

SUMMARY

Children are particularly vulnerable individuals and therefore, they have particular rights under international law that recognize their special need for protection. Armed conflicts constitute the biggest threat to them. I have chosen this topic for admiring the strength of children affected by armed conflicts to face all the problems brought by armed conflicts. On the other hand, children are indispensable in reconciliation and reconstruction of society. The aim of the thesis is to describe and analyze the protection provided by law to the children affected by armed conflicts and the application of those provisions. Chapter One deals with these questions.

Chapter Two is introductory and is subdivided into five parts. Part One describes the relation between international humanitarian law (IHL) and international human rights law and their applicability. Part Two deals with the absence of universally applicable definition of “armed conflict” and the applicability of legal instruments. Part Three briefly introduces basic ideas of protection of children in armed conflicts. Part Four defines the term “child” and explains possible problems of universally accepted definition. Part Five analyzes contemporary armed conflicts and the impact on children, whether they participate (directly or indirectly) in them or not.

Chapter Three is focused on children who participate in armed conflicts (with emphasis on child soldiers) and examines relevant legal documents. Part One is divided into nine sections according to the instrument dealing with child participation in hostilities: first, the system of the four Geneva Conventions, two Additional Protocols to them, Convention of the Rights of the Child and Optional Protocol to it, conventions and recommendations which consider participation in hostilities as a form of child labour, African Charter on the Rights and Welfare of the Child, activities of international criminal tribunals and finally, Paris Principles. Part Two reflects the fact that in spite of the existence of provisions forbidding the participation of children in hostilities, other provisions contain sets of rights in order to support reintegration of former child soldiers into society.

Chapter Four concentrates on problems resulting from armed conflict and its impact on children who do not participate in it. They are subjects of the same protection as any other civilians and moreover, there are also special provisions that recognize their particular vulnerability and needs in armed conflicts. Part One describes the way of removing children from hostilities under IHL. Part Two illustrates two frequent phenomena of armed conflicts: refugees and internally displaced persons. Part Three shows some war strategies that have

particular impact on children and legal provisions dealing with them. Part Four considers special needs of children. Part Five highlights special role of family in protection, care and full development of children. This part is divided into sections consisting of protection of children along with protection of mothers, prevention of separation from their families and uniting of separated families, and finally, describing some aspects of education.

Chapter Five discusses the existence of legal responsibility of children for acts committed in the context of armed conflict. It also describes the limits of punishments which can be imposed for such acts.

Chapter Six points out other phenomenon of armed conflicts: sexually motivated violence. It describes the protection provided by international law and contains also the approach to decision-making by international criminal courts.

Chapter Seven examines the application and enforcement of previously described provisions.

Part One is divided into four sections focusing on conventional mechanism within IHL and enforcement, entities who could be held responsible for violation of international law, approach of the International Criminal Court and application and implementation of the Convention of the Rights of the Child. Part Two describes non- conventional mechanism.

First section analyzes those within the United Nation and compares resolutions adopted by the Security Council on children in armed conflicts. Second section examines the mechanism established by the resolution 1612 adopted by the Security Council and presents Secretary-General's Special Representative on Children and Armed Conflict. Part Three describes the role of Non-Governmental Organizations and civil society in protection of rights of children in armed conflicts.

Conclusions are drawn in Chapter Eight. There is a number of relevant children's rights instruments and IHL to provide special protection. Still, there are unanswered questions essential for their application. In my view, the key problem is not a low standard of rights of children in armed conflict. It is indispensable respect and ensure respect for contemporary standard of protection, including the enforcement as well as imposition of sanctions on perpetrators.