

RESEARCH PAPER

Sudan's Experience in the Legal Protection of Children from Exploitation and Recruitment

Dr Badreldin Abdalla Hassan Hamad

*Professor of Public International Law, Faculty of Law and Judicial Studies
The Islamic University of Madinah, Kingdom of Saudi Arabia*

Email: abhassan@mail.ru

ABSTRACT

PURPOSE: The purpose of this paper is to study Sudan's experience in the legal protection of children from exploitation and recruitment, and the most important mechanisms for protecting children in Sudan.

DESIGN/METHODOLOGY/APPROACH: An analytical research method is used. The researcher collected and analysed Sudanese laws related to the subject of the research, and collected and analysed data on child soldiers, their demobilisation, disarmament and reintegration into society.

ORIGINALITY: The originality of this research is represented in answering a set of questions, such as what are the new laws issued by Sudan in the field of protecting child soldiers? What are the mechanisms for protecting child soldiers and what is their effectiveness? What are the suggestions for improving and developing the protection of children from exploitation and recruitment? And how to eliminate the phenomenon of child recruitment?

FINDINGS: The most important result is the issuance of many Sudanese laws to protect children. Sudan's ratification of many international treaties and covenants confirms Sudan's interest in protecting children during peace and armed conflict. The most important recommendations are the need to develop a strategy to resolve current armed conflicts and avoid their occurrence in the future by spreading the culture of peace and living in peace. We must also look to end the phenomenon of child exploitation and recruitment, disarm child soldiers, demobilise and integrate them into society, and punish armed groups that exploit and recruit children.

KEYWORDS: *Protection; Child soldier; Child law; Convention; Recruitment; Exploitation; Disarmament; Demobilisation; Reintegration*

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INTRODUCTION

Sudan is one of the countries that have suffered from armed conflicts since its independence in 1956. The country has experience in protecting child victims of armed conflicts, and several Sudanese laws have been issued. Sudan has also ratified many international conventions for protecting human rights in general and protecting children from exploitation and recruitment. Mechanisms have been established to protect child soldiers and to disarm, demobilise and reintegrate them into society.

Research Importance

The importance of this research is that the problem of child exploitation and recruitment still exists in some regions of Sudan and worldwide. Despite the development of Sudanese laws to protect children from exploitation and recruitment, this phenomenon has not ended. Studying this problem from a legal perspective is very important.

Research Aims

1. Studying Sudan's experience in developing laws to protect child soldiers.
2. Introducing the international treaties ratified by Sudan in protecting child soldiers, their demobilisation, and their reintegration into society.
3. Studying the Sudanese national mechanisms in protecting child soldiers.
4. Reaching conclusions and recommendations that help develop Sudanese national laws and mechanisms for protecting child soldiers.

Research Questions

1. What is the definition of a child soldier? Moreover, what are the reasons for child recruitment in general and in Sudan in particular?
2. What laws have been issued by Sudan in the field of protecting child soldiers?
3. What are the legal mechanisms to protect child soldiers in Sudan?
4. How effective are mechanisms for disarming, demobilising and reintegrating child soldiers?
5. What are the essential suggestions for developing Sudanese laws to protect child soldiers and the mechanisms for their implementation?

RESEARCH METHODOLOGY

This paper uses a descriptive analytical method.

Research Content

The paper is structured as follows. Above is the introduction that includes the importance of the research topic, objectives, and questions. The remainder of the paper has three further sections that discuss various topics, and finally a conclusions section.

The next section gives the definition of a child soldier and the reasons for recruitment in general and Sudan, followed by a section discussing Sudanese laws and international treaties ratified by Sudan. This section contains two topics: the development of Sudanese laws in protecting children from exploitation and recruitment, and international treaties ratified by Sudan in the field of child protection. The penultimate section discusses the mechanisms for child protection, disarmament, demobilisation, and reintegration in Sudan. This section also discusses two topics: Sudanese National Council for Child Welfare, and the Sudan Disarmament, Demobilisation and Reintegration Commission.

Definition of the Child Soldier

There is no complete definition of a child soldier in international human rights treaties and international treaties of international humanitarian law; however, the minimum age for child recruitment has been set, which is considered problematic in protecting children. The child soldier or fighter has been defined in the charters of some international conferences. The child soldier was defined at the Paris Principles Conference on the involvement of children in armed conflicts.

“A child associated with an armed force or armed group refers to 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” (Esdoluc, 2007).

A child soldier per the Cape Town Principles means.

“Any person under 18 years of age who is part of any regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers, and those accompanying such groups, other than purely as family members. It includes girls recruited for sexual purposes and forced marriage. It does not, therefore, only refer to a child carrying or carrying arms” (Legrand, 1997).

It is noted that the Paris Principles on Children Associated with Armed Forces or Groups and the Cape Town Principles make it clear that a child soldier is someone who has not reached 18 years of age. This is considered progress because the Fourth Geneva Convention indicated that children under the age of 15 should not be involved in military operations. Children's direct or indirect participation in military operations was also prohibited, and indirect acts, for example, using boys and girls as cooks, porters, spies, or for sexual purposes. This is what was not stipulated in the Geneva Conventions of 1949 and the Additional Protocols of 1977. The Paris Principles also

criminalised the sexual exploitation of girls under the age of 18 and the forced marriage of girls during armed conflicts.

In jurisprudence, there are several definitions of child soldiers. A child soldier is “every male or female under eighteen recruited to involve him in the military or other related operations” (Al-Nimr, 2011). Some defined child soldiers as “persons under eighteen years of age, whether a boy or a girl, who joined voluntarily or compulsorily to a government army or any armed group” (Al-Fakhouri, 2014). Other actions related to recruitment are a group of acts such as carrying weapons and ammunition, and espionage. The most dangerous of these is the use of children as human shields. Statistics in Yemen indicate that Al-Houthi recruited 2,000 children in Yemen (Al-Shmiri, 2022).

The King Salman Humanitarian Aid and Relief Center has prepared a project to rehabilitate child soldiers affected by the armed conflict in Yemen since 2017. This project aims to rehabilitate several child soldiers by integrating them into society, enrolling them in schools, following them up, and rehabilitating them psychologically and socially. In 2017, 505 children benefited directly from this programme, and 505 parents of children indirectly benefited (KSRelief, 2017). It can be seen from the above that the Al-Houthi group is exploiting and recruiting many children, violating local laws and international treaties.

Despite the progress that has been made in determining the age of recruitment and the obligation to protect the rights of children in general and recruits in particular, many statistics indicate that boys and girls are subjected to violations. For example, in Somalia (2010-2011), girls were subjected to sexual violence and forced marriage. Girls were kidnapped from schools and roads and forced to marry members of armed groups. Girls (forcibly married) were forced to work by providing domestic services such as cleaning, cooking and other household duties forcibly. They were also subjected to rape. The Boko Haram group also used the same method in Nigeria, where more than 270 girls were kidnapped from schools in 2014. They were subjected to physical and psychological abuse in the context of forced marriage, where the perpetrators (husbands) restricted the right of girls (wives) to freedom of religion and belief. They had non-consensual sex with them and were forced to transport stolen property from the villages and towns they attacked (Ksiba and Yazigi, 2021). In Iraq, many girls were subjected to various physical and psychological violence from the Islamic State in Iraq and the Levant. The members of this organisation committed various forms of violence, such as rape, sexual slavery, slavery, and physical and psychological violence against some Iraqi girls (UNFPA, 2015).

These violations confirm the need to unify national and international efforts to protect children in general and during armed conflicts, to criminalise such grave violations, and to prosecute and punish the perpetrators of these violations by issuing national laws and international conventions, and establishing effective mechanisms to protect child soldiers, their demobilisation and their reintegration into society.

The laws of Sudan did not provide for the definition of a child soldier. However, the new Sudanese Child Bill of 2021 stipulated the definition of the child soldier in Article (4).

“He is a child under eighteen years of age who is appointed, accepted, or forced to join any military force, group, or paramilitary, whether organized or not. This includes the use of children by armed forces or groups in any capacity, including, but not limited to, boys and girls as conscripts, spies or collaborators and also includes the recruitment of girls for sexual purposes and forced marriage” (Sudanese Children’s Bill, 2021).

This definition coincides with the Cape Town and the Paris Principles by defining the child soldier. This indicates Sudan’s interest in developing laws that protect children in times of peace and armed conflict. The researcher suggests defining the child soldier as someone who has not reached the age of 18 and who joins the government armed forces or any other armed groups, whether by will or coercion, and participates in military operations directly or indirectly. The word person in this definition includes boys and girls. A child joining the government armed forces or others, even by his will, is considered a violation of the laws, rules and principles of human rights and international humanitarian law. Also, whether the child participates in military operations directly or indirectly violates international human rights and humanitarian law rules and principles.

Reasons for Involving Children in Armed Conflict (ARABRC, 2022)

- *Political reasons* play a prominent role in recruiting children by making them tools for armed groups or rebel movements to exploit.
- *Social reasons*: clan and tribal affiliation, allegiance to the tribe over belonging to the homeland, feeling social differences, and the weakness of governments.
- *Economic reasons*: the disparity in wealth between members of society and the spread of trade in, and easy access to, automatic weapons.

In Sudan, the reason for recruiting children armed groups is in their need for fighters to work in the camps. Social reasons are also related to children, families and local communities, and cultural and economic reasons. Anyone who exploits and recruits children must be punished.

Sudanese Laws and International Treaties Ratified by Sudan

Sudan has issued a set of laws to protect children from exploitation and recruitment, and has ratified international conventions and protocols protecting children in times of peace and armed conflict. This section contains a study of national laws to protect children in times of armed conflict, and international treaties ratified by Sudan.

The Development of Sudanese Laws to Protect Children from Exploitation and Recruitment

This topic includes a study of the Sudanese laws issued by the Sudanese Armed Forces and other regular forces to protect children, and other Sudanese child laws (Amendment 1992).

Police Law of 1986 (Amendment 1992)

Recruitment for the police forces takes place under specific legal controls announced and included in the General Police Regulations for the year 1986 in Article (30) Clause 1/c of the conditions for appointing individuals in the police (the age of the applicant for recruitment in the police should not be less than 18 years) (Police Law of 1986).

The National Service Act of 1992

The National Service Act of 1992 states that “every Sudanese who completed eighteen years and did not exceed thirty-three years of age shall submit to the imposition of National Service” (Sudan National Service Act 1992).

Popular Defense Forces Act of 1989 (5 November 1989)

Art.11. To be accepted as a volunteer in the Popular Defense Forces, a person must satisfy the following criteria: (a) He must have been born Sudanese; (b) He must be not less than 16 years old; (c) He must be medically fit; (d) He must be of good conduct.

By reading the police and national service laws, it becomes clear that they set the age of recruitment at 18 years under the international treaties that were issued later, for example, the Optional Protocol to the convention on the Rights of the Child on the involvement of children in armed conflict, 25 May 2000. It is noted that the official authorities issued a decision not to accept children under the age of 18, however, before the issuance of this decision in 2005, children under 18 were recruited.

Armed Forces Act, 2007

The Sudanese Armed Forces adopted the Armed Forces Act of 2007, which is under the Optional Protocol in the following points:

- (a) The age of enlistment in the armed forces is 18 years, article (14).
- (b) Respect for international conventions ratified by the Government of Sudan, including the convention on the Rights of the Child and its Optional Protocols, Article (7).
- (c) Punishment for those who recruit a child into the armed forces of up to five years imprisonment, Article (176).
- (d) Adding a chapter in the law to protect civilians, including children, in areas of armed conflict, with penalties of up to life imprisonment and the death penalty for anyone who commits a violation.

The Interim National Constitution of the Republic of the Sudan, 2005

The Interim National Constitution of Sudan included a document to protect general social, economic and political human rights and freedoms. Art 27 (1) of The Bill of Rights is a covenant among the

Sudanese people and between them and their governments at every level, and a commitment to respect and promote human rights and fundamental freedoms enshrined in this Constitution; it is the cornerstone of social justice, equality and democracy in Sudan. Paragraph (3) of the same article, all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified by the Republic of Sudan shall be an integral part of this Bill. Also, protecting children's rights in peace time and during armed conflicts. Art 32(5) The State shall protect the rights of the child as provided in the international and regional conventions ratified by Sudan. Also, Sudan has ratified the Convention on the Rights of the Child and the Optional Protocol on the Non-Involvement of Children in Armed Conflicts. It has become part of the Interim Constitution of 2005 (Interim National Constitution of the Republic of the Sudan, 2005).

Child Act of 2010

The Child Act of 2010 is one of the most critical laws concerned primarily with addressing and protecting children's rights in Sudan. Essential characteristics of this law are that it meets the needs of children in protection and care in times of peace and armed conflict, and is compatible with national laws and international agreements, protocols and rules related to childhood issues; also, violators of children's rights are punished. The law includes mechanisms for implementation. Chapter Eight of the law prohibits the use of children or the involvement of children in military actions. Article 43 states that (1) the recruitment, appointment or employment of children in the armed forces, armed groups, or employees are prohibited from participating in war actions, and (2) the military laws and regulations must specify the appropriate measures for whoever contravenes the provisions of subsection (1). In addition, Article 44 of the law entitled: Demobilization, rehabilitation and integration, 44, states that, (1) the competent body of demobilisation and integration should guarantee the design of such programmes, as this may help in the demobilisation of child soldiers in coordination with the bodies concerned (military and security institutions and armed groups), and strive to integrate them socially and economically. It should take special care of the demobilised children in general and the disabled in particular during their presence at demobilisation centres. (2) The competent body must rehabilitate the child, who is the victim of armed conflicts, psychologically and mentally, and integrate him socially and economically. The Child Law of 2010 is an advanced step in protecting children from exploitation and recruitment. However, it did not include a definition of child soldiers.

Child Bill 2021

The Constitutional Charter for the Transitional Period of 2019 was signed in 2019, as well as the Juba Peace Agreement. These events led to the need to amend the Child Law or issue a new one. The Secretary General of the National Council for Child Welfare (NCCW) formed a committee to review Child Law 2010. The committee found that over 30% of the law required amendments, including deletions, additions and substance. Therefore, the committee suggested it was necessary to issue a new child law instead of amending the current law, and prepared a draft new law. In addition,

the international and regional conventions on the rights of the child, which Sudan has ratified, obliged the state to take legislative measures to implement these rights. It was therefore necessary to issue a law and help the state in complying with these measures.

There was also an absence of clear and accurate texts clarifying the roles and responsibilities of law enforcement mechanisms, such as the children's police, children's prosecution, waiting for homes, children's court, the Ministry of Health, the Ministry of Social Welfare, the Ministry of Defense, the Ministry of Education, and the Ministry of Culture. The law also lacked the conditions and functions of mechanisms that help protect children, such as social control, social service offices, aftercare, community service, and referral outside the judicial system. The law did not include the procedures followed by the mechanisms of child justice. In addition, there were no legal means to prove cases and lawsuits, neither did the law accurately describe some crimes against children, such as rape and harassment.¹

The draft law includes the state protecting children from recruitment into the armed forces or other armed groups, and protecting educational and health institutions from use by the armed forces or other regular forces. The draft law prohibits recruiting and using children under 18 as fighters or collaborators. In addition, the draft law includes articles on demobilising children, rehabilitating them, and reintegrating them into society (Child Bill, 2021).

International Treaties Ratified by Sudan in the Field of Child Protection

Sudan has ratified international conventions on protecting children during armed conflicts, such as the four Geneva Conventions of 1949. The Fourth Geneva Convention for the Protection of Civilian Persons stipulated in Article (24):

“The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. As far as possible, their education shall be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs or by some other means” (ICRC, 1949).

¹For more information, see the explanatory memorandum for the draft Child Law 2021. By Omaima Abdel-Wahab, pp.2-5.

Sudan also ratified the first protocol attached to the Geneva Conventions on international conflicts in 2005. Article 77—Protection of children:

“1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason”.

Articles (77) of the First Additional Protocol and Article (4) of the Second Additional Protocol prohibited the recruitment of children under 15 years of age, but they did not completely prohibit their recruitment.

Sudan ratified the convention on the Rights of the Child in August 1990 and joined the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict on 12 October 2003. It was ratified on 11 September 2004, without any reservations. This helped to develop the field of child protection, especially for children in armed conflicts. This is in the implementation of the main principles stipulated in the International Convention on the Rights of the Child, which are non-discrimination, the best interests of the child, the right to life, the right to survival and development, and the views of the child. The principles and rights contained in the convention on the Rights of the Child have become part of Sudanese national law. This is evident through the continuous amendments to the Child Laws in Sudan.

Mechanisms for Protecting Children from Exploitation and Recruitment in Sudan

In addition to the laws issued by Sudan and joining international treaties in the field of protecting children from exploitation and recruitment, Sudan has established mechanisms to implement these laws and international treaties, and the essential mechanisms are the National Council for Child Welfare and the Sudan Commission for Disarmament, Demobilisation and Reintegration.

The Sudanese National Council for Child Welfare

The National Council for Child Welfare (NCCW) was established in 1991 as a coordination and follow-up mechanism for the protection and welfare of children in Sudan. Its objectives are (NCCW, 1991):

- Raising awareness of children's issues.
- Coordination with agencies involved in children's issues in order to guarantee the child's right to protection and care.
- Establishment of an information base on the situation of children.
- Develop policies, plans and programmes for children within the framework of State policy.

The nature of the Council's work is that it deals fully with childhood because childhood issues are intertwined in several ministries and government institutions, each of which specialises in providing a specific service to children, such as health, education, or others. The work of the Council is based on a complete system of children's rights that the state has committed to implement under goals that have been approved and agreed upon. This can be seen through the National Council for Child Welfare Law of 2008; this stipulates in Article 6-paragraph 1 of the Council's terms of reference (NCCW, 2008):

- A. Preparing policies, plans and programs related to childhood in the state's general policy field.
- B. Coordinating with other government levels in the child care field.
- C. Establishing technical and advisory committees to support the Council in performing its duties.
- D. Establishing a statistical information base for the conditions of the child.
- E. Representing Sudan in international conferences in coordination with the competent authorities.
- F. Attracting support and assistance and attracting funding from inside and outside the country to support plans and programs for childhood care and development.
- G. Supervising the implementation of regional and international conventions for children ratified by Sudan in coordination with other levels of government.
- H. Approving the annual budget of the Council and submitting it to the competent authorities.
- I. Propose important laws for the protection and care of children.
- J. Raise awareness of childhood problems.
- K. Issuing internal regulations that regulate the activities and meetings of the Childhood Council.

By reading the terms of reference of the Council above, it becomes clear that the National Council for Child Welfare is a national body concerned with developing policies, plans and programmes related to childhood, as well as proposing the draft laws necessary to protect children in times of peace and times of armed conflict, as well as supervising the implementation of international conventions on child protection that Sudan has ratified. The most important thing is to coordinate the efforts of the national mechanisms working in the field of childhood; these include all concerned parties, such as the Disarmament Commission, the Family and Child Protection Unit, and the Child Rights Unit at the Ministry of National Defense. Solutions to all common issues are developed within the activities of this mechanism. The National Council for Child Welfare coordinates with national and joint mechanisms with the United Nations in protecting children and victims of armed conflicts. The National Council for Child Welfare coordinates with the Sudan Commission for Disarmament, Demobilisation and Reintegration in the field of child soldier's care.

Sudan Disarmament, Demobilization and Reintegration Commission

The Sudan Disarmament, Demobilization and Reintegration Commission was established mainly to implement the disarmament, demobilisation and reintegration (DDR) process in Northern Sudan at the state and local level. It was established after the establishment of the National Disarmament, Demobilization and Reintegration Council by presidential decree in 2006. It is a council that oversees the DDR process at the highest policy level. The Sudan Disarmament, Demobilization and Reintegration Commission is now planning and implementing DDR in Sudan. The most significant achievements of the Commission are shown in Figures 1-3 and Table 1 below.

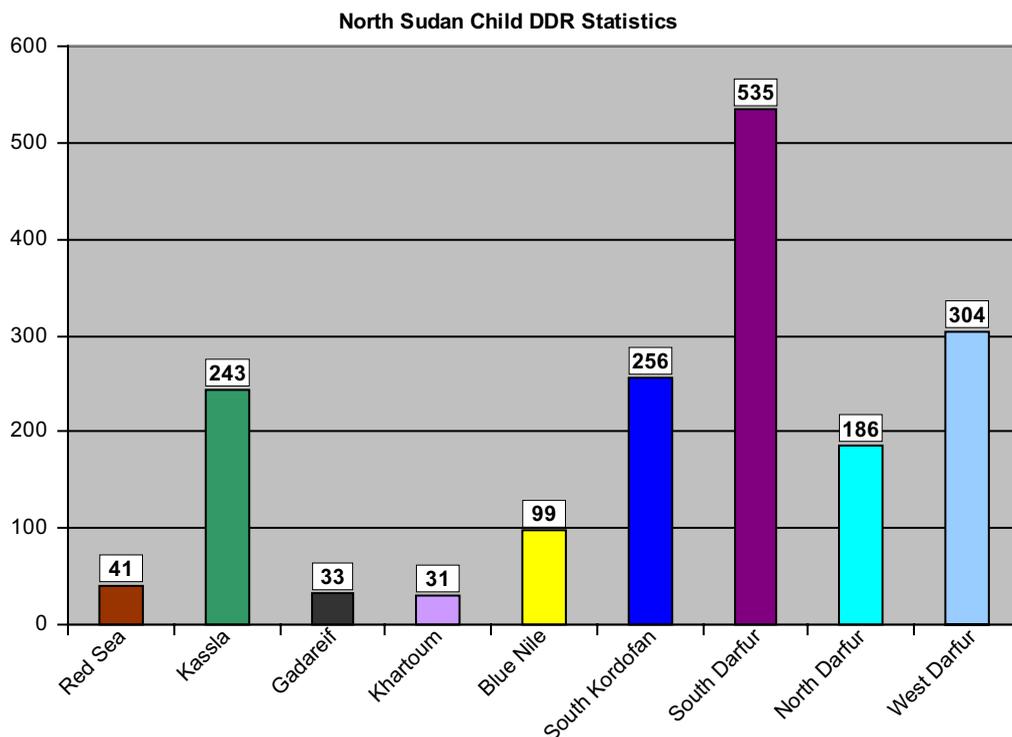


Figure 1: North Sudan Child DDR Statistics

Source: Government of Sudan, 2010

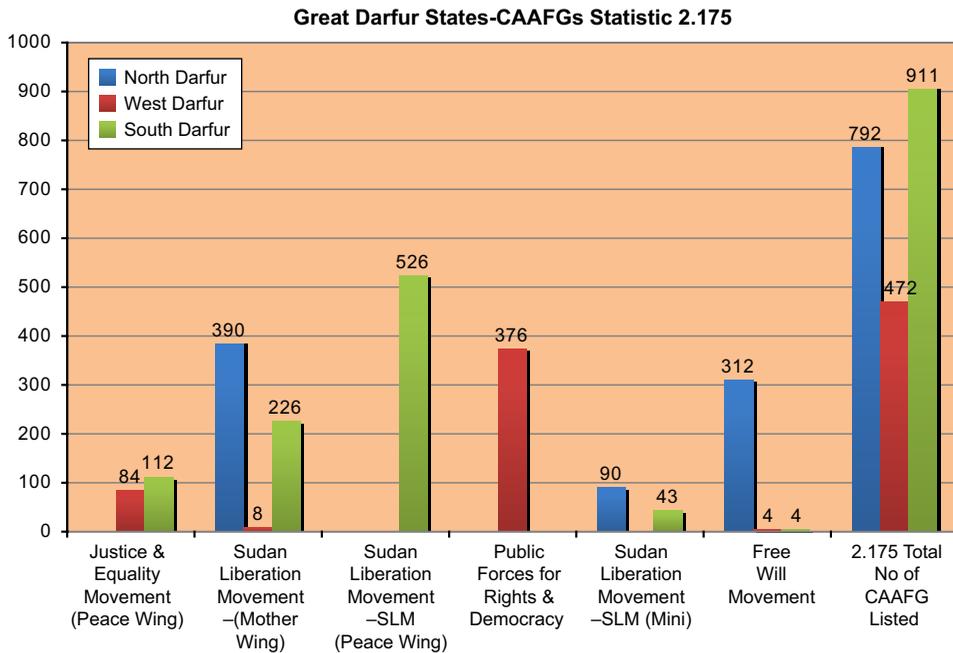


Figure 2: Distribution of Targeted Children in Darfur by Armed Group and State

Source: Government of Sudan, 2010

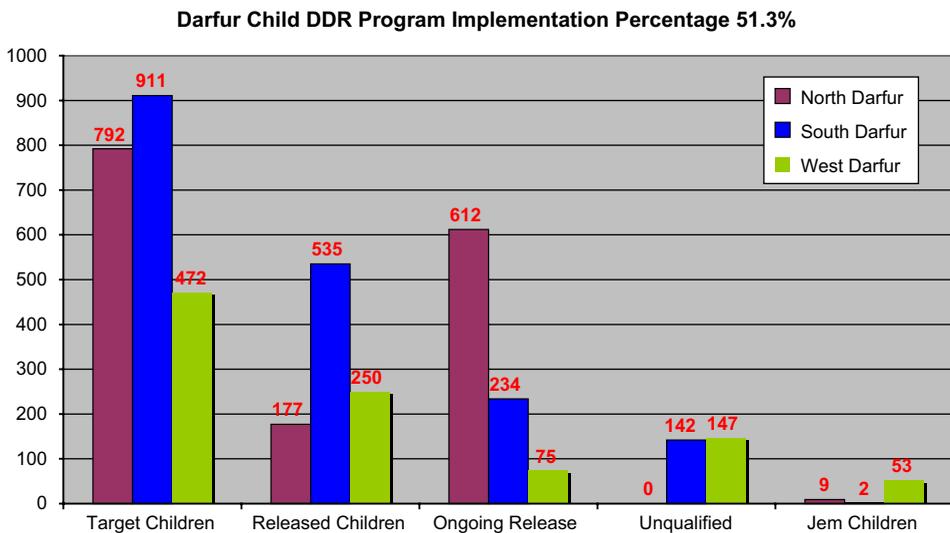


Figure 3: Implementation of DDR Programme

Source: Government of Sudan, 2010

Table 1: Number of Children Reintegrated Through DDR Programme, 2007-2015

State	Number of Registered Children	Year of Registration	Number of Children Reintegrated
North Darfur	262	2009, 2010, 2013	204
South Darfur	888	2010, 2013, 2015	250
West Darfur	381	2008, 2010, 2011	210
South Kordofan	290	2007, 2012	195
Blue Nile	483	2008, 2010, 2011	94
Kassala	235	2007	235
The Red Sea	39	2007	39
Gedaref	33	2007	33
Khartoum	32	2007, 2012	32
Total	2,643		1,292

Source: Constructed by author

The above figures and table show that the Disarmament, Demobilization and Reintegration Commission has a major role as a national mechanism in the disarmament, demobilisation, and reintegration of child soldiers into society. It is also noted that armed groups exploit children by recruiting them and involving them in military operations. Anyone who violates the rights of children stipulated in national laws and international treaties must be prosecuted and punished.

CONCLUSIONS

By studying Sudan's experience in issuing and developing laws in the field of protecting child soldiers and ratifying international treaties in this field, and establishing mechanisms for child protection, disarming, demobilising and reintegrating them into society, the researcher developed the following findings and recommendations.

FINDINGS

1. There has been an issuance and development of many Sudanese laws confirming Sudan's interest in protecting the rights of children in times of peace and times of armed conflict.
2. The ratification of many international treaties for the protection of children's rights and considering them as part of the national legislation helped a great deal in protecting the rights of the child.
3. The establishment of national mechanisms, such as the Sudanese National Council for Child Welfare, the Commission for Disarmament, Demobilization and Reintegration, the Child Protection Unit of the Armed Forces and other national mechanisms, helped towards protecting children, demobilising them, and reintegrating them into society.

4. The statistics and tables in this research show that great efforts have been made and are continuing to protect children from exploitation and recruitment.
5. Armed conflicts are a reason for the exploitation and recruitment of children. Peaceful solutions to armed conflicts must be sought, and the principle of peaceful coexistence must be established.

RECOMMENDATIONS

1. Child protection laws should be reviewed from time to time in order to develop them.
2. There is a need to conduct scientific research on armed conflicts in Sudan to discover their causes and the reasons for the recruitment of children by armed groups in order to eliminate the phenomenon of child recruitment.
3. Different means of publication and media must be used to spread the culture of peace and peaceful coexistence among the components of Sudanese society, and to raise awareness of the seriousness of child exploitation, recruitment and involvement in armed conflicts.
4. Those who exploit, recruit and involve children in military operations, whether directly or indirectly, must be prosecuted and punished.

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BIOGRAPHY



Dr Badreldin Abdalla Hassan Hamad has a PhD in Public International Law. He is a faculty member and Professor of International Law and its branches at the University of the Holy Qur'an and Islamic Sciences and Sudanese universities, and has been a contractor with the Islamic University of Medina since 2014. Professor Hassan Hamad is a Chairman and member of many councils, committees, and academic units in Sudan, and currently in the Islamic University of Madinah. He has participated in scientific conferences in Arab, African, Asian and European countries. He has More than 30 scientific research papers published in local, regional and international journals, in Arabic, Russian and English, and has five published books.

