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The Human Rights of Children Born of War: Case Analyses of Past and Present Conflicts

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Abstract: *»Menschenrechte der Kinder des Krieges: Fallstudien vergangener und gegenwärtiger Konflikte«*. This paper addresses the human rights of 'children born of war' as measured against the standards formulated in the Convention of the Right of the Child. Taking five 20th century cases studies which cover different conflict and post-conflict situations in diverse geographical regions, the paper concludes despite greater awareness of children's rights as evident in their codification throughout the 20th century, there has been no noticeable improvement in the application of these rights to children born of war.

Keywords: children born of war, children of occupation, war children, human rights, Convention on the rights of the child, child soldiers, 20th century conflicts.

1. Introduction

Children born of war are children fathered by foreign soldiers and local women. There have always been children born as a consequence of consensual relationship or sexual violence where the father has been a member of an enemy, allied or peacekeeping force and the mother a local citizen. Thousands of children are believed to have been fathered by French and British soldiers in Germany during the First World War (Hirschfeld 1934, 236). An estimated 10.000 to 12.000 children fathered by German soldiers were born to Norwegian mothers during the Second World War (Olsen 1998, 48) and the number of German-fathered children of French mothers is believed to be as high as 120,000-200,000 (Virgili 2005, 144). An estimated 30,000 children were born of unions between Canadian service men and women in Britain and the rest of Europe between 1940 and 1946 (22.000 in Britain, around 6000 in the Netherlands and around 1000 in other European countries) (Rains et al. 2006, 16). 40,000 children were born of American GIs and local Vietnamese women, generally biracial and many of mixed black/Asian descent (Grieg 2001, 8). More recently, conflicts in East Timor, Cambodia and Sri Lanka are believed to

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have led to the birth of thousands of children conceived of liaisons between military personnel and local women (Grieg 2001, 114f.). The Balkan War of the 1990s with its Serb 'rape camps' and the use of sexual violence as a means of ethnically motivated warfare demonstrates a new dimension of the phenomenon of Children Born of War. The purpose of the race camps was to clean Bosnia ethnically by impregnating Bosnian women by force and thereby creating a generation of war children who themselves were assuming a function within the war itself. It is estimated that between 20,000 and 50.000 women experienced sexual violence, that about four thousand women became pregnant and that about half of these pregnancies resulted in children being born (Grieg 2001, 48; Daniel-Wrabetz 2007, 23).

Sexual violence was also a feature of some of the race-related conflicts in Africa. Rwanda and Congo are two such widely-publicised examples (see for example Weitsman 2008; Harvard Humanitarian Initiative 2009 and 2010). Less well reported but equally pressing is the case of children born by abducted female child soldiers in Northern Uganda. These girls had to serve as wives and sex slaves to the rebel leaders of the Lord's Resistance Army (LRA) and more than thousand children were born in the enclaves of the LRA from 1990 until 2003 (Apio 2008, 3ff.). The examples illustrate that the existence of children born of war is widespread and not restricted to a specific time, geographical area or a specific kind of conflict (international war, civil war). Furthermore it covers an extensive range of widely differing circumstances under which the children were conceived and, similarly, a wide range of situations in which they found themselves as children and in adolescence.

Despite the fact that children born of war are not a marginal phenomenon, within the field of war-related studies they remain under-researched. The most extensive systematic research exists on the Norwegian children fathered by German soldiers during World War II. Based on historical documents, qualitative interviews, register data (Borgersrud 2004; Ellingsen 2004; Ericsson and Simonsen 2005a; Olsen 1998) and quantitative interviews (Mochmann and Larsen 2008) the life courses of Norwegian children born of war have been analysed thoroughly. Beyond the Norwegian case, studies have largely had explorative character. One overview of children born of war as a result of sexual violence in more recent conflicts has been provided in 'Born of war' (Carpenter ed. 2007) a volume that offers case studies on children born of war covering as diverse a range of conflict zones as East Timor, Sierra Leone, Northern Uganda and Bosnia. Over and above visualizing the wide geographical extent of the problem, the book also tackles issues related to the human rights of these children. Thereby the analysis extends the theme beyond individual cases and raises broader conceptual questions.

The aim of this article is to investigate the rights of children born of war, analysing in particular how the human rights principles now enshrined in the

Convention of the Right of the Child (CRC) have been applied to children born of war in different 20th century conflict and post-conflict situations.

The general assumption on the basis of initial research of the situation in conflict zones is that children born of war grow up in a more hostile environment simply due to their biological background i.e. having a father belonging to the 'enemy' or the 'other'. Thus the children are exposed to stigmatisation and discrimination which have an impact on their development and even on their right to live (Ericsson and Simonsen 2005b). While some preliminary investigations have been undertaken which investigate the moral status of children (Freeman 1997) or tackle the complex philosophical problems of the interplay of children's human rights and the conceptualization of children born of war as victims (Goodhart 2007a; 2007b), the question of safeguarding children's rights as enshrined in the Convention on the Rights of the Child (CRC) in the difficult situations of children born of war remains a largely unchartered territory. Carpenter has investigated this question in particular for the genocidal rape discourse in the aftermath of the ethnic conflicts in former Yugoslavia (Carpenter 2000). Another notable exception is Daniel-Wrabetz' (2007) study investigating more specifically the rights of children born of rape in Bosnia.

This paper will go further in investigating to what extent children's rights have been a consideration in the life courses of children born of war in five diverse conflict and post-conflict situations on which data exist.

The cases to be investigated are children fathered by German soldiers in Norway during WWII, children fathered by US soldiers in the United Kingdom and Germany during and after WWII, children fathered by Serb soldiers in Bosnia during the civil war in former Yugoslavia, children fathered by rebel leaders of the Lord's Resistance Army in Northern Uganda and born to abducted female child soldiers and children fathered by UN peace keepers. The specific subsets of children born of war were chosen primarily for two reasons. Firstly, the cases have already received some scholarly attention leading to (varying degrees of) published data that allow a comparative approach. Secondly, the distinct scenarios cover a broad geographical and chronological range within the 20th century. Furthermore, they address a variety of situations of the children, some of whom were fathered by enemies, some by allied forces, some were conceived primarily in consensual relationships, some were conceived through rape, some were conceived by fathers of the same ethnic origin as the mothers, some by members of different ethnic, religious or cultural groups.

The yardsticks against which the children's situations are measured are the provisions of the CRC. This convention, as will be explored below, was drafted well after the Second World War and as such it is not directly applicable to some of the cases explored in this paper. However, the CRC was the outcome of a lengthy process of social, cultural and legal repositioning of views of children's rights, closely related to the changing concept of childhood (Zornado

2001). This repositioning had begun in the interwar years and therefore it is justified to investigate the experiences of children born of war in the light of developing human rights legislation in the latter half of the 20th century, even before the codification of these rights in the CRC.

Before embarking on an in-depth study of the five different groups of children born of war introduced above, a summary of the characterisation of different subgroups of children born of war as previously used in the literature will be given. This will serve as a definitorial background to the analysis and it will help to explain some of the difficulties of attempts at classification.

2. Different Categories of 'Children Born of War'

The expression 'children born of war' includes all children who have one parent who is part of a foreign army or peace keeping force and the other parent a local citizen independent of time and geographical context, type of conflict and circumstances of conception (Grieg 2001, 6; Mochmann 2006, 198). Mochmann (2008; Mochmann and Larsen 2008, 350f.) distinguishes between four main categories of children born of war: 1) children of enemy soldiers, 2) children of soldiers from occupation forces, 3) children of child soldiers and 4) children of peacekeeping forces. The first category refers to children fathered by foreign soldiers who are often perceived as enemies in the home location of the mother, such as, for example, Serbs in Bosnia during the civil war in former Yugoslavia, or children of members of the German *Wehrmacht*, e.g.in the Netherlands during the Second World War. In the case of children of soldiers from occupation forces the soldiers can be seen as enemies or allies, depending on the conflict and the view of the local population at the time. Some French local citizens might have seen the German occupiers in France during the Second World War as friends; many, however, would have regarded them as enemies. Looking at the American 'de facto' friendly occupation of Great Britain in the run-up to the opening of a second front against Nazi-Germany between 1942 and 1944, the local population, while finding the large number of foreign soldiers a nuisance, clearly regarded them as friends; the Allied occupation in post-war Germany, however, received a mixed reception. Following, as it did, both twelve years of a brutal dictatorship and the experience of a humiliating unconditional surrender, it caused reactions among the Germans which encompassed the entire range from seeing the occupiers as oppressive enemies at one end of the spectrum to regarding them as most welcome liberators at the other end (Merritt 1995).

The third category includes children born to child soldiers. Child soldiers have played a role in warfare throughout the 20th century. During the Second World War, many children fought during insurrections; towards the end of the war, Germans – and other nations – resorted to drafting ever younger boys into the army; the Japanese trained young teens to counter a possible American

invasion etc. During the Indochina Wars, both government forces and insurgent armies used even young children as soldiers in combat roles, and large numbers of children fought also in Sierra Leone. Another particularly poignant example is the case of Uganda, where Lord's Resistance Army in Northern Uganda abducted thousands of children to fight against the Ugandan government. The abducted girls not only became child soldiers but also sexual slaves of the ranks of the LRA. Many of them conceived in captivity with the father of the child being a rebel combatant (Eichstaedt 2009).

Finally, the fourth category includes children fathered by members of peacekeeping forces. While the blue helmets neither occupy the country in which they serve, nor are in a state of war with the local population, the relationship between local population and peacekeeping forces resembles that of an occupation force in some respects, that of an enemy army in others. The presence of a friendly force may serve to protect, but the soldiers are not only armed, they are perceived as in a position of power and control. Although peacekeepers are serving not to wage war but to prevent it, the situation on the ground is often tense with the threat of fighting imminent. This has a significant effect with regard to the vulnerability of the local population, and in particular of women and children (UN PSEA Taskforce 2009). Internal investigations into the sexual conduct of peacekeeping troops now include reports about sexual violence of blue helmets against women and children in the Democratic Republic of the Congo, in Haiti, Burundi and Liberia, in Sudan and Somalia to name but a few. As in war and occupation, relationships between soldiers and local women, whether consensual or not, often result in children, whose fate, if anything, is more difficult than that of other children of war, because they are often of biracial descent making them visibly different from their peers. It has been suggested to distinguish further between children born out of a consensual relationship and those born as a result of coercion of varying degrees. Whether or not the background of the conception has an impact on the life course of the child needs further investigation. For the purpose of this paper, we shall not add this dimension, as the central core questions relate to the rights of the children, irrespective of circumstances and nature of the parents' relationship. The core piece of legislation codifying the rights of children, the Convention of the Rights of the Child, will be introduced in the next section, before the five different case studies investigate in how for the rights enshrined therein have been respected or violated for children born of war.

3. The Convention on the Rights of the Child

The concept of children's rights is of relatively recent origin. As Freeman points out persuasively there have been different conceptions of the nature of childhood at different periods in history, making it clear that childhood is a 'social construct' (Freeman 1983, 7) Only after World War I, when children

were beginning to be recognised as an autonomous group, did the formulation of their rights find its first expression in the form of the 'Declaration of Geneva of 1924', adopted later that year by the League of Nations. Based on the notion that 'Mankind owes to the child the best it has to give' (UN 1924) the idea of the 'best interest of the child' and special safeguards for children are found in the Universal Declaration of Human Rights (UN 1948) and more extensively in the UN Declaration on the Rights of the Child of 1959 (UN 1959).

Thirty years after the 1959 Declaration and ten years after the International Year of Child, in 1989 the Convention on the Rights of the Child (CRC) was adopted by the General Assembly of the United Nations (Office of the UNHCHR 1996). It entered into force in 1990 and by December 2008, 193 parties had ratified the Convention. It was the first legally binding instrument to incorporate the civil, cultural, political and social rights of children and is closely connected to the other five human rights conventions.[1] The CRC is based on the recognition, by world leaders, that children, especially children in crisis situations, need protection and that safeguards were needed to ensure their by now universally recognised human rights.

The Convention has four guiding principles which inform the implementation of all other children's rights. There are the principles of non-discrimination (Article 2), the best interest of the child (Article 3), the right to life, survival and development (Article 6) and the right to be heard (Article 12) (UNICEF 2008). Based on these guiding principles, the Convention contains 42 substantive provisions on a whole range of rights and issues relating to children. Its provisions are often divided into the 'three Ps' of Provision, Protection and Participation.

Provision rights include rights relevant to the provision of children's basic needs and include:

- The right to the highest attainable standard of health and health care (Article 24);
- The right to a standard of living adequate to ensure the child's development (article 27);
- The right to education (Articles 28 and 29);
- The right to play, rest and leisure (Article 31).

Protection rights include rights relevant to the protection of children from all forms of harm and exploitation and include:

[1] These are: the International Convention on the Elimination of All Forms of Racial Discrimination (entered into force 1969), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (1976), the Convention on the Elimination of All Forms of Discrimination against Women (1981) and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1987).

- The right of children without family care to special protection and the right to alternative care including adoption (Articles 20 and 21);
- The right of particularly vulnerable children, including refugee children and children with disabilities, to have special protection (Articles 22 and 23).
- The right to protection from economic exploitation and sexual exploitation (Articles 32 and 34);
- The right to protection from drugs (Article 33);
- The right to protection from all forms of harm, neglect and abuse (Article 19) and the rights of victims of such abuse to treatment, counselling and support (Article 39);

Participation rights include the rights of children to participate in decisions made about them and to contribute to society by expressing their views. They include:

- The child's right to express his/her views and have them given due weight in accordance with the child's age and understanding in all decisions made about them and the child's right to be represented in legal proceedings (Article 12);
- The child's right to express his/her opinion using a variety of means of expression according to the child's capacity (Article 13);
- The child's right to freedom of religion and freedom of association (Articles 14 and 15) and the right to access appropriate information conducive to the child's well-being (Article 17);
- The right to privacy (Article 16).

In 2000 the CRC was supplemented by two Optional Protocols laying down guidelines on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography respectively. The obligations of these protocols are additional and not legally binding on States that had already ratified the original CRC treaty before the optional protocols went into force. By January 2009, 126 countries had ratified the first and 130 countries the second Optional Protocol of the CRC (UNTC 2009).

The context of the CRC implies that the codification of children's rights reflected an awareness of the importance to protect children's rights that had grown over decades. In the next section, data and information on children born of war will be presented, starting with the Second World War. Although, the Convention of the Rights of the Child did not exist at that time, many of the ideas on which the convention is based were generally accepted. The different case studies will investigate, on the basis of studies carried out about children born of war, to what extent the rights now enshrined in the CRC were considered in dealings with children born of war in different 20th century conflicts. Thereafter, information available on children born of war in present day conflicts will be analysed. This will enable us to evaluate whether children born of

war are exposed to certain patterns of experiences and violations of rights independent of time and geographical context.

4. Analysis of Children Born of War in Past and Present Conflicts

4.1 The Case of WWII: Children Fathered by German Soldiers and Local Women in Norway

During the German occupation of Norway 1940-45 between 10.000 and 12.000 children fathered by German soldiers were born to Norwegian women. Most of these children were the result of consensual relationships. The women and children were considered valuable by the Nazi system, and German soldiers were encouraged to engage in relationships with local women and to 'produce' children. Norwegian women could get financial and material support during pregnancy and after childbirth from the SS organisation 'Lebensborn' (well of life). In so-called 'Lebensborn homes' they could give birth anonymously, stay with the child or give him/her up for adoption (Olsen 1998).

After the end of the war and the defeat of Germany, punishment for these young mothers was severe. They were detained, stamped as below-average intelligent, they had their hair shaved off in public, they were raped and mobbed. Although, it had not been an official crime to date a German, the women were exposed to anger and revenge in the wider population and neither police nor government agencies seemed to be interested in putting an end to the maltreatment. On the contrary, research has shown that the Government took an active part in the discrimination, particularly of those women who not only had had a relationship with a German but who had children fathered by a German soldier (Aarnes 2009). For example, Norwegian women who had dated German soldiers lost their work in the civil service, and those who had married their German boyfriend lost their citizenship and were sent to Germany with their husbands. For the first four post-war decades, the treatment of the mothers and their children was a taboo. Only, since the mid 1980s have some Norwegian children started telling their life stories. Since then, children from many of the territories occupied during and after the Second World War have started to out themselves and to search for their relatives in foreign countries. Some just recently – more than 60 years after the war – have found out about their biological origin.

In the case of Norway data and information on the children fathered by German soldiers and their life course exist. In addition to biographies and documentations a research project, funded by the Norwegian research council from 2001-2005, analysed different aspects of the lives of children fathered by German soldiers in Norway during WWII. Analyses of register data show that

these children have poorer health, higher suicide rates, lower levels of education and lower income than other Norwegians from the same age cohort (Ellingsen 2004). Official documentation shows how the children were viewed and treated by both the Government and other public organisations after the war. Often they were considered enemies. Among others, children were taken away from the mothers, laws very adopted to exclude these children from child benefit, and the Government offered the children to an Australian delegation looking for labour. Qualitative interviews indicate that many of the children were exposed to discrimination and stigmatisation both in family and community (Borgersrud 2004; Ericsson and Simonsen 2004; Ericsson and Simonsen 2005a, 2005b; Ericsson and Simonsen 2008). In 2005 the Norwegian state decided that the children could apply for financial compensation, if they could prove that their father was a German soldier (Det Kongelige Justis- og Politidepartement 2004). Many children regarded the compensation as too little relative to the abuses they had been exposed to, and they took their case to the European Court for Human Rights in Strasbourg. However, in July 2007 the Court declared the application inadmissible (Europarat 2007).

In addition to the research project funded by the Norwegian research council, surveys among Norwegian and Danish children fathered by German soldiers was carried out by an international research team between 1997 and 2003 (Mochmann and Larsen 2008, 355). First results indicate that the children fathered by German soldiers in Norway were treated much harsher in the postwar society than was the case with the Danish children; across all areas their negative experiences appear more numerous and more pronounced than in the Danish cases. Norwegian children born of war showed health problems, often in the area of mental health. Symptoms such as concentration difficulties, sadness or depression, 'nightmares about war and evil', 'restlessness', 'tiredness beyond normal' and 'sleeping problems' were reported frequently, and generally women showed a higher incidence of these problems. A significant number of children confirmed that they had been called names at school and suffered discrimination as the 'German kid'; they felt that they had been looked down on by teachers (Mochmann and Larsen 2008, 355-357). The surveys also confirm that there was a not insignificant occurrence of physical and psychological violence directed at the children, in particular in adoptive and foster homes. Often children grew up believing their grandparents were the biological parents; others only learned in later life that the person they were told to be their aunt was in fact their mother. Many of the children also grew up believing their stepfather was their biological father. In many cases, the silence and lies concerning the child's biological origin have led to identity crises among children born of war. Thus although, the Norwegian children seem to have been exposed to a higher level of discrimination than the Danish ones, it is clear from the surveys in both Norway and Denmark that the lives of children born of war

were affected significantly by their biological background and that they suffered long-term effects as a result of an upbringing which reflected this origin.

Information from and about children fathered by German soldiers in other occupied territories such as France, the Netherlands, Belgium, Russia, etc. reinforce the impression that children born of German soldiers generally suffered discrimination. In fact, the situation for children who grew up in areas where the German father was regarded even more unequivocally as the enemy suffered even more from discrimination, stigmatisation and violence (Picaper and Norz 2004; Ericsson and Simonsen 2005b). In countries such as Russia and other eastern European states where relationships between German soldiers and local women were prohibited by the Nazi government for racial reasons, having a relationship could endanger the woman's life and, in extreme circumstances, could culminate in infanticide of the child born of war (Drolshagen 2005). This may be particularly true, if children were born as a consequence of rape, particularly in the territories occupied by the Red Army in Germany. How many children were born as a result of the estimated 1.5 to 2 million rapes is unknown and only little is known about the mothers, children and their lives. But information accessible so far indicates that these children were often discriminated against and stigmatised as 'Russenkinder' in post-war Germany and were often rejected by traumatised mothers and excluded by their family (Repke and Wensierski 2007). Similar cases occurred in Austria where Soviet soldiers were known to have raped local women. Barbara Stelzl-Marx' case studies of Soviet children of the occupation (Stelz-Marx 2009) point at a similar situation to those of other children born of war: the biological origin was often kept a secret, the topic of the Russian father was a taboo, the children grew up believing the stepfather was the biological father, mothers did not want to tell anything, and the children – for lack of information – often search in vain for their biological roots. It is clear from the above that many of the principles later codified in the CRC were not considered in the treatment of the Norwegian and Danish children born of war. The principles of non-discrimination, the best interest of the child or the provision of the highest attainable standard of health and education were no more regarded as significant than the right to protection from all harm.

4.2 GI Children in Britain and Germany

Around the same time an occupation of a very different nature took place in Great Britain. In preparation of the opening of a Second Front in Europe a massive American build-up of troops led to hundreds of thousands of America GIs being stationed in Great Britain. Shortly before D-Day, in June 1944, the number had risen to almost 1.7 million soldiers, and altogether more than 3 million GIs at one time or another during the war were stationed in Great Britain. Relations between local population and military 'guests' were generally

friendly, and therefore it is not surprising that despite the discouragement from British and American authorities, numerous – largely consensual – relationships between local women and American soldiers developed. There are no reliable figures of the number of British GI-children born during and after the Second World War. It is estimated that there were at least 22,000 children, of whom around 1,700 were of Afro-American descent (Drake 1954).

Many white unmarried mothers of GI children could eventually follow the fathers of these children to the US as 'War Brides'. They often got married before or after the birth of their children. According to statistics of the American Immigration and Naturalization Office between July 1941 and June 1950, 37,879 British women (and 472 British children) emigrated to the US as *War Brides* and *War Children* (Department of Justice 1949, 121; Department of Justice 1950, 135).

White children born of relations of married mothers and GIs were often integrated into the family and some men accepted the offspring as their own. They were adopted by the husband. In many case, they did not even know about their biological background and grew up in 'normal' nuclear families. This was not always but it is undoubtedly true to say that the situation of mixed-race children was significantly more difficult. Unmarried mothers of mixed-race GI children did not usually have the option to marry the child's father. Decisions about marriages lay with the American local (white) commanding officers, who generally disapproved of mixed-race relationships (Davenport 1947; Smith 1987, 187ff.).

In the case of German married mothers, the option of integrating the GI child into the family was much more complicated, as the providence of the child was clearly visible. The children could not hide and be hidden, and therefore the mother's husbands were often reluctant to adopt them. Consequently, married mothers often felt that they had no choice but to give up their illegitimate mixed-race children in order to safeguard their existing family, and most biracial children of married mothers ended up in care.

The situation of young single mothers of the so-called Brown Babies was seldom easier. A decision for the child, i.e. for bringing up the child as a single parent did not only mean financial hardship and social stigma, but the chance of a later marriage and the start of a family life with a new partner were significantly reduced. As a result, single mothers, too often saw a home as the best option for their mixed-race child and for themselves. Only a small minority of Brown Babies were raised by their biological mothers, occasionally with support of their husbands. The Brown Babies who were raised in Great Britain had to cope with the stigma of their illegitimate birth and the reality of their mixed-race origins.

In spite of their often good experiences in their immediate family surroundings, among school friends and acquaintances, many Brown Babies suffered from isolation and identity crises. They continuously found themselves re-

minded of their origins and the fact that they visually differed from the homogenous white surroundings for many led to a constant feeling of 'otherness', of being different and of 'not belonging'. This otherness also served as a permanent reminder of the children's illegitimacy, a circumstance which – during the 1950s and 1960s – was regarded as unacceptable and carried a stigma which enhanced the identity crises of many Afro-American GI children in Britain (Winfield 1992).

Many children of GI soldiers, white or mixed race, who grew up without knowledge of their biological origins either raised by their mother's families or in children's homes, confirmed that not knowing about their ancestry had been a defining feature of their childhood and adolescence and had led to crises in finding their own identities. This fate they shared with another large group of children of American GIs, namely those who were born to German mothers during the Allied post-war occupation.

After the end of the war more than three million American soldiers were stationed in Europe, around 1.6 million of whom were located in Germany. The number quickly decreased, and between mid-1947 and the early 1950s number of American GIs in Germany levelled at around 135.000 soldiers, before it increased again in response to the Korean War and growing cold war tensions, leading to a maximum of around 360.000 soldiers (Ziemke 1975).

Despite strict guidelines about non-fraternization, relations between local population and American occupation troops became friendly soon after the end of hostilities and it is estimated that the intimate relations between local women and GIs resulted in the birth of around 37,000 children by 1955 (Lee 2009).

While the Americans were not in a state of war against the Germans, the children were seen as children of the enemy. Their mothers, by choosing a relationship with a GI had been traitors to German home, to their German husbands, many of whom were risking and giving their lives at the front, or who were suffering as POWs, or who were missing. But the women were also traitors to the prevailing morality of female obedience that had been preached by the National Socialist regime. It is, therefore, not surprising that mothers and their families – wherever possible – tried to hide the fact that a child had been fathered by an American GI and been born out of wedlock.

The directives prohibiting marriages between German women and American soldiers were not revoked until December 1946, more than a year after the end of the fraternization ban. This meant that during the first 19 months of the occupation regime, when the majority of German-American relationships were formed, marriage was impossible. The American military government was unequivocal about responsibilities for children born to local German women, by negating, in principle, any claim for alimony in the case of a soldier fathering a child (Goedde 2003, 95). After it had become possible for American GIs, under certain circumstances, to marry their German girl friends from December 1946 onwards, several thousands of couples got married and thousands of

women followed their husbands to America. Until June 1950 14,175 German GI-Brides and 750 children of members of the American Armed Forces had emigrated to the USA. In addition, 1862 German women had travelled to the US between 1947 and 1949 as fiancées (Department of Justice 1949, 121; Department of Justice 1950, 135).

Many tens of thousands of women, however, did not have this option, either because the American father of their child had already been moved elsewhere, because he may not have been granted his officer's permission to marry or he could not or did not want to take up his paternal responsibility for other reasons. Military rules and regulations facilitated a decision against mother and child. In Germany, during the post-war years fathers were required to support their children financially until they had reached the age of 16, irrespective of whether they were married to the child's mother. Members of the American Forces – whether soldiers or civilian personnel – were excluded from this law.[2]

Equally important in the longer term was the fact that children of the American occupation were not in a position, legally, to claim any rights resulting from their biological origins as children of American citizens. Even after the end of the occupation regime no reciprocal agreement was reached between the USA and Germany, which would regulate the mutual enforcement of court rulings in civil cases such as those paternity claims. In contrast to children of American soldiers and Vietnamese women, for whom the United States acknowledged responsibility in the Home Coming Act of 1988 (United States General Accounting Office 1994). German-American children of the occupation remain in a legal vacuum.

Despite the educational efforts of the welfare officials care institutions and, equally importantly, of open minded caring families, who adopted mixed-race children of the occupation, and despite the fact that only 12% of all such children grew up in welfare institutions, [3] the image prevailed – in political discussions as well as in public debates, that Afro-German children were unwanted and abandoned to be cared for by state and municipal care homes, resulting in unloved and unhappy children who suffered constant discrimination. This impression was reinforced in reporting within the United States, from where regular 'inspection visits' reported from the Western occupation zones about the fate of these children (Lemke Muniz de Faria 2003, 346). As a reaction to one such report, Ethel Butler, an Afro-American widowed teacher decided to work towards adopting some of those children and thereby give them a new

[2] See documents of the " Innenministeriums Baden Württemberg, 'Jugendwohlfahrt: Unterhalt für unehelich geborene Kinder von Mitgliedern ausländischer Streitkräfte', Hauptstaatsarchiv Stuttgart: HStAStg, EA2/008.

[3] According to surveys of the Public Health Division of the American military government in Germany and the Deutscher Verein für öffentliche und private Fürsorge 76% of mixed-race children of the occupation with their mothers or other relatives and only 12% in institutions.

home in the United States. After years of bureaucratic wrangling, she succeeded in adopting two of the children (Fehrenbach 2007, 133ff).[4]

So far no comprehensive analysis of the fate of British and German GI-children exists, but the taboo which surrounded their existence in the early post-war decades has been broken and many children of GIs have come forward, have organised themselves in self-help groups to support each other, not least in their search for their fathers and families in the US. The thread that leads through the vast majority of stories of occupation children, both in Germany and in Great Britain, is the desire of the children to find their fathers, or failing that, possible siblings and other relatives. Many have been searching for decades **(**Winfield 1992).

Despite the absence of systematic studies, we also know from publications of children of the occupation, through information exchanged via self-help groups that many of the children suffered stigmatisation, discrimination, poverty and psychological problems which appear similar to the experiences of the Norwegian children born of war.

While for some children of the occupation it is a concern that their legal status remained unclear, the overriding impression from reading autobiographical accounts and talking to both British and German children of GIs is that their main distress is caused by them not knowing about their paternal ancestry. Often children had been deprived by their mothers and families of information about their fathers and as a result they had suffered from lasting identity crises. For those who eventually found their relatives in the US, there was a silver lining in that they could piece together who they were and where they came from, even if their father had deceased before he could be located. Many others, however, never found out about their biological fathers and this has left deep psychological scars.

A striking similarity in the analysis of all children born of war seems to be the fact that they share the search for identity and need to find out about their biological origin irrespective of the circumstances of their conception and positive or negative childhood experiences. In the case of Denmark and Norway this can be presented in numbers. Although, as has been indicated above research suggests that Danes overall did not experience the same level of discrimination and stigmatisation[5] as Norwegians, more than 60% of Danes con-

[4] Similarly, Mabel A Grammer, Afro-American wife of an officer stationed in Mannheim between 1950 und 1954 and herself journalist for the *Afro-American*, instigated the so-called 'Brown Baby Plan', which arranged around 350 adoptions into mixed-race families in both Germany and the US. See <http://www.grammerchildren.com/> [accessed March 2, 2009].

[5] It should be emphasised, however, that in Denmark no analysis exists so far which compares Danish children born of war with other Danes from the same age cohort the way this has been done in Norway. Such an analysis is required in order to say whether this group was discriminated against compared to other Danes.

firm that it was a positive experience to receive clarity about a part of their life they could not recall. Also with regard to the importance of receiving information on biological parents the pattern is similar in both countries. Almost half of the children born of war in Denmark and Norway wanted to know about similarities in character and talents (see Mochmann 2008; Mochmann and Larsen 2005; Mochmann and Øland 2009). The basic need to know about one's origin and biological parents thus seems to be independent of the presence of positive or negative experiences in childhood.

Although no systematic scholarly investigation exists which would allow a similarly authoritative evaluation for American GI children, anecdotal evidence points to very similar experiences of those children born of occupation. Irrespective of their childhood experiences and their upbringing, the overriding problem many of them are struggling with is the question of identity, of finding their biological roots (Winfield 1992 and 2000).

Decades after the codification of the children's rights, the phenomenon of children born of war has, if anything, become more prevalent as acts of sexual exploitation and violence as a means of warfare, not least in the form of genocidal rape. It is these present-day conflicts and the children born of those that form the core of the next section.

4.3 Children Born of War in Today's Conflicts: Children of Rape Victims, Girl Soldiers and Children of Peacekeepers

In recent years, the phenomenon of children born of war as a consequence of sexual exploitation and abuse in wars and conflicts has been addressed by the media and to some extent also by academia. In this section, two such cases about which some analytical and empirical data are available will be discussed in order to allow an evaluation of rights of these specific groups of children born of war: the case of Bosnia-Herzegovina during the Balkan war and children born of the Lord's Resistance Army by abducted girl soldiers. Finally, the problem of children fathered by members of UN peacekeeping forces will be addressed in order to compare their situation with those of children born of fathers who belong to an enemy or occupation force.

Estimates of the number of rapes in former Yugoslavia vary between 20,000 and 50,000. Rapes were committed on all sides, with the Serb forces using rape on the largest scale against Muslim women. Most incidents occurred between autumn of 1991 and the end of 1993 (Laber 1993, 1ff). How many children were born as a result of this sexual violence is unknown; however, the Bosnian Government estimates that 35.000 women became pregnant from rape (Allen 1996, 56ff). The majority of the women in question had abortions, but many were held by their Serbian captors until seven months pregnant at which point it was too late for an abortion (Salzman 1998, 358). It was thus a conscious policy to force women to conceive and bear children – rape became an act of

forced impregnation (Allen 1996) with genocidal character (Carpenter 2000) in the sense that it was carried out with intent to destroy an ethnic, racial or religious group (UN 1948). Interviews with the women show that the forced impregnation was clearly communicated to the women, making them aware continually that the conceived children were not just by-products of the war but a systematic policy of ethnic cleansing where the Serbs were 'making Chetnik' babies. Case studies indicate that only few mothers kept their babies. For example, the Zagreb Caritas office received around 150 raped women of whom 60% were pregnant. After birth, only two children were kept by their mothers, and nine were collected and cared for by the Bosnian Embassy and the Red Cross. These nine children were later returned to Bosnia and two were subsequently taken by their families, two children were adopted and five placed in institutions. At the Medica Zenica Centre[6] where fifteen out of 150 raped women seeking help were pregnant, 13 of these had babies. One mother wanted to keep the child but could not for financial reasons, one killed her baby after six months and the others gave the children up for adoption (Daniel-Wrabetz 2007, 25; Tommey 2003).

Unlike in many other wartime or post-war scenarios, the existence of children born of rape in Bosnia was acknowledged as a challenge for the mothers, for society and it was recognised that the children required protection. This is evident in the 'Fatwa on children born by raped women in Bosnia-Herzegovina' which was issued by the Islamic authority in Bosnia. The fatwa ruled that women who had been raped were martyrs of Islam (shahida), and all Muslims were asked to respect and support these women and their children during the healing process. The Islamic leadership urged women and communities to accept and raise war-rape orphans, to integrate them as much as possible into their local. Furthermore, the Islamic leadership not only opposed adoption but also the creation of special shelters and registers or records to avoid future stigmatisation – the children's real identities should be kept secret and they should not be given up for adoption in order to protect them from threats like slavery, abuse and trafficking (Daniel-Wrabetz 2007, 29ff.).

Daniel-Wrabetz analysed the rights of children born of rape in Bosnia with view to the Convention of the Rights of the Child. In particular she investigated the right of non-discrimination, the right to a name and nationality, family rights, rights to alternative means of care and protection rights. In the analysis, it is clear that different rights are in conflict with each other. For instance, if care providers succeed in keeping the identity of the children secret there are

[6] Medica Zenica is a non-governmental organisation that offers psycho-social and medical support to women and children who are victims of war related violence, including victims of war rapes, street rape survivors, domestic violence survivors, and victims of human trafficking.

no grounds for discrimination. Nevertheless, by construct, this deprives the children of their right to know their background and learn about their identity.

As regards a child's right to be registered, to have a name and a nationality, Bosnian war-rape children were not always registered. Women were either too ashamed to reveal the identity of the father or they were unable to because they did not know the rapist. With regard to citizenship Bosnia follows the *jus sanguinis* (right of blood), i.e. citizenship depends on the nationality of the parents and is independent of the place of birth. In 1996 the Bosnian government passed an amendment to the citizenship law stating that a child who was born abroad should be given the citizenship of Bosnia-Herzegovina if one parent was a citizen of this country and if the other parent was a citizen of the former Federal Republic of Yugoslavia. In this way it could be avoided that refugee children became stateless, especially if their mothers were rape victims and did not want to keep their babies (The High Representative 1997).

The right to know one's parents, as enshrined in the CRC could be refused in the case of the war-rape orphans, because it was regarded not be in the best interest of the child. In other words, here again, a conflict exists between the guiding principle of the priority of the welfare of the child on the one hand and of individual rights of the child as codified in the convention. Decisions about which of the children's rights may be sacrificed under the umbrella of his/her 'best interest' are, of course, made by responsible adults in the child's immediate surroundings. The ability of a child to cope with the truth about his/her biological origin is clearly dependent on factors such as age, personal character and how the child is embedded in (biological, foster- or adoption) family and a community as a whole. The decision for or against revealing a child's origin has far-reaching and long-lasting consequences which may not be predictable in their severity. This inherent unpredictability seems to prevent many adults from taking the risk to allow the child to deal with his/her identity and therefore the path of seemingly least resistance is taken and the children's right to knowledge about their background is subordinated to other considerations. Even more problematic is the conflict between the child's rights to know their origins and the mother's right to anonymity and protection (Daniel-Wrabetz 2007, 33ff).

Although circumstantial evidence informs us about the setting in which the Bosnian children were born, little is known about the children themselves and how they experience childhood, upbringing and the question of identity. A first step towards approaching this sensitive topic is the film *Grbavica* (Grbavica 2006). It tells the true story of a mother and daughter, where the daughter is the result of rape during the war in former Yugoslavia. The daughter initially believes her father to be a deceased war hero. She continually asks her mother about her father, about his characteristics and personality, his appearance and possible similarities with herself. Eventually, the situation spirals out of control and her mother is forced to tell her the truth about her being the 'product of

rape'. How widespread the problems portrayed in *Grbavica* are, is not known. The children of rape victims are currently in their late teens, an age, as we know from other studies of children born of war, when those children typically think about their identity and an age when other children born of war have started to search for their biological origin. Research into the medium- and long term effects of their biological origin on these Bosnian children born of war is only in its infancy and results preliminary and limited (Husic 2008; Erjavec and Volčič 2010).

The case of children born by girl soldiers abducted by the Lord's Resistance Army in Uganda is similar to that of Bosnian children born of war in that the children were the outcome of a coercive sexual relationship. Since 1987, a rebellion in Northern Uganda has been orchestrated by a barbaric, cultish movement of the LRA purportedly against rule of the Uganda Government Army (UPDF). The LRA carried out thousands of child and adult abductions from the unprotected communities, pulling out children from homesteads and schools and forcing them to fall in rank as sex slaves, porters and soldiers, often subjecting them to brutal sufferings to break their spirits and consolidate allegiance to the rebels' cause (Beveridge 2009). The local communities were plundered, looted, maimed, killed and forcefully displaced into squalid camps for the internally displaced with no guaranteed protection and means of livelihood. More than 25.000 children have been abducted since the war started and half of the children are girls. Many of these girls are forced into sexual slavery, becoming 'wives' of LRA combatants. More than one thousand children have been born by these girl soldiers in captivity.

A recent study by Eunice Apio analysed the experiences of such children born in Gulu district in the northern part of Uganda between 1990 and 2003 with special focus on children born of the LRA. She collected data on 69 children born in captivity. In addition, mothers and/or guardians were interviewed. Apio's findings indicate that both the formerly abducted and those born in captivity experience trauma requiring particular attention upon integration. (Apio 2007, 96) She finds that children born of LRA face not only the traumatic impact of captivity but also the subsequent rejection when introduced into their mother's families and communities.

The results suggest that children born in captivity were deprived relative to children within the broader population in terms of food and medical care. Furthermore, they have been exposed to violence and threat of death since birth and some have lost their mothers. The child soldiers were forced to strap their children to their back while fighting against LRA enemies. All children born of LRA have suffered starvation and lack of proper food during the time in captivity and food was scarce from beginning because the breastfeeding mothers did not have enough food themselves. In comparison, the 18 children from a control group had adequate sources of food, all had been immunised as recom-

mended by Ministry of Health guidelines in Uganda, whereas 66 of the 69 children born of LRA were not immunised.

In summary, all children born of the LRA experienced a severe lack of basic needs, suffered from diseases that were hardly ever treated, had no knowledge of school, and had to accompany mothers onto the battlefield. Upon return to communities children continued to lack basic needs because their mothers were economically insecure. In addition to the physical deprivation children suffered psychosocial difficulties based on stigma, lack of parental care, lack of security and lack of ability to play (Apio 2007, 99-100). All children had been given names at birth and they had Ugandan citizenship. However, 49 children had names with negative meanings such as Komakech (I am unfortunate) or Anenocan (I have suffered). Looking at the integration into society this had an impact on their acceptance into their mothers' communities. 22 mothers indicate that their children were treated differently from those not born in captivity. The children of the LRA symbolise almost two decades of suffering with massacres, rape, murder etc. The children born of these rebels are automatically blamed for the acts of their fathers and the abhorrence with which the deeds of the fathers are viewed are transferred to the children (Apio 2007, 103). This is true despite the fact that the mothers were victims of rape and sexual abuse. Families and communities are reluctant to re-integrate them and even more so their children as these are seen as enemies due to their descendance from the LRA.

Another distinct group of children born of war are those fathered by UN peacekeepers. While the involvement of blue helmets in sex trafficking and child abuse has been recognised as a problem as early as the1990s, the problem of children born of – often coercive – relationships between local women and UN peacekeepers has not found much attention. In order to get an idea of the scale of the problem it is helpful to scan some examples of malfeasance vis-à-vis the mothers.

Sexual misconduct of UN peacekeepers was first acknowledged during the 1990s when investigators found that soldiers were customers in brothels run in Bosnia and Kosovo which relied on women sold into forced prostitution. One recent estimate suggests that up to 2,000 women have been coerced into sex slavery in Kosovo (Bowcott 2005). An international group found 82 women and girls had been made pregnant by Moroccan U.N. staffers and 59 others by Uruguayan staffers in Congo (Clayton and Bone 2004). Most of the sexual abuse and exploitation involved trading sex for money, food or jobs. However, some victims say they were raped, and later given food or money to make the incident appear to have been consensual (WorldNetDaily 2004). Misconduct of UN forces has been reported from all around the world including Haiti, Sierra Leone, Bosnia, Cambodia, East Timor and the Democratic Republic of the Congo (DRC) (Bowcott 2005). In Liberia UN soldiers are accused of regularly

having sex with girls aged as young as 12 and in Congo, peacekeepers were said to have offered abandoned orphans small gifts for sexual encounters.

As a consequence of the allegations against members of the UN peacekeeping forces, the United Nations General Assembly adopted the resolution '*United Nation Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel* in December 2007 (UN 2007). According to this resolution the UN commit to providing assistance and support to three different categories of persons: (a) "complainants"; (b) "victims"; and (c) children born as a result of sexual exploitation and abuse by United Nations staff or related personnel.

Although little is known officially about children born of peacekeepers, the decision of the United Nations to include these children as a category of potential claimants against the UN indicates a) that the problem was sufficiently significant in magnitude for the UN to take action and b) that it was accepted as an inevitable yet unacceptable by-product of peacekeeping. As a UN spokesman commented in May 2008, while it was impossible to ensure 'zero incidents' within an organisation that had up to 200,000 personnel serving globally, the UN had to get across the message of 'zero tolerance' which meant 'zero complacency when credible allegations were raised and zero impunity when malpractice was proved' (Clayton and Bone 2004).

The UN resolution is path breaking as it recognises children fathered by UN personnel as a distinct group and defines responsibilities of the UN towards the child without thereby negating the responsibility of the individual perpetrators. This is in stark contrast to the attitudes of most national armies in previous conflicts, when – as a rule – the military refused to accept any responsibility and, frequently, facilitated soldiers' efforts to avoid taking on theirs. In the resolution all relationships between UN personnel and local inhabitants are defined as sexual abuse which – in the eyes of many commentators – goes too far. When soldiers are placed in the same area for a longer period of time personal contacts with the local population and relationships are difficult to avoid, and there is no doubt that at least some relationships between UN personnel and the local population were consensual. An example is the story of the little girl 'Peace Maker' whose father was a UN soldier from Namibia placed in Liberia. Her father supported the child financially upon his return to Namibia and the child was given the name as a reminder of why her father came to Liberia. Her mother emphasises that she is open with regard to the biological background of her daughter and that it is no shame to have a child with a UN-soldier in Liberia (Eide Andersen 2008, 42ff.). Nevertheless, the attitude towards UN-children and children fathered by soldiers from other peacekeeping troops varies across countries and cultures. In some cases, children are stigmatised because of different ethnic look (mixed race), economically deprived, rejected by mother, family and community and they lack citizens rights (Grieg 2001). So far data and information on these children and their lives are too

scarce to evaluate the situation. An international research team is working on closing this data and information gap.[7] This UN policy will be of great importance to children born of war world wide as many of the social, political and economic rights and support systems addressed in the document may be applicable also in other wars and conflicts.

5. Children Born of War and the Convention on the Rights of the Child

The investigation of children born of war in distinct historical and geographical conflict and post-conflict situations indicates that the codification of children's rights has not advanced the protection of and provision for children born of war significantly in the last forty years since the adoption of the CRC. A closer analysis will serve to provide a more nuanced picture on the basis of which to assess progress in this respect.

Article 2 includes the provision that no child shall be exposed to discrimination of any kind. In all above examples, however, discrimination both in family, community and by the state is evident. Only in the case of Bosnia, did the Muslim community address the responsibility to include the children born out of rape into their community. Although the existence of the fatwa itself is often cited by the Bosnian government as proof that the integration of children born of rape has succeeded, this evaluation is not universally accepted. Sabiha Husic, Islamic theologian and therapist, who has worked with some of the rape victims, has warned that in the absence of psychosocial support many children suffer from identity crises and are still stigmatised as children of the enemy (Infosud 2008). The few examples of seemingly unproblematic integration into Bosnian society are outweighed by numerous examples of children who are rejected by their mothers and are ostracized and traumatized by their families' rejections (Becirbasic and Secic 2003; Eljavec and Volčič 2010).

Article 3, in elaboration of the Geneva Declaration of 1924, emphasises that the best interest of the child has to be the primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, and Article 4 further elaborates that it is the duty of the state to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the CRC. It is clear that Norway is one of the cases where the state has not acted in the spirit of the Geneva Declaration despite the authorities' recognition that the rights of children of German soldiers might have under threat during the post-war years. Despite intense discussion about

[7] For details see "International Network for Interdisciplinary Research on Children Born of War" at <http://www.childrenbornofwar.org/> [accessed 15.05.2010].

the children's fate, there was no indication that the welfare of the children fathered by German soldiers was a key consideration in the post-war period. On the contrary, they were excluded from the welfare system to some extent by withholding the necessary support. In Bosnia, the Muslim community had a clear view of what would be in the best interest of the child, and rules were implemented which sought to protect the children. However, what was perceived to be in the children's best interest was in conflict with the rights of the children to learn about their biological origins and thereby their identity.

In Northern Uganda the case is more complex than in the other cases as the conflict is still on-going and the mothers are/were children themselves. Here the best interest of the child is neither taken into account in the case of the young mothers nor their children, and the most basic rights to life and protection, let alone non-discrimination are violated.

Article 5 lays down the state's obligation to respect the responsibility of parents, family or extended community to provide direction and guidance to the child. Again, in Bosnia this was attempted in a most general way through the fatwa, though the lack of necessary support structures to secure a success of this guideline in part jeopardized the outcome. In Norway the government prioritised its own needs over those of the children. It had an interest in removing the children and considered sending them to Germany or to Australia, and it certainly did not always fulfil its obligation to support the mother's choice of how to bring up her child. The same is also true for the American government in its negation of any responsibility for GI-children born to German mothers, and – similarly – in its initial reluctance to acknowledge British GI-children as anything other than British problem. In Northern Uganda, the ongoing conflict and the violent attacks of LRA members have made communities reluctant to reintegrate the children (and their mothers) into their communities, because the child's father is seen as an enemy. But by catering for at least some of the most basic needs such as food, medical treatment and immunisation, the authorities attempted to Provide some degree of protection and provision (Apio 2008, 5f.).

Articles 6 and 7 address the basic right to live, the right to a legally registered name, the right to be officially recognised by the Government and the right to a nationality. In all cases described above, some of these rights are violated. Even the (natural) right to life is endangered, not just in war-torn Uganda but even in the case of children of war in Norway. Leaving aside the question of abortion, there are some indications that infanticide may have been more common among children born of war and is not limited to situations where the child was conceived by rape. In Norway, registers exist which indicate that the number of stillborn children fathered by German soldiers was higher than among the average Norwegian population and this number increased significantly in 1945 compared to the previous war years (Nedrebø 2008, 53ff.). This might point to some cases of infanticide, though no cases have been proved. Although children were generally given names, in Northern

Uganda these names often carried negative connotations, thus affecting their integration into the mother's home community and thereby leading to additional discrimination.

A range of articles give guidance on the children's rights to be with (both) their biological parents. Article 7 emphasises that children have the right to know and as far as possible be cared for by their parents and Article 9 states that children have the right to live with their parent(s), provided that this is in their best interest. This article also rules that children whose parents do not live together have the right to stay in contact with both parents, unless this is not in their best interest. Furthermore, Article 18 determines the states' obligation to facilitate arrangements that allow both parents to participate in the upbringing of their children and the underlying concern of the best interest of the child is reiterated. Beyond this, Article 10 specifically guides on family reunification and lays down the states' responsibility to facilitate inter-country travel of different family members so that parents and children can stay in contact or get back together as a family. This issue is of particular relevance for those children born of war whose parents had a consensual relationship and who would like to (re-) establish family relations across national borders. Many of the children who participated in the Norwegian survey elaborate about their childhood dreams of finding and making contact with their father. However, there was no encouragement or support, in fact not even an interest in any form of family communication or contact with Germany on the part of the Norwegian state in the first post-war decades, to facilitate such family re-unification.

As it is clear from the above analysis, some of the rights and guidelines are in conflict with each other. Generally, the issue is whether the overriding concern of acting in the best interest of a child is best served by enforcing the child's right as laid down in the CRC. Perhaps the clearest example of this is the question of the right of the child to know and have contact with both biological parents. Whether the welfare of the child has to take precedence over the right to know his/her biological origin is not always decided easily, and – as has been indicated above – this is sometimes complicated by the right of the parents to stay anonymous or the desire of the mothers to forget what is perceived as a shameful period in their lives. In the case of Norway, contact with the German fathers was actively discouraged by the Norwegian authorities, and mothers often withheld information – supposedly in the best interest of the child.

As discussed above, children born of war and occupation during and after the Second World War also encountered such inherent contradictions between what was supposed to be in their best interest, namely not being told about their biological origin on the one hand, and the right to name, nationality and – by implication – an identity on the other hand. Here, the conflict was enhanced by the fact that often family, friends and neighbours knew about the child's background. As many such cases have shown, if some or the child's entire social

environment had knowledge, this would eventually become known to the child his/herself. It was not unusual for a child born of war to be confronted by facts about his or her background by fellow pupils, friends or children in the neighbourhood. Others only found out much later in life, sometimes after their mother's or adoptive parents' death. Evidence suggests that many of the children had long suspected that 'something' was odd, or had felt that something in their sense of belonging was missing, and only on learning in adulthood about their origin, did they understand what this 'something' had been (Mochmann et.al 2009).

While it is often desirable for and in the best interest of children born of war to be in contact with both parents, especially in the case of consensual relationships of the parents, the situation is different in the case of rape victims. However, despite the fact that it may potentially be harmful to child (and mother) to be in contact with the father, the question remains whether the child has a right to know about the father's identity. An answer to this question might lie with the children of Bosnian rape victims who are now coming of age and who may be able to contribute to our understanding of how knowing or not knowing about their biological background has affected their lives. This may give strong pointers as to what the children themselves believe would have been in their best interest.

Article 8 emphasising children's right to an identity and an official record of who they are is another significant provision for children born of war. Again, the CRC was not in force at the time, but the Norwegian case may serve as an example of how significant the issue of identity can be for children born of war. How important this has been to children fathered by German soldiers in Norway and Denmark has been presented in this paper. It has been equally important for the vast majority of children of GIs in Britain and Germany, and from the few known cases of children of Soviet rape victims of the post-war occupation of Germany and Austria, it appears that they, too, felt the need to know more about their fathers. The issue is no less pressing for children born of rape in Bosnia or Uganda, but the codification of their rights of identity, nationality and the right to know and live with one's parents, was and is no guarantee for the children to obtain information about their identity. In Bosnia, it was argued that children born of war who were adopted should never receive information about their biological origin as this would not be in their best interest. Similarly, authorities tried to guarantee mothers anonymity. More precisely, they made it difficult or impossible for a child conceived of rape to contact his/her birth mother by destroying documentation about birth and parentage. This diminished the child's opportunity to ever learn about his/her identity which is obviously against the spirit of the Convention and may well not be in the child's best interest.

Article 19 states that all children should be protected against all forms of violence such as being hurt and mistreated, physically and mentally; Articles

20, 21 and 25 address rights of children who cannot be cared for by their own family. Article 20 states that these children have a right to be looked after by people who respect their ethnic group, religion, culture and language and Article 25 emphasises that children cared for by local authorities have the right to have these living arrangements looked at regularly to ensure that they are the most appropriate. In the case of Norway, research indicates that these rights were often violated. Articles 24, 26, 27, 28 and 29 elaborate on the rights to health care, social security, standard of living and education. These rights were and are being compromised both in the Norwegian case and in the Ugandan case. Again, in Bosnia the 'Fatwa' was an attempt to ensure the protection of the children born of rape and to facilitate their upbringing in appropriate environments, but the reality of families' rejections of the children born of rape suggests that the claims of successful integration may be premature.

Articles 32 until 38 address that children should be protected among others against child labour, drug abuse, sexual exploitation, abduction, sale and trafficking, punishment and war and armed conflicts. Article 39 rules that children who have been neglected abused or exploited should receive special help to physically recover and reintegrate into society. To varying degrees many of the children born of war in the above cases have been exposed to the dangers against which the CRC demands them to be protected, most drastically in the case of the Ugandan children (and their mothers) who were exposed to child labour, sexual exploitation, abduction, trafficking and war, and whose lives were endangered by lack of food, medical care, immunisation and the practice of forcing them onto the battlefield.

6. Conclusion and Outlook

International human rights law in general and human rights of children in particular are dependent on the will the member states of the international community for their effective implementation. The CRC is one of the examples of international law having made the individual a legitimate subject matter of international law. However, the implementation still depends on the state's willingness and ability to interpret and enforce the law for the benefit of the individual.

If despite the incomplete and partial source situation, it is accepted that the continued deprivation of children born of war of human rights decades after the acceptance of the CRC persists, this raises a number of issues as to why the Convention has not diminished the human rights compromises for children born of war, although it is the most universally accepted Convention with all but two countries (USA and Somalia) having signed up to it. Carpenter, in her investigation of the use of current legislation, comes to the conclusion that 'prevailing international law was not constructed to deal with the rights or needs of children' (Carpenter 2000, 477) Indeed, what she showed about the

inadequacy of the existing legal and theoretical approaches for addressing children's rights in genocidal conflicts similarly holds true for the position of children born of war across times and nations.

While there is little doubt that many children born of war have suffered systematic and non-systematic discrimination at all times, and that many of the rights now enshrined in the CRC have been compromised, the core question remains of who can be held responsible, and can human rights violations be addressed adequately by existing legislation.

Survival and development rights, rights of education, citizen's rights all presuppose not only a functioning state and government – which is not a foregone conclusion during or immediately after a conflict. Therefore children's rights, just in cases of other human or civil rights, may not be enforceable. Discrimination might be based (on the surface) not on the ethnicity, nationality or religion, but on the fact that a child was born out of wedlock. The former is banned under the CRC, the latter is not.

Furthermore, while it is the state that has to safeguard the implementation of children's rights, in this case for the benefit of children born of war, it is often not the state who is the primary abuser of those rights, but as a secondary actor is held responsible for a failure to prevent appropriate behaviour of its citizens. If there is 'no support among the populace – the now primary abusers – fit the standards or norms the state has agreed to uphold, the state's efforts to implement those norms against the people's will is fraught with difficulties and most likely doomed to failure' (Harris-Short 2003, 179-180). Specifically, the implementation of children's rights to a large extent depends on the cultural legitimacy accorded to such rights in any given society. This was true before the codification of these laws as much as is has been since. Thoko Kaime has argued convincingly that all principles of the CRC can come into conflict with the cultural practices in Africa, and some such practices 'command even more legitimacy than the universal standards for the protection of children' (Kaime 2005, 228). This tension between culture and rights is in evidence in all the cases described above. Whether based on national stereotypes, ethnic or prejudice, or a combination of these, in the cases of children born of war, where a combination of these factors came to play it appears that the rights accorded to children universally will not be implemented as long as the cultural barriers persist.

Looking specifically at the child's right to identity, despite the fragmentary nature of the evidence, there is little doubt that this has been a major factor affecting the development and mental health of children born of war in all the cases discussed. Here, too, the legal body appears inadequate to protect the child's right to identity, especially if it conflicts with cultural notions of what is perceived to be in the best interest of the child, as e.g in Bosnia.

Although assimilation of children's rights norms into mainstream democratic culture (Alston 1994; Van Beuren 1995, 1-21) has resulted in a broader

recognition of a child's individual identity (Ronen 2004, 151-152) exclusion, stigmatization and even victimization of children born of war have been allowed to continue, and societies across the globe continue to withhold eligibility to rights from children in general and children affiliated to minorities, such as children born of war in particular.

References

Aarnes, Helle. 2009. *Tyskerjentene. Historiene vi aldri ble fortalt.* Oslo: Gyldendal.

Allen, Beverly. 1996. *Rape Warfare: The Hidden Genocide in Bosnia-Herzegovina and Croatia.* Minneapolis: University of Minnesota Press.

Alston, Philip. 1994. The best interest principle: Towards a reconciliation of culture and human rights. *International Journal of Law, Policy and the Family* 8(1):1-25; doi:10.1093/lawfam/8.1.1

Apio, Eunice. 2007. Uganda's forgotten children of war. In *Born of War. Protecting Children of Sexual Violence Survivors in Conflict Zones*, ed. R. Charli Carpenter, 94-109. Bloomfield: Kumarian Press.

Apio, Eunice. 2008. Bearing the Burden – the Children Born of the Lord's Resistance Army, Northern Uganda [online]. <http://www.child-soldiers.org/psycho-social/Linked_Apio_2008.pdf, 3-4> [accessed 9 July 2009].

Becirbasic, Belma, and Secic, Dzenana. 2003. Invisible casualties of war [online]. <http://www.bosnia.org.uk/bosrep/report_format.cfm?articleID =950&reportid=157> [accessed 10 July 2009].

Beveridge, Candida. 2009. The Stolen Generation. *The Guardian*, 23.11.2009. [online]. <http://www.guardian.co.uk/journalismcompetition/professional-the-stolen-generation> [accessed 17 May 2010].

Borgersrud, Lars. 2004. *Staten of krigsbarna: En historisk undersøkelse av statsmyndighetenes behandling av krigsbarna i de første etterkrigsårene.* Oslo: University of Oslo, Department of culture studies.

Bowcott, Owen. 2005. Report reveals shame of UN peacekeepers. Sexual abuse by soldiers "must be punished", *The Guardian,* March 25 2005 [online]. <http:// www. dian.co.uk/world/2005/mar/25/unitednations> [accessed 17 July 2009].

Carpenter, R. Charli. 2000. Surfacing Children: Limitations of Genocidal Rape Discourse. *Human Rights Quarterly*, 22: 428-477.

Carpenter, R. Charli. ed. 2007. *Born of War. Protecting Children of Sexual Violence Survivors in Conflict Zones.* Bloomfield: Kumarian Press.

Clayton, Jonathan, and Bone, James. 2004. Sex Scandal in Congo Threatens to Engulf Peace Keepers, *The Times* December 23, 2004, World News Section. [online]. <http://www.timesonline.co.uk/tol/news/world/article405213.ece?token =null&offset=0&page=1> [accessed 17 July 2009].

Daniel-Wrabetz, Joana. 2007. Children born of war rape in Bosnia-Herzegovina and the Convention on the Rights of the Child. In *Born of War. Protecting Children of Sexual Violence Survivors in Conflict Zones*, ed. R. Charli Carpenter, 21-39, Bloomfield: Kumarian Press.

Davenport, Ormus. 1947. US race prejudice dooms 1000 British babies, *Reynolds News*, 9.2.1947.

Det Kongelige Justis- og Politidepartement. 2004. Erstatningsordning for krigsbarn og erstatningsordninger for romanifolk/tatere og eldre utdanningsskadelidende samer og kvener Stortingsmelding Nr. 44, [online]. <http://www.regjeringen.no/Rpub/STM/20032004/044/PDFS/STM200320040044000DDDPDFS.pdf> [accessed 30 September 2009].

Department of Justice. 1949. *Annual Report of the Immigration and Naturalization Service*. Washington. <http://www.archive.org/stream/annualreportofim1950unit#page/n135/mode/2up> [accessed 25 September 2009].

Department of Justice. 1950. *Annual Report of the Immigration and Naturalization Service*. Washington. <http://www.archive.org/stream/annualreportofim1949unit#page/n121/mode/2up> [accessed 25 September 2009].

Drake, John St. Clair. 1954, *Value Systemsm social sturcture and racerelations in Britain as children of Afro-American GIs*, Ph. D University of Chicago.

Drolshagen, Ebba D. 2005. *Wehrmachtskinder. Auf der Suche nach dem nie gekannten Vater*. Munich: Droemer Knaur Verlag.

Eichstaedt, Peter. 2009. *First Kill Your Family: Child Soldiers of Uganda and the Lor's Resistance Army.* Chicago: Chicago Review Press.

Eide Andersen, Hanne. 2008 Fredsbarnet. *Henne* 5, 42-53.

Ellingsen, Dag. 2004. *En registerbasert undersökelse* Statistics Norway, Rapport Nr. 2004/19.

Eljavec, Karmen, and Zala Volčič. 2010. Living with the Sins of Their Fathers: An Analysis of Self-Representation of Adolescents Born of War Rape. *Journal of Adolescent Research*, 25 (3): 359-386.

Ericsson, Kjersti and Simonsen, Eva. 2004. *Krigsbarn i fredstid-sosialpolitiske og profesjonelle føringer i synet på tysk-norske krigsbarn 1945-1947*, Skriftserie nr. 1/04. Oslo: Universitetet i Oslo Institutt for kriminologi og rettssosiologi, Avdeling for kriminologi.

Ericsson, Kjersti, and Simonsen, Eva. 2005a. *Krigsbarn i fredstids.* Oslo: Universitetsforlaget.

Ericsson, Kjersti and Simonsen, Eva, ed. 2005b. *Children of World War II. The hidden legacy.* Oxford and New York: Berg.

Ericsson, Kjersti, and Simonsen, Eva. 2008. On the Border: The contested children of the Second World War. *Childhood*, 15: 397-414.

Europarat. 2007. *European Court of Human Rights. Press Release Issued by the Registrar,* Thiermann and Others v. Norway declared inadmissible, 13.07, 2007. [online]. <http://www.coe.int/t/d/kommunikation_und_politische_forschung/presse_und_online_info/presseinfos/2007/20070301-144-GH-mV.asp> [accessed 25 September 2009].

Fehrenbach, Heide. 2007. *Race After Hitler.* Princeton: Princeton University Press.

Freeman, Michael. 1983. *The Rights and Wrongs of Children*. London: F. Pinter.

Freeman, Michael. 1997. *The Moral Status of Children: Essays on the Rights of the Child.* The Hague: Martinus Nijhoff Publishers/Kluwer International.

Goedde, Petra. 2003. *GIs and Germans: Culture, Gender and Foreign Relations, 1945-1949*. New Haven and London: Yale University Press.

Goodhart, Michael. 2007a Children Born of War and Human Rights. Philosophical Reflections. In R. Charli Carpenter ed. *Born of War. Protecting Children of Sexual Violence Survivors in Conflict Zones*, 88-209. Bloomfield: Kumarian Press.

Goodhart, Michael. 2007b. Sins of the Fathers: War Rape, Wrongful Procreation, and Children's Human Rights. *Journal of Human Rights,* 6 (3): 307-324.
Grbavica. 2006. [online]. <http://www.coop99.at/grbavica_website/beginn_ en. htm> [accessed 25 Sept. 2009].
Grieg, Kai. 2001. *The War Children of the World, War and Children Identity Project* (WCIP) (Bergen).
Harris-Short, Sonia. 2003. International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the UN Convention on the Rights of the Child, *Human Rights Quarterly* 25: 130-181.
Harvard Humanitarian Initiative. 2009. *Characterizing Sexual Violence in the Democratic Republic of Congo. Profiles of Violence, Community Responses and Implications for the Protection of Women* [online]. <http://hhi.harvard. edu/images/resources/reports/final%20report%20for%20the%20open%20society%20institute%20-%201.pdf> [accessed 17 May 2010].
Harvard Humanitarian Initiative. 2010. *'Now the World is Without Me': An Investigation of Sexual Violence in Eastern Democratic of Congo* [online]. <http://hhiharvard.edu/images/resources/reports/hhi-oxfam%20drc%20gbv%20 report.pdf> [accessed 17 May 2010].
The High Representative's Decision on the Law on Citizenship of Bosnia and Herzegovina, 16.12.1997. [online]. <http://www.ohr.int/ohr-dept/legal/oth-legist /doc/HR-DECISION-ON-LAW-ON-CITIZENSHIP.doc> [accessed 17 May 2010].
Hirschfeld, Magnus. 1934. *The Sexual History of the World War*. New York: Panurge Press.
Husic, Sabiha. 2008. Children and Post-Conflict Trauma. *Refugee Survey Quarterly*, 27 (4): 164-168.
Infosud. Human Rights Tribune. 2008. The legacy of wartime rape in Bosnia. [online]. <http://www.humanrights-geneva.info/The-legacy-of-wartime-rape-in,2781> [accessed 10 July 2009].
Kaime, Thoko, 2005. The Convention on the Rights of the Child and the cultural legitimacy of children's rights in Africa: Some reflection. *African Human Rights Journal* 5(2) 2005:221-238.
Laber, Jeri. 1993. Bosnia: Question of Rape. *The New York Times Review of Books*, 40(6) 25.3.1993: 1-4.
Lee, Sabine. 2009. Kinder amerikanischer Soldaten in Europa: ein Vergleich der Situation britischer und deutscher Kinder. *Historical Social Research* 34 (3): 321-351.
Lemke Muniz de Faria, Yara-Colette. 2003. Germany's "Brown Babies" Must be Helped! Will You? U.S. Adoption Plans for Afro-German Children, 1950-1955. *Callaloo* 26 (2): 342-362.
Merritt, Richard L. 1995. *Democracy Imposed: U.S. Occupation Policy and the German Public, 1945-1949.* New Haven and London: Yale University Press.
Mochmann Ingvill C., and Larsen, Stein Ugelvik. 2005. Kriegskinder in Europa. *Aus Politik und Zeitgeschichte* Nr. 18-19/2005: 34-38.
Mochmann, Ingvill C. 2006. Consolidating the evidence base of children born of war. *ZA-Information* 59: 198-199.
Mochmann, Ingvill C. 2008. Children Born of War. In Revista OBETS, *Juventud Embotellada. Los ritmos del cambio social*. Revista de Ciencias Sociales. N. 2

(dic. 2008),. 53-61. Alicante: Universidad de Alicante. Instituto Universitario de Desarrollo Social y Paz. (first published 2007), <http://rua.ua.es/dspace/bitstream/10045/9030/1/OBETS_02_04.pdf>.

Mochmann, Ingvill C., and Larsen, Stein Ugelvik. 2008. The forgotten consequences of war: The life course of children fathered by German soldiers in Norway and Denmark during WWII – some empirical results. *Historical Social Research* 33 (1): 347-363.

Mochmann, Ingvill C., and Øland, Arne. 2009. Der lange Schatten des Zweiten Weltkriegs: Kinder deutscher Wehrmachtsoldaten und einheimischer Frauen in Dänemark. *Historical Social Research* 34 (3): 282-303.

Mochmann, Ingvill C., Lee, Sabine, and Stelzl-Marx, Barbara, ed. 2009. Special Focus: Children Born of War: Second World War and Beyond, *Historical Social Research* 34 (3): 263-372.

Nedrebø, Yngve. 2008. Lebensborn, tyskerbarn og barnedødelighet. *Bergensposten* February/2008: 53-56.

Office of the United Nations High Comissioner for Human Rights. Ca 1996. Convention on the Rights of the Child. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 *November 1989. [online]*. <http://www2.ohchr.org/english/law/crc.htm> [accessed 25 September 2009].

Olsen, Kåre. 1998. *Krigens barn: De norske krigsbarna og deres mødre*. Oslo: Aschehoug.

Picaper, Jean-Paul and Norz, Ludwig. 2004. *Enfants Maudits.* Paris: Edition de Syrtres.

Rains, O., Rains L.and Jarratt M., 2006. *Voices of the Left Behind. Project Roots and the Canadian Children of World War II.* Toronto: The Dundurn Group.

Repke, Irina and Wensierski, Peter. 2007. Warte auf mich, *Spiegel*. 32/2007 [online]. <http://wissen.spiegel.de/wissen/dokument/dokument.html?id=52485385&top=SPIEGEL> [accessed 10 July 2009].

Ronen, Ya'ir. 2004. Redefining the child'r right to identity. *International Journal of Law, Policy and the Family* 18 (2): 147-177.

Salzman, Todd A. 1998. Rape Camps as a Means of Ethnic Cleansing: Religious, Cultural and Ethical Responses to Rape Victims in the Former Yugoslavia. *Human Rights Quarterly* 20: 345-378.

Smith, Graham A. 1987. *When Jim Crow Met John Bull. Black American Soldiers in World War II Britain.* London: IB Tauris.

Stelzl-Marx, Barbara. 2009. Die unsichtbare Generation. Kinder sowjetischer Besatzungssoldaten in Österreich und Deutschland. *Historical Social Research* 34 (3): 352-372.

Tommey, Christine. 2003. A Cradle of Inhumanity, *Timesonline.* [online]. <http://www.timesonline.co.uk/tol/comment/columnists/christine_toomey/article668528.ece> [accessed 17 May 2010].

UN, *Geneva Declaration of the Rights of the Child*, Adopted 26 September, 1924, League of Nations, UN Documents, 2010, <http://www.un-documents.net/gdrc1924.htm, accessed 16.03.2010>.

UN, *Convention on the Prevention and Punishment of the Crime of Genocide*, art. 2, adopted 9 Dec. 1948, 78 U.N.T.S. 277; <http://www.hrweb.org/legal/genocide.html> (accessed 16.3.2010).

UN, *PSEA Taskforce, To Serve with Pride*. 2009. <http://www.un.org/en/pseataskforce/video_english.shtml,2009> (accessed 16/03/2010).
UN, *Universal Declaration of Human Rights*, 1948, <http://www.un.org/en/documents/udhr/> (accessed 16.3.2010).
U.N. Declaration of the Rights of the Child.1959. G.A. res. 1386 (XIV), 14 U.N. GAOR Supp. (No. 16) at 19, U.N. Doc. A/4354. <http://www.cirp.org/library/ethics/UN-declaration/> (accessed 16.3.2010).
UNICEF. 2008. *Rights under the Convention on the Rights of the Child*, [online, last updated 26 February 2008], <http://www.unicef.org/crc/index_30177.html> [accessed 10 July 2009].
United Nations. 2007. *United Nation Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel* A/RES/62/214, 21 December 2007, [online]. <http://dacessdds.un.org/doc/UNDOC/GEN/N07/476/61/PDF/N0747661.pdf?OpenElement> [accessed 2 July 2008].
United States General Accounting Office. 1994. *Vietnamese Amerasian Resettlement: Education, Employment, and Family Outcomes in the United States* (Washington DC: United States General Accounting Office).
United Nations Treaty Collection (UNTC). 2009. Convention on the Rights of the Child [online]. <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en> [accessed 25 September 2009].
Van Beuren, G.1995. *The international law on the rights of the child*, Dordrecht Kluwer Academic Publishers.
Virgili, Fabrice. 2005. Enfants de Boches: The War children of France. In *Children of World War II. The hidden enemy legacy,* ed. Kjersti Ericsson and EvaSimonsen, 38-50. Oxford/New York: Berg.
Weitsman, Patricia, A. 2008. The Politics of Identity and Sexual Violence: A review of Bosnia and Rwanda. *Human Rights Quarterly* 30 (2008): 561-578.
Winfield, Pam. 1992. *Bye Bye Baby: The Story of the Children the GIs Left Behind.* London: Bloomsbury.
Winfield, Pam. 2000. *Melancholy Baby. The Unplanned Consequnces of the G.I.'s Arrival in Europe for World War II.* London: Greenwood Press
WorldNetDaily, 2004. U.N. 'peacekeepers' rape women, children [online]. <http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=42088> [accessed 2 July 2008].
Ziemke, Earl F. 1975.. *The U.S. Army in the occupation of Germany 1944-1946* [online]. <http://catalogue.nla.gov.au/Record/3827629> [accessed 25 August 2009].
Zornado, Joseph L.2001. *Inventing the Child: Culture, Ideology, and the Story of Childhood*. New York: Garland.