

## Responsibility to Protect Doctrine to Support Children in Armed Conflict

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### Abstract

Children are so vulnerable in armed conflicts. They are international targets of violence, victims of indiscriminate violence, and traumatized witnesses of violence against others. They are disproportionately affected by war, being at greater risk of malnutrition and disease and highly vulnerable to abuse and exploitation. Despite the emerging acceptance to embrace the responsibility to protect (R2P) doctrine, the use and abuse of children by armed groups, State and non-State, has continued. The Responsibility to Protect claims to offer a solution to one of the gravest issues in world politics – mass atrocities. Ten years after the International Commission on Intervention and State Sovereignty (ICISS) detailed the concept, and five years after it was endorsed by the United Nations, we are presented an opportune moment to critically explore fundamental questions as to whether R2P has, or is able to, deliver on its promise. The article discusses the lack of discourse associated with the child soldier problem and how this relates to responsibility to protect.

**Key Words:** Armed conflict, Children soldiers, R2P.

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## 1- INTRODUCTION

In conflicts around the world, children have become front-line targets, used as human shields, killed, maimed and recruited to fight. Rape, forced marriage, abduction and enslavement have become standard Tactics in Conflict from Iraq, Syria and Yemen, to Nigeria, South Sudan and Myanmar. Millions more children are paying an indirect price for these conflicts, suffering from malnutrition, disease and trauma as basic services - including access to food, water, sanitation and health - are denied, damaged or destroyed in the fighting (1). In Yemen, UNICEF details 3 years of fighting has left 5000 children dead or injured 385,000 children severely malnourished and at risk of death, and more than 11 million children in need of humanitarian assistance. Sudan's 4 years of civil war has seen 19,000 children recruited into armed groups and over 2300 killed or injured. In Myanmar, Rohingya children have suffered and seen horrific violence and comprise more than half the 650,000 forcibly displaced to Bangladesh since mid-2017.

In the Democratic Republic of Congo (2017), 200 health centers and 400 schools have been attacked and 850,000 children driven from their homes by violence. And in northeast Nigeria and Cameroon in the same period, Boko Haram forced at least 135 children to act as suicide bombers (2). Responsibility to protect (R2P) provides the vital conceptual breakthrough in the long-held debate over state sovereignty vs. humanitarian intervention. International debates over how to respond to atrocities such as Rwanda or in Sudan had tended to focus on the rights of states – of other states to militarily ‘intervene’ across sovereign borders and the right of the home state to treat such matters as an internal affair. The rights and needs of those to be protected were not so central (3). But the international concern was raised by mass attacks on civilians by

militaries, militias and terrorist groups as part of a deliberate war strategy or in facilitation and support of ‘rogue elements’. Such attacks included killing, rape as a tool of war, forced displacement and the intimidation. Such attacks are supported by dualistic thinking that dehumanizes civilian populations (4). Violence against civilians can come about because of non-conflict lawlessness, coups and reaction to insurgent activity; the result can be genocide. The requirement for protection of civilians is central to international humanitarian law, human rights law and refugee law. Protection of civilians has emerged as the central goal of many international missions and a key principle for the United Nations (UN), and many member states. It has led to seven reports by the United Nations Secretary General (5), five UN Security Council (UNSC) resolutions, and eight presidential statements (6). Eight UN mandates have placed protection of civilians at the centre of their missions (7).

Specific measures include: extending the mandate of UN peacekeeping operations to permit peacekeepers to protect civilians under imminent threat of violence; highlighting the protection needs of especially vulnerable groups (women, children, refugees and internally displaced persons, humanitarian workers); pushing for compliance with international human rights, international humanitarian and refugee law regional actors; maintaining the separation of combatants and armed elements from civilians in internally displaced persons and refugee camps; working on disarmament and demobilization; and ensuring timely intervention in cases of genocide, crimes against humanity and war crimes (8). Where international assistance is provided, it is recognized that a range of civil and military organizations will be required to deliver the necessary protection, but coordinating the efforts of such agencies

can be enormously difficult. There are indications that the UN and member states acknowledge the importance and prevalence of the protection of civilians and are committed to its full and effective implementation. In July 2009, the Departments of Peacekeeping Operations and Field Support launched a new partnership Agenda. Recommendation 12 proposed the development of a clear and comprehensive guide on implementation of protection of civilian mandates in peacekeeping. A key problem for the protection of civilians in armed conflict is the lack of an agreed-upon definition or framework of protection, both between and within various groups of actors (military, government, regional and international organizations and humanitarian/ private/ non-government organizations).

Moreover, while it will most likely be impossible to achieve an agreed-upon definition, considering the challenge of coordinating such a range of actors better understanding and training between groups may enable improved relations and co-operation; it is recognized that protection may have different meanings depending on context, culture, the missions of agencies and Non-governmental organizations (NGOs), and the disciplines of those involved (9). The study is seeking to define responsibility to protect and its relationship with children in armed conflicts, especially child soldiers and to explain how effective the application of R2P is in protecting children from mass atrocities.

## 2- MATERIALS AND METHODS

The library method has been used in data collection of this paper. Besides the text of International Commission on Intervention and State Sovereignty, books and articles on the subject of politics and law are used in English language to define how responsibility to protect can solve the children's situation in war. Disputes were

resolved by referring to international documents by present professors. This protocol study has been approved by the Research Ethics Committee of Islamic Azad University, Qeshm Branch (Code: 185430).

## 3- RESULTS

The conclusion of the paper refers to the documents in international instruments to represent some of the most marginalized categories of population, especially children, during armed conflicts and complex emergencies who are disproportionately affected by violence. R2P protects vulnerable groups of people like women, children and civilians against mass atrocities the issues of which will subsequently be described.

### 3-1. Responsibility to protect doctrine

At the end of the 20<sup>th</sup> century, the attitude of necessity of making clear postulates of humanitarian intervention arose. In his Millennium Report of 2000, then Secretary-General Kofi Annan, recalling the failures of the Security Council to act in a decisive manner in Rwanda and the former Yugoslavia, put forward a challenge to member states: "If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violation of human rights that offend every precept of our common humanity?"

The phrase 'responsibility to protect', or R2P as it has come to be known, was first coined in 2001. The ideas behind it were the product of efforts over several decades in international society to identify and define crimes that have shocked the conscience of mankind and to protect populations from them. The story of R2P's emergence begins in the shadow of the Holocaust when the call of 'Never Again' galvanized efforts to define, prevent, and punish the crime of genocide (10). Looking for the effective measures to

prevent systematic violations of human rights and core crimes of international law, the International Commission on Intervention and State Sovereignty (ICISS) in December 2001 released the report R2P. It embraces three specific responsibilities: a) to prevent – to address both the root causes and direct causes of internal conflict and other crises putting populations at risk. b) to react – to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention; c) to rebuild – to provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation. The expression "crimes of international law" is used more or less to refer to what is now embraced by the description "genocide, war crimes, ethnic cleansing, and crimes against humanity", which in turn defines the scope of R2P as embraced by the UN General Assembly meeting at the head of state level during the 2005 World Summit (11). The ICISS was tasked with trying to develop a global political consensus on the question of humanitarian intervention, which it believed it had achieved through reformulating the problem in terms of the R2P. Today the relationship between the R2P and the right of humanitarian intervention appears to be much less clear. This shift in meaning is at the heart of the apparent gap between the R2P and the policy realities, which has been facilitated by the fact that it would appear that the universal acceptance of R2P has come at a cost to both its meaning and its application (12).

### **3-2. Child soldiers**

Under the UN Convention on the rights of the child (CRC), a child is defined as any individual under the age of 18. The CRC is one of the most universally accepted international conventions, with 139

signatories and 192 parties to the convention. However, it is not the only international convention that provides a definition of a child, nor is this definition uncontested as it fails to address cultural relativist arguments. It has been deemed inappropriate by the Canadian government, by their Prime Minister Harper, to use the phrase "child soldiers". Instead, the phrase "children in armed conflict" is generally preferred by the Canadian government. This is in part due to the many roles that children play in armed conflict; others argue it is due to the fact that children cannot legally be classified as child soldiers. Omar Khadr is a Canadian citizen who was 15 years old when he allegedly threw a grenade that killed an American soldier in Afghanistan.

He was subsequently sent to Guantanamo Bay prison where he has been detained for eight years. The Canadian governments have refused to intervene in his case despite calls to bring Omar Khadr back to Canada to face the judicial system at home. "The concern is that at the political level there is a sense that children involved with terrorist groups may not be classified as child soldiers, and that is simply not the case under international law", States Casey Vandergrift, Chair of the Canadian Coalition for the Rights of Children. The Paris principles and guidelines on children associated with armed forces or armed groups define a child soldier as: "any person below 18 years of age who is or has been recruited or used by an armed force or armed group in any capacity, including, but not limited to children, boys, and girls used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking, or has taken, a direct part in hostilities" (13). Soldiers live between a world of make-believe-the child ward of games and fantasy, of playing with guns-and reality-where the play becomes shockingly lethal and the game turns

deadly. Here the ludic is transformed into the grotesque and the macabre. Efforts to theorize the place occupied by child soldiers is not entirely satisfactory, however, this position is inherently unstable, without sanctioned cultural definition, embodying societal contradiction, and entirely embedded in conflict. Welfare is a profoundly gendered phenomenon. It is not just that men become soldiers while work work and wait at home, a popular image based on two relatively well organized 20th century world wars. In European international and civil wars, as well as in African wars, women in the civilian population become targets of recruitment and sexual violence perpetrated by soldiers that is designed to demoralize, humiliate, and immobilize an enemy. Women and girls are raped in front of their male relatives. Sometimes, rape ends in murder. Young women and girls are kidnapped and held in military camps where they are used as laborers, servants, and sexual slaves.

In some cases, young women become armed combatants in order to defend themselves or avenge the wrongs done to their kinswomen. This gendered and sexualized dimension of where fair is seldom rescued is a fundamental and pervasive feature of armed conflicts. It comes to public attention primarily in particularly dramatic instances, especially those involving the systematic extermination of combat-aged men as well as the rape of women in the target group. Female survivors of wartime sexual abuse and exploitation seldom speak of their suffering since it is often shameful as well as traumatic (14). Boy soldiers and girls forced to serve militias represent anomalies and contradictions. They inhabit an autonomous world with its own rules and relations of power. Yet they come from a civil society or by family, kinship, gender, and generation, and, after peace returns, they must re-enter a world whose

fundamental tenets they were made to violate and they have defied. How are young women and men who have served and fought with the militia groups to be assimilated back into society? How can they make an orderly transition from child militia member to adult civilians? (14). They have been traumatized by their experiences, by the murders and other acts of violence and violation they have committed, witnessed, and feared or suffered themselves, and by the sudden and total sundering of their previous ties to kin and community.

### **3-3. Responsibility to Protect of Children in wars**

At the United Nations World summit in 2005, states unanimously acknowledged their responsibility to protect populations from atrocity crimes. In a section of the World Summit Outcome Document titled 'Responsibility to Protect the populations from genocide, war crimes, ethnic cleansing and crimes against humanity', heads of state and government accepted a responsibility to protect their own populations from these crimes, to encourage and assist other States to do the same, and, where necessary, to take peaceful and even coercive measures in accordance with the UN charter to ensure that populations are protected. It is often forgotten that this landmark section of the outcome document was immediately followed by a section titled 'children's rights'. In this section, heads of state and government expressed their dismay at the increasing number of children involved in and affected by armed conflict, as well as all other forms of violence, including domestic violence, sexual abuse, and exploitation and trafficking' and their support for 'cooperation policies aimed at strengthening national capacities to improve the situation of those children and to assist in their rehabilitation and reintegration into society'. They committed themselves to 'to respecting and ensuring



the rights of each child without discrimination of any kind', and could open all states to become parties to the convention on the Rights of the Child, which the UN General Assembly adopted in 1989 (15). Six months after the summit, the UN Security Council unanimously adopted resolution 1674 on the theme of Protection of Civilians, which reaffirmed both the provisions of the 2005 Outcome Document regarding the Responsibility to Protect and the various resolutions adopted by the council since 1999 on the theme of Children and Armed Conflict (CAAC) that formed the basis for the outcome document's provisions for children's rights (16). The R2P and CAAC agendas have obvious commonalities. They both emerged during the 1990s and early 2000s in response to debates and dilemmas about how to protect civilians in conflict situations. Both are the product of a desire to conceptualize and cultivate effective local and international action to ensure such protection.

While the seeds of R2P were being sown in the mid-1990s by Francis Deng and Roberta Cohen at the UN and the Brookings Institute, developing a concept of 'sovereignty as responsibility' in response to the crisis of internal displacement, and by policy-makers and commentators, wrestling with the controversial concept of 'humanitarian intervention' in response to the repeated outbreak of mass atrocities around the world (17), others were thinking about how to better promote and protect the rights of children caught up in such crises. Most crucial was a report written by Graca Machel titled 'Impact of Armed Conflict on Children', submitted to the general assembly in 1996 (18). The report drew attention to the disproportionate impact of war on children and stressed local and international responsibilities to ensure their protection, using language that anticipated R2P. 'Preventing conflicts from escalating

is a clear responsibility of national governments and the international community' and the impact of armed conflict on children is 'an area in which everyone shares responsibility and a degree of blame', Machel claimed:

"It is unconscionable that we so clearly and consistently see children's rights attacked and that we fail to defend them. It is unforgivable that children are assaulted, violated, and murdered. This represents a fundamental crisis of our civilization. The impact of armed conflict on children must be everyone's concern and is everyone's responsibility; governments, international organizations and every element of civil society. Each one of us, each individual, each institution, each country, must initiate and support global action to protect children. Local and national strategies must be strengthened and bear strength through international mobilization" (19).

The following year, the UN Secretary General appointed the first special representative for children and armed conflict. The year after that, the Security Council held its first open debate on the theme of CAAC and issued a presidential statement expressing 'its intention to pay serious attention to the situation of children and armed conflicts'. In 1999, the council adopted its first resolution on the theme, strongly condemning 'killing and maiming, sexual violence, abduction and forced displacement, recruitment and use of children in armed conflict', as well as attacks on schools and hospitals (20). That same year, The North Atlantic Treaty Organization (NATO) waged a controversial military intervention for the purpose of protecting civilians in Kosovo. Moved by both the heated arguments over the intervention, as well as the distressing failure to prevent genocides in Rwanda (1994), and Srebrenica (1995), UN Secretary-General Kofi Annan challenged the international community to resolve the seemingly intractable debate about

humanitarian intervention. In 2001, the International Commission on Intervention and State Sovereignty (ICISS) responded with a report titled 'Responsibility to Protect'. This formed the basis for the 2005 agreement on R2P. The R2P and CAAC agendas thus emerged in parallel with each other and were driven by shared concerns. The connections between the two have always been more coincidental than purposeful. Certainly, there are clear overlaps and complementarities. The protection of children is an implicit if not always explicit aspect of R2P and protection against atrocity crime is a necessary part of the broader task of protecting children in situations of armed conflict. But advocates and practitioners have done little to pursue or take advantage of such connections.

Some of the R2P's key documents have engaged with the vulnerability and agency of children in thoughtful and informed ways. But this engagement has tended to be scattered and tacked-on rather than consistently and deeply embedded in R2P's conceptual development. The 2001 ICISS report made four references to children. These included two references to the issue of child soldiers and one each to the need to protect children from starvation and the problem of weapons such as land mines that do not distinguish between children and soldiers (21). Therefore, protecting children, especially in armed conflict needs global efforts and R2P is the recent answer to the problem.

### **3-4. Suggestions**

The recent doctrine (R2P) is the most useful way to protect vulnerable groups. In this way all countries are responsible for, or it is better to say have duty to protect populations under the oppression of the ruling government. Using and abusing children in armed conflicts is the obvious appearance of a war crime which is emphasized by the stated doctrine.

Therefore, in the case of violating the law of armed conflict, all countries, based on their responsibility, should interfere and reduce the suffering of children with the tools provided in related documents of R2P. According to the International Commission on Intervention and State Sovereignty (ICISS), the Responsibility to protect concept comprises three responsibilities relating to deadly conflict and other human-made catastrophes which are: Responsibility to prevent, Responsibility to react, and Responsibility to rebuild. During and after the Arab spring, although UN was not able to implement R2P wholly, Iran could play a significant role in performing its duty in some countries like Iraq, Syria, Yemen, etc. to protect their population, women and children.

### **4- CONCLUSION**

The Responsibility to Protect (R2P) framework lays down a responsibility to protect populations from the crimes of genocide, crimes against humanity, war crimes and ethnic cleansing. Children are at particular risk from these crimes. They represent some of the most marginalized categories of population during armed conflicts and complex emergencies, and are disproportionately affected by violence. The effectiveness of responsibility to protect is based on providing protection for the most vulnerable groups, in this case children. Pillar 3 of R2P raises particular concerns due to the possibility of military intervention and unintended effects on children. Even as a last resort, military intervention, particularly the use of bombing campaigns, is an inappropriate protection tool if one prioritizes the welfare of children. However, pillar 3 of the R2P norm has a wide array of tools and gives responsibility to the international community to take timely and decisive action when the state is manifestly failing to provide protection. There are several

implications for the Protection of children under R2P that would be relevant to other conflicts. As noted above, responsibility to protect doctrine is the newest and most practical way of solving the child soldiers' problems and supporting vulnerable groups by collective action of governments in interfering in the internal affairs of infringing countries and perpetrators of genocide, crimes against humanity, ethnic cleansing, and especially war crimes because the main victims are children.

**5- CONFLICT OF INTEREST:** None.

## **6- REFERENCES**

1. UNICEF, 'Children under attack at shocking scale in conflicts around the world, says UNICEF', Press Release, 28 December 2017
2. Bonwick A. Who really protects civilians?. *Development in Practice*. 2006;16(3-4):270-7.
3. Giossi Caverzasio S. *Strengthening protection in war: a search for professional standards*. ICRC, Geneva. 2001.
4. Holt V, Taylor G, Kelly M. *Protecting Civilians in the Context of UN Peacekeeping Operations: Successes, Setbacks and Remaining Challenges*, Independent study jointly commissioned by the United Nations Department of Peacekeeping Operations and the UN Office for the Coordination of Humanitarian Affairs (OCHA). 2009.
5. Holt VK, Berkman TC. *The impossible mandate? Military preparedness, the responsibility to protect and modern peace operations*. Henry L. Stimson Center; 2006.
6. Glušac L, Gajin S, Dimitrijević V, Račić O, Đerić V, Papić T, Petrović V, Obradović S, Đuliman E, Karlsen GM, Ignjatijef M. *International Commission on Intervention and State Sovereignty*.(2001). *The Responsibility to Protect*. 2001.
7. Thakur R. *Responsibility to protect and sovereignty*. Routledge; 2016 Mar 23.
8. Perry RL, Slim H. *Killing Civilians: Method, Madness, and Morality in War*. *Naval War College Review*. 2008; 61(4):21.
9. Bellamy A, Dunne T, editors. *The Oxford Handbook of the Responsibility to Protect*. Oxford University Press; 2016 Jun 30.
10. Evans G. *The responsibility to protect: ending mass atrocity crimes once and for all*. Brookings Institution Press; 2009 Aug 1.
11. Cunliffe P, editor. *Critical perspectives on the responsibility to protect: interrogating theory and practice*. Taylor & Francis; 2011 Mar 31.
12. Knight WA, Egerton F, editors. *The Routledge handbook of the responsibility to protect*. Routledge; 2012.
13. Honwana A. *Child soldiers in Africa*. University of Pennsylvania Press; 2011 Jun 3.
14. Assembly UG. *2005 world summit outcome*. United Nations, Report A/60/L. 2005 Sep 15;1:139-.
15. UNSC Resolution 1674, 28 April 2006.
16. Glanville L. *Sovereignty and the responsibility to protect: a new history*. University of Chicago Press; 2013 Dec 20.
17. Machel G. *Impact of armed conflict on children*. New York: UN; 1996 Aug 26.
18. UNSC Resolution 1261, 25 August 1999.
19. D'Costa B, Glanville L. *Children and the Responsibility to Protect*, Netherlands: Brill Nijhoff; 2019.