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

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Notes

- 1. United Nations, Rome Statute (Enabling Statute of the International Criminal Court) (1998). <a href="http://untreaty.un.org">http://untreaty.un.org</a>.
- 2. United Nations, Convention Relating to the Status of Refugees (1954) 189 U.N.T.S. 150, entered into force on 22 April 1954. <a href="http://www.unhchr.ch">http://www.unhchr.ch</a>.
- 3. Ibid. The exclusion clause 1F.
- 4. Cape Town Principles and Best Practice on the Prevention of Recruitment of Children into the Armed Forces and Demobilization and Social Integration of Child Soldiers in Africa. Adopted by participants of a symposium on child soldiers in Africa organized by UNICEF in co-operation with the NGO working group on the Convention on the Rights of the Child, Cape Town, 30 April 1977. <a href="http://www.pitt.edu">http://www.pitt.edu</a>.
- 5. Ibid. Cape Town Principles definition of 'child soldier'.
- 6. Article 43 of the Protocol I Additional to the Geneva Convention of 12 August 1949 and Relating to the Protection of Victims of International Conflicts. Adopted on 8 June 1977 by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts and entered into force on 7 December 1979. <a href="http://www.ohchr.org">http://www.ohchr.org</a>.



- 14. R. Brett and I. Specht, Young soldiers: Why they choose to fight (Prepared for the International Labor Organization) (Boulder: Lynne Rienner Publishers 2004).
- 15. United Nations, Convention Relating to the Status of Refugees (note 2).
- 16. Gilbert (2001) 'Current issues in the application of the exclusion clauses' (note 8).
- 17. Amnesty International (2000) 'Child soldiers: Criminals or victims?' (note 10).
- 18. United Nations, Convention Relating to the Status of Refugees (note 2).
- 19. M. Happold, 'Excluding Children from Refugee Status: Child Soldiers and Article 1F of the Refugee Convention', American University International Law Review, Vol.17 (2002), pp.1131–1176.
- 20. M. Custer, 'Punishing child soldiers: The special court for Sierra Leone and the lessons to be learned from the United States' juvenile justice system' (note 12).
- 21. Ibid.
- 22. United Nations, Statute of the Special Court for Sierra Leone, Article 7. Agreed upon by the United Nations and the Government of Sierra Leone pursuant to security Council Resolution 1315, 14 August 2000. <a href="http://www.sc-sl.org">http://www.sc-sl.org</a>.



- 29. Protocol I Additional to the Geneva Convention of 12 August 1949 and Relating to the Protection of Victims of International Conflicts (note 6).
- 30. M. T. Dutli (2006) 'Captured child combatants', Prepared for the International Committee of the Red Cross. <a href="http://www.icrc.org">http://www.icrc.org</a>.
- 31. K. K. Dormann, 'The legal situation of unlawful/unprivileged combatants', International Review of the Red Cross, Vol.85, No.849 (2003), pp.45–74.
- 32. Protocol I Additional to the Geneva Convention of 12 August 1949 and Relating to the Protection of Victims of International Conflicts (note 6), Article 50(1).
- 33. Ibid. Article 77.
- 34. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (note 27).
- 35. Ibid.
- 36. Protocol I Additional to the Geneva Convention of August 12, 1949 and Relating to the Protection of Victims of International Conflicts (note 6).

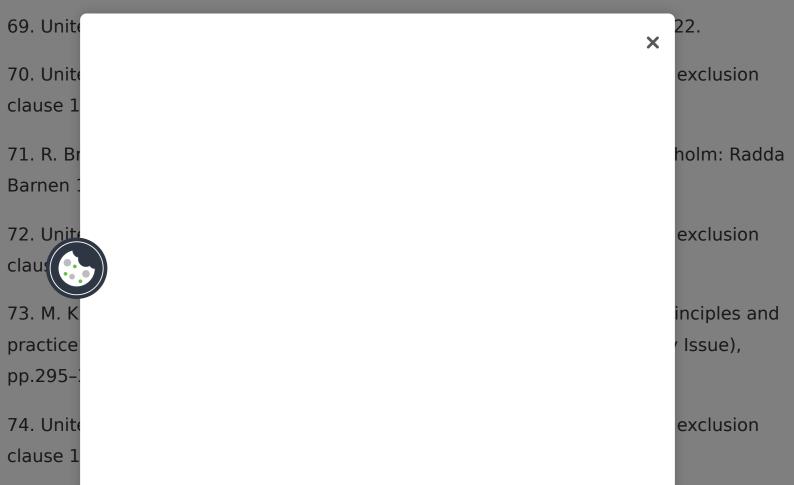
37. Ibid. Article 77.

57. Ibid. Article 77.		
38. Optio	×	olvement of
Children		
39. Ibid.		
40. Proto		relating to
the prote		.977 by the
Diploma		nal
Hum		nber 1978.
http://w		
41. Ibid.		
42. Proto		relating to
the prote		
43. Rom		98) (note 1).

44. Protocol I Additional to the Geneva Convention (note 6), Article 77. 45. Ibid. 46. Dutli (note 30). 47. Protocol I Additional to the Geneva Convention (note 6), Article 77. 48. Ibid. 49. Dutli (note 30). 50. Statute of the Special Court for Sierra Leone (note 22). 51. Protocol I Additional to the Geneva Convention of August 12, 1949 and Relating to the Protection of Victims of International Conflicts (note 6) and Protocol II Additional to the Geneva Convention of August 12, 1949 and relating to the protection of Victims of Non-International Conflicts (note 40). 52. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (note 27). 53. A. Obote-Odora, (1999) 'Legal problems with protection of children in armed conflict', Murdoch F Journal of Law Vol 6 No 2 (1999) http://www.urdoch.edu.au. X 54. S. S ed?', The Internat 55. P. Si 56. A. O med conflict' 98) (note 1). 58. Ibid. 59. Inter and **Immedia** der Article 3 (a). Ado 60. Opti olvement of Children in Armed Conflicts (note 27).

- 61. J. H. Francoise (1996) 'Legal protection afforded to children under international humanitarian law'. Report for the Graca Machel study on the impact of armed conflict on children. <a href="http://www.essex.ac.uk">http://www.essex.ac.uk</a>.
- 62. R. Van Emden, Boy Soldiers of the Great War (London: Headline Book Publishing 2005).
- 63. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (note 27).
- 64. Ibid.
- 65. UNHCR 2001, 'Exclusion from refugee status', Lisbon Expert Roundtable.

  <a href="http://www.unhcr.ch">http://www.unhcr.ch</a>. On the contrary, membership in such a group involves duress since there is no exit once joined by whatever means (item 18).
- 66. M. S. Gallagher, 'Soldier boy bad: Child soldiers, culture and bars to asylum', International Journal of Refugee Law, Vol.13, No.3 (2002), pp.311–353.
- 67. United Nations, Convention on the Rights of the Child (note 26), Article 39.
- 68. Ibid.



75. G. Gilbert, 'Current issues in the application of the exclusion clauses' (note 8).

- 76. United Nations, Convention Relating to the Status of Refugees (note 2), exclusion clause 1F.
- 77. United Nations, Convention on the Rights of the Child (note 26), Article 39.
- 78. N. Cahn, 'Poor children: Child witches and child soldiers in Sub-Sahara Africa', Ohio State Journal of Criminal Law, Vol.3, No. 2 (2006), pp.413–456.
- 79. United Nations, Convention Relating to the Status of Refugees (note 2).
- 80. Ibid.
- 81. Ibid.
- 82. Protocol I Additional to the Geneva Convention (note 6), Article 77.
- 83. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (note 27).

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