HUMAN RIGHTS ASSESSMENT ON THE REINTEGRATION OF CHILD SOLDIERS IN UGANDA

A DISSERTAION SUBMITTED TO THE FACULTY OF LAW AT THE UNIVERSITY OF PRETORIA, IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTERS OF LAW (LLM HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA)

BY

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31 OCTOBER 2012
DECLARATION

I, Patience Chomba Musonda, hereby declare that this dissertation is original and has never been presented in any other institution. I also declare that secondary information used has been duly acknowledged in this dissertation.

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Date: _______________________

Supervisor: Dr Ronald Kakungulu Mayambala

Signature: _______________________

Date: _______________________

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DEDICATION

I dedicate this dissertation first and foremost to God Almighty for seeing me through this program, there are times I felt like giving up but through his word I was strengthened, and to my parents who have always supported me and believed in me throughout this course may God richly bless you.
ACKNOWLEDGMENTS

I can do all things through Christ who strengthens me, when I embarked on this journey I knew it would not come easy, in the process of writing this study, for that matter in my entire life, to belabor the obvious, nothing and no one can take precedence over recognizing the love and grace I receive from God. By answering my prayers, He has always proved to be a God of dialogue and he has bestowed his blessings upon me.

I could not have completed this dissertation without the help and support of my supervisor, Dr Ronald Kakungulu who pushed me to complete this work a month before the actual deadline, for encouraging me to go to Gulu to conduct interviews, I am more than grateful this gave me time to review my work. The Staff at Makerere University, the lecturers who helped me such as Rose Nakayi and Nicole Zarifis.

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To make it complete, my special thanks goes to my family and friends for their unfailing support. In particular, my father, who always supports my intellectual endeavors throughout my academic years, can never be thanked enough, to my mother for her emotional support and my brothers Gregory, Seewell and Chimwemwe not forgetting my two sisters Margaret and Mumba. I am truly grateful for everyone who in one way or another contributed to this study.

A special thank you goes to my voice of reason and encouragement whenever I thought I could not make it he encouraged me throughout this entire process Trevor. I can never thank you enough.
31 October 2012, Makerere University, Uganda
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<table>
<thead>
<tr>
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<th>Full Form</th>
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<tbody>
<tr>
<td>ACRWC</td>
<td>African Charter on the Rights and Welfare of the Child</td>
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<td>AU</td>
<td>African Union</td>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<tr>
<td>CEDAW</td>
<td>Convention on the Elimination of all Forms of Discrimination against Women</td>
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<td>DDR</td>
<td>Disarmament, Demobilisation and Reintegration.</td>
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<td>EDRP</td>
<td>Emergency Demobilisation and Reintegration Program</td>
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<td>FAPS</td>
<td>Formerly Abducted Persons</td>
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<td>GOU</td>
<td>Government of Uganda</td>
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<td>GUSC0</td>
<td>Gulu save the children organisation</td>
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<td>ICC</td>
<td>International Criminal Court</td>
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<tr>
<td>IDP</td>
<td>Internally Displaced Persons</td>
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<td>IDDRS</td>
<td>Integrated Disarmament, Demobilisation and Reintegration Standards</td>
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<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
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<tr>
<td>LRA</td>
<td>Resistance Army</td>
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<tr>
<td>NGO</td>
<td>non-governmental organisation</td>
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<td>NRA</td>
<td>National Resistance Army</td>
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<tr>
<td>SOWAC</td>
<td>School for War Affected Children</td>
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<tr>
<td>UNICEF</td>
<td>United Nations Children’s Emergency Fund</td>
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<td>UNHCR</td>
<td>United Nations High Commission for Refugees</td>
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<tr>
<td>UPDF</td>
<td>Ugandan Peace Defence Force</td>
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CHAPTER ONE

INTRODUCTION

1.1 Brief background:

Participation of children as armed soldiers is one of the most alarming trends of armed conflicts.¹ Uganda had from the 1980s the time that Milton Obote was overthrown by Yoweri Kuguta Museveni until 2006 had been going through civil strife, this conflict has been between the LRA under the leadership of Joseph Kony and the ruling government under the leadership of Yoweri Kaguta Museveni.² This conflict was prevalent in Northern Uganda, and it has affected the inhabitants of this community namely the Acholi people.³ Children from this community were abducted and used in the conflict by the LRA; these children are being used in the conflict as child soldiers. Many scholars have described this conflict as one of the forgotten conflicts of this, having lasted for more than two decades with no clear agenda for the conflict by the LRA rebel group, indeed it is one of those conflicts that have been forgotten, however to the inhabitants of Northern Uganda the scars and traumatizing experience this conflict has left will be remembered for generations to come.

There has been blame on both parties involved in this conflict; the LRA claims the UPDF itself under Yoweri Museveni have been using children in the conflict; however this dissertation aims at analysing the reintegration of children that were once abducted by the LRA. Thousands of children have been abducted in Northern Uganda and have been made to kill their families and community, the reason is that these children should get rid of all family members, burn down their communities so that they have no reason to return but rather stay with the LRA. This phenomenon has been described by many authors as “a time bomb that threatens stability and growth in Northern Uganda.”⁴

It is worth noting that the conflict in northern Uganda is said to have ended in 2006. This means some of the children that were abducted by the LRA; have by 2012 returned to their communities, this process of returning from the bush and acquiring civilian status is referred to as reintegration. In order

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¹ C Blattman and J Annan ‘child combatants in Northern Uganda; myths and realities’ (2008).
³ G Maina (n 2 above).
⁴ C Blattman and J Annan (n 1 above).
to transition from military life into civilian life these children need to be reintegrated back into their communities bearing in mind the different dynamics such as gender, female child soldiers usually return with children and many reintegration programs do not really provide for the specificities of the young returning mothers. Being a post conflict country, Uganda is an interesting place to analyse the reintegration process of formerly abducted children and the meaning of reintegration from an African perspective.\(^5\)

In 2006 following the Juba peace talks in Southern Sudan where a cessation of hostilities was signed by both the parties,\(^6\) many children and women returned from the bush, however it should be noted that despite the cessation of hostilities and the government of Uganda giving the LRA Amnesties the ICC has issued arrest warrants for the rebel leaders involved in the Ugandan conflict. Despite these developments as of 2007, up to 2,000 women and children remained with the opposition LRA, it is estimated that from the time that the conflict began in the 1980s a total of 25,000 children have been abducted by the LRA.\(^7\)

‘Thousands of civilians have been forcibly recruited by the rebel Lord’s Resistance Army, or LRA, over two decades of war, two-thirds of which are children under the age of 18.’\(^8\) Although the LRA was not the only ones accused of recruiting child soldiers, the UPDF has also been said to have used children, however, the LRA has done in a way that has shocked the conscious of men.\(^9\)

Many of the children were forced, however, there is a small number of early LRA recruits who freely volunteered and became senior commanders in the force as time went by, from these only a handful of them have returned from the bush.\(^10\)

Some joined the UPDF provided they were above 18 the UPDF used them to locate the position of LRA rebel group.\(^11\)

\(^5\) Blattman and Annan (n 1 above).

\(^6\) The Juba Peace Agreement on a permanent cease fire, Juba Sudan 2006 ‘ an agreement to foster peace and long lasting solutions to the conflict and promote peace and accountability with the aim of restoring harmony and tranquility in the affected communities.

\(^7\) Child soldiers global report 2008.

\(^8\) As above (n 7).

\(^9\) As above (n 7).

\(^10\) Blattman & Annan (n 1 above).
From the beginning of the 1980s to the late 1980s a total of 25,000 children were abducted by the LRA. The number increased after 2002, with an estimated total of 10,000 children abducted between May 2002 and May 2003. By 2005, abductions had decreased, 200 children were reported to have been abducted in 2006 in the period of six months.

It is therefore a common aspect of the northern region that virtually all ex-combatants were formerly abducted, it is for this reason that the demobilization, disarmament, and reintegration (DDR) programs have focused mainly on the reception and return of children and youth escaping from the LRA.

During the conflict, from the early 1980s there were no formal DDR programs in Northern Uganda, most children that left the LRA were either captured or surrendered to the Government forces. However, it’s only up until the 1990s that many NGOs had established a number of reception centers for the returning children.

As the community of northern Uganda tries to restore peace and security, one of the important aspects worth analysing is the reintegration of the formerly abducted children. Formerly the inhabitants of northern Uganda were forced to live in internally displaced camps; however these have been done away with.

This paper therefore seeks to look at the reintegration process in Northern Uganda, from the time the war ended until 2012, highlighting the best approach and practice of reintegrating formerly abducted children.

1.2 Problem statement

In the aftermath of the civil conflict, many actors ranging from the international community and national governments have been quick to suggest, to draft, and to implement programs that are meant
to enable children who were victims of the conflict reintegrate back into society. These actors and international agencies have constantly played a vital role in the reintegration of formerly abducted children in Northern Uganda. Although well intended, these programs have not been analysed for their utility and efficacy in achieving their desired objective. This dissertation seeks to deal with this analysis.

1.3 Research questions
In light of the above, the key research question therefore is: to what extent has the current reintegration process in Northern Uganda been effective? The sub-category of questions includes:

- How effective is the process of reintegration in northern Uganda?
- Is there a legal guarantee of reintegration either by provision or by implication?
- What is the best approach in ensuring proper reintegration of child Soldiers in Uganda?
- What are the various actors and their roles in the reintegration process?

1.4 Definition of key terms

1.4.1 Child Soldier
A child soldier has been described as “any person under the age of 18 who is part of any kind of regular or irregular armed force in any capacity, including but not limited to cooks, porters, messengers and those accompanying such groups, other than purely as family members.”

1.4.2 The concept of reintegration
Reintegration is “a complex economic, political, social and psychological process by which former soldiers make the transition from a military life.” ‘Reintegration is a long term process that may take several years, in order for ex-soldiers and their families to adapt to a civilian way of life.’ Hence a distinction is often made between mere reinsertion into the community and reintegration.

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18 Guy Lamb ‘Current Approaches to Disarmament, Demobilisation and Reintegration (DDR) Program Design and Implementation’ thematic working paper 1, July 2008.
19 G Maina (n 2 above).
1.4.3 Reporter:
This term in Uganda is used in describing, “Both ex-combatants and their dependents that have renounced all involvement with the rebellion and registered with the pertinent government agencies.” These reporters receive amnesty from the government after they have satisfied the conditions contained in the Amnesty Act of 2000.

1.5 Significance of study
The aim of this dissertation is to bring to the fore the various challenges that are being faced with regards to reintegration of formerly abducted children in Northern Uganda. It brings to the fore the existing international legislation that prohibits or restricts using of children in armed conflicts, as well as its impact on state and non-state actors. More importantly, this paper will aim at bringing to the fore the various ways that can be of use in the prosecution of violators of relevant norms of international law with regards to conscription of children in armed conflict. The study will give insight into the reintegration process and the various mechanisms that may be used in ensuring proper reintegration of formerly abducted children.

1.6 Literature review
Many scholars have written on the use of children in armed conflicts. However, not many have written on the reintegration of these children back into their communities. The following are some of the articles and sources that will be used:

K Kingma in his book ‘Demobilisation in sub-Saharan Africa’ defines reintegration as “a complex process in which basically each of the ex-combatants has to find a new civilian life and re-establish roots in the society.” He differentiates between social, political and economic reintegration and concludes that, “the long-term objectives of the reintegration process are to enhance economic and human development and to foster and sustain political stability, security and peace.”

20 G Lamb (n 18 above).
21 Dr Anthony Finn ‘the drivers of reporter reintegration in Northern Uganda’ 2012.
22 Dr Anthony Finn (n 21 above).
24 K Kingma (n 23 above).
Christopher Blattman and Jeannie Annan. In this article, the authors are trying to bring to the fore the various names attached to child soldiers. They look at the conflict in Uganda and various reintegration programs both governmental and non-governmental.

There have been a number of reports by local organisations such as the Gulu Support the Children Organisation (GUSCO). The research report focuses on the reintegration of returnees, ex-combatants and other war affected persons in the communities of Gulu and Amuru in Northern Uganda. The report highlights some findings and recommendations with regards the integration process in Northern Uganda.

Jareg (2005) points out that:

Children and youth may perceive their own reintegration differently from outsiders designing the programs. Therefore there is need to understand how reintegration is perceived by its beneficiaries. There is need for a program that provide interventions that promote both individual and community development.

Articles are also relevant in getting some insight on the aspect of reintegration in Northern Uganda. One such article is by Grace Maina who wrote an article on the reintegration of formerly abducted children in Northern Uganda. Her paper analyses “the activities of reintegration, the gaps in the current reintegration literature and practice and the role played by the various actors present in the region in enabling abducted children attain their civilian standing.” She argues that reintegration has to do with securing the life of an individual to ensure their freedom from fear and free from want, she however acknowledges that it is not possible to achieve complete freedom from want and from fear but the reintegration programs should at least achieve basic freedom that ensures that these children have an opportunity to survive in an environment where they feel safe.

There is a general consensus that the reintegration programmes in Northern Uganda have not met their required result, it is for this reason that this paper seeks to contribute to what will amount to the programs to be successful and effective.


27 G Maina (n 2 above).
1.7 Research methodology

This paper analyses applicable documents in this regard, including statutes, conventions, articles and reports on child soldiers.

Some informal interviews with some people in Northern Uganda who may have been affected by the conflict were carried out. It was also important to interview some persons in organisations that have been dealing with the formerly abducted children, mostly the reception centers such as World Vision, GUSCO, and SOWAC. Relevant government offices will also be part of the interviewees of this research.

This study utilised a desk method, through relevant scholarly articles, books, journals and internet. Research on Northern Uganda was based on empirical and non-empirical information from authors and internet sources. The combination of desk bound research and interviews helped in strengthening the paper as there is need to understand the human rights aspect of reintegration as well as understanding how the beneficiaries of the reintegration programs view it in Uganda.

1.8 Limitation of Study:

This dissertation is limited to Northern Uganda as it is looking at the reintegration of formerly abducted Children in Northern Uganda. This study is limited to formerly abducted children in Northern Uganda and the various reintegration processes in Northern Uganda. Reference will be made only to the reintegration of former child soldiers in the context of Africa therefore limiting the study.

This paper will be limited in that the trauma from the conflict affect those who were children conscripted in combat, and victims and other actors in communities, therefore making some things difficult to capture accurately or without bias as it is a very sensitive issue among the Acholi people in Northern Uganda, the issue of how to record some interviews, of young persons may be a limitation, as this may require the presence of social workers, whose presence may help the witnesses or actors be more relaxed.

1.9 Outline of Chapters
The study will consist of five chapters.
Chapter One: introduction and background, it will set out the content in which the study is set, it highlights the basis and structure of the study.

Chapter Two: this chapter will give a brief background to the conflict that was in Uganda, it will discuss the concept of reintegration after the war. It will mainly bring to the fore the current reintegration process in Uganda.

Chapter Three: the legal guarantees of the right to reintegration

This chapter will look at the various pieces of legislation on child soldiering and whether there is a legal guarantee either by provision or implication of the right to reintegration; case law will be included in this chapter.

Chapter Four: A critical analysis of the approach towards the effective realization of the right to reintegration.

This chapter examines the factors that influence successful reintegration, it will bring to the fore the various roles of different actors in the process of reintegration.

Chapter Five: conclusion and recommendations
CHAPTER TWO: The reintegration process in Northern Uganda and a brief background to the conflict and abduction of children by the LRA.

2.1 Introduction

This chapter seeks to outline the reintegration process in Northern Uganda. Uganda has been facing civil strife since the 1980s, this conflict has been highly criticised as many children have been forcefully conscripted.

The use of children in armed conflict has become one of the major problems in modern society. In Northern Uganda a number of children have been used in the conflict that existed for over two decades. As a result, after this conflict Uganda is now facing a great challenge in re-integrating these children.28

The process of reintegration has been an ongoing one in Northern Uganda. It has involved a number of actors ranging from local civil society-based organisations, national non-governmental organisations, international NGOs to religious and cultural leaders. “These ad hoc approaches have been formalised by the Amnesty Act and the Amnesty Commission.”29

“Reintegration is an aspect of a trinity – Disarmament, Demobilisation, and Reintegration (DDR), though reintegration can only be achieved when the two other components are well implemented.”30

The trinity is important in post-conflict countries if the society is to achieve sustainable peace, security and development. 31 As a successful DDR program for ex-combatants is the key to an effective transition from war to peace.”32

The reintegration component of the DDR process is usually more difficult when it involves former child soldiers. “Due to the negative values children acquire from bush it is a hard task to reorient and readjust them given they have lost their childhood and have had their personality shaped by


29 G Maina (as above n 2).

30 B Awodola ‘comparative international experience with reintegration programs for child soldiers’ 2009 peace and conflict.

31 B Awodola (n 30 above).

32 B Awodola (n 30 above).
knowledge of crime and atrocities.” However, it is for this reason that there should be a proper procedure of returning former child soldiers to civilian lives is necessary in view of their training in the use of arms and the negative values they acquire during the war years. “Failure to engage them in proper rehabilitation and reintegration would foretell grave consequences and loss of human capacity for the affected society.”

Reintegration programs therefore, have to consider the entire trauma that these children face. It has to encompass the psychosocial and economic aspects. Participation of children in armed conflict has a very negative impact on the growth of that child, it is therefore relevant that the reintegration process encompass all the issues relating to the child such as their mental state as well as physical state. In order to have effective reintegration, there is need for a formal DDR program, this chapter will analyse the nature of the reintegration program in Uganda and how it has worked in helping former child soldiers.

This investigation will not make sense if a brief account of the conflict in Northern Uganda is not made. It should be noted that the conflict is not technically going on in Northern Uganda at the moment because a ceasefire was signed between the government of Uganda and the Lord’s Resistance army movement on 26 August 2006.

2.2 Brief background on the conflict and use of child soldiers in Northern Uganda:

The male youth of Northern Uganda have been known from time immemorial to have been actively associated with fighting in the conflicts affecting their region. During the colonial times, the Acholi from northern Uganda were the majority in the military under the rule of Milton Obote, who led the independence movement against the British in 1962. However, in 1971 the Obote regime was overthrown by an army officer, Idi Amin Dada. Under the Amin regime the Acholi of northern

33 B Awodola (n 30 above).
34 Awodola (n 30 above).
35 Juba Peace Agreement on a permanent cease fire, Juba Sudan 2006. An agreement to foster peace and long lasting solutions to the conflict and promote peace and accountability with the aim of restoring harmony and tranquility in the affected communities.
Uganda were targeted because of their support for Obote, but also because they composed the bulk of the army, and thus posed a potential threat to Amin’s reign.38

In 1979 Amin was forced to flee into exile after he was overthrown by a Tanzanian-backed rebellion.39

In 1980 elections were held in which Milton Obote, returned into power, it is during this time that a number of rebel groups were formed. Accusations of committing massive human rights abuses were made against the Obote regime, this yielded tensions that consequently led to Obote being overthrown in 1985 by a group of ethnic Acholi’s led by General Tito Okello.40 However, the Okello government did not stay in power for long as the rebel movement under Museveni took over.

It is worth noting that under the Obote regime, the Acholi people were include in the national army. This was a highly undisciplined rebel movement; they committed atrocities including the notorious “Luwero Triangle” massacres of 1980-1985 in which many people lost their lives.41

Following the overthrow of General Tito Okello by the Yoweri Kaguta Museveni’s National Resistance Army in 1986, the Acholi were decommissioned from the army, as Museveni relied on troops from his homeland in southwest Uganda.42 This resulted into the Acholi being persecuted back to Acholi land in the North.43

“The returning demobilised and disenfranchised Acholi joined civilian dissenters who mistrusted Museveni and were spited by his apparent duplicity over an attempted Peace Accord in Nairobi 1986. Disenfranchised Acholi were easily recruited into the Holy Spirit Movement, started by Alice Lakwena, which engaged in numerous attacks against civilians and the government in 1986.”44

The Alice Lakwena led movement which was known as the Holy Spirit Movement was defeated by the Yoweri Museveni regime, but this rebel group was later revived by Joseph Kony in 1988; the

38 N Desmond Greif (n 36 above).
39 N Desmond greif (n 30 above).
40 As above (n 30).
41 N Desmond Greif ( n 30 above).
42 As above (n 30).
43 N Desmond Greif (n 30 above).
conflict in Northern Uganda is a very interesting one, as the leader of the rebel group has both spiritual and political reasons for his dislike of the Museveni regime. Kony has claimed to be possessed by spirits who guide him and that he wants to wipe out the evil powers in the world. It has also been said that he wants to produce a new, clean generation of Acholi that would rule the country. By fighting for the LRA, the children would become clean and free of sin, and especially the children born in captivity were considered to be clean. It is worth noting however that the real reason of the LRA agenda has been questioned, it is not clear what this rebel group wants, however, the most alarming aspect of this conflict in Uganda is the use of children and forcing them to participate in the conflict, the children have been made to commit brutal acts in order to assimilate them into the rebel group.

During their time with the LRA, the boys have been used as combatants and the girls have mainly been used as sex slaves and wives for the rebel leaders, but even girls have participated in combat. Many girls have given birth while with the LRA.

Due to the conflict in Northern Uganda, there are a number of NGOs working in Northern Uganda with the reintegration of formerly abducted children. Even though many people have described the conflict in Uganda as one of the forgotten conflicts of today, the scars that it has left on the people in Northern Uganda will truly never be forgotten. But through proper reintegration programs, many people, especially children, can rise above this traumatic experience.

2.3 Returning from the bush

The return of children from the bush or areas of abduction takes many forms; some children are captured by the Uganda Peoples Defence Force (UPDF), some run away from the LRA. In order to understand the reintegration process it is important to know the kind of ways children returning from the bush are handled upon their return by the various institutions involved in the return process.

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46 EK Baines (n 45 above).

47 C Andersson (n 28 above).

48 C Andersson (n 28 above).

49 See Andersson (n 28 above)

50 T Allen & M Schommera ‘Reintegration in Northern Uganda a hard homecoming: lessons learned from reception center process on effective interventions for former abductees in northern Uganda’ 2005. Dr Finn uses the term ‘reporters’ to describe Formerly Abducted Persons who have gone through these channels by reporting to the UPDF.
The manner in which the returning children are received may either have positive or negative implication on the reintegration process; therefore it is very important to consider the strong link that exists between the reception of children upon their arrival and their subsequent reintegration.\textsuperscript{51} Initially everyone who returns from the LRA has to undergo a well-established procedure of reporting.\textsuperscript{52}

This stage is the reinsertion component of reintegration, after the escape or recruitment of the formerly abducted children; the next step is to “report to the UPDF or the local authorities either the chief or the police who would then take them to the UPDF for debriefing.”\textsuperscript{53} The returning children are mostly kept with the UPDF for a maximum of 48 hours.\textsuperscript{54} The ages for the returning children vary, with some children being as young as eight years old. Once this has been done, the children will be sent to reception centers, where they were to spend at least 6 months.\textsuperscript{55} However currently not many reception centers are functioning in northern Uganda, this however does not mean that they are not there, but rather most of them are closed, one example is that of the World Vision Reception center in Gulu was closed down.\textsuperscript{56}

This process of reporting after returning is very important in that the Amnesty Act clearly states that “amnesty can only be granted to those who have reported to the local officials and have been debriefed.”\textsuperscript{57} However, due to fear of being punished and tortured as a result of their involvement with the LRA some children go straight to the reception centers.

\section*{2.4 The reintegration process in Northern Uganda}

DDR in Uganda is premised on the Amnesty Act, or less commonly, the Program of Amnesty and Integration. The current program, beginning in 2008, is called the Uganda Emergency Demobilization and Reintegration Project (EDRP).

\begin{thebibliography}{99}
\item C Andersson (n 28 above).
\item T Allen & M Schomerus (n 50 above).
\item G Maina (n 2 above).
\item G Maina (n 2 above).
\item Theo Hollander Refugee law project kitgum district headquarters.
\item T Hollander (n 55 above).
\item G Maina (n 2 above), Allen 2006.
\end{thebibliography}
In this framework of disarmament, demobilization and reintegration (DDR) programmes, one of the main purposes of this program is reintegration, which is aimed at supporting and assisting persons who have been associated with fighting forces to return to civilian life as valuable and productive members of society.\textsuperscript{58}

While demobilisation “represents the point at which a child leaves military life, reintegration represents the process of establishing a civilian life.”\textsuperscript{59} Reintegration programs are meant to support the child in constructing a new, positive course of development.\textsuperscript{60} The UN has in many instances defined reintegration as, “the process by which ex-combatants acquire civilian status and gain sustainable employment and income. Reintegration is essentially a social and economic process with an open time frame, primarily taking place in communities at the local level. It is part of the general development of a country and a national responsibility and often necessitates long-term external assistance.”\textsuperscript{61}

Using children in armed conflicts has been one of the main characteristics of modern armed conflicts. It is therefore not surprising that reintegration programs have become associated with post conflict countries such as Uganda.\textsuperscript{62} The process of reintegration has posed a number of challenges; there are various ways of reintegrating children. A lot of factors have to be in play when dealing with the reintegration of former child soldiers, who are comprised of both girls and boys. Even though generally speaking the abduction of the children is a crime and a violation of their rights, gender plays a very important aspect, firstly the boys are used in the conflict for different purposes. They actively take part whereas the girls are made to be sexual slaves/ partners to the army commanders. They end up having children in the process.

From the literature the reintegration process normally has excluded the girls who return with children, hence it is important when looking at the reintegration process in Uganda to analyse it from all angles whether girl or boy. There is need for a gender perspective. The question therefore should be whether the process in Uganda has fully catered for the former child soldiers bearing in mind the various aspects to it such as gender.

\textsuperscript{58} T Allen and M Schomeruusan (n 50 above).


\textsuperscript{60} B Verhey (n 59 above).


\textsuperscript{62} B Awodola (n 30 above).
Reintegration of child soldiers should emphasise three components: “family reunification, psychosocial support and education, and economic opportunity.”\textsuperscript{63} The process of reintegrating former child soldiers is very important to a society’s transition from war to peace.

Most methods that have been adopted in the reintegration process vary from country to country. Some programs are restricted to “keeping former child soldiers in school or in vocation, others have tried to provide psychological support to those traumatised.”\textsuperscript{64}

Reintegration process should be distinguished from reinsertion. As stated reintegration is a long and complex process which requires the political will of the government and the acceptance of the family and community bearing in mind the social, economic and psychological aspects. The reintegration process should also include other members of the community, especially where serious human rights abuses have been committed, the reintegration process is not meant to breed stigma and discrimination hence the need for the community to be actively involved in the entire process.\textsuperscript{65}

Using children in armed conflict is not a foreign concept on the international scene. In a way “global experience has highlighted a series of general approaches that are relevant and important when reintegrating former child soldiers and other separated children back into the community.”\textsuperscript{66} These include Working with the “community as well as with the child to support return and reintegration, the necessity of considering age as an element in the reintegration strategy, the importance of family reunification where possible, addressing the challenges faced by girls and the need for follow-up to monitor the progress of children in their new environment.”\textsuperscript{67}

However, in as much as there can be a guide to good practice, like most others, it is worth noting to also recognise that there can never be one model that can direct how to effect the social reintegration of children,\textsuperscript{68} local realities have to be taken into account.\textsuperscript{69} It is highly expected that in times of

\textsuperscript{63} B Awodola (n 30 above).
\textsuperscript{64} B Awodola (n 30 above).
\textsuperscript{65} T Allen & M Schomerus (n 50 above).
\textsuperscript{66} T Allen & M Schomerus (n 50 above).
\textsuperscript{68} B Awodola (n 30 above).
\textsuperscript{69} B Awodola (n 30 above).
conflict, dire financial strains may be placed on families and social networks.\textsuperscript{70} Therefore when planning the reintegration programs, there is need to look at the local realities in northern Uganda, for the inhabitants of this region such as those in Kitgum, Pader and Gulu Districts, “90% of the population were living in camps for internally displaced persons in squalid conditions, where mortality and morbidity rates were alarmingly high, kinship networks under enormous strain and security is very low.”\textsuperscript{71} Many children of school age are not receiving any meaningful education.\textsuperscript{72} Very few persons, adults or adolescents, have access to livelihood opportunities.\textsuperscript{73} Access to land is highly restricted and the micro economy is very weak, to say the least.\textsuperscript{74} The majority of those who have returned from the LRA over the past 6 years have never lived in IDP camps before. This may not be the case for those who have been abducted in the last ten years, but even so, if ‘reintegration’ is taken to mean a return to social or economic normality as a productive member of society, the use of the term to describe what happens in northern Uganda is something of a misnomer.\textsuperscript{75}

In most cases it is noticed that people are confusing reintegration with terms such as reinsertion or reunification. “The social and economic conditions in which the majority of the population of the war-affected parts of northern Uganda is living are unacceptable and cannot be regarded as conducive for a return to ‘normal’ productive life for Formerly Abducted Persons.”\textsuperscript{76} Due to forced circumstances, “FAPs are returning to social and economic conditions which are inappropriate for all persons, formerly abducted or not.”\textsuperscript{77}

There is really not much to look forward to if children are returning to camps, according to one director at of the reception center who stated that:

\begin{itemize}
  \item B Awodola (n 30 above).
  \item T Allen & M Schomerus (n 50 above).
  \item T Allen & M Schomerus (n 50 above).
  \item As above (n 50).
  \item As above n 50.
  \item As above n 50.
  \item T Allen & M Schomerus (n 50 above)
  \item As above (n 50).
\end{itemize}
“Actual ‘reintegration’ cannot happen in a disintegrated community. All we do is just prepare children for life in the camps… We may never succeed in reintegrating our children if we cannot get rid of the camps.”\textsuperscript{78}

“Reintegration is a process that is dependent on various factors that are either internal or external to communities; these factors are mainly social, economic or psychological in nature.”\textsuperscript{79} When children return from captivity they face a number of challenges physical, psychosocial, social, educational and economic challenges, many girls that have been raped come back with a lot of physical injuries.

\textbf{2.4.1 Social reintegration}

Information and sensitization activities can reduce suspicion and rebuild trust between ex-combatants and the communities that receive them.\textsuperscript{80} There is need to socially be accepted. the stigma that may go with the reintegration of former child soldiers is enough to affect the reintegration process, there is need for social reintegration.

Many authors such as Blattman\textsuperscript{81} have analysed the different discriminatory assertions that former child soldiers may be faced with; therefore, there is need for community sensitization in order to allow for proper social reintegration.

Acceptance by the community is part of the healing process. Society needs to accept that these children did not commit the heinous crimes willingly; these children were abducted and need the support of the community in order for social reintegration to be successful.

\textbf{2.4.2 Economic reintegration}

When children are reintegrated back into their society, it should be borne in mind that most post conflict environments are facing economic hardships; therefore the reintegration program should also encompass the economic environment where they are placing the children.\textsuperscript{82}

\begin{thebibliography}{99}

\bibitem{78} T Allen & M Schomerus (n 50 above), and the Director of CCF Reception Center, Pader.

\bibitem{79} The EU research report, Gulu support the children organisation 2010.

\bibitem{80} As above (n 61).

\bibitem{81} C Blattman and J Annan (n 1 above).

\bibitem{82} Andersson (n 1 above).

\end{thebibliography}
The children that were abducted have missed out on attaining a proper education, if there is going to be educational programs these have to suit the needs of the children, therefore the education and training assistance should include “catch-up” education, vocational training, apprenticeships, and life skills development. This assistance ought to respond to the needs of the labor market, i.e. help ex-combatants find jobs livelihood and income generation assistance.  

This is very important especially in child headed homes. Economic reintegration is an evolving process that hinges on effective community mobilisation. Despite families willing to accept the FAPS, they often face financial constraints which inhibit them in doing so. Therefore, education and economic activity should fit within a broader rehabilitation program sensitive to community and family livelihood needs.

2.4.3 Psychosocial reintegration

When setting up the reintegration programs for former child soldiers, it is important to note the various psychosocial issues related to the child in order to properly reintegrate these children. The experiences that these children go through have very profound effects on the wellbeing of the child.

“The term psychosocial is intended to underline the dynamic relationship between psychological and social effects, each continually influencing the other. Psychological effects, are those that affect emotion, behavior, thoughts, memory, learning ability, perceptions and understanding.”

Social effects are those related to the:

“Altered relationships children have due to death, separation, estrangement and other losses, family and community breakdown, damage to social values and customary practices, and the destruction of social facilities and services.”

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83 As above (n 61).


86 The research program on children and global adversity (n 85 above).

87 As above (n 85).
Psychosocial problems usually start manifesting after the reintegration process, sometimes they are manifested during the rehabilitation process at the various centers.\textsuperscript{88} This factor is important to consider when setting up the various reintegration programs it should not be overlooked. There is need to understand the disastrous impact that conflict and the use of children in armed conflict has on these children in order to help them.

The inclusion of treatment and therapy for the children is an important aspect to the reintegration process. There is need to heal these children by understanding the psychosocial aspects of their abduction, the scars, wounds and tortured minds of these children. It is only then that reintegration can have true meaning.

\textbf{2.5 Dynamics of reintegration} \textsuperscript{89}

\textbf{2.5.1 Gender}

Gender has an important influence on the reintegration process. “Female reporters face more challenges based on cultural and traditional gender dynamics and the fact that female child abductees face various alterations to their lives during captivity.”\textsuperscript{90} The use of children in conflict will differ depending on their gender. Female child soldiers are used as sex slaves; in the process they have early pregnancies. Returning former female child soldiers, especially those returning with children tend to face stigmatization, psychological and physical violence including assault and threats of death.\textsuperscript{91}

There are a number of perceptions that inform the barriers affecting the reintegration of former female child soldiers, particularly those with children: “the perceived, economic burden to the family of supporting female reporters and their children,”\textsuperscript{92} “a lack of acceptance of the value of full reintegration of reporters or understanding of the reasons to accept back family members who often spent a long time in captivity,”\textsuperscript{93} “the social burden of having a female household member that possibly

\textsuperscript{88} As above (n 85).
\textsuperscript{89} Dr A Finn (n 21 above).
\textsuperscript{90} As above (n 21).
\textsuperscript{91} See Dr A Finn (n 21 above).
\textsuperscript{92} See also Dr A Finn (as above n 21).
\textsuperscript{93} As above n 21.
may never marry,” and the “cultural obstacle of not accepting children of a non-patriarchal bloodline into the family.”

When dealing with the reintegration of female former child soldiers it is important to analyse the environment in which they are being reintegrated due to the various connotations attached to female child soldiers.

The issue of girl returnees is very sensitive. Given that, girls normally will return with one, if not more children of their own. Most communities “regard the illegitimate children as a shame not only on the child and mother, but also on the family and the community as a whole, sometimes forcing mothers to choose either between their children or their community.” Thus, “stigmatisation and alienation are common, especially since it is often assumed that girls returning will have been infected with HIV/AIDS, and that their children are a curse to the family or community.” Female returnees will therefore suffer more stigmatisation because of their role in the conflict when they are abducted by the LRA. Under the Acholi customs it is a taboo for a girl to be taken to the bush and actively take part in the conflict, as it is a man or boys work.

The DDR programs in northern Uganda need to be more gender sensitive, as there is high harmful tradition perception of women which yields a social manifestation of gender based violence. This, if overlooked, can harm the entire process of reintegration.

According to the UN Security Council Resolution 1325:

Measures should be taken in the advancement of women in all aspects of peace-building and “encourages all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependents.”

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94 Finn (n 21 above).
95 As above (n 21).
96 N Desmond Greif (n 36 above).
97 N Desmond Greif (n 36 above).
98 As above (n 21).
99 A Fin (n 21 above).
100 As above (n 21).
2.6 Conclusion
This part of the study has explored the background of the conflict in northern Uganda. It has discussed the reintegration process in northern Uganda. From the discussion it is very clear that the process of reintegration in northern Uganda is a sad reality. In as much as the international community and national government is quick to suggest, to draft, and to implement programs to enable children who were victims of the war reintegrate back into normal life, the situation in northern Uganda is far from reality of these programs, people including children are still living in deplorable conditions due to lack of employment. It is very hard to grasp how the children will attain social, economic and psychological reintegration in an environment where poverty is the order of the day. If overlooked many children that were reintegrated tend to be in conflict with the law.

The people of northern Uganda were living in IDP camps, were poverty, water, shelter and sanitation were often not met, these camps led to breakdown in family ties, households, sense of belonging and collective responsibility. Despite the communities of northern Uganda returning to their homes, much needs to be done in order for them to reintegrate in their societies. This in itself has an impact on the returning children.

There is need for the reintegration process in northern Uganda, to create more lasting solutions. Reintegration should be distinguished from reinsertion. Taking the children away from the LRA and placing them into their community is not enough to constitute reintegration. The various psychological and social aspects that these children are faced with have such a grave impact on their lives that the process of reintegration needs to critically analyse and deal with.

Innocence has been taken away, the reintegration process should therefore be aimed at moving forward and not restoring something that has been lost, the lives of the children will never be the same, the government, NGOs, Family and international community should strive for a reintegration process that will build the communities and enable children to live a better life, that is free from fear and want.

One gets the sense that there is really no formal reintegration program in northern Uganda, and focus on reintegrating ex-combatants is not as strong as it was 12 years ago. People are returning from the bush and placing themselves in the communities. Important aspects, such as economic, social and psychological elements that promote effective reintegration are being overlooked. This may have a negative impact on the community in the long term.

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102 G Maina (n 2 above).
Having discussed the process of reintegration in northern Uganda, the next chapter of this study will proceed to discuss the legal framework of reintegration, it will analyse the legal aspects of reintegration in both international and domestic instruments. The essence of the next chapter is to analyse whether there is a legal guarantee to reintegration and whether it can be enforced.
CHAPTER THREE: The legal guarantee of the right to reintegration: by provision or implication

3.1 Introduction

The children of northern Uganda have been brutalised. Boys and girls forcefully recruited as soldiers by the rebel LRA.

Having discussed the reintegration process in northern, the study will proceed to give the legal framework. It will discuss both national and international laws dealing with the protection of children involved in armed conflicts. It will analyse whether there is an obligation under international law to help children who were formerly used in armed conflict to reintegrate back into their communities. If the answer is yes, this chapter seeks to identify how this is enforced and the various challenges being faced with regards to the enforcement of this duty.

“The general thrust behind national and international action on behalf of children is the moral and legal recognition of their emotional, physical and psychological vulnerability, their need for special care, and recognition of the obligation to respect and ensure respect for their rights. Simultaneously, we must recognise that events in childhood will affect the individual as an adult and consequently, society as a whole.”

In as much as there are international instruments that are aimed at protecting children from being used in armed conflicts, it is worth noting that the guarantee of protecting their human rights flows from the state when they ratify and implement these human rights instruments.

Understanding the legal aspects of the issue of child soldiers, is important in examining existing international legislation that prohibits or restricts use of children in armed conflicts, as well as its impact on state and non-state actors.

For purposes of this chapter, it is important to understand the definition of a child soldier, in order to know what relevant instruments apply. According to the Cape Town Principles and best practices a child soldier is:


104 ID Mbengue Eleke (n 103 above).

Any person under eighteen years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers, and anyone accompanying such groups, other than family members. This definition encompasses girls recruited for sexual purposes and for forced marriages. It does not, therefore, only refer to a child who is carrying or has carried arms.”

The protection of children against soldiering under contemporary international law is a subject of three branches of international law that is; international human rights law, international humanitarian law and in international criminal law.107

War or conflict deprives children of their fundamental rights therefore there is need for the international community and the national laws to properly enforce the existing laws and protect the children from being used in armed conflicts and address reintegration of these children after they have been disarmed and demobilized. “Before the study proceeds, it is worth noting that child soldiers (male and females) have existing protection under humanitarian law such as the fourth Geneva Convention of 1949, and the two additional Protocols of 1977.”108

This study will not look at the normative content of all relevant legal instruments; this study will focus on the following UN human rights instruments, the CRC, the Protocol the CRC, it will also look at those under the African Union such as; the African Charter, ACRWC. The study will also look at Protocol II to the Geneva Convention and International Labour Organisation (ILO) Convention 182. The study will also analyse the domestic laws in Uganda, such as the Amnesty Act.

It is worth noting that currently only article 39 of the CRC provides for reintegration of formerly abducted children. The African Charter is silent on this right, but has provisions that can be interpreted to imply reintegration according to their content.


107 I Topa (n 105 above).

108 ID Mbengue Eleke (n 103 above).
3.2 UN Instruments

The UN is vital to the protection of human rights therefore all its member states have an obligation to uphold the rights of its citizens. With regards to children there have been many resolutions, special procedures that is, the special rapporteurs and many resolutions and treaties dealing with the protection of children from participating in armed conflict.

The following are some of the UN instruments dealing with children:

3.2.1 The Convention on the Rights of the Child\textsuperscript{109}

The CRC is a very important instrument when it comes to dealing with the rights of children. It is important to legally define a child when dealing with the reintegration of formerly abducted children. The CRC defines a child as; “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”\textsuperscript{110} However, it is worth noting that under the CRC in terms of the legal age of children to participate in conflict, 15 is the legal age, this has created a problem, according to the CRC which states that, “States Parties shall take all feasible measures to ensure that persons who have not attained the ages of 15 years do not take a direct part in hostilities.”\textsuperscript{111} In as much as it goes on to state that priority should be given to those that have attained the age of 18 when it comes to recruiting. The difference of age has created much debate.

Despite the CRC defining a child as anyone who is under the age of 18, with regards to armed conflict Article 38 can be said to be the exception to this definition, Article 38 “maintains the low age of fifteen as a criterion for recruitment and participation in armed conflicts as child soldiers.”\textsuperscript{112} This provision has been established despite the fact that it deals with one of the most dangerous situations that children can be exposed to armed conflicts.”\textsuperscript{113}

\textsuperscript{109} The CRC was adopted in 1989; It defines a child as an individual under the age of 18. It establishes that children have the right to support, education and protection during conflict.

\textsuperscript{110} Article 1 of the CRC.

\textsuperscript{111} Article 38(2) of the CRC.

\textsuperscript{112} Article 38 of the CRC.

Legally any person below the age of 18 is deemed to be a child, under international law it is therefore a crime to let persons below the age of 18 to participate in armed conflicts, according to the Cape Town Principles a child soldier has been defined in a more broader sense to mean;

Any person less than eighteen years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers, and anyone accompanying such groups, other than family members. [The definition] includes girls recruited for sexual purposes and for forced marriages. It does not, therefore, only refer to a child who is carrying or has carried arms.

The CRC is important in the protection of children’s rights, among these rights; the right to reintegration under article 39 is going to be given a sharper focus because it applies more to the context of this study. The CRC provides for the duty to rehabilitate and reintegrate, article 39 reads as follows;

“State parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of; any form of neglect, exploitation, or abuse; torture or any form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in the environment, which fosters the health, self-respect and dignity of the child.”

During armed conflicts states will incur obligations, which are specific to children, irrespective whether such conflict is of internal or international dimension. Children must receive special affirmative protection under humanitarian law. One specific obligation is that under article 39 of the CRC.

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114 Article 1 of the CRC.


116 Article 39 of the CRC.

Article 39 comprises of two parts; the first relates to recovery and reintegration and the second to the type of environment in which activities to achieve that aim should take place.\textsuperscript{118} The second part of article 39 provides a framework for the level of quality of action to be taken in the process of reintegration.\textsuperscript{119} “Physical and psychological recovery cover a number of situations, but neither the Committee on the Rights of the Child nor the travaux preparatoires to the CRC give a clear guideline as to the type of special protection that would be necessary to fulfill the legal obligation towards child victims of armed conflict.”\textsuperscript{120}

As nice as article 39 of CRC sounds, the reality is actually far from what has been articulated in this article, most states are not in a position to provide children with proper reintegration, and this may be as a result of lack of infrastructure and other relevant resources needed in the reintegration process. In northern Uganda the reality is that most of the children are reintegrated back into a society that has spent years in the IDP camps and is therefore in a transition which may have a negative impact on the reintegration process in the context of article 39, this is not an environment that can foster health, self-respect and dignity of a child. The question therefore would be when drafting this document how did the international community seek to realise this duty that has been imposed on states with regards the various hurdles that states that are emerging from conflict are faced with.\textsuperscript{121}

### 3.2.2 Optional Protocol to the CRC\textsuperscript{122}

The CRC needed strengthening with respects to participation of children in armed conflict, therefore the “General Assembly of the United Nations undertook another measure by the preparing the Optional


\textsuperscript{120} JA Robinson (n 117 above), Nylund 1998 Int’l J Children’s Rts 29. Nylund explains that the general obligation under a 39 includes providing the necessary medical care for children who have been wounded in or as a result of armed conflict (including from landmines that remain after the conflict is over) and who are the victims of sexual violence.

\textsuperscript{121} LE Nagel ‘child soldiers and the duty of nations to protect children from participation in armed conflict’ ND.

\textsuperscript{122} This entered into force in 2002. One of the most significant feature of the Optional Protocol to the CRC is the recognized age for participation in hostilities was raised from 15 to 18 years—a decision that was influenced by the 26th International Conference of the Red Cross and Red Crescent in 1995.
Protocol to the Convention on the Rights of Child on the Involvement of Children in Armed Conflict.”

According to the Optional Protocol which states that, “Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.” Armed forces of a state under the CRC may recruit persons who are 15 years and above provided there is proper consent. However, the Optional Protocol to the CRC sets 18 as “the minimum age for direct participation in hostilities.”

A duty is imposed on States to take measures to ensure the demobilization of child soldiers and their reintegration into society, the campaign to stop the use of child soldiers has gained momentum ever since the adoption of the Optional Protocol to the CRC on the involvement of children in armed conflict in 2000 and its entry into force in 2002.

This does not go without saying that there is still some flaws in this treaty, in that many scholars feel that the way in which article 4 is drafted seems to suggest that there is a mere moral obligation on states and not a legal obligation to refrain from using children in hostilities. Despite this the Optional Protocol is still a good way for reducing and consequently ending the global phenomenon of child soldiers in armed conflicts.

3.2.3 ILO Convention No. 182 on the prohibition and Immediate Action for the Elimination of All Forms of Child Labour (1999)

The ILO Convention states that, “Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a

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124 Article 4(2) b of the Optional Protocol to the CRC.

125 I Topa (n 105 above).

126 As above (n 105).

127 I Topa (n 105 above).
matter of urgency.”  

Worst forms of child labour have been defined to comprise “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.”

3.2.4 CEDAW

This is the first international human rights instrument specifically aimed at addressing women and girls’ rights. This is important to this study in that during the reintegration process female child soldiers are mostly discriminated against, the process does not entirely include former child soldiers returning with children; therefore they face a lot of discrimination and stigmatization. However, this paper seeks to address reintegration of both male and female child soldiers.

“Article 1 makes it clear that all discrimination is prohibited and that it is irrelevant where it occurs, that is whether it is done by a state actor, private individual or private organisation. It prohibits both direct and indirect discrimination and makes clear that there should be equality of opportunity and result so that formal pledges of equality may not in themselves be sufficient.”

This article is central to the perspective of CEDAW in the protection of female child soldiers’ rights in reintegration processes where they are usually discriminated against.

3.3 African Union instruments

The African Union is a regional organisation, with the high prevalence of child soldiers in Africa; the AU has made attempts to address this issue through its numerous treaties and institutions. One of the profound treaties on the protection of child soldiers is the ACRWC. As international as the problem of using children in armed conflict is, it is inherently local from an African perspective therefore, it is for this reason that “the AU is best placed, both geographically and contextually, to tackle the exploitation of African children in conflict situations.” However, the AU has a hard task ahead because the issue

128 Article 1 of the ILO Convention No 182 on the prohibition and immediate action for the elimination of all forms of child labour (1999).

129 Article 3(a) ILO Convention No 183.

130 ID Mbengue Eleke (n 103 above).

of child soldiers remains a big problem in Africa, it is very important therefore that “the AU must be prepared to hold state parties accountable to their obligations and step in to protect vulnerable children.”

3.3.1 African Charter on Human and Peoples’ Rights

This instrument does not provide expressly for the protection of child soldiers, however it provides for certain rights that may be interpreted to imply protection and reintegration of former child soldiers. The right to health and the right to education are vital when it comes to children and the reintegration process.

The state has the duty to protect the health of its people; this duty extends to children, after escaping from the LRA most children return with a lot of wounds and diseases. It is therefore the duty of the state to ensure that they take necessary measures for the child soldiers returning to receive medical attention. However, in order to achieve the right to health, there is need for resources and proper infrastructure.

The African Charter provides for the right to education. Most of the child soldiers have been deprived of this right, however some that return can still go back to school, hence there is need to realize this right, this is under the economic reintegration of children.


133  As above (n 132).

134  The African Charter also known as the Banjul Charter, was adopted by the OAU in Nairobi, Kenya, on 27 June 1981 and entered into force on 21 October 1986. This is the pivotal human rights instrument of the OAU/AU.

135  ID Mbengue Eleke (n 103 above).

136  Article 16 of the ACHPR.

137  As above (n 103).

138  ID Mbengue Eleke (n 103 above).

139  Article 17 of the ACHPR.
3.3.2 African Charter on the Rights and Welfare of a Child\textsuperscript{140}

This is the “only regional treaty that directly addresses the issue of child soldiers is the African Charter on the Welfare and the Rights of the Child.”\textsuperscript{141} The following are some of the rights enshrined in the charter; right to education,\textsuperscript{142} health,\textsuperscript{143} against child labor,\textsuperscript{144} protection from abuse and torture,\textsuperscript{145} enjoyment of parental care and protection,\textsuperscript{146} against harmful cultural and social practices,\textsuperscript{147} sexual exploitation,\textsuperscript{148} and handicapped children.\textsuperscript{149}

With regards to armed conflicts the ACRWC states that, “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.”\textsuperscript{150}

Protection of the rights enshrined in the ACRWC is key in the reintegration process in northern Uganda. During the reintegration process it is important to reunite the former child soldiers with their families and communities. The ACRWC is important in that it stresses the importance of family in the child’s life.\textsuperscript{151}

3.4 National laws

National law plays are vital role in the reintegration process, many states have certain treaty obligations, under these treaties states are to comply with their obligations, therefore general public international law requires States to ensure that their legislative and executive Acts conform to their


\textsuperscript{142} Article 6.

\textsuperscript{143} Art 14.

\textsuperscript{144} Art 16.

\textsuperscript{145} Art 20 (1) & 21.

\textsuperscript{146} Art 36.

\textsuperscript{147} Art 15.

\textsuperscript{148} Art 27-29.

\textsuperscript{149} Art 43.

\textsuperscript{150} Article 22(2).

\textsuperscript{151} Art 18(1).
international treaty law duties (in casu the provisions of the CRC) and does not permit such States to rely on national law to justify non-compliance with their international obligations.\textsuperscript{152}

3.4.1 The 1995 Constitution

The Constitution of Uganda has a provision for the protection of children, how this provision has been used in the protection of children is a debatable issue. The constitution provides that:

“Children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral, or social development.”\textsuperscript{153}

The constitution is important in the protection of children and their reintegration as it provides for equality and non-discrimination, this entails that both girls and boys are entitled to reintegration.\textsuperscript{154}

3.4.2 The Amnesty Act

This is probably one of the important legislations when it comes to the reintegration of ex-combatants. This Act was enacted in 2000, in the efforts of trying to stop the war and bring about peace the government of Uganda drafted the Amnesty act. This Act offers pardon to all those who were involved by actively participating in the conflict in northern Uganda since January 26 1986.\textsuperscript{155} The Amnesty Act has three main functions: “providing amnesty to rebels who renounce rebellion and give up their arms; facilitating an institutionalized resettlement and repatriation process; and providing reintegration support, including skills training for ex-combatants, and promoting reconciliation.”\textsuperscript{156}

\textsuperscript{152} JA Robinson (n 117 above), Rosa “Interpretative Use of the Convention”. Rosa specifically addresses the question of how the CRC can be strengthened to provide greater assistance to the interpretive power of South African courts in bringing about the realisation of the socio-economic right of children(Unpublished paper delivered at the 4th World Congress on Family Law and Children’s Rights in Cape Town March 2005).

\textsuperscript{153} Art 34(4) of Uganda Constitution

\textsuperscript{154} Article 21 of the Constitution of Uganda.


\textsuperscript{156} K Agger, the enough project ‘the End of Amnesty in Uganda: implications of the LRA defections’ August 2012.
The initiative of creating amnesty was propounded by cultural and traditional leaders from northern Uganda. This came as a last resort by the Government of Uganda, as they could not use military forms to stop the conflict, therefore due to the frustrations and brutalities in the north the Government offered amnesty to all those that actively participated in the conflict.

The Act puts emphasis on restorative justice and no retributive or punitive justice, the main aim of this Act is to restore peace and consequently end the conflict.157 This idea of giving Amnesty to perpetrators of grave human rights crimes has bought about many debates; there are arguments that the blanket amnesty will just encourage impunity.158 International human rights jurisprudence is against the notion of blanket amnesty.159 However this does not mean they are not granted by states Dugard states that, “the prospect of amnesty in exchange for truth is a good incentive to the guilty to provide detailed accounts of the acts they have committed.”160 The main reason behind this stance by the international community is that blanket amnesties undermine international rules and the effectiveness of these rules.161 It is for this reason that amnesty does not bar the ICC from exercising criminal jurisdiction over persons that have been granted amnesty.162

In 2006, as result of concerns that the perpetrators closely linked to the conflict in northern Uganda would go free, an amendment to the Amnesty Act was made, which “allowed the minister of Internal Affairs the power to present to parliament a list of individuals who could not be eligible for amnesty.”163 This was due to the inconsistencies of the between the Amnesty Act and Uganda’s international obligations.164

The people of northern Uganda accepted the amnesty act, because to them, all that mattered was peace, the mothers of the abducted children just wanted their children back. It is clear that under the

157 As above (n 155 above), Quinn gives the following definition: “restorative justice is a process of active participation in which the wider community deliberates over past crimes, giving center stage to both victim and perpetrator in a process which seeks to bestow dignity and empowerment upon victims, with special emphasis placed upon contextual factors.” It is a system in which the applicability of punishment is absent.

158 The Refugee Law Project working paper No 15 (n 155 above).

159 As above (n 155).


161 As above (n 155).

162 J Dugard (n 160 above).

163 UN position on Uganda’s Amnesty law ‘submission to the Honorable Minister of Home Affairs’ May 2012.

164 As above n 163).
circumstances the blanket amnesty did enable many people to return from the bush. A total of 26,000 people returned, however only 6,000 have been reintegrated.

The children, who actively participated in the conflict in northern Uganda, are also protected under this Act. In order to be pardoned, after the children return from the bush, they are required to notify the UPDF, following which they are awarded with the amnesty certificate.\textsuperscript{165}

The Amnesty Act is very important in the reintegration of child soldiers back to their communities; the Act creates the Amnesty Commission which recommends that all ex-combatants be reintegrated back to their communities.\textsuperscript{166}

It is however, worth noting that as of May 25, 2012 Amnesty Act was renewed for another 12 months; however, amnesty certificates are not being issued out.\textsuperscript{167} The Amnesty Commission will be focusing on reintegration, which they have neglected in the last decade. The implications of removing amnesty declarations have been anticipated by some NGOs who support amnesty, however it is also important to focus on the reintegration part of the mandate of the Amnesty Commission, especially with regards former child soldiers.\textsuperscript{168}

\textbf{3.4.3 The Children Act, Cap 59}\textsuperscript{169}

This Act was enacted in order to deal with all issues relating to children. This Act provides for the basic rights of children and is based on the CRC.\textsuperscript{170} All the rights under the CRC and the African Charter on the Rights and Welfare of the Child are made applicable in Uganda, through this Act.

All these pieces of legislation are relevant in the protection of former child soldiers, during the reintegation process there is need to make sure that the programs are complying with the laws on the rights of children. Therefore there is need for the welfare principle to be paramount when realising the rights of children, as this is the sieve through which children’s rights are realised. This entails that in all situations where the child is concerned, the best interest of the child need to be considered.

\textsuperscript{165} T Allen & M Schomerus (n 50 above).

\textsuperscript{166} As above (n 50).

\textsuperscript{167} Agger (n 156 above).

\textsuperscript{168} Agger (n 156 above).

\textsuperscript{169} The Children Act was enacted in 1996. This was meant to comprehensively deal with all issues relating to children.

\textsuperscript{170} www.uccf.org/facts/facts_about_the_children_of_uganda.cfm.
3.4.4 Agreement on Accountability and reconciliation

This is an agreement that was signed by the Government of Uganda and the Lord’s Resistance Army, in Juba, Sudan in 2007. This is important in the reintegration of former child soldiers. This document provides that, “children are not to be subjected to criminal justice proceedings, but may participate, as appropriate, in reconciliation processes.”\(^\text{171}\)

The children that are returning home, were forcefully conscripted in the army, they are victims and not perpetrators, even though in the case of Uganda there is really a thin line between victims and perpetrators when it comes to child soldiers. At what time does the abducted child cease to be a victim, some people argue that some children as they move up in ranks of the army and as they grow older they commit crimes knowingly.

This is contentious, however, the fact remains that these children were abducted and did not willingly participate in the conflict hence holding them accountable for crimes committed while in captivity will be injustice to them. It is for this reason that the returning child should not be made to participate in criminal proceedings.

With respect women and girls this agreement is important in that it provides that, “in the implementation of the agreement, a gender-sensitive approach shall be promoted and in particular, implementations of this agreement shall strive to prevent and eliminate any gender inequalities that may arise.”\(^\text{172}\) This is important because the special needs of girls are overlooked when it comes to implementation, however this agreement calls on the implementation of this act to put into consideration the various experiences and views of girls.\(^\text{173}\)

3.5 Enforcement of the right to reintegration and its problems

Like most African countries, Uganda is a dualist state; this means treaties will not become law in Uganda unless they are domesticated through an Act of Parliament.\(^\text{174}\) Domestication of treaties is essential in a dualist state if they are to be enforced. Most African countries rush to sign and ratify treaties, but fail to implement them; as much as Uganda has made strides in implementing the treaties

\(^\text{171}\) Article 12 of the Agreement on Accountability and Reconciliation 2007 between the republic of Uganda and the LRA.

\(^\text{172}\) Article 10 of the agreement on accountability and reconciliation.

\(^\text{173}\) Art 11 of the agreement on accountability and reconciliation.

relating to the protection of children’s rights there is still much to do in order to be fully compliant
with international and regional standards.

In the Ugandan law society case Kavuma JA states that, “there is need for a treaty to be
domesticated first by an Act of parliament before it can be said to confer rights and obligations.” In
the same case Twinomujuni JA argues that, “to the effect of article 45 of the Ugandan Constitution
which allows reading into the Constitution rights provided under the treaties signed by Uganda.” These are two varying opinions; however, by analyzing article 45 which states that, “the rights, duties,
declarations and guarantees relating to the fundamental and other human rights and freedoms
specifically mentioned in this chapter shall not be regarded as excluding others not specifically
mentioned.” Twinomujuni’s approach “is restricted to fundamental and other human rights,
therefore it would not apply to commercial rights or other interests not related to human rights.

In order to understand the enforcement of international law in Uganda, especially treaties incorporated
under article 45, it is important to look at the rules on Constitutional interpretation bearing mind the
most cardinal principle of harmonisation. The principle requires that, “the constitution be read as a
whole and provisions should reinforce each other.”

If these rules are followed it will be very helpful to use the treaties that have been ratified in Uganda in
the protection of children in armed conflicts. Instead of dwelling on the dualist approach. Uganda will
not evade its rights and obligations.

With regards the enforcement of the CRC, Cohn has captured the biggest enforcement failure:

“The main problem in enforcement, however, is that the enforcement mechanisms of the Convention on the
Rights of the Child are incredibly weak. Consider that the main mechanism for accountability is reporting to
the Committee on the Rights of the Child once every five years. In reality, it is more than five years because
of procedural delays. Five years is a long time in the life of a child caught up in war? And a report may or
may not be taken seriously as an enforcement vehicle by the receiving government.”

175 B Kabumba (n 174 above).
176 As above (n 174).
177 Article 45 of the Constitution, Kabumba (n 174 above).
178 Kabumba (n 174 above).
179 As above (n 174).
180 As above (n 174), State of South Dakota v State of North Carolina 192 US 286 448.
The treaties that have been addressed have good provisions that can protect the plight of children; however, most of them lack enforcement mechanisms.\textsuperscript{182} The CRC deals mainly with promotional activities.

In 1995 the Constitution was revised in an attempt to make the supreme law of the country consistent with international and regional instruments ratified by Uganda. These included the CEDAW, 1989, the CRC, 1990 and the African Charter on the Rights of the Child, 1994, among others. Several articles in the Constitution give special protection to vulnerable groups such as children and make it a duty of every citizen to protect these groups from any form of abuse, including sexual abuse.\textsuperscript{183}

The ratification of child-specific treaties does not automatically translate to an improvement on the status of children, “lack of political will, failure to change social attitudes and lack of a legal enforcement mechanism means that the rights of children merely remain a dream.”\textsuperscript{184}

3.6 Other supporting instruments and policies on reintegration

The following are some of the supporting documents and policies that are useful in guiding states, with regard the reintegration of child soldiers. Some of these policies are not enforceable therefore they act as a guide towards the effective reintegration.

3.6.1 The Paris Principles and guidelines on children associated with armed conflict and the Paris Commitments

The high prevalence of child soldiers, made the international community to strengthen their commitment to address the issue of child soldiers, therefore in 2007 they adopted the “Paris Commitments to Protect Children Unlawfully Recruited or Used by Armed Forces or Armed Groups and the Paris Principles and Guidelines on Children associated with Armed Forces or Armed Groups.”\textsuperscript{185}


\textsuperscript{182} ID Mbengue Eleke (n 103 above).

\textsuperscript{183} CRC implementation in Uganda.

\textsuperscript{184} ID Mbengue Eleke( n 103 above), C Hamilton ‘Implementing children’s rights in a transitional society’ in CJ Davel \textit{children’s rights in a transitional society}; proceedings of a conference hosted by the Center for Child Law in Pretoria (1999) 30.
The Paris principles are, “a set of operational guidelines for all actors on the ground dealing with prevention and reintegration of children. They are intended to both foster greater programmatic coherence and promote good practices among States and international organisations.”

The Paris commitment is “a policy document aiming to strengthen political action to prevent association of children with armed forces and groups and to ensure their successful reintegration.”

### 3.6.2 The UN Integrated Disarmament, Demobilisation and Reintegration Standards

This was adopted in 2006, they are meant to give guidelines and procedures on how to undertake demobilization, disarmament and reintegration of persons involved in armed conflicts. They also provide for how to deal with economic reintegration of adult, youth and children.

### 3.7 Conclusion

Theoretically Uganda has good laws aimed at protecting children; however in practice this seems to not be the case. Despite the many strides towards the objective of ending the recruitment of children, through the various treaties it be international or regional, there is still a lot more that needs to be done in order to protect children from the various human rights abuses attached with child soldiering.

It is clear that article 39 of the CRC is the only provision that “seeks to address the issue of reintegration of a child victim of; any form of neglect, exploitation, or abuse; torture or any form of cruel, inhuman or degrading treatment or punishment: or armed conflicts.” Despite the many conventions on the protection and promotion of children’s rights, this is the only provision that clearly and expressly provides for the reintegration of former child soldiers. The other legal instruments may imply the reintegration of the former child soldiers but none have expressly stated it.

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186 SD Coninck (n 185 above).

187 Coninck (n 185 above).

188 Coninck (n 185 above).


190 Article 39 of the CRC.
According to JA Robinson\textsuperscript{191} “State that have ratified the CRC, but have not incorporated it into their domestic law do have obligations towards other contracting States Parties in terms of the CRC and also in terms of article 18 of the Vienna Convention.” However, child victims in the jurisdiction of such States are not endowed with legally enforceable rights. This has been the challenge with regards article 39 despite the express wording of this provision Uganda has not fully implemented the CRC.\textsuperscript{192}

The important aspect worth noting, when it comes to the treaties, is the enforcement problems that are being faced in Uganda due to lack of proper implementations. It is clear that these difficulties can be addressed if the government is to fully have the will to help and protect the children who were formerly abducted.

In the words of Nagle\textsuperscript{193} “While many child soldiers commit heinous acts that constitute war crimes, the reality is that many child soldiers, especially the youngest of them, are war victims even as they perpetrate atrocities that shock the conscience of men.”\textsuperscript{194}

Child soldiers are innocent children that have been made to kill and commit heinous crimes; it is therefore the duty of states to ensure this phenomenon of using children stops. Through the various pieces of legislation Uganda and the international community at large have a duty to protect and reintegrate these children who have been deprived of their childhood.

With or without enforcement problems the best interest of the child should guide the decisions made by families and by states especially with reintegration of children.

The Amnesty Act in Uganda has created a very bad precedent, in the view of international law, in that various treaties and customary law obliges states to hold perpetrators of heinous crimes to be held accountable, and that is the exact opposite of what the amnesty in Uganda has done. Provided one denounced rebellion irrespective of the crimes committed will be granted amnesty.

Despite the amnesty being limited, under the blanket amnesty many perpetrators were given amnesty, which under international humanitarian law may be a problem.

\textsuperscript{191} JA Robinson (n 117 above).
\textsuperscript{192} As above (n 117).
\textsuperscript{193} Professor of Law, Stetson University College of Law.
\textsuperscript{194} Nagel (n 121 above).
CHAPTER FOUR: A critical analysis of the approach towards the effective realization of the duty to reintegrate in Northern Uganda.

4.1 Introduction

“Child soldiers are said to be little more than human chattel—beaten, drugged, sexually assaulted, and cast aside when their usefulness ends.”195 This is a statement that is associated with children in armed conflict, they have been deprived of their innocence, and they have been made to commit heinous atrocities. Some have serious psychological issues, haunted by their experiences.

Sadly not much effort has been made to reintegrate them, societies discriminate against them, if indeed children are the leaders of tomorrow, what can states show that entails they have really done their best to protect these children. What can the states and international community do in order for these children to be normal citizens of the community who are free from fear and want?

Many treaties have been ratified that are aimed at protecting the former child soldiers, although well intended, these treaties set out how things should be, however practice has shown that these there are just theoretic in nature.

As much as the international community is quick to implement, draft and suggest programs to enable children who were victims reintegrate back into society,196 there is need to fully realise the need for reintegration. A number of actors play different roles in making the reintegration of former child soldiers a reality.

It should be noted that most children who return, usually went to the IDP camps, in these camps the standard of living is very low, and people were living in very deplorable conditions. How then can there be effective reintegration given the environment in which children were reintegrated?

The last chapter outlined the overview of the legal guarantee of reintegration. This part of the discussion will therefore discuss the various roles played by the government, family, community, NGOs and international organization, in the realization of the duty to reintegrate former child soldiers.

195 LE Nagel (n 121 above).
196 G Maina (n 2 above).
4.2 Towards effective realisation of the right to reintegration

The effective realization of the reintegration process in Uganda depends on the various actors that will ensure that the process embraces the needs of the child. The welfare principle must be considered in the effective realization of the right to reintegration. Access to education and family-and-community-support programs has been the key to successful reintegration.

4.3. The National Government

The government is a crucial actor in the reintegration process. When the children return from the bush the government is the first point of call. The duty to protect, promote and fulfill rights in most instances will depend on the government’s willingness to do so. The government is also better placed to legislate laws and policies that are in the best interest of the former child soldiers. One of the most significant piece of legislation passed by the government is the Amnesty Act, as earlier stated in chapter three; this is the legislation that guides the DDR process in Uganda.

The government has a primary role to play in providing “effective protection and relief to all children affected by the conflict.” It is however worth noting that reintegration is a complex process, mere passing of appropriate legislation will not entail successful reintegration, this has to be backed up by the political will of the government. Many programs can be in place but without the political will these programs are likely to fail. It is for this reason that the government is a key player in the reintegration process.

The introduction of Universal Primary Education in Uganda has played a role with regards education of formerly abducted children. The government with the help of the Belgian government set up the School Of War Affected Children.

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197 ID Mbengue Eleke (n 103 above).
198 ID Mbengue Eleke (n 103 above).
199 ID Mbengue Eleke (n 103 above).
200 As above (n 103).
201 G Maina (n 2 above).
202 UN Resolution 1625 of 2005. This Resolution provides some new tools for implementation of international commitments on child protection, it aims to bridge a gap between international norms and the reality that the children in armed conflicts are facing.
203 G Maina (n 2 above).
4.4 Family

When reintegrating former child soldiers, the role of the family is important, through what is known as family reunification. “This process usually begins with informal and formal family tracing and reunification programs.”

When looking at the term family, it should not just looked at from the traditional kind of family, in instances where there has been conflict, “Uganda recognises two major kinds of family structures: the nuclear family which comprises of the husband, wife and their children; and the extended family which consists of the nuclear family plus the near and distant relations of the husband and wife.”

The most recent being child headed homes, it is very important that a child be reunited with the family.

In instances where the child has parents, it is their duty to care for the child as it is in the best interest of that child. The primary duty of child care naturally and by law falls on the parents. It is the right and duty of parents to care for and bring up their children, however due to the conflict and the different forms of families recognized in Uganda, this duty falls on the guardian of the child although it has not been outlined anywhere. Problem arises where the family is child headed or where the guardians are unable to provide care for the child. In this case the local authorities are required to offer assistance.

In the reintegration process, children go through reception centers following which; these centers try to locate the family of the child soldiers, who are at this stage referred to as reporters. It is important for a successful reintegration that the former child soldiers be re-united with their families.

It should be noted however, that sometimes family reunification may be beneficial or not to the child’s reintegration, in instances where the child joined the rebel group due to the abuse that he was being faced with, it would not be in the child’s best interest to return him to his family.

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206 Section of the children’s Act of Uganda.

207 Article 31 (4) of the Constitution of Uganda.

208 As above (n 197).

209 Section 11-13 of the children’s Act of Uganda.
There is need to sensitise the family before the child is reunited with them. In most instances the child has committed many crimes not against the community, but also against their families. There is need for the family not to blame the child but rather accept the child and help them retain their civilian life.

In northern Uganda most families are happy to have their children back home, however, this does not mean that stigmatisation does not exist, some families have found it difficult to accept the female returnees who come back with children. Some families are still finding it difficult to accept the children born in captivity, according to the program coordinator at the office of the prime minister who stated that, “families go as far as stating that this is my daughter but the child she has brought is of the killer it cannot come into my home” these assertions can negatively affect the former child soldier as all they need is for their families to accept them back despite the various financial constraints.

There is need to appreciate the children who returned with babies, the families need to understand, I wish my daughter returned with a child I would have welcomed her, since her abduction in 2003 my daughter has never returned, I was told she was killed, I wish she returned to her family.

This is an illustration that despite some families rejecting their children some families in northern Uganda just wish for the return of their children. If all families played their roles reintegration of former child soldiers would be very effective.

4.5 Community

The community is a key player in the social reintegration of former child soldiers; therefore they should actively be included in the reintegration process. Acholi community has various traditional practices and reconciliation mechanisms, they may be helpful in the reintegration process, acceptance by the community is key to the reintegration of formerly abducted children.

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210 Santo Lazech program Co-ordinator, Office of the Prime Minister Acholi Chiefdom.Gulu District.

211 As above (n 210).

212 Lazech (n 210 above).


“like the family the communities have to be prepared for returning children through awareness-raising and education which can start with sensitisation of community leaders, strengthening of local child protection networks, peace and reconciliation education, and events aimed at fostering a lasting reintegration of the children.”215

Family and community relationships have been in most reintegration processes important facets in the reintegration of child soldiers.216 Through community sensitization, community members are able to offer forgiveness and express an understanding that the children were forced to take part in the violence.”217

“Community sensitisation campaigns, community works projects and outward support of traditional community rites were some of the most important activities related to positive life outcomes of most of the former child soldiers.”218

Under the Acholi customs there is a traditional mechanism known as mato oput, this aims at reconciling the affected clan and the perpetrators asking for forgiveness. This is a process that is organized by the community themselves. The community is a relevant actor in the reintegration process of the child soldiers. Since reintegration requires the children to be reintegrated back to their communities, it is important that the children are not faced with opposition and discrimination from the community. However, with the traditional mechanisms the communities will forgive. This should however not go without saying that this process has been faced with a number of criticisms.

Community in northern Uganda has played a very important role in the reintegration of former child soldiers in the words of the Onyama Parish Chief who stated that:

it is important that child returnees are welcomed back to the community, he tries as much as possible to ensure that the returning children are educated, he further stated that the traditional justice mechanism have been widely accepted however, this does not mean that some people have not been against these traditional justice mechanisms, with regards such people he stated that they will just have to accept the situation.


217 As above (n 215), L Cripe & J Williamson ‘Assessment of DCOF supported child demobilization and reintegration activities in Sierra Leon’ Washington 2002.

Despite the mixed feelings expressed the community receives and accepts the returning children in the long run.\textsuperscript{219}

4.6 NGO’s

In Uganda there was no formal DDR process, in the absence of an official program, during the 1990s non-governmental organisations (NGOs) and other agencies established a number of reception centers to respond to the needs of returning children.\textsuperscript{220} “These include northern Ugandan centers run by World Vision, Gulu Support the Children (GUSCO) in Gulu and the Rachele Rehabilitation Centre in Lira. Such centers have assisted some 20,000 returning children and youth.”\textsuperscript{221} However, this study will not fully analyse the work of the individual NGOs.

NGO have played a very important role in reintegration process in Uganda. “The NGO reception centers offer the children a variety of services, such as medical assistance, family tracing, recreational activities, counseling and psychosocial support.”\textsuperscript{222} Some centers have even gone as far as offering additional educational programs, mainly focused on life skills, and basic skills training.\textsuperscript{223}

“Reception centers have been very vital in that, during the children’s time in the centers, social workers visit their communities to prepare their families for their return, and to sensitise communities to the returnees’ needs and situation.”\textsuperscript{224} The length of time children spend in reception centers varies, but on average most children stay around three to four months before being reunited with their families.\textsuperscript{225}

Most returning child soldiers are happy to have gone through the reception centers, a girl who was abducted when she was 10 stated that, “she was happy to have gone through the reception centers,

\textsuperscript{219} Alex Ojera Parish Chief of Onyamo Sub-County in Gulu District, Northern Uganda.

\textsuperscript{220} AS Akutu and V Chrobok ‘returning home, childrens perspective on reintegration: a case study of abducted children in by the LRA in Teso’ \textit{Coalition to stop the use of child soldiers} 2008.


\textsuperscript{222} As above (220)

\textsuperscript{223} Akutu and Chrobok ( n 220 above).

\textsuperscript{224} As above (n 220).

\textsuperscript{225} Eric Otema Gulu Save the Children Organisation.
they gave us food, we played games and a lot of traditional dances that helped us forget some of the bad things we experienced in the bush.”

4.7.1 International organisations (UNICEF, ICC)

These have played a very important role in the reintegration process. However, for purposes of this study UNICEF will be one of the UN agencies discussed in this chapter. The work of the ICC will be briefly discussed on how it holds persons conscripting children accountable.

“Peace building requires not only justice but is also support of resettlement and reintegration of ex combatants into civilian life fostered by international organisations.” Therefore they are very relevant in the reintegration process.

4.7.2 UNICEF

UNICEF has since its inception supported demobilisation and reintegration programs for child soldiers. Through the United Nations General Assembly Resolution 57 (I) of 11 December 1946, UNICEF was established. “UNICEF has a mandate to advocate for the protection of children's rights, to help meet their basic needs and to expand their opportunities to reach their full potential.” Working on child recruitment, release and reintegration is part of UNICEF's Core Commitments for Children in Humanitarian Action (CCCs).

Ever since the 1980s, UNICEF together with partners has played a “key role in advocating for and securing the release of children from armed forces and armed groups in conflict affected countries.”

“In addition to securing the release of children from armed forces and armed groups, UNICEF's

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226 Amony Concy former child soldier, abducted when she was 10 years old, returned when she was 16, she is now 22 years old and leaving with her mother.


229 United Nations General Assembly Resolution 57 (I) 1946 on the Establishment of an International Children's Emergency Fund, its mandate is to help all children on the basis of need "without discrimination because of race, creed, nationality, status, or political belief.”

230 Omar Khadr v Robert M Gates (n 195 above).


232 As above (n 231).
programmes assist thousands of children each year to be rehabilitated, reunited with families and reintegrated into their communities.”233

“UNICEF has been consciously following the processes of the Juba peace talks and advocating for provisions to be in line with the principle of the best interest of the child as well as other international standards such as the Paris principles and the UN Integrated DDR principles.”234

With the help of the international community many UNICEF programs have had a significant impact on the former child soldiers.235 Since UNICEF has been actively supporting the reintegration of former child soldiers, through experience they understand what programs will be successful or not.

In northern Uganda, however UNICEF’s presence as well as other UN agencies has not fully been felt.236 However they have offered some support to some NGOs such as Gusco-Center in Gulu town.237 However it is clear that UNICEF has very good programs that may help the former child soldiers attain proper civilian life. With the help of government and donors UNICEF can play a very important role that would lead to the effective realisation of reintegration in Uganda.

4.7.3 ICC238

The Rome Statute was domesticated in Uganda in 2010. The role of the ICC is to hold all those conscripting children accountable. Impunity is not promoted under the Rome Statute. In Uganda however there has been a lot of debate with regards the work of the ICC and peace. The government of Uganda under the Amnesty Act offered amnesty to persons who renounced combat. This brought uproar in that, the ICC also issued out arrest warrants for the commanders in the fore front of the conflict in northern Uganda namely Joseph Kony,239 Vincent Ottio,240 and Okot Odhiambo,241 many

233 As above (n 231).
234 Kampala child protection sub cluster minutes: April 2008. Briefing by UNICEF on Preparedness and Response plan for women and children returning from LRA.
235 As above (n 234).
236 ID Mbengue Eleke (n 103 above).
237 As above (n 103).
239 Warrant issued 8 July 2005 amended 27 September Case ICC-02/04-1/05-54.
240 ICC-02/04-1/05-54.
241 Warrant issued 8 July 2005.
people were of the view that the arrest warrants would affect the peace negotiations between the LRA and the GoU.

Despite these sentiments, the ICC issuing arrest warrants for the LRA commanders is actually vital in the healing process of children and the entire northern region. The ICC has also helped in that persons who participated in the conflict under the age of 18 are not held accountable for the crimes committed while in captivity.

The International Criminal Court’s jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime is excluded. Thus, the focus of the ICC, with respect to children, is on children as victims, not perpetrators.\textsuperscript{242}

One of the most important features of the Rome Statute is that it “recognises that rape; sexual slavery and other forms of violence perpetrated in non-international wars can be considered war crimes and prosecuted in the ICC.”\textsuperscript{243} In this instance female soldiers who do not actively participate in combat but are used as sex slaves and married to commanders are protected.

4.8 Impediments to reintegration
The role played by the above actors in the reintegration process is very important, some have been active while others presence has not been felt. However, despite all the efforts there are a number of challenges encountered. These are as follows;

Reintegration as earlier stated is a complex process that will require time and money.\textsuperscript{244} Therefore for the smooth operation of the program there is need for proper funding from the government and international community as a whole. There is need for the children to be economically reintegrated, for example during the traditional ceremonies the elders of the community may ask for goats to sacrifice.\textsuperscript{245} The former child soldiers may not be in a position to buy a goat, hence there is need to fund traditional ceremonies that promote restorative justice and the reintegration of youth ex-

\textsuperscript{242} N Desmond Greif (n 36 above).
\textsuperscript{243} Art 8(2) (e) (VI).
\textsuperscript{244} As above (n 38).
\textsuperscript{245} EK Baines (n 45 above), Lecture notes Rose Nakayi ‘Transitional Justice’ Makerere University 2012.
combatants. Lack of proper funding of reintegration programs may lead to failed reintegration of children which will lead children to committing more crimes therefore being in conflict with the law.

We need funding as an NGO in order for us to carry out any follow ups on the children that have gone through the reception centers. In as much as we try to follow ups on children at least four times a year, it does not carry much weight if we cannot help when the child has problems, this means the follow ups are not yielding any benefits for the children. There is need for funding which in my opinion is a great challenge to the reintegration process.

In Uganda most of the programs are lacking follow up mechanisms, once the children have been reunified with their families or communities that’s as far as the reception centers help them. "None of the reception centers has carried out adequate follow-up investigations of those who have passed through, and some of the centers do not have a database on which to base such a process." Lack of follow up mechanism has been one of the oversight in the reintegration programs in northern Uganda. This in a certain way can be attributed to lack of funding.

Reintegration will be successful, if children are placed in a conducive environment; IDP camps played a very negative role in the reintegration process. The camps were not suitable for children and adults; life in the IDP camps was not suitable for persons escaping captivity. Despite the people returning to their villages most children who returned before the IDP camps were done away with, were faced with so many challenges, which affected their reintegration. Therefore despite being removed from the camps there is a long term psychosocial impact. The returning child needs to be place in an environment that helps their reintegration and not in abusive homes or in the instance of girl’s abusive marriages. Such environments will impede their reintegration

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246 Amnesty Commission ‘creating current and post-conflict programs to effectively reintegrate youth LRA combatants’ Woodrow Wilson School of public and international affairs 2006.

247 E Otema (n 225 above).

248 T Allen & M Schomerus (n 50 above).

249 T Allen & M Schomerus (n 50 above ).

250 The Refugee Law Project working paper No 11 ‘behind the violence: causes, consequences and the search for solutions in the war in northern Uganda.’ 2004
Stigmatisation is another impediment to a successful reintegration.\textsuperscript{251} The girls who return with children that were conceived through rape by the LRA army commanders are facing stigmatisation; this will impede the reintegration process in that most communities in northern Uganda are very traditional.\textsuperscript{252} Many girls suffer such strong feelings of shame that they become reluctant to seeking any type of medical assistance or emotional support for fear of being humiliated.\textsuperscript{253} There is need for the reintegration programs to look into the different aspects that encompass female child soldiers.

4.9. Conclusion

In order to have any successful reintegration program all the various actors mentioned in this chapter need to play their roles. The national government as the first point of call needs to strengthen their institutional framework in the protection of children. With the number of NGOs taking part in the reintegration process, most of which are not funded by government. It would be good if the government of Uganda would support these NGOs in terms of funding, instead of having similar programs GoU could focus on larger issues such as restoring northern Uganda. The fact that people have left the IDP camps is a good direction by the government as the IDP camps were not conducive.

Article 39 of the CRC calls for the effective reintegration of former child soldiers in a conducive environment, IDP camps were not a good place for the children escaping from captivity. In order for reintegration to be successful it was very important to do away with the IDP as there was hunger, disease, insecurity and malnutrition.\textsuperscript{254}

There is a trend in Uganda of having beautiful legislation and really good programs; however, in practice these programs are no fully utilized. The NGOs have really been a key player in the reintegration process in Uganda. It should be noted that if the government of Uganda through the Amnesty Commission, can strengthen their role in the reintegration process, reintegration can be successful in Uganda. As many people have welcomed the granting of Amnesty.

Each actor in the reintegration process must be considered as they all play a significant role in the returning child soldiers. There is need to pay attention to the various needs that the child mothers face during the reintegration process, programs must be sensitive to the girl’s needs. The community and

\begin{footnotesize}
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  \item\textsuperscript{251} M Czyz ‘stopping the use of child soldiers: a global perspective’ issue 02 of 2008.
  \item\textsuperscript{252} M Czyz (above n 251).
  \item\textsuperscript{253} As above (n 251).
  \item\textsuperscript{254} The Refugee Law Project working paper No 11 ( n 250 above).
\end{itemize}
\end{footnotesize}
family which are the recipients of these child soldiers need to be sensitized before the children are placed in their care.

It is therefore conclusive that these actors in the reintegration process are inter-dependent; there is need for them to work hand in hand for the effective realisation of the reintegration process in northern Uganda.
CHAPTER FIVE: Conclusion and recommendations

5.1 Introduction
This study aimed at looking at the effective reintegration of former child soldiers in northern Uganda. A brief background to the conflict was given. Following which an assessment of the reintegration process was given, under this the different elements involved in reintegration were discussed as well as the returning home of children. When children return there is a process that they go through in order to be officially recognized as returning child soldiers.

Gender as one of the dynamics of reintegration was discussed in order to analyse how girls are incorporated in the reintegration process given their role in the conflict differs greatly from boys. The study also aimed at discussing some of the factors of reintegration, such as social, economic and psychological factors.

The study has shown that as much as there are a number of programs aimed at reintegrating the children of northern Uganda, there is still much to be done in the northern region that will help these children attain civilian life which to an extent should be free from fear and want.

This chapter will therefore give a summary of the conclusions from previous chapters, give recommendations and finally conclude with an answer to the research question.

5.2 Summary and conclusion
Chapter two began by giving a brief account of the conflict in northern Uganda and the use of child soldiers, it brought out the political history of Uganda from Milton Obote’s regime to the current Museveni regime. It outlined how the political factors have been a major contribution to the conflict in the north despite the fact that the LRA has no distinct agenda. This chapter also outlined the process of reintegration in northern Uganda, from the time a child soldier returns from the bush or is captured by the UPDF to the time they are reunited with their families and communities. It further propounded on the social, economic and psychological factors associated with reintegration.

Chapter three discussed the legal aspect of reintegration. It analysed the various instruments that are aimed at protecting the rights of children and the reintegration of child soldiers. Under this chapter the CRC, the Optional Protocol to the CRC, the ILO Convention No 182 on the Prohibition and immediate Action for the Elimination of All forms of child labour, CEDAW, ACHPR, ACRWC, the Constitution of Uganda, the Amnesty Act and the children’s Act were discussed. From all these
documents it was discovered that only the CRC under article 39 provides for the reintegration of children involved in armed conflicts. The other instruments just provide for basic rights of children which may be helpful when reintegrating child soldiers. Under this chapter the issue of enforcement was also raised.

The chapter concluded to state that when enforcing the various laws, the important aspect to consider is the welfare principle and despite Uganda domesticating some of the treaties its ratified on the protection of children it still has obligations under international to comply to these treaties.

Chapter four discussed the different actors involved in the reintegration process in order for it to be successful. It propounded on the components of reintegration such as, family unification, the role of the national government, the role of NGOs and the role of international and regional organisations such as the AU and UN agencies. It highlighted a number of impediments to the effective realisation of reintegration. It was concluded that in order for reintegration to be successful each actor in the process must play its role and given the nature of reintegration funding is vital for the smooth running of the reintegration programs.

After looking at the above findings from the various chapters, this study will now proceed to give recommendations as to what should be done to improve the reintegration process in northern Uganda.

5.3 Recommendations

Reintegration is a long process that requires time and money; it is not something that can be achieved in a short space of time. The various actors in the reintegration process should bear in mind the long term aspects; it is not enough to rescue the children. After they are rescued there are a number of factors to consider like education, livelihood and health of these children. It should not be a rushed process all the necessary factors have to be addressed before the various actors stop assisting the children.

The best interest of a child should be considered at all levels of the reintegration process, this burden falls on the different actors involved in the reintegration process. They should always bear in mind the welfare principle. 255

The Amnesty Commission just as it diligently worked with granting Amnesties, should also do the same with reintegrating children. They offered reinsertion packages, however this is not enough for

255 Article 3 of the CRC.
the effective reintegration of children. In its phase two of its mandate the Amnesty Commission should really focus on long term reintegration programs and not mere reinsertion.

For reintegration to be a reality in northern Uganda there is need for political will to push for the effective realisation of reintegration of former child soldiers. This lies on the government of Uganda to have the Political will, which should exist at all levels to implement this strategy efficiently and effectively. In the words of Otunnu, the Special Representative of the Secretary General of the UN for Children and Armed Conflict, “words on paper cannot save children in peril.” Political will is needed to adhere to existing obligations. Reintegration is a very complex process that the state cannot manage alone. Donors need to trust the existing government, this can be through the government will to respect, protect and promote the rights of children especially child soldiers.

Local partners such as the community should be recognized as stakeholder in the reintegration process. The community is an important aspect in the reintegration process. This will help the children in that reintegration will involve the entire community who are the recipients of the former child soldiers. It is the community that will live with these children despite the atrocities that they have committed. The community members will always remember what the children under the LRA’s command had done to them such as looting and burning down huts. If the community is involved at all stages of the reintegration of former child soldiers and help in the healing process which is done through traditional ceremonies, this will entail legitimacy of the entire process. Unlike where they are forced to receive the children, this would yield resentment and stigmatisation. Community involvement, therefore, leads to the reduction in the various stigmatisations that accompanies former child soldiers.

The AU should strengthen its enforcement mechanisms in order to deal with the issue in Uganda and to avoid a repetition of events elsewhere in Africa. Since they are best placed, both geographically and contextually, to tackle the exploitation of African children in conflict situations. The AU should


257 G Maina (n 2 above).

258 EK Baines (n 45 above).
continue working with the UN in joint missions to put an end to the use of children in armed conflicts.\textsuperscript{259}

\textbf{5.4 Conclusion}

Reintegration is important in the restoration of stability in a post conflict environment so that recovery and development can begin.\textsuperscript{260} “Failure to reintegrate a generation of child soldiers poses an extremely high risk to society as a whole, especially in terms of its impact on social peace, such as crime.” However, the volatile political climate of a postwar era increases the risk.

From the above statement and having reviewed all the relevant works by different authors, this study can safely answer the main research question.

Reintegration in Uganda has not been effective, as much as there are a number of programs that have been set up by NGOs and the government, there a lot that needs to be done for the children of northern Uganda to be reintegrated back into civilian life. Despite the Juba peace process, returning children have established their places in the community, most of them have never gone through the required steps of reintegration. Despite some getting reinsertion packages from the Amnesty Commission. There has really not been a proper formal DDR program in Uganda.

The Amnesty Commission has focused a lot on reinsertion and not really reintegration. Amnesty Commission has retroactively paid out reinsertion packages to holders of an Amnesty Certificate. The package includes household items, agricultural tools, seeds and an unconditional cash payment, the Commission lacks follow up procedures, in this regard they only concentrate on putting the child soldiers back in their community, what happens to the children once in the community has not been fully dealt with either by the Amnesty Commission or the NGOs. This is why this paper has concluded that the reintegration process in northern Uganda is not effective. There is much work to be done in order to move from mere reinsertion to actual reintegration as the children are in dire need of a lasting solution that will help them as this part of Uganda transitions from a conflict environment to a peaceful one.

\textsuperscript{259} \url{http://www.consultancy-africa.com/index.php? a duty to protect and the plight of the African child soldier}, on 3 January 2012, “a joint AU-UN Mission to the countries affected by the LRA presence was announced. The mission will travel from CAR to Juba, South Sudan, will then move on to Kampala, Uganda and terminate in Kinshasa, Democratic Republic of Congo (DRC).

\textsuperscript{260} UN integrated disarmament, demobilization and reintegration standards (2006).
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Lecture notes