

A SOCIO LEGAL STUDY ON THE USE OF CHILD SOLDIER IN ARMED CONFLICT

AUTHOR – BHUMIK SETHI, STUDENT AT AMITY UNIVERSITY NOIDA

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NATURE OF CHILD COMBATANTS

The 20th century will be remembered for the innumerable defenseless men, women, and children who sadly perished in wars for no justifiable cause. The words "genocide," "war crimes," "crimes against peace," together with "crimes against humanity" included designed to truthfully portray the horrors connected to these offenses. Kids often experience forced participation in social violence, murder, military conflicts, and torture, in addition to the destruction of their neighborhoods, families, and civilians infrastructure that is intended to help them. International humanitarian law states that children are given "special" protection as children and "general" protection as citizens in both domestic and international violent conflicts. However, even if there are several legal mechanisms and protections designed to stop minors from participating in armed disputes, they are nonetheless forced to participate in them by a variety of methods, and as a as a result of several factors. The participation of children in combat is limited under humanitarian law on a global scale. But even in cases when kids do take part in combat, they continue to enjoy the "special" protection that was given to them as kids. They just forfeit the "general" defense that is applicable to citizens.

CONCEPT OF CHILD COMBATANTS

Warfare tactics and equipment have gotten more sophisticated and deadly as a result of the emergence of novel conflict types. The effects that violent disputes have on kids have amplified and become more harmful because of their vulnerability and inability to to protect themselves. The legislation guarantees that youngsters be shielded from recruitment. were engaged in combat. Nonetheless, stories about the effects of war on children have demonstrated that a sizable portion of kids, ranging in the thousands or perhaps millions of people have joined and are still joining government armies or resistance organizations in several parts of the world. These children suffer from severe injuries, and a considerable portion are forced to flee their homes and seek refuge in "Preventing & Prosecuting Crimes Against Humanity in the 21st Century," Goldstone, R., and lecture Different viewpoints

exist on what constitutes a child, and the traditional diverse ethnic groups in Nigeria have diverse perspectives about children because of the lack of of a system of uniform customary law. According to several ethnic groups, a man A person remains considered a child until they are initiated into a "age-grade society" or reaches a point in his life where he can contribute financially to society developments. On the other hand, puberty marks the end of childhood in some ethnic groups. States of the federation created the statutory definition under the Children and The Young People Act (CYPA) is a wide idea that deviates from certain customs. legal frameworks or the viewpoints of various ethnic groupings. One concerning aspect of violent conflicts is the problem of child soldiers, which involves the direct participation in combat by children under the age of 18. The methodology is widely criticized for the fact that children are naturally susceptible and that their overall wellbeing is significantly impacted by

such participation. Child soldiers can be enlisted by force or by other means. like kidnapping, or voluntarily, frequently due to factors like poverty and influence. Their duties in armed groups are diverse and include everything from actively taking part in combat operations to carry out support duties like message delivery or cooking food preparation. The consequences of child combatants are severe and include both physical. wounds and severe mental anguish. International regulations formally forbid the employment of child soldiers, namely the Optional The Convention on the Rights of the denunciation, the application of laws, and initiatives aimed at rehabilitation and bringing these kids back into the community. The goal is to protect children's rights and provide kids the opportunity to grow in an environment free from the horrors of armed war. Beyond merely punishing, efforts are made to emphasize the need of offering assistance to these young people as they work to rebuild their life after the horrific experiences of conflict.

A combatant, as defined by Black's Law dictionary, is a person who directly takes part in combat. Anyone who serves in the armed forces is considered a combatant. not include those who work in the religious and medical sectors. A kid fighter is someone who A person under the age of eighteen who is a member of the government's military, regular militias, armed troops, or armed political organizations. This concept is applicable irrespective of the existence of an armed conflict and the degree of a person's activity or participation in the battle.

DISTINCTION BETWEEN COMBATANTS AND CIVILIANS

According to international humanitarian law, a civilian is defined as an individual who is not a member of the armed forces and does not participate in a "levee en masse". According to the 3rd Geneva Convention, those involved in a "levee en masse" are recognised as fighters and are eligible for prisoner of war status, as long as

they openly carry weapons and abide by the laws of war. Members of the military forces and affiliated militias who meet the necessary criteria are allowed under international humanitarian law to directly participate in hostilities during an international armed conflict. These individual sare classified as "law ful or privileged combatants" and are exempt from prosecution for their involvement in hostilities, provided that they adhere to international humanitarian law, operate under military authority, and comply with the rules of war. Upon being apprehended, individuals are granted the legal designation of "prisoners of war" in accordance with the provisions outlined in the 3rd Geneva Convention¹. Individuals who are not authorised or entitled to engage in hostilities, such as mercenaries, are classified as "unlawful or unprivileged" fighters or belligerents. If captured, they are not eligible for prisoner of war status. They could face legal charges under the domestic legislation of the detaining country for participating in acts of warfare. During times of conflict, those who engage in fighting, whether they are following the laws of war or not, can be detained, questioned, and charged with war crimes. However, both individuals are deserving of compassionate and considerate treatment whilst in the custody of the opposing party. A "non- combatant" refers to people who are not involved in fighting, as well as personnel of the armed forces who are not now or no longer participating in hostilities, such as doctors, chaplains, prisoners of war, the sick, the wounded, and individuals who are incapacitated.² Combatants are required by law to consistently differentiate themselves from the civilian population when involved in battle or in other preparatory activities related to military operations. In order to meet the requirement of distinguishing themselves from civilians, members of regular and assimilated armed forces must adhere to four conditions: they must wear their uniforms and display a clearly identifiable sign and emblem; they must openly carry their weapons; they must be under

the command of a responsible individual who oversees their subordinates; and they must conduct their operations in accordance with the laws and customs of war. In circumstances where, due to the nature of the conflict, a soldier is unable to differentiate themselves, they will maintain their status as a combatant if they openly carry their weapons during all military encounters and remain visible to the enemy while participating in any movement towards a location where combat is expected to occur. If there is uncertainty regarding the classification of an individual as a civilian, that individual will be presumed to be a civilian. In the Malaysian case of Osman Bin Haji & Another V. Prosecutor, two individuals, who were not dressed in military attire and lacked identification documents, planted explosives inside a Singapore bank, resulting in the deaths of three individuals. Subsequently, they asserted their affiliation with the Indonesian Armed Forces and, as a result, claimed eligibility for the privileges afforded to prisoners of war. The Privy Council found the men guilty, determining that they were not eligible for such status. Therefore, individuals engaged in armed conflict possess the legal entitlement to engage in combat, whereas non-combatants and lawbreakers do not. Non-state actors are typically not granted "combatant" status under the laws of war. Instead, their detention and punishment are left to be determined by domestic laws. The Geneva Conventions regulate armed engagements involving both states and non-state entities, imposing distinct norms for each. The regulations stipulate the necessity of fair treatment for all detainees, while also making a clear differentiation between "combatants" who possess the right to engage in armed conflict, and "civilians" who do not.