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Barriers to Indigenous People's Participation

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* The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.

1. Introduction

The concept of 'transitional justice' originated in the early 80s and 90s to confront the widespread abuses of previous governments while reinforcing the democratic transitions in Latin America and Eastern Europe (*OHCHR, 2008*). Transitional justice aims to resolve systemic or significant human rights violations by addressing issues around victims' reparations while working to prevent future repetitions through political reform, conflict transformation, and abuse root cause resolution (*OHCHR, 2008*). Throughout the years, transitional justice has aimed to resolve calamities worldwide in the given context of traditions and culture, in which each case is unique. The field of transitional justice has emerged and evolved (in theory and practice) in response to new challenges such as "Ethnic cleansing and displacement, reintegration of ex-combatants, community reconciliation and the role of justice in peacebuilding" (*OHCHR, 2008*). These challenges are, unfortunately, not new. Transitional justice, thus, as a relatively new field, aims to address challenges with a long-rooted history, particularly in indigenous communities.

Evidence of injustice dating from pre-colonial times resulted in the marginalization of minorities in the process of 'creating empires'. An example is a colonial genocide in which 15 million men, women, and children were victims of the transatlantic slave trade for over 400 years (United Nations, 2007); the same case for an estimated 12 million Native Americans (Smith, 2017). In the 20th and 21st centuries, there are still cases such as the genocide in Rwanda against the Tutsi, the conflict in Tigray Ethiopia, and, most concerning, the marginalization strategy and repressive policy of imprisonment in camps of the indigenous peoples of the Uyghur in China (Lefebvre, 2022). Conflicts and oppression in humanity's history and towards Indigenous Peoples seem to be a never-ending cycle that is poisoning the world we live in and in which we hope to have peace.

Indigenous Peoples now have a few legal instruments that recognize their rights that are represented globally through the U.N.P.F.I.I. Moreover, in Africa, regionally through the African Commission on Human and Peoples' Rights (A.C.H.P.R.), with the mandate to protect and promote human and peoples' rights in Africa, and which established the Working Group on Indigenous Populations/Communities in 2000 (International Work Group for Indigenous Affairs). However, in Africa, the term indigeneity takes on a different meaning depending on the country. The definition of Indigenous Peoples differs from aboriginality, like the first people from the land. It is superimposable in some states. Like the case of certain Tuaregs in the central Sahara near southern Algeria, writings on the rocks testify to these people's presence for millions of years.

Nonetheless, in Africa, the most important factor is self-definition. It is a fact that these groups define themselves as indigenous. It is a lot more about people who have suffered injustice because of their way of life, which differs from the majority. The system, the laws and the programs were based on a sedentary system where for people who practice nomadism, it is very hard, and they

are excluded from these systems. This is why the Tuaregs, the peulhs, or the Dogons who live in caves, do not fit into the majority group of which they automatically become indigenous.

Mali, which has not ratified the ILO 169 convention, bases itself on its Constitution, which declares the defence of the national community's cultural and linguistic diversity. However, Indigenous Peoples and their rights are not recognized as the equality clause in Article 40 states that "all citizens are equal before the law." They have equal public rights and duties regardless of race, ethnic origin, language, religion, or creed (The Indigenous World - IWGIA – International Work Group for Indigenous Affairs, 2022). However, The African Commission on Human Rights and Peoples, in the report of its Working Group on Indigenous Communities, recognized the Tuareg and Peul populations as Indigenous Peoples (The Indigenous World - IWGIA - International Work Group for Indigenous Affairs, 2022).

As the ILO 169 noted that "in many parts of the world, these peoples are unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live"; the Indigenous Peoples, in the case of Mali, are confronted with a hostile environment of conflict, violence, and child soldiering. This violates the declaration of human rights and children's rights and violates convention 169 on indigenous peoples' rights. As per article 2 emphasizes that "Governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity." such actions should include "promoting the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions". The child soldier phenomenon is an issue that threatens all wished development in the indigenous communities and threatens its culture, traditions, peace, and future.

The Child Soldiers Phenomenon

Amid the conflicts which affect the Indigenous Peoples is the child soldier phenomenon, a practice that has existed for centuries, as seen in Sparta, where children were taken from their homes at the age of seven and were battle-ready by age 20. In historical concept, in the western world (J.Mark, 2021), The ancient Greek city of Sparta was a military superpower due to its use and training of children to be soldiers from early birth until adulthood. At seven, Spartan boys were removed from their parent's homes and conscripted into the 'agoge', a military training scheme (J.Mark, 2021). Or in religious books, it narrates the story of Pharaon killing Israeli children to secure his power, which illustrates the importance placed on children when it comes to conflicts, a war for power, and lineage because they represent the future.

According to The U.N.G.C., Genocide also includes "forcibly transferring children of one group to another."(Anyaduba, 2021). This brings to the question of perhaps the continual and

generational Genocide of which children are victims, particularly from Mali Indigenous communities and the impact and effect it can have on conflict resolution in the longer term and transitional justice.

While there are international bodies which cover child protection, in recent decades, conflicts have risen worldwide. Turning traditional cross countries' wars and conflicts into internal armed conflicts and an increase in violence worldwide (United Nations, 2020), specifically in the entire African continent, defining it as a conflict "Hotspot" (Ighobor, 2019). It is estimated that approximately 40% of all child soldiers worldwide are active on the African continent (Dudenhoefer, 2016). As the conflicts are increasing in Africa, so is the case of child soldiers who, in the case of Mali, are mainly from the Indigenous communities. Conflicts usually happen where the Indigenous communities live and abduct their human rights, as those conflicts and the involvement of children represent an attempt to eliminate the culture and its spirituality, worldview, and human identity in its children" (Anyaduba, 2021).

Therefore the paper will be based on primary research done in the field, in the red zones of Mali (Kidal, Timbuktu, Gao Mopti Menaka) and the capital Bamako, initially for my capstone studies and will serve as a base to address:

1. How Transitional Justice has engaged or failed with Indigenous communities in the context of child soldiers in Mali,
2. What shifts within government and in partnership with Indigenous Peoples will create the conditions for moving from denial to recognition of the child soldiers phenomenon in indigenous communities in Mali, replacing conflict with cooperation,
3. What public sphere voices focus on fears/confusion/mistrust as opposed to aspects of reconciliation in which child soldiering.

2. How Transitional Justice has Engaged and Failed with Indigenous Peoples in the Context of Child Soldiers in Mali

Mali has been subjected to internal armed conflicts since its independence and, more recently, in 2012, to terrorist invasion due to critical ethnic tensions and insecurity. While various peace agreements have been signed over the years, the most recent being "the Algiers peace agreement" in 2015, the conflict is increasing as the crisis advances from northern Mali to the country's center affecting the Indigenous communities living in the conflicted areas.

While the peace agreement aims to address all aspects (political, social, cultural, security, justice, and humanitarian) to bring peace and reconciliation, little has been shared on the growing phenomenon of child soldiers in Mali. The phenomenon has been linked to the prolongation of

internal armed conflicts through studies primarily established by Poirier Thomas in his work titled "The effects of armed conflict on schooling in Sub-Saharan Africa" and Haer Roos in his work, "Could rebel child soldiers prolong civil wars?".

This gap was identified through secondary research on the exact situation of child soldiers in Mali and ways established for their reintegration sources are mainly external to Mali context and consisted as a base to do primary research in the red zones of Mali affected by the conflict and insecurity (Mopti, Kidal, Gao, Timbuktu, Menaka) through the support of the C.N.D.D.R. to access the zones and learn more about the current conflict and the situation of child soldiers.

The research, conducted through a series of qualitative interviews, lasted from June 2021 to August 2021 and included all significant actors in the implementation of the peace agreement platform (government representatives, armed groups movements, U.N. peacekeeping operations, and civil society) in order to have a holistic view and data on different perceptions of the child soldier phenomenon in Mali's current situation and established ways for their reintegration.

The study discovered a link between child soldiering and increased insecurity in Mali, as well as gaps between the Peace Agreement and its efficiency in incorporating youth, notably child soldiers from indigenous communities, into its component for reconciliation. The paper discusses Indigenous methods and practices for reintegration and other nations' methods of reintegrating child soldiers as examples of prospective solutions and how the peace agreement represents an opportunity to unite such aspects to ensure long-term peace and security in Mali.

2.1. Current State of Child Soldiers in Mali as Seen by A.P.R Stakeholders

The mechanism in Place to Reintegrate Child Soldiers

The phenomenon of child soldiers has been taken into account following the 2012 terrorist invasion in Mali. Hence the creation of the different centers in Mopti, Timbuktu and Bamako. The information regarding how children are reintegrated was specified through the C.T.O. and child protection section in Minusma throughout the interviews. According to the Mopti C.T.O, in Mali, in 2012, it was difficult for people to recognize the term "child soldier". The centre in Mopti was told to stop using the term "child soldier" because to determine that a child is a child, they must have mechanisms in place while on the field during the D.D.R; whilst the Center is not on the ground to see children associated with armed groups. Therefore from then until now, children are referred to them through the gendarmerie or UNICEF through their focal points.

Family reunification is at the Center of the C.T.O.'s goal. The Timbuktu, Bamako and Mopti C.T.O.s have a history of 255 children who were present and who have passed through the center.

The centers use the same mechanism based on reunification with the family following mental health assistance. During the stay, the center initially provides a process of confidence building among the children. There is accommodation, care of the child's condition, social and psychological activities, and training on their life project, which aims to help them create a business they want to start and usually resolves around livestock and farming.

The partner, primarily UNICEF, will finance the project after the training. The project begins with a fund of 150,000 CFA francs. The follow-up on the children after they leave the Center is from six months to a year, but no longer. The project's initiative was to keep the children busy and prevent them from falling back into the armed groups with which they were associated or falling into banditry and drugs.

All of the centers confirmed during the interviews that the government is a technical but not a financial partner. If UNICEF withdraws now, the centers indicated that it would be difficult for them to continue operating because they are the Center's primary source of revenue. The government does not give grants.

2.2 Limitations of the Peace and Reconciliation Agreement

The Algiers Process Agreement for Peace and Reconciliation in Mali is an agreement that tries to reconcile Mali's social fabric. As the research focused on its stakeholders, which included signatories (government and armed groups movements) and partners (U.N. peacekeeping operation, civil society), it was critical to go through the entire peace agreement and analyze the findings that resulted from interviews with the stakeholders, particularly while emphasizing the majors' insights.

2.3 Absence of Realities of Malian Context in the A.P.R

According to the research results, the culture of the weapon is also linked to the cultural phenomenon of the definition of a child in Malian culture. However, the Agreement did not consider establishing peace and reconciliation by finding solutions or preventive measures against those phenomena.

This finding is correlated to the reason why the majority of the Malian population does not recognize itself in the Agreement. Most of the population does not understand the Agreement; and does not see the point of supporting or helping in its application.

This is affirmed by the Mali Meter studies and their report on "What Malians Think 2021," a study by Dr Ibrahima Cisse, who started in 2012 until now. Two-thirds or 66.1 per cent of the Malian population have no knowledge of the Agreement, and 51 per cent feel that it needs to be reread

and modified, although the Agreement has been translated into all languages and broadcast on the radio (Klatt, 2021).

The following examination of the A.P.R. document; demonstrates the limits of the Agreement, particularly about the inclusion of everyone from a reference point; people do not recognize themselves in it, especially young people who, according to the study by Ousmane Kornio in "Community Conflicts and the Mechanisms of Mediation and Reconciliation in Mali". The real cause of the repeated rebellions is linked to the lack of access to work and income by young people who have succumbed to the proposal of narco-traffickers and bandits.

In addition to these findings, it is essential to relate the fact that the indigenous youth involved in the conflict, from the Tuareg and the peulh communities, faces a lack of social infrastructure, preventive measures to ensure their security and non-involvement in conflicts and an overall irresponsible attention to their issues by the government. This problem is more exacerbated by the phenomenon of orphans of the conflict in 2012, who, according to the women representative in the region of Menaka, make up the criminality population of today in northern Mali. In those aspects, transitional justice has failed to incorporate and engage the indigenous communities in the peace agreement process, notably when it comes to their children affected by the conflicts and used in the conflicts.

3. Shifts in Government and Other Partnerships with Indigenous Peoples

3.1 From Denial to Recognition, Replacing Conflict with Cooperation

The D.D.R Process is a tool to eradicate confusion and highlight children in the conflict. Through filtering of similarities and differences in opinions from various stakeholders, it was discovered that whenever the phenomenon of child soldiers is discussed, the signatory parties (government and armed groups) and national and international partners speak directly about the D.D.R. Particularly its usefulness in eliminating confusion about "who is who" and giving visibility to minors caught up in the conflict for them to be rehabilitated.

According to the Office of the High Representative for Peace Agreement Implementation, the D.D.R. tool would help identify these children to reintegrate them. However, the C.N.D.D.R. is only responsible for ex-combatants (18 or older), and those in charge of minors (child soldiers and children associated with conflicts) are the C.T.O.s through the Ministry of Women and Children, which UNICEF supports. The centres (Mopti, Bamako, Timbuktu) indicated that it would become difficult for them to continue if UNICEF withdraws now as they are the primary source of funding for the centres.

In that regard, the peace agreement document does not mention the "child soldiers" phenomenon, nor concrete ways of reintegrating them into society and preventive measures to mitigate the causes that brought up the child soldiers phenomenon. Additionally, the culture of weapons growing in popularity and impacting indigenous communities who live in the midst of conflicts and insecurity represents a "model of success" rather than education and development, as per the lack of social infrastructures in those regions.

However, as much as the peace agreement represents a "political agreement", it also represents an opportunity to establish a shift within government to move from denial to recognition and reforming policies to truly impact peace and reconciliation in Mali and create sustainable peace. Additionally, it is still a platform that brings everyone to the same table to establish peace and reconciliation.

Its component, primarily the D.D.R. program, is the one most referred to when talking about the conflict and child soldiers, even if the D.D.R. is not in charge of a child soldier. It represents an opportunity through further research and reform to successfully stop the culture of weapons and child soldiers phenomenon. Especially if administrated with a component that would include this case in their budget, accompanied by programs which aim to enhance the youth voice at the decision-making table and offer education, 21st-century skills and opportunities for social and economic development.

In his study, Boothby confirmed that such cases were seen on the effective use of Reintegration programs through indigenous practices, which enhances a sense of "community" and belonging. The study focused on Child soldiers who journeyed for 16 years after their release from the Lhanguene Rehabilitation Center in Maputo, Mozambique's capital city, in 1988. The study found that Rehabilitation programs that reinforced individuals' coping abilities for predicted stress and sorrow fostered a sense of societal duty and promoted self-regulation and security (versus survival) seeking behaviour were among the most effective (Boothby et al., 2006). As well as Community acceptance and forgiveness, traditional cleaning and healing rituals, livelihoods, and apprenticeships were all activities that aided long-term reintegration and self-sufficiency.

Diangha reached a similar conclusion through his study, which states that sierra leone, as one of the first countries to include children in a Comprehensive Peace "accord," has achieved some of the best results in the reintegration of former child soldiers through community-based organizations and traditional cleaning rituals (Diangha, 2014). The study demonstrated that overnment institutions were the most significant contributors to the continued recruiting of child soldiers, and an effective method to stop and reinsert the children into society was done through traditional cleansing rituals (Diangha, 2014).

The story of a boy who fought for nearly five years is an excellent illustration of such reintegration. Upon his return, a cleaning ritual was planned for him in order to cleanse him of the war's harmful actions, pacify the spirits of those he may have harmed, and create a brand-new and healthier environment in his life (Diangha, 2014). The ritual represented cleansing his past crimes and releasing the filth he had amassed during combat in all areas. To avoid looking back into the past, the boy and his family were only to face the direction of their home (Diangha, 2014). This ritual demonstrated the community's approval of the boy by calming ancestor spirits who may have been angry with him for dishonouring people he may have harmed. These rituals are coping mechanisms for the social scars imposed by war on communities, allowing individuals to regain their lives and move forward.

These insightful findings highlight the aspect of "indigenous knowledge" and the sense of belonging to a community for a better reintegration of child soldiers into society. Here we compare the results of the proposed method with those of the traditional methods (N.G.O.s). These aspects also reinforce the possible shift within governments in cooperation with the indigenous community. Additionally, they mitigate the limitations of the peace agreements, in which the lack of its acknowledgement in the Malian community is an aspect that can be beneficial and rely upon transparency and open communication with the most vulnerable and yet most solicited by the traffickers and terrorists, the Indigenous youth.

There has to be a more representative and concentrated methodology that emphasizes the socio-cultural environment of ex-combatants and demonstrates how and why children voluntarily join armed groups and how to mitigate, prevent and give justice to these children and a possibility of a future (Abatneh et al., 2007).

4. The Exploitation of Mistrust in Prolonging the Child Soldier Phenomenon and Preventing Indigenous participation in Reconciliation in Mali

A consensus agreed upon in the study consisted of the opinion regarding how the terrorist groups are able to manipulate the population to join them, i.e. how they were able to cover a vast territory to expand the Islamic State in the north, which touches Niger, Burkina Faso and Mali, specifically through the use of child soldiers and the Malian youth. The terrorists used the strategy of using the weakness of the government, which was to neglect the currently affected part of the country (north), to come and bribe the population (youth, children, parents, relatives) to follow their ideology and use their anger and desperation for their terrorist activity.

Culturally, a young individual participates in war to protect family honour whenever other armed movements occur. The concept of a child being regarded as a man when he reaches adolescence the minute the turban ritual takes place accentuates the possibility of participating in conflicts as well as defending his family. As a result, when a "child " voluntarily signs up to be a child soldier,

he may pick up a firearm out of a desire for vengeance. On the other hand, The phenomenon of the culture of weapons which initially started in 1990, has created a romanticization of driving changes and transformation through the use of weapons, which symbolizes power and having their rights and voices heard. Initially, creating "weapons" as a model of success.

It is, therefore, important to highlight how it could, in the long run, impact peace and reconciliation. Thus, the culture of weapons annihilates and takes over the indigenous culture and knowledge as well. The public spheres voices, which focus on the notion that only owning weapons and being part of armed group movements will ensure respect of the people's rights, highlight the lack of government actions to ensure justice, rights, and equal treatment that its Constitution prone. Additionally, it shows the element of mistrust since no element of trusting actions has been shown to these communities, and as long as trust and transparent communication is not established with the government, leaders, and the concerned parties, the elements of mistrust will always stay. And further rebellions will happen, as history has shown.

As stated by the ministry of justice and reconciliation representative during the June 29th 2021, interview in Bamako, "People feel the need to have a weapon, so it becomes a cultural phenomenon, and above all, it becomes the problem of Accessibility to weapons. The weapons start to enter the ranks of social classes, and it causes violence. With the influence of armed groups, the child aspires to the weapons because he can see what owning a weapon can do for someone in life in terms of convenience or status." All these stated factors make it easier for children to join the ranks of terrorists willingly or by force.

The main question now would be, how did the culture of weapons become so popular, and what caused it? In it lie the element of fear of these communities, to be marginalized, and the mistrust that the government would ever accept them as "Maliens" and give them their due right and autonomy over their territories. Additionally, it brings up the question, Did the Agreement consider the cultural aspect of weapons that has grown since the 1990s and how to eradicate this culture of weapons that leads to violence and impacts the indigenous communities' rights?

The Agreement, in its preamble, states that it is "Convinced of the need to rebuild the national unity of the country on innovative bases, which respect its territorial integrity, take into account its ethnic and cultural diversity. As well as its geographical and socio-economic specificities; recognizing the need to accelerate the economic, social and cultural development of the North of Mali through an adapted system" (Klatt, 2021). In this case, it is understood that the very basis of the Agreement is to create a system that suits the Malians.

The Agreement mentions the cultural aspect as a means of ensuring that everyone is included. For example, when speaking in Article 8 of a plan and programme for economic, social and cultural development (UN Peacemaker, 2015). And most importantly, Article 1, "-recognition and

promotion of cultural and linguistic diversity and valorization of the contribution of all the components of the Malian people, particularly women and young people, to the work of national construction"(UN Peacemaker, 2015). However, The Agreement emphasized the cultural aspect, except when discussing defence and security. This would explain why D.D.R. and child soldiers are not directly linked to reintegration. Additionally, the cultural aspect of peace and reconciliation is stated when talking about education and development, but not about security or defence concerning the dangerous "cultural" aspect of the issue of the "weapon". The culture of weapons becomes very accessible and replaces the Malians' indigenous culture, enabling the terrorists to take advantage of that fact and the concept of a "child" culturally in Mali. Therefore there is no system to deal with the problem considering these aspects.

5. Conclusion and Recommendations

From the key findings of the research, it would appear that the current state of child soldiers in Mali, as seen by the A.P.R. stakeholders, is a topic that is newly researched but highlights findings that question the current system of reintegration and the peace agreement.

The growing culture of weapons is gaining popularity and is seen as a "model for success" and the mistrust between the government and indigenous youth. The lack of social infrastructure and adequate accessibility to opportunities for the youth; accentuate the influence terrorist groups have to manipulate and use the indigenous youth.

It is also important to highlight the need for more social infrastructures, education, healthcare, and opportunities for the indigenous youth to expand and have opportunities for social development and stable financial income in the future. Furthermore, preventive measures against the child soldier phenomenon, as in what could be done to diminish the vulnerability to be used and engaged in violence, criminality and weapons for the children and the youth of the indigenous groups? How do we hold states accountable for indigenous youth security and accessibility to development?

The youth is the main source of insecurity. The insecurity is Increasing and will continue unless what is due to the children is given to them in terms of social infrastructure and education. But mostly being reintegrated into the community in ways the community can accept and support them as per indigenous practices encompassed by the A.P.R. and reconciliation processes. We should aim to use Instruments which express the shared wisdom of the generations of indigenous peoples and emphasize it in the peace agreement and child soldiers' reintegration.

- Build the capacity of Indigenous peoples, in particular in my region of Africa, about the Indigenous Peoples' rights instruments (I.L.O. Convention 169 on Indigenous and Tribal Peoples, the U.N.D.R.I.P., the African Charter, etc.), and about the existing U.N. mechanisms for them like the U.N.F.P.I.I.,

- Enhance Indigenous Peoples' participation, in particular women and youth, in the conflicts prevention and Resolution spaces at all levels,
- Document and support the Indigenous justice systems so they can inform, support the prevention of conflicts, and build peace for sustainable development for all (S.D.G. 16), as stated by article 40 of the U.N.D.R.I.P.
- In the particular context of Sahel, fund women's organizations like Association pour l'Épanouissement des femmes, nomads, and Tinhinan, who are standing for women, youth and all the communities members for capacity building and empowerment project and dialogue with all stakeholders. So our ancestral ways to solve conflict will continue to guide our youth, men and all.
- Fund and build capacity for the existing Center for the transition of children associated with conflict in Timbuktu, Mopti, Gao, and Bamako.

Further research

Future research should consider the potential effects of indigenous knowledge and practices on peace and conflicts resolution more carefully, for example, which indigenous practices in Mali can be incorporated into the peace agreement favourably for the reintegration of child soldiers into society. Future studies could further explore this issue by testing this concept through C.T.O.s in Mali and creating a reintegration program designed by former child soldiers with the help of the community (traditional leaders, government, civil society, youth, women). In future work, investigating how the D.D.R. in Mali could include children in their budget and programs and provide education and healthcare whilst using indigenous practices might prove vital and pave the way for successful D.D.R. and long-term peace. Accessibility to child soldiers as well, and a study through only child soldiers' lens and point of view in Mali is desirable for future work in order to be able to find solutions and means that would highly fit the children and the indigenous peoples.

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