

Protection of Women and Children in International Humanitarian Law

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ABSTRACT

Armed conflicts, whether international or internal, represent the most brutal reality of our time, due to the serious and unavoidable consequences of killing, violence, and displacement. Usually, those who bear the consequences of these armed conflicts and their devastating effects are the weakest people among the civilian population, namely women and children. Therefore, international agreements came to protect this group, whether the women and children are civilians or fighters.

Importance of the Research

The topic of protecting women and children is one of the topics that international humanitarian law has given attention to and that deserves research. As a result of the spread of the phenomenon of assault on women and children in times of armed conflict or their involvement in those conflicts, the need to increase awareness of the rights of women and children and preserve them in times of armed conflict has increased. Studies that focused on the rights of women and children have been researched within the framework of human rights, i.e. in times of peace only. This research focuses on protecting the rights of women and children in times of war, whether they are civilians or combatants alike.

Research Problem

International humanitarian agreements, including the Geneva Conventions of 1949, have stipulated the protection of civilians in times of armed conflict, as they have approved the protection of women and children as civilians or participants in hostilities, but have these agreements been able to protect women and children in times of armed conflict? Are there other agreements specific to the issue of protecting women and children? What is the role of international organizations and committees in protecting women and children in times of armed conflict, such as the International Committee of the Red Cross? We will try to identify these issues and answer them in this research.

Research Methodology

The researcher followed the descriptive analytical method by relying on the texts of the Fourth Geneva Convention of 1949 as well as the Additional Protocols of 1977, the rules and principles of international law, and the work of the International Committee of the Red Cross.

Introduction

Armed conflicts, whether international or internal, are a reality in human life. If it is not possible to prevent these conflicts, their devastating effects can be reduced by concluding international treaties that attempt to limit or prevent these conflicts.

Due to the spread of the phenomenon of assault on women and children during armed conflicts, either by targeting them or by involving them in hostilities as a result of modern technologies that have entered into

weapons and their uses, the issue of recruiting women and children and involving them in hostilities has worsened due to the qualitative change in the nature and scope of armed conflicts. Most armed conflicts at the present time are internal armed conflicts, where the parties to the conflict ignore the international rules governing armed conflicts most of the time, so women and children are exposed to violence or become tools for it themselves. Despite the United Nations and the international community following up on this issue, this did not lead to a change in the reality of this issue, and therefore shedding light on this issue with regard to the protection of women and children during armed conflicts is of great importance in identifying the rules adopted by the international community in order to emphasize this protection and spare women and children the devastating effects of these conflicts.

Therefore, we will divide this research into two topics, the first is the protection of women in international humanitarian law and includes three requirements, the first regarding the protection of women in times of armed conflicts, the second is the protection of female combatants in times of armed conflicts and the third is the role of the International Committee of the Red Cross in protecting women, and the second is the protection of children in international humanitarian law and includes three requirements, the first is the protection of children in times of armed conflicts, the second is the protection of child combatants in times of armed conflicts, and the third is the role of the International Committee of the Red Cross in protecting children.

The first topic

Protection of Women in International Humanitarian Law

We will divide this section into three demands, in the first we will show the protection of women in times of armed conflict, in the second the protection of women combatants in international and non-international armed conflicts, and in the third the role of the International Committee of the Red Cross in protecting women, as follows:

The first requirement

Protection of Women in Times of Armed Conflict

Considering the provisions of protection provided by international humanitarian law, we see that there are two types of protection it provides to civilians, which are:

First: General protection provided to civilians of all ages, and regardless of their gender, that is, regardless of the differences between them and whatever their origin, whether they are men or women, and this protection imposes on the parties to the armed conflict to treat its civilian victims humanely, prohibiting the commission of acts of violence against them, or imposing collective punishments on them, or killing them, or torturing them, or punishing them without prior trial.

Second: Special protection provided to a specific category or gender of civilians, namely women, as they benefit from two types of rules, general rules that protect all civilians, and special rules that benefit them alone, not men ⁽¹⁾.

It can be classified into three categories according to the subject that regulates it:

The first category: These are rules related to female detainees and the conditions of their detention, regardless of their physical condition, i.e. women and girls in general, without being mothers or pregnant women. These rules require those in charge of detaining female detainees to be in places separate from the places of detention of men, and direct supervision of them must be entrusted to women. Women may not be housed in men's detention centers unless the women and men belong to the same family, and this state is required to allocate sleeping areas and separate sanitary facilities for them and specifically for them ⁽²⁾, and women may not be searched except by women.

The second category: These are rules directed to protect specific women, namely mothers, pregnant women, mothers of infants, and women in confinement. It was decided within the scope of the general

¹Francoise Creel, Protection of Women in International Humanitarian Law, Arabic translation of an article published in the International Review of the Red Cross, Geneva, 1985, p. 8.

²Paragraph (4) of Article (76) and Paragraph (4) of Article (85) of the Fourth Geneva Convention, 1949.

protection provided by the Fourth Geneva Convention to all wounded and sick civilians that there should be special protection and respect for pregnant women, in consideration of their situation ⁽³⁾).

It came with provisions related only to the protection of pregnant women and mothers of young children whose children depend on them from the execution of the death penalty, as it obligated the parties to the conflict not to execute the death penalty.

If the detained women are nursing mothers or pregnant, there is an obligation imposed on the detaining state to provide them with additional quantities of food in proportion to the needs of their bodies ⁽⁴⁾).

The third category: These are rules directed specifically to protect women in general from specific attacks, which is what the Fourth Geneva Convention referred to, as it required the protection of women in particular against any attack on their honor, especially against rape and forced prostitution, or any violation of their privacy ⁽⁵⁾).

In 1993, the United Nations General Assembly issued a declaration on the elimination of violence against women, including violence against women in situations of armed conflict. This was followed in 1995 by another development, which was the appointment of a rapporteur, Linda Chavez, whose mandate includes cases of systematic rape, sexual slavery and slavery-like practices in times of armed conflict ⁽⁶⁾). All of these developments had an impact on including acts of assault on women within the category of serious violations committed against women in times of international armed conflict. The Rome Statute of the International Criminal Court made rape, forced sterilization, forced pregnancy, forced prostitution, sexual slavery and other forms of sexual violence war crimes punishable by the International Criminal Court as a separate crime ⁽⁷⁾).

The second requirement

Protection of woman combatants in armed conflicts

In this requirement, we have addressed two branches: the first is the protection of female combatants in international armed conflicts and the second is the protection of female combatants in non-international armed conflicts, as follows:

The first branch

Protection of woman combatants in international armed conflicts

The First and Second World Wars in the last century witnessed a noticeable increase in the numbers of women who participated in military operations directly through many statistics conducted after the end of the war, which prompted the members of the Committee for the Codification of the Four Geneva Conventions of 1949 and the two Additional Protocols attached thereto in 1977 to take the statistics seriously and allocate many legal articles to protect female combatants during armed conflicts, which the parties to the conflict are required to take into consideration, that women participating in hostilities have a special and general scope provided by the other three Geneva Conventions of 1949 and the two Additional Protocols attached thereto in 1977 according to their condition, whether they are wounded or sick or suffering from tragedies and pain at sea or prisoners, and all of these texts take into account Their status, in addition to the general protection for them, is that they are civilians ⁽⁸⁾).

First: The legal status of woman combatants

³Where pregnant women are granted special protection and respect, along with some persons, namely the elderly and children, within the framework of the protection provided to the wounded and sick whom the parties to the conflict must provide protection to, due to the disability they suffer from due to their condition, paragraph (1) of Article (16) of the Fourth Geneva Convention.

⁴Paragraph (5) of (89) of the Fourth Geneva Convention of 1949.

⁵Paragraph (2) of Article (27) of the Fourth Geneva Convention.

⁶Judith J. Gardam, Women and Human Rights, research published in the book: Studies in International Humanitarian Law, first edition, Dar Al-Mustaqbal Al-Arabi, Cairo, 2000, p. 412.

⁷Article (8) Paragraph (a) Subparagraph (22) of the Rome Statute of the International Criminal Court of 1998.

⁸Dr. Suhail Hussein Al-Fatlawi, A Brief Introduction to Public International Law; Dar Al-Thaqafa for Publishing and Distribution, 2nd ed., Amman, Jordan 2011, p. 130.

Female combatants are protected by the provisions of international humanitarian law, just like men, and this protection was established under the provisions of the Geneva Convention of 1929 regarding prisoners of war, as it was stipulated that a female prisoner must be treated with all considerations necessary for her gender. The protection of female combatants began in World War II when the number of female recruits in the German army reached one million women, and women in the Soviet Union constituted 80% of the Red Army's armed forces to work in all areas related to the war effort (⁹).

The legal status of female combatants shall be within one of the following categories:

"Being among the categories of persons specified in Article (4) of the Third Geneva Convention, which includes":

1- "Being among the members of the regular armed forces" "Article (43) of the First Additional Protocol defined the regular armed forces as members of the armed forces, considering that they consist of all armed forces, groups and regular units that are under responsible command and subject to an internal system that ensures respect for the rules and customs of war."

2- Being among the persons accompanying the armed forces without being part of them (Article 4, paragraph A_4) of the Third Geneva Convention of 1949 stipulated these persons, and women may play a prominent role in this field, as they may provide medical care, health care, food, cleaning operations, and other social areas.

3- Being among the individuals and members of militias, volunteers, and resistance movements. "Paragraph (A2 of Article 4) of the Third Geneva Convention of 1949 stipulated that paragraph of women who fall under the name of combatants.

4- Being among the residents of the non-occupied territories participating in the collective body.

Article (4, paragraph A_5) of the Third Geneva Convention of 1949 stipulated that paragraph, and here the residents of the territory have the right to confront the occupying state and take up arms against it in defense of their land and homeland, and in a public manner.

We find that most national legislations of countries do not object to women joining these forces, and in some countries, it is the duty of some women to perform compulsory military service (¹⁰).

Second: protection of woman fighters in captivity

The Third Geneva Convention used the term "persons captured or in the hands of the enemy," and the 1907 Convention on the Laws and Customs of War on Land regulated the treatment of prisoners of war. However, what is criticized about this convention is that it linked the return of prisoners to their homelands to the conclusion of a peace treaty, which is what the Allied and Axis countries followed after World War I. The Hague Regulations also stipulated in Article 1 that members of the regular armed forces treated as the status of combatant, as does militias and volunteer units, provided that certain conditions are met, namely, the leadership of a person responsible for his subordinates, a distinctive mark that is recognized from a distance, that they carry weapons in a visible manner, and that they respect the laws and customs of war. "While Article 2 of the Hague Regulations included the possibility of the inhabitants of non-occupied territories who rise up against the enemy in the form of a general mobilization benefitting the status of combatant. It is noteworthy that the aforementioned regulation did not stipulate the other two conditions for the civilian population, the distinctive mark and responsible leadership that it required in militias and volunteer units (¹¹).

1- General protection for women from captivity

Numerous provisions were included in the Third Geneva Convention and the two Additional Protocols that organized the rules of general protection for female prisoners; as the First Additional Protocol indicates that no person may be the object of attack who is hors de combat; or who surrenders or expresses his intention to

⁹Françoise Creel, previous source, p. 17.

¹⁰The Third Geneva Convention of 1949.

¹¹Dr. Amer Al-Zamali, Introduction to International Humanitarian Law, Arab Institute for Human Rights, Cairo, 1997, pp. 43-44.

surrender; One of the general principles that protect prisoners of war is that prisoners of war may not be exposed to danger without legal justification while awaiting their transfer from a combat zone. If they are captured in unusual circumstances, they may be disarmed and released, with all practical precautions taken to ensure their safety, Articles 13 and 14 of the Third Geneva Convention of 1949.

2- Special protection for women when captured

Women benefit special protection within the framework of international humanitarian law, which is protection from violence and rape and protection from all forms of personal insult. This protection is stated in the text of Article 27 of the Fourth Geneva Convention of 1949: ((Women shall be particularly protected against any attack on their honor, in particular against rape, enforced prostitution and any outrage against their privacy))⁽¹²⁾.

The Second branch

Protection of female combatants in non-international armed conflicts

Common Article 3 of the four Geneva Conventions of 1949 relating to non-international armed conflicts, as well as Additional Protocol II of 1977, did not mention the term combatant, but provided legal protection for anyone participating in combat operations. From this standpoint, everything that may apply to those fighting in international armed conflicts applies to female combatants in non-international armed conflicts. However, Additional Protocol II did not recognize the status of prisoners of war for anyone arrested or detained for reasons related to the armed conflict, nor did it address the possibility of considering detainees due to non-international armed conflicts as prisoners of war. In addition, Article 6 of Additional Protocol II did not permit the issuance of death sentences for a crime related to armed conflict of a non-international character; "On 9/12/1945, the International Committee of the Red Cross addressed an appeal to the French, German, British and American governments to return female prisoners to their countries without any delay, The governments responded to the call of the International Committee of the Red Cross and actually began to return pregnant and sick women without involving the German government in doing similar work. The German female prisoners were actually returned partially via Switzerland, as the International Committee of the Red Cross contacted the Swiss government to allow them to pass through Swiss territory⁽¹³⁾.

First: Prohibition of torture and inhuman treatment

Article (75) of the First Additional Protocol and Article (4) of the Second Additional Protocol stipulated the prohibition of torture and inhuman treatment, and the Geneva Conventions and the two Additional Protocols annexed thereto of 1977 prohibited torture in all its forms and types; the prohibition of torture was addressed in the First Additional Protocol in Article (75) and Article (4) of the Second Additional Protocol of 1977 and included in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights of 1966, and the prohibition was complete in all types and forms of torture "Articles (75) of the First Additional Protocol of 1977 and Article (4) of the First Additional Protocol of 1977 annexed to the Four Geneva Conventions of 1949⁽¹⁴⁾.

Second: Prohibition of the death penalty without a legal trial.

Article (common 3) of Additional Protocol I and Additional Protocol II prohibits the death penalty without a legal trial, "Women combatants in armed conflicts not of an international character shall be protected by the rules of international law on the same basis as civilian women. There shall be no discrimination between men and women in treatment in the punishment, however, the rules of international humanitarian law tried to balance between the state of partisan necessity and the principle of humanity, so the death penalty may not

¹²Manar Ismail, Protection of Civilians in Armed Conflicts in Light of International Humanitarian Law: The Case of the Arab-Israeli Conflict as a Model, Damascus University, Faculty of Political Science, research prepared for a Master's degree in International Relations, 2014-2015, p. 56.

¹³Dr. Hala Ahmed Mohammed Ahmed Al-Douri, Protection of Women during Armed Conflict, Tikrit Journal of Law, Year (5), Volume (5), Issue (4), Part (1) (2021), p. 343.

¹⁴Dr. Hala Ahmed Mohammed Ahmed Al-Douri, previous source, p. 347.

be applied against them without a legal trial and after fulfilling certain conditions, such that it is carried out in certain circumstances, such as if the woman is not pregnant or mothers of young children. This is what is stated in the text of Article 76 of the First Additional Protocol. International humanitarian law recommended avoiding issuing the death penalty against women to the maximum extent possible. The Second Additional Protocol came to complete the deficiency in the four Geneva Conventions of 1949 and the First Additional Protocol of 1977 in the text of the third common article, as it is on the preventive measures that must be applied to what is happening from trials and what is imposed from penalties on persons who are charged with criminal charges related to the armed conflict that are not of an international nature. The Second Additional Protocol requires that the death penalty not be carried out on pregnant women or mothers of young children.

The third requirement

The role of the International Committee of the Red Cross in protecting women

The international community has received great attention in recent years in light of the problems and difficulties facing women during armed conflicts, the International Committee of the Red Cross was keen to address and care for the problems facing women through many decisions and programs. In 1996, the 26th International Conference of the Red Cross and Red Crescent took the necessity of taking all measures and procedures that guarantee women protection and assistance. It also called on countries to evaluate existing programs and create new programs in a manner that suits and guarantees women victims of armed conflicts to obtain medical, psychological and social aid. In the same context, the 27th International Conference in 1999 also came to emphasize the protection of women during armed conflicts, calling on the International Committee of the Red Cross to develop a set of guidelines that contribute to enhancing the provision of aid and assistance to women and young girls affected by armed conflicts and providing them with protection and care ⁽¹⁵⁾.

The International Committee of the Red Cross also participated in 1999 in organizing a seminar on widowhood due to armed conflicts, which helps the wives of missing persons overcome their circumstances by providing means that contribute to providing aid and support to them ⁽¹⁶⁾.

It is worth noting that the International Committee of the Red Cross is the main and effective body that contributes practically to providing protection for women during armed conflicts. Despite the presence of other bodies working in this field, the work of the International Committee is different and more effective by providing protection for women from hostile acts and crimes committed against them. The role of the International Committee may be restricted, especially during the course of hostilities, especially when dangerous weapons are used or during aerial bombardment. However, once the intensity of combat operations decreases, the International Committee intervenes to provide its humanitarian service ⁽¹⁷⁾.

In the context of protecting detained women, the detention of female combatants grants them the status of prisoners of war, unlike civilian women. Despite the protection of women during detention according to international agreements, they are exposed to violations and violence ⁽¹⁸⁾, which calls on the International Committee of the Red Cross to monitor the implementation of the rules for the protection of women and provide assistance to them, in addition to ensuring that men are separated from women, ensuring that women are not separated from their children, and taking into account their health conditions, especially pregnant women. The International Committee also monitors the places of detention and facilities used for detainees, while continuing to visit them periodically and speak with them freely without any censor. Perhaps the important aspect of this is that the International Committee obtains the lists of detainees from the

¹⁵Khaled Ghaleb Matar, International Mechanisms for Implementing the Protection of Women in International Conflicts, Journal of the Teachers Institute, Issue 7, 2021, p.

¹⁶Charlotte Lindsay, Women Facing War, International Committee of the Red Cross, 3rd ed., 3rd ed., 2019, p. 14.

¹⁷Jassim Zour, Women in Wartime: Between Reality and Protection of International Law, Zain Legal Publications, Beirut, 2019, p. 289.

¹⁸See regarding the detention of women, the Third Geneva Convention (23, 22, 97, 25) the Fourth Geneva Convention (83, 85, 84, 124, 76).

competent authorities ⁽¹⁹⁾). The International Committee is also keen to ensure that detained women are not subjected to inhuman or degrading treatment during visits and to ensure that there is no physical or psychological pain ⁽²⁰⁾).

The International Committee of the Red Cross also plays an important role in communicating with detainees abroad through exchanging messages. The International Committee succeeded in this regard by agreeing with some authorities to allow detainees to make phone calls to their families. This achievement was achieved since March 2008, which is considered an important development in the process of communicating with detainees and their families ⁽²¹⁾).

The International Committee of the Red Cross, in the field of protecting women, has paid special attention to issues related to violence against women in most of its international conferences. At the International Conference for the Protection of War Victims held in 1992 in Geneva, the issue of rape and violence against women was addressed. The conference participants considered these crimes to be a serious matter under international humanitarian law ⁽²²⁾).

Despite the difficulties and obstacles faced by the International Committee regarding access to victims of sexual violence, it tries through medical delegates to reach the victims and conduct the necessary medical examinations and refer rape victims to gynecologists and psychologists to provide assistance and support. The Committee also bears all the necessary costs for these services ⁽²³⁾). In the same context, the conference attendees at the 26th Conference of the Red Cross and Red Crescent in 1995 also condemned the rapes that women are subjected to and considered them a war crime. They also demanded the necessity of Prosecuting the perpetrators of these crimes and the necessity of taking all necessary measures in addition to the necessity of providing assistance and support to the victims of these crimes ⁽²⁴⁾).

The second topic

Protection of children in international humanitarian law

We divide this section into three requirements, in the first we show the protection of children in times of armed conflict, in the second the protection of children participating in hostilities, and in the third the role of the International Committee of the Red Cross in protecting children, as follows:

The first requirement

Protection of children in times of armed conflict

We discussed in this demand two branches, the first children during international armed conflicts and the second children during non-international armed conflicts, as follows:

The first branch

Children during international armed conflicts

There is no doubt that international humanitarian law attaches special importance to protecting civilians from the dangers of war operations. It always emphasizes that the right of the parties to the conflict to choose the methods and means of combat is not an absolute right, but rather is restricted by respect for the lives of civilians. Therefore, we find that the First Protocol of 1977 contains a rule that is a basic guarantee of general protection from the effects of combat, which stipulates that: (The parties to the conflict must distinguish between the civilian population and combatants, and between civilian objects and military objectives, and

¹⁹Alain Abschleimann, Protection of Detainees: The Work of the International Committee Behind Bars, Selections from the Journal of the International Committee of the Red Cross, 2002, pp. 28-29.

²⁰The Third Geneva Convention, Article (87/3), the Fourth Geneva Convention, Article (32).

²¹Jassim Zour, the previous source, p. 293.

²²The International Review of the Red Cross, Geneva, Issue 22, 1992, pp. 223-224.

²³Charlotte Lindsay, the previous source, p. 70.

²⁴International Review of the Red Cross, Geneva, Resolution of the Twenty-sixth Conference of the Red Cross and Red Crescent, Issue 47, 1996, p. 65.

then direct their operations against military objectives only. This is in order to ensure respect for and protection of the civilian population and civilian objects) (²⁵).

Based on this rule, a number of humanitarian principles have been approved, which govern the behavior of combatants, in order to protect the civilian population from the dangers resulting from military operations. It goes without saying that adherence to these principles is likely to achieve general protection for children from the dangers of combat, as they are more vulnerable to injury (²⁶), therefore the situation calls for reminding and emphasizing the most important of these principles as follows: (²⁷).

1 - Distinguishing between combatants and non-combatants:

The combatant must not direct his weapon at non-combatants, as they do not have a weapon with which to defend themselves, so it is contrary to humanity to injure and terrorize them, especially since civilians are basically women, children and the elderly, and they must be protected from the horrors of war, and there is no doubt that this distinction ultimately ensures effective protection for the civilian population (²⁸).

2- Prohibition of attacking the civilian population and civilian objects.

The First Protocol has set a set of restrictions that restrict the parties to the conflict in order to protect civilians from the effects of fighting, and it states that the civilian population and civilians enjoy general protection against the dangers resulting from military operations.

The First Protocol has imposed on all parties to take precautionary measures to avoid injuring the civilian population, and continuous care must be taken in the management of military operations, in order to avoid the civilian population and civilian objects. Military objectives must be avoided in densely populated areas and near them" (²⁹).

The second branch

Children in Non-International Armed Conflicts

With the collapse of many states, and the spread of the arms trade, which became unbridled, internal wars in the late twentieth century became arenas for the loss of security and human reassurance. In the African continent alone, more than thirty wars have occurred since 1970, most of which were internal. These wars were responsible for the deaths of more than half of the deaths in the world in 1996. In one of the most horrific human tragedies, the number of children slaughtered in Rwanda in 1994 was estimated at a quarter of a million children, in genocide operations that ended the lives of nearly a million people in a matter of weeks. It seems as if we are in an age of madness, as we witness ethnic cleansing in the former Yugoslavia, or the random dismemberment of limbs in Sierra Leone, or the rebel militias in East Timor. In these difficult situations, and to confront these dangers, the general protection of the child lies in the commitment to implementing the text of Article 3 common to the four Geneva Conventions, as well as implementing the provisions of the Second Protocol of 1996. (1977), and the one related to non-international armed conflicts, because this is the only way and guarantee to protect civilians from the effects of fighting and its dire consequences in such conflicts (³⁰).

The common Article 3 of the Geneva Conventions, which can be summarized as the High Contracting States to these Conventions must commit to implementing their provisions, which impose humane treatment for persons not participating in hostilities, as well as those who have laid down their arms, the sick and the

²⁵Article (48) of the First Additional Protocol of 1977.

²⁶Al-Insani Magazine, January, February 2000, p. 09

²⁷Maher Abu Khawat, International Protection of the Rights of the Child, PhD Thesis, Faculty of Law, Helwan University, 2004, p. 252.

²⁸Jean Pictet, International Humanitarian Law, Development and Principles, Henry Dunant Institute, Geneva 1984, p. 75.

²⁹Article (57) of Protocol I, which deals with precautions during attacks, as well as Article (58), which stipulates precautions against the effects of attacks.

³⁰Muhammad Khalil Muhammad Marouf, The Role of Humanitarian Law in Protecting Civilians During Armed Conflicts, Israeli Violations Against the Gaza Strip in 2014 as a Model, Master's Thesis, Al-Aqsa University, 2016, p. 117.

wounded, as well as preventing assault, physical integrity and murder in all its forms, taking hostages and preventing attacks on human dignity and issuing death sentences, is considered a miniature convention, and the provisions contained in this article represent the minimum that the warring parties may not violate ⁽³¹⁾, and is a basic reference for protecting victims of non-international armed conflicts. It stipulates rules that the International Court of Justice describes as general humanitarian principles of international humanitarian law, and undoubtedly allows for providing better protection for the person caught in the whirlpool of internal tensions ⁽³²⁾.

The second requirement

Protection of children participating in hostilities

International humanitarian law considers it unnatural for children to participate in hostilities ⁽³³⁾, but this prohibition may be violated and children may be thrown into wars in clear violation of the principle of humanity and the rules of international humanitarian law. In this case, the question arises about the status of children and the rules that apply to them? It can be said that if children are involved in armed conflicts, they have the status of combatants and the status of combatants applies to them, and if they fall into the hands of the enemy, they have the full right to enjoy the legal status of prisoners of war. In this case, the child benefits from the general rules contained in international humanitarian law regarding the protection and treatment of prisoners, and due to the young age of the child, he receives special treatment in the event of his arrest or capture.

Since the phenomenon of captivity has accompanied armed conflicts, both ancient and modern, it is necessary to remember the development of the provisions for the treatment of prisoners of war and to highlight the most important features of this treatment in light of the texts of international humanitarian law and its position in the conflicts of our contemporary world ⁽³⁴⁾. The Third Geneva Convention of 1949 related to the treatment of prisoners of war came to express this meaning, as it guaranteed the protection of prisoners from the time they were captured until their release and return to their homes and homelands, and not to sell them or enslave them ⁽³⁵⁾.

The aforementioned Third Geneva Convention and some provisions of the First Additional Protocol of 1977 are what govern the conditions of prisoners of war and clearly define their rights and responsibilities, assigning the responsibility of captivity to the detaining state, not to individuals or organizations, detaining prisoners away from the battlefronts and battlefields, ensuring their protection, providing them with the necessary services, enabling them to exchange messages with their families, allowing delegates of the International Committee of the Red Cross to visit them, not forcing them to carry out hostile acts against their country or mobilizing them in the ranks of the forces of the detaining state, and their established right to return to their homelands immediately after the end of military operations ⁽³⁶⁾. The Third Geneva Convention has set out rules for the protection of prisoners of war, and based on these rules, children participating in hostilities are protected in the event of their capture ⁽³⁷⁾.

³¹Article 3 Common to the Four Geneva Conventions of 1949.

³²Jamshid Mumtaz, International Review of the Red Cross, September 1998, p. 444.

³³The Role of Children in Armed Conflicts, International Review of the Red Cross, Eighth Year, Issue 45, September, October, 1995, p. 439.

³⁴Dr. Amer Al-Zamili, Prisoners of War, Their Right to Dignified Treatment and Return to Their Homes, Al-Insani Magazine, ICRC Publications, Issue 10, May, June 2000, p. 14.

³⁵Dr. Abdul Ghani Mahmoud. Protection of Victims of Armed Conflicts in International Humanitarian Law and Islamic Law. Dar Al-Mustaqbal Al-Arabi, 2000. P. 274.

³⁶Dr. Amer Al-Zamili. Prisoners of War, Their Right to Dignified Treatment and Return to Their Homes. Previous Source, P. 15.

³⁷Nismah Jamil Halsu. The Legal Status of Children in Armed Conflicts, Master's Thesis, Jordanian Diplomatic Institute, 2003. P. 49.

The third requirement

The role of the International Committee of the Red Cross in protecting children

In this requirement, we have discussed two branches: the first is the activity of the International Committee of the Red Cross in protecting children as civilians, and the second is the activity of the International Committee of the Red Cross in protecting child soldiers, as follows:

The first Branch

The activity of the International Committee of the Red Cross in protecting children as civilians

International humanitarian law provides for the protection of children in times of war and is binding on both states and non-state armed groups. This body of law - which includes the Geneva Conventions of 1949, their two Additional Protocols of 1977, and the Third Additional Protocol of 2005 - provides general protection for all persons affected by armed conflict, and it contains provisions relating specifically to children. Children - as civilians - enjoy protection under international humanitarian law in two different situations. First, if they fall into the hands of enemy forces, they must be protected against murder and all forms of abuse: torture and other ill-treatment, sexual violence, arbitrary detention, hostage-taking, or forced displacement. Second, they must never be the target of attacks. Their lives must be spared and they must be protected. There are many rules of international humanitarian law constitute customary law and are therefore binding on parties to an armed conflict, regardless of whether or not these parties have ratified the relevant treaties. In addition, human rights law - such as the Convention on the Rights of the Child (1989) and its Optional Protocol on the involvement of children in armed conflict of 2000 - refer to the need to protect children specifically from the effects of armed conflict ⁽³⁸⁾.

The International Committee of the Red Cross (ICRC) carries out a range of activities to protect children as civilians, including:

First: Restoring family links between children and their families

Or what is called searching for missing persons, the work begins by first identifying children who have been separated from their caregivers. Priority is given in the event of a large number of children who are most at risk: such as very young children, sick and disabled children, and unaccompanied children who do not have an adult to care for them, as they enjoy priority within the activities of the International Committee of the Red Cross. A distinction should be made between children separated from their parents – who are not usually accompanied by their caregiver but are under the protection of another relative – and unaccompanied children, who are fending for themselves or are in the care of people with no connection to them, often as a result of spontaneous foster care. In child-headed households, immediate priority is given to providing food, shelter, education and health care. The ICRC gives priority to temporary arrangements – such as foster families or, in exceptional cases, short-term institutional care – while the parents are traced. The aim is always to ensure that the child is provided with some family care, preferably within the community to which he or she belongs ⁽³⁹⁾.

Second: Protection of detained children

Children's health and safety are at risk when they are held behind bars. There are several reasons why children are detained during conflicts, often as a direct result of their involvement in the armed forces of States or non-State armed groups. If there is an increase in the number of children detained, it is often directly linked to their active participation in hostilities. The spread of gang violence has also led to the detention of young people. Many children end up in prison as a result of the general social collapse caused by the conflict.

As part of its humanitarian mandate, the ICRC visits more than half a million detainees in more than 70 countries worldwide each year; 33,000 of them benefit from the ICRC's family visit programme.

³⁸Abu Al-Khair Ahmed Attia. Protection of Civilians and Civilian Objects During Armed Conflicts (A Comparative Study with Islamic Law), Cairo: Dar Al-Nahda Al-Arabiya, 1998, p. 117.

³⁹Sherif Atlam. Lectures on International Humanitarian Law, International Committee of the Red Cross, Cairo. 2010, p. 165.

Third: Protecting children from violence:

International humanitarian law stipulates that persons in the power of a party to an armed conflict must be treated humanely in all circumstances. International humanitarian law specifically protects such persons from any lack of respect for their personal dignity, including humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault⁽⁴⁰⁾.

Fourth: Protecting children's health:

Modern wars spare no one from their woes, not even children, as they injure, maim, kill and cause them severe harm in many other ways. Indirect consequences of armed conflicts include the lack of maintenance and obsolescence of infrastructure, diminished access to health services and medicines, and sometimes the collapse of the entire health care system⁽⁴¹⁾.

The second Branch

The work of the International Committee of the Red Cross in protecting child soldiers

Education for child soldiers involved in conflicts who have missed out on education is an essential element in their rehabilitation and reintegration into society. After their demobilization, child soldiers need educational programs that take into account their specific experiences gained from wars and to prepare them for times of peace and reconciliation. Some of these children may wish to resume formal education, while others may need vocational training and skills acquisition programs. Large numbers of girls participate in armed conflicts, but few of them are involved in disarmament programs. This may be due to the stigma of sexual abuse that usually results from conflicts⁽⁴²⁾. The number of children actually participating in armed conflicts is estimated at about 300,000 children. The 1977 Additional Protocols to the 1949 Geneva Conventions address the issue of child recruitment and state the following: "Parties to the conflict shall take all feasible measures to ensure that children who have not attained the age of fifteen years do not take a direct part in hostilities. In particular, they shall refrain from recruiting them into their armed forces, and Parties of the conflict when recruiting persons who have attained the age of fifteen but not of eighteen, shall endeavour to give priority to those who are older"⁽⁴³⁾.

It also states that "children under the age of fifteen shall not be recruited into armed forces or armed groups, nor shall they take part in hostilities"⁽⁴⁴⁾. This legal aspect undertaken by the International Committee of the Red Cross in order to emphasize the obligations related to the protection and welfare of children takes the preventive aspect of the activities undertaken by the International Committee of the Red Cross.

As for the field response of the International Committee of the Red Cross, it always intervenes to protect child soldiers, and the protection aspect undertaken by the International Committee of the Red Cross with regard to child soldiers takes the same protection and activities that it provides to children as civilians and pays special attention with regard to:

1- Children in detention:

In international armed conflicts, children who benefit the status of prisoners of war benefit from the protection of the Third Geneva Convention, and they cannot be prosecuted for their participation in hostilities. As for children who are treated as civilian detainees, they are entitled to the protection granted by The Fourth Geneva Convention of 1949 and the First Additional Protocol of 1977, as well as human rights law. In non-international armed conflicts, children are protected under Article 3 common to the Geneva Conventions of 1949 and the Second Additional Protocol of 1977, and under human rights law, child soldiers may commit atrocities in war. In this case, adults who force a child to participate in hostilities or allow him to

⁴⁰Fadhil Abdullah Talafha, Protection of Children in International Humanitarian Law, Dar Al Thaqafa for Publishing and Distribution, Amman, 2011, p. 85.

⁴¹Suhail Hussein Al Fatlawi, War Crimes and Crimes of Aggression, Dar Al Thaqafa for Distribution and Publishing, Amman, 2011, p. 65.

⁴²Suhail Hussein Al Fatlawi, previous source, p. 63.

⁴³Additional Protocol I, applicable in international armed conflicts, Article 17/2.

⁴⁴Additional Protocol II, applicable in non-international armed conflicts, Article 4/3 c.

do so bear responsibility for his recruitment and must therefore be held accountable for the results of their actions. On the other hand, child soldiers are responsible - like any soldier - for violations of international humanitarian law and can be held accountable for them ⁽⁴⁵⁾.

2- Reuniting children with their families:

The International Committee of the Red Cross seeks to ensure that members of the same family remain together, and tries to reunite them again if they are separated by conflict. The Committee also works to provide protection for children who have been separated from their parents or guardians by identifying them and placing them in the temporary protection of an adult or an institution to care for them. The ICRC works to restore contact between children and their relatives, and if possible, restores this contact until they can be reunited ⁽⁴⁶⁾.

3- Rehabilitation of child soldiers:

Children who have experienced combat may suffer deep physical, psychological and social wounds that may seem irreversible. However, appropriate care can help them to heal. They must be provided with the means to help them rebuild their lives.

The issue of demobilization and reintegration of child soldiers is a major concern of the International Red Cross and Red Crescent Movement, and the ICRC works with the International Federation of Red Cross and Red Crescent Societies, national Red Cross and Red Crescent Societies and other humanitarian organizations to develop specific measures for the reintegration of children that are particularly suited to local circumstances ⁽⁴⁷⁾.

Conclusion

First: Conclusions

- 1- International humanitarian law has given women additional protection. In addition to providing them with protection as civilians, it has also provided them with additional protection if they are pregnant, mothers or nursing mothers.
- 2- The protection provided for women under the rules of international humanitarian law includes women in international and non-international armed conflicts.
- 3- International humanitarian law guarantees protection for women fighters or when they become unable to fight.
- 4- Despite the existence of international agreements that came to protect special groups, the most important of which are children and women, the texts of these articles do not provide full protection for these groups, and countries do not abide by international agreements, but rather rely on the balance of power without any consideration for the rules of international humanitarian law.
- 5- International humanitarian law is what applies protection for children in cases of armed conflict because adherence to its rules and principles regarding the protection of civilians is what ensures adequate protection for the child from the effects of hostilities as well as against the excesses of the occupying authorities.

Second: Recommendations

- 1- Children are the hope and the future, so they deserve to receive the best protection and opportunities that can be provided to them so that they can live in an atmosphere of security and safety.
- 2- The recruitment of children in the armed forces must be prohibited in order to comply with international instruments that call for the protection of children in this regard.

⁴⁵International Committee of the Red Cross. Child soldiers, ICRC publications, Geneva: December 2003.

⁴⁶Sarah Salam Jassim, The Role of the International Committee of the Red Cross in Protecting Women and Children, Master's Thesis, College of Law, University of Baghdad, 2014, p. 133.

⁴⁷Sarah Salam Jassim, previous source, p. 134.

3- Paying attention to teaching international humanitarian law in the various educational stages that precede university education or introducing international humanitarian agreements that grant protection to children in international humanitarian law in schools or in youth centers and hostels.

4- Facilitating the tasks of the International Committee of the Red Cross and Red Crescent and humanitarian organizations within countries to carry out their activities in raising awareness among communities and fighters in particular about the need to provide protection for women and children, especially during armed conflicts.

Sources

First: Books

1. Abu Al-Khair Ahmed Attia. Protection of Civilians and Civilian Objects During Armed Conflicts (A Comparative Study with Islamic Law), Cairo: Dar Al Nahda Al Arabiya, 1998.
2. Jassim Zour, Women in Time of War between Reality and the Protection of International Law, Zain Legal Publications, Beirut, 2019.
3. Jean Pictet, International Humanitarian Law, Development and Principles, Henry Dunant Institute, Geneva 1984.
4. Judith J. Gardam, Women and Human Rights, research published in the book: Studies in International Humanitarian Law, first edition, Dar Al Mustaqbal Al Arabi, Cairo, 2000.
5. Dr. Suhail Hussein Al Fatlawi, A Summary of Public International Law; Dar Al Thaqafa for Publishing and Distribution, 2nd ed., Amman, Jordan 2011.
6. Suhail Hussein Al-Fatlawi, War Crimes and Crimes of Aggression, Dar Al-Thaqafa for Distribution and Publishing, Amman, 2011.
7. Charlotte Lindsay, Women Facing War, issued by the International Committee of the Red Cross, 3rd ed., 3rd ed., 2019.
8. Dr. Amer Al-Zamali, Introduction to International Humanitarian Law, Arab Institute for Human Rights, Cairo, 1997.
9. Dr. Abdul-Ghani Mahmoud, Protection of Victims of Armed Conflicts in International Humanitarian Law and Islamic Law, Dar Al-Mustaqbal Al-Arabi, 2000.
10. Fadhil Abdullah Talafha, Protection of Children in International Humanitarian Law, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2011.

Second: Research and Journals.

1. Alan Abshleiman, Protection of Detainees: The Work of the International Committee Behind Bars, Selections from the Journal of the International Committee of the Red Cross, 2002.
2. Dr. Hala Ahmed Mohammed Ahmed Al-Douri, Protection of Women in Armed Conflicts, Tikrit Journal of Law, Year (5), Volume (5), Issue (4), Part (1) (2021).
3. Khaled Ghaleb Matar, International Mechanisms for Implementing the Protection of Women in International Conflicts, Journal of the Teachers Institute, Issue 7 for the year 2021.
4. Françoise Creel, Protection of Women in International Humanitarian Law, Arabic translation of an article published in the International Review of the Red Cross, Geneva, 1985.
5. International Review of the Red Cross, Geneva, Issue 22, 1992.
6. International Review of the Red Cross, Geneva, Resolution of the Twenty-sixth Conference of the Red Cross and Red Crescent, Issue 47, 1996.
7. Jamshid Mumtaz, International Review of the Red Cross, September 1998.
8. Dr. Amer Al-Zamili, Prisoners of War, Their Right to Dignified Treatment and Return to Their Homes, Al-Insani Magazine, ICRC Publications, Issue 10, May, June 2000.
9. Al-Insani Magazine, January, February 2000.

Third: University Theses and Dissertations:

1. Sara Salam Jassim, The Role of the International Committee of the Red Cross in Protecting Women and Children, Master's Thesis, College of Law, University of Baghdad, 2014.

2. Maher Abu Khawat, International Protection of Children's Rights, PhD Thesis, College of Law, Helwan University, 2004.
3. Muhammad Khalil Muhammad Marouf, The Role of Humanitarian Law in Protecting Civilians During Armed Conflicts, Israeli Violations Against the Gaza Strip in 2014 as a Model, Master's Thesis, Al-Aqsa University, 2016.
4. Manar Ismail, Protection of Civilians in Armed Conflicts in Light of International Humanitarian Law, The Case of the Arab-Israeli Conflict as a Model, Damascus University, Faculty of Political Science, Research Prepared for a Master's Degree in International Relations, 2014-2015.
5. Nismah Jamil Halsal, The Legal Status of Children in Armed Conflicts, Master's Thesis, Jordanian Diplomatic Institute, 2003.

Fourth: The Internet.

Child Soldiers, a study published on the website of the United Nations Educational, Scientific and Cultural Organization, at the link: <http://www.unesco.org/new/ar/education/themes/strengthening-education-systems/inclusive-education/child-soldiers/>.

Fifth: International Agreements.

1. The Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War.
2. The Rome Statute of the International Criminal Court of 1998.
3. Additional Protocol II of 1977.
4. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights of 1966.