

LEGALFOXES LAW TIMES

CHILDREN OF WAR: A HUMANITARIAN APPROACH

By Kanika Parmar

CHAPTER 1: - INTRODUCTION

In modern armed conflicts the recruitment and use of child soldiers is often a rule rather than an exception. Currently an estimated 300,000 children serve as combatants in conflicts around the world.¹ Thousands of children have been forcibly recruited to serve as soldiers, spies, porters, servants, and sexual slaves for armed forces and groups. Many more have volunteered to participate in hostilities, often driven by economic, social, or ideological pressures. As yet, international law has not acted as an effective tool to halt wartime recruitment and use of child combatants. Instead, for child soldiers the real force of international humanitarian law may lie in the post-conflict arena: namely, in its ability to address and punish the wartime human rights atrocities they suffer.

This paper examines the application and limits of international humanitarian law, the body of law that aims to govern and regulate wartime, in relation to the experiences of child soldiers in armed conflict situations. It contends that international humanitarian law keeps up dated qualifications between people associated with threats and people requiring insurance from the impacts of threats, that don't reflect states of current armed conflicts and act to block required legitimate assurance of those among the most powerless in wartime, to be specific child warriors.

This paper additionally seeks to describe in greater detail how armed conflict affects both children's rights and children's developmental well-being. The analysis begins with the widest developmental impact, moves inwards to specific groups of children at particular risk, and finishes with the root cause of the problem-the means and methods of warfare. It outlines some of the actions and interventions that are urgently needed to redress those impacts. The premise is that armed conflict will continue, probably in almost every region of the world. Therefore, although conflict prevention strategies must continue to be pursued, more concentration must be focused on preventing the harmful effects of armed conflict on children.

¹ Fox, Mary-Jane, "Girl Soldiers: Human Security and Gendered Insecurity." Dialogue, 2004, 35(4); 465-479.

1.1 DEFINITION OF A CHILD

The Convention on the Rights of the Child defines a child as any person under the age of 18. The Paris Principles define a child associated with an armed force or group as:

*“any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes. The document is approved by the United Nations General Assembly. It does not only refer to a child who is taking or has taken a direct part in hostilities.”*²

The Additional Protocols to the 1949 Geneva Conventions (1977, Art. 77.2), the Convention on the Rights of the Child (1989), and the Rome Statute of the International Criminal Court (2002) all prohibit state armed powers and non-state armed groups from utilizing children younger than 15 legitimately in armed conflict (technically “hostilities”)³



LEGAL FOXES

“OUR MISSION YOUR SUCCESS”

² M. Danilenko, The statute of International Criminal Court and States, 2000, 21 Mich.J. Int’l L. 445, 480.

³ Boyden & Pual Ryder, “The Provision of Education To Children Affected By Armed Conflict” 1996.

CHAPTER 2: - THE IMPACT OF ARMED CONFLICT ON CHILDREN

There is a tendency to consider only the direct impact of warfare on children and their families. As the following quotation demonstrates, the full consequences for children are deeper, more prolonged, and more pernicious than one might instinctively realize.

It may come as a surprise to some that in situations of armed conflict many more children die from malnutrition or preventable disease than are killed by bombs or bullets. The United Nations Children's Fund (UNICEF), for example, estimates that "*in African wars, lack of food and medical services, combined with the stress of flight, have killed about 20 times more people than have armaments.*"⁴

In addition, many more children are wounded psychologically, emotionally, or culturally than are wounded physically. The widest impact of armed conflict on children is, therefore, on normal childhood development. This impact extends far beyond the immediate battle zone. War influences children in all the manners in which it influences grown-ups, yet additionally in various ways. To begin with, children are subject to the consideration, sympathy, and consideration of grown-ups who love them.

Their connections are regularly upset in the midst of war, because of the loss of guardians, extraordinary distraction of guardians in ensuring and discovering resource for the family, and enthusiastic inaccessibility of discouraged or occupied guardians. The child might be in substitute consideration with somebody who thinks about that person just marginally - family members or a shelter. A specific extent of war-influenced children lose all grown-up assurance "*unaccompanied children,*" as they are known in displaced person situations.

Second, impacts in childhood may antagonistically influence the existence direction of children definitely more than grown-ups. Consider children who lose the open door for training during war, children who are compelled to move into evacuee or dislodged individual camps, where they sit tight for quite a long time in hopeless conditions for ordinary life to continue, in the event that it actually does. Consider a child handicapped in war; they may, notwithstanding loss of an appendage, sight, or psychological limit, lose the chance of tutoring and of a public activity. A young lady who is assaulted might be minimized by her general public and lose the

⁴ Kuper, "International law concerning child civilians in armed conflict", 1975, 75.

open door for marriage. Long after the war has finished, these lives will never achieve the potential they had the effect of war.⁵

In addition to providing health care, providing access to education is also essential for a child's development. Education equips children with survival skills, provides information essential for solving problems and making decisions, promotes self-esteem, and encourages the development of analytical and reasoning powers. Access to education may help to prevent children from volunteering to join the armed forces and, at the same time, schools promote values of peace and tolerance that, one hopes, will permeate through society.

In situations of armed conflict, education has a special role to play in providing both structure and a sense of purpose to children's daily lives. A sense of normalcy, despite a chaotic environment, can be an important protection for children against psychosocial distress. In contrast, a lack of education can be a serious handicap, not merely for the individual but also for the community.⁶

2.1 CHILDREN WHO ARE COMBATANTS:

Although it is known that the numbers of children actively participating, either directly or indirectly in armed forces or armed groups has increased significantly since the 1960s, there is little evidence as to how many children are currently soldiers. Such statistics are not normally collated by States.⁷ Those States involved in armed conflicts at present would find it difficult, if not impossible, to collect such figures, even if they had the political will to do so. However, in 1988 it was estimated that there were approximately 200,000 soldiers, under the age of 15 in the world.' There is little reason to think that the number has changed significantly.

While the use of children as soldiers creates a range of problems, both during the conflict and after, there are two particularly significant problems which relate to the recruitment and participation of child soldiers. The first of these might be termed the general exploitation of children and inadequate protection of their human rights as children, and the second, the psycho-social problems they suffer as a result of their participation in the fighting. Exploitation

⁵ Dubrow, "No place to be a child: Growing up in a war zone" 1991.

⁶ Ramos-Horta "Children of war" 1998, R 333.

⁷ Sarah Graham-Brown, "The Role of the Curriculum, in Education Rights and Minorities" 1994, 32.

of children may become soldiers through a number of routes. They may be compulsorily recruited into the army.⁸

Reports of the Iran/Iraq war indicate that, in Iran, children were simply picked up off the streets, from playing fields or from schools and taken away to be enrolled in the army. Alternatively, children may volunteer for the army. However, it is frequently the case that the naivety and ignorance of children is exploited to encourage them to volunteer. They may be misled as to what 'joining-up' will entail and what they will be expected to do. They may be offered economic incentives, or volunteer as a result of peer pressure or appeals to their patriotism or religious fervour.

Further, children may be called upon, or volunteer, to take an indirect part in hostilities; not fighting on the front-line, but helping in a support role.⁹ An excuse is often given by those States which accept child soldiers, that the children were eager to volunteer themselves. However, it should be recognised that children are too young to make a voluntary and informed decision as to whether or not they should become involved in armed conflict, and an eagerness to volunteer should not be an acceptable basis on which to allow children to enrol in armed forces or groups. Children may also be more specifically exploited. Children may quite legitimately be recruited into armed forces or groups from the age of.”

However, children, unlike adults over the age of 18, may not be the subject of a death sentence for an act committed while they are under 18. There is always the possibility that armed forces or groups will use children to carry out atrocities, including the killing of civilians, preserving their older soldiers from later retribution should their side lose, and in the knowledge that these children cannot be the subject of a death sentence.

A rather different form of exploitation was evident in the Iran/Iraq war. Iran recruited and used children as front line combatants. Children were conscripted by a variety of measures; intimidated, forced, misled as to their actual roles at the front, or merely lured through economic incentives to join the army. Once drafted they were given virtually no military training, but instead received intense religious indoctrination, emphasising the value of martyrdom to the Islamic faith.

⁸ Eylah Kadjar, “International Federation Terre Des Hommes, Anend To Silence: A Preliminary Study on Sexual Violence, Abuse And Exploitation Of Children Affected By Aried Conflict”, 1996.

⁹ Protacio Marcelino et al., “Torture Of Children In Situations Of Armed Conflict: The Philippine Experience” 1996.

These children were sent into minefields to clear mines for the advancing Iranian army, armed only with keys around their necks for opening the gates of heaven and wearing shirts on which was written the slogan 'I have the special permission of the Imam to enter Heaven'. The children were ordered to jump on the mines or hit them with a stick. Reports were given by eye-witnesses that the children were tied together in groups of about 20 to prevent them from running away.



LEGAL FOXES

"OUR MISSION YOUR SUCCESS"

CHAPTER 3: - INTERNATIONAL HUMANITARIAN LAW

International law endeavours to change the characteristic brutality of war by giving rules of acceptable conduct to international actors. The laws endeavour to give “*direction with respect to the ethical limits of the activity of intensity in circumstances which most exclusively breed abundance.*”

In the region of armed conflicts, the object of international law is essentially to ensure, and help, survivors of armed conflicts. Truly, extraordinary contemplations given to civilian people during armed conflicts have swarmed a wide range of warfare. Obviously civilian people, those people who hold non-soldier status, are dominatingly the ladies and kids who stay in the region of the conflict.¹⁰ International law for all intents and purposes overlooks the particular protection of these groups.

Indeed, even amidst struggle, an accentuation must be set on humanitarian senses which adjust the select accentuation on military strategy.¹¹ Wartime regularly brings about a cognizant negligence of international humanitarian standards. The activity of sacred self-sufficiency frequently legitimizes harsh acts which subject the survivors of international conflicts to over the top severity. To restrict abnormalities from worthy standards of human conduct, the international network has made and affirmed different international bodies to give unbiased help with, and screen, international conflicts.

By systematizing the international guidelines which apply to warring countries, these bodies help to cultivate a “*atmosphere of international responsibility.*” This atmosphere can't be constrained by any individual government, and powers all countries to perceive that their activities are dependent upon international remark and censure. The most genuine obstruction to the support of humanitarian law norms originates from the utilization in present day clashes of fundamentally guerrilla-style strategies.

These contentions are both international and inside in nature, yet numerous sovereign countries won't recognize the international parts of the contentions. Such a forswearing bars any international activity since local revolts are not dependent upon international intervention.¹²

¹⁰ Cantrell, Civilian Protection, 11 *Tax. INT'L L.J.* 305, 316 (1976).

¹¹ Demarest, “Updating the Geneva Convention: The 1977 Protocols”, 1983, 16, 26.

¹² Mann, “The International Child Soldier”, 1987, 36 *Int'l & Comp. L.Q.* 32, 34 .

The cognizant longing of the international network to secure children has its underlying foundations in customary non-warrior insurance, intended to ensure the honest civilian citizen populace, as expressed in the Geneva Convention of 1949.

The desire to ensure protection to children through international legitimate instruments rose during the 1970s, and was explicitly applied to children in the revisions to the Geneva Convention in the Protocols of 1977.¹³ It was most as of late examined and adjusted in the International Diplomatic Conference of the Commission on Human Rights in 1986. The following conventions are working for the protection of children during an armed conflict or in the situation of war.

THE GENEVA CONVENTION OF 1949

Article III of the Convention notes that “ *victims in an armed conflict not of an international character deserve some protection,*”¹⁴ but, this limited protection does not specifically or adequately protect them. This close interaction between guerrillas and civilians causes a “blending” of the two groups and makes identification of civilians difficult.¹⁵

Customarily, children were secured by cultural assumptions that they were non-warriors. The utilization of children as members by the Third Reich, and by underground developments battling the Nazis in the Second World War, were the main far reaching employments of children in battle in current conflicts. During the 1960s the customary absence of child inclusion in battle practically vanished. It is a result of this acceleration in the utilization of children during battle that Article III has gotten insufficient.

Article III's sweeping insurances are not, at this point adequate to shield children from their support in the new kinds of warfare. Article III was a trade-off between countries preferring supreme self-governance for inner debates and countries calling for uniform adherence to the international principles.

¹³ Ramcharan S., “The Role of International Bodies in the Implementation and Enforcement of Humanitarian Law and Human Rights in Non-International Armed Conflicts”, 1983, 33. REV. 99, 100.

¹⁴ Junood, “Additional Protocol II: History and Scope”, 1983, 33 AM. U.L. REV. 29.

¹⁵ Forsythe, “Legal Management of Internal War: The 1977 Protocol on Non-International Armed Conflict”, 1978, 72 AM. J. INT'L L. 272.

THE TIME BETWEEN GENEVA CONVENTION AND 1977 PROTOCOLS

With the reception of the Geneva Convention in 1949, the world arranged norms to secure war casualties. Limits put by sovereign countries on international organizations, for example, the U.N. and, the Red Cross, confine their capacity to help those casualties of inner conflicts.¹⁶ The ICRC officially tended to the issue unexpectedly, at the 21st International Conference, when it recommended that extra guidelines identifying with non-international armed conflicts be embraced as a Protocol or a different, extra show. This recommendation followed an international discussion all through the 1960s with respect to the need to improve Article III and give more complete security to civilians. The issues natural in Article III caused worry among a significant number of the U.N. part states, and unexpectedly there was acknowledgment of the U. N's. inability to create instruments to secure adequately non-military personnel children.¹⁷

Expanded utilization of civilians by sporadic powers likewise legitimizes bringing down the effectively insignificant assurance of the non-military personnel populace. The non-military personnel function as a functioning warrior is clearly so inescapable with regards to presently don't permit legislative powers to assume that civilians are not included. The response of state troops to the checked increment in the utilization of civilians has been to decline to assume that any regular citizen bunch situated in regions constrained by the guerrilla powers are not belligerent.¹⁸ This assumption of honesty has been perhaps the most grounded apparatus in the assurance of children.

The underlying debate encompassing the 1977 Protocol originated from pressure applied by Third World countries to permit worldwide public freedom groups, which include most of radical powers in “*interior conflicts*,” to speak to themselves on the drafting panel. Such portrayal was passionately restricted by the U.S. what's more, Western European agents on the grounds that these groups didn't have the official status expected of partaking individuals. Any acknowledgment of the status of public freedom groups would warrant the portrayal of the conflicts where they were included as international and take into account the utilization of the Geneva Convention securities for civilians.

¹⁶ M. Bothe, “New Rules for Victims of Armed Conflict”, 1982, 477.

¹⁷ A. Roberts & R. Guards, supra note 16, at 477.

¹⁸ M. Bothe, “Article III and Protocol 11: Case Studies of Nigeria and El Salvador”, 1982, 31 AM. U.L. REv. 899 (1982).

**RECENT ATTEMPTS TO ADVANCE INSTRUMENTS FOR CHILDREN IN
ARMED CONFLICTS**

The Protocols additionally come up short on a successful enforcement device. As of now, the only nation that has confirmed Protocol II and, on whose territory, an armed conflict is occurring is El Salvador at this stage neither one of the parties has perceived the immaterialness of Protocol II. Other international standards of law give that the terms will be authorized by a policing power, either a discretionary request panel or the U.N. In the homegrown conflicts tended to by the Protocols, restrictions put on international mediation by homegrown laws supplant the Protocols.¹⁹

The absence of enforcement claims an expanding cost for war casualties. One of only perceived examples of a Protocol infringement against children was noted in the Islamic Republic of Iran by the U.N. in 1983. The Iranian activities were explicitly tended to in an uncommon report to the U.N. in 1983. The report referred to various examples where children had been utilized as warriors in the war against Iraq. This finding was additionally upheld by measurements on the quantity of Iranian children seized during battle and set in Iraqi detainees of-war camps.

Another issue perceived by the Conference members is the powerlessness of the international network to adequately screen adherence to the codified standards by the extremist groups. Without obviously separated territory or settlements, something profoundly uncommon in close quarters combat, the radical powers become hard to find and screen. Also, the "grassroots" nature of most uprisings fits close cooperation with civilians, along these lines duplicating the issues of recognizing genuine military focuses from regular citizen territories.²⁰

The Conference arrangement utilized ambiguous language due to the hesitance of numerous legislatures to ensure those civilians helping rebel powers. Albeit one of the most vocal advocates of children's privileges, the ICRC, upholds the allowing of immunity for those civilians who are just in a roundabout way included, the last Conference proposition mirrors no understanding of immunity. Not the entirety of the ICRC concerns were overlooked.

The essential objective of the Conference was to totally ensure children associated with a conflict, independent of the inward or international nature of the conflict. Many concerned

¹⁹ "Declaration on the Protection of Women and Children in Emergency and Armed Conflicts", 1984, G.A. Res. 3318, 39 U.N. GAOR at 307, U.N. Doc. A/AN.3/1982/SR1 15

²⁰ Rachel S., "Child Soldiers Released in Sudan, Still No U.S. Action," 2001, Weekly Defence Monitor 5, No. 9

defenders of children's privileges accept that systems to control international guide ought to be permitted to secure civilians in an armed conflict. Shockingly, these objectives were not accomplished in the 1949 Convention or in the 1977 Protocols.

The 1986 Conference instead of accomplished the objectives of securing children, essentially surrendered that obligation. The U.N. records from 1983 through 1986 recorded just three examples of child support in armed conflict the world over. While this figure looks empowering, all things considered, the absence of reported infractions comes from the absence of validated data, as opposed to the absence of genuine infringement.²¹



²¹ J.McBeth, "Children of War," 2002.

CHAPTER 4: -IMPROVING THE PROTECTION AND CARE OF CHILDREN
AFFECTED BY ARMED CONFLICT: A CHILD RIGHTS APPROACH

Undoubtedly, the best protection for children in armed conflict is the prevention of armed conflict altogether. This remains a laudable but, unfortunately, rather unrealistic objective. “Peace education” is often vaunted as the long-term solution to organized violence, but research suggests that the effectiveness of peace education is disputed.

Furthermore, the fact that in some regions of the world it is impossible to talk of peace without addressing the concept of justice demonstrates how far we have to go before world peace can be more than a distant utopia. Given the reality of armed conflict as a constant feature of humankind’s development, in order to improve the protection of children affected by armed conflict, we must seek rather to “*lighten the stone.*”²² For example, the most effective way to prevent malnutrition, is not to fly in supplies from three thousand miles away, but rather to prevent the displacement or the destruction of crops or fertile land that has provoked the food shortage. This requires the adoption of a preventive approach by tackling the heart of the problem-the means and methods of warfare.

TACKLING THE MEANS AND METHODS OF WARFARE

Traditionally, interventions to assist war-affected populations primarily have sought to address the situation after acute disruption has occurred-to deliver relief to the refugee or displaced camp or to protect children separated from their parents. This is akin to shutting the stable door after the horse has bolted. If we are effectively to address both the direct and the consequent indirect impact of armed conflict on children, the international community must concentrate much more earnestly on preventative action-restraining the excesses of warring parties in their conduct of hostilities.²³ Furthermore, if we accept, as most do, that existing international standards-human rights and humanitarian law-are generally adequate to the task of protecting children, we must ask why they are palpably failing to do so in practice.

Firstly, all States must ratify the relevant international instruments. The CRC and the four Geneva Conventions of August 12, 1949, have almost universal adherence, but levels of

²² Mazurana, Dyan, and Susan McKay, “Child Soldiers What about the Girls?” 2001, 57(5): 30.

²³ Maslen, Stuart. “The Use of Children as Soldiers: The Right to Kill and be Killed?”, 2001, International Journal of Children’s Rights 6(4): 445-451.

ratification of many other relevant instruments, such as the 1984 Convention Against Torture or the 1977 Additional Protocols to the Geneva Conventions, lag far behind. Relevant provisions in all human rights and humanitarian law treaties must be incorporated into national legislation, especially provisions establishing extra-territorial jurisdiction to enable punishment of offenders present in different jurisdictions. There are, for example, States Parties to the Geneva Conventions, but of these, disappointingly few have adopted the laws necessary to comply with the requirement of compulsory universal jurisdiction for grave breaches of the Conventions.²⁴ This means that if an alleged war criminal arrives in a country that has not taken the necessary legislative action, this alleged criminal might be able to escape prosecution or extradition.

Secondly, although entities other than States, such as nongovernmental armed forces, are unable formally to ratify or to accede to international treaties and conventions, these groups should be encouraged officially to declare their willingness to observe the requirements and obligations of these agreements, and more importantly, they should be held to full account for that observance. But simple adherence to international norms is, unfortunately, no guarantee that they will be respected. Since publicity is often an effective tool in education, wide dissemination of international norms must be undertaken.

Thirdly, all armed forces, including United Nations forces and other peacekeepers, must receive training that integrates the law governing children and their rights into pre deployment exercises. Theoretical discussions in front of a blackboard, for instance, are wholly inadequate to install appropriate reflexes into soldiers, and are sometimes considered by the participants as something of a sideshow-an administrative requirement that has little bearing on their operational activities.²⁵

Fourth, there is an urgent need for more effective monitoring of human rights and humanitarian law violations. Although NGOs such as Human Rights Watch and its Children's Rights Project are evolving into effective ad hoc monitoring bodies of the behaviour of both governmental and nongovernmental armed forces, more organizations should become involved, especially in the field of humanitarian law.²⁶ Complaints by NGOs, for example, have sometimes led to children forcibly recruited into armed forces being returned safely to their families.

²⁴ Mann, Howard. "International Law and the Child Soldier.", 1987, *The International and Comparative Law Quarterly* 36(1): 32-57.

²⁵ Machel, Graca. "Impact of Armed Conflict on Children." 1996.

²⁶ Kuper, Jenny, "Military Training and Children in Armed Conflict". 2008

The fifth prerequisite to improving protection for children affected by armed conflict is effective punishment of those who abuse children's rights and the rights of other civilians. Any efforts aiming to strengthen compliance with international human rights and humanitarian law will ultimately be unsuccessful as long as impunity is the norm. States and individuals must be held accountable for their acts and the acts of their subordinates. It is well known that impunity breeds further abuse. The legal measures needed to allow prosecution for grave breaches of the Geneva Conventions are mentioned above, but whether any such prosecution takes place depends ultimately on political will. This in turn is prompted by public opinion. To ensure effective punishment, an international war crimes tribunal is urgently needed, but it must be equipped with the tools to properly perform its job.

PROTECTION OF CHILDREN AT PARTICULAR RISK

Relief and assistance should, of course, be given to all children without discrimination. But in situations of armed conflict, as in times of peace, certain groups or categories of children require special protection.

Despite apparent confusion in certain quarters, it is certain that the rape of girls and women is a war crime and, where there is a systematic and targeted pattern of persecution, a crime against humanity that should be punished as such. Where international peacekeepers are involved in sexual exploitation, they too should be punished. Defeating sexual discrimination in the provision of health and education services is inevitably a process rather than an act, but where that discrimination is institutionalized, for example with the Taliban in Afghanistan, humanitarian organizations should-as they have-refuse to assist until the problem is addressed.

To prevent the illegal recruitment of boys and girls into the armed forces, proper recruitment procedures should be established by all States. Implementing Article 7 of the CRC on registration after birth would help to ensure that recruitment of underage children does not continue to occur. To prevent children from volunteering for armed opposition forces, governments must ensure that their own forces do not violate human rights. As mentioned above, research has indicated that the primary reason for children volunteering to take part in hostilities against the government was less a desire for revenge and more a sense of personal or familial vulnerability arising from their own experiences of harassment by government

armed forces.²⁷ Also, education and opportunities for training and work will provide children with alternatives to combat and inducements for them to demobilize. In Mozambique, for instance, former child soldiers held in transit camps rioted in order to receive the demobilization package being offered to their adult colleagues.

The United Nations initiated a humanitarian assistance program for internally displaced persons in Chechnya in January 1995, following an invitation from the Russian Federation. The invitation, however, was limited to protection and assistance to civilians displaced to territories in the Russian Federation neighbouring Chechnya, and not to those displaced within Chechnya itself. An independent consultant who entered the area found that one of the most serious health concerns was the lack of immunization. As a result, childhood diseases such as polio, diphtheria and measles have reappeared in the region, although not in epidemic proportions.²⁸ Refugee children have seen many initiatives in their favour over the last few years, but much more needs to be done.

In a report to the U.N. Study on the Impact of Armed Conflict on Children, UNHCR made a series of recommendations on how to improve the situation of refugee children. These included more systematic training of staff in the protection and care of refugee children, specific child-focused needs assessments, an integrated multisectoral approach to assistance activities, the use of evacuation only as a last resort, and priority to be given to reunification of children separated from their parents. UNHCR emphasized that rights to health services, education, and appropriate documentation under the CRC are fully applicable to refugee children.

Once the conflict is over, it is of course desirable that displaced populations should return, if possible, to their former homes. Repatriation and return should, however, be voluntary. The sight of numbers of child asylum-seekers whose claims have failed being forcibly loaded onto airplanes in the dead of night is one that should rightly shock our consciences. The other principle durable solution recognized by UNHCR is assimilation into new national communities. This may involve local integration in the country of asylum or resettlement in a third State.

²⁷ Francis, David J. "Paper Protection' Mechanisms: Child Soldiers and the International Protection of Children in Africa's Conflict Zones." , 2007, *Journal of Modern African Studies* 45(2): 207- 231.

²⁸ Hrair B., Covcas Center For Law & Conflict Resolution, "Armed Conflict In Chechnya: Its Impact On Children", 1995.

**ADDRESSING THE IMPACT ON SURVIVAL AND DEVELOPMENT OF ALL
CHILDREN AFFECTED BY ARMED CONFLICT**

The child's right to development is one of the central pillars of the CRC. States Parties to the CRC are obliged to ensure "*to the maximum extent possible*" the survival and development of the child. They are also required to take all feasible measures to ensure protection and care of children who are affected by an armed conflict. All children involved in armed conflict are affected by it in one way or another, but the consequences are not necessarily irreversible, nor are they necessarily permanent. The first step to assisting children is understanding how, in their particular social, economic, and cultural context, armed conflict has affected them. The second step is doing something about it.

Improving the speed and quality of assistance and relief to children affected by armed conflict is of obvious importance. Increasingly, however, organizations are realizing that service delivery and advocacy for children's rights are of substantial benefit, especially in the long term. A child imprisoned in the course of an armed conflict, for example, does not need just food and water, he or she needs legal advice and representation. In particular, under the CRC, children "capable of forming" their own views have a right to be consulted in all matters affecting them. Interventions should be designed to sustain families and communities, not usurp their roles and create dependency. This demands that the family and community be closely involved in the design and implementation of programs and strategies.

The CRC also recognizes the "*special needs of a disabled child,*" which include effective access to education, training, health care services, rehabilitation services, preparation for employment, and recreation opportunities. Vocational training plays an important part in the rehabilitation of children affected by armed conflict, but has all too often been neglected. Recognizing this gap, the International Labour Organization has embarked on a two-year Action Programme for Skills Training in Countries Emerging from Armed Conflict to develop appropriate program guidelines.²⁹ The initiative includes components on women, children and youth, and the disabled.

Article 39 of the CRC is an important innovation in human rights law. It provides that a child victim of armed conflict has the right to physical and psychological recovery and social reintegration "*in an environment which fosters the health, self-respect and dignity of the*

²⁹ Boyden & Ryder, *supra* note 3.

child."³⁰ The issue of psychosocial assistance in recent years has achieved greater international prominence. The argument that the war is over for children once a peace agreement is signed has always been specious. Increasingly, organizations are including a psychosocial component to their relief and assistance programs.. In a review of its psychosocial programs for children affected by displacement and armed conflict, the Save the Children Alliance, an international network of national NGOs, identified the following seven principles that should guide interventions:

- Apply a long-term viewpoint that joins psycho-social prosperity of children;
- Embrace a network-based methodology that empowers self-improvement and expands on neighbourhood culture, real factors and view of child advancement;
- Advance typical family and regular day to day existence in order to fortify a child's characteristic strength;
- Zero in on essential consideration and anticipation of additional damage in the recuperating of children's mental injuries;
- Offer help just as preparing for personnel who care for children;
- Guarantee lucidity on moral issues so as to secure childhood;
- Advocate children's rights.



LEGAL FOXES

"OUR MISSION YOUR SUCCESS"

³⁰ CRC, Art. 39,28 I.L.M. at 1470.

CHAPTER 5: - CONCLUSION

The unfortunate position of child victims in armed conflict is clearly explained in the following exposition by Eylah Kadjar:

“Unfortunately we live in a time when formalism and logorrhoea flourish in international conferences, for diplomats have discovered the advantages they can derive from long-winded, complex and obscure texts, in much the same way as military commanders employ smoke screens on battlefields. It is a facile way of concealing the basic problems and creates a danger that the letter will prevail over the spirit.”³¹

Humanitarian law, similar to the law of human rights, is a protective law. While rules have consistently been planned with the most extreme severity, it is fairly influence and mollification which manage the means of the individuals who endeavour to guarantee that it is applied and regarded. Practically speaking, its usage has infrequently offered ascend to international debates requiring legal settlement. International equity in the institutional and procedural feeling of the term is in this regard inseparable from disappointment, since helping casualties is a lot more critical than any allure that may be visualized in light of a legitimate concern for international statute. Humanitarian law, qua law roused by empathy, becomes, on usage, an exceptionally severe law of international equity - bury arma caritas, per armis justitia.

Unfortunately, notwithstanding, humanitarian law experiences similar inborn shortcoming as do all parts of humanitarian law - an absence of extensive and viable frameworks equipped for confirming that its arrangements are being watched.

It remains, and this has often been demonstrated by the horror and tragedy of recent events, true that recognition should be given to the right to humanitarian assistance, both national and especially international, of the victims of armed conflict and of its direct and indirect consequences, particularly since these victims are the primary concern of humanitarian law. It must also be clearly acknowledged that such situations give rise, beyond dispute, to the application of humanitarian law.³²

³¹ Kadjar in Supra note 8.

³² Vasak in Sandoz 298.