

*REIMAGINING CHILD SOLDIERS IN INTERNATIONAL LAW AND POLICY* BY  
MARK A DRUMBL (OXFORD, UK: OXFORD UNIVERSITY PRESS, 2012)  
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An annual reminder that the practice of child soldiering endures globally is provided by the ‘list of shame’ published by the United Nations Secretary-General.<sup>1</sup> The international focus on the phenomenon has resulted in high profile criminal trials of those allegedly most responsible for the recruitment and use of child soldiers in specific conflict situations. It has also led to the release and attempted reintegration of former child soldiers. But there is a long way to go in balancing the scales of retributive and restorative justice in respect of this relatively novel area of international law. In his book, *Reimagining Child Soldiers in International Law and Policy*, Mark Drumbly provides a timely and compelling contribution to a continuing discussion by first understanding and then re-imagining the entire legal and political architecture surrounding child soldiers.

Drumbly’s aim is not modest. He is critical of what he views as the international community’s tendency to ‘replay the same narratives and circulate the same assumptions’ about child soldiers.<sup>2</sup> These narratives and assumptions relate to the ‘themes of vulnerability, frailty, victimization and incapacity’<sup>3</sup> characterising former child soldiers. Drumbly argues that this well-intentioned ‘reflexive response’ is nonetheless short-sighted and verging on the ‘palliative’.<sup>4</sup> The book therefore ‘aspires to refresh law and policy so as to improve preventative, restorative and remedial initiatives while also vivifying the dignity of youth’.<sup>5</sup>

The book is moulded in rich prose and illuminating vocabulary. Key terms and concepts are highlighted throughout the text and a preliminary overview of Drumbly’s central thesis can be provided by weaving together these threads. The ‘normative, aspirational and operational mix of international law, policy and practice’<sup>6</sup> developed by a multitude of actors constitutes the *international legal imagination*. The modern concept of *children associated with armed forces or*

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<sup>1</sup> *Children and Armed Conflict: Report of the Secretary-General*, UN GAOR, 66<sup>th</sup> sess, Agenda Item 65(a), UN SCOR 66<sup>th</sup> sess, UN Docs A/66/782 and S/2012/261 (26 April 2012) annex I (*‘List of Parties that Recruit or use Children, Kill or Maim Children, Commit Rape and Other Forms of Sexual Violence against Children, or Engage in Attacks on Schools and/or Hospitals in Situations of Armed Conflict on the Agenda of the Security Council, Bearing in Mind their Violations and Abuses Committed against Children’*); *Children and Armed Conflict: Report of the Secretary-General*, UN GAOR, 66<sup>th</sup> sess, Agenda Item 65(a), UN SCOR 66<sup>th</sup> sess, UN Docs A/66/782 and S/2012/261 (26 April 2012) annex II (*‘List of Parties that Recruit or Use Children, Kill or Maim Children, Commit Rape and Other Forms of Sexual Violence against Children, or Engage in Attacks on Schools and/or Hospitals in Situations of Armed Conflict Not on the Agenda of the Security Council, or in Other Situations, Bearing in Mind Other Violations and Abuses Committed against Children’*). See also Mark A Drumbly, *Reimagining Child Soldiers in International Law and Policy* (Oxford University Press, 2012) 142–3.

<sup>2</sup> Drumbly, above n 1, vii.

<sup>3</sup> Ibid 1.

<sup>4</sup> Ibid 2.

<sup>5</sup> Ibid vii; see also ibid 11.

<sup>6</sup> Ibid 9.

*armed groups* reflected, for example, in the ‘Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups’ (*Paris Principles*),<sup>7</sup> which defines as children those under the age of 18, provides the definitional scope for the purposes of the book, as emphasised in ch 3. There are different possible images of the *child soldier* or the *former child soldier* as a *faultless passive victim*, an *irreparable damaged good*, a *hero* or a *demon and bandit*. According to Drumbl, the international legal imagination has become saturated by the faultless passive victim image of the child soldier. This image is a *legal fiction*. It must be *re-imagined*. It fails to account for the under-explored and under-appreciated notion of *youth volunteerism*, itself connected to the idea that children are capable of being *social navigators* who *understand*, especially when *adolescents*, more than the international legal imagination wishes to acknowledge. Drumbl puts forward a *model of circumscribed action* which is presented as a *spectrum* or *continuum* embracing diversity in the sense that ‘[a] circumscribed actor has the ability to act, the ability not to act, and the ability to do otherwise than what he or she actually has done’.<sup>8</sup>

Each conflict has a *before*, a *during* and an *after* and each of these stages may be relevant to *transitional justice*, which

designates the range of processes by which societies come to terms with histories of widespread violence, how they reckon with terrible human rights abuses and how people within afflicted constituencies come to live together again.<sup>9</sup>

In terms of transitional justice options, a preoccupation of the book is the *rationale* for excluding children from the criminal process and the ensuing policy *result* which may be correct even though the rationale overshoots its mark by offering too much protection.<sup>10</sup> According to Drumbl, child soldiers should not be ‘cocooned’ from the reality of their possible involvement in mass violence by over-emphasising the faultless passive victim image.<sup>11</sup> However, criminal trials may be undesirable as a matter of policy as they tend to prioritise incarceration over rehabilitation and reintegration. In essence, accountability of child soldiers should not be ignored but can take different forms. The accountability debate divides into *lex lata*, *lex ferenda* and *lex desiderata* in the context both of children as perpetrators of atrocities and adults as perpetrators of the war crime of recruiting children under the age of 15 into armed forces or groups. Drumbl has his own vision of an ideal system of *post-conflict justice* with a more nuanced approach to victimisation and perpetration than that offered by international *criminal law*. The book’s assertions are finally tested against pragmatics (are the proposed reforms realistic?); *fear* (does the book suggest harsh punishment for child soldiers which would leave them worse off?); and *overreach* (is circumscribed action a re-imaginative step too far?), with the second of these being the most challenging in Drumbl’s opinion.

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<sup>7</sup> United Nations Children’s Fund, *Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups* (February 2007) <<http://www.unicef.org/emergencies/files/ParisPrinciples310107English.pdf>>.

<sup>8</sup> Drumbl, above n 1, 17.

<sup>9</sup> Ibid 20.

<sup>10</sup> Ibid 22.

<sup>11</sup> Ibid.

The analysis is split into seven chapters with the opening chapter introducing the author's approach and goals with reference to many of the highlighted terms outlined above. The chapter describes the different and prevailing images of the child soldier and the reality of child soldiering in terms of Drumbl's favoured model of circumscribed action. He projects his ideas against the popular 'faultless, passive victim' image of the child soldier. The shortcomings of this apparent legal fiction provide the focus for the remaining chapters.

Chapter 2 attempts to 'unpack' how the faultless passive victim image has become a metaphor for the child soldier. Drumbl recommends a more integrated yet broader appreciation of the actual role of children in conflict. He first traces the role of children in conflict from historical times to the modern day, observing towards the end of the discussion that practices within armed forces and groups differ considerably in the degree of abuse of child recruits.<sup>12</sup> He finds that the portrayal of child soldiers as faultless passive victims has been central to the campaign to end the practice of child soldiering on the part of global civil society and warns of the possible dangers associated with this approach. First, pushing child soldiers towards a status of victimhood may cause them to develop a paralytic sense of 'victimcy'.<sup>13</sup> Secondly, declaring faultlessness and an absence of responsibility may be seen to legitimise irresponsibility.<sup>14</sup> Thirdly, over-playing the notion of 'new' (and more anarchic) wars may obscure the child soldier's possible voluntary role.<sup>15</sup> Finally, the 'capaciousness' of the *Paris Principles* raises concerns, as the resulting definition is at once too narrow and too broad.<sup>16</sup>

Drumbl goes on to consider the meaning of childhood and rejects rigid age markers, finding that 'adulthood may not be reducible to a technical matter of chronology',<sup>17</sup> especially in conflict and post-conflict societies. The fact that '[t]he seventeen year-old commander is a child soldier, as is the nine year-old porter'<sup>18</sup> highlights the problem of dealing with those just over the watershed divide, being 'the age of eighteen, at which point the full weight of adult expectations abruptly begins'.<sup>19</sup> Drumbl then discusses the various approaches to the child soldier phenomenon — notably by humanitarian, human rights and child welfare experts — that are reflected in reports conducted under the aegis of international organisations, UN agencies and non-governmental organisations. He finds that distortions arise due to the aspirations of the investigators and drafters. He suggests greater attention could be paid to anthropological and ethnographic studies and considers in some depth child psychology and trauma research. This latter inquiry supports his notion that children should not necessarily be prioritised in terms of their susceptibility to trauma as compared to adolescents or young adults. The third chapter examines how children end up becoming associated with armed forces or groups and what happens to them

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<sup>12</sup> Ibid 27–35.

<sup>13</sup> Ibid 36–7.

<sup>14</sup> Ibid 40.

<sup>15</sup> Ibid 42.

<sup>16</sup> Ibid 43.

<sup>17</sup> Ibid 47.

<sup>18</sup> Ibid 48.

<sup>19</sup> Ibid 49.

once so associated. More specifically, the focus is on how children end up as perpetrators of international crimes. According to Drumbl, children become associated with armed forces or armed groups in three main ways:

- (1) they are abducted, or conscripted through coercion or severe threats; (2) they come forward, whether independently or through recruitment programs, and are, in turn, enlisted by commanders; or (3) they are born into forces or groups.<sup>20</sup>

The first two of these methods appear to be the most common<sup>21</sup> and Drumbl challenges the tendency of the international legal imagination to erase the line between voluntary and coerced participation, believing that volunteers are distinguishable from abductees and voluntariness must not be ignored.<sup>22</sup>

Using case studies relating to abductees in Northern Uganda and Sierra Leone, Drumbl highlights that even amongst abductees in Northern Uganda, the children may exercise a degree of choice, in trying to escape or remaining with the armed group into adulthood. Without suggesting that adult recruiters should be exempt from legal responsibility, Drumbl challenges the notion that youth caught up in the Sierra Leone conflict were 'apolitical' or 'clueless about material necessities'<sup>23</sup> or that they were incapable of navigating paths of economic and occupational advancement.<sup>24</sup> After considering some further situations, Drumbl concludes that the reasons for enlistment are multifaceted and incapable of generalisation.<sup>25</sup> In essence, child soldiering is 'not so simple' and the plea is for a more nuanced discourse which does not obfuscate volunteerism.

Building on these tenets, the chapter proceeds to examine the child perpetrator, recognising that some of the worst atrocities in the Sierra Leone conflict were committed by children, often under the influence of narcotics.<sup>26</sup> Again, the position is not so simple: first, child perpetrators of atrocities tend to be the exception rather than the norm; secondly, juveniles are capable of understanding the laws and morals of war; thirdly, they are similarly capable of exercising a discretion as to whether to disobey cruel orders or gratuitously apply greater violence than commanded; fourthly, children may undergo a transformative process towards violent behaviour as they grow up within the armed group; fifthly, some youth show delinquent tendencies in peacetime which are then exhibited as atrocities during conflict and this tendency may persist post-conflict if left unaddressed; and sixthly, all child soldiers are different and thus they cannot collectively be typecast as faultless passive victims.<sup>27</sup> Drumbl argues that rescue and responsibility have to be balanced through his proposed

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<sup>20</sup> *Ibid* 62.

<sup>21</sup> *Ibid*.

<sup>22</sup> *Ibid*.

<sup>23</sup> *Ibid* 73.

<sup>24</sup> *Ibid* 74.

<sup>25</sup> *Ibid* 79.

<sup>26</sup> *Ibid* 80.

<sup>27</sup> *Ibid* 82–94.

model of circumscribed action:

Presenting circumscribed action in this dynamic fashion encourages procedural inquiry into the specific histories and experiences of the individuals located within its contours, while also prompting community involvement on questions of reintegration and restoration.<sup>28</sup>

Chapter 4 addresses the accountability of child soldiers as perpetrators of crimes, in other words the classic ‘victim versus perpetrator’ debate. Drumbl stresses that international law does not prohibit the prosecution of child soldiers for international crimes but that, as a matter of policy, such action is considered ‘inappropriate and undesirable’.<sup>29</sup> He concludes that international human rights and humanitarian law are ‘not oriented toward contemplating individual child soldiers as occupying interstitial positions on a spectrum of circumscribed action’.<sup>30</sup> International criminal law is also found to have moved towards an emerging standard that children under 18 should not be prosecuted before international or internationalised courts or tribunals.<sup>31</sup> To Drumbl, this standard risks leaving child soldiers’ role as perpetrators unexplored and constricts the post-conflict justice options available domestically. Drawing parallels with the ages of criminal responsibility in national legislation, he reveals a juxtaposition that fails to align with the relative gravity of international crimes as opposed to common crimes.<sup>32</sup> Further, distortions are generated by the policy approaches of states, as the faultless passive victim image may be discarded when child perpetrators target interests within the centres of global politics, especially in the contexts of terrorism and piracy.<sup>33</sup> Double standards may also be seen to emerge when former child soldiers fail to secure refugee status on the basis of their possible involvement in international crimes.

In ch 5, Drumbl considers the evolution of the war crime of recruiting children under the age of 15 to serve in national armed forces or armed groups or using them to participate actively in hostilities. He homes in on the human rights and humanitarian law push towards prohibiting recruitment, voluntary or otherwise, of anyone under the age of 18<sup>34</sup> (the ‘Straight 18’ standard)<sup>35</sup> which

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<sup>28</sup> Ibid 99.

<sup>29</sup> Ibid 103. As Drumbl points out, however, ‘[i]n no positivistic sense does the exercise of independent policymaking discretion by international prosecutors make international law’: at 123.

<sup>30</sup> Ibid 116.

<sup>31</sup> See, eg, *Rome Statute of the International Criminal Court*, opened for signature 17 July 1998, 2187 UNTS 90 (entered into force 1 July 2002) art 26: ‘The Court shall have no jurisdiction over any person who was under the age of 18 at the time of the alleged commission of a crime’. See also *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, signed 16 January 2002, 2178 UNTS 137 (entered into force 12 April 2002) annex art 7 (‘*Statute of the Special Court for Sierra Leone*’) (this provision allows the Court to exercise jurisdiction over persons aged 15–18 but has never been invoked).

<sup>32</sup> Drumbl above n 1, 128.

<sup>33</sup> Ibid 129–30.

<sup>34</sup> This is reflected in the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, opened for signature 25 May 2000, 2173 UNTS 236 (entered into force 21 October 2002). See also the ‘Zero Under 18’ campaign supported by the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict.

<sup>35</sup> Drumbl, above n 1, 135.

impacts on the criminal law context. For example, a possible impunity gap in respect of child soldiers between the ages of 15 and 18 is evident. Referring to soft law, such as the report on the *Impact of Armed Conflict on Children*,<sup>36</sup> Drumbl notes the assumption that children, especially those under 15, are incapable of volunteering and again warns against collapsing the distinction between voluntary and forced recruitment. He suggests it might be unhelpful 'to chronologically expand the membership of the protected class while statically relying on uniform, atrophied, and infantilized assumptions of the capacities of the class members'.<sup>37</sup>

As noted by Drumbl, the war crime is concerned with the responsibility of the adult recruiter and that term's meaning and content has been distilled and refined in the jurisprudence of the Special Court for Sierra Leone ('SCSL') and the International Criminal Court ('ICC'). Drumbl is broadly positive about the contribution of the SCSL.<sup>38</sup> He examines the *Prosecutor v Lubanga* ('Lubanga')<sup>39</sup> case before the ICC, although the book was completed before the delivery of the verdict and accompanying decisions on sentencing and reparations.<sup>40</sup> His analysis of the trial proceedings, in particular the views of experts and the amicus curiae, supports his overall argument that voluntariness is being obscured and children are treated as passive victims. This is emphasised by the fact that those who suffered atrocities at the hands of child soldiers did not fall within the category of victims entitled to participate in proceedings. The trial judgment is nonetheless crisp in its treatment of the applicable legal categories and makes distinctions as to gravity in sentencing that Drumbl would perhaps favour. Drumbl notes that the best approach would be to preserve the

<sup>36</sup> Graça Machel, *Report of the Special Representative of the Secretary-General: Impact of Armed Conflict on Children*, UN GAOR, 51<sup>st</sup> sess, Provisional Agenda Item 108, UN Doc A/51/306 (26 August 1996).

<sup>37</sup> Drumbl, above n 1, 143.

<sup>38</sup> Drumbl cites and seems to accept Tim Kelsall's observations on the Special Court for Sierra Leone's possible failure to appreciate the cultural context of volunteerism, especially in relation to the Civil Defence Forces: *ibid* 148. See also Tim Kelsall, *Culture under Cross-Examination: International Justice and the Special Court for Sierra Leone* (Cambridge University Press, 2009).

<sup>39</sup> *Prosecutor v Lubanga (Decision on the Confirmation of Charges)* (International Criminal Court, Pre-Trial Chamber I, Case No ICC-01/04-01/06-803t-EN, 29 January 2007) ('Confirmation of Charges'); *Prosecutor v Lubanga (Decision on 'Indirect Victims')* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-1813, 8 April 2009) ('Indirect Victims'); *Prosecutor v Lubanga (Decision on the Application by Victims to Participate in the Proceedings)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-1556, 15 December 2008) ('Victims Participation'). See also *Prosecutor v Lubanga (Decision on the Applications by Victims to Participate in the Proceedings)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-1556, 15 December 2008) annex 1; *Prosecutor v Lubanga (Decision on the Applications by Victims to Participate in the Proceedings)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-1556, 13 January 2009). This review refers to these decisions collectively as 'Lubanga'. Drumbl refers to the trial process in this case as 'Lubanga'.

<sup>40</sup> *Prosecutor v Lubanga (Judgment Pursuant to Article 74 of the Statute)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-2842, 14 March 2012) ('Lubanga Judgment'); *Prosecutor v Lubanga (Decision on Sentence Pursuant to Article 76 of the Statute)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06-2901, 10 July 2012); *Prosecutor v Lubanga (Decision Establishing the Principles and Procedures to be Applied to Reparations)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06/2904, 7 August 2012).

criminalisation of all three forms of child recruitment (voluntary enlistment, conscription and abduction), ‘but distinguish among forms when it comes to assessing the defendant’s culpability, apportioning blame, and determining sentence’.<sup>41</sup> This in fact reflects the prevailing approach, although the factual context of international cases so far has tended to show a link between abduction and use in hostilities, while enlistment is in effect subsumed under these categories and fades into the background. An aspect that could have been explored further in ch 5 is the SCSL’s treatment of the active use of children as participants in hostilities.<sup>42</sup> This may have added another dimension to the compelling discussion of the ICC’s possible missed opportunity to consider victimisation more broadly in *Lubanga* through the application of alternative liability theories.<sup>43</sup>

Drumbl is sceptical as to the deterrent value of international criminal proceedings especially in view of their narrow focus and he urges ‘diverse accountability mechanisms to address the multiple roots of child soldiering’.<sup>44</sup> This theme is taken up in ch 6 where he argues that transitional justice has been sidelined from post-conflict initiatives to reintegrate former child soldiers and reconstruct their communities. In his view, a three-dimensional status of child soldiers as perpetrators, witnesses and victims has inappropriately been reduced to a two-dimensional portrayal as victims and witnesses only. Drumbl proceeds to consider the broader transitional justice framework. He explores the classic models — disarmament, demobilisation and reintegration programs, national prosecutions, truth and reconciliation commissions — all the time challenging the emphasis on the faultless passive victim image which, he argues, tends to pervade the entire responsive architecture. Customary and traditional reintegration mechanisms also play a role but he finds that the international legal imagination treads too cautiously in this area of more local or endogenous justice. Thus, re-imagining transitional justice measures that are not concerned with retribution is an important aspect of Drumbl’s vision.

Girl soldiers are not an extensive focus of the book, but the re-imaginative exercise is perceived to have a positive effect on their plight.<sup>45</sup> It is difficult to contest this conclusion as girl soldiers are typically victims of sexual violence and require special consideration in re-integration and transitional justice processes. However, the special position of girl soldiers is not fully explored in the book. This is surprising in view of the attention paid to sexual violence against women and girls in the jurisprudence of the SCSL and the controversial exclusion of girl soldiers from proper consideration in the *Lubanga* case for

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<sup>41</sup> Drumbl, above n 1, 148.

<sup>42</sup> *Prosecutor v Sesay (Judgment)* (Special Court for Sierra Leone, Trial Chamber I, Case No SCSL-04-15-T, 2 March 2009) [1732]; see also *Prosecutor v Taylor (Judgment)* (Special Court for Sierra Leone, Trial Chamber II, Case No SCSL-03-01-T, 18 May 2012) [1604], [1968].

<sup>43</sup> Drumbl, above n 1, 160.

<sup>44</sup> *Ibid* 164.

<sup>45</sup> See *ibid* 204–6.

procedural reasons.<sup>46</sup> The international legal imagination ought to be stretched further towards an adequate handling of the girl soldier subgroup and Drumbl's ideas in this respect could have been consolidated in a separate chapter.

The final chapter is comparatively short and avoids making concrete practical proposals although the intention is perhaps to leave it to law and policy makers to turn what has been re-imagined into positive reformative action. Drumbl notes some criticisms of his circumscribed action model earlier in the text, such as whether it is 'possible to ascribe tangible content to the discretion that child soldiers actually may possess'.<sup>47</sup> This question could have been addressed more robustly in the conclusion. However, his conviction that '[t]ruly ameliorative reform will remain elusive until the presumptive imagery shifts to something more dynamic and less controlling, such as circumscribed action'<sup>48</sup> is well-supported. His call for a shift from viewing child soldiers as 'forlorn passive victims of a lost generation'<sup>49</sup> to appreciating them as 'circumscribed actors'<sup>50</sup> places emphasis on restorative forms of justice. It is true that '[i]nternational courts and tribunals dominate the architecture of international justice as it now stands'.<sup>51</sup> The re-imaginative exercise would 'allocate responsibility for the practice of child soldiering among the many individual, state, commercial, and organizational elements that have a hand in its nagging persistence'.<sup>52</sup> The book highlights an important area for further development, namely the notion of state responsibility for unlawful recruitment of children. As Drumbl explains:

A polycentric vision of justice — in which international criminal prosecutions constitute a practice, not *the* iconic practice — instead might activate state responsibility and, thereby, contribute an additional tool to efforts to curb child soldiering.<sup>53</sup>

International humanitarian law is after all addressed primarily to states and international law recognises a duality of state and individual responsibility. Drumbl aptly points out that individual responsibility is tending to eclipse state responsibility in the area of child soldiering and it is time to examine whether there are concrete legal consequences for states that feature on the UN Secretary-General's 'list of shame'. As the book draws mainly on the African experience of child soldiering, a more global comparative follow-up

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<sup>46</sup> See, eg *Prosecutor v Sesay (Sentencing Judgment)* (Special Court for Sierra Leone, Trial Chamber I, Case No SCSL-04-15-T, 8 April 2009) [117]–[135]. See also *Prosecutor v Lubanga (Decision on the Legal Representatives' Joint Submissions Concerning the Appeals Chamber's Decision on 8 December 2009 on Regulation 55 of the Regulations of the Court)* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06/2223, 8 January 2010); *Lubanga Judgment* (International Criminal Court, Trial Chamber I, Case No ICC-01/04-01/06/2842, 14 March 2012) [630].

<sup>47</sup> Drumbl, above n 1, 100.

<sup>48</sup> *Ibid* 110.

<sup>49</sup> *Ibid* 209.

<sup>50</sup> *Ibid*.

<sup>51</sup> *Ibid* 207.

<sup>52</sup> *Ibid* 209.

<sup>53</sup> *Ibid* 165 (emphasis in original).



study could be envisaged in order to facilitate the re-imaginative process.<sup>54</sup> The book suggests that '[t]he time is right for something new'.<sup>55</sup> But is something new required or is the problem as much one of enforcement and re-invigoration of existing hard and soft law? Drumbl discusses, but does not establish clearly, the differences between the under 15 and the 15 to 18 age groups, precisely because he rejects any firm age demarcation, in particular the 'chronological watershed of the age of eighteen'.<sup>56</sup> He claims that '[a] more refined appreciation of interstitial developmental categories would enhance the dexterity of international law in addressing young adults'.<sup>57</sup> But while this ideal of a continuum of circumscribed action with less categorical age demarcations may be achievable in the broader transitional justice framework, it is difficult to accommodate in the context of the war crime of recruiting or using child soldiers which requires a definite cut-off age in order to provide a precise and certain definition.

Further, it is a little unclear what Drumbl's true position is on the value of criminal trials, whether international or domestic, for children who have committed atrocities and whether he would draw a clear line between those under 15 and those in the 15 to 18 age range. He is concerned with not being seen as proposing harsh punishment for such children, which brings the argument close to the wording, if not the international legal imagination's interpretation, of the *Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups*, Commitment 11.<sup>58</sup> Commitment 11 does after all state that child soldiers who are accused of crimes against international law should be considered *primarily* as victims and *not only* as alleged perpetrators.<sup>59</sup>

*Reimagining Child Soldiers in International Law and Policy* provides a springboard for a re-think of policies that might be steering discussion of the child soldier phenomenon in the wrong direction. The book tackles the issue from many angles in order to uncover a more profound conception of justice than current thinking might allow. Yet ultimately, the proposed re-imaginative exercise is perhaps not quite as dramatic as the tone of the book might suggest. Nevertheless, the book has and will continue to trigger meaningful debate. Any interested reader will be challenged, inspired, set free from the constraints of conventional wisdom and cast off on a personal re-imaginative journey. The

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<sup>54</sup> See, eg, *Report of the Secretary-General: Children and Armed Conflict*, UN GAOR, 66<sup>th</sup> sess, Agenda Item 65(a), UN SCOR, 66<sup>th</sup> sess, UN Docs A/66/782 and S/2012/261 (26 April 2012). The report discusses the recruitment of various country situations where children may, to a greater or lesser extent, be recruited into armed forces or groups used in hostilities. A number of these are in Africa but also listed are: Afghanistan, Colombia, India, Iraq, Lebanon, Libya, Myanmar, Nepal, Occupied Palestinian Territory and Israel, Pakistan, Philippines, Sri Lanka, southern border provinces of Thailand and Yemen. Further, Libya and the Syrian Arab Republic are included for the first time.

<sup>55</sup> Drumbl, above n 1, 2.

<sup>56</sup> *Ibid* 17.

<sup>57</sup> *Ibid* 49.

<sup>58</sup> *Paris Commitments to Protect Children from Unlawful Recruitment or Use by Armed Forces or Armed Groups* (2007) <[http://www.icrc.org/eng/assets/files/other/pariscommitments\\_en.pdf](http://www.icrc.org/eng/assets/files/other/pariscommitments_en.pdf)>.

<sup>59</sup> *Ibid*. See also Drumbl, above n 1, 111–2.

book certainly offers much more than an unpacking of the international law and policy reaction to child soldiers and a repacking into different boxes.

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