

## The Role of the International Criminal Court in Safeguarding Child Soldiers during Armed Conflicts



Leila Brahim Ladouani \*

University of Mohamed Boudiaf – M'sila, Algeria  
Laboratory of Legal and Family Studies and Administrative  
Development  
Leila.brahimladouani@univ-msila.dz

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### ***Abstract:***

This study examines the ICC's role in addressing the issue of child soldiers, while simultaneously attempting to uncover the legal and procedural loopholes that could hinder its ability to provide effective protection for them. This study uses an inductive and analytical approach. While the Rome Statute criminalizes the recruitment of children under fifteen, it neglects comprehensive protection for those aged fifteen to eighteen, The Court's jurisdiction is hindered by state consent requirements and politically charged Security Council referrals, limiting its reach and impact. thus restricting its effectiveness. The study calls for fundamental reform of the international criminal system, including raising the age of child soldiers covered by protection to 18. Without serious reforms, the court will remain a symbolic tool, unable to protect children from the militarization of childhood.

**key words:** Armed Conflicts; Child Soldiers; International Criminal Court; War Crimes ; Rome Statute.

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\* Corresponding Author

## **Introduction:**

Children across the globe continue to suffer numerous forms of abuse and violations—whether at the hands of relatives, organized criminal groups, or, most alarmingly, as victims of armed conflicts. Among the gravest infringements upon their rights are those perpetrated during both international and non-international armed conflicts. In such contexts, children are exposed to murder, starvation, denial of medical care through the targeting of hospitals, and the obstruction of humanitarian aid. More disturbingly, they may be forcibly recruited as combatants or exploited in auxiliary roles such as cooking, cleaning, providing first aid, or engaging in espionage. Girls, in particular, face heightened vulnerability to sexual exploitation and forced marriage. These violations inflict irreparable harm, stripping children of their innocence and subjecting them to physical, psychological, and developmental trauma that may persist throughout their lives.

In many cases, armed conflict conditions and prevailing societal norms push children to voluntarily join armed groups or even the national army. Regardless of the circumstances, such involvement compromises their physical and psychological wellbeing, deprives them of fundamental rights- education, health, safety-and increases the likelihood of long-term criminal behavior. Reintegration into society thus becomes a critical challenge.

These alarming realities have galvanized the international community to recognize the catastrophic impact of child involvement in warfare. February 12 was designated as the International Day Against the Use of Child Soldiers, and numerous legal frameworks have since emerged to address the issue. Furthermore, the establishment of international criminal responsibility for individuals who commit the crime of child recruitment in armed conflict—especially high-ranking officials often shielded from domestic prosecution—has marked a significant legal advancement. The International Criminal Court (ICC), as a cornerstone of global criminal justice, was created to ensure that such perpetrators, including heads of state, military commanders, and senior officials, are held accountable.

This study seeks to answer a central question: Has international criminal justice succeeded in protecting children from military recruitment, and what mechanisms has the ICC adopted in this regard? To explore this inquiry, the study employs both inductive and analytical methodologies. It is structured into two main sections: the first examines

the concept of child soldiers, while the second analyzes the ICC's mechanisms for protecting them. The study concludes with a summary of key findings and policy recommendations.

## **Chapter I: The Concept of Child Soldiers:**

This section seeks to define the concept of child soldiers by examining both the definition and the underlying causes and objectives of their recruitment. The discussion unfolds as follows:

### **First requirement: Definition of Child Soldiers**

Clarifying the legal and conceptual meaning of "child soldiers" is essential for identifying this vulnerable category of children who are exploited in the context of armed conflict. A precise definition is a prerequisite for establishing effective protection mechanisms. The section is divided as follows:

#### **First section: The Legal Definition of a Child**

Before exploring the term "child soldiers" or the phenomenon of child recruitment, it is necessary to first define what constitutes a "child." The 1989 Convention on the Rights of the Child (CRC) provides a foundational definition in Article 1, which states: "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier"<sup>1</sup>. This same definition is echoed in Article 2 of the International Labour Organization Convention No. 182 on the Worst Forms of Child Labour<sup>2</sup>.

International instruments thus rely principally on chronological age to define a child, a position also adopted by Algerian legislation in Article 2/1 of Law No. 15-12 of 15 July 2015 concerning child protection<sup>3</sup>.

However, the CRC leaves room for national legislation to determine the age of majority. It is worth noting that both international conventions and Algerian law emphasize age as the sole criterion, ignoring other markers such as puberty (recognized in Islamic jurisprudence) or the child's capacity to discern and comprehend the nature of armed conflict.

### **Second section: Definition of Child Soldiers in International Instruments and Legal Scholarship**

#### **1- International Legal Instruments**

The term "child soldier" does not appear explicitly in classical international legal texts. Rather, it is a designation that emerged from the realities of modern armed conflicts, where children are exploited through

recruitment. The 1949 Geneva Conventions and their 1977 Additional Protocols form the bedrock of international humanitarian law (IHL), seeking to regulate armed conflict and protect vulnerable populations, including children. Yet, these instruments refrain from explicitly defining child soldiers or the act of child recruitment. Some legal scholars argue that the drafters of these conventions intentionally avoided defining the term due to a lack of universal consensus, resulting in conceptual ambiguity that hinders the development of comprehensive protective frameworks<sup>4</sup>.

The First Additional Protocol (1977) prohibits the participation of children under the age of fifteen in hostilities but does not define "child" or "child soldier." The Second Protocol extends this protection by prohibiting both voluntary and compulsory recruitment of children under fifteen by non-state armed groups. If children are captured while participating directly in hostilities, they are entitled to special protections<sup>5</sup>.

This leaves a gap: children aged fifteen to eighteen, recruited either voluntarily or forcibly, are not covered under the Protocols' specific protections.

Despite growing evidence of child recruitment in the late 1960s, international declarations—such as the 1974 UN Declaration on the Protection of Women and Children in Emergency and Armed Conflict—failed to directly address the issue. This omission stemmed from the UN's cautious approach to addressing the laws of war and its avoidance of intervening in matters involving state sovereignty<sup>6</sup>.

In response to the escalation of armed conflicts involving children, the 1997 Cape Town Conference on Child Soldiers (South Africa) offered a seminal definition: "any person under 18 years of age who is recruited or used by an armed force or armed group in any capacity, including but not limited to fighters, cooks, porters, messengers, or for sexual purposes<sup>7</sup>.

The 2000 Optional Protocol to the CRC on the Involvement of Children in Armed Conflict set the minimum age for recruitment at 18 (Article 1), and prohibited the forced conscription of children under 18 into state armed forces (Article 2). Article 3 added further conditions for states practicing voluntary recruitment. Article 4 expanded the prohibition to cover non-state armed groups, regardless of whether participation was voluntary or coerced<sup>8</sup>.

Similarly, the 2007 Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups define a child as "any person below the age of 18"<sup>9</sup>, and child soldiers as "any person under 18 years of age who has been, or is currently, recruited or used by an armed force or armed group in any capacity, including combatants, logistical roles, or for sexual purposes"<sup>10</sup>. This definition reinforces the prohibition of recruitment by both state and non-state actors.

The Rome Statute of the International Criminal Court (1998) addresses child recruitment as a war crime. Article 8(2) (b)(xxvi) criminalizes the "conscription or enlistment of children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities." Similarly, Article 8(2)(e)(vii) extends this criminalization to non-state armed groups<sup>11</sup>.

However, the Rome Statute provides no explicit protection for children aged 15 to 18, in contrast to the CRC, which defines a child as any person under 18. This discrepancy reveals a gap in legal protection.

## **2- Legal Scholarship (Doctrine)**

Academic definitions of child soldiers vary, though several common elements emerge. One perspective sees child recruitment as the process of assimilating a minor into an armed group, binding them to obey orders and perform assigned roles<sup>12</sup>. This approach, however, neglects recruitment by state forces.

Another broader definition describes child soldiers as: "individuals under 18, whether male or female, who join, voluntarily or forcibly, a governmental army or an armed group, regardless of the tasks performed"<sup>13</sup>. This definition distinguishes between voluntary and forced recruitment, which poses analytical challenges, as the capacity of children to provide informed consent in conflict situations is dubious. It also raises concerns regarding international legal obligations.

Some scholars define child recruitment as: the act of integrating individuals who do not meet the minimum age requirement into the ranks of national armed forces or organized armed groups, with the intention of involving them in military efforts. A child soldier, then, is any individual under 18 years of age associated with an organized or unorganized armed group, regardless of the group's nature or objectives<sup>14</sup>.

Security and development scholar Marshall Beier coined the term "militarization of childhood," which encompasses two dimensions: the direct involvement of children in combat or military operations, and the indirect conditioning of children through militarized ideologies or

cultural normalization of violence. In both cases, children become desensitized to brutality and internalize militaristic values<sup>15</sup>.

From these various definitions, two main types of armed conflict are distinguished<sup>16</sup>:

- International armed conflicts, involving force between two or more states, regardless of formal declarations of war.
- Non-international armed conflicts, involving intra-state violence between organized groups or between the state and internal factions.

Legal and academic sources also differentiate between forced and voluntary recruitment, although the latter remains controversial. Many argue that children lack the cognitive maturity to fully grasp the implications of their involvement, rendering the voluntary–involuntary dichotomy conceptually flawed.

Lastly, most definitions rely solely on chronological age (under 18), as stipulated by the CRC, ignoring other indicators such as psychological maturity or physical development.

Based on the above, child soldiers—whether male or female—are minors under 18 who are forcibly recruited or voluntarily join state armed forces or non-state armed groups during armed conflict, whether for direct participation in hostilities or for auxiliary roles. Although the Geneva Protocols and the Rome Statute set the threshold at 15, a more appropriate legal standard would align with the CRC’s age of 18, given the physical, psychological, and developmental vulnerabilities of this group.

### **Second requirement: Causes and Methods of Recruiting Children During Armed Conflicts**

There are numerous causes that lead to the involvement of children in armed conflicts, whether by coercion or voluntary enlistment. Various recruitment methods are employed, which will be addressed in this section.

#### **First section: Causes of Child Recruitment in Armed Conflicts**

- Economic Deterioration: Economic collapse during armed conflicts is among the primary drivers of child recruitment, whether into regular armies or armed groups. Families often withdraw children from school to seek income, and in the absence of viable employment opportunities, children eventually join armed forces or militias<sup>17</sup>.

- Controllability and Manipulation: Children are easily manipulated through intimidation or psychological control. They are more likely to

exhibit loyalty to authority figures and imitate those they admire—especially in families involved in recruitment<sup>18</sup>.

- Imitation: Some children join the military or militias simply to follow in the footsteps of relatives or peers who have enlisted<sup>19</sup>.

Revenge: Children who have suffered abuse or witnessed family members harmed by one party to a conflict may seek revenge by joining the opposing side. This was a tactic used by ISIS, which specifically targeted such traumatized children for recruitment<sup>20</sup>.

- Publicity and Propaganda: Terrorist organizations often use child soldiers as propaganda tools, showcasing them in acts of violence or as victims of brutality to shock audiences and emphasize their own power and ruthlessness<sup>21</sup>.

### **second section: Methods of Recruiting Children During Armed Conflicts**

Although scholars traditionally distinguish between voluntary and forced recruitment, the United Nations contends that most cases exhibit elements of both coercion and apparent voluntariness, rendering such distinctions practically meaningless. The ICC has affirmed that the boundary between the two is not only legally irrelevant but also practically superficial, Recruitment methods include<sup>22</sup>:

Violence and Threats: Armed groups frequently use physical force or the threat thereof to compel children into service, or they purchase children from human traffickers for use in combat.

- Community Involvement: In certain contexts, local communities support armed factions. Community leaders and families may actively encourage children to join the conflict.

- Use of Schools: In territories controlled by armed groups, schools may be converted into platforms for ideological indoctrination and recruitment.

- Online Platforms: Terrorist and extremist groups exploit the internet-particularly social media, email, chat rooms, online forums, and video content-to attract and manipulate children into joining their ranks.

Addressing the issue of child recruitment requires a comprehensive understanding of these underlying causes and mechanisms.

## **Chapter II: Mechanisms of the International Criminal Court for Protecting Children from Recruitment During Armed Conflicts:**

After addressing the concept of child soldiers and the causes and methods of their recruitment, this chapter explores the ICC's mechanisms

for protecting these children and achieving international criminal justice in this context.

### **First requirement: The Concept of the International Criminal Court**

The ICC and its jurisdiction will be introduced, in preparation for explaining its role in combating the recruitment of children in armed conflict.

#### **First section: Definition and Structure of the ICC:**

**Definition:** The ICC was established under the 1998 Rome Statute and entered into force on July 1, 2002, following its adoption by 120 states during a UN conference in Rome. The ICC is defined as a permanent, independent, international criminal court with jurisdiction over natural persons responsible for the most serious crimes of concern to the international community<sup>23</sup>.

The Court also possesses international legal personality and the capacity to perform legal acts necessary for fulfilling its mandate, as outlined in Article 4 of the Rome Statute<sup>24</sup>.

The ICC is independent from the United Nations in terms of legal authority but is administratively linked to it. Article 123/1-2 of the Rome Statute grants the UN Secretary-General the authority to convene a review conference to consider amendments to the Statute after seven years<sup>25</sup>.

The Court is complementary to national jurisdictions and intervenes only when a state is unwilling or unable to prosecute crimes under its jurisdiction<sup>26</sup>.

**Goals:** The ICC aims to end impunity for international crimes such as genocide and war crimes, achieve justice for victims, deter future crimes, and compel national prosecutors to fulfill their duties under international law<sup>27</sup>.

- **Structure (Article 34 of the Rome Statute)**<sup>28</sup>:
  - **Presidency:** Composed of a President and two Vice-Presidents elected by the judges for a renewable term of three years. The Presidency handles administrative functions, excluding the Office of the Prosecutor.
  - **Judicial Divisions:** Judges are assigned to three divisions—Pre-Trial, Trial, and Appeals—each comprising several chambers with specific mandates and durations.
  - **Office of the Prosecutor:** An independent body composed of the Prosecutor, Deputy Prosecutors, legal advisers, investigators, and staff.

Prosecutors are elected by the Assembly of States Parties for non-renewable nine-year terms.

- Registry: Oversees non-judicial administration and provides logistical support. The Registrar and Deputy Registrar are elected by the judges for five-year renewable terms.

Judicial functions are carried out by the Chambers, investigations and prosecutions by the Prosecutor, and administrative duties by the Registry. The Court comprises 18 judges, with the number adjustable based on workload. Judges must possess high moral character and expertise in criminal law, international humanitarian law, or human rights<sup>29</sup>.

### **Second Section: Jurisdiction of the ICC**

•Subject-Matter Jurisdiction: As per Article 1, the ICC may only try the most serious crimes: genocide, crimes against humanity, war crimes, and the crime of aggression<sup>30</sup>.

Genocide: Based on the 1948 Genocide Convention, genocide entails acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group<sup>31</sup>. The Court has jurisdiction over the forcible transfer of children as a form of genocide (Article 5/1paragraph a)<sup>32</sup>. The French jurist, Pierre Marie Dupuy, pointed out that the content of this crime includes a pre-planned and extensive plan that can only be committed by the authority of a state or quasi-state. Therefore, it is often committed by members of the armed forces of a state or an organized military force<sup>33</sup>.

Crimes Against Humanity: Defined in Article 7 as widespread or systematic attacks against civilian populations, including murder, rape, enforced disappearance, and apartheid<sup>34</sup>.

War Crimes: Defined in Article 8 and based on the Geneva Conventions, these include serious violations committed in international or non-international armed conflicts. The recruitment of children under 15 into national armed forces or their participation in hostilities constitutes a war crime (Article 8(2)(b)(26))<sup>35</sup>.

However, the Statute fails to protect children aged 15–18 and does not criminalize recruitment by non-state actors. It did not include a ban on the use of nuclear weapons.

Crime of Aggression: Defined in later amendments, this crime encompasses military invasions, bombings, blockades, or the use of armed force by one state against another without justification<sup>36</sup>.

•Personal Jurisdiction: The Court has jurisdiction over natural persons only (Article 25), meaning it does not prosecute states or legal entities. The Rome Statute establishes individual criminal responsibility, while state responsibility continues under customary international law. Notably, Article 26 excludes persons under 18 from prosecution<sup>37</sup>. Since it is competent to try natural persons, not legal persons, whether states, institutions or bodies with legal personality, the principle established by the Statute is the international criminal responsibility of the individual for the crimes he commits<sup>38</sup>.

•Territorial and Temporal Jurisdiction: The Court may prosecute crimes committed:

- Within the territory of a State Party.
- By nationals of a State Party.
- On board vessels or aircraft registered in a State Party.
- Upon referral by the UN Security Council, even if the state concerned is not a party to the Statute<sup>39</sup>.

Temporal jurisdiction begins from the date the Statute entered into force—July 1, 2002. For states joining later, the Statute applies only from the date of their accession. However, a non-party state may accept ICC jurisdiction via declaration<sup>40</sup>.

### **Third Section: The ICC and the United Nations Security Council**

Under Article 13(b) of the Rome Statute, the ICC may exercise jurisdiction over crimes referred by the Security Council acting under Chapter VII of the UN Charter. These referrals are not contingent on the state being a party to the Rome Statute<sup>41</sup>.

While the Security Council's power to make such referrals extends to all states, this approach raises legal concerns under the Vienna Convention on the Law of Treaties (1969), particularly Article 24, which precludes imposing obligations on third states without their consent<sup>42</sup>.

Additionally, Article 16 of the Rome Statute allows the Council to defer investigations or prosecutions for renewable 12-month periods, contingent upon a majority vote and the consensus of its five permanent members.

### **Second requirement: Second Subtitle: Prosecution of Perpetrators of Child Recruitment During Armed Conflicts Before the International Criminal Court**

The role of the International Criminal Court (ICC) in protecting child soldiers is manifested through the following:

## **First section: Investigation and Prosecution Procedures for the Crime of Child Recruitment in Armed Conflicts**

Article 25 of the Rome Statute affirms the individual criminal responsibility of natural persons for the commission of crimes under the ICC's jurisdiction, including the crime of aggression, crimes against humanity, genocide, and war crimes—under which the recruitment of children is classified. Upon establishing culpability, the Court imposes custodial penalties, though not capital punishment. According to Article 25, criminal responsibility extends to direct perpetrators, accomplices, instigators, and individuals who contribute to crimes through orders, inducement, encouragement, or mediation<sup>43</sup>.

The Statute grants the ICC jurisdiction over three crimes that particularly affect children: genocide through the forcible transfer of children, child trafficking (as a crime against humanity), and the recruitment or use of child soldiers—regardless of whether such participation was voluntary or coerced, as consent is irrelevant in such contexts. The participation of children under 15 in combat is categorized as a war crime. However, the ICC does not hold jurisdiction over individuals who were under 18 years old at the time the crime was committed.

To exercise its jurisdiction over child recruitment, the Court requires the fulfillment of several conditions under Article 12(2) of the Rome Statute<sup>44</sup>:

- The state in question must be a party to the Statute and thereby accept the Court's jurisdiction over the crimes listed.
- The crime must occur on the territory of a State Party or be committed by one of its nationals.

For non-party states, Article 12(3) allows for ad hoc jurisdiction through a written declaration accepting the Court's authority, submitted to the Registrar, or via a special agreement permitting the ICC to investigate crimes committed on the state's territory or by its nationals.

Complaints submitted by States Parties serve as the mechanism for triggering investigation. The Prosecutor may also proceed based on a Security Council referral, which does not require the state's prior consent. Additionally, under Article 13, the Prosecutor may initiate investigations *proprio motu*, based on reliable information regarding crimes under the Court's jurisdiction. The Prosecutor evaluates the information's seriousness and may request supplementary evidence from

states, UN agencies, NGOs, or any credible source, including oral or written testimony<sup>45</sup>.

Should the Prosecutor deem an investigation warranted, a request is submitted to the Pre-Trial Chamber, accompanied by supporting material and evidence. If the Chamber determines there are reasonable grounds to proceed, it authorizes a preliminary investigation.

Following the investigation, the Pre-Trial Chamber convenes a hearing to confirm the charges. The Chamber may request further evidence, dismiss charges, or confirm them if sufficient evidence exists, referring the accused to the Trial Chamber. Trials are generally public, but may be held in camera for confidentiality or protection of sensitive information, particularly concerning victims or witnesses.

The Trial Chamber must ensure a fair and expeditious process, upholding the rights of the accused and safeguarding victims and witnesses. Verdicts are rendered either unanimously or by majority, and deliberations remain confidential. Judgments are issued in open session, are written and reasoned, and reflect both majority and dissenting opinions, pursuant to Article 74<sup>46</sup>.

Article 81 provides for appellate review of Trial Chamber decisions, initiated by either the Prosecutor or the accused. The Trial Chamber may order continued detention pending appeal. Sentences are suspended during the appeals process. Additionally, retrials may be requested by the accused, their legal heirs, or the Prosecutor on behalf of the deceased, based on newly discovered evidence or proof of judicial error or fraud<sup>47</sup>.

Despite the ICC's potential as a mechanism for prosecuting war crimes against children, armed actors frequently flout international law with impunity. The Special Representative of the UN Secretary-General for Children and Armed Conflict has stressed that children will remain at risk in conflict zones unless parties respect international norms and are held accountable for violations<sup>48</sup>.

A major challenge remains the lack of enforceable mechanisms to compel non-party states to cooperate with the Court. Even States Parties sometimes withhold cooperation due to perceived conflicts with their sovereignty or political interests. For instance, Hungary withdrew from the ICC to avoid executing the arrest warrant against Israeli Prime Minister Netanyahu for alleged acts of genocide in Gaza. Additionally, many developing countries criticize the Court for disproportionately targeting them while powerful states evade scrutiny.

## **Second section: Non-Prosecution of Child Soldiers Before the International Criminal Court**

The Rome Statute establishes age as a bar to criminal responsibility. Article 26 stipulates that: “*The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime*”. Thus, individuals under 18 cannot be prosecuted before the ICC, as criminal responsibility presupposes awareness and understanding of one’s actions—a capacity that evolves with age and development.

Legal consciousness, the foundation of criminal liability, entails the ability to distinguish lawful from unlawful acts. This awareness develops progressively during adolescence. Consequently, the ICC excludes from prosecution any individual under 18 for crimes within its jurisdiction, though such individuals may be tried under national laws, provided jurisdictional and procedural safeguards exist<sup>49</sup>.

A persistent problem, however, is the absence of effective mechanisms to determine the true age of individuals lacking official documentation or in cases of doubt. Moreover, Article 68 of the Rome Statute obliges the Prosecutor to take protective measures for children involved in proceedings as witnesses. This includes conducting testimony in closed sessions or via electronic means.

The Rome Statute contains no explicit provision recognizing child soldiers as victims per se, even though it excludes them from prosecution. They appear in proceedings solely as witnesses, with limited procedural protections.

Despite this, the United Nations advocates for recognizing child soldiers as victims. Such recognition facilitates their rehabilitation, secures their rights<sup>50</sup>, and promotes societal reintegration—countering the stigma of criminality and acknowledging the coercive circumstances of their recruitment<sup>51</sup>.

### **Conclusion:**

The establishment of an international criminal justice system capable of prosecuting natural persons responsible for the most egregious crimes—especially when national jurisdictions are unable or unwilling to act—constitutes a significant achievement. However, ongoing efforts are required to operationalize this system more effectively and to strengthen its mechanisms, particularly when addressing crimes that affect children. In light of the foregoing, the following conclusions can be drawn:

-The definition of a “child” under international humanitarian law and international criminal justice relies primarily on age, without accounting for the child’s level of cognitive or emotional development or the specific cultural contexts of local communities. While the Convention on the Rights of the Child sets the threshold at under 18 years, the Additional Protocols to the Geneva Conventions and the Rome Statute extend protection only to those under 15.

-Although the International Criminal Court (ICC) has jurisdiction over the crime of child recruitment under its Statute, it fails to provide a precise definition of “child soldier.” The Statute prohibits the recruitment of children under the age of 15 and excludes individuals under 18 from prosecution, yet it does not oppose their trial before domestic courts.

-Prosecution for child recruitment can be initiated through a complaint by a State Party, the acceptance of jurisdiction by a non-party state, a referral from the UN Security Council, or a proprio motu investigation by the Prosecutor.

- Security Council referrals are subject to political dynamics and the approval of permanent members, some of whose states do not recognize the ICC’s authority. This raises concerns about the politicization of referrals and selective justice.

-The ICC does not recognize child soldiers as victims per se, nor does it mandate reintegration measures. Its protections are limited to those provided to witnesses. Moreover, the Court lacks authority to intervene during ongoing conflicts to compel warring parties to respect humanitarian principles and to refrain from involving children and civilians in hostilities.

-The Court’s temporal and territorial jurisdiction constitutes a structural limitation in addressing the crime of child recruitment effectively.

- Major challenges to the ICC’s performance in this domain include the non-binding nature of cooperation with non-State Parties and the often politically motivated reluctance of State Parties to comply with the Court’s procedures.

Accordingly, the following recommendations are proposed:

There is a pressing need to adopt a clear and comprehensive definition of child recruitment and to specify the legal meaning of “child soldiers.” The ICC should formally recognize their status as victims and develop institutional mechanisms to support their rehabilitation and reintegration. The minimum age for recruitment should be raised to under

18, aligning with the broader protections of international human rights law. Moreover, it is imperative to establish binding mechanisms to ensure cooperation from both State and non-State Parties; otherwise, the ICC's effectiveness and credibility will remain undermined, potentially rendering its existence symbolic rather than functional.

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<sup>33</sup> - Abdul Rasoul Kareem Abu Siba'a, Hanaa Hamoudi Al-Jabri, "The Crime of Genocide and the Principle of Legality in International Criminal Law", 11/9/2018, p 347. Date accessed: 10/12/2024 at 12:00 AM. See link: <https://www.researchgate.net/publication/327582627>

<sup>34</sup> - Montasser Said Hamouda, *op. cit.*, p315.

<sup>35</sup> - Ibid, p. 316.

<sup>36</sup> - Ibid, pp. 319- 320.

<sup>37</sup> - Ibid, pp. 310–311.

<sup>38</sup>- Linda Maamar Yashoui, *The Permanent International Criminal Court and Its Jurisdiction*, 1st ed., Dar Al-Thaqafa, Amman, Jordan, 1429 AH / 2008, pp. 154–155.

<sup>39</sup> - Ibid, p. 178.

<sup>40</sup> - Ibid, pp. 169–170.

<sup>41</sup> - Khaled Hassan Naji Abu Ghazala, op. cit., pp. 331–332.

<sup>42</sup> - Ahmed Saleem Abdelrahman Ataya, "The Relationship of the Security Council with the International Criminal Court According to the Provisions of the Rome Statute", *Journal of Jurisprudential and Legal Research*, Faculty of Sharia and Law, Damanhur, Egypt, No. 41, 1444 AH, April 2023, pp. 420–421.

<sup>43</sup> - Safwan Maqsood Khalil, op. cit., p. 288.

<sup>44</sup> - Ziad Aitani, op. cit., pp. 324–325.

<sup>45</sup> - Ibid, p. 342.

<sup>46</sup> - Ibid, pp. 348 et seq.

<sup>47</sup> - Ibid, pp. 354–355 et seq.

<sup>48</sup> - Nahari Nasira, *Recruitment of Children in Internal Wars*, Master's Thesis in Public Law, Faculty of Law and Political Science, University of Oran, Algeria, 2013–2014, p. 81.

<sup>49</sup>-Abdel-Fattah Bayoumi Hegazy, *The International Criminal Court*, University Thought House, Alexandria, Egypt, 2005, pp. 294–295.

<sup>50</sup> - Refers to victims of international crimes as any natural person who suffered harm as a result of the commission of one of the crimes under the jurisdiction of the International Criminal Court, and the status of victim is not limited to direct victims only, but may also include indirect ones. Nabil Abdelrahman Nasser Al-Din, *The Right of Victims to Compensation According to the Provisions of the International Criminal Court*, Democratic Arab Center, Berlin, Germany, p. 180.

<sup>51</sup> - UNODC, op. cit., p. 44.