

Why only voluntary child soldiers should be prosecuted? 1

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Dear International Criminal Court,

There is no doubt that your organization's task of prosecuting child soldiers is important. However, not all child soldiers deserve prosecution. In my opinion, only those child soldiers should be prosecuted who volunteer to be one and commit the crimes voluntarily. I would like to show some examples when child soldiers should and should not be prosecuted. Hopefully, your organization will consider my points in future trials.

There are various ways a child soldier can commit an involuntary crime. First of all, child soldiers who are forced to commit crimes shouldn't be prosecuted. An article that has good information on this topic is "Should child soldiers be prosecuted?" (Asena Bosnak). This article has good references, so we can consider it credible. It describes an interview of a former child soldier, who said the following: "I was forced literally to kill my best friend as an initiation process into the army". However, an article in the Huffington Post points out that "militiamen kidnapped him from a soccer field near his school" (Nick Robins-Early, 2015). Should we really hold this kid responsible for his crime when he had no other choice? Here, he was literally forced to do something he did not want to do, but if he hadn't done it, he would have been killed. I think you can agree that child soldiers are lots of times forced to kill and therefore shouldn't be prosecuted.

In other cases, children get into desperate situations where the only way out was to kill someone. Those child soldiers who are accused of crimes due to getting into these kinds of situations shouldn't be prosecuted. An article related to this subject is

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“Myanmar: Quash Conviction of Former Child Soldier” (2018). This article was published by the Human Rights Watch organization which has written numerous articles about child soldiers. Another article with good information is “Myanmar Army Says Child Soldiers Are ‘Incidents of The Past’ Despite Critical UN Report”. It was published by Radio Free Asia organization which writes articles about news in Asia. These articles talk about a child soldier who was “forced to serve in the Myanmar army for nearly 10 years” and with 2 other child soldiers, he escaped from his captors. “During their escape, they allegedly killed a motorbike owner while attempting to rob him.” Obviously, these kids were not voluntary soldiers and actually tried to avoid committing more atrocities by their escape. It is unfortunate that they had to kill someone during their escape, but I believe this should be attributed to their desperate situation and should not be considered a voluntarily committed crime. They had to get away from their captors, so they had to either kill the motorbike owner and steal the bike or get caught and get killed themselves. I think it is clear that child soldiers sometimes get into situations where the only way out is to kill someone and if we want to be fair with them they shouldn't be prosecuted.

Sometimes children become child soldiers due to psychological pressure. This has a similar effect as a physical force so child soldiers shouldn't be prosecuted when they are joined because of psychological pressure. The organization of Children and Armed Conflict published an article titled “Child Recruitment and Use”. We can consider this article credible because its publisher is a highly regarded organization. This article claims that many child soldiers are “forced to commit violent acts”. The article “Should child soldiers be prosecuted?” (referenced in the previous paragraph) stated that “Some

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children volunteer to be become a soldier, some are brainwashed, and some are threatened and drugged to be become soldiers.” Later, it mentioned that “During Sierra Leone's civil war of 1991–2002, thousands of children were threatened, or force-fed drugs to become soldiers.” Brainwashing, threatening, and being drugged have similar effects as physical enforcement so kids who were subject to this shouldn't be prosecuted.

Another point to note is if children who become soldiers voluntarily are not prosecuted then their commanders may be encouraged to give them the dirtiest orders. Therefore, child soldiers who volunteered should be prosecuted. Lots of articles mentioned this, e.g. “Should child soldiers be prosecuted for their crimes?” (2011). It's publisher, “The New Humanitarian”, is an expert in this area and it has written numerous articles about people affected by humanitarian crises. According to this article “If minor children who have committed serious war crimes are not prosecuted, this could be an incentive for their commanders to delegate to them the dirtiest orders, aiming at impunity”. But this only applies to child soldiers who volunteered. Only those get afraid of following an order who volunteered. Those who are forced to join will do whatever they are told because they are forced to do so. I hope you agree with my point that avoiding prosecution of voluntary child soldiers may actually lead to their commanders to push them into committing even rougher atrocities. Therefore child soldiers who volunteered should be prosecuted, otherwise, they would voluntarily follow even the dirtiest orders of their superiors.

Despite this, some say that child soldiers should not be prosecuted because they already got enough punishment from their commanders. For example, the article

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“Former Child Soldier Describes Punishment” (Meribeth Deen, 2009) talks about this subject. It was published by a reputable organization that mainly focuses on various crimes against humanity. This article writes about a child soldier who “followed his commander – referred to as Commander A – everywhere, except on his trips to Uganda”. Because of this, he was ordered to be whipped, which “meant being beaten with sticks, ropes, and fists”. It is understandable that because of cases like this some argue that child soldiers already got enough punishment and prosecution not necessary. But that punishment isn’t about prosecuting for committing high crimes. It’s about the complete opposite: they are punished because they refused to commit atrocities. This is why their commander’s punishment is not related to the prosecution of high crimes.

I hope you understand my reasoning about why only those children should be prosecuted who volunteered to become soldiers and commit the crimes voluntarily. It is really important to pay attention to the issue of child soldier’s prosecution because there is no perfect solution, and we need to be careful not to cause unnecessary harm.

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