instruments

\textsuperscript{161} Id.
\textsuperscript{162} McKay and Mazurana, supra note 159.
\textsuperscript{163} Id.
\textsuperscript{164} C. Coulter, Assessment of the ‘Girls Left Behind’ Project for Girls and Young Women Who Did Not Enter DDR. Draft consultant’s report to UNICEF Sierra Leone (2004); see also J. Williamson and L. Cripe, Assessment of DCOF-Supported Child Demobilization and Reintegration Activities in Sierra Leone, Displaced Children and Orphans Fund of the US Agency for International Development (2002) (identifying the successes with boys and the problem of girls left out of the DDR programs).
The African Charter on Human and People’s Rights, while not referring to child soldiering specifically, requires states parties to “ensure the protection of the rights of . . . the child as stipulated in international declarations and conventions.” While limited in its applicability to the issue of child soldiering and recruitment in Darfur, the Charter nonetheless provides that the burden lies on States Parties to ensure the protection of children, and sets “international declarations and conventions” as a point of reference from which the duties of states parties are established.

Since coming to power in 1989, President Bashir’s government has been largely responsible for widespread death throughout the country. The United Nations has also found that throughout the course of the present conflict, all parties involved, including government forces, the Sudan Peoples’ Liberation Army, government-backed Janjaweed militias and anti-government Darfuri rebels, have made extensive and systematic use of child soldiers. Where the Charter places the burden on States Parties to “ensure the protection of the rights of . . . the child,” liability for violations of these rights lies with President Bashir’s government. This fact is significant because it makes the government liable not only for its own use of child soldiers, but also for the use of child soldiers by the Sudan Peoples’ Liberation Army, Janjaweed militias, and even, at a stretch, the anti-government Darfuri rebels.

The African Charter on the Rights and Welfare of the Child, similarly to the African Charter on Human and People’s Rights, uses affirmative language to place the burden on states parties to give effect to the measures contained in the Charter. Paragraph 2 of Article 22 requires states parties to “take all necessary measures to ensure that no child shall take a direct part in hostilities and

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166 African Charter on Human and Peoples’ Rights, supra note 58, art. 18 para 3.
167 See id.
168 See Crair, supra note 20.
169 See BBC, supra note 26.
170 African Charter on Human and Peoples’ Rights, supra note 58, at art. 18 para. 3.
refrain in particular from recruiting any child."\textsuperscript{172} Article 2 defines “child” for purposes of the Charter as “every human being below the age of 18 years.”\textsuperscript{173}

The African Charter is particularly useful for establishing the Sudanese government’s international law violations, as it explicitly obligates states parties to “take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular from recruiting any child,”\textsuperscript{174} with “child” defined as all persons below the age of 18.\textsuperscript{175} Where President Bashir’s government has gone so far as to use abduction as a means for recruitment\textsuperscript{176} to facilitate its extensive use of child soldiers in government forces,\textsuperscript{177} the government’s actions directly violate multiple provisions of the African Charter, not necessarily limited those specifically mentioned here.

2. Violations of International Instruments

The International Labor Organization’s Convention 182 on the Elimination of the Worst Forms of Child Labour requires each state to “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour,”\textsuperscript{178} and includes under the definition of “the worst forms of child labour” the “forced or compulsory recruitment of children for use in armed conflict.”\textsuperscript{179}

The most obvious violation of the Convention by President Bashir’s government stems from the measures it has taken not only in failing to eliminate the “forced or compulsory recruitment of children for use in armed conflict,”\textsuperscript{180} but also in its propagation of the practice via

\textsuperscript{172} Id. at art. 22 para 2.
\textsuperscript{173} Id. at art 2.
\textsuperscript{174} Id. at art. 22 para 2
\textsuperscript{175} Id. at art. 2.
\textsuperscript{176} Human Rights Watch, supra note 26.
\textsuperscript{177} BBC Report, supra note 26.
\textsuperscript{178} International Labor Organization Convention 182 Concerning the Prohibition and Immediate Elimination of the Worst Forms of Child Labor, supra note 64, at Art. 1.
\textsuperscript{179} Id. at Art. 3.
\textsuperscript{180} Id.
the use of child abduction as a key recruitment technique. The application of the provisions of the Convention to the facts of the current situation in Darfur demonstrates that the actions of President Bashir’s government run contrary to the articles and overall goal of the Convention.

The United Nations Convention on the Right of the Child and First Protocol (regarding the Involvement of Children in Armed Conflict) serves a similar purpose to the Charters and Conventions above. Article 38 is particularly relevant, providing in pertinent part that states parties must ensure the “respect for the rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child,” and also must refrain from recruiting children below the age of 15.

The Convention provides further evidence of President Bashir’s government’s violation of international humanitarian law by emphasizing the need of States Parties to comply with the rules of international humanitarian law, particularly in regards to the law of children in armed conflict. The Convention is somewhat problematic in that it opens up the possibility of defining “child” for the purposes of restrictions on military recruitment as 15 years of age. However, as President Bashir’s government has systematically recruited children younger than 15, it has violated even the most liberal age of recruitment limitations.

B. Synthetic Analysis of Lessons Learned in Sierra Leone

After a devastating and prolonged civil war, Sierra Leone’s rehabilitation programs for child soldiers have been a mixed bag of successes and failures. Consequently, much can be learned from these successes and failures in the designing and implementation of similar (or sometimes dissimilar) programs in Darfur.

\[181 \text{ See Human Rights Watch 1999, supra note 27.} \]
\[182 \text{ Convention on the Rights of the Child, supra note 72.} \]
\[183 \text{ See Crair, supra note 26.} \]
At the core of rehabilitation in Sierra Leone is the relationship between DDR, education/job training, and psychological rehabilitation and maintenance. The lesson of greatest significance is that any successful rehabilitation program must incorporate all three elements as each element feeds off of the other two. The disarmament and demobilization aspects of DDR are the fundamental beginning of any child soldier rehabilitation program. Until child soldiers have been disarmed and demobilized from the ranks of armed groups, rehabilitation cannot begin.

The rehabilitation aspect of DDR is the most difficult and crucial step in the process, and begins with short and long-term education and job training. As mentioned above, one of the most significant hurdles facing former child soldiers on their path to reintegration is the education missed during their time in the bush, because education and job training lie at the heart of civilian life.\textsuperscript{184} While long-term courses that catch former child soldiers up to their appropriate grade level are optimal, this is unrealistic in situations where children were recruited at an early age and who, by the time they are demobilized and disarmed, are unlikely to commit themselves to long-term education.\textsuperscript{185} Taking this into account, programs that provided short-term job training were implemented in Sierra Leone. The primary example in Sierra Leone was the YRTEPP, mentioned above.

Equally important to demobilization and education is psychological rehabilitation and maintenance. Taking the three main forms of maintaining a sense of purpose, control of traumatic memories, and successful protection against destructive social isolation,\textsuperscript{186} psychological rehabilitation and maintenance requires successful education programs and vice versa.\textsuperscript{187}

C. Suggested framework for Darfur rehabilitation program, taking into account legal norms and practical lessons

\textsuperscript{184} See The Disarmament, Demobilization, and Reintegration of Child Soldiers, supra note 111.
\textsuperscript{185} See Mozambique Child Soldier, supra note 119.
\textsuperscript{186} See Kline, supra note 130.
\textsuperscript{187} See Grief-Focused Group PsychoTherapy, supra note 143.
Taking into account the specifics of the situation in Darfur and the relevant legal norms and the synthetic analysis of lessons learned in Sierra Leone, this paper proposes a framework for rehabilitation programs for former child soldiers after the conflict comes to a close. As for any comprehensive program for former child soldiers, the proposed framework breaks the process down into the two broad steps of disarmament and demobilization followed by rehabilitation.

1. Disarmament and demobilization

The first step in any rehabilitation program of this nature is disarmament and demobilization. NGOs, namely UNICEF, have made some progress in this area, particularly subsequent to the signing of the Comprehensive Peace Agreement. However, most of these efforts have been focused in southern Sudan, and must be expanded to the Darfur region in the west. As the situation stands, many thousands of child soldiers remain in active duty, incorporated into the ranks of government forces, the Sudan People’s Liberation Army, government-backed Janjaweed militias and anti-government Darfuri rebels. A prerequisite and necessary first step toward rehabilitation is that these children must be disarmed.

What constitutes a ‘child’ for this purpose is more complicated than it initially appears, partly because of the cultural values, whereby fighting constitutes a ritualistic initiation into adulthood, and partly because of the contradictory legal definitions of childhood. Section II above provides a more comprehensive discussion of the relevant legal norms applying to child soldiers. While these instruments vary in their definition of ‘child,’ the optimal framework and the one suggested here defines child as “every human being below the age of 18 years.” This definition of ‘child’ is taken

188 See SLM-Minawi agrees to hand over Darfur children soldiers, SUDAN TRIBUNE (June 12, 2007).
189 Id.
190 See Becker, supra note 32.
192 See Legal Problems of Children in Armed Conflict, supra note 50.
directly from the African Charter on the Rights and Welfare of the Child,\textsuperscript{193} and is nearly identical to the definition provided in article two of the International Labor Organization’s Convention 182 on the Elimination of the Worst Forms of Child Labor.\textsuperscript{194}

Once child soldiers have been disarmed and become former child soldiers, a crucial element of disarmament and demobilization is to ensure that they remain demobilized. A common occurrence not just in Sudan but wherever child soldiering is found is that child soldiers are often re-recruited where demobilization occurs during a continuing conflict.\textsuperscript{195} From 2000-2001, more than 3,500 children were demobilized from the Sudan People’s Liberation Army.\textsuperscript{196} Two years later, 7,000-8,000 children remained in the Sudan People’s Liberation Army’s ranks, including some children that had previously been demobilized.\textsuperscript{197}

2. Rehabilitation

Once children have been disarmed and demobilized, rehabilitation can begin. Rehabilitation involves the two general areas of education and job training as well as psychological rehabilitation and maintenance. The relationship between education and psychological rehabilitation is one of give and take, whereby successful education programs require successful psychological rehabilitation programs, and vice versa.\textsuperscript{198}

For education programs to be effective, they must involve both long and short-term programs tailored to suit the different situations in which former child soldiers find themselves. This determination is often based on age. Where former soldiers are young enough—logically fifteen or younger—they should be placed into a long-term program modeled after the Rapid Response Education Program which was successfully utilized in Sierra Leone. The Rapid Response

\textsuperscript{193} African Charter on the Rights of the Child, supra note 60, art 2.
\textsuperscript{194} ILO Convention, supra note 66, art. 2.
\textsuperscript{195} See Tamil Tigers Will Stop Using Child Soldiers, supra note 30.
\textsuperscript{196} UNICEF Airlift, supra note 31.
\textsuperscript{197} Becker, supra note 32.
\textsuperscript{198} Grief-Focused Group Psychotherapy, supra note 143.
Education Program was designed to educate younger students to either move back into government schools after completion, or to move into the longer-term Complementary Rapid Education for Primary Schools. It should be noted here that there are substantial cultural and historical differences between Sudan and Sierra Leone, and the Rapid Response Education Program utilized in Sierra Leone must be used as a flexible model, as opposed to a finalized program, to be used in the creation of a framework for a similar program in Sudan.

Complementary Rapid Education for Primary Schools was used in Sierra Leone for former child soldiers over the age of sixteen. The aim of Complementary Rapid Education for Primary Schools was to accommodate the special requirements of over-age students by putting them into peer groups of similar ages and providing them with accelerated learning. While designed as an accelerated learning plan, Complementary Rapid Education for Primary Schools still constitutes long-term education.

For former child soldiers who are too old for or not interested in committing themselves to long-term education, short-term job training is more appropriate. These types of short-term job training programs focus on providing students with fundamental literacy and life skills, as well as practical vocational training. In Sierra Leone, the most prominent such programs was the YRTEPP mentioned above, which ran programs lasting from six months to a year. Graduates of the YRTEP program reported high levels of success across a variety of newly acquired skill sets, and further studies also concluded that the Youth Reintegration Training and Education for Peace program improved behavior, resulting in fewer violent actions among graduates.

199 Wang, supra note 116.
200 Id.
201 See Mozambique Child Soldier, supra note 119.
202 Hansen, Final Evaluation, supra note 120.
203 See Youth Reintegration, supra note 121.
204 See Hansen, Final Evaluation, supra note 120.
As part of a study on youth in Sierra Leone, researchers found three characteristics to be vital to psychosocial recovery after war. They include maintenance of a sense of purpose, control of traumatic memories, and successful protection against destructive social isolation, and are discussed at length under ‘Psychological rehabilitation and maintenance’ in section II(B)(d) above. While some aspects of the conflict in Sudan are very different from those in Sierra Leone, the framework for a Darfur rehabilitation program must also incorporate these three characteristics. In this suggested framework, the various types of long and short-term education and job training interconnect with the three characteristics of psychological rehabilitation and maintenance to form a substantive rehabilitation program. Education and job training serve in particular to help former child soldiers define goals and develop a sense of purpose. On the other side of this relationship, youth who have experienced the atrocities of war must learn to control what are otherwise overpowering emotions, and similarly must learn to cope with traumatic stress reactions including flashbacks as well as a multitude of other concentration problems if education is to be effective. Various programs in Sierra Leone attempted to incorporate education and psychological rehabilitation, including a program that held academic-focused study sessions in the mornings and trauma-healing activities in the afternoons.

3. Additional factors to take into account in the suggested framework

Having the ability to view in hindsight the DDR programs used in Sierra Leone, the suggested framework benefits from the mistakes that were made. The two biggest mistakes include problems in funding education, and failure to educate female former child soldiers.

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205 See Kline, supra note 130.
206 See Betancourt, supra note 144.
207 See Gupta, supra note 147.
208 Sinclair, supra note 148.
In post-war Sierra Leone, even after primary school enrollment was doubled, over thirty percent of primary school-aged children were still not enrolled in school.\textsuperscript{209} As discussed above, as psychological rehabilitation and maintenance rely on education, where education is lacking for a third of the country’s children, a third of the children also lack a proper psychological foundation. Under this premise, rehabilitation has failed for this entire segment of the population.

Financial constraints are a major cause of the failure of education in Sierra Leone. Although NGOs sought to remedy the financial difficulties of Sierra Leone’s educational system by providing school fee waivers, uniforms, books, and other supplies to former child soldiers, aid was ineffectively distributed, resulting in fees not being paid and children being turned away from school.\textsuperscript{210}

For the suggested framework, funding education must be a top priority. While the $21 per student per year cost of education may be a significant burden for the average Sierra Leonean or Sudanese family, it is a relatively trivial expense for a major NGO or the UN. As education is an integral element of rehabilitation, a successful framework for Sudan must ensure that no child is denied an education, especially based on the inability to pay $21.

The second major problem faced in rehabilitation efforts in Sierra Leone was the failure to accommodate many female former child soldiers. Some NGOs made the receiving of educational funding contingent on the prior completion of a DDR program.\textsuperscript{211} Where female former child soldiers were often denied the benefit of DDR programs, mainly due to their not having a weapon to turn in,\textsuperscript{212} they were consequentially also denied the benefit of the funding necessary to reinstate their education.\textsuperscript{213} As far as DDR programs go, where UNICEF estimated at least half of all

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\textsuperscript{209} Monitoring the Situation of Women and Children, supra note 149.
\textsuperscript{210} Alexander, supra note 156.
\textsuperscript{211} McKay & Mazurana, supra note 159.
\textsuperscript{212} Id.
\textsuperscript{213} Id.
\end{flushleft}
children that went missing or were abducted during the war were female, 92 percent of those provided with the assistance of DDR programs were boys and only eight percent were girls.\textsuperscript{214}

Similar to making the funding of education a top priority, any rehabilitative program put into action in Sudan must ensure that female former child soldiers receive the same rehabilitative benefits as their male counterparts. The receipt of educational funding simply cannot be made contingent on the completion of a DDR program, which itself is largely unavailable to females. Such obstacles defeat the very objective the system is designed to achieve.

CONCLUSION

Having provided an overview of the use of child soldiers both globally and in Sudan, discussing the relevant legal norms theoretically governing the country and providing a case study on Sierra Leone’s demobilization, disarmament, and rehabilitation of its own child soldiers, this paper proposed a framework for a series of comprehensive programs that could be put into action after cessation of hostilities. While there is admittedly no way to undo the damage that has been done, or to return childhoods that have been lost, this paper seeks only to begin a movement in the direction of focusing world attention towards the creation of a productive future for Sudan and its people. Like the children of all countries, the children of Sudan will one day become adults and will control the country. The actions of the world community today, determining whether the children of Sudan are rehabilitated or left to their own devices, will shape the world of human rights tomorrow.

\textsuperscript{214} From Conflict to Hope, supra note 110.