

## A CRITICAL EXAMINATION OF THE IMPACT OF ARMED CONFLICT ON CHILDREN: A CASE STUDY OF UGANDA<sup>1</sup>

### Abstract

*Conflict and violence are as old as life itself. Violence has always been and continues to be an instrument of power, maintaining the status quo between the victor and the vanquished. As unfolding events point to the fact that power and money rule the world creating new conflicts, tension and violence, it is difficult to imagine a world without wars. Armed conflict exists, when there is resort to arms by warring states or protracted armed violence, between such groups within a state. Socio-politically, armed conflict can be defined as conflicts or war between population groups, geographic units, political parties, religious and economic classes. During such armed conflicts, atrocities are committed, rights are violated and treaties breached. In all these, women and children seem to be disproportionately affected. This paper seeks, using the doctrinal method and written works on the issue, to identify and x-ray the impact of armed conflict on children with special reference to Uganda.*

**Key words:** *Armed conflict, Children, Uganda, Human Rights*

### 1. Introduction

Armed conflict has different meanings and definitions. Looking at the socio-political definition of armed conflict, the concept was defined as “conflicts or war between population groups conceived of as organic entities, such as races or tribes, states or lesser geographic units, religious or political parties, economic classes”<sup>2</sup>. The Appeal Chamber of the International Criminal Tribunal for the former Yugoslavia held that armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between such groups within a state. Rules of international humanitarian law apply from the initiation of such conflicts and extend beyond the cessation of hostilities until a general attainment of peace is reached; or, in the case of internal armed conflict, a peaceful settlement is achieved. Until that moment, rules of international humanitarian law continue to apply in the whole territory of the armed conflicting states or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual combat takes place there.<sup>3</sup>

Since independence from Britain in 1962, the Republic of Uganda has faced both turmoil and success. The first 20 years of independence were characterized by tyrant and militant regimes of General *Idi Amin Dada* and Former President *Milton Obote*, resulting in political repression, ethnic discrimination, human rights abuses, and more than 600,000 deaths.<sup>4</sup> Since 1986, current President *Yoweri Museveni*, whose rise to power was through the support of a military coup, has reversed the general armed conflict fare that Uganda had experienced and has encouraged economic growth, significant health improvements (most notably through a drastic regression of HIV/AIDS rates in the 1990s), and, until recently, increased security and stability.<sup>5</sup> While the 1980s saw the improvement of the Republic of Uganda, it also saw the destruction of its Northern regions due to armed conflict. The origins of the armed conflict in Uganda extend to the politics of corruption and ethnic and economic discrimination that have occurred in Uganda since independence.<sup>6</sup> Focus on a Holy Movement emerged in 1986 and placed the civil armed conflict in the Northern districts of *Gulu*, *Pader*, and *Kitgum*<sup>7</sup>, known as

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<sup>2</sup> A Johnson, *War Encyclopaedia of Social Sciences*, (New York: Macmillan; 1935), p. 12

<sup>3</sup>*Prosecutor v. Tadic*, Appeal on Jurisdiction, Case IT-94-1-AR72 (Oct. 2, 1995), 35 I.L.M. 32, 54.

<sup>4</sup>P Mutibwa, *Uganda Since Independence: A Story of Unfulfilled Hopes*, (London: Hurst & Company; 1992), p. 45

<sup>5</sup>*Ibid.*,

<sup>6</sup>*Ibid.*

<sup>7</sup>HM Behrend, *Alice Lakwena & the Holy Spirits: War in Northern Uganda 1985 – 87*, (Oxford: James Currey; 1999), p.38

*Acholiland* due to the overwhelming concentration of Uganda's 4% *Acholi* ethnic group.<sup>8</sup> Despite the variations on how conflict in the Northern Uganda regions of *Gulu*, *Kitgum*, and *Padar* commenced, the devastations, deaths, and impacts of the armed conflict remain uncontested.

Northern Uganda, experiencing an ongoing conflict, strongly illustrates the devastating effects of armed conflict on children, as more than 50,000 child abductions have increased the number of child soldiers.<sup>9</sup> Both male and female child soldiers incur the consequences of illegally acting as combatants, messengers, porters, and sexual servants.<sup>10</sup> Human casualties are the most immediate effect of armed conflict. Children are particularly vulnerable, as their development, childhood, and adolescence have been significantly shaped by the influences of armed conflict.<sup>11</sup> As a result of armed conflict, more than 2 million children died in the 1990s and over 20 million children have become displaced from their homes.<sup>12</sup> Child soldiers<sup>13</sup> are a dramatic product of violent conflict.<sup>14</sup> At any given point in time, 300,000 children are child soldiers worldwide,<sup>15</sup> violating policies such as the International Labor Organization Convention 1982 and the African Charter on the Rights and Welfare of the Child.<sup>16</sup>

## 2. Conceptual Definition of a Child

United Nations International Children's Emergency Fund<sup>17</sup> defines a child as 'every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.' This definition of a child is can even be taken advantage of by those who want to abuse and exploit children as it provides room for states to review the age of majority to an earlier age under 18. Goonesekere<sup>18</sup> holds that the definition clearly specifies the upper age limit for childhood as 18 years, but recognizes that majority may be attained at an earlier age under the laws applicable to the child. This study therefore accommodates the concept of an advancement of majority at an earlier age, either according to the federal or State laws of a country, or personal laws within that country. However, the upper limit of childhood is specified as an age of 'childhood' rather than 'majority', recognizing that in most legal systems, a child can acquire full legal capacity with regard to various matters at different ages.

## 3. Nature, Causes and Impact of Armed Conflict

The International Criminal Tribunal for the Former Yugoslavia's<sup>19</sup> definition of armed conflict in the *Tadic*'s case has been relied upon as authoritative. In the case of *Prosecutor v Tadic*, the Appeals Chamber defines the contours of the "armed conflict" requirement within the meaning of the Geneva Conventions. Specifically, the Appeals Chamber held that armed conflict exists whenever there is a resort to armed force between states or protracted armed violence between governmental authorities and organized armed groups or between such groups within a state..."

First, the tribunal's definition does not require that armed groups exercise control over territory within the state. The tribunal defines the circumstances in which international humanitarian law applies by carefully parsing its general material field of application (all "armed conflicts"); territorial field of application (all territory affected); and temporal field of application (from the initiation to the cessation

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<sup>8</sup> Women's Commission for Refugee Women and Children, *Against All Odds: Surviving the War on Adolescents*, (New York: Women's Commission for Refugee Women and Children; 2001), p.72

<sup>9</sup> L Poole *et al.*, *Invisible Children*, (Uganda: Oxford Publishers, 2006), p. 121

<sup>10</sup> M Gow *et al.*, *The Right to Peace: Children and Armed Conflict* (Switzerland: World Vision International; 2000), p. 26

<sup>11</sup> G. Machel, *Impact of War on Children*, (London: Hurst and Company; 2001), p. 67

<sup>12</sup> *Ibid.*

<sup>13</sup> "any child—boy or girl—under the age of 18, who is compulsorily, forcibly or voluntarily recruited or used in hostilities by armed forces, paramilitaries, civil defense units or other armed groups,"

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> UNICEF, *Implementation Hand Book for the Convention on the Rights of the Child*, UNICEF, p. 1.

<sup>18</sup> Savitri, G., *Children, Law and Justice*, (South Asian; Sage Publication; 1998), pp. 141.

<sup>19</sup> ICTY, *The Prosecutor v. Dusko Tadic*, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 1995.

of hostilities). In defining the territorial field of application for internal armed conflicts, the tribunal only makes clear that humanitarian law applies (1) even in territory no longer under the control of the State; and (2) throughout such territory.

Second, the “protracted” armed violence requirement, properly understood, does not restrict the application of humanitarian law in any appreciable way.<sup>20</sup> Whether internal armed violence is “protracted” or not is assessed by reference to the entire period from the initiation to the cessation of hostilities. Few, if any, putative internal armed conflicts would fail to satisfy this requirement so conceived. In addition, the laws of war apply to all acts committed in an armed conflict even if committed prior to the point at which the “protracted” threshold was crossed. That is, the “protracted” requirement does not immunize acts committed in the early stages of an internal armed conflict, a limitation that exists as a result of neglect, lack of strict adherence and non-applicability of laws of wars.

Contemporary violent conflicts in Uganda are directly related to the profound crisis of legitimacy of the state, its institutions and their political incumbents. This crisis, in part, reflects the way the state was constructed through European expansionist violence, manipulation of pre-existing differences, administrative policies of divide and rule and economic policies that further fractured the colonial entity. These policies did not only undermine the faltering legitimacy of the state, but also impeded the emergence of a Ugandan nationalism and generated ethnic, religious and regional divisions that were to contribute in later years to instability and political violence.

Also, the current war between the government of Uganda and the Lord’s Resistance Army (LRA) in Acholiland are entwined with the history of conflicts in Uganda and the rise to power of the National Resistance Movement/National Resistance Army<sup>21</sup>. The conflict has persisted because of fragmented and divisive national politics, strategies and tactics adopted by the armed protagonists, and regional and international interests.

The United Nations department for Policy Coordination and Sustainable Development<sup>22</sup> states that there are statistics with shocking evidence, from which a conclusion can be drawn: That during armed conflicts the most basic human values become obsolete; that during this time children are slaughtered, raped, maimed, and are exploited as soldiers; children are starved and exposed to extreme brutality. Such unregulated terror and violence speak of deliberate victimization. The harrowing war in Uganda has claimed many innocent civilian lives, forcefully displaced over 400,000 people, and destroyed schools and health centers. In addition, the war has been characterized by widespread and systematic violations of human rights, including rapes, abductions of men, women and children, torture, increases economic decay, and national and regional insecurity<sup>23</sup>.

Armed conflicts have been described as one of the highest causes of children’s death. During armed conflicts, children are hugely affected in armed conflict situations as a result of the collapse of every structure and institution that protects them from harm and danger. As a result of armed conflicts, more than 2 million children died in the 1990s and over 20 million children have become displaced from their homes.<sup>24</sup> While in Uganda almost 3 million<sup>25</sup> people including women and children has lost their life to conflict and violent situations.

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<sup>20</sup>*Ibid.*

<sup>21</sup> Herein after referred to as NRM/A

<sup>22</sup> United Nations Department for Policy Coordination and Sustainable Development (DPCSD), “Fifty-first Session Item 108 of the Provisional Agenda, Impact of Armed Conflict on Children”: Note by the Secretary-General, [2002], Vol. A/51/150, pp. 5

<sup>23</sup> O. Ogenga, “Causes and consequences of the War in Acholiland” <http://www.c-r.org/accord-article/causes-and-consequences-war-acholiland-202> accessed 23/02/2015

<sup>24</sup>G. Machel, *Impact of War on Children* (London: Hurst and Company; 2001), p. 29

<sup>25</sup>RH Steckel, “Stature and the Standard of Living.” *Journal of Economic Literature* (1995), Vol. 33, No.4, pp. 1903-1940.

In highlighting the negative impact of armed conflicts on children, child soldiering is one of the most traumatic experiences with great effects any child could ever experience. A child soldier is “any child; boy or girl, under the age of 18, who is compulsorily, forcibly or voluntarily recruited or used in hostilities by armed forces, paramilitaries, civil defense units or other armed groups.”<sup>26</sup> Northern Uganda, currently experiencing conflict, strongly illustrates the devastating effects of armed conflicts on children, as more than 50,000 child abductions have increased the number of child soldiers.<sup>27</sup> Both male and female child soldiers suffer from the impact of illegally acting as combatants,<sup>28</sup> messengers, porters, and sexual servants.<sup>29</sup>

As a result of guerrilla armed conflicts and violent conflict situations in Uganda, security has become a serious concern for children in Northern Uganda. The Lord’s Resistance Army is often the largest perpetrator of behavior that encourages fear and the threat of safety. Uganda People’s Defense Force soldiers stationed to protect civilians in Northern Uganda have also exploited vulnerable children and contributed to security concerns. Additionally, the insecurity felt throughout the Northern Ugandan regions have also resulted in violence perpetrated by other community members.<sup>30</sup>

In Northern Uganda, children are abducted by armed gangs involved in fighting for different reasons and purposes during armed conflicts. One of the most profound fears has been the forcible recruitment of child soldiers through abduction by the Lord’s Resistance Army. Abductions in Northern Uganda are estimated to include no less than 11,000 children and as many as 50,000 people.<sup>31</sup> Abduction, referred to as the illegal capture of children, is often accompanied by brutality, forced combat, labor, and sexual violence.<sup>32</sup> Boys and girls live in constant fear that they may be abducted or re-abducted and subjected to abuses and possibly death. Thousands of Ugandan children sleep in guarded bus parks, “protected” locations including internally displaced persons’ camps, and even in the wilderness surrounding their homes in the hope of avoiding abduction. As the interviews illustrate, the consequences apart from acute and constant fear, include depression, anxiety, nightmares, and an ability to act strong<sup>33</sup> and resilient, as appropriate in Acholi culture.<sup>34</sup>

Sexual violence, defined as “any act, attempt or threat of a sexual nature that results, or is likely to result, in physical, psychological and emotional harm,” is a serious safety concern in the conflict region of Northern Uganda.<sup>35</sup> In Northern Uganda, rape and forced marriage are among the most commonly discussed forms of sexual violence. Former child soldiers express the normality of abducted girls becoming “wives” of LRA militants. Even those who did not become wives were forced to engage in sexual activity for fear of being killed if they refused.<sup>36</sup> Even when physical violence was not engaged, girls are denigrated and exploited through other means.<sup>37</sup> The consequences of such sexual abuses include psychological, social, and physical threats. Health-wise, children and youths face significant exposure to sexually-transmitted diseases such as HIV/AIDS, a number of other infections, and the

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<sup>26</sup>*Ibid*

<sup>27</sup> L Poole, et al., *Invisible Children*, (Uganda; Penland University; 2006), pp. 26

<sup>28</sup> MV Gow, *The Right to Peace: Children and Armed Conflict*, (Geneva: World Vision International; 2000), pp. 83

<sup>29</sup> Twum-Danso, A., *Africa's Young Soldiers: The Co-Option of Childhood*, [Pretoria: Institute for Security Studies; 2003], pp. 25

<sup>30</sup> Women's Commission for Refugee Women and Children, *Against All Odds: Surviving the War on Adolescents*, [New York: Women's Commission for Refugee Women and Children, 2001], p. 21

<sup>31</sup>*Ibid*.

<sup>32</sup>*Ibid*

<sup>33</sup> M Macksoud, *Helping Children Cope with the Stresses of War*, (New York: United Nations Children's Fund (UNICEF); 1993), pp. 31

<sup>34</sup> S Fine, & A Nix, *War Dance*. (Uganda: Shine Global; 2007), pp.96

<sup>35</sup> Agency for Cooperation and Research in Development (ACORD), & Defense for Children International-Canada. *'A Lost Generation': Young People and Conflict in Africa*, (Nairobi: Agency for Cooperation and Research in Development; 2007), p. 41

<sup>36</sup>*Ibid*.

<sup>37</sup> R Muhumuza, *Shattered Innocence*, (Tanzania: UNICEF; 1994), p.23

possibility of teen pregnancy. Often, during abduction and as a result of poor infrastructure during times of conflict, children are unable to receive appropriate medical treatment. Some children are exposed to homemade contraceptives, such as *carabas*<sup>38</sup>, or plastic bags found on the side of the road and used/reused as condoms, and self-abortion that significantly increase health risks.<sup>39</sup> Additionally, sexual violence has profound psychological and social effects. Inability to discuss the effects of sexual exploitation, social ostracization as a consequence of no longer being a virgin or bearing an illegitimate child, and depression severely affect the mentality and development of the child and youth victims of sexual violence.<sup>40</sup>

Education is acknowledged as one of the most effective tools for development. As a result of armed conflicts, formal education has been negatively impacted. Schools have been destroyed, teachers and students have been abducted and killed, and the accessibility of education has become limited.<sup>41</sup> Uganda was attacked by the LRA resulting in 139 student abductions in one single night.<sup>42</sup> In addition to the threat of insecurity, the school buildings were destroyed, resources were damaged, and in some circumstances students, teachers, and administration members were killed.<sup>43</sup> Larok *et al* identify an inverse relationship between armed conflicts and education and development in Northern Uganda. They also acknowledge a decline in the success rates of students, particularly in primary and secondary schools, and lower levels of attaining higher education.<sup>44</sup>

As a result of conflict, “adolescents bear the heaviest economic burden”.<sup>45</sup> These economic burdens precede the LRA-led rebellion and are actually among the driving forces of rebel attacks in Northern Uganda. As a result of armed conflicts, many children are unable to attain the basic necessities of life: food, water, and shelter. This occurs because of destroyed land and decreasing number of livestock.<sup>46</sup> Additionally, during times of armed conflicts, children are heavily relied upon to support their families as well as themselves, changing the traditional social system of the society. Rebecca Symington, UNICEF protection officer in Gulu district, notes that “the poverty and insecurity in Northern Uganda could make children vulnerable to recruitment into the armed forces. Many children see fighting as a form of employment and see the carrying of arms as the only way to protect themselves and others”.<sup>47</sup>

Poor health is a serious consequence of armed conflicts, particularly the conflict in Northern Uganda complicated by low levels of education, brutal experiences when abducted, and risky behavior in hopes of attaining the basic necessities of life. The result of the experiences child soldiers in Northern Uganda endure, as well as the realization of its vast consequences on their lives and futures, has strong psychosocial effects. Psychosocial, a combination of psychological and social concerns, refers to the interrelatedness of the feelings, perceptions, and beliefs of children (psychological factors) as well as the nature of communal and family relationships (social factors).<sup>48</sup> Despite trying to repress memories of armed conflicts, many children remain haunted by their experiences and memories during armed conflicts. These visions may manifest themselves in nightmares and night terrors, anxiety, poor concentration, aggressiveness, depression, self-destructiveness, and withdrawal.<sup>49</sup> Testimonies express low self-esteem, sensitivity to loud noises and/or sudden movements, hopelessness, anger, and extreme

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> Uganda, “Insecurity, Poverty Leaves Northern Children Vulnerable to Military Recruitment, (Uganda: UNICEF; 2004), *IRIN*, in <http://www.irinnews.org/report.aspx?reportid=51069>, (Accessed 11<sup>th</sup> January 2015)

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

guilt and shame.<sup>50</sup> Additionally, child soldiers continue to live in a sense of heightened fear, terrified of recapture knowing the inhumane conditions that would result.<sup>51</sup> This fear continues to prevent the ability to return to a somewhat “normal” lifestyle, as large numbers of children continue to sleep in the bush or in large camps each night for safety.

Finally, females face the challenges of bearing an illegitimate child, particularly as families and communities may reject both the young mother and her new child. Even when families do welcome them back, young women often face additional discrimination such as additional housework or different treatment from other family members.<sup>52</sup>

#### **4. Legal Instruments for the Protection of Children in Armed Conflict**

The protection of children in armed conflict has always been high on the international political agenda. The Security Council has a special working group which pays specific attention each year to the most serious violations of children’s rights in armed conflict: the recruitment and use of children by armed forces or armed groups, the killing and maiming of children, rape and sexual violence, abduction, attacks on schools and hospitals, and the denial of humanitarian access by parties to armed conflict.<sup>53</sup>

##### **4.1 International Humanitarian Law Instruments for the Protection of Children in armed Conflict**

###### **Hague Convention<sup>54</sup>**

This Convention is referred to in the past as the law of war and the law of Geneva, or humanitarian law.<sup>55</sup> The two streams take their names from a number of international conferences which drew up treaties relating to war and conflict<sup>56</sup>. The Law of The Hague, or the laws of war, "determines the rights and duties of belligerents in the conduct of operations and limits the choice of means in doing harm."<sup>57</sup> In particular, it concerns itself with the defining combatants; establishing rules relating to the means and methods of warfare; and examining the issue of military objectives.<sup>58</sup>

Systematic attempts to limit the savagery of warfare only began to develop in the 19th century. Such concerns were able to build on the changing view of warfare by states influenced by the Age of Enlightenment. The purpose of warfare was to overcome the enemy state, which could be done by disabling the enemy combatants, thus "the distinction between combatants and civilians, the requirement that wounded and captured enemy combatants must be treated humanely and that quarter must be given. Some of the pillars of modern humanitarian law, all follow from this principle."<sup>59</sup>

###### **The Fourth Geneva Convention<sup>60</sup>**

This Convention was the first treaty that exclusively sought to provide protection for civilians during armed conflict. However, it is mainly concerned with the treatment of civilians who are in the hands of an opposing party or who are victims of war, rather than with regulating the conduct of parties to a conflict in order to protect civilians. Importantly, in its general protection measures for civilians,<sup>61</sup> the

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<sup>50</sup>*Ibid*

<sup>51</sup>*Ibid*

<sup>52</sup> *Ibid*

<sup>53</sup>Resolution 1988 adopted by the security council at its 6206<sup>th</sup> meeting, on 12<sup>th</sup> July 2011

<sup>54</sup>1907 Hague Conventions and regulations

<sup>55</sup>J Pictet, *Humanitarian law and the protection of war victims* (Leyden: Sijthoff Publishers;1975) pp. 16–17

<sup>56</sup>The Program for Humanitarian Policy and Conflict Research at Harvard University, "Brief Primer on IHL," (Accessed 23/5/2015)

<sup>57</sup>J Pictet, *Development and Principles of International Law* (Dordrecht: Martinus publishers; 1985). pp.2

<sup>58</sup>F Kalshoven et al *Constraints on the waging of war: An introduction to international humanitarian law*, (Geneva: ICRC: 2001). pp.40

<sup>59</sup>C. Greenwood, *The Handbook of Humanitarian Law in Armed Conflicts*. (USA; Oxford University Press) pp. 45

<sup>60</sup>1949 Geneva Convention IV

<sup>61</sup> Articles 13-26 of Geneva Convention IV. These articles are primarily concerned with the provision of medical facilities and supplies.

Convention incorporated a limited number of obligations on parties to a conflict to provide special protection to children.<sup>62</sup> These include allowing free passage of food, clothing and medicine intended for children<sup>63</sup> and assisting children who are separated or orphaned.<sup>64</sup> State parties are also permitted to establish hospital and safety zones to protect children, as well as other vulnerable groups.<sup>65</sup>

It is the submission of the current researchers that majority of Convention provisions do not afford protection to all children less than 18 years of age. This is because the legal definition that all persons under 18 years are children, and are therefore entitled to special protection, did not exist in 1949 and was only accepted by the international community with the adoption of the UN Convention on the Rights of the Child in 1989. Although the Geneva Conventions mainly apply to international armed conflicts, Common Article 3 (so-called because the Article is contained in all four of the Geneva Conventions) requires that parties to an internal conflict provide a limited set of fundamental guarantees to non-combatants.<sup>66</sup> Although this Article applies to both State and non-State combatants, it is recognized that this Article is insufficient to address and regulate the growing number and diversity<sup>67</sup> of internal conflicts.

### **The First Additional Protocol to the Geneva Convention<sup>68</sup>**

This Convention broadened the protection afforded to children in international conflicts, declaring that “they shall be the object of special respect and be protected from any form of indecent assault”. Parties to the conflict must also provide them with the “care and aid” that they require.<sup>69</sup> Significantly, Additional Protocol I set the minimum age for recruitment by armed forces and for the direct participation of children in armed conflict. This was the first time that the issue of children associated with armed groups and armed forces was addressed in a binding international document. The Protocol set “15, not 18 years” as the minimum age for participation and recruitment.<sup>70</sup>

Limited juvenile justice guarantees are provided for in Article 77 of the Additional Protocol I. Children who commit a crime related to the armed conflict are to be held separately from adults, unless families are being accommodated together in family units. Moreover, individuals are not to be subjected to the death penalty for a crime they committed when they were less than 18 years of age.<sup>71</sup> Article 78 of Additional Protocol I addresses the evacuation of children from war-torn countries, provided that children are not to be evacuated, unless there are compelling reasons.<sup>72</sup> This condition averts the risk of removal for the purposes of ethnic cleansing or unnecessary reasons. This represents a major change in practice from World War II, when mass evacuations of children took place. Prior to any evacuation, parental consent is to be sought, if the parents can be found<sup>73</sup> and everything is to be done to ensure that children are reunited with their parents when the danger has passed.<sup>74</sup> In addition, a child’s education is to continue if he or she is evacuated.<sup>75</sup>

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<sup>62</sup> There are also a number of provisions that provide specific protection for pregnant women, for example, “... expectant mothers shall be the object of particular protection and respect”. Article 16 of Geneva Convention IV

<sup>63</sup> Article 23 Geneva Convention IV

<sup>64</sup> Article 24 Geneva Convention IV

<sup>65</sup> Article 14 Geneva Convention IV

<sup>66</sup> This includes former combatants who are no longer taking part in hostilities due to injury, sickness or for any other reason. Article 3(1) Geneva Convention IV.

<sup>67</sup> The application of law to guerilla warfare needed to be addressed.

<sup>68</sup> 1977 Additional Protocol I

<sup>69</sup> Article 77(1) Additional Protocol I

<sup>70</sup> Article 77(2)(3) Additional Protocol I

<sup>71</sup> Articles 77(4)(5) Additional Protocol I

<sup>72</sup> Article 78(1) Additional Protocol I

<sup>73</sup> Article 78(1) Additional Protocol I

<sup>74</sup> Article 78(3) Additional Protocol I

<sup>75</sup> Article 78(2) Additional Protocol I; it must be noted that slightly different rules apply to evacuation carried out by one’s own State and evacuation carried out by the authorities of another.

### **The Second Additional Protocol to the Geneva Convention<sup>76</sup>**

This Protocol was the first binding international document to directly address the conduct of parties in non-international armed conflicts, developing the basic guarantees enshrined in Common Article 3 of the Geneva Conventions. Yet, this Protocol has fewer provisions and restricts the conduct of parties to the conflict far less than the provisions in Additional Protocol I. In addition, its application is restricted to conflicts that fulfill the criteria laid out in Article 1.<sup>77</sup>

Additional Protocol II contains a similar, if somewhat curtailed, version of the child protection provisions contained in Additional Protocol I. Under Additional Protocol II, children are entitled to the care and aid that they require. Specifically, children are entitled to education,<sup>78</sup> to be reunited with their families when they have been temporarily separated<sup>79</sup> and to be removed from conflict zones to safer areas in the country.<sup>80</sup> Before removal, if possible, consent should be obtained from their parents or guardians and they should be accompanied by persons who are responsible for their safety and well-being. In addition, both Protocols state that children who are prosecuted for criminal offences related to the armed conflict must not be subject to the death penalty, if they were under 18 years at the time of their offence.<sup>81</sup> Significantly, Additional Protocol II recognizes that children need protection from recruitment by both government and armed opposition groups.<sup>82</sup> As with Additional Protocol I, the minimum age for recruitment and participation in hostilities is maintained at 15 years.

### **4.2 International Human Rights Law Instruments for the Protection of Children in Armed Conflict**

International Human Rights Law primarily seeks to regulate the way in which States treat people who are in their jurisdiction. It is not specifically designed to protect persons in their jurisdiction during times of armed conflict, nor is it designed to protect persons in one jurisdiction from the actions of another State. Some human rights treaties can be exceptionally suspended or restricted by governments in times of a public emergency seen to threaten the life of a nation (so called derogation).<sup>83</sup> This means that during internal conflicts, some constituencies may be vulnerable to abuses by their own State because there is a gap between the timing of the situation that led to the suspension of human rights treaties and the conflict escalating to a point where Additional Protocol II to the 1949 Geneva Conventions can apply.<sup>84</sup> It should be noted that most human rights treaties such as the UN Convention on the Rights of the Child, do not allow derogation of rights, regardless of the situation in the country.

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<sup>76</sup>1977 Additional Protocol

<sup>77</sup> Additional Protocol II applies to all conflicts that are not covered by Additional Protocol I, that take place in the territory of a State that is party to the Protocol, between its armed forces and rebel armed forces or other organized armed groups. Nongovernmental groups must be under responsible command and exercise enough control over part of the State's territory as to enable them to, firstly, carry out sustained and concerted military operations, and secondly, to implement Protocol II (Article 1). There are therefore internal conflicts in which both Common Article 3, discussed above, and Protocol II apply, and internal conflicts in which only Common Article 3 applies. In particular, Common Article 3 does not require State armed forces to be involved in the conflict, unlike Protocol II, and it is applicable at a much lower level of intensity of conflict, for example, nongovernment forces do not be in control of territory.

<sup>78</sup> Article 4(3)(a) Additional Protocol II

<sup>79</sup> Article 4(3)(b) Additional Protocol II

<sup>80</sup> Article 4(3)(e) Additional Protocol II

<sup>81</sup> Article 6(4) Additional Protocol II

<sup>82</sup> Article 4(3)(c) Additional Protocol II

<sup>83</sup> Article 4 (1) of the International Covenant on Civil and Political Rights 1966, for example, allows derogation of certain obligations under the Covenant. However, these treaties do not allow States to suspend fundamental guarantees, even in times of war. For example, article 4 (2) of the International Covenant on Civil and Political Rights provides that the following rights may never be derogated from: the right to life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the prohibition of slavery and servitude, the prohibition of retroactive application of criminal law, and the right to freedom of thought, conscience and religion. Similarly, the International Covenant on Economic, Social and Cultural Rights has no derogation clause.

<sup>84</sup> This gap was coined the 'Meron gap', named after the man who identified it in T. Meron, *Human Rights in Internal Strife: Their International Protection*, (Cambridge; Grotius publisher:1987)

This section focuses on the human rights instruments that are most relevant to the protection of children during and after conflict.

### **United Nations Convention on the Rights of the Child**<sup>85</sup>

This Convention addresses the rights of the child which were formally recognized by the international community through the adoption of the Convention. With 193 State Parties, the Convention has been almost universally ratified (only the United States and Somalia are not parties to the Convention) and remains the most widely ratified international human rights treaty to date. The UN Convention on the Rights of the Child defines children as all human beings under the age of 18 years.<sup>86</sup> The Convention contains a comprehensive set of economic, social and cultural rights, as well as civil and political rights, which are considered to be universal, indivisible and interdependent. There is to be no hierarchy in their implementation.

Four general principles underpin the CRC: non-discrimination<sup>87</sup>; the best interests of the child<sup>88</sup>; the right to life, survival and development<sup>89</sup>; and the right for children to have their views heard and given due weight in all decisions affecting them<sup>90</sup>. These principles are to be taken into account in implementing all provisions of the Convention. Article 38 specifically addresses the issue of protecting children in times of armed conflict, requiring States to take “all feasible measures” to ensure the protection and care of children. This Article reflects the protection contained in the Additional Protocols to the Geneva Conventions, specifically retaining a minimum age of 15 for recruitment and direct participation in hostilities. This is the only provision of the CRC that does not apply to all children under 18 years. The Convention further concerns itself with the post-conflict care of children, obligating States to assist in the physical and psychological recovery and reintegration of children who are victims of armed conflict<sup>91</sup> and also addresses the rights of children seeking refugee status<sup>92</sup>.

Despite the fact that only a few provisions of the UN Convention on the Rights of the Child relate specifically to armed conflict, all of its provisions apply to children during conflict and internal disturbances and there are no provisions allowing derogation of these rights in times of national emergency. Yet, the enforcement of the Convention is limited in times of conflict.

### **Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict**<sup>93</sup>

The General Assembly this Optional Protocol to curb the growing use of children in armed conflict and to raise the standards set out in the UN Convention on the Rights of the Child and the Additional Protocols to the Geneva Conventions for recruitment and use of children. The Optional Protocol raised the minimum age for direct participation in hostilities to 18 years for State forces<sup>94</sup> and prohibited the forced or compulsory recruitment of those less than 18 years into national armed forces.<sup>95</sup> The Optional Protocol did not, however, prevent the voluntary recruitment of children under 18 by States. Under the Optional Protocol, States are only required to raise the age of voluntary recruitment above 15 (the

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<sup>85</sup>UN Convention on the Rights of the Child, 1989 (entered into force 2 September 1990)

<sup>86</sup> Article 1 of Convention on the Rights of the Child

<sup>87</sup>Article 2 of Convention on the Rights of the Child

<sup>88</sup>Article 3 of Convention on the Rights of the Child

<sup>89</sup>Article 6 of Convention on the Rights of the Child

<sup>90</sup>Article 12 of Convention on the Rights of the Child

<sup>91</sup>Article 39 of Convention on the Rights of the Child

<sup>92</sup>Article 22 of Convention on the Rights of the Child

<sup>93</sup> Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 2000 (entered into force 12 February 2002).

<sup>94</sup> Article 1 of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2000

<sup>95</sup> Article 2 of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict 2000

standard in the UN Convention on the Rights of the Child, Article 38(3)). They must develop safeguards to ensure that recruitment is voluntary and that proof of age has been sought and verified.<sup>96</sup>

Article 1 prohibits children from taking a direct part in hostilities and requiring States to take “all feasible measures” to fulfill this obligation. This wording has allowed States to enter declarations interpreting the word ‘feasible’, so as to weaken their obligation to ensure less than 18 years old are not deployed.<sup>97</sup> The Optional Protocol explicitly prohibits non-State armed groups from both recruiting and using persons under 18.<sup>98</sup> States are obliged to criminalize such activities.<sup>99</sup> The Committee on the Rights of the Child is responsible for monitoring the implementation of the Optional Protocol through the examination of periodic State reports.

### **Universal Declaration on Human Rights (UDHR)**

The UDHR has a whole lot of human rights provisions which apply to all human beings, and which by implication include the African female child.<sup>100</sup> UDHR contains just two articles which expressly refer to children.<sup>101</sup> Article 25 (2) provides that “motherhood and childhood are entitled to special care and assistance. All children whether born in or out of wedlock shall enjoy the same social protection.” Geraldine opines that the entitlement of special care and assistance enshrined in the UDHR echoes the principles contained in the 1924 Declaration on the Rights of the Child.<sup>102</sup> The second mention of children is in Article 26 of UDHR which sets out the right to education, dealing both with access to and the aims of education. More still, an African child can effectively benefit from UDHR by arguing its case under nondiscrimination provisions. However, the right of the child has not been to an extent protected in times of conflict under this provision because most conflicts have led to the destruction of schools and hospitals thereby denying children their right to education and health facilities as provided for under this provision.

### **The International Covenant on Civil and Political Rights (ICCPR)**

This Covenant provides an express exception to the right to a hearing in public, when it is in the interests of juveniles or where it concerns the guardianship of children<sup>103</sup> and also provides that criminal proceeding should take into account a juvenile's age and the desirability of promoting their rehabilitation<sup>104</sup>. The Covenant further obligates states to segregate juvenile offenders from adults and to accord them treatment according to their age and legal status<sup>105</sup>. The family is recognized as being the natural and fundamental unit of society and as such entitled to state protection.<sup>106</sup> Art 24(1) provides that every child shall have, “without any discrimination” as to race, color, sex, language, religion, national, or social origin, property, or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the state. It has been argued that by virtue of Art 24, a child is entitled to special measures of protection in addition to the measures which state parties are under a duty to take under as Article 2 which ensures that all individuals enjoy the rights enshrined in the Covenant.<sup>107</sup> Children's rights have been adversely affected in times of conflict and

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<sup>96</sup> Article 3 of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

<sup>97</sup> The declaration of the United Kingdom, available on-line at <http://treaties.un.org/Pages/ViewDetails.aspx> (Accessed 23/4/2015)

<sup>98</sup> Article of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

<sup>99</sup> Article 4(2) of Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

<sup>100</sup> VB Geraldine, *The International Law on the Rights of the Child*. (Martinus; Kluwer Academic Publishers ; 1995 )

<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid*

<sup>103</sup> Article 14(1) of ICCPR

<sup>104</sup> Article 14(3) (F) ICCPR

<sup>105</sup> Article 10(3) of ICCPR

<sup>106</sup> Article 23 ICCPR

<sup>107</sup> VB Geraldine, *Supra*

Covenant has not been able to ensure their protection. These rights are not assured, enforced and protected by family, states, and even the society in times of conflict.

### **The International Covenant on Economic, Social and Cultural rights (ICESCR)**

ICESCR applies to all men and women and by implication to children.<sup>108</sup> ICESCR specifically refers to children in Article 10 (3) by stating that special measures of protection and assistance should be taken on behalf of all children and young persons “without any discrimination” for reasons of parentage or other conditions. ICESCR wants children and young persons to be protected from economic and social exploitation.<sup>109</sup> According to the Article, the states recognize the family as the natural and fundamental group of the society, and therefore accord the widest possible protection and assistance to the family.<sup>110</sup> Article 13 (1) provides for the right of everyone to education and provides that primary education should be compulsory and free to all. This is a right which many countries in Africa deny their female children. State parties to ICESCR undertake to implement all the rights in the Covenant to the maximum of its available resources with a view to achieving progressively the rights recognized in the present Covenant.<sup>111</sup> According to Geraldine, a state party is under a duty to the maximum of its available resources to implement progressively the rights enshrined in ICESCR which is in contrast to the manner of implementations for rights guaranteed in ICCPR, and which places state parties to the Covenant under a duty to implement the Covenant’s rights immediately regardless of state parties’ resources.<sup>112</sup>

### **4.3 Regional Human Rights Instrument for the Protection of Children in Armed Conflict**

#### **African Charter on Human and People's Rights**

There is some controversy and concern on the impact and devotion of African Charter on children's right in Africa.<sup>113</sup> This controversy notwithstanding, it must be conceded that the adoption of the African Charter shows Africa's concern with human rights and the recognition that human rights is not totally a foreign concept as is erroneously believed in some quarters.<sup>114</sup> African Charter is a regional instrument that regulates human rights in Africa. By this, African states removed the relationship between its citizens within the exclusive control of domestic law and brought it under the jurisdiction of international law.<sup>115</sup> According to Article 1 of African Charter, state parties are under obligation to recognize the rights included in the Charter and to undertake legislative and other measures necessary to realize such rights.<sup>116</sup> For regional bodies to exist, they must accept to abide by the principles of the UN.<sup>117</sup> This procedure makes it imperative for African Charter and other regional international organizations to operate on the universal principle of international human rights recognized by UN. It has been argued that “in the event of conflict between the obligations of the members of UN under the Charter, and their obligation under any other international agreement, obligation under the Charter shall prevail”.<sup>118</sup> This argument makes protection and promotion of the rights of children a must for African states and an extension of their obligations under the UN Charter.

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<sup>108</sup>YoKabuta, The Protection of Children's Rights and the United Nations, where he contended that the mere fact that an international instrument can be applied to children, does not mean that it incorporates a coherent child-centered approach setting out all the rights necessary to ensure the basic dignity of children.

<sup>109</sup> Article 10 of ICESCR

<sup>110</sup> VB Geraldine, *Supra*

<sup>111</sup> VB Geraldine, *Supra*

<sup>112</sup>*Ibid*, It has been argued that One of the principal reasons for the difference in implementation obligations is the assumption that measures implementing economic, social and cultural rights will have far greater resource implications than measures implementing civil and political rights.

<sup>113</sup>J Oloka- Onyango, " Human Rights and Sustainable Development in Contemporary Africa: A New Dawn, or Retreating Horizons?" in <http://www1.umn.edu/humanarts/instree/Zlafchar.html> (Accessed 5/6/07)

<sup>114</sup>C Beyani, “The legal premises for the international protection of human rights,” in Goodwin-Gill S., (ed.), *The reality of international law: Essays in honour of Ian Brownlie* (Oxford: Clarendon Press;1998) pp. 21-35.

<sup>115</sup>*Ibid*.

<sup>116</sup>*Ibid*.

<sup>117</sup>*Ibid*.

<sup>118</sup>*Ibid*.

African Charter in its Preamble reaffirms its commitment to fundamental human rights and equality of men and women. Art. 2 states that "every individual shall be entitled to the enjoyment of rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status".<sup>119</sup> Article 18(3) states: "The state shall ensure elimination of every form of discrimination against women and also ensure the protection of the rights of women and children as stipulated in international declarations and conventions." It has been argued that Art.18 (3) (b) sets four rules for African states. "First, it lays gender obligation upon states in Africa to eliminate discrimination against women, and not merely on grounds of sex as such. Secondly, the language employed admits of no exception in requiring states to eliminate every form of discrimination against women. Thirdly, it distinctly acknowledges the existence of the rights of women and children, and recognizes the necessity for the protection of those rights by the state. Fourthly, it incorporates the application, within the African Charter, of international standards protecting the rights of women and children as stipulated in international convention and declarations".<sup>120</sup>It is believed that Article 18 (3) of the Charter is remarkably important to protecting the rights of women because, not only does it make pertinent international conventions applicable, but also renders certain relevant declarations that do not normally carry the force of law directly applicable.<sup>121</sup>

Article 28 of the Charter goes a step further by imposing an obligation on every individual in Africa in the fight against discrimination by declaring that every individual shall have the duty to respect and consider his fellow beings without discrimination and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.<sup>122</sup> If the African societies and people will learn to obey and respect the provision of this article, the issue of abuse of child's rights will be a thing of the past in Africa.<sup>123</sup> Article 18(3) requires states to eliminate "every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions."<sup>124</sup> Yet it has been argued that the lumping together of women and children in one article that deals primarily with the family, reinforces outdated stereotypes about proper place and role of women in the African society.<sup>125</sup> According to Udombana, members of the OAU that have ratified the African Charter have the obligation to recognize the rights, duties, and freedoms enshrined in the Charter and to undertake to adopt legislative or other measures to give effect to them. States are also required to promote and ensure respect for the rights guaranteed by the Charter through teaching, education and publication and to ensure that these rights as well as corresponding obligations and duties are understood. The parties recognize by these undertakings that individuals have rights as human beings and agree to give effect to those rights in their domestic legal order.<sup>126</sup>

### **African Charter on the Rights and Welfare of the Child<sup>127</sup>,**

The African Charter on the Rights and Welfare of the Child is the only comprehensive (covering civil, political, economic, social and cultural rights) and binding regional treaty focused on children's rights. It was adopted by the African Union to address perceived shortcomings in the UN Convention on the Rights of the Child, as the Convention does not fully reflect the specific realities of children in

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<sup>119</sup> Article 2 of African Charter

<sup>120</sup>B. Chaloka *Supra*

<sup>121</sup>*Ibid*

<sup>122</sup> Article 28 African Charter

<sup>123</sup> R Rachel, "Labor, Land and Women's Rights in Africa: Challenges for New Protocol on the Rights of Women," *Oxford law Journal* (2006), Vol.7, No.8, pp 45-56

<sup>124</sup> R Rebouche. *supra*

<sup>125</sup>H Christofn, *The African Regional Human Rights System* (Penn.; Africa publishers; 2004).

<sup>126</sup>JU Nsongurua, " Towards the African Court on Human and Peoples Rights: Better Late Than Never" *Yale Human Rights & Development Law Journal*, (2000), Vol.3, pp.56; See also Leda HasilaLimamn, *supra* note 96 at P. 203.

<sup>127</sup> African Charter on the Rights and Welfare of the Child, adopted on 27 June 1981(entered into force on 21 October 1986)

Africa.<sup>128</sup> Similar to the UN Convention on the Rights of the Child, the Charter cannot be suspended in times of armed conflict. In addition, Article 22 obliges States to “respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child” and “take all feasible measures to ensure the protection and care of children who are affected by armed conflicts”. The Charter does not limit itself to international conflicts. “Such rules shall also apply to children in situations of internal armed conflicts, tension and strife”<sup>129</sup>. Unlike the UN Convention on the Rights of the Child, the provisions of the African Charter apply to all children under the age of 18 years,<sup>130</sup> including the provision on their recruitment and use in armed conflict. “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”<sup>131</sup>.

#### 4.4 National Laws

##### Uganda Constitution 1995<sup>132</sup>

In Uganda, legal provisions relating to the protection of children can be found in an array of domestic legal instruments. The Constitution of Uganda comprehensively provides a framework for the Protection of all children in Uganda. It defines fundamental child rights, obliges parents to care for and bring up their children, and accord special protection to orphans and other vulnerable children. It is the duty of any citizen and the state to protect children from any form of maltreatment and ensure the registration of birth from each child. The Constitution also provides for the specific protection of children<sup>133</sup>. Children have the right to: be cared for by parents or those entitled by law to bring them up; basic education; to medical treatment; grow up together with their families or persons entitled to bring them up; be kept separately from adult offenders during lawful custody or detention. Children shall be protected against social or economic exploitation; work that is likely to be hazardous or interferes with their education or to be harmful to their health or physical, mental, spiritual, moral or social development; and any form of abuse, harassment or ill-treatment.

The Children’s Act<sup>134</sup> puts into effect the Constitutional provisions on children and emphasizes the protection of the child by upholding the rights, protection, duties and responsibilities as contained in the Convention on Rights of the Child and Charter on the Rights and Welfare of the African Child, with appropriate modification to suit the circumstances in Uganda and other International and regional instruments. The Children’s Act provides a legal and institutional framework for child care and protection. It defines rights, which all children in Uganda have, accords specific rights for children with disabilities to ensure equal opportunities, and obliges the parents or any person in custody over the child to maintain the child ensuring education, guidance, immunization, adequate diet, shelter and medical care. Further, it covers regulations for adoptions, approve homes, maintenance, foster care, parentage, bail and demands.

#### 5. Conclusion and Recommendations

Studies on children exposed to organized violence provide us with some hope for the future of these children. It appears that while most adults who have grown up in conflict-torn areas are deeply affected by their childhood experiences, only a minority are pathologically disturbed. The majority find turning points in their lives, through which they have been able to live fulfilling and productive lives. In the grim stories of children who are victims of armed conflict there are stories of resilience, of individual

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<sup>128</sup>CD Mzikenge, “The Merits and Demerits of the African Charter on the Rights and Welfare of the Child” *The International Journal of Children’s Right* (2002), Vol.5, No.2, pp.157 in [http://www.crin.org/docs/acrwc\\_merits\\_demerits.pdf](http://www.crin.org/docs/acrwc_merits_demerits.pdf) (Accessed 15/5/2015)

<sup>129</sup>Article 22 of African Charter on the Rights and Welfare of the Child

<sup>130</sup> Article 2 African Charter on the Rights and Welfare of the Child

<sup>131</sup>*Ibid*

<sup>132</sup>ANPPCAN, “The African Network for The Prevention and Protection Against Child Abuse and Neglect: Child Rights and Protection” *The Legal Framework Journal* (1995), Vol.7, pp. 4

<sup>133</sup> Article 34 of Ugandan Constitution 1995

<sup>134</sup> Children’s Act 2003

and group courage, and of heroism. For some, the emotional scars will remain for much of their lives. If peace is ever to prevail, we need to focus on the needs of the children and the various systems in which they live. All intervention programs need to be multifaceted and aimed at the various levels. They need to be culturally sensitive and empowered and offer grassroots reconstruction.

This paper recommends that all the available legal framework which provides for armed conflict and do not expressly prohibit the involvement of children (below 18 years) during armed conflict and violent situations should be amended to state expressly in the laws that children must not be involved in armed conflict and violent situation and should be protected during such circumstances. Accordingly, it is necessary that governments harmonize their respective national legislation. Article 4 of the Convention on the Rights of the Child therefore urges States Parties to ‘undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention’

As recognized a few years ago by the Special Representative for Children and Armed Conflict, perhaps ‘the most important single challenge in addressing the plight of children in armed conflict’ remains ‘how to translate international instruments and local values into practice on the ground’. This study also recommends that elaborate practical steps be taken towards ending impunity and enforcing compliance with the rule of law in respect to the protection of children’s rights in armed conflict. Therefore, states should ensure that such international instrument protecting children during armed conflict be strictly enforced and practiced in their jurisdiction.

The UN should follow treaties with robust monitoring and enforcement mechanism, which would work as a force multiplier for appropriate implementation of commonly agreed norms. This is needed as international law protecting child rights still has to draw all the consequences from this important lesson. Courts should prosecute leaders of armed group for any inhuman act committed during armed conflict particularly against children. In areas where judicial institutions are weak, hybrid courts should be established to travel to places in order to gather direct accounts and evidence, and to facilitate the quick prosecution of cases. These hybrid courts need to be approved by International Criminal Courts and supported by national governments. Finally, International hard laws should be created that will be more stringent to punish those perpetrators who involve children during armed conflict. In the light of this, enlightenment and awareness program should be organized by the international community. A clear and strong message must be sent to actual and potential child victimizers that the world will no longer remain immobilized when faced with gross violation of children’s rights in times of armed violence. Strong and meaningful indications have to be sent and followed up with action when necessary such that there is no justification for deliberate brutalization or killing of a child on the battlefield.