

Nine

Out of the Mouths of Babes

Tracing Child Soldiers' Notions of "Justice," ca. 1940–2012

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The TRC may be able to make every Liberian child to feel justice. This is my expectation.

—Statement from a child¹

With the conviction of Congolese warlord Thomas Lubanga Dyilo in 2012 at the International Criminal Court (ICC) for the crime of recruiting and using child soldiers, and the ICC's recent arrest and indictment on war crimes charges of Dominic Ongwen, a former child soldier turned senior commander in Joseph Kony's Lord's Resistance Army, the question of child soldiers' place in international justice regimes has become a topic of growing debate. Current legal discussions of African child soldiers have focused on the criminalization in international law of child soldiering as a practice, and on whether child combatants should be considered as "victims" or "perpetrators."² The primary aim is to provide justice *for* former child combatants. Children's, and former child combatants', own notions and understandings of "justice," however, have been largely ignored, to the detriment of legal and humanitarian interventions. Contemporary discussions focus overwhelmingly on child soldiers as "victims" or "perpetrators because they are victims." The snippets of children's voices that emerge in both legal and humanitarian arenas, however, suggest that the relationship between children and justice is more engaged and complex. The opening epigraph highlights children's postconflict desire "to feel justice," and yet the Liberian Truth and Reconciliation Commission (TRC) report made no substantive attempt to interrogate what children meant by the phrase "to feel justice." As Graça Machel argues, "Adults can act on behalf of children and in the best interests of

children, but unless children themselves are consulted and engaged, we will fall short and undermine the potential to pursue the most relevant and durable solutions.”³ This chapter argues that to facilitate effective rehabilitation, reintegration, and transitional justice, child soldiers’ own voices need to be inserted more firmly into processes of justice, and existing representations and mediations of those voices must be critiqued and historically contextualized. This is because the contemporary “child soldier crisis” emerges not simply from new patterns of warfare, but from a new global “politics of age” that has shaped the evolution of international law while, somewhat paradoxically, occluding children’s own agency.⁴

Under international humanitarian norms, a child soldier is today defined as “any person under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity.”⁵ However, this chronological definition runs counter to local understandings of childhood in African communities, which are based more on social, cultural, and physical markers, forming an indeterminate life stage between infancy and adulthood, often overlapping with ideas of youth.⁶ In many African cultures, childhood is not socially constructed as a time of innocence or special rights and protection but is rather a crucial stage of socialization on the path toward adulthood, a transition often delineated by marriage, reproduction, and the establishment of a household. Children are expected to provide labor to household economies and to contribute to the support and defense of local communities in times of need. Military service can itself be a key marker of the transition from child to adult. In Sierra Leone, violent youth have been a historically significant social category. Local communities view children as liminal and unformed and therefore as potentially more capable than adults of dangerous, inhuman behavior.⁷ The line between childhood and youth is blurry, with youth a “shifter category” that is

as much political as biological, but often youth denotes someone between the ages of fourteen and thirty-five and of subaltern or marginalized social status.⁸

It should be noted that while there has been an explosion in research on youth in Africa, childhood in and of itself remains largely underresearched; in fact, child soldiering has been one of the few areas of significant academic concern, alongside other major contemporary social ills like child labor and child migration.⁹ There has been a recent trend in humanitarian circles against using the term “child soldier,” which is held to be stigmatizing and misrepresentative since many children do not have primary roles as fighters. Instead, the term “children associated with armed forces and armed groups” (CAAFAG) is increasingly preferred. Even this term, however, conceals a continuum of experience, as well as legal and moral accountability: how should children who alternate between military training and life in refugee camps, like some of the “Lost Boys” of South Sudan, be classified? Or teenagers who participated in the struggle against apartheid and were regarded as legitimate military targets by the South African state, despite not formally being part of armed opposition group like Umkhonto we Sizwe? As such, and to directly engage with dominant humanitarian and legal discourses, this chapter adopts a broadly “Straight 18” position, whereby all persons under the age of eighteen are classified as children, while remaining sensitive to the varied and contestable categorizations of “child” that emerge. The majority of “child soldiers” discussed herein were teenagers during their war service.

The existing literature on how to provide justice for children recruited into armed forces draws on a range of different conceptions of justice: transitional justice, with its debates on restorative and retributive justice, which are constructed in opposition to the “jungle justice” that communities fear children will bring back with them from the bush; juvenile justice, viewed as

too underdeveloped in African criminal justice systems to be widely available; criminal justice, seen as unsuitable owing to its punitive nature; but also therapeutic justice, highlighting how law can aid mental health and healing. Overall, the focus has been on providing social justice and reconciliation through transitional justice mechanisms and demobilization, disarmament, rehabilitation, and reintegration (DDRR) programs.

This chapter emerges from research on the history of child soldiering in Africa, which argues that the presence of children in armed groups is not simply a “new war” phenomenon but is linked to historical structural patterns of childhood, child labor, and “total” warfare, as well as postcolonial state crises and youth revolutions.¹⁰ Contemporary developments in child soldiering and international legal responses are themselves the products of specific historical and cultural contexts, and it is these developments that this chapter will critique. The first section analyzes memoirs and archival sources in an attempt to ascertain children’s understandings of “justice” and the shifting political discourses that frame these accounts. The second section interrogates the problematics of child soldiers’ positioning within international humanitarian law, highlighting the clashes between local and global categories of “childhood,” the tensions between child soldiers’ status in “law” and “justice,” and the difficulties of providing both protection and accountability for child soldiers. The final section analyzes pilot fieldwork interviews conducted with twelve former Lord’s Resistance Army (LRA) child abductees about their understandings of social and legal “justice.” This chapter represents initial steps toward developing a new historicized methodology of analyzing child soldiering and justice for children in Africa.

Tracing a Historical Genealogy of Child Soldiers’ Ideas of Justice

Historical archives and memoirs reveal that children have been involved in most of Africa's twentieth-century conflicts. Notably, child soldier testimonies from the colonial to contemporary eras do not routinely mention justice in any detailed, direct sense, instead revealing both the horrors and empowerment that children experienced in conflict: many of these children were not simple "victims" but active agents fighting for causes they believed in, or for their own advancement. Teenage African boys who fought for British forces in the Second World War recount how they were taught it was a necessary, "just" war.¹¹ In the 1950s to the 1970s, accounts from liberation struggles and civil wars speak mainly of young fighters' pride in contributing to the defense of their peoples and nations; teenage schoolboys who fled Rhodesia into exile to fight against white minority rule argued, "We want our country. . . . We want to rule ourselves and we will choose our own leader," while teenage spies and soldiers in Biafra speak of their desire to avenge the "abominable crime" of Nigerian aggression and of the empowerment they felt in fighting for their people.¹² In the 1980s, child combatants in Marxist-influenced forces in Angola and Eritrea speak in terms of freedom, liberation, and equality—of social justice—but also of how their experiences of war and their treatment within their armed groups belied these ideals, often exposing them to exploitation and abuse.¹³

These accounts are undoubtedly fallible, shaped by adult memory and authorial subjectivities, presenting personal narratives rather than historical "truths" or legal "facts." They do, however, reveal how child soldier testimonies are shaped by dominant political discourses of the conflicts and times that they emerge from. Ideas of "justice" are absent because it was only in the late 1980s that a critical nexus of globalized discourses of human rights and international law gained political and cultural prominence. Formal recognition of child soldiering in the sphere of international humanitarian law was established only in the 1977 Additional Protocols to the

Geneva Convention, which, for the first time, legislated internationally against the recruitment and use of children under fifteen years in war.¹⁴

While diplomatic negotiations for the Additional Protocols were underway, a link between justice and children became manifest following the 1976 Soweto uprising in South Africa. That link was sharpened during the 1984–86 state of emergency with the killing of around three hundred children and with the detention without trial or arrest of over twenty-thousand other children under eighteen during the struggle against the apartheid regime. With teenage “comrades” in the vanguard of the struggle, global antiapartheid campaigns drew on legal expertise and emerging human rights discourses to highlight the brutality and illegality of the apartheid state’s violence against these children and youths.¹⁵ Following media coverage of child soldiers in Africa, Latin America, the Middle East, and Asia, children’s involvement in war became a topic of growing international concern, a concern intensified by developments in child rights.¹⁶ The 1989 United Nation’s Convention on the Rights of the Child (UNCRC) created the first universal definition of “the child,” expanding this category to include “any person below the age of eighteen years.”¹⁷ In the late 1980s to early 1990s, global child rights combined with new liberal humanitarianism to fuel a wide-based campaign by international NGOs against the recruitment and use of child soldiers, culminating in the 1996 Machel Report on Children in Armed Conflict and the establishment of the UN’s Office of the Special Representative of the Secretary-General for Children in Armed Conflict.¹⁸ It is in this period that the modern image of the child soldier—the ragged African boy carrying an AK-47, both brutalized and brutalizing—emerged.¹⁹ The child soldier moved from being a heroic minor-citizen fighting to defend family and community to a violent icon of the “new barbarism” of late-twentieth-century warfare, a symbol of Africa’s broken modernity that was in need of external salvation. As Jézéquel argues,

child soldiers have subsequently become “object[s] of a new humanitarian crusade” and a central issue in efforts to legitimize Western intervention in Africa.²⁰

Human rights and truth and reconciliation commission reports have been key to the discursive construction of this contemporary “child soldier crisis,” but while these reports provide valuable data on patterns of child recruitment and utilization in conflict, they problematically often rely on “composite portraits of victimization” and universalizing norms of childhood to engender active and empathetic responses in the reader. They are more useful for analyzing the imposition of global justice norms than for unpacking children’s understandings of justice.²¹ Child soldier memoirs have emerged as another key genre of evidence. These do not reflect child combatant’s experiences through a prism of law and crime but rather focus on the injustices that drove them into armed groups and the abuses they suffered within them, primarily following a humanitarian “victimhood” framing.²² With children who volunteered rather than being forcibly recruited, there is an additional sense of injustice when their service is not rewarded: “Of all the promises that I was made, not one has been kept. I have never been paid for what I went through. A war without salary. And peace without rewards. Nothing.”²³ One might posit that the focus on immediate injustices is because children are not intellectually, socially, or morally developed enough to understand ideas of “law” and “justice,” but many accounts from former child combatants highlight that they do recognize that the crimes they committed during war were morally wrong, although most claim diminished responsibility as they were coerced, drugged, or indoctrinated into those actions.²⁴ It can be argued that the silence surrounding justice in child soldiers’ accounts stems from the questions that are (not) being asked and the narratives that are being prioritized rather than a simple lack of understanding or concern about justice from young participants in Africa’s conflicts. It also demonstrates that

children's perceptions (and adult former child combatants' memories) of conflict are not narrativized within a sociocultural framework where the provision of formal legal justice is viewed as an available option.

Globalized Childhoods, International Humanitarian Law, and Child Soldiers in Contemporary Africa

International legal responses to child soldiering have focused on the criminalization of child recruitment into armed forces in international humanitarian law (IHL). Following the 1977 Additional Protocols, in 1998 the ICC's foundational Rome Statute banned "conscripting or enlisting children under the age of fifteen years into national armed forces or using them to participate directly in hostilities" in both national and international conflicts.²⁵ However, because it adopts the UNCRC's definition of a child, the ICC has no jurisdiction over anyone under the age of eighteen and therefore avoids the issue of criminal responsibility for war crimes for teenagers between fifteen and eighteen years of age. Child soldiers are thereby constructed as deviant products of adult abuse who cannot be held responsible for their alleged war crimes because they hold no legally relevant agency.²⁶ Humanitarian dissatisfaction with the lower age limit of fifteen years of age for military recruitment led in 2000 to the UNCRC Optional Protocol on the Involvement of Children in Armed Conflicts, which established the "Straight 18" position that today dominates humanitarian policy and developing soft law.²⁷ This tension in determining the legal status of "child soldiers" between fifteen and eighteen years of age is further complicated by discrepancies between international and domestic norms on criminal responsibility and juvenile justice, norms that can range from seven to eighteen years of age.

The liminality of childhood, whereby young girls and boys can easily move between posing as "innocent civilians" to acting as "armed fighters," facilitates child soldiers' military

impact. This very liminality, however, also makes it difficult to categorize child combatants and to attribute legal and moral responsibility to them. A culturally sensitive reading of IHL would argue that not everyone under the age of eighteen should simply be treated as “children”—especially teenagers who regard themselves as adults and are seen as such within their communities—but this runs counter to the desire to protect young persons whom the international community regards as bearing diminished or circumscribed responsibility for their actions in war, either through forcible recruitment, indoctrination, or coercion. It can be argued that children’s relationship with justice should be conceived of in terms of their “needs” rather than their “wants.” While their needs require accurate and appropriate assessment, this position problematically conceives of justice as an exclusively adult realm, with only adults having the knowledge, judgment, and rationality to determine the scope and content of “justice.” This does not fit with recent evidence on African childhoods and excombatant reintegration. The idea of child soldiers as a “lost generation,” whose moral compass and sociability are permanently damaged by war service, is now being overturned by research showing that many do reintegrate effectively into society.²⁸ While developmental psychology stresses that juvenile brains are not fully developed and that teenagers are more likely to make risky decisions, child sociology and anthropological research has increasingly acknowledged children’s resilience and their social and political agency, both during war and in their navigation of postconflict reintegration.²⁹ With the acknowledgment of agency, however, comes the question of accountability. The overarching question here is whether child soldiers—of whatever biological age—should be subject to formal criminal justice and held accountable for their actions. And can current international law deliver “justice” for both child soldiers and the victims of their crimes?

Debates over child combatants' legal status passed from treaty to trial arenas when the Special Court for Sierra Leone (SCSL) was formed in 2001 to try offences committed during that country's civil wars.³⁰ The criminal culpability of child combatants was a subject of intense debate between the UN, which granted the court jurisdiction to try children between fifteen and eighteen at the time of their offences, humanitarian groups that took a "Straight 18" position, and Sierra Leonean authorities and communities, many of whom believed that justice would not be served unless child combatants were held accountable for their participation in many of the worst atrocities of the war.³¹ Ultimately, international demands for child protection were placed before local conceptions of justice, and the SCSL chose not to prosecute anyone under the age of eighteen.³²

The issue of child soldiers' role in IHL arose again in 2006 with the arrest and prosecution of Thomas Lubanga Dyilo by the ICC. Symbolically and significantly, the only charge brought against him for his actions in the Ituri conflict was regarding the conscription and use of children under the age of fifteen in armed hostilities. Kamari Clarke argues that during Lubanga's trial, the ICC discursively mobilized child soldiers as "spectres of international justice," creating legal fictions of their victimhood and negating their responsibility in order to reassign accountability to Lubanga as an individual under the doctrine of command responsibility.³³ The ICC achieved this by constructing child soldiers as "doubly-victimised," as children and as Africans, with Africa being essentially pathologized as a space of violence.³⁴ The idea of children as objects of justice, as innocent victims, certainly makes for a much clearer prosecutory narrative in terms of criminalizing the recruitment of children by armed forces, as Prosecutor Moreno-Ocampo's opening statement demonstrates: "The children still suffer the consequences of Lubanga's crimes. They cannot forget what they suffered, what they saw, what

they did. . . . Some of them are now using drugs to survive. Some of them became prostitutes and some of them are orphaned and jobless.”³⁵ This victimhood focus stems from a global politics of “childhood”—a modern, Western, middle-class idea of children being a special protected category of consumer rather than productive members of society, as is the case for most African children.³⁶ Perversely, however, as Pupavac suggests, these globalized norms that suffuse humanitarian structures and discourse negate child agency and can lead to a silencing and appropriation of children’s voices, as occurred in the Lubanga trial where only evidence of appropriate victimhood was heard.³⁷

There are significant parallels here with international interventions on behalf of African women from colonial times to the present day, with African women frequently being constructed as victims of patriarchal socioeconomic and political norms, lacking in agency but deserving of external salvation (so long as they conform to appropriate gender roles as wives and mothers): these constructions have routinely sidelined African women’s agency and engagement in conflict and postconflict reconstruction.³⁸ As MacKenzie argues in relation to the treatment of female former soldiers in Sierra Leone, “post-conflict policies are largely shaped by patriarchal norms associated with liberal social order rather than by ‘local’ needs,” and highly gendered notions of “conjugal order” at the heart of postconflict securitization and development impose a reversion to (idealized) preconflict gender and familial norms to reestablish social order.³⁹ This chapter would suggest that there is also a significant generational component to any gendered reordering of postwar societies, and that concepts of “patriarchal” social order need to pay close attention to the intersection between the generational and gendered power structures therein. Patriarchal norms are often taken as synonymous with gender oppression, but male control of generational hierarchies in families (whether real or presumed) should not be ignored in such analyses.

In locating accountability solely within command responsibility, the ICC also reinforces the failure of international law to address the foundational injustices and structural inequalities that drive conflict and children's recruitment. As the conviction of Thomas Lubanga suggests, the moral economy of IHL is driven by the need to justify international intervention and global norms cascades, spreading law rather than justice.⁴⁰ This is not to suggest that child soldiers are not "victims" or should not be treated as such in legal arenas, but rather to argue that their relationship with justice needs to be understood as more nuanced than simple victimhood, particularly for older teens who would face criminal conviction under domestic jurisdictions for crimes of violence in peacetime. A lack of formal criminal accountability for child soldiers' actions during wars can leave a legacy of unaddressed guilt for individuals and communities. Recent research has increasingly acknowledged children's legal roles not just as victims but as witnesses or as "complex political perpetrators" like Dominic Ongwen of the LRA; a "victim" in his abduction as a child, he rose to become commander of the Sinia brigade and was indicted by the ICC in 2005 alongside Joseph Kony and other LRA commanders.⁴¹ With Ongwen currently being tried in The Hague on seventy counts of war crimes and crimes against humanity, including the conscription and use of children under the age of fifteen, the issue of child soldiers' culpability and accountability has become starkly multivalent, both legally and morally. Should his abduction and forcible recruitment as a child create diminished responsibility for his actions, or potentially mitigate his sentencing, as Prosecutor Fatou Bensouda indicated might be possible?⁴² Or should the focus remain on convicting Ongwen as a deterrent and to secure justice for his victims? The relationship between individual and communal justice lies at the heart of child soldiers' position within international law.

Justice in War and Peace: Returning LRA Abductees and Transitional Justice in Northern Uganda

Perhaps the most notorious example of children's recruitment into African conflicts is that by Joseph Kony's LRA. The LRA have waged a guerrilla conflict against the Ugandan government since 1987. With a lack of popular support for Kony's rebels among Acholi and Northern Ugandan communities, children like Dominic Ongwen quickly became a prime target for abduction and recruitment, providing the LRA with military manpower and auxiliary support, "bush wives" to raise the next generation of fighters, and a terrifying tactic to punish communities who failed to support them.⁴³ It is estimated that more than thirty thousand youths under eighteen were abducted for varying lengths of time by the LRA between 1988 and 2004.⁴⁴

There is a wealth of information on returning LRA rebels and their reintegration into local communities, but there has been less focus on children's roles in justice and reconciliation.⁴⁵ Within Uganda, transitional justice frameworks have emphasized reconciliation over retribution, as seen in the 2000 Amnesty Act granting amnesty to all demobilizing LRA rebels.⁴⁶ In Northern Uganda, the Acholi community leaders Ker Kwaro Acholi have consistently espoused the cause of amnesty, proclaiming reconciliation and forgiveness as central to Acholi custom.⁴⁷ The question, however, is where child abductees fit in local discourses and practices of reconciliation and retribution. A 2011 survey of over seven hundred respondents in Acholi and Lango communities reported that only 31 percent of respondents believed that children should be held responsible for their actions during their time with the LRA, and only 13 percent believed that children should be punished, compared to 50 and 35 percent, respectively, for adults.⁴⁸ The majority of respondents stated that individuals should be held accountable or punished only for acts committed from the ages of nineteen to twenty-one years and over: given

that twelve is the age of criminal responsibility in Uganda, this could indicate a “vernacularization” of international child rights norms into local contexts, or “sensitization” among local communities as to which answers will generate international support.⁴⁹

Allen argues that the amnesty process in fact underemphasizes adult accountability, with returnees constructed as “innocent children” who deserve forgiveness, even when they have become biological adults.⁵⁰ However, while biologically “adult,” many of these returnees could still be “youths” or “children” in the eyes of the community, as they had not undergone appropriate socialization or marked normative transitions into adulthood with marriage and establishing their own homestead: the lack of accountability for youths thereby indicates their liminal status. The influence of local cosmologies and moral economies on Acholi ideas of justice must be recognized, as should Christian traditions of forgiveness and childhood innocence.⁵¹ Public transcripts of forgiveness for returnees are often underwritten by private admissions that forgiveness without accountability is difficult, and, suggestively, over 80 percent of interviewees indicated that returning children should both apologize for their actions and do *mato oput* (“drink the bitter root”).⁵² *Mato oput* is a reconciliation ceremony and process that historically functioned to reconcile two families in the aftermath of a homicide as part of restitutive Acholi customary law frameworks. Since 2000 it has been repurposed, first by local leaders and then by international NGOs, as a transitional justice mechanism to aid the reintegration of former LRA members into their communities, promoting both community forgiveness and individual healing.⁵³ The ceremony, presided over by the *rwot* (chief), involves an acknowledgment of wrongdoing and the offering of compensation by the offender, and it culminates in the sharing of the symbolic bitter-root drink. There is, however, disagreement over whether *mato oput* and other reconciliation rituals are applicable to minors, who traditionally

would not have borne the same level of culpability for their actions as adults.⁵⁴ Evidence also suggests that some youth are less supportive of such traditional reconciliation methods, viewing them as a mechanism for reinforcing unequal generational structures and engaging with them only to appease their parents, thereby calling into question the efficacy of any individual moral suasion and healing.⁵⁵

There is a pressing need for research into the relationship between children and justice, and in particular to explore what children formally associated with armed groups believe justice is and should be. Significantly, in Northern Uganda, which returned to a state of relative peace following the LRA's relocation to the DRC after 2006, there is also a need for greater investigation of the relationship between the specific context of transitional justice and wider ideas of social and criminal justice—can there be transitional justice without a wider belief in justice itself? This section is based on pilot project interviews with former LRA abductees, mostly in their early twenties, in Lamwo District on the border with South Sudan. Youth interviewees were selected because of ethical concerns over interviewing children. Semistructured interviews were conducted by research assistants in Acholi with individual respondents, with male and female respondents asked what they thought that “justice” and “social justice” meant, what the current state of justice in the community was, and what they thought would be justice for the LRA's crimes.⁵⁶ The Acholi term used for “justice” was *ngolo kop*, which translates as “reaching a decision” or “passing a verdict” and is more associated with formal court processes, although it is now used informally among groups trying to reconcile around a specific decision. As one respondent noted, “Justice is helping solve a disagreement amongst different groups of individuals.”⁵⁷ “Social justice” was translated by the interviewers as *ngolo kop me te gang*—justice in the community, *te gang* meaning “under the home.” *Ngolo kop*

me te gang was generally understood in terms of punishment more than reconciliation, unlike Western conceptions of social justice as equality.

Asked what they thought that “justice” would be for LRA rebels, most interviewees expressed a desire for lenient treatment for child abductees and others whom they held less responsible, but this was coupled with a strong belief in the need for retributive justice for senior commanders, indicating a level of agreement with the ICC’s focus on command responsibility. As one interviewee responded, “I would punish the generals heavily if not by hanging because the kind of trauma and lives lost can never be replaced. But the little ones should be forgiven.” Another noted, “I would forgive some actions because some were abducted as children and robbed of their innocence but those who raped women and killed with[out] a conscience should be sentenced to life imprisonment.”⁵⁸ Another stated that while “deep down I believe forgiveness should be done on these people . . . others say because the lives of their relatives were lost, they should hang for their crimes. And sometimes I agree with them.”⁵⁹ The possibility of hanging or imprisoning senior rebel commanders for their “guilt” was repeatedly raised.

Key to the attribution of guilt and demand for punishment was a perception of *mens rea*: “Most are not guilty because it’s done out of our will and I accepted Jesus as my savior so I would just let go and forgive each and every one of them apart from the generals in the rebel camp who performed every action in their right mind and soul.”⁶⁰ Those who had been forced to commit atrocities, however, were held deserving of “forgiveness” or “lenient” treatment, as were women and children.⁶¹ Many noted the need for forgiveness and reconciliation of former rebels “to release the flow of grudge in our blood stream,” but they felt some actions were beyond the pale, violated social taboos, and deserved punishment. Others identified a particular hierarchy of criminality and abuse, listing the unforgivable crimes as “rape, sexual slavery, human butchering

and cannibalism,” while both male and female respondents highlighted that sexual slavery should be severely punished.⁶² Personal knowledge and experience unsurprisingly inform the value judgments made about particular forms of offence, with ideas of honor and shame supplying a fundamental interpretative framework for understanding moral agency and accountability, as well as Christian notions of forgiveness and innocence.⁶³ Only one person suggested that everyone should be found “not guilty” because “I want those still left in the bush to return without fear and to spread a forgiveness mentality.”⁶⁴ Overall these interviews are indicative of a limited reconciliation between former LRA abductees, their communities, and their former captors: the desire for reconciliation and the recognition of the importance of forgiveness in that process is still weighed against the need to see those designated as responsible for individual and community suffering held accountable for the worst of their actions.

These oral testimonies are inevitably cast through the life experiences and the current sociopolitical contexts of Lamwo and Uganda more broadly. What emerged from these discussions was the need to strengthen and reform existing civil and criminal justice frameworks within Northern Uganda. Returnees unanimously stated that justice was neither functioning nor available for all in Acholi, with money and status viewed as prerequisites for accessing any form of justice, which supports Anna MacDonald’s research on Acholi legal structures.⁶⁵ Respondents noted that “our justice here is terrible because it’s based on money only,” that community members tend to avoid attending case proceedings because they think these are “already fixed to suit a particular party with status and money or property,” and that “only the rich get justice, we the poor get no justice whatsoever.”⁶⁶ The concern about money and the commodification of justice seems linked to tensions surrounding the increasing costs of both civil cases and bridewealth, but it also reflects debates on the rising costs of *mato oput* and who should bear the

costs of compensation in those ceremonies, which are exacerbated by wider agitation about poverty and social inequality. It is also linked to social and generational tensions surrounding the nature of power and authority in Acholi, as well as concerns about the self-interested actions of chiefs. One young woman simply noted that “I believe I am the wrong person to answer this because I have very little knowledge about this so I prefer you ask me another question, those in power can help you very well,” which was indicative of a wider disengagement and sense of legal disenfranchisement among interviewees.⁶⁷ Another interviewee suggested that “our justice system needs to be revised and the right uncorrupted people need to be in these positions, otherwise I have no trust in our justice system.”⁶⁸ As this evidence from Lamwo indicates, the injustices and inequalities that can push children into conflict, or drive the conflicts into which they are recruited, need to be addressed for any truly successful transitional justice to be delivered.

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The treatment of child soldiers highlights the tensions in transitional justice between local and global norms, justice for individuals and communities, and the difficulties of categorizing individuals and their actions. An historical survey highlights that child combatants are often acutely aware of the injustices that drive conflict but have not expected the law to provide justice for themselves or their communities. It also highlights that the modern “child soldier crisis” is a product of international humanitarian action and child rights norms, which have in turn shaped the development of children’s positions within IHL. The universalized definition of childhood embedded in global humanitarian law and politics is, however, “too blunt an instrument” to address the complexities of children’s involvement in war; a more nuanced, historicized, and ethnographically contextualized understanding of “childhood” is needed.⁶⁹ Future research will

hopefully delineate the multiple social meanings of childhoods within different African environments from the twentieth to twenty-first centuries, researching childhoods not just as a life stage leading to adulthood but reclaiming children's subjectivity and their ability to be reflexive about their lives and identities. That is, it will investigate children as "beings" rather than just "becomings."⁷⁰ The identities of child soldiers in particular need to be understood as processes of strategic self-representation, shifting according to context and audience and formed at the intersection of local and global models of childhood and rehabilitation.⁷¹

There is a parallel need for ethical and sensitively conducted interdisciplinary research into children's understandings of law and justice, in both war and peace. If transitional and traditional justice are ultimately about restoring social equilibrium between communities, and if youth under eighteen are regarded as active members of those communities, some form of accountability seems necessary for the actions of child soldiers. Restorative justice lessons drawn from juvenile justice have more recently been promoted as effective for children in transitional justice frameworks. Those lessons focusing on informal and flexible procedures that emphasize future welfare and community relations rather than individual punishment for past offences should be supported because those procedures promote a child's ability to contribute to the community rather than isolating them from it.⁷² There will always be tensions between the right of an individual child soldier to protection and rehabilitation, on the one hand, and a community's right to justice, on the other. But we need to understand the child's ideas of justice—what it is, and what it should be—to facilitate their contribution to community reconciliation. A balance needs to be struck between a former child soldier's right to protection and their right to agency and consequent accountability, between their limitations and their capabilities for functioning within the realms of justice.

Academic and policy research has recently stressed the need for gendered justices; the argument of this chapter is that generation and age also need to be taken more seriously as a vector of and for justice. More research is needed into African children's ideas of law and justice, both in peace and in war. As Dorothy Hodgson has noted, there is a particular moral authority of motherhood owned by and accorded to African women.⁷³ Perhaps we should also be talking about the moral potentiality of childhood. Children's roles in the political and moral economies of justice need to be acknowledged and engaged with: we need to listen to, rather than speak for, children in arenas of international and domestic law.

Notes

1. Statement from a child who participated in the TRC Raising Awareness Workshop, Madina, November 16–18, 2007. Quoted from Republic of Liberia, *Truth and Reconciliation Commission Final Report*, vol. 3, title 2, "Children, the Conflict and the TRC Children Agenda" (Monrovia, Liberia: Truth and Reconciliation Commission of Liberia, 2009), 104.

2. See Guy S. Goodwin-Gill, "The Challenge of Child Soldiers," in *The Changing Character of War*, ed. Hew Strachan and Sibylle Schiepers (Oxford: Oxford University Press, 2011), 410–29; Mark Drumbl, *Reimagining Child Soldiers in International Law and Policy* (Oxford: Oxford University Press, 2012); Julie MacBride, *The War Crime of Child Soldier Recruitment* (The Hague: T.M.C. Asser Press, 2014).

3. Graça Machel, foreword to *Children and Transitional Justice: Truth-Telling, Accountability and Reconciliation*, ed. Sharanjeet Parmar, Mindy Jane Roseman, Saudamini Siegrist, and Theo Sowa (Cambridge, MA: Human Rights Program at Harvard Law School, 2010), x–xi.

4. David M. Rosen, "Child Soldiers, International Humanitarian Law and the Globalization of Childhood," *American Anthropologist* 109, no. 2 (2007): 296.
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20. Jean-Hervé Jézéquel, “Les enfants soldats d’Afrique, un phénomène singulier,” *Vingtième siècle. Revue d’histoire* 89, no. 1 (2006): 99–108.

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32. Cohn, "Protection of Children."

33. Kamari Maxine Clarke, *Fictions of Justice: The International Criminal Court and the Challenges of Legal Pluralism in Sub-Saharan Africa* (Cambridge: Cambridge University Press, 2009), 90.

34. *Ibid.*, 106. Erica Burman, "Innocents Abroad: Western Fantasies of Childhood and the Iconography of Emergencies," *Disasters* 18, no. 3 (1994): 238–52. As Kamari Clarke suggested in her keynote address for the conference on which this volume is based, the mass mobilization of "neo-justice" and the #BringBackOurGirls campaign around the figures of the Chibok girls abducted by Boko Haram in Nigeria highlights global sentimentality around the figure of the female African "victim," but it also links to the globalization of Western norms of "childhood" and the historic symbolism of "saving" children in humanitarian campaigning—the campaign to save the Chibok girls draws traction from their symbolic triple victimhood of being Africa, female, and children.

35. *The Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04–01/06, January 16, 2009, 4–5. <https://www.icc-cpi.int/drc/lubanga>. See Natalie Wagner, "A Critical Assessment of Using Children to Participate Actively in Hostilities in *Lubanga*: Child Soldiers and Direct Participation," *Criminal Law Forum* 24 (2013): 145–203.

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38. See chapters by Patrick Hoenig and Holly Porter in this volume for African women’s engagements with justice systems. On African women’s agency and international rights interventions, see Dorothy L. Hodgson, ed., *Gender and Culture at the Limit of Rights* (Philadelphia: University of Philadelphia Press, 2011), and Balghis Badri and Aili Mari Tripp, eds., *Women’s Activism in Africa: Struggles for Rights and Representations* (London: Zed Books, 2017).

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47. Erin Baines, "The Haunting of Alice: Local Approaches to Justice and Reconciliation in Northern Uganda," *International Journal of Transitional Justice* 1 (2007): 91–114.

48. Sima Atri and Salvator Cusimano, "Perceptions of Children involved in War and Transitional Justice in Northern Uganda," March 2012, https://tspace.library.utoronto.ca/bitstream/1807/35200/3/Atri_Cusimano_Kiessling_2013.pdf, 13–50.

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50. Tim Allen, *Trial Justice: The International Criminal Court and the Lord's Resistance Army* (London: Zed Books, 2006), 114.

51. Baines, "Haunting of Alice."

52. Atri and Cusimao, "Perceptions of Children."

53. Tim Allen, "Ritual (Ab)use: Problems with Transitional Justice in Northern Uganda," in *Courting Conflict: Justice, Peace and the ICC in Africa*, ed. Nicholas Waddell and Phil Clark (London: Royal Africa Society, 2008), 47–54.

54. Prudence Acirokop, "The Potential and Limits of *Mato Oput* as a Tool for Reconciliation and Justice," in Parmar, Roseman, Siegrist, and Sowa, *Children and Transitional Justice*, 267–92. There is a pressing need for research into the historical development of customary law in Acholiland to better contextualize contemporary legal developments, and indeed into shifting notions of Acholi "childhood."

55. Baines, "Haunting of Alice"; Kirsten Fisher, *Transitional Justice for Child Soldiers: Accountability and Social Reconstruction in Post-Conflict Environments* (London: Palgrave Macmillan, 2013).

56. Many thanks to my research assistants Elizabeth Laruni, from MISR, and Wilson Kambel.

57. Interview 8, ca. 30-year-old male, Lamwo District, week of February 2, 2015.

58. Interview 5, ca. 23-year-old female; Interview 2, ca. 34-year-old male, Lamwo District, week of February 2, 2015.

59. Interview 6, ca. 25-year-old male, Lamwo District, week of February 2, 2015.

60. Interview 1, ca. 30-year-old male, Lamwo District, week of February 2, 2015.

61. Interview 11, ca. 24-year-old male, Lamwo District, week of February 2, 2015.

62. Interview 7, ca. 24-year-old male, Lamwo District, week of February 2, 2015.
63. Bård Mæland, "Constrained but Not Choiceless: On Moral Agency among Child Soldiers," in *Culture, Religion and the Reintegration of Female Child Soldiers in Northern Uganda*, ed. Bård Mæland (New York: Peter Lang, 2009), 5.
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65. Anna MacDonald, "From the Ground Up: What Does the Evidence Tell Us About Local Experiences of Transitional Justice?" *Transitional Justice Review* 1, no. 3 (2015): 75–121.
66. Interview 1, ca. 30-year-old male; Interview 5, ca. 23-year-old female; Interview 4, ca. 20-year-old female, Lamwo District, week of February 2, 2015.
67. Interview 3, ca. 20-year-old female, Lamwo District, week of February 2, 2015.
68. Interview 1, ca. 30-year-old male, Lamwo District, week of February 2, 2015.
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70. Allison James, "Life Times: Children's Perspectives on Age, Agency and Memory across the Life Course," in *Studies in Modern Childhood: Society, Agency and Culture*, ed. Jens Qvortrup (London: Palgrave Macmillan, 2005), 248–66; Emma Uprichard, "Children as 'Beings and Becomings': Children, Childhood and Temporality," *Children & Society* 22, no. 4 (2008): 303–13.
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72. Cécile Aptel and Virginie Ladisch, *Through a New Lens: A Child-Sensitive Approach to Transitional Justice*, International Center for Transitional Justice, August 2011, www.ictj.org.
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