

# Warlord of the Flies: Child Soldiers and Non-State Actors in New Wars

*Sineklerin Savaş Tanrısı:  
Yeni Savaşlarda Çocuk Askerler ve Devlet Dışı Aktörler*

## İlke Taylan YURDAKUL

Ph.D. Candidate, Ankara Hacı Bayram Veli University, Department of International Relations,  
ORCID: 0000-0003-2439-5070, e-mail: ilke.yurdakul@hbv.edu.tr

## Mustafa Nail ALKAN

Prof., Ankara Hacı Bayram Veli University, Department of International Relations,  
ORCID: 0000-0003-4994-3491, e-mail: nail.alkan@hbv.edu.tr

### Abstract

Non-state actors are overlooked by state centric paradigms. These actors deepen and perpetuate the problems faced by vulnerable groups in weak states. Many children are forced to join warlords because of push factors created by weak states' extractive political and economic institutions. Developments in law made the crime of child recruitment a full-fledged war crime. NGOs play an important role in establishing ethical frameworks that characterize children's participation in armed conflicts as unacceptable, yet this article claims that without finding a solution to the structural problems of weak states, it is an impossible task to keep war away from children.

**Keywords:** Child Soldiers, Warlords, Non-State Actors, Norm Entrepreneurs, New Wars

### Öz

Devlet dışı aktörler, devlet merkezli paradigmlar tarafından göz ardı edilmektedirler. Oysaki bu aktörler zayıf devletlerde bulunan savunmasız grupların karşılaştıkları problemleri derinleştirmekte ve hatta kalıcı hale getirmektedirler. Bu ülkelerde yaşayan pek çok çocuk, devletlerin dışlayıcı politikaları neticesinde savaş ağalarına katılmaya zorlanmaktadır. Hukuktaki gelişmeler neticesinde çocukların silah altına alınması bir savaş suçu sayılmaya başlanmıştır. Sivil Toplum Kuruluşları, çocukların silahlı çatışmalara dahil olmalarını kabul edilemez olarak nitelendiren çerçevenin oluşturulmasında etkin rol oynamaktadırlar, ancak bu makalede zayıf devletlerin yapısal sorunlarına çözüm bulunmadan savaşı çocuklardan uzak tutmanın olanaksız bir görev olduğu iddia edilmektedir.

**Anahtar Kelimeler:** Çocuk Askerler, Savaş Ağaları, Devlet Dışı Aktörler, Norm Girişimcileri, Yeni Savaşlar

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## Introduction

Child-soldier, as a term, is perceived as an oxymoron that brings together two opposing worlds (Tabak, 2020: 70). Children, representing the world of the innocent, should not be a part of war (Tabak, 2020: 70). The violent world of adults should not extend to children. However, academic research provides information about child soldiers used directly in wars throughout history. The perception of the phenomenon as an oxymoron was only possible with the work of norm entrepreneurs and the progress in the law relevant to child soldiers.

During this progress, it has been revealed that child soldiers are not only forced to be a part of states' armed forces, but they are also used by violent non-state actors. According to the "new wars" thesis, war is no longer just an interstate problem, but a more complex phenomenon involving networks of states and non-state actors. Therefore, norm entrepreneurs have worked on reframing the issue to prevent the use of child soldiers by states and by violent non-state actors in new wars. Norm entrepreneurs, and other non-state actors are overlooked by the neorealist paradigm of International Relations, which is accustomed to working on the security issues of states that are taken as referent objects since the Cold War. It is claimed that International Security approaches are deepening and widening in order to give a better answer to the question of *what is* happening today, after the involvement of these new actors in many war-related issues (Buzan and Hansen, 2009: 188-189).

It is argued in this article that neorealist paradigm's conceptualization of state as "like units" of the system is inadequate in analyzing security issues, such as child soldiers, in which the referent object is not state, but vulnerable groups that are threatened by states and by violent non-state actors, while tried to be protected by norm entrepreneurs. To this end, the first part of the article provides an analysis of how the "like units" of the system concept emerged over time in International Relations. New wars are examined in the second part of the article to explain how violent non-state actors emerge in weak states and pose a continuous threat to civilians and states that cannot be predicted by the accounts that take war only as an interstate phenomenon. To provide a deeper understanding of the threat posed by violent non-state actors, recruitment of child soldiers by warlords is analyzed in the third part of the article. Finally, influence of norm entrepreneurs on the development of child rights and international humanitarian law regarding the use of child soldiers is analyzed in the fourth part of the article.

## From the State of Nature to the Like Units

Thomas S. Kuhn argued that paradigms gain their status by solving acute problems better than their alternatives (Kuhn, 1970: 23). Working under the conditions of normal scientific traditions, scientists derive commitments from their paradigms, foremost of which is a commitment to generalizations, for instance a commitment to the scientific concepts (Kuhn, 1970: 40). Despite its limits as a puzzle solving mechanism, a paradigm helps a mature community to understand what the world is like if it works under the given rules (Kuhn, 1970: 42).

Thucydides' "History of the Peloponnesian War" is a starting point to understand the given rules of international relations taken by a scientific community that claims there is

a permanent structure in international relations and the search for power is legitimate for the actors of this structure. In the *History of Peloponnesian Wars*, Thucydides quotes Athenians saying to the Melians that “since you know as well as we do that right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must” (Thucydides, 1961: 359).

To not to suffer what weak must, it is crucial to form the most powerful organization possible that can protect people from external threats. Charles Tilly considers that the competition among the wielders of coercion for both the control over territory and resources led the states as the most successful type to overrule other formations that could not equal states’ successful war making (Tilly, 1975: 27). European type of states evolved over time as the primary units in Europe especially with their ability to adopt policies to increase their war making capacity (Tilly, 1992: 14-96). He emphasizes a constitutive relation between the states and the structure by claiming that “war made states, and vice versa” (Tilly, 1992: 67).

Machiavelli analyzes mercenaries, condottieri, serving for Italian city states. Because of their inherent weaknesses, he recommends to the future princes to not to rely on such non-state armed organizations (Machiavelli, 1998: 88). Eliminating unreliable forces might foster a unit’s chance to survive in a structure where to be feared is more desirable than to be loved. The ultimate war making agents are thence evolved within time following critical junctures such as the Peace of Westphalia, and the French Revolution (Tilly, 1992: 83-101). These breaking points initialized the transformation of states and turned citizens into loyal soldiers, while helping rulers to eliminate non-state armed forces.

Stephen Krasner analyzes different usages of the term sovereignty. He states that the Westphalian understanding of the term gives special importance to domestic political authority, within a given territory, as the sole arbiter of legitimate behavior (Krasner, 1995:118-119). Max Weber in “Politics as a Vocation” starts by reminding Trotsky’s claim that the use of force is the essence of state, as there would be no need for states to exist if violence was unknown as a means (Weber, 2004: 33). According to Weber the use of violence is specifically available to states. There used to be widely differing organizations that can resort to using force before the times of states, but now the states have “the monopoly of legitimate physical violence within a particular territory” (Weber, 2004: 33).

Monopoly of legitimate physical violence within a particular territory creates a dichotomy between agents’ internal order and their external order. Thomas Hobbes elaborates this dichotomy by resembling international relations to a state of nature, which is no different than a state of war (Hobbes, 1997: 180). People overcome a hurting state of nature within a particular territory by creating a Leviathan that possesses enormous power (Hobbes, 1997: 78-109). People show consent for this transfer of power because they understand that people could resort to violence if there was no authority to stop them (Hobbes, 1997: 68-78). Exogenous to the will and wit of people, external structure is a continuous state of nature where agents can resort to violence as there is no international body to stop them (Hobbes, 1997: 180).

Resembling to Ferdinand de Saussure’s synchronic analysis, Kenneth Waltz claims that analysis in a continuous state of nature does not require a deep knowledge of history to

understand and explain what happens under an anarchical international structure at any given time. Thucydides to Clausewitz international structure remained anarchical, thus agents of the system could always resort to war as “war is simply a continuation of policy through other means” (Clausewitz, 2020: 50). In the lack of an international Leviathan, states face similar problems, and they perform similar functions trying to overcome these problems. In this regard, Kenneth Waltz considers states as like units in terms of their functions (Waltz, 1979: 97). States face survival dictates of anarchy, and to conform these dictates they apply adaptive strategies such as emulation, or balancing (Waltz, 1979: 77, 121). These adaptive strategies add to the resemblance of the character of the units as they need to institute a centralized political system with a legitimate monopoly of violence to not to fall back from other successful units that can survive through self-help (Waltz, 1979: 104).

In accordance with the claim of war makes states and states make war, the concept of sovereign state is taken as a final formula that can solve the puzzle of interior conflicts by granting the monopoly of legitimate use of physical violence to a higher authority. Thereafter, neorealist paradigm directs its attention to the external conflicts, as “citizens need not prepare to defend themselves, where public agencies do that” (Waltz, 1979: 104). In terms of parsimony Waltz’s analysis gives the states a black-box form and fixes their internal structure (Hobson, 2003: 23). This fixation could help International Relations community to understand what the world was like, if there were only European, ideal, type of sovereign states with absolute control over a territory.

### **Old Units and New Wars**

Considering that each unit has a puzzle within itself, international relations is not a simple puzzle consisting of fixed pieces. European type of sovereign states could not prevail in states that cannot carry out their obligations as members of international community (Lax, 2012: 43). Different names, such as quasi-states, weak states, failing states, or failed states, are used to define such states’ failure even after their statehood is formally recognized (Lax, 2012: 43). One of the criteria these states fail to meet is to have a capacity to prevent intrastate wars. Sovereign states are yet to be the winners of competition among the wielders of coercion for control over these territories, where violent non-state actors emerge and disregard state’s monopoly of violence (Lax, 2012: 25, 42).

Decrease in the ratio of international wars compared to the ratio of intrastate wars points to a crisis of the paradigm that reduces states to like units with assured internal control (Collmer, 2004: 2). According to Mary Kaldor current wars are worthy of the name “new wars” because these wars are different from the wars Clausewitz analyzed (Kaldor, 2013 :3). New wars are different in terms of actors involved in these wars. They are fought by various combinations of networks of state and non-state actors (Kaldor, 2013: 2). Violence is no longer a special feature of states, terrorists, militias, insurgents, warlords, and other types of violent non-state actors challenge their monopoly of violence (Kaldor, 2013: 2).

New wars are also different from intrastate wars because of their potential to affect more than one state. Because of centralization, decentralization, and transnationalization new wars cannot be read from a single angle (Bigo, 1992: 5). They cannot be contained within

the borders of a state, refugees escaping from Rwandan genocide affected Zaire (now the Democratic Republic of Congo), elements of the Sudanese Civil War affected Chad and the Central African Republic. The spillover effect makes regions with weak states more insecure. A violent non-state actor established in a weak state can spread its activities to another weak state (Reno, 1999: 2).

Goals of the violent non-state actors in spreading war are different from what Clausewitz perceives as the war goals of states. Grievance or greed determines the goals of violent non-state actors (Collier and Hoeffler, 2004: 564-565). According to William Reno acceptance as sovereign actors gives the rulers of weak states the capacity to use global recognition for controlling a portion of their territory that is beneficial for the continuation of their commercial business (Reno, 1999: 6-9). Rather than seeking for popular support, rulers of these states look for ways to retain their commercial resources. As a result of this search, they create patron-client networks based on loyalty, instead of a sound bureaucracy that is based on competence (Reno, 1999: 3). Only elites can benefit from the economic resources with the help of extractive institutions in these states (Acemoglu and Robinson, 2013: 81). Greed and grievance arise among those who are excluded from the privileged group because of their different identity. Mary Kaldor, in this regard, argues that the new wars are fought for identity and their goal is to gain access to the state for particular groups (Kaldor, 2013: 2).

Unused lands and excluded communities help the emergence of violent non-state actors and give them the opportunity to find territory, human and financial resources that are necessary for the continuation of their organizations (Brooks, 2005: 1160-1161). New methods are used in new wars to control lands and population living on them. For some violent non-state actors war is just a means for the continuation of financial profit. Some others engage in criminal economic activities to finance their political cause (Kaldor 2013: 2-3).

The vicious cycle of violence, created by violent non-state actors, affect civilians who do not possess the required instruments to escape this trap (Acemoglu and Robinson, 2013: 335-368). Children are amongst the most vulnerable to violence perpetrated by violent non-state actors. As Carolyn Nordstrom underscores “least dangerous place to be in a war today is in the military”, changing war dynamics make it hard for children to avoid becoming targets by keeping their civilian status (Nordstrom, 1992: 271). Children are pushed or pulled to join violent non-state actors and to become child soldiers to escape the vicious cycle of violence, but they become a perpetrator of violence for the benefit of people who use them to exercise military, economic, and political control over a territory in a weak state.

### **Child Soldiers and Warlords**

Warlords emerge as an alternative for vulnerable people in states where public goods and services cannot be provided by the government to the entire country (Freeman, 2015: 793).

In these organizations warlord’s interest is defined as the interest of the organization. Warlord as a term generally used interchangeably to define both the individual and the organization (Freeman, 2015: 792). Those contemporary examples of old Chinese elites,

with their forced acquisition of fiefdoms, provide a new way of life, a society within society, or a state within state (Vinci, 2007: 315, 319). Warlords start controlling the area out of the territory controlled by the regular state and rely on their organizations' ability to resort to violence to remain in control in these places.

In a society where violence is intense, children prefer to meet their physiological needs as well as their security concerns by joining warlord organizations. The informal economy that emerges in weak states create a privileged group who benefit from this informal economy with the help of their weapons (Murphy, 2003: 68). In the presence of exclusive institutions children of excluded groups are unable to take part in state's economic activities. To meet their basic needs children are pushed to join warlords who can benefit from clandestine economic operations (Haer, 2019: 76).

Poverty, discrimination, undereducation, poor health conditions, unemployment, and various uncontrollable factors by warlords push members of the society to search for different means to have a better status (Faulkner et al., 2019, 1018). Young people, who could not find a job, join a violent non-state group, and accept their experience there with a gun just like a normal formation they can get in a school or as a job experience (Brocklehurst, 2017: 383).

The rate of voluntary participation of children in these armed organizations is significant (Haer, 2019: 81). In South Sudan child soldiers are accepted as heroes by their families that are in a desperate economic situation because of the war (Ensor, 2013: 156-159). While many children are encouraged by their family to join armed groups to escape hunger, others are encouraged to defend their ethnic group or tribe (Bosch and Easthorpe, 2012:13). Different from the pull factors children do not join warlords because of the excitement they want to feel, but because of the push factors they join warlords to find a way out of desperation.

Perpetuation of war creates a higher demand for soldiers in weak states (Novogorodsky, 2013: 367). Warlords, in a constant fight against the state, try to capture natural resources and human for the survival of their organization. Warlords therefore tend to recruit child soldiers that can help them both on and off the battlefield.

Children associated with armed groups are used in multiple supporting roles as cooks, porters, they are responsible for manning check points, they act as bodyguards to commanders, or they are abused as child laborers, sex slaves off the frontline (Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 2013: 12).

Violent non-state actors fight against superior national armed forces, they need to convince their child soldiers that they can solve the problem of asymmetry. *Mai Mai* (which means water water) groups' young fighters in the Democratic Republic of Congo (DRC) are convinced to have a sacred potion that will make them invincible, bulletproof against professional armies (Coalition to Stop the Use of Child Soldiers, 2010: 2). Joseph Kony created a spiritual identity to convince people that he possesses supernatural powers and is capable to protect his fighters (Annan, 2019: 26). Drug use and legends are instrumental to make child soldiers take part in the organization and fight for the survival of the organization, especially when the organization does not aim to topple the government but rather to keep its benefits by conducting small scale attacks (Maclure and

Denov, 2006: 127).

With the advent of technology, warlords do not have to rely only on legends to terrorize civilians. Infantry is a word derived from Latin *infantem* which means young child (Waschefort, 2015: 1). Childhood evokes inexperience which is not desirable on the battlefield. However, off the battlefield civilians with bare hands cannot resist child soldiers holding an AK-47. As P. W. Singer puts it a twelve-year-old child can use a Kalashnikov effectively to kill an elder, thus there is no difference between a bullet fired by an adult or a child (Singer, 2004: 561). Advancements in weapons technology turn recruitment of child soldiers into a cost-effective practice by lowering the prices of easy-to-use small arms and light weapons (UN General Assembly, 1996: 14).

Technological developments help warlords to recruit fighters from different age and gender groups into the organization. In weak states, where the needs of children cannot be provided by the government, violent actors find access to a pool of cheap but effective warriors (Collmer, 2004: 1). According to the estimates there are 300,000 child soldiers, 80% of whom are children under the age of 15 (Bosch, 2012: 325). In 2003, 30,000 children actively involved in hostilities within the DRC, where more than 40% of the members of some violent non-state actors were child soldiers (Brocklehurst, 2017: 383). New wars, just like the ones in the DRC, show warlords or rebels systematically use child soldiers (Faulkner et al., 2019: 1017).

Survival of a warlord organization highly depends on the survival of the leader. This top-down hierarchical structure makes soldiers of the organization to obey no higher authority than the warlord himself (Vinci, 2007:315). Warlords, thus look for individuals who may be forced to adapt to this hierarchical structure. Higher authority of adults is emphasized by the entrance of children into the organization. Facing threats of assault, mutilation and death child recruits learn to obey adults' commands to survive (Maclure and Denov, 2007: 126).

Abducted children are treated like newborns, their identity reshapes within the organization. Young guns in the organization learn the rules and values of the organization while they are denied cultural norms of their families and communities (Kimmel and Roby, 2007: 747). In some organizations, child soldiers are forced to accept their leader as their new father (Murphy, 2003: 70). Then, fellow warlord members become new family for child soldiers. In Sierra Leone, child soldiers are forced to kill an ex-family member making it harder for child soldiers to return to their normal life even if they want to desert (Wessels, 2004: 515). Isolation from society helps indoctrination to continue until child recruits adopt a new "us" and "others". New recruits are taught that the real enemy is not the warlord organization who captured and abused them, but it is the government who left them at the first place (Maclure and Denov, 2007: 124-125).

A case in point, Dominic Okumu Savio, who was abducted by the Lord Resistance Army (LRA) at the age of ten, depicts the transformation of a child within a warlord organization. His patron and teacher Vincent Otti was responsible for the adaptation of Savio, later known as Dominic Ongwen, to the organizational culture (Baines, 2009: 169). After embracing the organizational culture, Ongwen became a loyal follower of the leader Joseph Kony and quickly managed to rise within the organization. Ongwen who was now portrayed as a role model for the child soldiers by Kony, had become one of the LRA's

most senior and reliable fighters in just eleven years, taking advantage of outliving his superiors (Tabak, 2020: 67). Ongwen adopted the culture of those who kidnapped him in the first place so well that he did not hesitate to carry out the same duty on behalf of the organization. The recruitment of children into the LRA was a specific and methodically pursued organization-wide policy (*Prosecutor v Dominic Ongwen*, 2021). LRA kidnapped and forcibly recruited children from Uganda, the DRC, Sudan, and the Central African Republic (Annan, 2019: 25).

### **Norm Entrepreneurs, Transnational Advocacy Networks and Law**

Recruitment of child soldiers is not an invention of the violent non-state actors. Even before the time of the sovereign states, conflicting groups taught their children to fight. Spartan children took war fighting formation to be a part of the polis' fortune. The inevitability of war led Spartans to add intense physical military training to their education program for male children, *agoge* (Çığır Dikyol, 2016: 191). This intense program was copied later by Hitler's staff, who were influenced by Sparta, to create mighty and patriotic warriors (Cartledge, 2006: 42-43). Child soldiers were used both to design a nation and to take part in World War II. Child soldiers enlisted to the *Wehrmacht*, especially at the final phase of the War.

Child soldiers were used by other infamous state leaders even after the Second World War. Saddam Hussein did not hesitate to use Lion Cubs (*Ashbal*) child soldiers for prolonging his reign in Iraq. Use of child soldiers during the Gulf War to maintain the regime was accepted as a legitimate tactical move by the regime (Singer, 2003: 28).

Recruitment of child soldiers performed two distinct tasks for these regimes. First, with military training, these regimes could transform children into individuals suitable for the social structure desired by the regime. Second, child-soldiers were used as reserves to fill the shortage of soldiers.

According to Clausewitz, who started his career only at the age of twelve, there is only one single means in war, it is the fight (Clausewitz, 2020: 62). He considers that during a combat all the action should be directed to the destruction of the enemy or rather enemy's fighting powers (Clausewitz, 2020: 63). Regimes who depend on the numbers of its fighting forces may recruit children to not to lose wars without proper international law, *nullum crimen sine lege*. Only after the advancement of children's rights and international humanitarian law, the use of child soldiers has become notorious, even a crime (Faulkner, 2016: 213). If child soldiers were only used by warlords, it could be easier to convince state actors to prohibit the recruitment of child soldiers. However, developments in child rights and international humanitarian law required long-term efforts by norm entrepreneurs and transnational advocacy networks.

For norm entrepreneurs, actors with a given identity follow some behavioral patterns in accordance with a given standard of appropriate behavior, however this standard of appropriate behavior, or norms, can be targeted and eventually changed (Finnemore and Sikkink, 1998: 891). Group members, on the other hand, either believe those standards are appropriate, or accept them as natural ones, which cannot, or should not be changed (Finnemore and Sikkink, 1998: 892). Therefore, norm entrepreneurs need to think outside of the box and be able to reframe issues in a new way to convince group members that

their accepted standard of appropriate behavior creates recurrent problems (Finnemore and Sikkink, 1998: 897).

Norm entrepreneurs have undertaken the task of demonstrating the inappropriateness of state norms regarding the child rights since the 19<sup>th</sup> century. World time-context after the First World War amplified the search for new ideas and norms started by the child-saving movement. The idea that international community has a responsibility for the protection of children spread further as innocent and neutral children were drawn into war of adults and became war casualties (Moody, 2014: 154-155). It was necessary to emphasize the innocence and the neutrality of children for a new norm to prevail that does not identify children as friend or foe of any nation but as a vulnerable group that needs to be protected by the entire international community (Moody, 2014: 155).

Eglantyne Jebb and Dorothy Buxton sisters realized the difficulties that the Armistice terms would create on vulnerable groups after the War. Blockade of Europe helped eventual Allied victory in the War, however its post-Armistice continuation caused more deaths because of starvation and disease. They started working on behalf of Fight the Famine Council (FFC) to put pressure on the government in favor of groups struggling with starvation (Mahood, 2008: 13-14). In 1919 Jebb and Buxton found the Save the Children Fund (SCF) as a humanitarian initiative to get urgently needed food and medical aid to children as they were among the most vulnerable groups and needed special attention (Kerber-Ganse, 2015: 275-276).

One year later Jebb and Buxton found International Save the Children Union (ISCU) to create a powerful international organization through which they could continue their claims in more distant lands. However, claim-maker's claims are challenged by counterclaims. Jebb also experienced such counterclaims about her efforts to raise funds in favor of children affected by the 1921-23 famine in Russia (Mahood and Satzewich, 2009: 56-60). With the help of these experiences, Jebb led the drafting process of Declaration of the Rights of the Child published by the ISCU on 23 February 1923.

In 1924, the League of Nations General Assembly unanimously adopted the Declaration of the Rights of the Child (Kerber-Ganse, 2015: 277). The declaration shows that children were still accepted as objects to be protected rather than rights holders with its five articles and its affirmation that "mankind owes to the child the best it has to give" (Ogunniran, 2021: 10). After the Second World War, need for a renewal of the Declaration arose, a more detailed Declaration on the Rights of the Child adopted by the United Nations in 1959 (Kerber-Ganse 2015: 273-274).

Developments in international humanitarian law followed the steps taken on behalf of children in international human rights. In the 1949 Geneva Conventions, it was accepted that children should be protected as members of the civilian population (Fontana, 1997: 51). Child soldiers became a direct subject matter of international humanitarian law with the Additional Protocols to the 1949 Geneva Conventions. Diplomatic Conference on the Development of Humanitarian Law led to the adoption of the two Additional Protocols. Additional Protocols divided armed conflicts into two separate categories, international and non-international, according to their nature. Protocol Additional I is only applicable to international armed conflicts, whereas Protocol Additional II is applicable to non-international armed conflicts.

Under Article 77 (2) of the Protocol Additional I, it is provided that “Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces” (*Protocol Additional I*, 1977, art. 77. 2.). Even though some delegations demanded minimum age for recruitment, or participation to be raised to eighteen years, the minimum age for recruitment, and participation into hostilities was set as fifteen years (Fontana, 1997: 52). International Committee of the Red Cross (ICRC) proposed a stronger language in a draft treaty, however without strictly prohibitive provisions Protocol Additional I has a less strong language than originally proposed (Tabak, 2020: 58). The language of the final version is in favor of states that does not want to undertake major obligations (Fontana, 1997: 52). Besides, Article 77 (2) does not impose a specific prohibition on the indirect participation of child soldiers in hostilities.

Protocol Additional II has a stricter standard when it comes to parties of an internal armed conflict. Article 4 (3) (c) provides that “children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities” (*Protocol Additional II*, 1977, 4. 3. c.). Protocol II acknowledges that armed conflicts may take place between a state’s armed forces and violent non-state actors in its Article 1 (1) (*Protocol Additional II*, 1977, art. 1. 1.). Child soldiers, and other legal issues related to war thus became a matter of concern not only for states, but also for non-state actors with the Protocol II.

International human rights advocates expressed that there were other situations in which children found themselves in vulnerable conditions. When governments started negotiating a comprehensive children’s treaty to protect children from abuse, NGOs seized the opportunity to express their views and to contribute to the drafting phase. In accordance with Article 71 of the United Nations Charter, an Ad Hoc NGO group was formed in 1983 to participate the drafting of the United Nations Convention on the Rights of the Child (UNCRC). However, the NGO group could not prevent the inconsistency between Article 1, which defines a child as any human being below the age of eighteen years, and Article 38, which aims to prevent armed groups from recruiting children under the age of fifteen years (Tabak, 2020: 60).

Article 38 (3) of the UNCRC provides that “States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest” (*UNCRC*, 1989, art. 38. 3.). NGOs helped the addition of thirteen articles or paragraphs to the final text. The NGO group’s constructive influence on the text enabled NGOs to take a part in the implementation phase of the Convention (Breen, 2003: 457).

In Article 43 (1) it is provided that a Committee on the Rights of the Child (the Committee) to be established to examine the progress made by states (*UNCRC*, 1989, art. 43. 1.). To encourage international cooperation Article 45 (a) provides that the Committee may consult with NGOs to take expert advice on the implementation of the Convention (*UNCRC*, 1989, art. 45. a.). Establishment of the Committee presented NGOs an

international platform to express their opinion and to play a role in eliminating normalized power structures' effects on a vulnerable group.

In 1994 Graça Machel was appointed as the United Nations Secretary General's independent expert tasked with preparing a study on armed conflict's effects on children (UNICEF, 2003: 8). In her 1996 report, "Promotion and Protection of the Rights of Children: Impact of Armed Conflict on Children", she emphasizes the increasing number of intrastate wars, causing children to die, to get displaced internally, or to remain disabled (UN General Assembly, 1996: 9). Machel states that consultations for the preparation of the report included both state and non-state actors (UN General Assembly, 1996: 13). The findings of the report, which are similar to the findings of Daron Acemoglu and James A. Robinson, show that collapse of functional governments in countries struggling with internal conflicts, and erosion of essential service structures cause inequalities and grievances (UN General Assembly, 1996: 13). Moreover, like Mary Kaldor, Machel claims that identity manipulation to serve personal or narrow group interests has debilitating effects on countries in conflict (UN General Assembly, 1996: 14). Although subsequent studies include more in-depth analysis of the "new wars", the Machel report is a pioneering study that takes the changing dynamics of war as the main source of threat to children. Machel report emphasizes the ease of access to inexpensive, user-friendly weapons that allows to arm children. It is misleading to take technological advance in small arms and light weapons technology as the only reason behind commanders' desire to recruit child soldiers, it is pointed out in the report that child soldiers do not only participate hostilities directly, but also serve armies in supporting roles as cooks, porters, messengers, and spies (UN General Assembly, 1996: 16).

While child soldiers benefit from the relevant law, they become legitimate targets when they receive soldier status (Fontana, 1997: 53). To build an insurmountable mountain between child and soldier, Machel report reminds NGOs that they have an important role to play in establishing ethical frameworks that characterize children's participation in armed conflicts as unacceptable (UN General Assembly, 1996: 21).

UNCRC has become the most widely ratified human rights treaty, though NGOs were not happy with Article 38 of the Convention, which creates an inconsistency with the rest of the text by not setting eighteen as the minimum age for military recruitment or participation in armed conflict (Breen, 2003: 460). The Committee's consideration of the issue of child soldiers resulted to the Commission on Human Rights' decision to establish a working group to elaborate a draft optional protocol to the Convention on the Rights of the Child. NGOs were invited to participate in the activities of the working group. Over the years, the working group held many sessions. In these sessions NGOs faced a strong opposition to their proposal to raise the minimum age for military recruitment from 15 to 18 (Becker, 2013: 15).

For the NGOs, it was necessary to form a coalition to create a campaign large enough to convince the opposing states led by the United States. With the motto of "Straight-18", six different NGOs (Save the Children, Amnesty International, Human Rights Watch, International Federation Terre des Hommes, Jesuit Refugee Service, The Quaker United Nations Office) came together and formed a coalition whose aim was to raise the minimum age standard for all types of recruitment to eighteen (Becker, 2013: 16). To

reveal the severity of the problem, the Coalition conducted research. The Coalition estimated that there were more than 300,000 child soldiers fighting in conflicts around the world, and without improvements to existing laws more were likely to become involved in conflicts (Breen, 2003: 475). In the final text of Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OP-AC), the Coalition could not reach its ultimate goal of setting a “Straight 18” standard, it had to compromise on voluntary recruitment. OP-AC raises the minimum age standard to eighteen for taking a direct part in hostilities, for compulsory or forced recruitment by states, and for any recruitment (including voluntary) by non-state armed groups (OP-AC, 2000, art. 1.1, art 1.2, art. 4.1). As in the 1977 Protocols, the strictest restrictions were placed on non-state armed groups.

Keck and Sikkink claim that transnational advocacy networks try to reshape certain contested meanings (Keck and Sikkink, 1998: 5). The Coalition and other NGOs tried to expand the concept of child soldiers in sessions they attended. It was during this period that a more inclusive terminology adopted by the Cape Town and the Paris Principles. International Labour Organization (ILO) participated these developments by coupling child soldiers and child labor. Article 3 (a) of the Worst Forms of Child Labour Convention 182 (1999) considers “forced or compulsory recruitment of children for the use in armed conflict” among the worst forms of child labour (ILO *Worst Forms of Child Labour Convention*, 1999, art. 3. a.). Child soldiers used by warlords to extract rich resources in the DRC or Sierra Leone shows the relevancy of this coupling.

Advances in international human rights and international humanitarian law became more meaningful after the establishment of customary law against the use of child soldiers, when those who used child soldiers could be punished. The International Criminal Court (ICC) was established by the Rome Statute in 2002. According to the Article 8 (2) (b) (xxvi) of the Rome Statute “conscripting or enlisting children under the age of fifteen years into the national forces or using them to participate actively in hostilities” in an international armed conflict is a war crime (*Rome Statute*, 1998, art. 8. 2. b. xxvi). Article 8 (2) (e) (vii) provides that “conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities” in armed conflicts not of an international character is also considered as a war crime (*Rome Statute*, 1998, art. 8. 2. e. vii). Individuals are held responsible for committing such crimes as acknowledged in Article 25 (2), “A person who commits a crime within the jurisdiction of the court shall be individually responsible and liable for punishment in accordance with this Statute” (*Rome Statute*, 1998, art. 25. 2).

The Special Court for Sierra Leone (SCSL), established in 2002, achieved a world first when it stated that the recruitment and use of children under fifteen years in armed conflict is a war crime under customary law. In a cluster of cases, the SCSL held individual commanders criminally responsible. In one of those cases, *Prosecutor v. Sam Hinga Norman*, the defendant Norman challenged the Court’s subject matter jurisdiction on the grounds that the crime of enlisting child soldiers was not a part of customary international law at times relevant to the indictment that is before the drafting of the Rome Statute of the ICC in 1998 (Novogrodsky, 2013: 361). The Court considered several international instruments regarding child soldiers and observed that prohibition on child recruitment crystallized before the times relevant to the indictment, and referred to ILO Worst Forms

of Child Labour Convention to make it clear that the “debate had moved on from the question whether recruitment of children under the age of 15 was prohibited or indeed criminalized, and the focus had shifted to the next step in the development of international law, namely the raising of the standard to include all children under the age of 18” (*Prosecutor v. Sam Hinga Norman*, 2004: 19-20).

The trial of Charles Taylor by the SCSL was a first of its kind. Charles Taylor, former president of Liberia, was convicted for aiding and abetting the Revolutionary United Front (RUF) in 11 charges, including recruitment and direct participation of child soldiers in hostilities (Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 2013: 13). RUF was a rebel group that fought in Sierra Leone, the group was responsible for using child soldiers during the Sierra Leone Civil War (1991-2002). Taylor initially challenged the Court’s jurisdiction on the grounds of sovereign immunity and extraterritoriality, however the Appeals Chamber ruled that he was subject to the jurisdiction of the Special Court. On 26 April 2012 the Trial Chamber found Taylor guilty of all eleven counts, the former president was given a sentence of 50 years in prison (*Prosecutor v. Charles Ghankay Taylor*, 2012; Office of the Special Representative of the Secretary-General for Children and Armed Conflict, 2013: 13).

Thomas Lubanga Dyilo, leader of the UPC/FPLC, was charged with the sole war crime of enlisting, conscripting, or using children for active participation in hostilities (Waschefort, 2015: 4, 178). Trial Chamber I of the ICC found Lubanga guilty of enlisting and using child soldiers below the age of fifteen years and he was sentenced to a total of fourteen years in prison on July 10, 2012 (Tabak, 2020: 59).

Dominic Ongwen was found guilty for a total of 61 crimes against humanity and war crimes. Ongwen, alongside Joseph Kony, was accused of abducting children, even under the age of ten years old, in the territory of Northern Uganda and conscripting them into the Sinia Brigade. He was convicted of the crime of conscription of children under the age of 15 and their use to participate actively in hostilities (*The Prosecutor v. Dominic Ongwen*, 2021). On 6 May 2021, Trial Chamber IX of the ICC sentenced Ongwen to 25 years imprisonment (*The Prosecutor v. Dominic Ongwen*, 2021).

## Conclusion

Marysia Zalewski emphasizes the weakness of theories by saying “all these theories yet the bodies keep piling up” (Zalewski, 1996: 351). To not to say, all these theories yet child soldiers’ bodies keep piling up, we need theories that enable us to address overlooked issues by state centric approaches. New wars do not replace the old ones, they ensure that there is no geography or group left that war cannot reach. It is no longer enough to examine the great powers or the balance of power mechanisms to understand war.

Norm entrepreneurs and NGOs have worked on changing the norms concerning child soldiers. International law now holds individual commanders responsible for crimes of conscripting or using child soldiers directly in hostilities.

Warlords demand for recruiting child soldiers may decrease eventually when they see other warlords before the ICC. However, without finding a solution to the structural problems of weak states that fall into the trap of recurrent new wars, it is an impossible

task to keep war away from children. The push factors need to be targeted as much as the pull factors, if “mankind owes to the child the best it has to give”.

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