

CHILDREN’S RIGHTS IN CONFLICT ACCORDING TO THE INTERNATIONAL HUMANITARIAN LAW

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Abstract: *Children’s rights are threatened by conflicts around the world. International humanitarian law provides general protection to children in war, whether they are civilians or combatants and, as it is known, children have the right to protection and freedom from war. The rights of children in conflict are the shared responsibility of IOs, NGO’s and the international community. The paper is focused on highlighting the children’s rights in conflict according to international humanitarian law.*

Key words: *Children’s Rights, Conflict, Humanitarian Law*

1. Introduction

Last year’s UN reports warn of dangers that encompass conflict escalation, military coups, takeovers, new conflicts, and violations of international law. Children's safety has been affected by cross-border conflict and intercommunal violence in various regions, as the Lake Chad Basin (2020), Central Sahel (2021), Ukraine (from 2022 to present), and most recently (2023), Israel and the Palestinian Territory.

According to the UN, there have been almost 24,000 grave violations against children, averaging around 65 violations daily. The most severe transgression is the killing and maiming of children, followed by their recruitment and use, and the denial of humanitarian access. (United Nations, 2022)

Afghanistan, the Democratic Republic of the Congo, Ethiopia, Mozambique, Central African Republic, Myanmar, Colombia, Israel, the Palestinian Territory, Somalia, Syria, and Yemen are the countries where most children experienced grave violations from 2021 to now (2023).

2. Methods

The present study employed general scientific (as: deduction, analysis, and synthesis) and specific scientific methods (as: comparative legal, formal legal).

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3. Discussion

International legal instruments, particularly international humanitarian law (IHL), are instrumental in upholding children's rights during conflict.

IHL known as the law of armed conflict or the laws of war, is a set of legal principles and rules that govern how the conduct of armed conflict, seeking to minimise suffering and protect the rights of persons not or no longer participating in hostilities. During armed conflicts, whether international or non-international, IHL plays a significant role in international law. IHL aims to minimise the suffering of the civilian population, in particular children, during times of armed conflict. IHL recognises the increased vulnerability of children during armed conflicts and emphasises that they need special protection.

The four Geneva Conventions, signed in 1949, and their Additional Protocols, adopted later in 1977, provide detailed rules on the protection of the wounded, injured, casualties and prisoners of war in conflict. The Convention on the Rights of the Child (CRC) and its Optional Protocol on the Participation of Children in Armed Conflict are central to the protection of children in conflict. (United Nations, 1977)

The ratification of the United Nations Convention on the Rights of the Child, 34 years ago, was historic as it marked the first ever legal representation of children's rights. The convention emphasizes that all children, without discrimination, have the right to receive special protection measures and assistance, to access vital services like education and healthcare, to fully develop their abilities and talents, and to be raised in an environment that promotes happiness, love, and understanding. (NCDCHILD)

The special protection for children is not lost even if they participate directly in hostilities; the Additional Protocols and the 1989 Convention on the rights of the child, including the Optional Protocol, impose restrictions on children's participation in hostilities. (Plattner, 1984)

Among the other international instruments on children's rights is the Optional Protocol to the Convention on the Rights of the Child, which was signed in New York on September 6, 2000, and ratified by Law no. 470/2001. (Matei & Adam, p. 138)

Resolution 1612 (2005), adopted by the Security Council on 26 July 2005, reaffirming the resolutions: 1261 (1999) of 25 August 1999, 1314 (2000) of 11 August 2000, 1379 (2001) of 20 November 2001, 1460 (2003) of 30 January 2003, and 1539 (2004) of 22 April 2004; this resolution contributes to a comprehensive framework for addressing the protection of children affected by armed conflict. (International Humanitarian Law Databases)

The provision of effective protection and assistance to children affected by armed conflict is primarily the responsibility of national governments, as emphasized in Resolution 1612. (United Nations, 2005)

Children are particularly vulnerable during armed conflicts and despite the existence of legal protections, many are recruited by armed forces and groups. IHL recognises the vulnerability of children in conflict and the need for their special protection. It prohibits recruitment of children under 15 and addresses their special needs during and after conflicts.

The violence inflicted on children in conflict zones around the world remains an abhorrent problem. They are vulnerable to a wide range of violence, including killing, maiming, abduction, sexual violence, recruitment into armed groups and attacks on essential facilities such as schools, hospitals and water sources. As a result, they often endure separation from their families and displacement from their homes, putting them at risk of physical harm, sexual abuse, and other forms of exploitation. (United Nations, 2005)

The United Nations Security Council has identified six grave violations against children in times of war: killing and injuring children; enlisting or exploiting children in military organizations and armed groups; aggression against educational institutions or medical facilities; severe sexual violence, including rape; kidnapping of children; and blocking off access to humanitarian aid for children. (UNICEF, 2023)

More than 120,000 children have suffered fatal injuries or have been maimed in armed conflicts between 2005 and 2022, as reported by UNICEF. (UNICEF, 2023)

There continues to be a serious concern about the recruitment and use of minors by parties to conflict; the recruitment or use of children in armed forces and armed groups refers to the forced, coerced or voluntary enlistment of children in any type of armed forces or groups. According to UNICEF, more than 105,000 children have been identified as recruited and used by parties to conflict between 2005 and 2022. (UNICEF, 2023)

In times of conflict, schools and hospitals are supposed to be safe havens for children, but the ongoing attacks on these critical facilities underscore the profoundly negative impact of armed conflict on children's rights, including their right to education and health. (UNICEF, 2023)

The same UNICEF report (cited above) shows that more than 16,000 attacks on education and health facilities and protected persons, including schoolchildren and hospitalised children, as well as health and school personnel, took place between 2005 and 2022, including direct attacks that did not adequately distinguish between civilian and military targets. These attacks not only put children's lives at risk, but also disrupt their learning and limit their access to medical care. (UNICEF, 2023)

Abduction is a violation frequently committed against children in situations of armed conflict and is the unlawful act of taking away, seizing, capturing, arresting or forced, either temporary or permanent, disappearance of a child. According to UNICEF, at least 32,500 children have been abducted by parties to conflict between 2005 and 2022. Three quarters of the verified cases of child abduction are boys; however, girls are also at risk of abduction, including for the purposes of sexual violence and exploitation. Abducted children are often victims of other serious violations, such as killing, maiming, sexual violence or recruitment into armed groups. (UNICEF, 2023)

Another major concern is the denial of humanitarian access to children, where parties to conflict deliberately obstruct or deprive them of essential assistance. The United Nations reported that between 2005 and 2020, there were 14,900 incidents where children were denied humanitarian access; of 80% of cases occurring between 2016 and 2020. The cases show that warring parties often deny humanitarian access to those in need or prevent aid from reaching civilians. (UNICEF, 2023)

For the same period, across Africa, Asia, the Middle East, and Latin America, parties to conflict committed over 315,000 demonstrated grave violations against children. According to the Ministry of Health as of 26 October 2023, 2,913 children have lost their lives in the Gaza Strip since the commencement of hostilities, while a further 6,168 children have been injured, as reported by UNICEF; a further 35 children have reportedly been killed in the West Bank as a result of the increased violence. More than 40% of all school buildings in Gaza have been damaged, totaling 221 educational facilities. This means that approximately 625,000 school-aged children living in Gaza are currently deprived of their right to education. (UNICEF, October 2023)

The accurate number is definitely much higher due to obstacles in access, security, shame, pain, and fear that survivors face, which often hinder reporting, documenting, and verifying these violations. (UNICEF, 2023)

Protecting children in armed conflict requires complex, concerted and sustained efforts by these agencies and actors to prevent child rights violations, provide humanitarian assistance and help to rebuild affected communities. Financial resources, political support and global awareness are also essential.

International Organisations (IOs), Non-Governmental Organisations (NGOs) and the international community share responsibility for promoting children's rights in conflict. By utilizing political and diplomatic measures, the international community can enforce the respect of children's rights during conflicts.

NGOs play an important role in the provision of direct assistance and humanitarian aid to children affected by armed conflict.

UNICEF, formerly known as the United Nations International Children's Emergency Fund and now officially the United Nations Children's Fund, is a United Nations agency that provides humanitarian and development assistance to children around the world. UNICEF is the successor to the United Nations International Child Emergency Fund, which was initially established by the United Nations Relief and Rehabilitation Administration on 11 December 1946 to provide emergency relief to children and mothers affected by the Second World War. (UNICEF, UNICEF history)

Nowadays, UNICEF has 33 National Committees around the world which are an integral part of this global organization, each established as an independent local non-governmental organization. Those Committees focus on private sector fundraising, child rights advocacy and global visibility for children in vulnerable situations. (UNICEF, UNICEF National Committees)

UNICEF is entirely voluntary, and National Committees collectively provide about one third of UNICEF's annual income; this is made possible by contributions from businesses, civil society organisations and more than 6 million individual donors around the world. They also engage many other partners, including the media, national and local government officials, NGOs, professionals such as doctors and lawyers, businesses, schools, young people and the general public, all focusing on children's rights issues. (UNICEF, UNICEF National Committees)

At the Conference on Protecting Children in Armed Conflict in Oslo (6th June 2023), Mirjana Spoljaric, President of the International Committee of the Red Cross, highlighted the numerous forms of suffering experienced by children, including recruitment, injury,

displacement, and abuse. In many cases, children are targeted, tortured, starved, and imprisoned simply because they are associated with the enemy. (International Committee of the Red Cross, 2023)

International humanitarian law is essential for ensuring uninterrupted basic services for children, even in times of armed conflict.

4. Conclusions

Protecting children in armed conflict requires multiple levels of responsibility; some of the entities and actors that play an important role in the protection of children in such critical situations are states, NGOs, the international community, IOs, and international criminal courts. A particular role can also be played by the media, school, education, and awareness programs, which can help to inform children of their rights, prevent recruitment into armed groups and promote peace and peaceful conflict resolution.

Diplomatic and political pressure from the international community can ensure that children's rights are respected in armed conflicts. In addition, the international community provides financial and logistical support to humanitarian organisations working in conflict-affected areas to protect and assist children.

Providing immediate assistance to children and their families in crisis areas, NGOs are often the first responders, offering food, shelter, medical treatment, and psychosocial support. NGOs often work with local communities and institutions to strengthen their capacity to protect children and defend their rights.

International humanitarian law offers a legal framework to protect children in armed conflict, applying to both global and internal conflicts. As we saw, many provisions of IHL establish and promote the principle of the special protection of children in times of armed conflict. This principle is applicable to all war victims, especially children, with the goal of protecting child victims of conflict and promoting respect for international humanitarian law.

Cooperation and coordination between international humanitarian law, non-governmental organisations and the international community are essential to the protection of the rights of children during and in the aftermath of armed conflict. A multifaceted approach combining legal frameworks, humanitarian assistance, advocacy and diplomatic efforts is needed to create a safer and more secure environment for children living in conflict-affected areas.

Despite the efforts of UNICEF and other NGOs or IOs to ensure that the rights of children are recognised and protected, the reality of the situation shows that the fundamental rights of children in need of special protection are not being respected now maybe more than ever in the context of the two ongoing wars from Ukraine and Israel/Palestinian Territories.

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