

A Study of Child Rights in Armed Conflicts under the International Legislative Framework

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Abstract

Protecting children in conflict is a key concern for international children's legislation and its implementation today, with over 250 million children living in conditions of armed conflict. The international legal measures that safeguard children during armed conflict are examined in this article. It examines the general legal rights afforded to children during times of conflict, particularly their access to critical resources for their physical and mental well-being (such as medical treatment, food, and clothes) and to developmental activities, including education. It also looks at how international law prevents children from becoming involved in armed conflicts, including the restriction on their recruitment and use in hostilities, as well as how children who are captured or detained should be treated. The article concludes with a brief description of how, over the last few decades, the protection of children in armed conflict has grown to be a major worldwide problem, particularly within the UN system.

Keywords: *Human Rights, Armed Conflict, International Law, UN System*

The hallmark of culture and advance of civilization consists in the fulfilment of our obligation to the young generation by opening up all opportunities for every child to unfold its personality and rise to its full stature, physical, mental, moral and spritual. It is the birth right of every child that cries for justice from the world as a whole.

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I. Introduction

In a civilised society, the importance of child welfare cannot be underestimated because the welfare of the entire community, its growth and development

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² Mamata Rao, Women and Children 529 (Eastern Book Company, Lucknow, 3rd edn, 2012).

depends on the health and well-being of its children. Children are a “supremely important national asset”, and the future well-being of the nation depends on how its children grow and develop.

There has been great concern for the welfare of children at the international and national levels. Kofi A. Annan, secretary General of the United Nations(UN), observed:

*There is no trust more sacred than the one the world holds with children. There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they grow up in peace.*³

The protection of children in armed conflict has always been high on the international political agenda. The Security Council has a special working group which pays specific attention each year to the most serious violations of children’s rights in armed conflict: the recruitment and use of children by armed forces or armed groups, the killing and maiming of children, rape and sexual violence, abduction, attacks on schools and hospitals, and the denial of humanitarian access by parties to armed conflict. To present and discuss all the relevant documents is beyond the scope of this introduction to the international legal framework for the protection of children in armed conflict.⁴

II. The Grave Violation of Rights of Children during Armed Conflict

Protecting children from the effects of armed conflict is a moral imperative, a legal responsibility and a question of international peace and security. The Security Council has resolved that the protection of children from armed conflict is an important aspect of any comprehensive strategy to resolve conflict, and should be a priority for the international community. The General Assembly and other UN bodies have repeatedly called for special protection afforded to children by all parties to conflict.

A. Recruitment and Use of Children

Recruiting or using children under the age of 15 as soldiers is incontrovertibly prohibited under international humanitarian law. Furthermore, international

³ Ibid.

⁴ Jaap Doek, The International Legal Framework for The Protection of Children in Armed Conflict, Disarmament Forum,2011.

human rights law clearly states 18 years as the minimum legal age for participation in hostilities.

The Charles Taylor case before the Special Court for Sierra Leone⁵

The Special Court sentenced Taylor to 50 years in prison and this sentence was upheld by the Appeal Chamber in September 2013. The Court's judgement against Charles Taylor marks the first time that a former Head of State has been convicted of war crimes against children that were committed by an armed group found not to be under his direct command and control but to which he gave his practical assistance, encouragement and moral support. The Special Court was also the first international court to determine that the recruitment and use of children aged less than 15 years constituted a war crime under customary international law.

The Lubanga case before the ICC⁶

On March 2012, the International Criminal Court convicted Lubanga Dyilo of committing war crimes consisting of the enlisting and conscripting of children under the age of 15 into the Forces patriotiques pour la libération du Congo and their use for active participation in hostilities. He was sentenced by the ICC to a total period of 14 years of imprisonment. The Lubanga case was the first of its kind before the ICC. Of great significance was the Court's acceptance that the line between voluntary and involuntary recruitment is legally irrelevant in the context of children's association with armed forces or armed groups in times of conflict.⁷

The Convention on the Rights of the Child's Optional Protocol on the Involvement of Children in Armed Conflict (2000) requires State parties to increase to 18 years the minimum age for compulsory recruitment and for direct participation in hostilities. Those countries that continue to permit voluntary recruitment of children under the age of 18 must introduce strict safeguards.⁸ Additional Protocol I of the Geneva Conventions and the Convention on the Rights of the Child both require that when recruiting children

⁵ SCSL-03-01-A

⁶ ICC-01/04-01/06

⁷ Ibid.

⁸ Art. 1-3, Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in armed conflict (2000).

between 15 and 18 years old, priority should be given to the oldest.⁹The International Labor Organization's Convention No. 182 on the Worst Forms of Child Labor declares that recruiting children below the age of 18 is "one of the worst forms of child labor."¹⁰The Paris Principles on Children Associated with Armed Forces or Armed Groups (2007) to protect children from unlawful recruitment suggests States to ensure that armed groups within their territory do not recruit children under the age of 18 and that the States themselves respect the international standards for recruitment.¹¹The African Charter on the Rights and Welfare of the Child (1999) prohibits "recruitment and direct participation in hostilities of any person under the age of 18 years¹²".

B. Killing and Maiming of Children

The prohibition of violence to civilians, including children, in particular murder, mutilation, cruel treatment and torture is a principle of customary international law, with universal applicability in all situations of armed conflict.¹³

The principles aim to protect civilians against the effect of hostilities and prevent unnecessary "collateral damage" resulting from combat operations. They prohibit indiscriminate and disproportionate military attacks, as well as direct attacks against civilians. The principle of proportionality prohibits military attacks if they result in civilian death or injury, or damage to civilian objects that is excessive when compared to the concrete and direct military advantage anticipated from the attack. The principle of distinction demands that parties to conflict distinguish between civilians and combatants at all times and that attacks must not be directed against civilians.¹⁴

The use of indiscriminate weapons, such as landmines, cluster munitions and chemical weapons, are contrary to the law of armed conflict and contravene

⁹ Art. 77(2)"protocols Additional To Geneva Conventions of 12August 1949",International Humanitarian Law, International Committee of the Red Cross,Retreived 9thJanuary 2020.

¹⁰ Art. 1-3 International Labor Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999).

¹¹ Para. 4 of Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups (2007).

¹² Art. 22, African Charter on the Rights and Welfare of the Child (1990).

¹³ Common article 3 Geneva Conventions (1949).

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multiple international treaties.¹⁵The growing body of international criminal jurisprudence recognized that willful killing in conflict situations may amount to war crimes or crimes against humanity.¹⁶

Furthermore, the International Criminal Tribunal for the Former Yugoslavia recognized in the *Kunarac, Kovac̃ and Vukovic*¹⁷ case that when children are the victims of murder, torture or injury it amounts to “aggravating circumstances” of such crimes, warranting lengthier than ordinary prison terms for perpetrators.¹⁸The CRC recognizes “that every child has an inherent right to life” and State parties must ensure to the “maximum extent possible the survival and development of the child.”¹⁹The Committee on the Rights of the Child tasked to monitor the practices of States relating to the Convention, has designated this inherent right to life as one of four guiding principles of the entire Convention.²⁰The African Charter on the Rights and Welfare of the Child (1990) and other regional human rights instruments also reflect the basic children’s right to life and the right to be free from torture and abuse.²¹

C. Sexual Violence against Children

Rape and other forms of sexual violence against children, both boys and girls, are serious violations of international human rights law and may amount to grave breaches of international humanitarian law.²²The obligation of humane treatment under Common Article 3 of Geneva Conventions, implicitly prohibits rape or any other sexual violence, be it against adults or children. Article 27 of the 4th Geneva Convention explicitly prohibits such acts stating that: “Women [including girls] shall be especially protected against any attack on their honour,

¹⁵ Art. 35 AP I

¹⁶ Art. 7(1), Rome Statute.

¹⁷ ICTY (2001).

¹⁸ Prosecutor v. Kunarac, Kovac̃ and Vukovic’, ICTY (2001).

¹⁹ Art. 6, 37 CRC.

²⁰ World Conference on Human Rights, Vienna Declaration and Programme of Action (1993).

²¹ Art. 5, 16 African Charter on the Rights and Welfare of the Child, Organization of African States (1990).

²² Art.147 “Treaties/stateparties/commentaries: Convention (IV) Relative to the Protection of Protocols Additional to The Geneva Conventions of 12 August 1949”, International Humanitarian Law, International Committee of the Red Cross, Retrieved 9th January 2020.

in particular against rape, enforced prostitution, or any form of indecent assault.”²³The ICCPR and the Convention for the Elimination of all Forms of Discrimination Against Women (1979) (CEDAW) affirm a women’s right to liberty and security of person and to be free from discrimination.²⁴The Convention on the Rights of the Child and its Optional Protocol on Trafficking and Ex-ploitation unequivocally affirm that children must enjoy protection from torture, cruel, inhuman or degrading treatment, a protection broadly accepted as encompassing acts of rape and sexual violence.²⁵The Rome Statute of the ICC states that rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or “other forms of sexual violence of comparable gravity” may constitute war crimes and crimes against humanity.²⁶

Furthermore, the International Criminal Tribunal in the *Prosecutor v. Furundžija*²⁷ case the ICTY Trial Chamber noted that prohibition of rape and serious sexual assault in armed conflict under customary international law has gradually crystallized. The Tribunal found the accused guilty of a violation of the laws and customs of war outrages upon dignity, including rape. And Furthermore, the International Criminal Tribunal recognized in the *Prosecutor v. Kunarac, Kovac and Vukovic*²⁸ case the ICTY Trial Chamber found the accused guilty of “crimes against humanity rape” and “violations of the law of customs of war rape.”

D. Attacks against Schools and Hospitals

Schools and hospitals are civilian institutions that often provide shelter and protection, and tend to the needs of children during conflict. Attacks against schools or hospitals are, in principle, contraventions of well-established international humanitarian law, including customary norms, and may constitute war crimes and crimes against humanity.

²³ Ibid.

²⁴ Art. 2, 3, 6 ICCPR.

²⁵ Art. 34, 35, CRC Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000).

²⁶ Art. 7,8 Rome Statute.

²⁷ ICTY (1998).

²⁸ ICTY (2000).

The 4th Geneva Convention prohibits the targeting of civilian objects, emphasizing the importance of schools and hospitals to the civilian population especially children.²⁹The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises. All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside. Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people³⁰Whenever an evacuation occurs pursuant according to paragraph 1 Article 78, each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.³¹

Article 24 and Article 28 of the Convention on the Rights of the Child recognizes the paramount importance of children's right to education and right to health and every child has the right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Every child has the right to education, and with a view to achieving this right progressively and on the basis of equal opportunity, primary education compulsory and available free to all and encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such

²⁹ Art. 11, 18 "Treaties/stateparties/commentaries: Convention(IV)Relative to the Protection of Protocols Additional to The Geneva Conventions of 12 August1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

³⁰Article 94 "Treaties/stateparties/commentaries: Convention(IV)Relative to the Protection of Protocols Additional to The Geneva Conventions of 12 August1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

³¹Article 78 "protocols Additional to Geneva Conventions of 12August 1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

as the introduction of free education and offering financial assistance in case of need and make higher education accessible to all on the basis of capacity by every appropriate means and vocational information and guidance available and accessible to all children.³²

These rights are also reflected in international and regional legal instruments, including the Universal Declaration of Human Rights (1948) and the International Covenant on Economic, Social and Cultural Rights (1966), which address the right of all persons to enjoy “the highest attainable standard of physical and mental health” and the right of every child to education.³³

The targeting and destruction of schools or hospitals obviously constitutes an obstacle to fulfilling these rights. The International Criminal Tribunal for the former Yugoslavia has developed solid jurisprudence on the necessity to protect schools and hospitals from attack, for example in the Kupreskic³⁴ and Kordic & Cerkez³⁵ cases. The Rome Statute extends the criminal accountability for these acts (or “failures to protect”), providing the International Criminal Court explicit jurisdiction to prosecute and punish those that intentionally target schools or hospitals during armed conflict. Such acts amount to war crimes regardless of whether they occur during an international or non-international armed conflict.³⁶

E. Abduction of Children

Abducting or seizing children against their will or the will of their adult guardians either temporarily or permanently and without due cause, is illegal under international law. It may constitute a grave breach of the Geneva Conventions and in some circumstances amount to war crimes and crimes against humanity. The Geneva Conventions Common Article 3 requirement of humane treatment for civilians implicitly but undeniably prohibits the abduction of children.³⁷ Forced displacement or deportation of a civilian population, both of which are express prohibitions in the Geneva Conventions may also include

³² Dr.S.K.Kapoor, Human Rights Under International Law and Indian Law (166-177) (Central Law Agency, Allahabad, 6th edn, 2014).

³³ Art. 26, UDHR; Art. 12 and Art. 13 ICESCR (1966);

³⁴ ICTY (2000).

³⁵ ICTY (2001).

³⁶ Article 8 Rome Statute.

³⁷ Common article 3, Geneva Conventions (1949).

instances of child abduction.³⁸ Abduction may also amount to “enforced disappearance” and is thereby prohibited by several international legal instruments.³⁹ “State parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.”⁴⁰ “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁴¹ The ICC’s Rome Statute states that “unlawful confinement” is a grave breach of the Geneva Conventions and may amount to a war crime.⁴²

In the *Kupreskic*⁴³ and *Kunarac*⁴⁴ cases, the International Criminal Tribunal for the former Yugoslavia stated that “enslavement as a crime against humanity is customary international law” and that enforced disappearance of persons was an inhumane act, which also amounted to a crime against humanity.

F. Denial of Humanitarian Access

Denying humanitarian access to children may violate several basic human rights, including the right to survival and the right to be free from hunger, fundamental rights enjoyed by all people⁴⁵. The Convention on the Rights of the Child has several provisions that necessitate the facilitation of humanitarian relief to children in need, including ensuring that children seeking refugee status “receive appropriate protection and humanitarian assistance.”⁴⁶ “Parties must also permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under 15, expectant mothers and maternity

³⁸ Art. 49, 147 Geneva Conventions IV.

³⁹ Art. 2, 25 International Convention for the Protection of All Persons from Enforced Disappearance (2006).

⁴⁰ Article 35, Convention on the Rights of the Child.

⁴¹ Article 9, International Covenant on Civil and Political Rights.

⁴² Art. 8(2)(a) Rome Statute.

⁴³ ICTY(2000).

⁴⁴ ICTY(2001).

⁴⁵ Art. 11 and 12 ICESCR.

⁴⁶ “Legal protection of children In Armed Conflict”, International Humanitarian Law, International Committee of the Red Cross, Retrieved 9th January 2020.

cases. And when distributing humanitarian relief priority must be given to such persons as children, expectant mothers and maternity cases.”⁴⁷

III. International legislative Framework Against Protection of Rights of Victims of Children During Armed Conflict

To present and discuss all the relevant documents is beyond the scope of this introduction to the international legal framework for the protection of children in armed conflict following as under:

A. Geneva Convention-

Geneva Convention IV guarantees special care for children, but it is API that lays down the principle of special protection: Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason (Art. 77). This principle also applies to non- international armed conflict (Art. 4, para. 3 Additional Protocol II). The provisions setting out this protection may be summarized as follows:

Evacuation, Special Zones

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven (Art. 14 Geneva Conventions IV)⁴⁸

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas (Article 17 Geneva Conventions IV),

⁴⁷ Article 23, 4th Geneva Convention.

⁴⁸ “Treaties/stateparties/commentaries: Convention (IV)Relative to the Protection Of Protocols Additional To The Geneva Conventions Of 12 August1949”, International Humanitarian Law, International Committee of the Red Cross,Retreived 9thJanuary 2020.

The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time. (Article 132 Geneva Conventions IV) ⁴⁹

No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required(Art. 78 Additional Protocol I).⁵⁰

Children shall be provided with the care and aid they require, and in particular measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being. (Art.4 Additional Protocol II).

Assistance and Care

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases(Art. 23, Geneva Conventions IV).⁵¹

⁴⁹ Ibid.

⁵⁰ "protocols Additional To Geneva Conventions of 12August 1949",International Humanitarian Law, International Committee of the Red Cross,Retrieved 9thJanuary 2020.

⁵¹ "Treaties/stateparties/commentaries:Convention(IV)Relative to the Protection Of Protocols Additional To The Geneva Conventions Of 12 August1949",International

If the civilian population of any territory under the control of a Party to the conflict, other than occupied territory, is not adequately provided with the supplies mentioned in Article 69 Geneva Conventions IV, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection (Art. 70 Additional Protocol I)⁵². And Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason (Art. 77 Additional Protocol I).

Identification, Family Reunification and Unaccompanied Children

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay. And If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140 Geneva Conventions IV, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the co-operation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, and if the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen

Humanitarian Law, International Committee of the Red Cross, Retrieved 9th January 2020.

⁵² "protocols Additional To Geneva Conventions of 12 August 1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9th January 2020.

words, and to the limitation of the number of these forms despatched to one each month(ART. 25. Geneva Conventions IV)⁵³.

Reunion of dispersed families The High Contracting Parties and the Parties to the conflict shall facilitate in every possible way the reunion of families dispersed as a result of armed conflicts and shall encourage in particular the work of the humanitarian organizations engaged in this task in accordance with the provisions of the Conventions and of this Protocol and in conformity with their respective security regulations (Art. 74, Additional Protocol I).⁵⁴

Arrested, Detained or Interned Children

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour (Art. 51 Geneva Conventions IV).

Exemption from Death Penalty

In any case, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offence (Art. 68 Geneva Conventions IV).⁵⁵

⁵³ "Treaties/stateparties/commentaries: Convention(IV)Relative to the Protection of Protocols Additional to The Geneva Conventions of 12 August1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

⁵⁴ "protocols Additional to Geneva Conventions of 12August 1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

⁵⁵ "Treaties/stateparties/commentaries: Convention(IV)Relative to the Protection of Protocols Additional to The Geneva Conventions of 12 August1949", International Humanitarian Law, International Committee of the Red Cross, Retrieved 9thJanuary 2020.

The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed(Art. 77 Additional Protocol I).⁵⁶

B. The Convention on the Rights of the Child and Its Two Optional Protocols⁵⁷

“Mankind owes to the child the best it has to give”. This was proclaimed by the Declaration on the Rights of the Child adopted by the General Assembly on November 20, 1959. The Declaration on the Rights of the Child set forth in 10 principles code for the well-being of every child. Earlier the Universal Declaration of Human Rights proclaimed in Article 25(2) that motherhood and childhood are entitled to special care and assistance. The provisions setting out this protection may be summarized as follows:

Rights of the child under the Convention of 1989⁵⁸

- a. Right to life (Article 6)
- b. Right to a name and to acquire a nationality- (Article 7)
- c. Right of the child to preserve his or her identity- (Article 8)
- d. Right of the child to express his or her views freely in matters affecting the child-States Parties shall assure to the child who is capable of forming his or her own views freely in all matters affecting the child.. (Article 12)
- e. The right to freedom of expression
- f. Right of the child to freedom of thought, conscience and religion- (Article 14)
- g. Right of the child to freedom of association and peaceful assembly-. (Article 15)

⁵⁶ “protocols Additional To Geneva Conventions of 12 August 1949”, International Humanitarian Law, International Committee of the Red Cross, Retrieved 9th January 2020.

⁵⁷ Dr.S.K.Kapoor, Human Rights Under International Law and Indian Law (166-177) (Central Law Agency, Allahabad, 6th edn, 2014).

⁵⁸ Ibid.

- h. Right of the child to be protected from all forms of physical or mental violence, injury or abuse or negligent treatment, maltreatment or exploitation-. (Article 19)
- i. Right of a mentally or physically disabled child to enjoy a full and decent life.(Article 23)

C. African Charter on the Rights and Welfare of the Child (ACRWC), adopted in 1990,⁵⁹

The African Charter on the Rights and Welfare of the Child is an African regional human rights instrument adopted by the Organization of African Unity (OAU), now the African Union (AU), on 11 July 1990. The Charter entered into force on 29 November 1999. It was adopted within a year of the adoption of the United Nations Convention on the Rights of the Child (CRC). One of the reasons for a separate African Children's Charter was that during the drafting process of the Convention on the Rights of the Child,

According to the Charter, any human being under the age of 18 is considered a child (Article 2). The Convention enshrines the traditional human rights: civil, political, economic, social and cultural rights, such as the right to non-discrimination (article 3); freedom of expression (article 7); right to religion (article 9); the right to privacy (article 10); right to education (article 11); the right of every mentally or physically disabled child to receive special measures of protection (article 13); the right to health (article 14). The Charter, furthermore, addresses issues of particular concern to children such as: the best interest of the child shall be the primary consideration in all actions concerning the child (article 4[1]); a child's view is to be heard and taken into consideration in all judicial and administrative proceedings affecting a child (article 4[2]); the right to a name, nationality and to be registered at birth (article 6); economic and sexual exploitation of children (articles 15 and 27); in relation to the administration of juvenile justice, special protection is to be accorded to children (article 17); the right to parental care and protection (article 19); when necessary, material assistance is to be given to parents and legal guardians in relation to a child's nutrition, health, education.

⁵⁹WHO."Health And Human Rights, African Charter on the Rights and Welfare of the Child".Retrieved9thJanuary2020.

IV. Conclusion

The States should include the concept of child-specific protection in peacetime training and exercises at all levels of the armed and national security forces. Likewise, consideration should be given to introducing this subject into the curriculum of universities and specialized institutions, and to organizing campaigns to raise awareness among the general public, in particular among children and adolescents. The entire elements of international legislative framework are solid instruments for the protection of children affected by Armed conflict. Implementation of this framework needs continued investment with the involvement of the many agencies such as UN, Security Council, NGOs. It should not be limited only children associated with armed forces or armed groups. It should include the protection and other necessary measures for all children affected by armed conflict as necessary under the Convention on the Rights of the Child, The African Charter on the Rights and Welfare of the Child and NGOs.