

Children in Organized Urban Violence: Assessing the 'Protection Gap'

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Children can be both objects of exploitation and perpetrators of urban violence. Alarming, the death tolls for children in many urban contexts can far exceed those in conventional conflict zones. In Medellín, Colombia every day two children under the age of 18 were killed in urban violence between 2000 and 2001.¹ In El Salvador, the homicide rate for children between the ages of 15 and 24 is 92 per 100,000 people.² In South Africa, over 800 children below the age of 18 were victims of violent homicide in 2008-2009.³

With rising human rights abuses and increasing death tolls for individuals between the ages of 9 and 16, it becomes important to examine whether there is a 'protection gap' in international law between children in conventional conflict zones and those in situations of organized urban violence.

International declarations and conventions, such as the United Nations *Convention on the Rights of the Child* (1989), outline general rights and freedoms for children that are guided by universal principles seeking to treat children as a 'vulnerable group' worthy of special protection. The universal status of children as a 'vulnerable group' is based upon a generally accepted threshold age differential which treats any person below 18 as still in the development phase of growth.⁴

Whether in international conflict or non-international conflict, the use of children in hostilities by the state is prohibited, and they may not be treated as combatants should they participate in armed conflict. Protocol II of the Geneva Convention (1977) specifies that "children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities". As such, whether or not individuals under the age of 15 take part in hostilities does not supplant their status as 'children' under international law subject to special protections.⁵

Critics argue these conventions overlook the higher death tolls and insidious violence that seem to disproportionately affect children in some cities, despite living in a 'war-free' state.⁶ Organized urban violence is a leading cause of death for children in many jurisdictions. This suggests a 'protection gap' in international policy regarding youth under 18 involved in organized urban violence.

The priority given to war and conflict zones regarding the protection of children is reflective of a restrictive understanding of what constitutes international jurisdiction. However, the universal quality of human security allows for an examination of areas where violence has reached critical levels in urban areas resulting in high death tolls for and severe violations of children's human rights

The protection gap in international law and in policy approaches to children caught in organized urban violence can begin to be bridged by including research on urban youth gangs in the global discussion on the protection of children. The study of youth gangs is essential in the global contemporary context since "gangs are a significant worldwide phenomenon"⁷ and youth involved in them share many characteristics with child soldiers.

The Coalition to Stop the Use of Child Soldiers defines a child soldier as an individual under the age of 18 who is "compulsorily, forcibly, voluntarily recruited or otherwise used in hostilities by armed forces, paramilitaries, civil defence units or other armed group."⁸ The Brazilian NGO Viva Rio identified several similarities between child soldiers and the estimated 5,000 child and youth drug faction workers in Rio de

Janeiro.⁹ These include working within a hierarchical structure enforced by orders and punishment, being paid for services, being given a weapon, being on call twenty-four hours per day, and surviving in a kill-or-be-killed reality.¹⁰

Thus, in combination with the universal status of children derived from age thresholds, it is possible to adapt the concept of 'child soldier' to young urban gang and vigilante members in order to draw upon international human rights and humanitarian law which address the complex issue of children both perpetrating and being victims of violence.

However, since the term 'child soldier' may provoke or legitimize lethal, militaristic reprisals from police or national forces, an alternative is the internationally accepted working definition of children and youth in organized violence: "children and youth employed or otherwise participating in organised armed violence where there are elements of a command structure and power over territory, local population or resources."

¹¹ What is important is articulation of a type of individual that is both a *victim* due to his/her age while also being a *perpetrator* of violence. This dual identity illustrates the complexity of addressing young members of organized urban violence.¹²

Where urban violence occurs in 'war-free' regions, the challenge becomes linking children in organized violence with international and transnational conventions such as those addressing child soldiers. As opposed to highly visible armed conflict, organized urban violence often appears 'normalized' and this stigma remains one of the principal obstacles to building a stronger, more effective protective mechanism for children in urban spaces.

¹ Secretaría de Gobierno, Alcaldía de Medellín. Annual report on homicides and violent deaths (2002).

² Statistics cited are from study called 'Map of Violence: The Young People of Latin America' compiled by the Latin American Technological Information Network, RITLA. BBC, "Latin America tops murder tables," BBC News (26 November 2008), <http://news.bbc.co.uk/2/hi/americas/7750054.stm>.

³ South African Police Service, "Crime Situation in South Africa: Annual Report" (September 2009).

⁴ United Nations General Assembly Resolution 44/25, Document A/RES/44/25 (12 Dec 1989), http://www.wunrn.com/reference/pdf/Convention_Rights_Child.PDF. The age of majority may be less than 18 if defined as such in a given state's national laws.

⁵ There remains some ambiguity the *criminal responsibility* of persons between the ages of 15 and 18.

⁶ Rebecca Pérez and Clarissa Hugué, "Children in Organized Armed Violence", Child Soldiers Newsletter 15 (London: Coalition to Stop the Use of Child Soldiers, January 2007).

⁷ John M. Hagedorn, "The Global Impact of Gangs," Journal of Contemporary Criminal Justice 21.153 (2005) 153.

⁸ Rachel Stohl et al. (1999). "Putting Children First: Building a framework for International Action to Address the Impact of Small Arms on Children," Biting the Bullet series (Ottawa: DFAIT, 2001).

⁹ Luke Dowdney, Neither War nor Peace: International comparisons of children and youth in organised armed violence (Rio de Janeiro: Viva Rio/Instituto de Estudos da Religião, 2004)12.

¹⁰ Dowdney (2004) 12.

¹¹ This working definition of children within non-war situations is a result of the 'Seminar on Children affected by Organised Armed Violence' held by Viva Rio in September, 2002. Dowdney (2004) 15.

¹² For policy studies on violence against children, see the United Nations General Assembly, "Summary of the Report of the Independent Expert for the United Nations Study on Violence Against Children," A/61/299 (2006), http://www.crin.org/docs/VAC_Summary.pdf; Women, Health and Development Program Pan-American Health Organization, "Trafficking of Women and Children for Sexual Exploitation in the Americas," (2001), <http://www.paho.org/english/hdp/hdw/TraffickingPaper.pdf>.