

**SPECIAL COURT FOR SIERRA LEONE  
OUTREACH AND PUBLIC AFFAIRS OFFICE**



**PRESS CLIPPINGS**

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**International News**

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## Lawfare

Thursday, 20 September 2012

### Hard National Security Choices

Book Review: Reimagining Child Soldiers in International Law and Policy by Mark A. Drumbl

Published by Oxford University Press (2012)

Reviewed by Rick Wilson

The image of the child soldier as “faultless passive victim” resonates throughout Professor Mark Drumbl’s newest book, *Reimagining Child Soldiers in International Law and Policy*. The faultless passive victim image dominates the international discourse on child soldiers, almost always to the detriment of the child in question, and it is against that image that Drumbl asks us to reimagine child soldiers. *Reimagining Child Soldiers* seeks, among other goals, to deconstruct the dominant narrative of the faultless passive victim and to recast the child soldier in a more visionary application of what he calls the “international legal imagination.” He repeatedly invokes the example of Omar Khadr, the 15-year-old detained and tried for alleged war crimes by the U.S. military commission at Guantanamo. This made the book of particular interest to me, as one of Omar Khadr’s several defense lawyers in the U.S. federal courts, and as civilian counsel in the first military commission proceedings at Guantanamo in 2006. The same should be true of anyone interested in the law and policy relating to child soldiers. It is a fascinating intellectual feast.

Much of the research for this work comes from outside of traditional international legal sources: treaties, custom, standards and jurisprudence. Drumbl’s goal is ambitious; he seeks to “energize a discussion at the cross-national, interdisciplinary, and ‘big picture’ panoptic level.” (vii.) This is a book that is chock full of data from the social sciences and international law.

The book has a logical and straightforward structure. In chapter 1, Drumbl navigates the complex question of defining exactly who is a child soldier. The clearest answer is nonetheless aspirational. The Cape Town Principles use “the somewhat tongue-tying children associated with armed forces or armed groups,” defined in the later Paris Principles as follows:

Any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys, and girls used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken a direct part in hostilities. (4.)

The push from activists is toward this so-called “Straight 18” definition, which abandons any reference to age 15 for recruitment or use of children in armed conflict, found in some treaties. Drumbl concludes that “international law’s trend-line arcs toward the Straight 18 position.” (5.)

Chapter 1 also provides four images of child soldiers developed by Drumbl. They are all relatively vivid and self-explanatory: in addition to the already-mentioned faultless passive victim, he offers the demon and bandit, the irreparable damaged goods, and the hero. (6-8.) The prevailing image, that of the faultless passive victim, suffuses subsequent chapters. I found the invocation of this imagery to be perhaps the most original, imaginative and insightful contribution of the work, particularly in subsequent chapters in which Drumbl makes a powerful and persuasive case for the narrowness and shortsightedness of our legal imagination in going beyond that image, to the detriment of child soldiers everywhere.

Chapters 2 and 3 provide complex accounts of who child soldiers are and what they do. Even an accurate tally of the number of present and former child soldiers is difficult, although overall numbers have

probably declined. At the conclusion of a detailed look at the “not so simple” business of sorting out the world of child soldiering, Drumbl proposes to examine the child soldier through a model of circumscribed action, where the actor has “the ability to act, the ability not to act, and the ability to do other than what he or she actually had done. The effective range of these abilities, however, is delimited, bounded, and confined.” (98.) He calls circumscribed action “a spectrum or continuum” that permits diverse responses by and to child soldiers. Some children may fall far short of adult cognizance, but others, “particularly older adolescents, exercise [awareness] in navigating social pathways that lead to their enlistment in armies, fighting factions, and militias.” They are “constrained but not choiceless,” he asserts, adopting the language of other critics of the faultless passive victim image. (99.)

Chapter 4 focuses on the accountability of child soldiers for their own acts, examining international and internationalized tribunal practice as well as some domestic focus. “Child soldiers,” he concludes in a later chapter, “should not be criminally prosecuted internationally, nationally, or locally for alleged implication in acts of atrocity.” (178.) And at the end of the book, he bluntly and explicitly rejects the notion that the prosecution of Omar Khadr would withstand scrutiny under what he calls the “qualified deference test,” a set of six interpretive guidelines that should give direction to decision-making in post-conflict justice mechanisms judging children for their involvement in atrocity.

Chapter 5 provides an overview of the legal framework for those who engage in the unlawful recruitment of child soldiers. This book was published just before the final judgments and sentencing by trial chambers in two major trials for complicity in the recruitment of child soldiers, those of Thomas Lubanga Dyalo in the International Criminal Court, and Charles Taylor in the Special Court of Sierra Leone. The book, nonetheless, includes extensive discussions of the trial proceedings, particularly in the Lubanga case, and the outcomes in both are in no way inconsistent with the book’s major premises and conclusions. The ultimate outcome in both of these cases, of course, awaits conclusion of appeals.

Chapters 6 and 7 provide a comprehensive set of reforms to international law and policy regarding child soldiers, including extensive examination of the practice of truth commissions and other alternatives to formal criminal adjudication such as “endogenous ceremonies, reinsertion rites, reparative mechanisms, and community service.” (207.) One nugget of data in the concluding chapter makes a strong case for such alternatives. The combined budgets of the two international ad hoc tribunals for the former Yugoslavia and Rwanda now total between \$US 2 and 3 billion dollars since beginning operations, “in some years comprising 10% to 15% of the total UN budget,” while the cost of demobilizing and reintegrating former fighters from Mozambique totals \$US 1,075 per fighter, and \$US 1,066 per fighter in South Africa. Each amnesty application at the South African Truth and Reconciliation Commission ran at \$US 4,250. In the face of such data, Drumbl persuasively argues that the most significant impediment to widespread adoption of these alternatives may be the lean of international donors and civil society toward tribunals.

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## Frontpage Africa (Liberia)

Wednesday, 19 September 2012

### Is it really “Back to School” or Back to Deceit and Violence in Liberia

Written by Mainlehwon Ebenezer Vonhm; Mevonhm@peaceedu.org, Contributing Writer

The school term is opening on Monday, September 10, 2012. As our daughters and sons prepare to return to class and as parents and guardians run helter skelter mobilizing resources to enable them to send the children to school, it may be necessary to reflect on what these children are learning and its relevance for a peaceful and stable Liberia. The Liberian civil war was characterized by the involvement of young fighters, or child soldiers, many of whom were students. These children were trained in the art of war, in some of the very schools they once attended such as the Johnny Vorker High School in Saclepea and Booker T. Washington Institute in Kakata. Children who did not participate in the war, in most



instances became victims of sexual assault, abduction, torture, forced labor, and displacement, both internal and external.

It is not surprising that when war comes to an end, much emphasis need to be placed on ‘re-humanizing’ children who have lost their childhood to heinous acts of war either as victims and/or perpetrators. And there are many actors in Liberia attempting to do just that but sadly both financial and human resources from international multilateral institutions such as the World Bank, European Union, or United States Aid for International Development, etc which are intended to help young boys and girls to meaningfully integrate into normal social life, often never accomplishes its intended outcome. For example, in 2008 the Government of Liberia (GoL) and the United Nations Education, Social, and Cultural Organization (UNESCO) signed a memorandum of understanding under which UNESCO would support Government efforts to implement the teaching of Peace, Human Rights, and Citizenship Education (PEHCED) in Liberian secondary schools as a pathway to sustainable peace. Three years later, a report published by UNESCO, indicated that its funding was being used to teach PEHCED in 337 schools in Lofa, Nimba, and Grand Gedeh Counties (UNESCO, 2012).

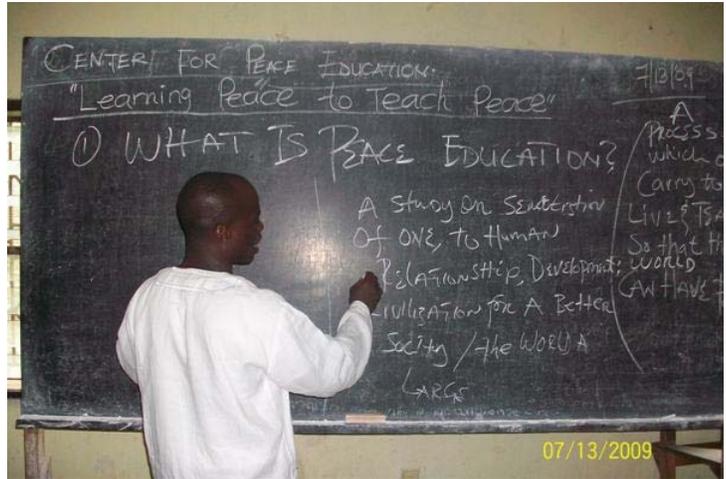
This claim by UNESCO is not borne by the facts on the ground in Liberia. The Center for Peace Education (CPE) in Liberia, whose primary goal is mobilising communities to build a peaceful, nonviolent Liberia, put together a team of CPE’s staff to visit Lofa County, one of the three counties where UNESCO claimed it was teaching PEHCED as a single subject.

While during our field work in all of the major cities and secondary schools in Lofa county, beginning with Foya through Zorzor, we discovered that while some teachers received training in PEHCED, they were not implementing, nor had they implemented PEHCED as a single subject in the 337 schools as claimed by (UNESCO, 2012; < <http://www.unesco.org/new/en/unesco/themes/pcpd/unesco-in-post-crisis-situations/peace-and-reconciliation/>>). Such claims and/or assertions are not only made by international institutions working in the country, but also by local organizations as well. They are unfortunate because they present a false picture of what is being inculcated into young people in post-conflict Liberian schools. But as results emerging from my exploratory qualitative research conducted in 2009 and 2012, demonstrate, the Liberian educational system embodies multiple forms of direct and indirect structural

violence, suggesting that either the PEHCED project is ineffective or has not covered many schools as claimed by its proponents. I will comment on only two themes of several themes from the study. I must point out that these findings do not necessarily represent all of the schools in Liberia.

### Physical Structure:

Today, the war is over and some of the students are returning to schools that still have bullet marks on them or burned down buildings from bomb blasts still remain on their campus. Some students sit in classes without windows, let alone doors. As some of the students stated, 'every time when we come to school, we feel unsecured, the current environment of our school reminds us of violence.' Then, there are issues of restrooms. For example, in most of the schools I visited and taught, they usually do not have a good toilet. It first became apparent to me when some of my female students would not attend classes during their menstruation period simply because the facility is often not adequate, and as a result, they will stay at home for days. It is important to point out that the physical environment of school settings is non-verbal, however, as it stands, it is traumatizing for students because it is a constant reminder the violent past.



### Extreme Punishment

Over the past three years what I have observed, learned, and what pupils themselves stated reflects the fact that some of their teachers approach them in a rude, harsh, and aggressive manner. Pupils thought that some of their teachers used abusive language and they tend to be harsh and cruel. Furthermore, pupils stated that they were subjected to corporal punishment. From what I have observed and what pupils themselves express demonstrate that when they leave home for school, they expect their teachers to treat them as their own children. They expect much love and care from their teachers. It is understandable why pupils would expect this kind of attention from their teachers, because during the war, some of the homes became fragmented, and in some cases mothers and fathers were killed. Some pupils are living with other relatives, who in some cases have not provided them with the attention and care they need. Some pupils are also residing in orphanage homes. In either case, their living conditions may prove not to be pleasant, and they instead look for love and laughter from their teachers. While it is understandable that some teachers may not necessarily want to serve as surrogate parents, it is prudent, that they acquire the necessary skills, attitudes, and knowledge in order to properly handle pupils and assuage their fears.

### Conclusion:

Overall, the act of getting schools functioning again so that young people can return to classes sends a signal that things are returning to normal. However, it falls far short of the internal reality that pupils have to deal with as they attend such schools. Also the budget allocated towards the educational aspects of peace-building, such as the one indicated by UNESCO on their website stating that peace, human rights, and citizenship education is been taught as a single subject in 377 schools, needs to be given serious attention if sustainable peace is the ultimate objective. Thus, there needs to be greater transparency and accountability with regards to how funds are being used for these peace-building initiatives. As one of the public school principals informed me, a certain amount is allocated each fiscal year in the national budget for her school, but she rarely receives it. As a result, she is unable to run her school generator so that students could attend computer classes. This is the information age, in fact, the technology age. To sow the seed of peace, Liberia has to invest in Liberia's most important resources, its youthful human capital

which has tragically been traumatized repeatedly on a vast level by war. In sum, in order to nurture a culture of peace, it is recommended that serious attention be given not only to enhancing teachers' knowledge, skills, and behavior, but also to tackling the attitude of the entire national and local school authorities and the structural sources of violence embedded in the various levels of our society. Promoting a culture of peace or cultivating the precepts of peaceful civility in our children both at home and school is the only sure means to breaking the cycle of violence that has bedeviled our country for decades. At the Center for Peace Education, we are unequivocally willing to help in these directions, and as evidence of this, today we begin teaching peace education as a single subject for the third straight year in both public and private schools.