Protection of children in armed conflict: the rules of international law and the role of the International Committee of the Red Cross

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Introduction

Armed conflicts do not spare children. Indeed, in many present-day conflicts, children are among the most severely affected because of their great vulnerability. They may be the most innocent victims of armed conflicts, but they are by no means the most insignificant.

Trying to protect children in such situations constitutes a formidable challenge for humanitarian organizations.

Recognized by the international community as "a neutral institution whose humanitarian work is carried out particularly in time of international and other armed conflicts or internal strife"; and whose task it is to "ensure the protection of and assistance to military and civilian victims of such events", the International Committee of the Red Cross (ICRC) has always endeavoured to improve the protection of children caught up in armed conflict.

In the following pages, we shall describe the main activities carried out by the ICRC on behalf of such children and present an overview of the provisions of international law that protect them.

Finally, some comments will be made on the "Plan of action for the protection of children affected by conflicts" recently adopted by the International Red Cross and Red Crescent Movement.¹

¹ Members of the Legal Division, International Committee of the Red Cross. The views expressed here are those of the authors and do not necessarily reflect those of the International Committee of the Red Cross.

² See Article 5, para. 2(d), of the Statutes and Rules of Procedure of the International Red Cross and Red Crescent Movement.

³ Ibid.

⁴ The International Federation of Red Cross and Red Crescent Societies and the National Red Cross and Red Crescent Societies, together with the ICRC, form the International Red Cross and Red Crescent Movement.
1. ICRC activities on behalf of children affected by armed conflict

For several decades the ICRC has been concerned about the particularly tragic plight of children during armed conflicts. As early as 1924 it made a major contribution to the Geneva Declaration of the Rights of the Child.

In 1939, in cooperation with the Save the Children Fund International Union, the ICRC prepared a draft convention for the protection of children in the event of armed conflict. Unfortunately the outbreak of hostilities prevented its adoption by states.

Notwithstanding this setback, the ICRC took a number of initiatives during the Second World War to improve the plight of children. In fact, in accordance with its tradition as a humanitarian institution, it did not wait for legal provisions to be adopted before launching operations for their protection.

Immediately following the end of the war, which had sadly demonstrated the urgent need to draw up an international treaty protecting the civilian population in wartime, the ICRC resumed its efforts to secure the adoption of special provisions to protect children.

The results of the ICRC's efforts in this field led to the adoption of the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War. The Convention not only afforded general protection to children as civilians not taking part in hostilities but also, in no less than 17 of its provisions, provided special protection for them. In addition, children benefited for the first time from general protection in situations of internal conflict as persons taking no active part in the hostilities, by virtue of Article 3, common to the four 1949 Geneva Conventions.

In the 1960s, confronted with new forms of conflict, the ICRC felt that the protection provided by international humanitarian law must again be extended. In regard to children, three issues had to be addressed. First, as a particularly vulnerable category of victims, children were entitled to special protection stated in specific provisions. Secondly, the question of their role in military operations had to be more precisely defined. Finally, "some provision had to be made to take into consideration their immaturity if they did commit offences during the period of an armed conflict".

In order to meet the challenges of these new types of conflict, the ICRC organized several meetings of experts which eventually led to the adoption of the two Additional Protocols of 1977. These treaties marked a substantial step forward in the provision of protection for children in wartime. Not only did they afford children greater protection against the effects of hostilities,

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