

TERRORISM OR POLITICAL WAR: TRACKING DOWN A PANACEA FOR THE VICTIMS RECRUITED AS CHILD WARRIOR

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ABSTRACT

India has witnessed the ever-expanding ambit of Article 21. From the right and liberty to freely move with secure fundamental rights to right to die and right to privacy, Article 21 has travelled quite bit. It is due to this positive social changes our society has progressed rapidly in the last few decades. But, it is no denying the fact that in this process, we also have overlooked certain other important aspect which was far more basic and far more important. One such unrecognized right within the ambit of Article 21 is 'right to enjoy a wholesome childhood'. We certainly haven't thought of it. We cannot forget the fact that today's children are tomorrow's future. Therefore, creating a healthy childhood would indicate creation of a healthy nation. Child crimes are hyping on a tremendous gauge. Child trafficking, child molestation, corporal punishment is some of the mentions. The present paper strives to study the contours of war victims of terrorism and find out the legal principles that would try to eliminate involvement of child in war and find rehabilitation measures to the victims of war.

Keywords: Right to Enjoy a Wholesome Childhood, Political War, Child Warrior, Terrorist Manipulation, Terror Attacks.

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I. Introduction

Children were remotely radicalized, recruited in terror preparations, trained and then guided through Pakistani terrorists active in J&K to undertake grenade attacks on security forces and targeted killings of people of minority communities.¹ In September 2014, the Kashmir region went through some devastating floods in many of its districts because of heavy rainfall. Pakistan administered Jammu & Kashmir lost a lot people's lives on both sides of the Line of Control. By November 2014, things slowly started getting back to normal, but then Pakistan changed its approach to supporting terrorism in Jammu & Kashmir. They started recruiting children below the age of 18 to become terrorists.² Children were manipulated to believe that this is a war going on between their nation and their enemy nation. The children believing so, that they were fighting for a good cause, i.e. freedom of their nation were preparing to be warriors.

Many children who played a major role in the protests in Kashmir from 2008 to 2012 were arrested by the police. However, they couldn't be kept in custody for very long. Quite a few young stone-pelters who were under 18 years old were caught by the police on multiple occasions, but they were released with the help of the Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, it is so believed that the Indian justice system's limitations in dealing with young criminals might have made the situation in Jammu & Kashmir even worse. But, the study believes that it is not the limitation of India but the limitation of International Law or International Standards.

There is a gap in International legal arena for which some countries who seeks to be politically powerful manipulates the weaker sections of the society, i.e., children and women to be the scapegoat in political turmoil amongst nations. Terrorist and violent extremist organizations' recruitment and exploitation of children are classified as an independent form violence against children in the international legal regime. Therefore, it is high time we address efforts at prevention and early intervention.

¹ Yousuf, D. (2022). The Centre for Land Warfare Studies (CLAWS), New Delhi, is an independent Think Tank dealing with national security and conceptual aspects of land warfare, including conventional & sub-conventional conflict and terrorism. CLAWS conducts research that is futuristic in outlook and policy-oriented in approach. Targeted Killings in Kashmir: Does the Mainstream Narrative Hold Significance? https://www.claws.in/static/IB-369_Targeted-Killings-in-Kashmir-Does-the-Mainstream-Narrative-Hold-Significance-1.pdf

² Child Soldiers in Jammu & Kashmir. (2023, November). www.efsas.org. retrieved from <https://www.efsas.org/publications/articles-by-efsas/child-soldiers-in-jammu-and-kashmir/>

II. Literature Review

A through study of the Handbook on *Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System*, the author puts forth that recruitment of children by armed groups and terrorist organizations results in devastating consequences for the victims. Child warriors endure extreme violence, exploitation, and indoctrination, exposing them to constant fear and psychological pressure. They become dangerous instruments for the groups and face physical harm, death, and potential criminal offenses. This recruitment violates international laws protecting children from violence and has severe negative implications on their right to childhood. These children suffer from physical and emotional scars, stigmatization, and a high risk of further violence, impacting their personal, intellectual, and social development and denying them a normal childhood.

The ICSR Report prepared by *Hannah Rose and Gina Vale*, “*Childhood Innocence? Mapping Trends in Teenage Terrorism Offenders*” states that in 2021, former Metropolitan Police Commissioner Cressida Dick warned of a “new generation” of child extremists. Indeed, data published by the Home Office reveal that the period from June 2021 to June 2022 saw the highest number of arrests of minors for terror offences since records began. In the following and latest year to June 2023, minors now constitute approximately one-third of terrorism arrests (24 of 78, 30.8%) and convictions (3 of 9, 33.3%).³

The Taliban have been using children as Suicide bomb attackers, IED Planted and fighters for more than twenty years now. The international community has a chance to insist that child recruitment should stop and children captured by the Taliban should be released from their captivity due to the group’s effort to set up a government in Afghanistan. The Taliban has trained and recruited child soldiers in the religious Madrasas, which are basic Islamic schools. These children are taught as early as 6 years and they have very often handled firearms by the time they are 13 years. There are believed to have been around 33,000 child deaths or injuries due to this conflict. Regarding child recruitment, the Taliban has engaged boys and girls in hundreds of individual cases in the recent years. The involvement and utilization of child soldiers during the conflict is also on the side of the pro-government forces in Afghanistan and the former government carried forward by the United States. At least 300 children some of

³ Rose, H., & Vale, G. (2023). *Childhood Innocence? Mapping Trends in Teenage Terrorism Offenders*. <https://icsr.info/wp-content/uploads/2023/11/ICSR-Report-Childhood-Innocence-Mapping-Trends-in-Teenage-Terrorism-Offenders.pdf>

them as young as 10 years were arbitrarily and grossly tortured by the security forces on account of their alleged links with the insurgent groups.⁴

Omar Mohammed in his research paper “The Forever War: The Doctrine and Legacy of ISIS Child Soldiers” has reinterpreted the methods and campaigns which the parent organisation of terrorism is believed to have adopted for recruitment of child as their scapegoat of political thrust of power. The ISIS employed military training camps known as Ma’ahid Shar’iyya - Shari’a Education Institutes to train and indoctrinate the child soldiers. Such camps were located in Mosul province and in Syria and provided special courses in military preparation for children. The group sought to produce child soldier generation for wars because of the belief in the “Forever War” and the need to expand the world.⁵ This legacy of the ISIS root can give birth to a new vicious cycle of young generation of youth community who cannot go back to normal life resulting in further riots and terror.

Factors Contributing to Child Recruitment

Existing survey of literature enhances the belief that there is a close nexus between poverty and children risking being recruited by armed rebellions. In areas that economically struggle, parents are often forced or encouraged to surrender their children to receive financial support or protection, in exchange of which they believe the rest of the family would be safe.⁶ There are instances wherein the eldest son has been recruited by a group of armed forces in exchange of security of the rest of the family, i.e., his siblings, parents and extended family.

The young generation living within conflict located zones do have poor chances of education and growth hence have a high chance of being recruited by the ISIL group via offering them a sensation of a purpose on earth.⁷ Many children in conflict regions never receive an education and have little chance to become better people; making them easy prey to fall under the guidance of terrorists who give them “a goal to fulfil”, “a mission to achieve”, “a patriotism to proof”. Here, the study would like to mention a clear perception of Psychology. A child who

⁴ Becker, J. (2021, September 20). This is our opportunity to end the Taliban’s use of child soldiers. Human Rights Watch. <https://www.hrw.org/news/2021/09/20/our-opportunity-end-talibans-use-child-soldiers>.

⁵ Mohammed, O. (2023). The Forever War: The Doctrine and Legacy of ISIS Child Soldiers Program on Extremism. https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/Mohammed_The-Forever-War_February-2023.pdf

⁶ Achvarina, V., & Reich, S. F. (2006). No place to hide: Refugees, displaced persons, and the recruitment of child soldiers. *International Security*, 31(1), 127-164. <https://doi.org/10.1162/isec.2006.31.1.127>

⁷ Bloom, M. (2005). Patterns of disengagement from terrorist groups. In C. Benard (Ed.), *A future for the young: Options for helping Middle Eastern youth escape the trap of radicalization* (pp. 61-84). RAND Corporation. https://www.rand.org/pubs/working_papers/WR354.html

fighters in a terror group, in his head is a hero, since he is made to understand that he is equivalent to a freedom fighter. “Baaghi” as we call it in ancient India, is a freedom fighter who raised their arms for the freedom of India; the mother India which was under the rule of British Raj for over approximately 3 centuries. So, it is quite psychological for an Indian Domicile, who has grown up listening to the stories of freedom-fighters, to image themselves as a freedom fighter which gives an illusory peace and purpose to the life. Extreme organisations take advantage of children’s vulnerability and inability to reason to accept radicalisation and injustice as envisioned by the group.⁸ Sometimes children learn from the family members and community elders to embrace such heinous thoughts and hence easy to recruit.⁹

Rehabilitation and Reintegration:

UNODC's STRIVE Juvenile Project: This has pulled together with Indonesia, Iraq, and Nigeria to safeguard children from terrorism with the use of governance, human rights, and the rule of law to enhance stability and peace.¹⁰

Reintegration Support in France: Through the assessment of France’s practices concerning children of foreign terrorist fighters, this paper considers the significance of understanding and applying the rights-based approach within the sphere of child protection according to international law. This call stresses on repatriation, rehabilitation and reunification of children into safe environment to foster their best interest.¹¹ These show signs of the indispensability of proper and broad reintegration programs that offer children victims of terrorism with the quality care and protection they need to successfully reintegrate into society.

Effects on Child’s Life even after reintegration:

Due literature survey depicts that the terrorists recruit these children, and in due course of time, the children suffers from varied psychological abnormalities, and their mental health is severely affected. PTSD among children in terrorist groups is high, especially due to their experiences

⁸ Borum, R. (2011). Radicalization into violent extremism I: A review of social science theories. *Journal of Strategic Security*, 4(4), 7-36. <https://doi.org/10.5038/1944-0472.4.4.1>

⁹ Hafez, M. (2016). The radicalization puzzle. *University of Florida Journal of International Law*, 29(1), 1-32. <https://ssrn.com/abstract=2803290>

¹⁰ New UNODC research on child recruitment and exploitation by terrorist groups shows need for a united front on child protection. (n.d.). United Nations: Office on Drugs and Crime. Retrieved May 24, 2024, from <https://www.unodc.org/unodc/frontpage/2024/February/new-unodc-research-on-child-recruitment-and-exploitation-by-terrorist-groups-shows-need-for-a-united-front-on-child-protection.html>

¹¹ Caruana, D. (2020). *Securitising Children Rights: Victims and Heirs of Terrorism. A Critical Analysis of France’s Approach to Children of Foreign Terrorist Fighters*. Retrieved from <https://repository.gchumanrights.org/items/0b090bd0-149b-49c0-a5ed-655a871069e3>.

in violent situations, including abuse and other traumatic activities. It results in things like increased startle responses, nightmares, heightened reaction, and avoidance.¹² Depression is another common form of mental health disorder and many children often feel hopeless, worthless, and have no interest in things. The effects of trauma and hardship can lead to the onset of depressive disorders. Being recruited by such terrorists' groups alters children's identification personal-social identity and social belongingness.¹³ The participants may experience challenges in coming to terms with the group and their normal lives, thus find it hard to reintegrate into the society. Sometimes children may turn into supporters of the terrorist groups due to radicalization.¹⁴ This can make it a tad difficult for them to detach from the group's beliefs and values even when they are no longer in the environment. A lot of children are reported to have learnt behaviours such as being highly sensitive, suspicious or struggling to build good relationships with other people even after being relocated from the terrorist group. Some of these responses remain and hinder their capacity for recovery and reintegration. In order to treat such psychological effects, detailed and effective rehabilitation and reintegration practices are needed. These programs should address the impact of trauma, timely provision of mental health care, and rehabilitation from radicalization and isolation to foster the children's recovery and to assist them rebuild their lives.

III. Research Problem

This paper concentrates on "WAR-TRAUMA". A Child does not have the ability to distinguish between 'a national war' or 'a political war'. When they are put in for military training, they are incapable of distinguishing whether they are a militant of 'army' or a unit of a 'terrorist group'. For them, they believe, which is being taught. They are 'fighting for a cause' which is just and right. Even the Indian Penal Code recognizes under section 82, the principle of "Doli in Capax". Therefore, the children who are seemingly parts of a terrorist group are victims of political discord, who have lost their dreams and in the cycle of such political turmoil has lost their childhood. This study herein proposes to sketch an international war manual that necessarily an ideal nation should follow to curb child's involvement in terrorism in any form.

¹² Mohammed, R., & Neuner, F. (2022). Putative juvenile terrorists: the relationship between multiple traumatization, mental health, and expectations for reintegration among Islamic State recruited adolescent and young adult fighters. *Conflict and Health*, 16(1). <https://doi.org/10.1186/s13031-022-00489-3>

¹³ NUPI. (2021). Children in Violent Extremist Organizations. NUPI. Retrieved from <https://www.nupi.no/en/events/2021/children-in-violent-extremist-organizations>

¹⁴ Can, Z. (2022). Children Recruiting And Exploiting By Terrorist Groups. Retrieved from <https://dergipark.org.tr/tr/download/article-file/2981516>. ISSN 1307 - 9190; E-DATR, 2022; 16 : 109-128.

Counter - Terrorism: Another Tribulation for Child Perpetrators of War:

Counter-terrorism laws and policies directly affect the protection of child victims recruited/exploited by terrorist groups. Although such legislation is intended to prevent and combat terrorism, in practice terrorist acts are often committed by violating the previously stated rights of its juvenile citizens. Failure to mainstream children's vulnerabilities and rights by over-punishing or securitizing efforts aimed at countering terrorism may continue the vicious propensity of violence by marginalizing these young persons who later embrace terrorist activities. It is important to distinguish that, more than being perpetrators of such acts, children who are part of terrorist groups are victims. Counter- terrorism laws and policies have impact in protecting the child victims that are being recruited and exploited by terrorist group. In this effort to prevent and respond to terrorism, the laws may frequently overlook or inadequately consider children's particular needs and rights. Counter-terrorism that is overly harsh and securitized, regarded Children's otherness and children as holders of rights may lead to their Minds being marginalized and further contributing to the risk factors leading them into terrorism therefore sustaining violence.

International Space and Fundamental Right of Children to raise voice against sufferings:

The United Nations Convention on the Rights of the Child, to which Georgia is a signatory since 1994, defines the indispensable rights of the child. The rights include; survival and development, no discrimination, their best interest should be considered, and have a say in what is being done for or to them. Child wellbeing describes a social condition that can be realized only when all conditions are realized for children. The UN General Assembly also equates happiness with human's basic needs by adopting a concept of new welfare economics that offers a more sustainable and equitable direction on public policy and economy that focuses on happiness and well-being. The UN's Child Rights deal, which Georgia signed in 1994, lists key rights for all children. It points out that for a child to be well, these rights must be met. It is important to note that not just some, but all children feel well and happy. The pursuit of happiness is recognized by the UN as a fundamental human goal, promoting a holistic approach to public policy and sustainable development.

International law is important for protecting children from the impact of terrorism. It does do this by providing them with a legal structure which sets out their rights and ensures that those stage magicians are protected. In the context of international law, recruiting or use children in

armed conflict by terrorist groups is considered as a grave violation of their rights. The respective article of the Convention on the Rights of the Child defines persons under the age of 18 as children and ensures them protection from terrorism with special respect.

International legal standards and the Council of Europe guidelines, in particular, are unequivocal with respect to human rights, rule of law and non-discrimination when dealing with persons suspected or convicted on terrorism charges — including but not limited to children. "Overall, the guidelines help to ensure that children suspected of terror-related offenses have access to justice and are able to receive fair trials, benefiting also from the presumption of innocence" "Moreover, international law provides that children who are victims of armed conflict and terrorism must receive necessary support to promote their reintegration into society as soon as possible". Specifically, according to the Dictionary, the child is any human under 18 years old.

Loopholes:

In spite of the International Protocol, it is a far dream of every nation to combat children's participation in terrorist activities. Now, let's analyse why is that? Probably because international treaties are not binding enough for the state parties. And justifiably, thereof, there is no or less fear of retribution. With the diminishing humanity, political demands are far more strong abstract for nations. And here, the proverb goes unjustifiably correct "ordinary folks suffer when powerful rivals fight each other." The child warrior community is just a scapegoat of political rivalry, wherein the child warriors is just an easy target who can be manipulated and at times escape the law since they are juvenile. And herein, lies the greatest of the fears that even if they escape the claws of law, they re-bounce in the same genre of war and in turn end up in the vicious cycle of hatred, misfortune and negative emotion of political turmoil.

IV. Research Solution

It is important for the first responders, peers at school, other school staff, close relatives and friends, neighbours, as well as religious shepherds to know that signs of mobilization to violence for children and adolescents can differ from those in adults primarily because of the number of potential barriers caused by childhood and adolescence. For instance, there is a challenge with the acquisition of such documents like passports as juveniles, so they may resort to forging documents or even stealing genuine ones. They may also lack the cash to finance an assault, because they either lack jobs or have little income, leading them to steal goods, which

they can sell to gain cash, steal cash from others like kin or sell personal belongings. It is important to note, though, that suspicious behaviours and activities do not differ across the minor and adult categories. A person within a community should be able to recognize and report observed behaviour that is reasonably suspicious and related to preoperational planning of a terroristic or criminal nature and should know how to do so; the community's reporting system and its possible addressees include local police departments, field officers, patrol agencies and allied investigation authority. Furthermore, awareness raising in connection with terrorist associated activities and mobilization signs can also help in preventing terrorism. Specifically, frequent and diverse messaging, including but not limited to emails, texts, social media, and web-based posts for notification, consultation, or information dissemination to school staff, students, and families may enhance terrorism consciousness.

V. Research Suggestion

- 1. Identification of Terror areas:** The Government needs to take a step and demarcate areas which are prone to terrorism or terror attacks and a close observation through campaigning, commissions, surveys should take place at regular intervals to combat terror approaches. In such instances, NGOs and Government authorities should work hand-in-hand to make the process easier. This awareness will help to detect such children at earlier instances, giving the administration time and facility to rehab them at a primary stage.
- 2. Critical Thinking Ability:** The zonal areas where children are more prone to get affected by peer-armed rebellions need to be detected and education in such areas needs to be enhanced so as to give a logical explanation and critical thinking ability to the children. Children, from an early age need to understand the difference between patriotism and politics. Even if they feel freedom is far away, they can channelize the strategy and take the corrective approaches instead of being a scapegoat at the hands of terror groups.
- 3. Religious Leaders can play an enhancing role:** Often times, it is in the name of religion, children are made to understand that they are waging a war because of their love towards a community. We have seen instances where "Love Jihad" and similar emotions are used to manipulate children against a community. This is where, religious leaders can play a role in combating the hatred amongst religion and promotion of a secular attitude. The dignity of a religion is in the sanctity of the nation. War amongst community can bring no good to any community.

VI. Manual on International Treaty Prohibiting the Recruitment of Children Under 18 in Armed Conflicts

Preamble:

This manual seeks to set out an encompassing international convention that will safeguard the rights and welfare of children and shield them from nursing the bruises of war; with the understanding of the impenetrable torment that children pay for being forces into armed conflicts whether politically motivated or for any other reason.

Article 1: No Recruitment of Children Army has been put in place to prohibit the recruitment of children in the army, meaning that this law is already available both at the local and international levels.

1.1. All nations of the world shall ensure that recruiting, enlistment, conscription, use of children below eighteen years of age as soldiers in any form of conflict such as political conflicts, terrorists, or in any form of hostilities shall be completely prohibited.

1. 2. For the purpose for this policy, a ‘child’ shall refer to any person who is below the age of 18 years as upheld by the United Nations Convention on the Rights of the Child.

Article 2: Doli-in Capax

2. 1 That the principle of “doli-in capax” should be adopted, as it refers to the fact that children are unable to fully apprehend the implications of joining armed groups and cannot be held legally accountable to the extent of their actions.

2. 2 The States shall ensure that the child victim of an armed conflict is facilitated to be reintegrated and rehabilitated for him/her to be physically, psychologically, and socially technologies in the best interest of the child.

Article 3: This is the right of every child to enjoy a wholesome childhood free from things that will harm him in any way in future.

3. 1 The protection of every child from undergo through detrimental effects of armed conflicts should be enshrined in human rights.

3. 2 It shall also make sure that children are properly protected from any harm in exercising their rights to education, adequate health care and proper development as they grow.

Article 4: Child-Soldier Post-Traumatic Stress

4. 1 With armed conflicts negatively impacting particularly children's psychological and emotional development leading to prolonged trauma, States are required to offer comprehensive support as well as rehabilitation services for the children.

4. 2 There shall be specific mental health services that will help to support child warriors in their struggle to heal.

Article 5: The Need for International Cooperation and Assistance

5. 1 States at the international level shall enforce this treaty through enhanced cooperation, exchange of experience, mutual support in the form of technical cooperation and raising consciousness of pernicious effects of child participation in armed conflicts.

5. 2 International organizations, non-governmental organizations, civil society shall be encouraged to participate in the monitoring, reporting, and advocacy activities concerning the situation of children affected by armed conflicts.

Article 6: The policies of transparency, accountability and enforcement.

6. 1 Parties to this treaty shall pass domestic legislation to facilitate implementation of the treaty provisions together with an effective enforcement regime that entails penalties for non-compliance with treaty requirements.

6. 2. An independent international body should be established that would work to supervise this treaty, accept and investigate complaints and suggest measures to be taken in non-compliance cases.

VII. Conclusion

This manual can therefore be used as a checklist or guide to the development of an international treaty banning the enlistment and use of children below the age of eighteen in any armed conflict. It affirms the legal rights of children, also notes the ordeals that child soldiers undergo and urges the international community search for ways on how to protect and heal the victims of this violation of their rights.

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