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'Child Soldiers' as 'Non-Combatants': The Inapplicability of the Refugee Convention Exclusion Clause

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Abstract

There is a basis in international law to regard child soldiers (those under 18) as 'protected civilians' or 'non-combatants'. The legal basis for absolving child soldiers of all ages of culpability for international crimes is discussed with reference to their status as non-combatants. The Refugee Convention exclusion clause is found to be inapplicable to child soldiers of all ages notwithstanding the possibility of their having committed international crimes related to their soldiering. The exclusion clause is also re-examined in the context of children's economically and politically powerless place in society and the lack of a universal age of criminal culpability.

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