Childhood Divided:
Child Soldiers and Gang Members in the Western Imagination

MPhil, Socio-Legal Research

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ABSTRACT

In many parts of the world, child soldiers are widely understood as innocent victims in need of international protection, while young gang members are viewed as deviant agents in need of state control and punishment. Yet many young people join these groups for very similar reasons. This thesis asks how these opposing images emerged in the United States and United Kingdom and what might explain their divergence. It first considers what is known about the realities of children who join groups that engage in violence. In doing so, it undermines common assumptions about forced recruitment vs. volunteerism and illustrates how many child soldiers and young gang members are motivated by parallel societal, community, interpersonal, and individual factors. It then traces the ways in which child soldiers and young gang members have been portrayed from the 16th to early 21st centuries, showing how the perception and treatment of these figures has changed drastically over time, shaped and reshaped amidst debates about human nature, changing political and economic realities, and shifting group and state interests. Finally, it explores how laws, government rhetoric, and academic work portray child soldiers and young gang members today (2018-2020), examining dominant narratives and identifying potential cracks in those frameworks. The analysis ultimately reveals how one society can construct two opposed images of childhood based primarily on adult interests, ideas, and insecurities, as well as how those simplistic constructions can impact the worlds of young people themselves. Overlooking the parallels between child soldiers and young gang members risks not only perpetuating those inaccuracies, but also overlooking broader social, racial, and economic inequalities that at once shape and transcend both figures.

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Black Lives Matter	BLM
Chicago Police Department	CPD
Convention on the Rights of the Child (1989)	CRC
Democratic Republic of the Congo	DRC
Federal Bureau of Investigation	FBI
Gangs Violence Matrix	GVM
International Committee for the Red Cross	ICRC
International Labour Office	ILO
National Alliance of Gang Investigators' Association	NAGIA
New York City Police Department	NYPD
Non-Governmental Organizations	NGOs
Office of Juvenile Justice and Delinquency Prevention	OJJDP
Racketeer Influenced and Corrupt Organization	RICO
Security Risk Group	SRG
Texas Anti-Gang Program	TAG
Unaccompanied Alien Children	UACs
United Nations International Children's Emergency Fund	UNICEF
United States Department of Justice	DOJ

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INTRODUCTION

In 2018, the US Ambassador to the United Nations called the recruitment and use of child soldiers 'a moral outrage that every civilized nation rejects' (Department of State, 2018a). UK government ministers declared 'the horrendous situations that children find themselves in, through no fault of their own' 'absolutely heartbreaking' (House of Commons, 2018b; House of Lords, 2019). The US Treasury Department (2018c) imposed sanctions on businesses that allegedly financed the Iranian Basij militia's use of child soldiers, while the British Army led trainings for Somali troops to 'ensur[e] this practice is stamped out' (British Embassy Mogadishu, 2017a).

At the same time, President Trump (2017) signed a series of executive orders targeting 'criminal gangs'. He called their members 'drivers of crime, corruption, violence, and misery'. 'These are teenagers who think human life is some sort of game', one official said (FBI, 2019b). 'There is nothing more important than getting these criminals behind bars', another stressed (Senate, 2018, p. 459). In the past three years, the US government has increasingly tried young gang members as adults, sentenced them to lengthy prison terms, and deported them from the country (Doyle, 2019, p. 3). Young gang members in England have garnered similar reactions. '[T]here is a rising tide of [anti-social behaviour] which is not being challenged, leading to (very) young people thinking they can do whatever they like with impunity', one government-commissioned group claimed (Violence and Vulnerability Unit, 2018, pp. 7–8). 'Gang-related crimes are serious offences,' the Attorney General (2018b) stressed. 2019 saw the lowest number of juveniles given absolute or conditional discharge and nearly the highest sentenced to immediate, as opposed to suspended, custody since 2009 (Ministry of Justice, 2020a, Table 2).

The distinction between the two groups of children in these words and actions is clear.[1] Child soldiers are victims of abuse by depraved actors. Young gang members are depraved actors themselves.

Despite the stereotype of child soldiers as coerced victims, however, research suggests that up to two-thirds of children join armed forces and groups on their own initiative (Haer et al., 2019). And despite the image of the deviant young gang member, forced recruitment into gangs is not uncommon (Chapter 1). The line between the young people involved in these groups blurs even further when we listen to their voices, which often echo one another, expressing the need for protection, sustenance, support, respect, and empowerment to navigate complex and challenging realities. How, then, have children who describe similar experiences come to be treated and perceived so differently in the eyes of the same societies? That is the fundamental question this thesis seeks to answer.

Various scholars have brought attention to contrasting images of childhood within and among certain societies. Some have highlighted how different societies can perceive and treat children who engage in similar actions differently (Green, 2008). Others have acknowledged how a single society can create different 'categories' for children who engage in *different* actions—like 'depraved child murderers' and their 'innocent child victims' (Jenks, 1996). But what about the way a single society constructs different categories for children who engage in *similar* actions?

Engaging in current and historical discourse analysis, I explore the ideas, representations, and tensions that created the 'child soldier' and 'young gang

[1] As I am interested in the broad construction of childhood (vs. adulthood), I use the term 'children' to include all young people who are not given the rights and responsibilities of 'adulthood', typically understood in the United States and England to be those under 18.

member' in the societal and legal imagination of the United States and England.[2] In Chapter 1, I discuss the realities that lead children to participate in groups that engage in violence.[3] In Chapter 2, I trace the evolution of the opposing figures of the 'child soldier' and 'young gang member' from the 16th century to the present. In Chapter 3, I examine trends in current law, government rhetoric, and academic work on these children. Ultimately, I consider the forces that created and maintain these two disparate images of childhood, as well as the meaning and ramifications of their coexistence in these two societies.[4]

My exploration of this phenomenon complements current understandings of the social construction and 'cultural politics' of childhood developed by Allison and Adrian James (2004, 2001), Alan Prout (2005; 1997), Chris Jenks (1996, 1992), and Wendy Stainton Rogers (1992). It adds another dimension to the idea of childhood as a complex system, in which conflicting structures can coexist and even contradict one another, shifting with our own understandings of them (Prout, 2005, pp. 73–75). It also contributes to—and seeks to put in conversation—scholarship on child soldiers

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[2] I focus exclusively on England, not the United Kingdom. As John Muncie (2011, p. 41) has observed, many scholars discuss the four nations that make up the United Kingdom as one, which typically results in '[t]he experiences of Wales, Scotland, and Northern Ireland being at best marginalized or at worst subsumed within that of England.' I wish to avoid this, particularly given the meaningful differences among these countries' youth justice and gang policies (Arthur, 2010; Case and Haines, 2018; Muncie, 2011). Nonetheless, some of the law and rhetoric I examine in Chapters 2 and 3 applies to the United Kingdom, or to England and Wales. The landscape for children outside England is worthy of further consideration.

[3] Overt physical violence—the intentional use of physical force to produce physical harm—typically shapes perceptions of children as 'soldiers' or 'gang members'. As discussed in Chapter 1, I am not suggesting that all 'gangs' engage in violence. Many groups defined as 'gangs' engage solely in symbolic violence (Bourdieu, 2000) or do not engage in violence at all. This thesis's focus on violence, however, permits more meaningful comparisons between its two central figures.

[4] Eventually, there would be value in studying evolving perceptions of child soldiers and young gang members across both the Global North and South. Given time and space constraints, however, this thesis focuses only on two societies where the divergence in these perceptions is particularly stark. As Chapter 2 illustrates, for more than two centuries the United States and England have witnessed similar discourses surrounding 'childhood' and its regulation, and have also taken similar approaches to child soldiering and gangs. Nonetheless, in identifying similarity I do not wish to suggest universality. As Chapter 3 reveals, important differences are beginning to emerge in US and English depictions and treatment of young gang members that raise questions about future narratives.

and gangs. As Chapter 3 illustrates, most literature on both these issues accepts, and thus perpetuates, stereotypes of the victimized child soldier and deviant young gang member. Moreover, the two fields remain entirely separate. While critical scholars of child soldiers (Drumbl, 2012; Macmillan, 2009; Rosen, 2015) and gangs (Brotherton, 2015; Gunter, 2017; Hallsworth, 2011; Muncie, 2015) have begun to challenge dominant constructions, their significance and consequences remains underexplored.

By analyzing these questions, my thesis also implicates important social and policy issues. Ultimately, it considers—and lays the groundwork for reconsidering—the legal framework applicable to children in groups that engage in violence; the ideas, policies, and narratives that marginalize or infantilize these children; and the basis for differentiating between 'children' and 'adults' in both these realms.

CHAPTER 1:
THE REALITIES OF THE 'CHILD SOLDIER' AND 'YOUNG GANG MEMBER'

Who becomes a child soldier or a member of a violent 'gang'? Though a complex web of global and local structural forces shapes all children's individual experiences, this chapter reveals deep commonalities among the lives of those who join groups that engage in violence. This makes the divergent societal perceptions and legal treatment of these young people, explored in Chapters 2 and 3, all the more striking.

A. Groups That Engage in Violence: Armed Forces, Armed Groups, and 'Gangs'

'Child soldiers' are often now known as 'children associated with armed forces or armed groups' (UNICEF, 2007). International law uses the term 'armed forces' to refer to state military forces and the term 'armed groups' to refer to non-state groups involved in armed conflict with the state, including rebel groups, insurgents, and dissident factions (Optional Protocol to the Convention on the Rights of the Child, 2002).

There are many other groups, however, which may be 'armed', but because they are not (or not recognized to be) in conflict with the state, they are not considered 'armed groups'. Instead, they are deemed 'criminal gangs', 'street gangs', or 'organized criminal groups'. I use the term 'gangs' to describe these varied and fluid groups. Sociologists, criminologists, and policymakers have long debated this term and its impact on public perceptions, law-making, and resource allocation.[5] While I appreciate these debates, my decision to use the term stems from its use in the

[5] For a detailed discussion of the purposes, methods, and ramifications of defining gangs and organized criminal groups, *see* Ball and Curry, 1995; Esbensen et al., 2001; Joseph and Gunter, 2011; Klein, 1995; von Lampe, 2016.

discourse I am examining. Ultimately, I am concerned with how the 'young gang member' has been constructed by and within US and English law and society—regardless of whether the young people given this label *should* be considered part of a particular type of 'gang', 'organized criminal group', or 'subculture'.

In this section, I survey a broad range of literature on both groups, which reveals that the line dividing 'gangs' and 'armed groups' is often razor-thin. Nonetheless, it is the line between war and crime, revolution and deviance, international relations and criminology. Ultimately, it is the line between the 'child soldier' and the 'young gang member'.

B. Volunteerism vs. Forced Recruitment

1. Children Who Join Armed Forces and Armed Groups

Children are (and long have been) associated with armed forces and groups in conflicts across the globe (Rosen, 2012). Some of these groups fight to defend territories, some ideologies; others seek power, money, or the exploitation of natural resources (Haer et al., 2019). Often, they are driven by a shifting combination of all of these factors. Most children who join the ranks of these groups are teenagers, though many are younger (Drumbl, 2012). Civil society organizations and scholars frequently emphasize their forced recruitment, relaying stories of abduction, death threats, and drugging (Haer et al., 2019). Yet the available data suggests that the vast majority of child soldiers are in fact volunteers. The International Labour Organisation (ILO) (2003) indicates that only a third of children involved in conflicts in Burundi, Rwanda, the Congo, and the Democratic Republic of the Congo (DRC) reported being forcibly recruited. UNICEF (2002) similarly found that only 23% of children surveyed in Cambodia, East Timor, Indonesia, Myanmar, Papua New Guinea, and the Philippines described forcible recruitment. Paul Singer (2006, p. 61)

also estimates that 'roughly two of every three child soldiers have some sort of initiative in their own recruitment'. Nonetheless, as Jason Hart (2006, p. 7) observes, many commentators are quick to argue that 'the very notion of voluntary recruitment is largely an illusion'. The dominant narrative—even in studies that acknowledge children's initiative—simply concludes that either because they are under 'economic, cultural, social and political pressures' or are just 'young children', 'one cannot consider this to be a real choice on their part' (Brett and Specht, 2004; Dickson-Gõmez, 2002; Emmons and UNICEF, 2002; ILO, 2003).

2. Children Who Join 'Gangs'

While some influential academic definitions of 'gangs' include youth as a necessary component,[6] 'youngsters' are not necessarily the sole, or even primary, members of these groups. Much like armed forces/groups, these are diverse and shifting collectives of individuals of many ages, pursuing a variety of goals. Nonetheless, the young people who join their ranks tend also to be teenagers, although are often as young as eight (Clarke, 2019; Pyrooz and Sweeten, 2015). Even within the United States and England, gang recruitment through physical violence, threats, and debt entrapment is not uncommon (InSight Crime, 2017, p. 48; Violence and Vulnerability Unit, 2018, pp. 5–6). Still, like child soldiers, most young people join these groups voluntarily. But gang volunteerism is almost never declared an 'illusion'. These children are not only assumed to have agency, but are frequently pathologized. As Chapter 2 makes clear, since the 1970s most examinations of young people's decisions to join gangs have been aimed at preventing or controlling what is cast as intentionally criminal behavior.

[6] Malcolm Klein's (1971) influential definition, for example, includes 'any denotable adolescent group of youngsters'. He later refined this to describe gangs in Europe as 'relatively durable, predominately street-based group[s] of young people' (Klein, 2001).

C. Understanding Young People's Decisions

Despite these dominant interpretive lenses, some qualitative studies—particularly those that feature the perspectives of children themselves—allow us to gain a more contextualized and nuanced understanding of the factors shaping children's decisions to join groups that engage in violence. To explore these factors, I use a 'social ecological model', which divides the variables that influence human behavior into four, interconnected spheres: society, community, interpersonal, and individual.[7] The literature on child soldiers included in my analysis focuses on recent conflicts in which children have been involved, from Africa to Southeast Asia to Central America to the Middle East.[8] For 'gangs', however, although some recent literature has highlighted meaningful similarities among children's experiences across the globe (Dowdney, 2005; Hagedorn, 2008; Hazen and Rodgers, 2014), the studies I include focus only on the United States and England. As Chapters 2 and 3 underscore, it is these children who primarily impact, and are impacted by, these societies' construction of the 'young gang member'. And the role of their location ('here') in this construction, in contrast to the child soldier ('there'), is critical.

Ultimately, my aim is not to exhaustively identify and model the relationship between each of the variables connected to young people's decisions to join armed forces/groups and gangs, but to highlight the common factors recognized as

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[7] The model has been used in gang research, though typically for public health rather than criminological work (Eisenman and Flavahan, 2017; Merrin et al., 2015). Criminological models more often refer to 'risk factors' or 'push and pull factors', organized into neighborhood, school, family, peer, and individual domains (Decker et al., 2013; Decker and Van Winkle, 1996; Thornberry, 2003). The social ecological model has the advantage, however, of including crucial societal factors along with these domains.

[8] Although I focus on children's own understandings of their experiences, I have not consulted 'child soldier memoirs', which are predominantly written by children who have been 'saved' by Western humanitarians, and whose narratives are deemed 'publishable' in English (Hynd, 2020). I rely instead on studies featuring a variety of children's accounts.

significant to these decisions, regardless of the labels attached to the groups or children involved.

1. *Societal Factors*

Economic and political inequality almost invariably serve as the backdrop for children's decisions to join both gangs and armed forces/groups. Whether this is the result of global or local dynamics, or both, it creates an environment in which certain segments of society have manifestly fewer resources, opportunities, and rights. Deeply entwined with these inequalities are historical and continuing marginalization and oppression, often on racial, ethnic, or tribal grounds. These 'multiple marginalities' (Vigil, 2003) feed on each other to produce environments in which stability, legitimate opportunities, security, and respect are scarce.

Over the past half-century, post-industrial capitalism combined with an increasingly dominant neoliberal ideology has contributed to widespread and growing economic inequality in societies across the globe (Harvey, 2005; Piketty, 2014). In some places, the state has lacked the means or legitimacy to provide basic social welfare or security for those left behind. In others, including the United States and England, neoliberal logic has led to significant reductions in spending on public services, which in turn has disproportionately impacted the lower classes (Schrecker and Bambra, 2015). At the same time, predominant cultural norms in these societies continue to prize consumerism as a form of social participation and define success largely by wealth (Currie, 1997). Not only has it become harder for many people to meet their basic material needs, but many experience social pressure, exclusion, and guilt for a perceived failure to obtain certain socially-valued goods and activities (Bakkali, 2019; Merton, 1957).

These forces set the scene for many young people's lives. In some places, armed conflicts are cast as struggles for economic or political justice (Boyden & de Berry, 2004; Drumbl, 2012). In others, these inequalities more subtly corrode every aspect of the day-to-day realities of the "precariat" (Standing, 2011). They drive many to leave their countries of origin in search of more livable lives, others to desert towns for the prospects of cities. Often, these migrants' new 'areas of settlement' become sites of further marginalization and disorganization (Brotherton, 2015, p. 20). Disproportionate criminalization and incarceration of poor and minority individuals only exacerbates existing inequalities and weakens communities and families as they are diminished, separated, and stigmatized (Wacquant, 2009). These community and family dynamics also play a critical role in the lives of young people who join gangs and armed forces/groups.

In these settings, 'gangsta' culture can represent rebellion, liberation, even heroism. This culture has become a worldwide phenomenon, influencing not only gangs, but also armed groups from Sierra Leone to Brazil to Palestine (Hagedorn, 2008). It portrays members of both groups as part of a fight against inequality and oppression. It also blurs the lines between them. Gangsta rap, John Hagedorn (2008, p. 104) notes, constructs a '"warrior" role', as in rapper Ice-T's '"message to the soldiers, welcome to the struggle"'. This message has resonated with young gang members and 'real' warriors alike. Gang members in the United States, Central America, and Brazil often call each other 'soldiers' (Dowdney, 2005; Ward, 2013), while amidst armed conflict in Palestine, young men invoke gangsta rap as 'our way of resisting occupation.' 'Do you remember, or do you choose to forget / that your army, against us, aggressed', Nadir Abu Ayash raps. 'You call me a terrorist when I'm the one who's oppressed' (Hagedorn, 2008, p. 109). For young people

navigating systematic inequality, gangsta and soldier culture (often perceived as one and the same) both embody and offer an outlet for resistance.

2. Community Factors

These broader societal factors can trickle down into communities, particularly where political and economic realities or ideologies lead to the state's absence or 'retreat' (Castells, 2010). Often, this translates into a combination of informal economies and minimal state security in already marginalized communities. As Manuel Castells (2010, p. 191, n. 40) argues, 'When and where there is no regulation and control by legitimate forces of the state, there will be ruthless control by illegitimate forces of violent private groups'. This also means that association with existing groups can provide otherwise unattainable protection.

In some communities, particularly in the United States and England, modern criminal justice policies do not mean the absence of state security, but the presence of a security apparatus that many perceive as existing chiefly to surveil the community, not protect it. In these neighborhoods, turning to the police for help can mean risking your own arrest. As Alice Goffman (2014, p. 33) points out, when law enforcement and courts are viewed as threats, protection and dispute resolution are often handled through informal violence.

In communities where gangs have already proliferated or armed conflict is ongoing, joining an existing group may paradoxically be a way to remain safe. Facing impending conflict in Burundi, one child soldier explained how joining the army 'would ensure our protection and survival, for we were at risk of being massacred by the Tutsi army' (ILO, 2003, p. 34). A former gang member similarly described his decision to join a gang at 13, after moving to a new neighborhood in Indiana:

> [My brothers and I] were three new boys … and we did not belong to a gang. So the boys in the neighborhood began to jump on us every day, bully us, pressure us, beat us up. They wanted to fight us just because we were the new guys. Then they wanted to recruit us to be in their gang. But, of course, by us being attacked by them on a regular basis we had no desire to be with that gang. We actually wanted to get even with them. … But if we wanted to get help from other gangs we had to be in a gang (Lauger, 2011, p. 51).

When the battle is already ongoing, the best option is often simply to pick a side.

Another community factor, often connected to pre-existing gangs or armed conflict, is the proliferation of weapons. Tools of violence, like gangs and armed forces/groups themselves, not only provide protection, but can allow the bearer to feel power, status, control, respect (Harcourt, 2006). In communities where opportunities to achieve those are scarce, but guns or knives are commonplace, many young people reach for what is available. 'I wanted to be a soldier in the BRA so that I could own a gun', a child soldier in Papua New Guinea admitted (Emmons and UNICEF, 2002, p. 27). Or as a young gang member in Los Angeles explained, 'When you have a gun in your hand, you feel very powerful and people pay attention' (Ward, 2013, p. 61).

State absence or retreat can also mean weak community institutions: underfunded schools, libraries, community centers, youth activities. This not only impedes these communities from exercising social control (Sampson et al., 1997), but makes gangs and armed forces/groups an avenue for economic advancement and daily activity. In the DRC, many children joined armed groups after the public-school system collapsed in the early 1990s. 'I joined Mayi-Mayi,' one young man recalled, 'but if I had the means I would have continued studying' (Jourdan, 2011, pp. 97–99). 'Knowing that I did not have any qualifications for other occupations,' another said, 'I reported to the commander to be enrolled' (ILO, 2003, p. 29). Henrik Vigh (2006, p. 96), observing communities in Guinea-Bissau in the early 2000s, where many young people also chose to become soldiers, described 'immobility,

anomie, and the emptiness of diversion'. Danny, a young gang member in Leeds, put it more bluntly: 'The government talk about stopping gangs. Well, give us some shit to do, then' (Castella, 2007).

3. Interpersonal Factors

Beyond, yet still intimately connected to, these societal and community factors are the realities of children's lives within families and among peers. For many, gangs, armed forces, or armed groups represent a way out of a home life marked by various levels of chaos, abuse, or neglect. Broader criminal justice policies often play a role in this, as well. As one young gang member in Indianapolis explained: 'My momma's been to prison. My daddy's been to prison. … Since they been locked up, we had to move from house to house. There wasn't really nobody there you know. So we stayed out in the street' (Lauger, 2011, p. 47).

Other families are gone for different reasons. Joker, a young gang member in Los Angeles, whose father had long been out of the picture, rarely saw his mother as she struggled to get by as an undocumented immigrant:

> My mom … worked in a garment factory, twelve hours a day, six days a week. Because she was without papers, at the end of each work cycle, she got laid off and she'd have to start searching for a new job. … It was tough on her, looking for work, working hard when she got it, then coming home tired to cook and clean. She was gone most of the day (Ward, 2013, p. 51).

For Kanku, a former child soldier in the DRC, his parents simply left: 'My father had left the house many years ago and, one day, my mother disappeared too. It was my grandmother that took me in. But she did not have the means to look after me' (ILO, 2003, p. 30). For Killa-Con, a young gang member in Indianapolis, it was he who had to leave:

> I moved out here when I was thirteen. As soon as I moved out here my momma put me out. So all I knew was the streets. I grew up on the streets by myself, trying to find somewhere to live, somewhere to sleep, somewhere to

> try to get something to eat. … So me growing up like that, ain't nothing else to care about but the streets, that's all I know (Lauger, 2011, p. 49).

For others, an armed force, group, or gang offers a way to escape violence at home. 'After the death of my mother, I lived with my father and his second wife,' Kasereka, a child soldier, recalled. 'Every time something was missing, my stepbrothers or their mother accused me of taking it and my father would beat me. … So I decided to leave' (ILO, 2003, p. 31). 'My dad was an abusive alcoholic, and my parents always fought,' Shauna, a young gang member, explained. 'My sister got pregnant in order to get out of the house and away from my father. … By the time I was twelve, I was in the streets one hundred percent' (Lauger, 2011, pp. 66–67).

These family dynamics may mean that young people lack 'social control' (Brownfield et al., 1997). Perhaps more significantly, however, armed forces, groups, and gangs often come to represent a 'real' family. One former gang member admitted precisely this:

> What really made me be in the gang was they was like family to me. They would die for me. If I was hungry they would feed me. If I needed clothes they would clothe me. They made me feel like they wanted me to be around. That's my family (Lauger, 2011, p. 64).

Young people who join gangs, armed forces, and armed groups are often seeking relief not just from abuse at home, but from bullying and discrimination at school or on the streets (Decker and Van Winkle, 1996; ILO, 2003; Ward, 2013). Bullying can create the need for protection, as well as another level of marginalization—one which reinforces social isolation and highlights a group's ability to provide an alternative community. As one young gang member asked, 'When shit hits the fan, who has your back?' (Ward, 2013, p. 65).

For some, gangs and armed groups are already full of family or friends. Parents, siblings, or peers may lead the way, decide to join at the same time, or form

the group with them. Young people may pattern their behavior accordingly (Akers, 1985; Brownfield et al., 1997; Winfree et al., 1994) or develop role identities within these relationships (Heimer and Matsueda, 1994). 'The army fascinated me, and I was full of admiration for my father and his army friends', a former child soldier recalled (ILO, 2003, p. 31). 'I got street cred' immediately because of who my brothers were', explained a young gang member (Lauger, 2011, p. 67). Joining the army, armed group, or gang can also reinforce existing expectations and ties, strengthening identity and belonging. 'It was during different encounters I had with my friends that I took the decision to become a member of an armed group', one child soldier remembered (ILO, 2003, p. 35).

4. Individual Factors

Within the recent criminological trend in gang studies, many scholars have highlighted mental or behavioral pathologies, including 'low self-control' (Gottfredson and Hirschi, 1990) or 'prior delinquency', as 'individual factors' that explain gang-joining (Thornberry, 2003). By contrast, research on child soldiers often ignores individual factors entirely, instead portraying young people as victims of broader structural 'pressures' (Emmons and UNICEF, 2002, p. 74).

Research on gangs and the limited data available on child soldiers does suggest that many young people have previously had disciplinary issues or violated the law (Hill et al., 1999; ILO, 2003; Thornberry, 2003). Poor school performance or exclusion is also common (Herrenkohl et al., 2000; ILO, 2003; Sharkey et al., 2011). Underlying mental health issues have been linked to gang-joining, as well (McDaniel, 2012; Merrin et al., 2015). While this has not been explored among child soldiers, given how often these young people have witnessed violence or experienced abuse, pre-existing trauma seems equally likely. As Jason Kissner and David Pyrooz (2009)

have demonstrated with respect to 'self-control', however, these individual factors are often directly linked to interpersonal and community variables. Pervasive chaos, abuse, neglect, bullying, or discrimination can all lead to behavioral and mental health issues, as well as activities like drug and alcohol abuse, which are commonly used as proxies for 'low self-control'. Such 'pathologies', then, may be better viewed as indicators of other variables, rather than independent factors explaining young people's decisions to join gangs or armed groups.

Nonetheless, we cannot ignore children's agency in their own lives (James and Prout, 1997). When considering 'individual factors', however, we need to look beyond 'problematic' behavior to consider the specific desires and goals young people express as they navigate complex interpersonal, community, and societal terrains. This is not to say that some young people do not explain their decisions to join armed forces, groups, or gangs as grounded in a desire to engage in destructive behavior—some do. As one child soldier stated bluntly: 'I joined the [Congolese Popular Army, or APC] because I wanted to eat without working; I wanted to go around in a car smoking [marijuana]. … I like war because I can take advantage of the situation and steal things' (Jourdan, 2011, p. 99). In my review of the literature, however, such statements were rare. More commonly expressed were multifaceted desires to meet financial needs, gain respect, build a better life, or exact revenge.

Particularly in communities where armed conflict or gang violence is ongoing, many young people have already experienced the death of family or friends. In the absence of trusted institutions to resolve disputes, many seek to achieve justice themselves. As one child soldier remembered:

> My father … was shot to death. They also shot at my brother. There was blood everywhere. … They raped my mother in front of us. I decided to join a rebel group because I had to avenge my family at any price (ILO, 2003, p. 35).

A young man in Leeds similarly explained:

> We started [our gang] after what happened to my best mate. … He was murdered three years ago by a group of Asians from the other side of Leeds. I remember the night he died. … They'd stabbed him and beaten him with baseball bats. His mate told me they were beating him so hard his body was bouncing a foot off the ground (Castella, 2007).

In these circumstances, many young people choose to retaliate.

Many also recognize the army, armed group, or gang as the best available avenue to provide for their own or their family's basic necessities. 'I send most of the money I am paid each month back home', explained a child soldier in Cambodia. 'I have never admitted to my family that I am in the army – I am too afraid that they would force me to return home. How would I provide for them?' (Emmons and UNICEF, 2002, p. 31). A young drug dealer in Liverpool described a similar situation: 'I've no money, and I want some trainers on my feet and I want a coat on my back. My family haven't got a lot of money, so I need to earn some, and selling drugs OT [out there, or with a gang] is the best way to do it' (Daly, 2017).

There is often a fine line, however, between material 'needs' and 'desires', particularly in societies that exalt conspicuous consumption. T, a young man in London, explains what Yusef Bakkali (2019, p. 2) has termed 'munpain'—feelings of 'everyday suffering' rooted in broader societal forces but often experienced as individual shortcomings:

> Everybody's broke, struggling, the pain, it's just pain man. [Y]ou wake up one day and then you find out that you got a fucking congestion fine for 65 pounds and then on top of that you're on bail and then on top of that there's no toothpaste. … Everything's pain in London, everything's pain. … That pain is just no money, then there's a lot of things to do, angles to go to, clubs, parties, you got no money to go, no clothes to go, that's pain, pain (Bakkali, 2019, p. 8).

Sometimes, joining a gang or armed force/group represents an opportunity to gain the goods, status, or 'success' that otherwise seem unattainable—to escape, even if only momentarily, from the 'munpain'.

Many hope not just for a temporary escape, but for long-term betterment—financial, educational, even societal. Gangs and armed forces/groups can provide a powerful 'resistance identity', a way to be 'individually and collectively empowered, a voice to speak back to and challenge the dominant culture' (Brotherton and Barrios, 2004, p. 23). For many girls, in particular, these groups represent the possibility of equality and empowerment. As a former child soldier in Mozambique explained:

> Our mothers led a limited life. Outside the house and even inside it they could not speak freely. During the [war], we lived a different life. We rose to meet the needs of our whole society, not just of husbands and our own children. In this way, we were just like men and we had to be treated just like men (West, 2000).

A young woman in London echoed this sentiment:

> [It]'s a good life. I'm a girl! Getting that type of money as a girl of 15! You can hold yourself, no one can rob you, no one can move to you [mug you], it feels good because of who you are. … We live in a racist society, but I believe you have to make your way to the top and change things (Castella, 2007).

D. Commonality Within Diversity: Satisfying Fundamental Needs

Examining the words of these young people has illustrated a complex interplay of individual, interpersonal, community, and societal factors, which can neither be isolated nor neatly grouped to reveal a single pathway to becoming a child soldier or gang member. Yet even within diverse cultural and historical circumstances, many young people turn to these groups seeking the same things: an opportunity to meet basic needs, protection from any number of threats, a support network, a chance to gain respect, a more meaningful or just life.

Jill Sharkey et al. (2011), examining young people's decisions to join gangs, saw a common thread in these desires, grounded in Maslow's fundamental human

needs. As Maslow (1993, 1943) posited, all people seek to satisfy, first, their most basic, physiological needs (hunger, thirst, shelter); followed by safety needs (security and protection); love and belonging (family, friendship, identity, acceptance); esteem (self-esteem, achievement, status, respect); and self-actualization (pursuing goals, finding self-fulfillment and meaning).

Each of these goals is visible, in different ways, in the accounts of both child soldiers and young gang members. Figure 1 uses Sharkey's framework to capture how, in each domain of the social ecological model, the factors underlying these children's decisions can be driven by fundamental needs.

Figure 1: Factors behind young people's decisions to join groups that engage in violence

Societal • Economic and/or Political Inequality (*physiological, safety, esteem, self-actualization*) • Historical Discrimination or Oppression (*safety, love and belonging, esteem*) • 'Gangsta' or 'Soldier' Culture (*love and belonging, esteem, self-actualization*)	**Community** • Existing Groups that Engage in Violence (*safety*) • Lack of Opportunities and Activities (*physiological, esteem, self-actualization*) • Proliferation of Weapons (*safety, esteem*)
Interpersonal • Neglect or Abuse by Family (*safety, love and belonging*) • Bullying/Discrimination (*safety, love and belonging, esteem*) • Family Involvement in Group (*love and belonging, esteem*) • Peer Involvement in Group (*love and belonging, esteem*) • Forced Recruitment (*safety*)	**Individual** • Desire to Improve Material Situation (*physiological, esteem, self-actualization*) • Desire for Revenge/Justice (*love and belonging, esteem*) • Desire for Empowerment (*esteem, self-actualization*) • Prior 'Delinquency', Poor School Performance/Exclusion (*esteem, love and belonging*)

This framework underscores the connection and complexity of these factors. It allows us to understand how desire for love or esteem may draw even a child from a wealthy background to a group that engages in violence. Yet it also illustrates the significance of broader societal realities, like historical and structural inequality,

which strip many communities, families, and individuals of opportunities, protection, and respect. Ultimately, the model acknowledges that the kind of belonging, esteem, and meaning each individual seeks ultimately depends on the unique intersection of multiple marginalities (Crenshaw, 1989).

What holds true amidst this diversity of experiences is that young people who choose to become involved in gangs—just like those who join armed forces or groups—seek to satisfy the same fundamental human needs. Despite the undeniable similarities in their experiences and motivations, however, these young people have been cast within society almost as opposing figures. The label 'child soldier' or 'young gang member' means the application of different laws, the attention of different policymakers and scholars, and the operation of different societal narratives. The next chapters will explore the 'child soldier 'and 'young gang member' not as real young people, but as symbols—constructed by a complex set of cultural and political forces—with their own 'reality'.

CHAPTER 2:
THE CREATION OF THE 'CHILD SOLDIER' AND 'YOUNG GANG MEMBER'

How did we arrive in our present reality: where one armed child is a demon, another a fallen angel? This chapter traces the conditions in which this dichotomy emerged. '[M]otivated not by a historical concern to understand the past … but instead by a critical concern to understand the present', this 'genealogy' reveals the forces that sustain the figures of the 'child soldier' and 'young gang member' (Foucault, 1991, p. 83; Garland, 2014, p. 373).

Much of this account has been influenced by the work of scholars who have critically examined the history of childhood (Cunningham, 2014; Hendrick, 1997), 'delinquency' (Empey, 1999; Muncie, 2015), gangs (Brotherton, 2015; Gunter, 2017; Young, 2011), and the role of children in war (Rosen, 2015, 2012). Yet it also significantly engages with primary sources, particularly around critical events, such as the 1993 Bulger murder in England, and as-yet unexplored issues, such as the development of the term 'child soldier'. Ultimately, the analysis reveals an enduring debate about the fundamental nature of childhood and humanity itself—a debate whose contours and participants have shifted along with broader social changes and power dynamics. Today's 'child soldier' and 'young gang member' are perhaps best understood as products of this debate, figures representative not of these children's realities, but of adults' interests, ideologies, and fears.

A. New Ideas of Childhood: The 16th to 18th Centuries

Various notions of 'children' and 'childhood' have long existed within different societies and cultures. In England, historians believe that a major shift began during the Renaissance and Reformation. During this time of great social change, feudalism was giving way to capitalism; new religious ideologies were

challenging traditional norms; and interest in scientific and technological progress was expanding (Cunningham, 2014; Gittens, 2009). For those who led these movements, children came to represent the possibility of the future, objects to be shaped to reach moral and societal goals.

1. *The Puritans and the Humanists*

Within the religious Puritan movement, children, like all humans, were believed to be innately sinful. As Robert Cleaver and John Dod remarked in 1621, 'The young child which lyeth in the cradle is both wayward and full of affections; and though his body be but small, yet he hath a reat [wrongdoing] heart, and is altogether inclined to evil' (Empey, 1978, pp. 51–52). A secular form of these ideas also made its way into political thought, most powerfully embodied in the work of Thomas Hobbes (1998) [1651], for whom the 'natural condition of mankind' was a 'war of all against all' in which violence and fear would reign without societal control.

The humanists of the cultural and scientific Enlightenment movement, by contrast, viewed children as innately innocent: 'blank slates' representative of humanity's 'natural' state of reason and tolerance (Locke, 1693). This notion was not wholly secular, either. As Aphra Behn wrote in 1688, 'God makes all things good: man meddles with them and they become evil' (Archard, 2015, p. 50).

Despite their opposing conceptions of human nature, both Puritans and humanists had faith that children could grow into ideal beings. For Puritans, children could be taught to conform to rules that kept them from giving in to depravity. As Cleaver and Dod stressed, we 'become good not by birth but by education' (Empey, 1978, p. 52). The humanists promoted education of another kind, as envisioned by Jean-Jacques Rousseau (1979) [1762], which would allow children to cultivate their innate goodness and protect them from the corrupting influences of the outside world.

Both, however, viewed children as different, lacking knowledge and experience, and thus dependent. Both, therefore, encouraged the development of rules and institutions to guide them into adulthood.

2. Managing 'Disobedience'

As soon as there were separate rules for children, those rules could be broken. So how was society to react? Often, the answer reflected underlying beliefs about children's depraved or innocent natures. Puritan and Hobbesian philosophy rendered the idea of 'rehabilitating' children essentially meaningless: evil impulses could only be strictly controlled, not eliminated. Children who failed to live up to the obedience, hard work, modesty, and chastity expected of them were thus harshly disciplined by their families, churches, and communities (Empey, 1978, pp. 74–75). Enlightenment thinkers, on the other hand, began to introduce different ideas about how to react to non-conforming children. If children were innately good and humans were capable of progress, then anyone who strayed could be put back on the right track through measured 'reform' and 'reeducation' (Empey, 1978, pp. 78–79).

3. Military Service

When it came to children joining the military, however, the Puritans and humanists were once again on the same page. In the 17th and 18th centuries, serving the public and nation was widely viewed as precisely the kind of behavior to which all people should aspire (Rosen, 2015, p. 35). In England, the common law set no minimum age for enlistment and did not require parental consent. Before a standing national army even existed, children regularly joined or were conscripted into local militias. That practice was transported to America, where all colonies openly recruited minors without parental consent (Rosen, 2015, p. 40). Indeed, as David Rosen reminds us (2015, pp. 3–4), many children played active roles in the

Revolutionary War, including future President Andrew Jackson, who joined a Patriot cavalry unit at age 13.

B. Children, Society, and the State: The 19th Century

The scientific and technological progress heralded by the Enlightenment led to a massive increase in population, and with it, an expansion of the state. In 1750, there were only 1.25 million people in the United States. By 1850, there were over 23 million (Empey, 1978, p. 80). England's population tripled from 6 to 18 million over the same period (Anderson, 1988). As the Industrial Revolution led to increased urbanization, instability, and child labor, family and community control over children began to give way to state authority.

1. The Evangelicals and the Romantics

In 19th century England, earlier Puritan and humanist views of childhood were carried forward by new groups. British Evangelicals maintained a Puritan vision of original sin (Cunningham, 2005, p. 66; Hendrick, 1997, pp. 38–39), while the Romantics, thinkers and writers who pitted the 'pure' self against the experience of society, adopted a humanist depiction of a natural childhood marked by innocence (Hendrick, 1997, pp. 37–38).

Despite continued disagreement about the underlying nature of childhood, from the 1780s to 1840s both groups increasingly spoke out against child labor. For these activists, engaging in unregulated economic activity instead of being educated could only lead children—regardless of their underlying nature—to moral, physical, and mental debasement. Child labor thus threatened the future of society itself (Cunningham, 2005, pp. 140–46; Hendrick, 1997, pp. 39–41). This backlash against child labor eventually led to legal reform. After a Royal Commission declared that 'the period of childhood … ceases' at age 13, Parliament passed the Factory Act

1833, which prohibited the employment of children under 9 and limited working hours for children aged 9 to 13 (Cunningham, 2005, p. 140). The removal of children from the workforce paved the way for the introduction of mass education in England in the latter half of the 19th century (Cunningham, 2005, pp. 157–60; Hendrick, 1997, pp. 45–46). In the United States, public education had been a founding pillar of the independent democracy, and in the 19th century both Protestant reformers and transcendentalists (like the British Romantics) continued to promote its spread (Empey, 1978, p. 75).

Increased regulation of childhood was also bolstered by the scientific study of child development. This concept linked the biological aspects of childhood (such as physical dependence) to its social aspects (such as need for sequestration or protection). Scientists presented the 'evolution' of child to adult as a basic progression: from simple to complex thought, irrational to rational behavior, dependency to agency (James and Prout, 1997, pp. 10–13). This confirmed the need to separate and 'socialize' children through education, which would ensure their 'normal' development into successful adults. Mass education allowed the state to set uniform standards governing this socialization (Cunningham, 2005, pp. 157–60; Hendrick, 1997, pp. 45–46).

2. The Child Delinquent

Children who failed to live up to these standards came to be deemed 'delinquent'. The increase in population and urbanization, however, meant that regulating these children no longer fell to small communities, but to the state, which characterized their behavior as a direct risk to the future of a stable society. In England, as reformers succeeded in limiting child labor, many parents had to increase their own working hours to make up for lost income. In turn, the number of

unsupervised children, particularly in urban areas, grew rapidly (Muncie, 2004, p. 54). By the 1840s, concern began to be voiced over the 'increasing degeneracy of the juvenile population' (Worsley, 1849, p. 102).

To Romantic philanthropists, these delinquents were innocent children, just like those who were exploited in factories, who had simply been led astray by poverty and vagrancy. As one judge claimed in 1843, they only needed to 'unlearn' their 'savage' ways—'to be turned into a child again' (Hendrick, 1997, p. 43). This could be done in a state reformatory, philanthropists proposed, outside the corrupting influences of society. The more reactionary Evangelicals, however, viewed delinquency as the result of 'general and latent depravity' among children left to run amok without appropriate moral guidance (Worsley, 1849, p. 93). Another nascent group, Darwinists, also believed that depravity was biologically inborn and inherited (Empey, 1978, p. 85). Both criticized the Romantic ideology of rehabilitation as ineffectual and fundamentally misguided. Nonetheless, they were not entirely opposed to institutionalization, which could at least control problematic children through constant supervision and discipline and teach them society's values (Junger-Tas, 2002, pp. 26, 28).

A similar compromise was reached in the United States. 'Houses of refuge' for delinquent children began to appear in city after city (Empey, 1978, pp. 80–82). Like mass education, these institutions were welcomed by those who believed children to be innately innocent, as well as those who saw them as innately depraved. For the former, institutions allowed children to be 'saved' and 'reformed'. For the latter, they offered a uniform method of controlling and morally educating delinquents to ensure they would not continue to indulge their wicked natures.

These children, regardless of whether they were pitied or vilified, were also feared. The changes of the 19th century led to concerns about the dissolution of traditional values, stability, and existing power structures. Delinquent children were thought to render 'the state of society more perilous than in any former day' (Cunningham, 2005, p. 147). And it was *groups* or 'gangs' of children that seemed to stoke the deepest fears. Indeed, almost as soon as 'delinquency' was created, it was linked to the term 'gang'. In Old English, that term was used to refer to any 'group or band of people who go around together'. In the 17th century, it gained a more negative connotation, 'denoting a set of people regarded as disreputable or violent'. By the 18th century, it was used to describe 'an organized group of criminals'. In 1831, this meaning was applied to children: 'The delinquents were convicted of stealing a coat out of a gentleman's chaise, and were well known as part of a gang' (OED, 2017).

These groups evoked strong reactions. In England, Walter Buchanan (1846) wrote of 'predatory hordes of the street', which he remarked 'appear almost to belong to another race'. An editorial in *The Times* a decade later suggested that '[t]he half-hundred Italian ruffians who are now rollicking about' could be 'got rid of at once' (Pearson, 1983, p. 128). Many portrayed delinquency as a precursor to insurrection. Children had played a significant role in the violent, anti-monarchical uprisings that shook continental Europe and, to a lesser extent, Britain in 1830 and 1848. These coups left a shadow of fear addressed by the expansion of state-imposed social controls (Hendrick, 1997, pp. 44–45). In 1843, Lord Ashley urged the House of Commons to adopt widespread schooling for the children of the 'dangerous classes' (House of Commons, 1843). The philanthropic movement, too, 'repeatedly justified

itself in the conviction that, unless a system of moral instruction were provided for the poor, then crime was a prelude to social revolution' (Pearson, 1983, p. 159).

Critical to understanding this reaction is the fact that the underlying notion of childhood was based on middle- and upper-class values and experiences. Children of the lower classes often lacked the opportunities to be socialized or educated to conform with these expectations. Many parents were unable to establish 'normal' nuclear families, access education, or amass resources (or were prohibited from doing so, in the case of American Blacks and Indians). Regardless, their children were deemed delinquents for departing from accepted standards (Empey, 1978, pp. 61–63). It is unsurprising, then, that delinquency came to be connected to poverty, race, and ethnicity. Juveniles who received custodial sentences in England from 1856 to 1875 were mostly working class, and four times more likely to be Irish than English (Stack, 1992, p. 133). Similarly, US reformatories were full of Black and Indian children, often preemptively taken from their families with the goal of providing them a 'proper' upbringing and education (Empey, 1978, p. 63).

By the end of the 19th century, reformatories had become commonplace in the United States and England, the product of widespread concerns about disorder; state intervention; and a solution-based marriage of ideological opposites. As these institutions had evolved, so too had the laws defining juvenile crime. In England, the Vagrancy Act 1824 and Malicious Trespass Act 1827 criminalized behavior as mild as being suspected of stealing, while the presumption against prosecuting children under 14 fell into disuse and police began arresting 'all loose, idle and disorderly persons not giving good account of themselves'. The Youthful Offender Act 1854 required differential treatment for children under 16, which helped fill reformatories, but did little to calm fears of juvenile 'crime waves' (Magarey, 1978, p. 23).

3. Child Military Heroes

Nineteenth-century child protection movements did not extend to children's involvement in the military. In 1816, US courts began to consider whether parental consent might be required before children could enlist, but only from the perspective of weighing parent and state interests in children's services. In *United States v. Bainbridge*, the Massachusetts Circuit Court upheld the validity of an enlistment contract between a minor and the US Navy, rejecting a father's claim that the contract violated the common law right of parents to the custody and services of their children. In doing so, the court found that was it was central to state interests that the Navy enlist minors. It stressed that any statute authorizing public service by 'infants' was necessary not only 'for the public benefit', but also 'for their benefit'.

As the century continued, Congress did modify its enlistment laws to require parental consent for enlistment under the age of 18 (Rosen, 2015, p. 48). Nonetheless, the Civil War saw the participation of significant numbers of young boys, many of whose parents gave consent, and many who joined without it. Many were recruited directly from recently established reformatories, where the state's consent sufficed (Rosen, 2015, p. 60).

In England, children 14 and over were also permitted to enlist in the all-volunteer British Army, which waged a number of colonial wars over the second half of the 19th century. As in the United States, children were regularly recruited from industrial and reform schools, where they received training precisely for that purpose (Rosen, 2015, p. 62). Throughout this time, participation in military service continued to be considered positively. As David Rosen (2015, p. 32) has pointed out, in both England and the United States there was 'striking public adulation and veneration of children as models of personal sacrifice and patriotism'.

C. The 'Century of the Child': The Early 20th Century

By the dawn of the 20th century, children had become increasingly separated from adults, subject to special rules imposed by the state, designed to create ideal citizens. They had come to be seen as 'the future' of the nation, worth investing in to develop a society capable of competing and thriving in the new century. So important had they become in the societal imagination that the 20th century was deemed the 'Century of the Child' (Key, 1909).

1. The Rise of Children's Rights

Mass education and reformatories were not the only legacies of nineteenth-century child protection movements. In England, new child welfare laws introduced an age of consent (1885), infant life protection (1872, 1897), and prevention of cruelty to children (1889). In the United States, courts began prosecuting child abuse (*Fletcher v. People,* 1869), and child welfare organizations proliferated, from the New York Society for the Prevention of Cruelty to Children (1874) to the Juvenile Protective Organization (1901) to the US Children's Bureau (1912). As one official remarked at the time, 'the powerful idea of protecting children and youth is becoming more and more the dominant preoccupation, not only of official spheres, but also of all the classes of the population' (Cunningham, 2005, p. 165).

Advocates began to frame this preoccupation in terms of children's 'rights', which were understood primarily as rights to be protected by adults. In the wake of World War I and the creation of the League of Nations, national movements then began to join together (Droux, 2012). England's Eglantyne Jebb and her Save the Children Fund, together with a new network of non-governmental organizations (NGOs) known as the International Union for Child Welfare, pushed the League of Nations to universalize children's rights. Jebb stressed that children were not only

the future of each nation, but also of humanity. They could be taught to preserve the values of peace and prosperity both between and within states (Moody, 2015, p. 18).

The result was the 1924 Declaration of the Rights of the Child, or the Declaration of Geneva, which promoted the idea that children had rights to be protected, nurtured, and (if necessary) reformed into responsible global citizens:

> [M]en and women of all nations, recognizing that mankind owes to the Child the best that it has to give, declare and accept it as their duty that, beyond and above all considerations of race, nationality or creed:
>
> Article 1: The child must be given the means requisite for its normal development, both materially and spiritually.
>
> Article 2: The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored.
>
> Article 3: The child must be the first to receive relief in times of distress.
>
> Article 4: The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
>
> Article 5: The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

2. The Juvenile Court

In 1899, the United States created the first juvenile court, further separating children from adults and expanding the state's role in their regulation. Soon England followed suit, introducing specialist juvenile courts under the Children Act 1908. Within 25 years, juvenile courts had been established in all but two US states (Empey, 1978, p. 92). These courts were given expansive jurisdiction over all children under 16 thought to need protection—not just delinquents, but also the neglected, destitute, and abused. Solutions were always to be in the 'best interests' of the child (Junger-Tas, 2002, p. 30). As one court explained, 'The design [of the juvenile court] is not punishment, nor the restraint of imprisonment'. Rather:

> To give protection, care, and training to children, as a parental duty, is but a recognition of the duty of the state, as the legitimate guardian and protector of children where other guardianship fails (*Commonwealth v. Fisher*, 1905).

Always present in this system, however, was a clear idea of what children *should* be. As juvenile courts expanded, so too did the list of juvenile 'offenses'. The law sought not only to prevent serious law-violating conduct, but also to enforce the upper- and middle-class vision of childhood, in which children are obedient, chaste, hardworking, and above all, respectful of authority. As Judge Baker of the Boston Juvenile Court said in 1910, 'the fundamental function of a juvenile court is to put each child who comes before it in a normal relation to society as promptly and permanently as possible' (Empey, 1978, p. 106).

3. Gang Studies

While the term 'gang' was loosely employed in connection with 'delinquency' throughout the 19th century, and even adopted by a few groups of young people in England during that time,[9] it was in the early twentieth-century United States that 'gangs' as discreet, definable, and studiable phenomena were born as a subject of policy and academic interest. Early academic studies, however, did not focus primarily on delinquent behavior. Jacob Riis, in his writings on New York's tenements (1902, 1893), emphasized young Irish and Italian immigrants' struggle to socially and economically integrate. J. Adam Puffer (1912) called gangs neighborhood 'play groups', which Frederic Thrasher (1927) argued evolve through conflict into collectives held together by a need for belonging and support in socially disordered communities. Thrasher and other sociologists who made up the 'Chicago School' in the 1920s and 1930s studied gangs and the young people in them as the products of poor, assimilating environments—not as criminal phenomena.

[9] These groups, who wore distinctive clothes, fought for territorial control, opposed the police, and engaged in petty crime in London, Manchester, and Salford, included the 'Clerkenwell Pistol Gang', the 'Girdle Gang', the 'Pinus Gang', and the 'Velvet Cap Gang' (Davies, 2011; Pearson, 1983, pp. 81–83).

4. The Welfare State

As the 20th century progressed, the notion that children represented the nation's future grew stronger. It was not just that getting children right could create success and progress, but that getting them wrong could lead to a loss of power and international status (Cunningham, 2005, pp. 178–79; Muncie, 2004, p. 73). Focus on child welfare intensified, particularly for children who were failing to develop 'normally'. Nationally, this became part of a broader expansion of a welfare state in which England and the United States saw the continued growth of a juvenile justice system focused on 'treatment, not punishment' (Hendrick, 2003, pp. 105, 138). Internationally, the newly-created United Nations began to push children's rights even further (Moody, 2015, p. 19). In 1946, the UN Social Commission declared that 'the welfare of children, physically, mentally and spiritually must be the first concern of every nation' (Freeman, 1961, p. 463). The terms of the 1924 Declaration of Geneva were incorporated into the 1948 Universal Declaration of Human Rights and a new Convention on the Rights of Child in 1959.

5. Children in 'Old' Wars

At the start of World War I, many young people continued to enlist in the British Army, even though only those over 18 were technically permitted to volunteer. In 1916, however, bolstered in part by child protectionist arguments against underage recruitment, Britain adopted compulsory national service. The United States eventually did the same. This significantly lessened the need for, and number of, young people in the US and British military (Rosen, 2012). In other places, however, children continued to be involved in armed forces. Contemporaneous US and English newspaper articles reveal conflicting portrayals of

these children. While some reflect the concerns of the child welfare movement, others continue to promote traditional views of young soldiers as heroes.

In 1900, for example, one US newspaper argued for American intervention in the Boer War, where the army was reportedly 'full of boys, many of whom are barely in their teens' (Irvine, 1900). 'What deed more noble could the American nation do', the article asked, 'than seek to stay this struggle in which child-soldiers are shot to death with hellish energy?' Similarly, a 1914 article on 'Child Soldiers of Mexico' claimed that '[t]he horrors of this Mexican civil strife are brought more forcibly home when mere children are pitted against one another in a bloody and ruthless war' (American Press Association, 1914). By contrast, an article on 'Japanese Child Soldiers' noted with pride that '[i]n all public schools prominence was given to military exercises, and the scholars took part in them with enthusiasm' (Kuropatkin, 1928). Another, entitled 'Child Soldiers in the Soviet Union', reported that 'Soviet war-preparedness for civilians was recently extended to include "pre-conscription training" for boys and girls eight up', observing with admiration that '[a] few crack children's "regiments" and "divisions" already existed before this programme was announced' (*The Guardian*, 1937).

This undermines David Rosen's (2015, p. 175) argument that the term 'child soldier' appears to have been a recent creation, 'intentionally constructed' to 'meld together two very contradictory and powerful ideas (the 'innocence' of childhood and the 'evil' of warfare') to evoke abhorrence. At least in the early 20th century, 'child soldier' was a mere descriptor: it could mean a young hero or a child wrongly drawn into violent conflict. The seeds of the modern 'child soldier' had perhaps been sown, but the figure as we now know it had yet to be created.

In World War II, the involvement of British and American soldiers under 18 remained minimal. Nazi Germany, however, saw a huge mobilization of young people (82% being enrolled in the Hitler Youth), as well as children's eventual recruitment and conscription into active service (Rosen, 2015, pp. 77–79). Children also participated in partisan and resistance movements in France, Italy, Yugoslavia, and Poland (Rosen, 2015, pp. 83, 86). This only perpetuated contradictory views in England and the United States on the involvement of children in war. On the one hand, it could be argued that young people were exploited by the evil adult leaders of Nazi Germany; on the other, that they served as brave patriots in the fight against the Nazis. It would take decades for the former view to eclipse the latter.

D. The Century of Certain Children: The Late 20th Century

In the 1960s, the version of childhood and children's rights that dominated both the US and British welfare state and international law began to be tested—at least on the national level.

1. Cracks in the Foundation

In the first half of the century, both societies underwent massive changes—two world wars, a depression, expanded capitalism, and technological advancement. Fears of social disorder persisted. As Geoffrey Pearson (1983) has adeptly demonstrated, these fears were expressed in repeated complaints about rising juvenile crime. Adults in each new generation from World War I to the 1950s blamed 'hooliganism' on eroding standards, poor parental control, and the corrupting influence of popular culture. While a few concerned citizens and right-wing professional groups called for stricter punishment, however, rehabilitation as the proper response to delinquency was not seriously questioned (Empey, 1978, p. 501; Pearson, 1983, pp. 47–48).

This began to change in the 1960s. In the United States, a wave of empirical research began to suggest unintended consequences of juvenile institutionalization. Rather than being reformed, delinquents were experiencing further isolation and stigmatization. Regardless of the institution or rehabilitative program, it appeared that recidivism rates were hardly declining (Empey, 1978, pp. 504–506). In 1966, a US government report reviewed hundreds of studies on rehabilitative methods and concluded that '[w]ith few isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism' (Empey, 1978, pp. 515–16). Certain criminologists began to argue that 'delinquency' was not the result of individual shortcomings, but of arbitrary rules selectively imposed by those in power to create the impression of social stability. Outsider welfare efforts by white, upper-class 'benefactors', they contended, like reformatories and juvenile courts, were akin to domestic colonialism (Krisberg, 2005; Platt, 1969). These critical voices called for broad criminal justice reform, including decriminalization, court diversion, and due process for children. Children's rights activists also began championing the right to self-determination and full constitutional protection, arguing that the state should not subject children to criminal proceedings without the same rights as adults (Lawrence and Hemmens, 2008).

Focusing on gangs, in particular, Robert Merton (1957, 1938) looked to structural inequalities as a fundamental cause of these 'adaptive subcultures'. The American Dream, he argued, led the lower classes to believe they had to achieve financial and status goals. This not only resulted in tension between their reality and aspirations, but reduced the chances they would meaningfully revolt against the status quo (Young, 2011, p. 92). William Foote Whyte (1943), Albert Cohen (1955), Richard Cloward and Lloyd Ohlin (1961), and David Matza (1969) carried this

legacy forward, highlighting social, economic, and racial marginalization, disenfranchisement, and lack of legitimate opportunities created by the capitalist system. Much of this work ultimately served as the policy basis for Presidents Kennedy and Johnson's war on poverty (Brotherton, 2015, p. 35). It also led to a string of late-1960s US Supreme Court cases expanding due process rights in juvenile court proceedings.

At the same time, however, a burgeoning conservative movement pushed a different argument. Many policymakers and elites claimed that static recidivism rates were proof of an overly-permissive juvenile justice system and a need to 'return to law and order' (Empey, 1978, pp. 476–77). Citing the rise in official crime rates during the civil rights and anti-Vietnam War protests, urban riots, and campus rebellions, they linked progressivism with anarchy (Lawrence and Hemmens, 2008, p. 353). If children have the right to live with the same guarantees of freedom as adults, they asked, why should they not be subjected to the same responsibilities and punishments? A resurgence of neoclassical theories of crime among criminologists only bolstered this argument, suggesting that punishment and incapacitation were the only way to deter juvenile crime and ensure social order. This inspired a push to lower the age of accountability and bring juvenile offenders into adult courts, where they could be given determinate sentences that would increase with multiple convictions (Empey, 1999, pp. 233–48).

In short, by the 1970s, the American juvenile justice system was under attack from all sides. Its progressive and conservative critics were driven by sharply opposing ideologies, yet both helped undermine the juvenile court and the rehabilitative principles it embodied. Though the empirical findings these critics so

heavily relied upon may, in fact, have been deeply flawed (Empey, 1978, p. 518), the reactions they garnered were real and powerful.

The dominant rehabilitative ideology also weakened in England. In 1945, even the Conservative Party (1946, p. 42) had agreed that '[t]he misbehavior of boys and girls is mainly the outcome of conditions, social, economic, and to some extent hereditary, for which they themselves cannot be blamed. The blame—for blame there is—rests largely upon society'. By 1959, however, the Tories had done an about face, reporting, 'We reject the notion, propagated by the sincere but misguided idealists, that society shares the guilt of its criminals; that most malefactors are the victims of their environment' (1959, p. 56). Even the British Medical Association, whose 1961 'Subject of the Year' was 'the Adolescent,' concluded that '[a] decrease in moral safeguards and the advent of the welfare state has provided a national cushion against responsibility and adversity' (Pearson, 1983, p. 15).

At least within the academy in England, 'gangs' were understood as a distinctly American phenomenon. Social scientists instead focused on 'youth subcultures', which included a wide variety of predominantly working-class youth groups—from Teddy Boys and Mods to Skinheads and Punks—understood to engage in anti-establishment activity (Muncie, 2015, p. 34). That did not change the widespread fear and resentment of these groups, however, nor did it stop the media and some politicians from invoking the term 'gang' to describe them. As Sir Thomas Moore exclaimed of the Teddy Boys, 'Would not the proper description be 'young thugs', leaving it at that?' (House of Commons, 1954).

2. The Return to 'Law and Order'

In the United States, a new 'pathological' trend soon emerged within the realm of gang studies, as a group of scholars began to push back against the humanist

approach (Brotherton, 2015, p. 37). These sociologists discounted the structural forces behind gang formation in favor of the notion of individual self-control. Toby Jackson (1957) and Travis Hirschi (1969), in a modern version of the Hobbesian perspective, argued that without necessary attachment and control, young people would rationally choose to engage in deviant behavior. Lewis Yablonsky (1967) went even further, diagnosing young gang members as sociopaths. Walter Miller (1975, 1958) blamed gang delinquency on the poor values of the 'lower class'. These pathologists presented a world in which any departure from white, middle-class norms was assumed to be the result of individual (or class, racial, or ethnic) deficits. The solution, they proposed, lay in coercive social control that would force individuals to conform.

This approach was not confined to the academy. In both the United States and England, the tide began to shift towards punishment. Conservative and neoliberal ideas appealed to those who felt threated by the perceived radicalism of the 1960s and the economic stagnation of the 1970s (Garland, 2002). A strong reaction to crime featured heavily in the victorious campaigns of Ronald Reagan and Margaret Thatcher, part of a larger backlash against the welfarism of the previous decades. As Thatcher declared, 'What the country needs is less tax and more law and order'. Or as Reagan stated, 'We must reject the idea that every time a law is broken, society is guilty rather than the lawbreaker.' Both administrations promoted a criminal justice system marked by individual responsibilization and penal expansionism (Muncie, 2004, pp. 21–25).

Despite tough rhetoric, 1980s Conservative-led juvenile justice policy in England was largely libertarian, reflecting a mindset that public morality should be enforced primarily by the family and community (Hendrick, 2015, p. 12). In the

United States, however, the juvenile justice system was fundamentally reshaped. The federal government heavily funded police intelligence programs and enhanced prosecution (Krisberg, 2005). State legislatures began excluding children charged with certain offenses from juvenile court jurisdiction (Lawrence and Hemmens, 2008, p. 33). The number of children in juvenile correctional facilities and adult prisons grew significantly, rising 48% between 1979 and 1984. And young people of racial and ethnic minorities continued to represent a disproportionate percentage of those both prosecuted and incarcerated (Krisberg, 2005).

3. Children in 'New' Wars

These cracks in the child welfare narrative did not extend into the international sphere. After World War II, the children's rights movement heavily influenced the 1949 Geneva Conventions. For the first time, the Conventions included children as a civilian group in need of special protection during war (Mann, 1987, p. 34). The International Committee of the Red Cross (ICRC), which led the drafting process, underscored that 'children represent the future and it is important that the future should be safeguarded' (1952, p. 412). Nonetheless, the Conventions did not explicitly address the issue of children participating in war. They did, however, prohibit the imposition of the death penalty on unlawful combatants under 18 (Article 68). In other words, rather than supporting a view that children should never participate in armed conflict, the Conventions tacitly acknowledged that some children would continue to fight.

Concern with children's participation in armed conflict did not truly arise until the next round of updates to the Geneva Conventions, in the early 1970s. The 1960s had been a time of widespread anti-colonial national liberation and self-determination movements. Because international humanitarian law only applied to conflicts

between states, however, these wars had not been subject to the Geneva Conventions. There was a growing push to bridge this gap, which meant revising existing law to take into account an increasingly blurred line between soldiers and civilians in 'guerilla warfare' (Mann, 1987, p. 36). Encouraged by the United Nations, the ICRC thus began drafting Additional Protocols to the Geneva Conventions. The first of these addressed armed conflicts between states, as well as 'armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self determination' (Protocol I). The second addressed internal armed conflicts involving 'dissident armed forces or other organized armed groups' opposing 'legitimate' governments (Protocol II).

In the initial stages of the drafting process, the ICRC introduced a provision to both Protocols to prohibit the recruitment and use of children under the age of 15 in all conflicts. In doing so, it recognized that this issue '[h]ad not even been studied up to now' (1971, p. 46). A Conference of Government Experts subsequently acknowledged that '[t]he use of children in armed conflict is not an entirely new phenomenon', but expressed concern about their 'increasing use' in 'wars of liberation or self-defense' and 'consequent tendency to deny protection to them' (ICRC, 1972, p. 87). Participants noted that '[i]t is the overwhelming opinion of the organizations concerned with the protection of children that an article of this type should be included in any development of the international humanitarian law of armed conflict'. Yet they also argued that 'a total prohibition on the voluntary participation of children under 15 years of age would be unrealistic', noting that 'children of that age have certainly participated in hostilities voluntarily in extreme circumstances, and have sometimes performed acts of heroism. … It is difficult to moderate their enthusiasm and their will to fight' (ICRC, 1972, pp. 86, 465).

Nonetheless, the Conference approved the draft ICRC provision, which required that parties to any conflict 'take *all necessary measures* in order that children aged under fifteen years shall not take *any part* in hostilities and, in particular they *shall refrain from recruiting* them in their armed forces *or accepting their voluntary enrollment*' (ICRC Draft Article 68(2), Protocol I) (emphasis added). This draft was then considered in a Diplomatic Conference of state representatives. At the last minute, the delegates decided to include different versions of the article in Protocol I (on conflicts between states and 'valid' self-determination movements) and Protocol II (on internal conflicts involving 'illegitimate' armed groups). While Protocol II banned *any* recruitment or use of children under 15, Protocol I only required parties to take 'all *feasible* measures' to ensure that children under 15 did not take '*direct* part' in hostilities and '*refrain*' from recruiting them (Protocol I, Article 77) (emphasis added).

Unfortunately, there is almost no evidence to illuminate why this divergence appeared at the final hour. However, contemporaneous commentators observed that 'it was widely presumed during the Conference that local "rebel" groups were better placed to recruit young children to participate in the conflict for extended periods of time'. The strict prohibition in Protocol II would thus 'make it more difficult (both legally and politically) for the dissident groups … to achieve this perceived military advantage' (Mann, 1987, p. 50). In other words, the Additional Protocols allowed established states to continue their own child recruitment practices, while simultaneously impeding and criticizing 'illegitimate' groups for using children.

At this stage, however, children's participation in armed conflict was not a significant concern for the public, or even the broader international community. Rarely did the English-language press remark on the involvement of children in the

wars of the 1960s and 1970s. In the 1980s, reports of children's participation in conflicts in Ethiopia, Latin America, and the Iraq-Iran conflict began to appear, but the depiction of these children was complex. In an article on 'Ogaden's Child Soldiers', one journalist described the 'key role' young boys played in the Ethio-Somali conflict, recognizing their desire to avenge their families and describing their decisions to enlist with a tone of admiration (Tompkins, 1980). Similarly, a letter to the *New York Times* on 'The Child Soldiers of Latin America' decried the forced conscription of young boys by Central American government forces while noting that 'at least the teenage revolutionaries are volunteers' (Brockham, 1982).

Neither the ICRC nor the United Nations expressed much alarm about the issue. While the United Nations had begun negotiating a Convention on the Rights of the Child (CRC) in 1978, it had no intention of including a provision on children in armed conflict. In 1984, the ICRC did signal concern that young children appeared to be fighting in conflicts in the Middle East, Central America, Asia, and Africa; but 'in keeping with its general policy on not making public statements about humanitarian issues it is currently dealing with', it did not take a strong stance (Mann, 1987, p. 52). One UN subcommittee asked Iran to stop recruiting children in 1983, but otherwise the issue did not attract the attention of the Security Council or General Assembly.

This began to change in the mid-1980s. The key mover behind this shift, however, was neither the ICRC nor the United Nations. Instead—just as with the 1924 Declaration of the Rights of the Child—it was a handful of children's rights NGOs. As Linde Lindkvist (2019) has illustrated, after the adoption of the 1977 Additional Protocols, the Swiss Quaker community and the Swedish Save the Children (Rädda Barnen) decided to champion child soldiering as a critical human rights issue extending beyond international humanitarian law. In 1983, Rädda Barnen

succeeded in organizing 15 NGOs to form the NGO Ad Hoc Group on the CRC, which made the inclusion of a provision on child soldiers in the CRC a primary mission (Lindkvist, 2019, 2018). The group subsequently managed to gain significant support for this provision, as many states realized that 'child soldiers constituted a relatively risk-free area from a standpoint of domestic politics' (Lindkvist, 2019).

There was a contentious debate on the issue of age. The NGO group was adamant that, as the CRC defined a 'child' as anyone under 18, the prohibition on children in armed conflict should also cover anyone under 18. Yet the United States argued that raising the age from 15 in the Additional Protocols to 18 in the CRC would effectively constitute a revision of international humanitarian law outside the appropriate forum. As the ICRC had openly supported the effort to increase the age to 18, however, many believe that the US position was largely motivated by a desire to continue its own practice of recruiting 17-year-olds with parental consent (Lindkvist, 2018). Ultimately, the CRC did include a provision on children in armed conflict (Article 38), but only one that mimicked the weak language of Additional Protocol I, prohibiting recruitment of children under 15. This left many international children's rights advocates deeply dissatisfied, particularly as the United States refused to ratify the CRC in any event (Lindkvist, 2018). Nevertheless, the CRC negotiations had sparked an organized movement against child soldiering, and its initial failure was soon to become a catalyst for further activism.

E. Cementing the Divide: The 1990s to Early 2000s

1. The Super-Predator and the Bulger Murder

The political emphasis on 'law and order' in the 1970s and 1980s laid the ground for a major transformation in perceptions of childhood and juvenile

delinquency in the early 1990s. While the power of the conservative parties in the United States and United Kingdom was beginning to wane, the neoliberal ideology they had introduced remained salient, working itself into the law and the academy with help from elite donors and supporters (Harvey, 2005).

In the United States, the early 1990s saw reports of worsening juvenile crime. Political scientist John DiIulio (1996) warned that, based on population projections, a large group of juvenile 'super-predators' would soon appear and drive up violent crime. Widespread media portrayals of youth violence fueled public fear and emotional reactions, resulting in a 'dramatization of evil' and 'demonization' of youth (Merlo and Benekos, 2003). With the loss of faith in rehabilitation, children had become a potential 'threat to civilization rather than its hope and potential salvation' (Cunningham, 2005, p. 186).

Within academia, the pathological approach to gangs had become the norm, 'delinquency' even built into Malcom Klein's (1971) influential gang definition. Another trend also began to emerge, termed by David Brotherton (2015, p. 44) 'social reproductionism'. This approach did not accept that violent gang behavior was the result of individual deficits, but did argue that the structural class and racial inequality that created gangs all but ensured that gang members would never escape those realities (Venkatesh, 1997; Sánchez-Jankowski, 1991). As Phillipe Bourgois (1995, p. 9) maintained, 'although street culture emerges out of a personal search for dignity and a rejection of racism and subjugation, it ultimately becomes an active agent in personal degradation and community ruin'. In other words, by reacting against the status quo, gangs were doomed to reproduce it. Although social reproductionists generally did not support heavy-handed criminal justice, their deterministic approach supported a vision of gangs as part of an 'underclass' perpetually linked to crime and

violence, arguably only further contributing to the moral panic that justified the expansion of 'law and order' policies.

This panic, combined with 'an adversarial political culture, a highly competitive and sensationalistic mass media, and poor measures of public opinion' made 'penal populism' highly salient for members of both US political parties (Green, 2008, p. 24). The 1990s became an era of punitive legislation. Between 1992 and 1997, nearly all US states changed their laws to ease the transfer of juveniles to adult criminal court; allow harsher sentencing; lessen confidentiality protections; and increase victim participation. 'Get tough' legislation—zero tolerance policies, youth boot camps, curfews, electronic monitoring, and mandatory minimum sentences—aimed to send a message that 'adult crime' meant 'adult time' and repeat offending would not be tolerated. Incarceration of young people, including disproportionate numbers of Blacks and ethnic minorities, continued to increase (Lawrence and Hemmens, 2008, pp. 33–34).

In England, a dramatic event sparked a similar transformation. In 1993, two 10-year old boys kidnapped and murdered 2-year old James Bulger in broad daylight, precipitating massive societal and political outrage. The event came to reflect society's worst fears of moral decay and the loss of order (Hay, 1995). It was, perhaps, the final blow to the long-dominant vision of the innocent child who could be reformed—at least the English child. Chris Jenks (1996, p. 118) described the incident as 'not just disturbing but quite literally inconceivable … because it occurred within the conceptual space of childhood which, prior to this breach, was thought of as innocence enshrined'. Even though child-by-child murder was hardly new, the egregiousness of the Bulger act in a society that had been losing hope in rehabilitation

marked a turning point. As Jenks declared, 'the innocence of childhood has finally come of age'.

In its place, the idea of the naturally depraved child was regaining prominence. Within public discourse, many began labeling child offenders as 'demons', 'devils', or 'feral', 'evil' 'barbarous thugs' (Muncie, 2015, p. 3). As one columnist wrote shortly after the Bulger murder:

> What happened to [James Bulger] seems to me not an incomprehensible freakish accident but simply the worst possible example of amoral childish viciousness; horrible precisely to the degree that it was childlike – random, aimless and without conscience. … If we are all 'guilty', it is of refusing to accept the naturalness of evil (Daley, 1993).

As ever, these were not the only views. But they were views that gained traction. As Prime Minister John Major stated, what was needed was to 'condemn a little more and understand a little less' (Hendrick, 2003, p. 188). Various government ministers followed suit, claiming, 'Our job is drive the vermin off the streets', 'Let us not call them … disadvantaged youngsters … let us call them thieves, vandals and hooligans' (Goldson, 1997, p. 131). Even those who continued to believe that reform was theoretically possible supported stricter methods of control. As one New Labour spokesman argued, 'the welfare needs of the young offender cannot outweigh the needs of the community to be protected from the adverse consequences of his or her offending behaviour' (Goldson, 1999, p. 9).

Not surprisingly, the Bulger murder ushered in a new era of control and punishment. In 1994, the Criminal Justice and Public Order Act sought to create a new generation of child prisons for 12- to 14-year-olds. By 1997, fears of the 'super-predator', as well as zero tolerance policies, boot camps, curfews, electronic monitoring, and mandatory minimum sentences, had been transported from the United States (Muncie, 2015, p. xvii, 2004, p. 298). The next decade saw a continued

rise in ‘the imposition of adult levels of responsibility on young children; the erosion of legal safeguards … and the expansion and intensification of custodial responses’ (Goldson and Peters, 2000, pp. 3–4). By 2002, the United States and England had the first and third highest rates of imprisonment in the world for those under 18 (UN Office on Drugs and Crime, 2003).

It was also in the late 1990s that scholars and policymakers began to talk of the ‘appearance’ of gangs in England. Black youths, who had long been over-policed (Bowling et al., 2015), were now accused of adopting ‘gangsta culture’ and engaging in gun and knife crime (Gunter, 2017, p. 4). Led by American gang scholar Malcom Klein, a group of American and European researchers formed in 1998 to investigate the issue of the ‘Eurogang’, adopting Klein’s delinquency-based ‘gang’ definition (Klein, 2001). In 2002, a *Guardian* article entitled ‘Gang Membership Spirals Among Under 16s’ claimed that there were 30,000 gang members in England and Wales (Thompson, 2002). In 2007, after 25 children died in shootings and stabbings in a nine-month period, the *Telegraph* reported that the country was now ‘Caught in the Crossfire of Gangland Britain’ (Lusher and Copping, 2007). When asked about the demonization of young gang members, the Secretary of State for Justice responded: ‘these are not children; they are often large unpleasant thugs’ (House of Commons, 2008). In both the United States and England, the ‘young gang member’ had been fully constructed as a ‘folk devil’ (Cohen, 2011).

2. The Creation of the Child Soldier

In the meantime, the figure of the innocent child was preserved outside national borders. The CRC had mandated the creation of a new Committee on the Rights of the Child to assess issues facing children across the globe. After the secretary general of Rädda Barnen was appointed as one of its members, the issue of

child soldiers became central to the Committee's work (Lindkvist, 2019). At its third session, in 1993, the Committee asked the UN Secretary-General to appoint an expert to conduct an investigation on the protection of children during armed conflicts. It also tasked members to produce an initial draft of a special Protocol to the CRC on the involvement of children in armed conflict (Waschefort, 2015, pp. 1–8).

The UN General Assembly subsequently appointed Graca Machel—children's rights advocate, former Minister of Education of Mozambique, and wife of Nelson Mandela—to investigate the situation of children during armed conflict. Although Machel analyzed the impact of war on all children, her 1996 report focused heavily on child soldiers, presenting a narrative that would soon become standard:

> [G]overnment or rebel armies around the world have recruited tens of thousands of children. Most are adolescents, though many child soldiers are 10 years of age or younger. … Some are conscripted, others are press-ganged or kidnapped and still others are forced to join armed groups to defend their families. … While young people may appear to choose military service, the choice is not exercised freely (Machel, 1996, pp. 16–17).

Machel (1996, pp. 20–22) concluded that '[c]learly one of the most urgent priorities is to remove everyone under 18 years of age from armed forces'. She urged governments to work towards the adoption of an optional protocol to the CRC, encouraged NGOs to launch a global campaign to 'eradicat[e]' the use of child soldiers under 18, and implored the media 'to expose the use of child soldiers and the need for demobilization'.

As the Bulger murder did for child criminals, the Machel Report brought the issue of child soldiers to widespread international attention. It, too, generated moral panic. By 1998, the United Nations had created the Office of the Special Representative to the Secretary-General on Children and Armed Conflict. The same year, a group of prominent NGOs founded the Coalition to Stop the Use of Child Soldiers, now Child Soldiers International. It joined Rädda Barnen, the Quaker UN

Office, and the ICRC to spearhead a massive campaign for the adoption of an optional protocol to the CRC.

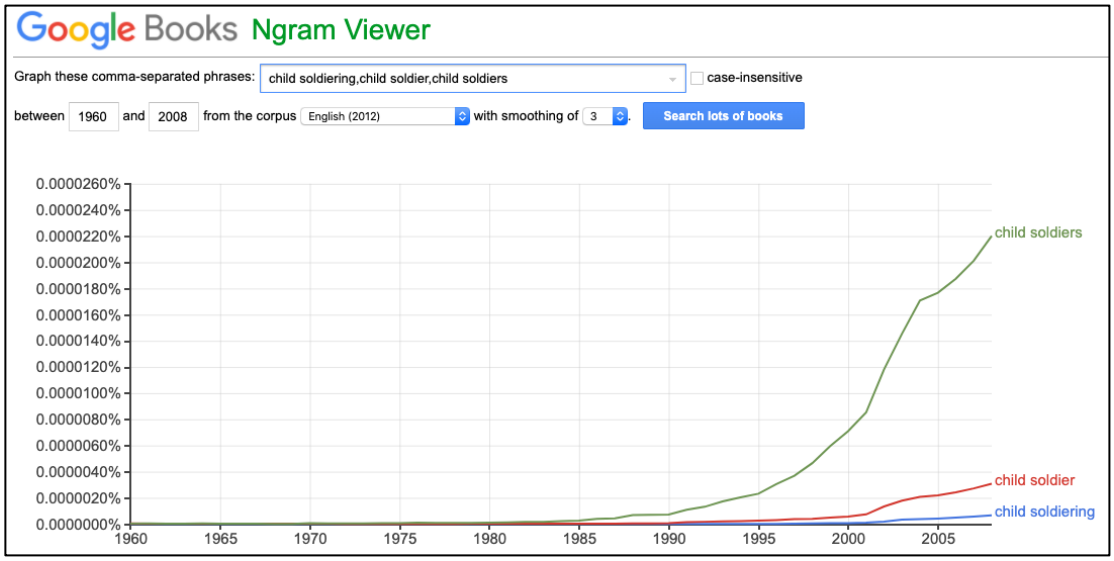
A slew of international instruments directed at prohibiting child soldiering followed. In 1998, the Rome Statute of the International Criminal Court made 'conscripting or enlisting children under the age of 15 and using them to participate actively in hostilities' a war crime. In 1999, the ILO adopted Convention 182, prohibiting the forced or compulsory recruitment of children under 18 for use in armed conflict. And in 2000, the UN General Assembly finally adopted the Optional Protocol to the CRC on the Involvement of Children in Armed Conflict. That instrument, which bans armed forces and groups from allowing children under 18 to directly participate in hostilities, was ratified by every state but Somalia.[10]

Throughout the 2000s, efforts by international organizations and NGOs to combat the issue of child soldiers continued to grow, as did work by scholars and researchers. The term 'child soldier' was no longer a mere descriptor of young soldiers, as it had been through the 1980s. It now carried negative moral overtones, implying victimhood. It had also become the root of a new verb, 'child soldiering'. The frequency of these phrases in English-language books from 1960 to 2008[11] reflects the construction of the child soldier:

[10] The Optional Protocol still contains unequal standards. It prohibits 'armed groups that are distinct from the State' from recruiting or using in hostilities any person under 18 'in any circumstances' (Article 4). Yet it allows States to establish a minimum age for voluntary recruitment that is below 18 (Article 3) and only requires 'all feasible measures' to ensure that under-18s 'do not take a direct part in hostilities' (Article 1).

[11] For a full description of the corpora included in this search, see Google (©2020).

Figure 2: The prevalence of the 'child soldier' in publications, 1960-2008



Even the United States, once reticent to expand protections for child soldiers in the CRC, embraced the Optional Protocol and, as discussed in Chapter 3, went on to adopt national legislation on child soldiers. At the 2002 UN Special Session on Children, a US representative stressed the United States' dedication to limiting the role of children in armed conflict, describing it as a 'global leader on child protection' (James and James, 2004, p. 93).

F. Continuity and Change: 2008 to 2018

In the first two decades of the 21st century, the contrast between the images of the 'young gang member' and 'child soldier' continued to deepen. But the debate over the nature of childhood continued and new voices began to challenge some of the assumptions on which these images were based. The landscape was one of continuity, but also potential change.

1. Continuity

i. <u>The Proliferation of the Child Soldier Narrative</u>

From 2008 to 2018, strenuous efforts were made to enforce the international instruments on child soldiering adopted at the beginning of the century. In 2012, Thomas Lubanga Dyilo became the first individual to be convicted under the Rome

Statute—for conscripting children under 15 into a Congolese armed group with the aim of using them as combatants (*Prosecutor v. Thomas Lubanga Dyilo*). The Special Court for Sierra Leone also convicted five individuals of enlisting children for active participation in hostilities, and charges remain pending against several others (Haer, 2019). The UN Security Council began to 'name and shame' alleged recruiters of child soldiers (Resolutions 1662; 1882; 1998; 2068). To be removed from the list of offenders, groups had to develop action plans for ending child recruitment, as well as for release and reintegration. In 2015, the Security Council added teeth to this measure, promoting the creation of country-specific committees empowered to enact sanctions such as arms embargoes, asset freezes, and travel bans, against individuals who used child soldiers (Resolution 2225). Sanction committees were subsequently established in Côte d'Ivoire, the DRC, and Somalia (Haer, 2019).

At the same time, human rights advocates worked to ensure that child soldiers themselves were not criminally prosecuted. While some child soldiers were indicted by national governments, NGOs intervened on multiple occasions to prevent their prosecution (Happold, 2005, pp. 141–142). The Prosecutor of the Special Court of Sierra Leone chose not to indict anyone for crimes committed while under 18 (Happold, 2005, pp. 150–152). The East Timor UN Transitional Administration, while empowered to try minors between 12 and 16 for certain serious offenses, never did so (Rosen, 2012, p. 67). The Special Court of Sierra Leone further decided that no child under 15 could ever give valid consent to join the armed forces, barring this as a defense to child recruitment charges (*Prosecutor v. Fofana*). All child soldiers' actions were essentially attributed to the adults who recruited them, children themselves left with no moral or legal agency.

ii. Gangs: A Culture of Control

In the United States, 1990s 'law and order' policies were embraced by neoconservatives, who continued to champion punishment and mass incarceration for all crime in the early 2000s. Decades of these policies took a disproportionate toll on young Black, minority, and poor Americans, deepening the social and economic divide through what Michelle Alexander (2010, p. 4) called the 'new Jim Crow'. Gangs remained at the center of state and societal concerns, the symbol of fears about moral decay, rising immigrant populations, and crime. 'Young gang members' became a tangible enemy against which to take action, easily rationalizable as a target justifying the expenditure of resources in the name of safety and control.

An entire industry of law enforcement units, 'experts', policy commissions, and watchdogs developed around gangs. The National Alliance of Gang Investigators' Associations (NAGIA) illustrates the size and reach of this industry. Formed in 1998, the organization represents 23 state and regional associations and has over 20,000 members. According to its website, NAGIA's mission is to 'reduc[e] the threat of gang violence by increasing public awareness, training, monitoring legislative efforts, intelligence dissemination and prevention, intervention, suppression and re-entry efforts' (NAGIA, © 2020). Those in the gang industry, like the NGOs that dominate the child soldier narrative, have thus become 'both the control agents and moral entrepreneurs of the gang' (Brotherton, 2015, p. 114).

iii. England's 'Gang Problem'

As fears of gangs swept England, the Policing and Crime Act 2009 introduced special injunctions designed to prevent 'gang-related violence' and 'gang-related drug dealing activity'. The Crime and Security Act 2010 expanded these injunctions to reach 14- to 17-year-olds. The perceived gang crisis exploded after riots broke out in

several cities across England in August 2011, generating a major societal and political response. *The Daily Express* (2011) reported 'hooded youths in pitched battles with police, all reason gone and high on destruction'. Prime Minister David Cameron announced that 'gangs were at the heart of the protests and have been behind the coordinated attacks' (Wintour, 2011). He promised an 'all-out war on gangs and gang culture', which he called a 'major criminal disease that has infected streets and estates across our country' (Cabinet Office, 2011).

Despite a later Home Office study showing that of the 4,000 people arrested in the 2011 riots, only 13% had any gang connections and only 25% were under 18, focus and concern among policymakers, police, and many UK academics about 'young gang members' grew (Berman, 2014). Shortly after the riots, the Conservative-Lib Dem coalition adopted an Ending Gang and Youth Violence program (Home Office, 2011). The strategy defined gangs as young people 'engage[d] in criminal activity and violence' (p. 17) and devoted significant law enforcement resources to tackle the issue. The Serious Crime Act 2015 and Criminal Justice and Crime Act 2015 further expanded the definition of gangs, extended the reach of gang injunctions, and created mandatory custodial sentences for repeat youth offenders. The approach was one of continued individual responsibilization and 'zero tolerance'. As Boris Johnson, then Mayor of London, stated at a 2014 London Gangs Summit, 'If you fail to change, if you choose to go on making the lives of those around you a misery, embroil your neighbourhood in a culture of guns and knives and drugs, we will come down hard on you. Go straight or go straight to jail'.

2. *Change?*

i. Calls for Nuance

While these actions and rhetoric suggest a continuation of the perceptions and policies of the 1990s, they did not go unchallenged. Dominant narratives of child soldiers and young gang members have only ever been dominant, not universal. As ever, the decade from 2008 to 2018 saw critical scholars and activists opposing the current portrayals and treatment of these figures.

In the child soldier realm, David Rosen (2015, 2012) challenged the mythologization of the innocent child soldier by reminding the academy of children's historical involvement in warfare. Mark Drumbl (2012) called for 'reimagining child soldiers in international law and policy', asking whether refusing to recognize child soldiers' agency or accountability in fact serves their or their communities' best interests. Lorraine Macmillan (2009) pointed out the inherent hegemony in child soldier discourse that perpetuates a vision of a morally superior Global North over a 'barbaric' Global South.

In the gang sphere, some scholars in the United States and England opposed pathologization, questioning the narrative of the 'gang industry' and examining the web of social, political, economic, and cultural processes that inform the emergence of gangs (Gunter, 2017; Hagedorn, 2008; Hallsworth, 2011). Many also challenged the deterministic view of poverty and crime, focusing instead on gangs as expressions of 'situated resistance' against inequality (Brotherton, 2015; Vigil, 2003). More broadly, scholars like Michelle Alexander (2010), Loic Wacquant (2009), and Manuel Castells (2010), whose work found expression in social movements like Occupy Wall Street and Black Lives Matter, highlighted this paradigm's links with the criminalization, repression, and control of a marginalized underclass.

ii. A Push for Juvenile Decarceration

This critical work led to some reevaluation of the policies of harsh punishment and mass incarceration that dominated the 1990s and early 2000s. In the realm of juvenile justice, both the United States and England saw movements to end juvenile incarceration for low-level offenses, and a corresponding decline in prison populations: over 60% in the United States from 2000 to 2019 (Sawyer, 2019) and over 300% in England from 2006 to 2019 (Ministry of Justice, 2020c).

The Supreme Court case *Miller v. Alabama* also marked a potential shift in perspective in the United States. The Court deemed mandatory sentences of life without the possibility of parole unconstitutional for juvenile offenders, citing young people's 'immaturity, impetuosity, and failure to appreciate risks and consequences', as well as the importance of 'taking into account the family and home environment that surrounds [the juvenile offender]—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional' (p. 477).

However, as the next chapter explores in greater depth, gang members were largely exempted from these changes. Policing and legislation focused on gangs in fact led to an increase in incarceration for young gang members, violent offenders, and minority populations, alongside the decarceration of white offenders (Ministry of Justice, 2020c; Sawyer, 2019). In the United States, Black youth were 4 times more likely to be incarcerated than white youth in 2001. In 2015, they were 5 times more likely (The Sentencing Project, 2017). In England and Wales, Black youth made up 12.5% of the young people in custody in 2005/06. By 2018/2019, that figure had risen to 27.8% (Ministry of Justice, 2020c).

iii. County Lines

In 2016, the UK government replaced its Ending Gang and Youth Violence program with an Ending Gang Violence and Exploitation program, which it deemed a 'refreshed approach' based on the 'need to respond to and focus on gang related exploitation of the vulnerable'. This approach was based on the 'discovery' of a 'new' phenomenon called 'county lines', in which young people were 'groomed and/or coerced into moving or selling drugs' by 'a hard core of gang members' (Home Office, 2016, p. 2). These children, the report suggested, though they may appear to be gang members, in fact 'require safeguarding' (p. 3).

While this program promised to 'continue to prioritise the reduction of gang related violence' through law enforcement measures, it also pledged to 'protect vulnerable locations where young people can be targeted' and initiated a few non-criminal justice prevention measures focused on education, training, and employment (pp. 3–5). The notion that (at least some) gang-involved young people could be 'exploited' seemed to signify a shift in the dominant narrative of the deviant 'young gang member'. The next chapter further examines the extent and meaningfulness of this and other potential shifts, exploring the most recent portrayals of child soldiers and young gang members in law, government rhetoric, and academic work.

CHAPTER 3:
THE 'CHILD SOLDIER' AND 'YOUNG GANG MEMBER' TODAY

This chapter illuminates the figures of the 'child soldier' and 'young gang member' as they currently exist in the United States and England. Engaging in a discourse analysis of formal law, government rhetoric, and academic publications from 2017/18 to 2020, it considers how child soldiers and young gang members are perceived and treated today. The analysis highlights an ongoing dichotomy, the voices central to preserving it, and the fissures that have begun to emerge.

A. The Child Soldier and Young Gang Member in Formal Law

1. The Child Soldier: An International Creation

Today, there are at least six international instruments prohibiting various forms of child soldiering,[12] and nearly every state recognizes 18 as the minimum age for children's participation in hostilities. The United Kingdom has ratified all of these instruments and has also endorsed key 'soft law' promoting a straight ban on any military involvement for children under 18: the Paris Principles (UNICEF, 2007). The United States, less willing to be involved in the international legal arena, has ratified neither the Additional Protocols nor the CRC, but has ratified both the Optional Protocol and ILO Convention 182, which prohibits the forced recruitment of children under 18, describing it as 'one of the worst forms of child labour'. It has also enacted complementary national legislation, including:

- The Child Soldiers Accountability Act (2008), which makes the recruitment and use of children under 15 by armed forces or groups a federal crime punishable by up to 20 years imprisonment. The law only applies to US citizens, nationals, or permanent residents, but also allows the government to refuse admission to, or deport, noncitizen offenders;

[12] The two Additional Protocols (1977), the CRC (1989), ILO Convention 182 (1999), the Rome Statute (2002), and the Optional Protocol (2002).

- The Child Soldiers Prevention Act (2008), which bans US military assistance to countries designated by the State Department as recruiting child soldiers (though permits the president to waive this ban 'in the national interest'); and
- The Human Rights Enforcement Act (2009), which created a criminal division in the Department of Justice (DOJ) to enforce human rights, including child soldier, laws.

The Optional Protocol 'recogniz[es] the *special needs* of those children who are *particularly vulnerable* to recruitment or use in hostilities'. It not only prohibits recruitment, but requires states to provide '*rehabilitation and social reintegration* of persons who are victims of acts contrary [to the Protocol]' (Articles 6, 7) (emphasis added). The Paris Principles state that the involvement of children in armed conflict 'violates their rights and causes them *physical, developmental, emotional, mental, and spiritual harm*' (para. 1.0) (emphasis added). The Rome Statute makes their recruitment and use a war crime. The US Child Soldiers Prevention Act provides that 'the United States Government should support and, where practicable, lead efforts to establish and uphold international standards designed to end this abuse' (Section 2). In other words, the law recognized in both the United States and England assumes that the child soldier is a vulnerable and traumatized victim who needs state protection and rehabilitation.

2. The Young Gang Member: A Domestic Concern

i. Gang-Related Law in England

In England, the first legislation to target gangs was the Policing and Crime Act 2009, which came into effect in 2011. Part 4 enables police and local authorities to issue injunctions to 'prevent gang-related violence' (Section 34). These injunctions—which can last up to two years—bar individuals from being in certain places and with certain people, impose curfews, and restrict access to social media (Sections 35, 36). The law has since been extended to apply to anyone age 14 and

over; to widen the definition of ‘gang-related’ to include any group of at least three people with ‘one or more characteristics that enable its members to be identified by others as a group’; and to expand the definition of ‘violence’ to include threats (Section 34(5)). The Act empowers police to arrest without a warrant anyone suspected of breaching an injunction (Section 43), and youth courts can issue detention orders against anyone under 18 (Section 46A, Schedule 5).

In London, this framework is supported by the Metropolitan Police Service’s ‘gangs violence matrix’ (GVM), a database to which police can add individuals of any age believed to be gang members. The GVM defines ‘gangs’ as ‘relatively durable, predominantly street-based groups of young people who (1) see themselves (and are seen by others) as a discernible group, and (2) engage in a range of criminal activity and violence’ (Metropolitan Police, 2020a). Once in the database, individuals are graded Red, Amber, or Green, based on their perceived level of ‘risk’ or ‘harm’ (Metropolitan Police, 2020b).

The Offensive Weapons Act 2019 also introduced Knife Crime Prevention Orders. These orders, while not explicitly tied to gang membership, allow police to impose injunctions on anyone 12 or over believed to carry a knife or convicted of a knife-related offence (Section 14). Orders must be in place for at least six months and can last up to two years (Section 23(3)). In the event of conviction for breach, courts must issue custodial sentences of up to two years (Section 29). The Criminal Justice and Courts Act 2015 separately mandates custodial sentences of at least four months for second or subsequent offenses by 16- or 17-year-olds possessing knives or offensive weapons (Section 28).

The UK government is often quick to point out that these injunctive measures ‘are intended to be preventative rather than punitive’ (Home Office, 2019a, p. 2).

Regardless, it is crime on which all of these laws are focused. Absent is any language of protection or rehabilitation. Young gang members are addressed solely in terms of the risk or harm they pose to others. If they cannot be prevented from engaging in crime, they will be punished.

ii. Gang-Related Law in the United States

In the United States, the issue of gangs is governed by a complex set of state and federal laws. 43 states and the federal government mandate specific penalties for gang-related criminal acts (National Gang Center, 2018). Federal law and at least 17 states also require enhanced penalties for gang members.[13] Most US states require or allow certain young people to be transferred from juvenile to adult court, depending on the nature of the alleged crime (Juvenile Justice, Geography, Policy, Practice & Statistics, ©2017). In at least nine of these states, prosecutors and judges must consider whether a juvenile is an alleged gang member when deciding to file in or transfer the case to adult court.[14]

To illustrate the language and implications of these laws, I explore three states with varying law and policy histories on gangs: Texas, Illinois, and New York. I then briefly consider how federal law and enforcement priorities impact this issue nationwide.

a. Texas

Texas is one of only five states that makes 16 the upper age at which a child can be subject to juvenile court jurisdiction (Tex. Fam. Code § 51.03; Juvenile Justice, Geography, Policy, Practice & Statistics, ©2017). This means that anyone over 16 is automatically tried in adult criminal court. Texas also allows children over

[13] *See* Appendix A, Table 1.

[14] *See* Appendix A, Table 2.

13 charged with certain felonies to be transferred to adult court (Tex. Fam. Code §§ 51.03, 54.02). Once tried in adult court, a child will always be tried there (Tex. Fam. Code § 54.02(m), (n)). This law exists alongside a special charging framework for members of 'criminal street gangs'. 'Engaging in criminal activity as a member of a criminal street gang' automatically leads to any charge being one category higher than it otherwise would be, and to any conspiracy charge being the same category as the underlying offense. If the offense was allegedly committed within 1000 feet of a 'gang-free zone' (including a school, playground, or cinema), and the defendant is over 16, it also increases by one category (Texas Penal Code § 71.01).[15]

Texas law further requires every municipality with 50,000 or more people to compile a 'criminal street gang database', which is maintained on a statewide 'TxGANG database' (Texas Department of Public Safety, 2019). Any person, regardless of age, can be added to the database. This information can then be obtained by any other criminal justice agency or court (Texas Code Crim. Proc. §§ 67.051, 67.101-102). This framework means that gang-involved young people in Texas are subject to regular police surveillance and may face serious adult criminal charges. If a 15-year-old believed to be a gang member is charged with a class A misdemeanor assault, this will automatically be considered a third-degree felony. This, in turn, means the child faces transfer to adult criminal court. If the child were 17, she would automatically be charged as an adult. And if the alleged assault took place near a school, the charge (normally punishable by a $4000 fine or 1 year in jail) could become a second-degree felony punishable by up to 20 years in prison.

[15] It is also a class C misdemeanor simply to be a gang member at a Texas public school (Tex. Educ. Code Ann. 37.121 (a), (c), (d)).

b. Illinois

While Illinois law considers all children under 18 to be subject to juvenile court jurisdiction, it categorically excludes anyone over 16 charged with certain felonies. It also allows anyone over 12 to be transferred to adult court 'in the interest of justice'. The law singles out children allegedly involved in gang-related activity for transfer, establishing a rebuttable presumption that anyone over 14 accused of a forcible felony committed 'in furtherance of criminal activity by an organized gang', and previously convicted of another forcible felony, should be tried as an adult (705 ILCS 405/5-4).

Unlike in Texas, criminal charges and penalties are not automatically enhanced based on gang membership. However, judges and juries must 'accord weight' to the fact that a defendant 'committed an offense related to the activities of an organized gang' when deciding upon sentencing (730 ILCS 5/5-5-3.2(a)(15)). Juvenile courts do the same (City of Chicago Office of Inspector General, 2019, p. 29). As part of a sentence or condition of release, courts can also prohibit individuals from any contact with gang members. Violating that injunction by 'commit[ing] any act in furtherance of streetgang related activity' is a stand-alone crime, punishable by up to a year in jail (720 ILCS 5/25-5). The Chicago Police Department (CPD) (2020) also maintains a gang database, to which individuals of any age can be added. While it recently reformed the database, it did not adopt any recommended protections for juveniles (City of Chicago Office of Inspector General, 2019, p. 60).

Even if it does not automatically lead to the significant criminal penalties seen in Texas, being identified as a gang member in Illinois makes it more likely that a child will be subject to police scrutiny, tried as an adult, detained, and given a higher sentence.

c. New York

New York is one of the few states not to define 'gang' or 'gang member' in its laws or have any gang-specific legislation. While the State Senate (2017) recently passed a bill that would have created a 'Criminal Street Gang Enforcement and Prevention Act', the state's General Assembly did not approve it. Unlike Texas and Illinois, New York does not have discretionary or mandatory transfer provisions, much less ones that take into account alleged gang membership. However, it does statutorily exclude from juvenile court jurisdiction any child 13 or older accused of murder or a sexually motivated felony and any child 14 or older accused of other violent felonies or weapon possession. The adult court then has discretion to remand the case in the interests of justice (NY Crim. Proc. Law §§ 1.20, 180.75, 210.43; Penal Law §§ 30.00, 70.05).

Despite the lack of gang-specific legislation, state and local officials have developed robust policies aimed at gangs. The New York Police Department (NYPD) maintains its own 'Criminal Group Database', to which individuals of any age can be added based on even fewer criteria than in Chicago (Trujillo and Vitale, 2019, p. 10).

d. Federal Law

US Attorneys can use federal criminal law to charge juveniles for certain crimes of violence or drug trafficking. US district courts *must* order juveniles to be tried as adults if they have a prior comparable conviction/adjudication and are 16 or older, and they *may* order adult prosecution of juveniles accused of committing aggravated assault, murder, attempted murder, armed robbery, or armed rape at 13 or older, or any drug trafficking or violent felony at 15 or older (Doyle, 2019).

Federal authorities may also prosecute as an adult any individual whose 'active participation in a conspiracy or racketeering enterprise bridges his or her eighteenth birthday' (Doyle, 2019, p. 4). Racketeer Influenced and Corrupt Organization (RICO) provisions give prosecutors broad discretion to charge a large number of people for activities spanning a lengthy period of time, and to hold everyone in the group accountable for everyone else's activities. RICO criminalizes anyone who participates in or conspires to participate in the conduct of 'an enterprise' that engages in 'the patterned commission of various state and federal crimes' (18 U.S.C. § 1962), covering all manner of groups that could be considered gangs.[16]

Being a member of a 'criminal street gang' can also separately mean enhanced criminal penalties. If an individual is convicted of any federal felony crime of violence (or conspiracy to commit it), has a criminal record, and is part of a 'criminal street gang', his sentence must be increased by up to 10 years (18 U.S.C. § 521(c)). Courts may increase sentences even further through 'upward departures', whose purpose 'is to enhance the sentences of defendants who participate in groups … that use violence to further their ends' (18 U.S.C. App. § 5K2.18).

The US government rarely claims these laws are 'meant to prevent, rather than punish'. The figure of the young gang member visible here is one who should be perpetually monitored by police as a potential criminal and treated as an adult. Far from meriting special protection, gang members merit special punishment.

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[16] An 'enterprise' includes 'any group of individuals associated in fact' (18 U.S.C. § 1961(4)). This requires only that the group has 'a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose.' (*Boyle v. United States*, p. 946).

B. The Child Soldier and Young Gang Member in the Contemporary Policymaker's Imagination

Formal law is not the only mechanism that shapes the treatment or perception of child soldiers and young gang members. Laws often form only a small part of broader policy frameworks. Moreover, their invocation and enforcement require the exercise of discretion, which may be highly dependent on broader, often political, dynamics. This section examines how US and UK policymakers have characterized these figures in recent years, both in rhetoric and policy actions.

1. Recent Government Rhetoric and Action on Child Soldiers

i. UK Government Rhetoric and Action

To review recent rhetoric on child soldiers, I collected statements and publications from government agencies and officials from 2017 to 2020, coding them on a five-point scale based on their portrayal of children, from perpetrators (1) to complex actors (3) to victims (5).[17] The results were striking. In every one of the 23 statements, government representatives characterize child soldiers as victims in need of protection. Officials invariably use language of vulnerability and powerlessness. In a speech at a UN Security Council debate on Children in Armed Conflict, Lord Ahmad of Wimbledon (2017) proclaimed that '[c]hildren are innocent bystanders in times of conflict, caught up in the atrocities taking place around them'. John Lamont (Conservative MP), in a House of Commons debate on Protecting Children in Conflict Areas, similarly remarked on 'the horrendous situations that children find themselves in, through no fault of their own' (House of Commons, 2018b).

[17] To collect this data, I relied primarily on gov.uk, which merges the websites of 24 ministerial departments and 408 other government agencies and public bodies. I used the search terms 'child soldier' OR 'child soldiers' OR 'child soldiering' and filtered the results from 1/1/2017 to 31/12/2019. I performed the same search on Hansard.

Officials often invoke child soldier narratives of forced abduction and victimization. 'I want to begin by telling James's story' Dan Carden (Labour MP) told the House of Commons:

> James's happy family life in a small village with his mum, dad, brothers and sisters was disrupted when he was only 13 years old. James tells his story: 'I was betrayed by my own brother, who forced 15 of us from the same village to become boy soldiers. It was a very hard life and there was so much suffering.' ... James's story is typical of South Sudan, and of the conflict zones that girdle the globe (House of Commons, 2018b).

They also make comparisons with their own children. 'I am the father of an 11-year-old son,' explained the UK Minister for Asia and the Pacific, making it 'absolutely heartbreaking' that 'boys of roughly that age are fighting in parts of the world such as Yemen' (House of Lords, 2019).

Officials repeatedly use language of physical and moral repulsion. In a House of Commons debate on Yemen, Graham Jones (former Labour MP) called resistance groups' use of child soldiers 'outrageous and disgusting'. Stephen Doughty (British Labour and Cooperative Party MP) deemed it 'absolutely disgusting' (House of Commons, 2017). The British Ambassador to Somalia described it as a 'vile practice' and 'a gross violation of their human rights' (British Embassy Mogadishu, 2017a, 2017b), while Baroness Shields OBE (2017) deemed it an example of 'moral depravity'. The UK government's 'position on the recruitment and use of child soldiers is clear and unequivocal: it is simply unacceptable. We condemn it, and … we are committed to ending it in all circumstances' (House of Commons, 2019).

The government has also taken concrete actions to combat child soldier recruitment abroad. In 2017, it trained Somali troops to 'ensur[e] this practice is stamped out' (British Embassy Mogadishu, 2017a). It later endorsed the Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers—another 'soft law'—and reaffirmed its commitment to the Paris Principles

(Ministry of Defence, 2018). In 2018, it supported UN Security Council Resolution 2428, which called for all Members States to prevent the supply of arms and withhold military, technical, and financial assistance to South Sudan in light of its use of child soldiers (Foreign & Commonwealth Office, 2018). Officials also characterized the government's commitment of 0.7% of gross national income to foreign aid (50% going to combat zones) as showing dedication to 'alleviating the situation' of child soldiers (House of Commons, 2018b). The UK government emphasizes that child soldiers should not be held accountable for their actions. It has expressed 'deep concern' about countries that have detained child soldiers on security charges, arguing that '[a]uthorities should seek alternatives to detention', prioritize 'rehabilitation and reintegration', and focus on getting children 'back to school and giv[ing] them hope of a brighter future' (Foreign & Commonwealth Office, 2017).

Through its actions and rhetoric, however, the government has made clear that leadership on the issue of child soldiers ultimately lies with the United Nations and NGOs. Achievements in reducing child soldering 'would not have been possible without the mandate and the work of the [UN] Special Representative [for Children and Armed Conflict], which the UK continues to fully support', proclaimed the UK ambassador (Foreign & Commonwealth Office, 2017). 'We look to the United Nations, UNICEF, the International Red Cross and others to provide leadership in forcing global leaders to act, and we commend UK charities and non-governmental organisations … that continue to make the unarguable case for action' (House of Commons, 2018b). With its rhetoric, the UK government repeats the victimized child soldier narrative, further propagating the UN and NGO agenda.

ii. US Government Rhetoric and Action

The rhetoric of US government officials on child soldiers includes equally strong moral condemnation, although it focuses less on child soldiers and more on the states and groups who employ them. Nonetheless, all 28 recent US-government statements were coded (5) for their characterization of child soldiers as victims.[18] Expressions of shock and outrage are common. The State Department (2018b, 2020) has referred to the recruitment and use of child soldiers as 'unacceptable' and 'malign' behavior. Other officials have deemed it 'appalling' and 'obscene' (Congressional Record, 2017; US Embassy in South Sudan, 2018). The US Ambassador to the United Nations called the practice 'a moral outrage that every civilized nation rejects' (Department of State, 2018a). The Ambassador-at-Large to Monitor and Combat Trafficking in Persons affirmed, 'We take the issue of child soldiers incredibly seriously' (Department of State, 2019b).

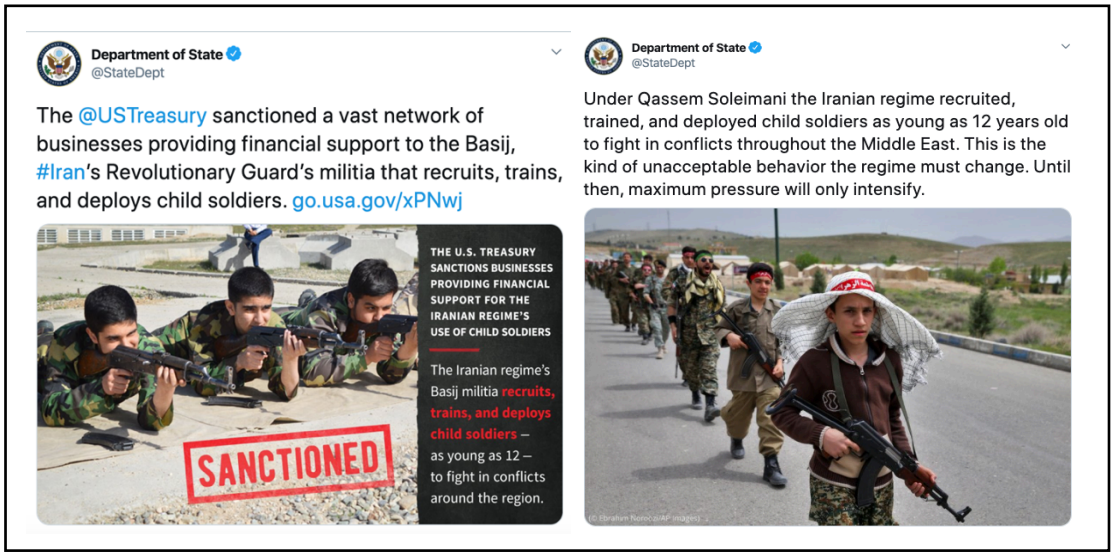
While the United States has been less directly involved than the United Kingdom in international efforts to combat child soldiering, it has taken action domestically. In recent years, both the Senate (2020) and House of Representatives (2019, 2018) have issued resolutions condemning the use of child soldiers in South Sudan, Cameroon, and Sierra Leone. In 2018, Congress also amended the 2008 Child Soldiers Prevention Act, which prohibits US military aid and arms sales to countries designated as recruiting and using child soldiers. While the law allows the president to issue waivers to this prohibition in the national interest, it now requires him to

[18] To collect this data, I searched the Catalog of US Government Publications, Congress.gov, Whitehouse.gov, and State.gov, as well as the Twitter pages of the latter two institutions, using the terms 'child soldier' OR 'child soldiers' OR 'child soldiering' and filtering the results from 1/1/2017 to 31/12/2019.

certify that steps are being taken to address the use of child soldiers in any countries granted waivers (Section 212).

While some tensions remain on this front,[19] the executive branch has taken measures to project a unified US position condemning child soldiering. From 2014 to 2020, a series of executive orders blocked the use of US-based assets by anyone known to have been involved in recruiting or using child soldiers in South Sudan or the Central African Republic (Senate, 2019a, 2019b). In 2018, the Treasury Department announced sanctions on businesses that allegedly financed the Iranian Basij militia's use of child soldiers (Department of State, 2018b). The State Department (2018c, 2020) proceeded to publicly shame Iran:

Figure 3: US State Department child soldier Tweets



The US government provides significant aid to NGOs that combat child soldiering. As UNICEF's largest national donor, it contributed $132.5 million in 2017, 2018, and 2019, and $134 million in 2020 (UNICEF USA, 2020, 2019). It has also directly funded child soldier reintegration efforts in Uganda, the DRC, and

[19] Despite the amendments, President Trump (2019b) issued waivers to seven of 11 countries—Afghanistan, Iraq, DRC, Mali, Somalia, South Sudan, and Yemen—leaving only Burma, Iran, Sudan, and Syria subject to restrictions (US Department of State, 2019a).

Colombia (Consolidated Appropriations Act, 2018; US Embassy in Colombia, ©2020). Overall, the US government's rhetoric and (most of) its actions convey a message of moral repulsion and intolerance for child soldiering, one that is fully aligned with (if not overtly deferential to) the dominant international narrative.

2. Recent Government Rhetoric and Action on Young Gang Members

i. UK Government Rhetoric and Action

Recent government rhetoric on the issue of gangs in England has been greater in both volume and complexity than on child soldiers. A review of the 49 statements from 2018 to 2020,[20] coded on the same 5-point scale, creates the following snapshot:

(1) Perpetrators: 2
(2) Complex, leaning perpetrators: 1
(3) Complex: 35
(4) Complex, leaning victims: 6
(5) Victims: 8

The UK government has focused significant attention on two issues involving young people and gangs: 'serious violence' (often conflated with 'knife crime') and 'county lines'. Its approach to these issues, however, reveals a shift from the crime-focused vision of the young gang member embodied in formal law.

This shift became visible in early 2018, when the government released its Serious Violence Strategy, committing £40 million to tackle the issue (Home Office, 2018a). As the Home Secretary recognized (p. 9), 'This strategy represents a step change in the way we think and respond to serious violence, establishing a new balance between prevention and law enforcement'. It contains four key themes: (1) tackling county lines and misuse of drugs, (2) early intervention and prevention, (3)

[20] I collected all 'gang' and 'youth violence'-related publications from 1/1/2018 to 31/12/2019 from the 'Research and statistics'—'Crime, justice, and law', 'Policy papers and consultations'—'Crime, justice, and law', and 'Knife, gun and gang crime' pages of gov.uk. I also searched the 'News and Communications' page and London.gov.uk using 'gang OR gangs', updated after 31/12/2017, collecting results discussing young people.

supporting communities and partnerships, and (4) an effective law enforcement and criminal justice response. In many ways, the Strategy mirrors the rhetoric and approach of the 2017 London Knife Crime Strategy, which increased commitment to community involvement, restorative justice, early intervention, and rehabilitation in a promise never to 'accept that crime and violence is a foregone conclusion for any young person in London, regardless of their circumstances' (Mayor of London, 2017, p. 5). The mayor also announced that he would create a new Violence Reduction Unit, investing £7.3 million in a 'long-term, public health approach to addressing the underlying causes of violence' (Mayor of London, 2019, p. 29).

In May 2019, Prime Minister Teresa May held a Summit on Serious Youth Violence. In its wake, she reported 'broad agreement on the need to understand the root causes of serious violence' and 'the importance of prevention and early intervention' (Cabinet Office, 2019, p. 5). She announced that, among other measures, the government would extend its £920 million Troubled Families Programme to 21 areas and pilot specialist training for staff in Young Offender Institutions to support incarcerated young people who had been victims of serious violence (Cabinet Office, 2019, pp. 19, 21, 24, 30). In July 2019, the government announced a new 'public health' duty requiring agencies to collaborate to prevent and reduce serious violence, 'so we can intervene earlier and protect young people' (Home Office, 2019b). In doing so, it reversed its past law-and-order rhetoric. 'This government is determined to protect young people and steer them away from violence', stated the Home Office (2019c). 'This includes making sure that young people across the city are given support to escape the cycle of violence that being involved with a gang often entails'. '[W]e must not submit to a counsel of despair that some of our most troubled young people are beyond help', echoed the Mayor of

London (2017, p. 7). Instead, Ofsted (2019, pp. 5, 19) urged, we must 'safeguard perpetrators and victims of knife crime. A child may be both at the same time'.

This shift in perspective is most visible in the government's approach to 'county lines'. Its very definition of this problem portrays gang-involved children as vulnerable victims:

> [G]angs and organised criminal networks involved in exporting illegal drugs into one or more importing areas within the UK … are likely to exploit children … to move and store the drugs and money and they will often use coercion, intimidation, violence (including sexual violence) and weapons (Home Office, 2018b, p. 2).

The Home Office (2018b, p. 3) deems this 'Child Criminal Exploitation': 'where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18'. '[T]he victim may have been criminally exploited' it stresses, 'even if the activity appears consensual'. It describes this exploitation using concepts regularly employed in the child soldier realm. Listing factors contributing to children's 'vulnerability', it includes prior experiences of neglect, physical and/or sexual abuse; lack of a safe/stable home; social isolation or social difficulties; and economic vulnerability (p. 5). It explains that 'victims' are often 'offered, promised or given something they need or want,' including 'both tangible (such as money, drugs or clothes) and intangible rewards (such as status, protection or perceived friendship or affection).' Because this occurs within an 'unequal power dynamic', however, it 'does not make [the young person] any less of a victim' (p. 4).

Other government officials have followed suit. 'Clearly, a child carrying Class A drugs or a weapon presents a child protection issue, even if they appear to be perpetrators themselves', Ofsted (2018) stresses. '[T]ackling [county lines] will require a change in the psyche of the police and other authorities to see young drug

traffickers as victims not criminals', echoes the Anti-Slavery Commissioner (House of Commons, 2018a, p. 3). These officials have encouraged the application of the Modern Slavery Act 2015 to county lines, which they argue involves 'slavery, servitude and forced or compulsory labour' and 'human trafficking' (Ofsted et al., 2018, p. 7). From 2015 to 2017, the number of potential child victims referred to the Act's National Referral Mechanism rose 115%. Moreover, 32% of those reported victims were UK nationals, compared to 13% in 2015. The Home Office, at least, attributed this increase to county lines (2019d, pp. 48–49). Multiple adults involved in county lines have now been convicted of 'trafficking' children (Hardy, 2019; Ofsted et al., 2018, p. 7). Section 45 of the Modern Slavery Act also provides trafficking victims a statutory defense to certain criminal offenses carried out as a result of exploitation. Unfortunately, there is little data on how this is being used or how prosecutors and judges are reacting. The limited evidence available suggests that county-lines-involved young people continue to be prosecuted and convicted (Gammon and Easton, 2019). It thus remains to be seen whether county lines will eventually be treated like child soldiering, with children absolved of responsibility and adults punished for recruitment.

At the same time the government has expressed concern over county lines exploitation and funded community-based services aimed at youth violence, its Serious Violence Strategy has also increased support for law enforcement (Home Office, 2018a, p. 10). As Teresa May put it, 'while I do not think we can arrest our way out of the problem of violent crime, I do believe the police have a vital role to play in tackling it' (Home Office, 2018c). The government frequently reminds the public that social services are only 'complementary' to a commitment to law enforcement and criminal justice (Home Office, 2019e). That commitment has been

substantial. Last year, the Home Office (2019f) confirmed a £1 billion increase in police funding, an additional £750 million to recruit additional officers by 2022, a promise to add 20,000 officers over three years, and £10 million to increase the number of officers carrying Tasers. In January 2020, it announced another funding increase of £1.1 billion—the largest in a decade—making total police funding £15.2 billion (Home Office, 2020).

This investment vastly overshadows the £40 million dedicated to prevention and support services, even including the £20 million added to target county lines (Home Office, 2019g). This undercuts the government's rhetorical commitment to treating youth violence and gangs as a 'public health' issue. Local welfare and law enforcement agencies alike have expressed concern over the lack of funding needed to provide a meaningful safeguarding and services-based response (Busby, 2019). Moreover, young people are still being subjected to significant penalties, including custodial sentences, for 'gang-related' crimes. In 2019, the criminal justice system was referred the highest number of knife and offensive weapon offences by 10- to 17-year-olds since 2009. It also saw the lowest number of juveniles given absolute or conditional discharges and nearly the highest sentenced to immediate (as opposed to suspended) custody since 2009 (Ministry of Justice, 2020a, Table 2). The average custodial sentence of 16- and 17-year-olds sentenced under Section 28 of the Criminal Justice and Courts Act 2015 rose from 6.4 months in 2017 to 7.2 months in 2019 (Table 7). While the percentage given some custodial sentence has stayed at roughly 80% since 2014, the number given immediate custody rose from 35% in 2014 to 41% in 2019 (Ministry of Justice, 2020b).

The sentences of gang-involved young people have also repeatedly been increased under the Unduly Lenient Sentence Scheme. '[C]rimes of this nature will

not be tolerated', the Attorney General (2018a) stressed in one case. 'Gang-related crimes are serious offences,' he reiterated in another (2018b), 'and a longer sentence more accurately reflects the damage that [these] actions have had'. Other officials have echoed this view, suggesting that, even in the context of county lines, young gang members should be treated as criminals. The Violence and Vulnerability Unit (2018, pp. 7–8), commissioned by the Home Office, opposes charging young county lines dealers only with possession and foregoing custodial sentences:

> This sends a message to young people that the consequences of drug dealing and violence are minimal and acts as an incentive for older dealers to continue to use teenagers of around 14 and 15 years old. This is underpinned by a common theme that there is a rising tide of [anti-social behaviour] which is not being challenged, leading to (very) young people thinking they can do whatever they like with impunity.

Ultimately the UK government's recent portrayal of gang-involved young people is complex and often contradictory. The House of Commons Home Affairs Committee (2019, pp. 4, 23), which oversees the Home Office, has criticized the Serious Violence Strategy as 'crime focused' and not going far enough to 'prevent children from being exploited, communities being blighted and young lives being destroyed'. Yet the Home Office itself (2020) has characterized its latest increase in law enforcement funding as 'delivering on the people's priorities'. Even the former head of the Commission for Racial Equality continues to argue that 'the greatest danger today to a young black man … is not the police, it's somebody else in a gang' (Sales, 2020). It is unclear how the current approach will evolve. In the meantime, young people who cannot or do not access the limited support services will continue to be criminalized. As former Home Secretary Sajid Javid (2019h) stressed, '[b]y the time a person becomes a problem for the police, it is often too late', for 'there must be strong ramifications for those who commit crime'.

ii. US Government Rhetoric and Action

The picture is somewhat less complex in the United States. Exploring the rhetoric and policies of the federal government, as well as Illinois, New York, and Texas and their major cities,[21] I coded 60 statements from 2018-2020 on the (1) to (5) scale:

(1) Perpetrators: 36
(2) Complex, leaning perpetrators: 9
(3) Complex: 13
(4) Complex, leaning victims: 1
(5) Victims: 1

a. Federal Priorities

Soon after his inauguration, President Trump (2017) signed a series of executive orders to 'reduce crime and restore public safety', focusing on 'criminal gangs'. Subsequently, his administration significantly increased federal spending on law enforcement and expanded the number of federal prosecutors focused on violent crime (DOJ, 2018a).

The Federal Bureau of Investigation (FBI) has 169 Violent Gang Safe Streets Task Forces, which bring together federal, state, and local law enforcement 'focusing on violent gangs, crime of violence, and the apprehension of violent fugitives' (FBI & Sweeney, 2017). In 2018, the FBI boasted that its Task Forces had arrested a record 5,100 'violent criminal gang members' (FBI & Richardson, 2018). Federal prosecution of these individuals falls to the DOJ's Organized Crime and Gang Section and local US Attorneys' Offices. In 2018, the DOJ reported that it had 'brought cases against more violent criminals than ever before—increasing by

[21] As there is no central repository for US federal government agency publications, I collected 2018-2020 publications discussing gangs and young people from the DOJ; National Gang Center; Office of Juvenile Justice and Delinquency Prevention; US Attorney's Office; Federal Bureau of Investigation; Bureau of Alcohol, Tobacco, Firearms, and Explosives; and US Immigration and Customs Enforcement. I also collected publications/statements from the offices of state governors and major cities' mayors, police departments, and other local agencies.

approximately 15 percent the Department's previous record set just last year' (2018a). The US Attorneys' Office Criminal Resource Manual has made the agency's views on its role clear:

> Federal assistance in prosecuting traditionally state-prosecuted crimes is needed in many states where penitentiary sentences result in minimal time served by defendants. This pathetic situation has resulted in an almost total absence of deterrence as a result of criminal sentences. … Gangs exemplify this type of contempt of the criminal system (DOJ, 2015).

For gang members under 18, the federal government's approach is equally rooted in policing, prosecution, and punishment. 'Although the adult criminal system is ineffective in curtailing gang violence, the juvenile system is often worse,' states the same US Attorneys' manual, 'generally stemming from a traditional approach of trying to rehabilitate rather than punish' (DOJ, 2015). The goal has been for federal prosecutors to 'become more involved in seeking out the most serious juvenile offenders for prosecution as delinquents or transferring them for criminal prosecution as adults'.

In recent years, prosecutors have also used RICO provisions to prosecute adult gang members for crimes they supposedly committed 'in furtherance of a conspiracy' when they were juveniles. As one Police Commissioner's report explains, 'As gang members and perpetrators have grown younger and younger, fewer of them are involved in drug trafficking, which had been the traditional avenue to arresting violent gang members. Now the gang division builds violence conspiracy cases' (NYPD, 2016, p. 44). Waiting to charge a young person until they reach 18 allows prosecutors to punish juvenile activities but bypass the juvenile system entirely. 2016's 'Bronx 120', the largest mass prosecution in NYC history, exemplifies this approach. At the time of indictment, 110 of the 120 defendants were an average age of 23. They were an average age of 14, however, when they allegedly

formed a federal RICO conspiracy (Howell and Bustamante, 2019, p. 14). New York alone has recently seen numerous other RICO conspiracy cases involving conduct alleged to have occurred when defendants were between 15 and 17 (DOJ, 2019b, 2019c, 2018b).

Unsurprisingly, the federal government has characterized gang-involved young people solely as criminal deviants. In the racially-charged words of one FBI agent (2017, p. 62), 'It's like guns are a part of them, a part of their culture'. Another US Attorney's statement epitomizes the government's reaction: '[I]f these young men cannot recognize that in joining these gangs they are participating in a zero sum game, then my Office will enforce the actual rulebook—in the form of federal criminal law—and remove them from our community' (DOJ, 2019d).

The response to the young members of one gang, Mara Salvatrucha 13 (MS-13), exemplifies this view. MS-13 was formed in Los Angeles during the 1980s by young people whose families had fled the US-backed civil war in El Salvador. After many of its members were deported, the gang established a strong presence in Central America amidst post-war chaos, corruption, and poverty (Finklea, 2018, pp. i, 1). Its recent spread back into the United States has garnered significant attention. 'Typically much younger than those connected to other street gangs, MS-13 members and associates often lack direction, taking cues from the gang instead of relying on a productive family structure', the FBI claims (FBI and Sweeney, 2017). Despite little empirical evidence, this assertion is often repeated. The chairman of Senate hearing on MS-13 deemed the typical member 'younger and even more violent than in years past' (Senate, 2018, p. 458).

At the same hearing, some law enforcement officials testified that the young people recruited by MS-13—often 'unaccompanied alien children' (UACs) fleeing

violence in Central America—were 'vulnerable' and in need of protection (Senate, 2018, pp. 462, 467). The chairman, however, cautioned against thinking of UACs as 'little children', retorting that 'so many UACs are, literally, young men of prime gang age' (p. 458). The head of US Customs and Border Protection referred to UACs 'so-called minors' (Stieb, 2019). 'They look so innocent. They're not innocent', echoed President Trump (2019a). The federal government's response to MS-13 has been to arrest, prosecute, incarcerate, and/or deport its members, regardless of age. Young MS-13 members are often prosecuted under federal law in adult court, where they have been characterized as 'warped' criminals and sentenced to up to 55 years in prison (DOJ, 2019a, 2019e, 2019f). 'Most 15-year-olds are worried about a chemistry test at school or making the football team', stated an FBI official in one case (DOJ, 2018c). 'These are teenagers who think human life is some sort of game' (DOJ, 2019a).

The commitment to prosecuting young gang members is also visible in the funding priorities of the Office of Juvenile Justice and Delinquency Prevention. In 2016, its 'anti-gang' funding included $1.5 million for the National Gang Center for research and $1.8 million for community prevention programs (OJJDP, 2016, pp. iv, 9). By 2018, however, the agency had halved the Center's budget and eliminated community funding. Instead, $4.8 million went to 'Gang Suppression: A Law Enforcement and Prosecutorial Approach to Address Gang Recruitment of Unaccompanied Alien Children' and $2.4 million to 'Gang Suppression Planning Grants' (OJJDP, 2018). Ultimately, as the few federally funded prevention programs make clear, only young people who 'make the right choice' can continue to be treated as children (DOJ, 2019g). Those who do not are aberrant, 'warped'. Failing to

behave in the way expected of children, they are treated as adult criminals: arrested, prosecuted, and incarcerated.

b. State Priorities

Despite the US Attorneys' Office claim that state juvenile systems are grounded in rehabilitation, the Congressional Research Service has found that, since the 1990s, juvenile justice has 'moved away from emphasizing the rehabilitation of juveniles and toward a greater reliance on sanctioning them for their crimes' (Finklea, 2015). Below, I explore how policies and rhetoric in Texas, Illinois, and New York reflect this approach.

(i) Texas

In recent years, Texas has significantly expanded its 'anti-gang' efforts. In 2013, it created a Texas Anti-Gang (TAG) task force in Houston and followed this with seven multi-million-dollar TAG centers (Saegert, 2019). These centers are 'focused on gang intelligence sharing, enforcement, investigation, and prosecution of criminal gang enterprises' and committed to 'sharing intelligence and information on prison gangs, street gangs, cross-border gang activity, and juvenile gang activity' (Office of the Texas Governor, 2020).[22] Texas has gladly cooperated with the federal government to combat 'transnational gangs', as well, Governor Greg Abbott (2018) justifying the TAG expansion by decrying the 'monsters' of 'the evil gang MS-13'.

Beyond law enforcement, Texas devotes minimal resources to gang prevention. The Texas Attorney General (©2020) stresses that preventing gang involvement is ultimately up to 'communities, schools, and parents'. Houston's Anti-

[22] This is an internal document I received from Andrew Friedrichs, Director of the Office of the Governor's Criminal Justice Division, on 30 March 2020.

Gang Office offers limited services to just four neighborhoods: an 'intervention' program plus family workshops to 'keep kids from making poor choices' (City of Houston, Texas, ©2020). These programs convey a message of individual responsibility, one that is strengthened by the Houston TAG center's 'Stop Houston Gangs' website (©2020):

Figure 4: 'Stop Houston Gangs' messages



The Texas government's approach is unequivocal: as soon as young people become involved in gangs, they will be treated as adult criminals.

(ii) Illinois

The recent reform of Chicago's gang database may be indicative of a shift away from Illinois' traditional 'law-and-order' approach to gangs. Since taking office in 2019, Mayor Lori Lightfoot has advocated treating violence in Chicago as a 'public health crisis, which will force us to look at the root causes, and not just reflexively come in with a heavy fisted law enforcement response.' She has recognized that '[p]eople don't have trust in our police department' and promised 'more support and resources' to 'protect and support' youth at risk of joining gangs (Callahan, 2018). Lightfoot's 2020 budget included $11.5 million for community-based violence prevention, an all-time high and seven times the 2019 amount. It

expanded street outreach and provided $900,000 for a holistic pilot program aimed at 'youth and young adults at highest risk of violence' (City of Chicago, 2019, 2020). It also included $54 million for youth services generally, including counseling and mentoring; employment and training; and a Juvenile Intervention Support Center.

Yet Lightfoot's budget also increased law enforcement funding by 7% to more than $1.7 billion, the eighth consecutive annual increase (Hacker, 2019). The CPD's Interim Superintendent has pledged to 'reach[] out to the City's youth directly to combat senseless gun violence' through 'community policing initiatives', 'listening to their experiences and working together with them' (City of Chicago, 2020). Yet the agency continues to characterize young gang members as subject to 'twisted loyalty' and 'rarely acknowledg[ing] their own roles as contributing to problems in the community' (CPD, ©2020). It also continues to cooperate with federal law enforcement, which in 2019 deemed '[c]ombating the unacceptable level of gang violence in Chicago' a 'top priority', charging the highest number of federal firearm defendants in 15 years (DOJ, 2019h). In short, while Illinois may have seen some shift in rhetoric, that shift, as in England, is overshadowed by a dominant law enforcement model.

(iii) New York

In 2017, Governor Andrew Cuomo announced an 'anti-gang high intensity initiative', increasing law enforcement funding for several cities and expanding federal-state-local cooperation. Cuomo (2017a, 2017b) described gang members as 'common thugs who prey on people in their own community', arguing that 'they have to be rooted out and brought to justice. Period'. Initially, he took the same stance on MS-13. After the gang began to operate in Long Island in 2017, he announced the deployment of State Troopers to 'schools that currently serve as ground zero for gang

activity and recruitment', calling MS-13 members 'dangerous thugs who have to be stamped out' (2017c).

As violence continued, however, Cuomo's tactics and rhetoric began to change. He added $18.5 million to the 2019 budget to 'launch a multi-pronged program for at-risk young people that will help Long Island communities cut off the MS-13 gang recruitment pipeline' (2018a). $16 million went to expanding after-school programs, case management services, and job opportunities for 'vulnerable youth', while only $2.5 million went to law enforcement. Cuomo (2018b) subsequently provided $16.5-million to build a community hub for social services and recreational/educational activities, along with $3.5 million for new police technology. 'MS-13 and gang violence is one of those issues that is more complicated and more nuanced', Cuomo now claimed (2018a). 'A big part of the answer is no doubt law enforcement … and as a society our number one rule is zero tolerance for that kind of behavior. … But that is not the total answer here.' As Cuomo stressed, 'these are young, vulnerable people and they need help. … When you have to lock up a young person in many ways it says we failed'.

New York's $35 million investment in social services in Long Island alone dwarfs Chicago's similar $7 million initiative. However, for those young people who do join gangs, the state's message remains clear: they will be treated as criminals, subject to arrest, prosecution, and incarceration, with no apparent alternative. This has been confirmed by the numerous federal prosecutions and lengthy sentences of young MS-13 members in New York. Criminalization also remains the norm in New York City. While historically it has avoided some of the strict gang suppression measures seen in Texas and Chicago, this began to change in 2014. Under Mayor Bill de Blasio, the NYPD began conducting large scale 'gang raids' like the one

leading to the Bronx 120 (Trujillo and Vitale, 2019, pp. 4–6). De Blasio has called these raids 'extraordinary', commending police for arresting '[d]ozens, dozens of gang members at a time' and for 'more and more intensive prosecution' (City of New York, 2019). As of 2018, his administration had expanded the city's gang database 70% faster than the previous mayor. Of those in the database, 30% were added when they were under 18 (Trujillo and Vitale, 2019, p. 6).

New York City is one of the few jurisdictions to release gang-specific statistics on youth incarceration. As of the end of 2018, 37% of the 'Young Adults' in custody were 'associated with a Security Risk Group (SRG)—commonly known as gangs', compared with 16% of the total incarcerated population. And although the total number of Young Adults in custody decreased in 2018, SRG-affiliated Young Adults increased by 13% (NYC Board of Correction, ©2020). Ultimately, the state's approach in Long Island may be exceptional, and does not alter the fact that young people who do join gangs continue to be treated as criminals. This remains true at every level of the US government.

C. The Child Soldier and Gang Member in the Contemporary Scholar's Imagination

Policymakers are not the only actors who shape laws and societal perceptions. Academic work also offers legal and policy solutions, which can influence debates, be adopted wholesale as in advocacy platforms, and even become law.

1. Academic Publications on Child Soldiers

To understand recent academic portrayals of child soldiers, I analyzed and coded 25 2018-2020 English-language publications.[23] The majority of these were

[23] To find these, I used the University of Oxford's Search Oxford Libraries Online (SOLO)'s advanced search function, searching by Subject for 'child soldier' OR 'child soldiers' OR 'child soldiering' from 13/12/2018 to 1/1/2020. I excluded non-English-language publications, newspaper articles, and reviews.

published in human rights or international law journals (15/25) and authored or co-authored by scholars in the United States or United Kingdom (18/25), and many focused solely on African conflicts (12/25) and portrayed child soldiers purely as victims (15/25).

The victim-framed articles describe '[t]he use of children in conflict [a]s a horrible example of the deteriorating standards of human rights' (Haer et al., 2019), reiterating the dominant view that 'a child may never be able to give genuine and informed consent to their enlistment as a child soldier' (Barrett, 2019). Several focus on strengthening international law to prevent child soldiering and shield victims from criminal responsibility, relying primarily on UN and NGO sources (Barrett, 2019; Cedrangolo, 2019; Longobardo, 2019).

The remaining articles (10/25) present child soldiers as complex individuals who may be vulnerable, yet knowing, perpetrators of violence. Several openly question the faultless victim narrative. Adriana Rudling (2019) argues that '[i]mages of victimhood, stemming from tradition, impede an accurate understanding of victims as the heterogeneous group that they are', while Jean Chrysostome Kiyala (2019) suggests that '[c]hildren's responsibility in this new mode of military engagement needs critical scrutiny that eventually will separate their vulnerability and victimhood from what responsibility they may take for some of their actions.'

Nearly all of these authors recognize, however, that the victim narrative remains central, from law to psychology to fiction. Ugo Cedrangolo (2019, p. 701) describes 'a growing and general consensus on the fact that child soldiers should be seen primarily as victims and not be prosecuted and tried through international criminal justice mechanisms for the crimes they may have committed when associated with armed forces and groups.' Emilie Medeiros et al. (2019, p. 2) note

that ‘only a handful of researchers’ has challenged the ‘interventionist assumptions’ that ‘foreground young people’s subjection to external forces and consequent trauma, portraying them almost exclusively as hapless victims of circumstances, in need of outside assistance.’ David Mastey (2019, p. 532) finds that child soldier literature ‘emphasizes the essential innocence of the characters in their roles as victimized children … and downplays concerns about their possible culpability as soldiers.’ In other words, while there is some criticism, much academic literature reiterates the dominant image of the child soldier and offers strategies to strengthen associated laws and policies.

2. Academic Publications on Young Gang Members

As discussed in Chapter 2, US ‘gang studies’ has a long tradition, one that has recently focused on gangs as an issue of crime prevention. In England, however, gang research, *per se*, is a relative novelty, only taking off when John Pitts (2008) declared ‘gangs’ the ‘changing face of youth crime’. There has since been a major split within academia. Some characterize England’s ‘gang problem’ as a construction of the media and ‘gang industry experts’ seized upon by government to justify targeting and criminalizing minority youth (Alexander, 2008; Gunter, 2017; Smithson et al., 2013; Williams, 2015). ‘Gang talk’, these scholars caution, only generates panic and stigmatization (Hallsworth and Young, 2008). Others insist that gangs are a legitimate phenomenon (Aldridge and Medina-Ariza, 2008; Densley, 2016; Pitts, 2012; Ralphs et al., 2009; Storrod and Storrod, 2017), warning that ‘to ignore this reality’ is to ‘perpetuate the sentimental fallacy that the profound social, economic, and political changes [of the past 30 years] have not changed and worsened the crime perpetrated against the urban poor’ (Pitts, 2011).

A snapshot of the 25 English-language publications discussing young people in gangs from 2018 to 2020, coded on the five-point scale, reveals two key trends.[24] First, research continues to be oriented towards the United States (15/25), followed by England (5/25).[25] Second, most of these publications (9/15 in the United States, 3/5 in England), fall within the field of criminology. As Alistair Fraser (2015) predicted, UK academics appear to be concentrating on policy issues determined by the government, as they pursue funding and hope to generate 'impact'. Publications on county lines have advocated against criminalizing the children involved, casting them largely as victims (Robinson et al., 2019; Thompson, 2019). But only a few argue that concentrating on this 'gang problem' overlooks broader economic and racial marginalization and perpetuates the focus on 'crime' (Bakkali, 2019).

All but two of the 15 US publications treat youth gang involvement as a crime prevention problem. A few take a strong perpetrator view, describing the issue as a 'major public safety concern for many law enforcement officials' and concluding that gang affiliation 'provid[es] youth with increased opportunities to learn proactive criminal thinking' (Walters, 2019, p. 1044). Some are skeptical of the purely law enforcement-driven approach, promoting a combination of prevention, intervention, and suppression tactics. But hardly any question the assumption that young people who do become involved in gangs should be regarded as criminally responsible agents. The only two publications that do—one describing the negative impact of prosecuting gang-involved migrant youth (Chilton, 2019), the other proposing a

[24] To find these, I searched SOLO by Subject for (gang OR gangs) AND (child OR children OR youth OR juvenile) from 13/12/2018 to 1/1/2020. I excluded non-English-language publications, newspaper articles, reviews, and publications not directly discussing young people in gangs.

[25] One piece discusses English and Scottish cities (Robinson et al., 2019); the remainder focus solely on England.

federal statute criminalizing the recruitment of minors by adults in gangs (Finelli, 2019)—remain soundly in the minority.

Ultimately, recent academic work in both the United States and England has oriented itself toward the issue of young people in gangs *as that issue has been presented by the government*—a problem of crime in need of efficient policy solutions. By offering those solutions, the academy perpetuates this dominant framing, only a few voices offering a broader or alternative vision.

D. Continuity and Change—Revisited

Within the current legal framework of the both the United States and England, the child soldier continues to appear solely as a victim to be rehabilitated. The young gang member, on the other hand, remains a criminal—the subject of strict behavioral controls and punishment in England, the target of surveillance and adult prosecution in the United States. Mainstream academic literature appears to serve largely as a tool to further this existing framework. Academic work on child soldiers predominately bolsters UN and NGO advocacy, while most gang research strives to offer solutions to governmentally problematized 'criminal behavior'.

Recent US and UK government rhetoric and policy continue to promote the image of the vulnerable child soldier, although for the young gang member, there are hints of a shift. In England, however, this is limited to the issue of county lines, and even then, it is both contentious and overshadowed by a law enforcement-dominated approach. In the United States, steps toward change have been even more limited and almost entirely local, the federal government continuing to cast the young gang member as a public threat. The recent Black Lives Matter (BLM) movement has called attention to the deep-rooted power, funding, and racial bias of law enforcement that helps uphold this narrative, and it may deepen the fissures in the current

paradigm. Yet the movement's mainstream message focuses largely on 'the unjust killings of *innocent* Black lives' (Mcdonel, 2020) (emphasis added). Suggesting that there are innocents and non-innocents, as Vicky Osterweil (2020, 2014) has pointed out with regard to BLM protests, only 'delineates certain kinds of black youth—those who loot versus those who protest'. Ultimately, it may leave the figure of the 'young gang member' unquestioned, a 'legitimate target' of the same forces that helped create it.

CONCLUSION

The young people who join armed forces, armed groups, and gangs represent, in the eyes of adults in the United States and England, much more than individual children navigating challenging realities. Over the past 50 years, the 'child soldier' and 'young gang member' have become symbols of long-debated ideas about human nature itself, shaped by state, group, and individual power dynamics, economic and political realities, and insecurities: 'the cultural politics of childhood' (James and James, 2004).

Chapter 1 of this thesis explored what we know about the complex terrains of young people who join groups that engage in violence. It revealed many commonalities between those children who become child soldiers and those who become gang members, illustrating societal, community, interpersonal, and individual factors that surround both. Across culture and history, many young people turn to these groups seeking the same things: an opportunity to meet basic needs, protection from any number of threats, a support network, a chance to gain respect, and a more meaningful or just life in the face of multiple layers of inequality.

Chapter 2 considered how, despite these similarities, child soldiers and young gang members have come to be viewed so differently. It illustrated how much understandings have shifted over the past 200 years. Children involved in armed forces were once widely considered heroes who had chosen a life of public service. Young people in 'gangs', while feared, were seen as products of a troubled society, capable of reform. In the 20th century, however, the growth of an international child welfare movement, accompanied by a national loss of faith in juvenile justice and the rise of neoliberalism, significantly changed these narratives. By the early 2000s, the images of the faultless 'child soldier' and pathological 'young gang member' had

become firmly entrenched in US and English societal and legal imagination. One figure, shaped by a squadron of international NGOs, embodied a vulnerable victim in need of protection from afar. The other, the focus of a national criminological gaze, became a home-grown 'folk devil', a body to be controlled as an answer to society's fears of moral decay.

Chapter 3 tested the power of these narratives today, exploring their prevalence and functions in law, government rhetoric, and academic work on child soldiers and gangs. It found that while seeds of change have been planted, whether they will take root in a system still heavily dominated by stereotypes of the innocent child soldier and deviant young gang member remains to be seen.

Ultimately, the very coexistence of these two figures reveals that there is no unitary view of childhood. Multiple, even opposing, ideas can be held simultaneously within one society, in tension only upon reflection. But by looking backward and understanding the forces that built this reality, we may be able to look forward, and ask whether, and how, it might be reconfigured once more. We may also be emboldened to look beyond the labels of 'war', 'crime', and even 'childhood', to consider whether the 'child soldier' and 'young gang member' are in fact both symptoms of broader social, economic, and ideological forces that impact entire communities in a myriad of ways.

A. Looking Backward

The 'child soldier' and 'young gang member' are the product of 'a system of internalized, embodied schemes which, having been constituted in the course of collective history, are acquired in the course of individual history' (Bourdieu, 2010, p. 469). The contrasting conceptions of children as prone to deviance and in need of discipline, or innocent and in need of protection, both lie at the heart of this system.

They reflect distinct perspectives on humanity that have shaped countless aspects of English and US law and society. Ideas of inherent selfishness or goodness exist in tension even within the same religious and constitutional structures. Christianity offers the words of Proverbs ('The rod and reproof give wisdom: but a child left to himself bringeth his mother to shame' (XXIX.15)), but also of Mark ('Except ye be converted and become as little children, ye shall not enter into the kingdom of heaven' (XVIII.3)). The American Constitution, too, promotes centralized power (to control people assumed to be inherently selfish) alongside an individual Bill of Rights (to protect people assumed to be inherently good).

Over the centuries, various voices have participated in an ongoing discourse on these ideas and, as Chapter 1 illustrated, the social, political, and economic context has often determined wins, losses, and compromises. One key contextual element has been the development of the nation-state. As Foucault (2007, p. 367) explained, a state's security and growth depends on, internally, ensuring order, and externally, improving or maintaining its position in competition with other states. The state began to play a role in governing childhood primarily to ensure internal order in the face of a growing population and declining role of the Church. 'How to conduct children so that they are useful to the city, so that they will be able to ensure their salvation, and so that they will be able to conduct themselves' became a central concern (Foucault, 2007, p. 231).

Internal and external state interests also played a role in constructing the 'child soldier' and 'young gang member'. Until the 20th century, the United States and England needed children to serve as soldiers to support external goals (or internal ones, in the American Civil War). These children were cast as heroes. But when children were no longer necessary, that narrative fell away. Supporting a prohibition

on child soldiering in the name of human rights required the US and England to sacrifice little. At the same time, it enabled them to name and shame opposing groups and states, attempt to deprive these actors of potential military advantage, and signal moral superiority on the world stage. The child soldier became a state tool to highlight the barbarity of the 'enemy' in contrast to 'us'. This narrative also offered citizens a dystopic vision of what could happen to their own children if the existing, state-imposed order were subverted and society devolved into 'barbarism'.

But state interests can be complex. In 2019, nearly a quarter of the British Army's new recruits were under 18, and the Army targeted young people with low educational and socio-economic backgrounds to serve in high-risk infantry positions for little pay (Child Rights International Network, 2019, pp. 1–5; Ministry of Defence, 2019, p. 10). The government argues that military service provides these children beneficial life and work experience, along with an avenue for social mobility (Hickman, 2013). Never does it suggest (as it has in the context of county lines) that obtaining these supposed benefits in exchange for providing services constitutes non-consensual modern slavery. This reveals the state's dilemma. Recruiting young people via the narrative of patriotic volunteerism furthers internal interests (social order, nationalism) and external interests (easily and cheaply supplied soldiers). Yet so does championing the eradication of child soldiering abroad. These conflicting positions quietly and uneasily coexist.

Similar tension exists in the United States. After 9/11, the country reportedly detained at least 12 child soldiers at Guantanamo Bay. One of those, 15-year-old Omar Khadr, was charged with murder and faced the death penalty under the Military Commission Act. Although Canada eventually intervened in his case (Khadr was a Canadian citizen), he spent more than 10 years in prison (Hoban, 2019; Rosen, 2012).

The US government received international criticism for its actions, but when Congress revisited the Military Commission Act in 2009, it continued to allow prosecution of under-18s in military commission proceedings. Instead, it deferred to the executive branch's stated need to prosecute child soldiers as a matter of national security (Hoban, 2019, p. 605). Rather than victims to be protected, child soldiers became—like young gang members on US soil—criminals to be punished to the full extent of the law.

For the state, delinquency has always been a threat to internal order, and the gang represents delinquency in its most organized form. The ideology of reform was appealing for as long as it was believed to minimize that threat. In the late 1960s, however, that philosophy seemed to lose its power. It was usurped by the ideology of punishment, just as empiricism, rational choice, and market efficiency were gaining traction, and 'radical' movements were challenging the state's internal power. The status quo felt insecure, as did the individuals who upheld it: whites, elites, religious conservatives whose power, status, and ideas of normality felt threatened by the prospect of greater racial, social, and economic equality (Duménil and Lévy, 2011). The shift to governing through crime and fear (Simon, 2007)—with the 'young gang member' as the face of moral panic—helped protect those seemingly at-risk interests.

Influential individuals and groups, sometimes called 'norm entrepreneurs' (Finnemore and Sikkink, 1998; Sunstein, 2014), have also played a role in shaping narratives that have informed state and elite interests, as well as societal perceptions. In the human rights realm, NGOs wield considerable influence on soft and hard law, direct UN programs, lead public advocacy campaigns, and issue reports and academic publications. As Chapters 2 and 3 illustrated, this 'third party government' (Salamon, 2002) undoubtedly helped create and bring international attention to the figure of the

victimized child soldier. While international law on juvenile delinquency is also characterized by what Stephen Case and Kevin Haines (2018) call '"utopian" child-friendly justice', neither the United States nor the United Kingdom has embraced this approach in the way that they have for child soldiers. Instead, as John Muncie (2007) notes, 'criminal justice remains a powerful icon of sovereign statehood and can be considered one of the last vestiges of state power that elsewhere is being eroded.' Since the late 1960s, gangs have been the focus of a national crime 'industry'. Its 'norm entrepreneurs' range from academics who 'produce[] research and evaluation for the state that are little more than studies in safe logic' (Hagedorn, 2008, p. xxxii), to law enforcement experts who 'function as originators, conduits and reinforcers of the same kinds of police-based knowledge' (Brotherton, 2015, p. 114). All have propagated the 'young gang member' as a figure to be feared.

Both the NGOs' and gang industry's approaches have produced one-dimensional 'victim' and 'perpetrator' narratives. By 'parsing complex events into a simplistic frame that … capture[s] the attention of [an] audience often ignorant of or apathetic to the complex underlying situations', they have effectively generated sympathy, funding, and political action (Carpenter, 2005, p. 316). Key chance events, like the Bulger murder, have played into these narratives, further contributing to the moral panics surrounding child soldiers and gangs.

It also matters that the 'child soldier' and 'young gang member' can be portrayed as spatially separate. While child soldiering is presented as a phenomenon that occurs primarily in the Global South, gangs are cast as a direct threat to the physical and moral safety of US and English society. Despite child soldiering occurring worldwide, the dominant narrative has long been, and continues to be, focused on Africa. The Machel Report's depiction of child soldiers in 1990s African

conflicts fit perfectly into Robert Kaplan's (1994) 'New Barbarism' thesis, which depicted these conflicts as irrational and illegitimate 'plague[s]' of 'intense savagery'. This allowed NGO storytellers to portray child soldiers as innocent victims of oppressive regimes waiting to be saved by noble humanitarians. This epitomizes the 'savage, victim, savior' dynamics identified by Makau Mutua (2001) and David Kennedy (2004) as driving international human rights law, and by Clifford Bob (2009) as fueling human rights campaigns against 'pariah' states. It also allows states like the United States and United Kingdom to strengthen 'us' versus 'them' rhetoric, further justifying the imposition of 'liberal' values (Richards, 2005; Zigon, 2013). As Henrik Vigh (2006) explains, this 'leaves us guilt-free, ready to become richer as they become poorer and to enjoy our peace as they go about their violence'.

By contrast, juvenile crime at home has long 'represent[ed] for many adults the most worrying symptom of urban chaos and decay in the modern world' (Boyden et al., 2004, p. 191). In reality, however, most of the population is as likely to have had meaningful contact with a young gang member as a child soldier. Conceptualizing gangs as a 'local' problem simply taps into longstanding moral worries and allows young gang members to be 'tagged' (Young, 1971) as a scapegoat for society's fears. In this way, the separation of child soldiers and gang members by both ethnicity and geography, has allowed two extreme and opposing views of childhood to coexist: one of the innocent child in need of protection over 'there', the other of the depraved or morally responsible child in need of control over 'here'.

Ethnicity and race have shaped the child soldier and young gang member in other ways, as well. Colonial legacies have formed the root of the economic and political inequality that has driven many armed conflicts, as well as the poverty that has pushed many children into armed forces and groups. Colonial 'child saving' and

'peace-making' policies informed the child protection and human rights agendas at the heart of the child soldier movement. The Africanization of this issue only adds an explicit racial dimension. But historical discrimination lies behind many factors leading young people to join gangs: from economic and political inequality, to weak community institutions, to daily bullying and marginalization. Discriminatory criminal justice policies and practices reinforce the problem: mass incarceration emptying neighborhoods and weakening families, distrust in law enforcement necessitating independent security, and criminal labeling inhibiting access to 'legitimate' opportunities for employment, engagement, and meaning. Moreover, *ideas* of race and gangs have long been inextricably linked. In John Muncie's words (2015, p. 34), the gang has provided 'a convenient racialized symbol to attach to all forms of youth crime and violence'. This symbol remains strong, as Black and immigrant youth continue to be demonized, disproportionately policed, and increasingly incarcerated (Alexander, 2010; Gonzales, 2014; Gunter, 2017).

Like race, economic realities and the ideologies that create them also form part of the lived experiences, perceptions, and treatment of young people in groups that engage in violence. These children are overwhelmingly, though not solely, part of a class left behind by the global sweep of capitalism. Since the spread of market ideologies into every aspect of governance and societal ethos, the social exclusion and income polarization of this 'Fourth World' has grown increasingly stark (Castells, 2010). When misery and turmoil in this world threatens the perceived safety and status of those outside it, neoliberal regimes turn to a system of coercive social control—sold to the public as a rational response to undeserving people who make poor choices (Wacquant, 2009). The 'young gang member' is in part a product

of, and justification for, this system, which ultimately only entrenches class polarization.

For states like the United States and United Kingdom, the neoliberal mentality has also extended to foreign affairs. As Paul Richards remarked (2005, p. 9), where once these states would have been 'quietly planning and promoting wars in Africa to protect economic interests or favoured political dogma, they now prefer to quarantine war' in favor of the expansion of a 'peaceful' global capitalism. The 'NGO-industrial complex' (Gereffi et al., 2001) has been a critical part of this expansion, as neoliberal ideology has left or encouraged private organizations to deal with societal needs based on their own goals. This has buttressed the power of these storytellers to spread simplified, easily championable narratives like that of the 'child soldier'.

B. Looking Forward

Collectively, these factors have molded today's reality, in which young people navigating remarkably similar circumstances look to gangs and armed forces/groups to satisfy their fundamental needs, yet face diametrically opposed responses from a society that believes in the innocent 'child soldier' and deviant 'young gang member'. Understanding the construction of this reality allows us to examine it critically, as well as to consider our own role, within academia and society, in shaping its future.

Currently, 'gangs' and 'armed conflict' are treated as fundamentally separate and uniquely problematic phenomena. It has become increasingly clear, however, that the lines between these groups are blurred. In some parts of the world, gangs have effectively taken on the role of the state. In other places, armed groups are both political and criminal in nature, or shift between the two (Dowdney, 2005; Hagedorn, 2008). Under today's model, however, the label given to the group a child joins can determine everything about that child's fate: she will either be treated as a faultless

victim entitled to pity or a criminal entitled to pain. Arguably, neither response matches children's realities. Chapter 1 questioned whether the young people who join groups that engage in violence can truly be considered either victims or responsible agents. In many ways, they are both. For the most part, they are making informed decisions, but within a context shaped by a wealth of factors outside their control.

The current, binary approaches ignore this complexity, to the detriment of both children and society. The laws that apply to young gang members and child soldiers are inconsistent as to whether children of the same age and in the same circumstances can be held criminally responsible for their actions. The punitive criminal justice policies that target young gang members only reinforce the problems they are purportedly trying to solve. Treating child soldiers as faultless victims, however, also strips them of agency, overlooks local circumstances and traditions, and allocates resources away from other important issues (Zigon, 2013). Infantilizing these young people and ensuring they cannot be held accountable in any way, particularly when they have caused harm to communities in which they may be considered adults, may not further their or societies' best interests (Drumbl, 2012). If we wish to avoid these absurd consequences, the law must be able to flexibly evaluate young people's decisions without the assumptions inherent in normative labels, in a way that considers each person's unique individual, interpersonal, community, and societal circumstances.

Of course, many have considered age a primary determinant in assessing criminal liability and appropriate social responses. Conceptualizing child cognitive development as progressing naturally with chronological age (Piaget, 1953), they argue that children who join groups that engage in violence 'lack the brain

development to make good decisions' or are controlled by 'conflicting thoughts and feelings, spurred by raging hormones' (Ward, 2013, p. 59) 'and thereby are more liable to take part in "mindless" atrocities' (Boyden, 2003, p. 273). Others, however, have shown that child cognitive development is also shaped by the context of day-to-day experiences (Vygotskiĭ, 1978). In other words, 'a child who grows up in a politically fragile environment requiring her or him to negotiate serious threats on a daily basis will develop the competence to grasp issues around the use of military power, the morality of such usage and its consequences' (Hart, 2008). This approach, supported by the words of the children in Chapter 1, urges us to look beyond children's ages to their individual circumstances and understandings, replacing determinism with a more dynamic view, in which the biological fact of childhood may play a role in children's decisions, but not necessarily a dominant one and certainly not the only one.

Focusing primarily on age also preserves a clean divide between childhood and adulthood, which allows adults to control the way in which children are perceived and treated (Corsaro, 2015). As Henry Henrick (2015, p. 14) aptly observed, this 'ultimately tells us more about social order, the state, and political decision-making' than it does about children. Indeed, adult ideas about children as *future* adults—participants in society, citizens of the state, or threats to both—have fundamentally shaped the perceptions and realities of child soldiers and young gang members. If we wish to rethink these, we might start by listening to and respecting children's voices 'as worthy of study in their own right' (James and Prout, 1997).

If we recognize that age may only be one factor in young people's decisions to join groups that engage in violence, however, we must also contend with the fact that many adults make similar decisions in similar contexts. When considering a 15-

year-old and a 21-year-old from the same community and circumstances, to what extent can it be argued that they are categorically different? Does the focus on *child* soldiers and *young* gang members ignore a more comprehensive assessment of broader societal forces? Perhaps rather than separating adults and children, 'the task is to see how different versions of child or adult … emerge from [those forces'] complex interplay, networking, and orchestration' (Prout, 2011).

Regardless of whether our focus extends beyond young people, it should extend beyond the narrow bounds of war and crime. Children who join groups that engage in violence, regardless of their labels, are almost invariably operating in the context of multiple forms of inequality. Fixating on the setting of children's actions ignores these underlying forces. It problematizes a narrow set of factors and behaviors while overlooking the critical impact of institutional racism, economic hegemony, and the ideologies that allow these to persist. It also overlooks the fact that groups that engage in violence are only one consequence of the same forces. Many young people and adults in communities that have faced extended oppression and inequality do not join gangs or armed forces or groups; yet they may experience other violent crime, drug dependency, chronic unemployment, family dysfunction. When we separate these phenomena, we lose sight of their common causes. We allow issues, like gangs, with the most sensational and fear-producing qualities to garner the most attention. We permit neoliberal policymakers and academics to continue casting these problems as the result of individual shortcomings that can be resolved through criminal justice or proper incentives. But if we listen and look beyond child soldiers and gangs, beyond 'ourselves' and 'others', perhaps we can begin to meaningfully engage in constructing a new paradigm.

APPENDIX A

Table 1: States requiring enhanced penalties for gang members

State	Statutory provisions
Alaska	Alaska Stat. 12.55.137
California	Cal. Pen. Code 182.5
Florida	Fla. Stat. 874.04
Georgia	Ga. Code Ann. 16-15-4
Illinois	730 Ill. Comp. Stat. 5/5-5-3.2, 5/5-9-1.19
Indiana	Ind. Code 35-50-2-15
Kentucky	Ky. Rev. Stat. Ann. 506.160, 560.170
Mississippi	Miss. Code Ann. 97-44-19, 99-19.401
Nebraska	Neb. Rev. Stat. 28-1206
North Carolina	N.C. Gen. Stat. 14-50.22
Pennsylvania	42 Pa. Cons. Stat. 9720.4
Rhode Island	R.I. Gen. Laws 12-19-39
South Carolina	S.C. Code Ann. 16-8-240
South Dakota	S.D. Cod. Laws 22-10A-2
Tennessee	Tenn. Code Ann. 40-25-121
Utah	Utah Code 76-9-803
Virginia	Va. Code Ann. 18.2-46.2, 18.2-46.3

Table 2: States requiring prosecutors and juvenile court judges to consider whether a juvenile is an alleged gang member when deciding to file in adult court or transfer a case to adult court, respectively

State	Statutory provisions
Arizona	Ariz. Rev. Stat. 13-504
Illinois	705 Ill. Comp. Stat. 405/5-805
Kentucky	Ky. Rev. Stat. 640.010
Missouri	Fla. Stat. 874.04
Montana	Mo. Code 578.423
Nebraska	Neb. Rev. Stat. 43-276
North Carolina	N.C. Gen. Stat. 14-50.22
Ohio	Ohio Rev. Code 2152.12
Utah	Utah Code 78A-6-703

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