



ISSOP

INTERNATIONAL SOCIETY for
SOCIAL PEDIATRICS and CHILD HEALTH

Prevention & Mitigating Harm for All Children in Armed Conflict

In Brief

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Purpose

International Human Rights, Humanitarian, and Criminal Law—as well as existing international declarations, conventions, treaties, and courts—have failed to protect and promote the safety of children during periods of armed conflict. It is critically important that a concerted effort be undertaken to address and rectify this issue. The International Society for Social Pediatrics and Child Health (ISSOP), in 2020, adopted the **Beirut Declaration: the Prohibition of Harm to Children in Armed Conflict** (1). Together with its partners ISSOP is now calling for the implementation of a comprehensive UN humanitarian response with legal force to protect children from the impact of war and armed conflict. The response must at a minimum include;

- a) prioritizing the best interests of children,
- b) rigorous and accurate data collection and reporting,
- c) adequate health care for children injured in combat zones,
- d) governance to enforce prevention and mitigation strategies, and
- e) a new enforceable international agreement to secure the prevention and mitigation of the impact of armed conflict on children.

BACKGROUND: THE STATE OF CHILDREN EXPERIENCING ARMED CONFLICT

The International Society for Social Pediatrics and Child Health (ISSOP) is dedicated to the optimal global health and well-being of children through a Child Rights Based Approach to Care—based on the United Nations Convention on the Rights of the Child (CRC) (2). Improving the lives of children experiencing violence in all its manifestations, with a specific focus on the needs of children experiencing armed conflict, continues as a major focus of its work.

The acute and chronic effects of armed conflict on child health and wellbeing are among the most significant children’s rights violations of the 21st century. For the purpose of this brief, armed conflict is defined as "any organized dispute that involves the use of weapons, violence, or force—whether within national borders or beyond—and whether involving state actors or nongovernmental entities" (3). In addition to international and civil wars, exposures include ethnic conflicts, and violence associated with narcotics trafficking and gang activities.

Civilian casualties from armed conflicts have increased, such that 90% of deaths from armed conflicts in the first decade of the 21st century have been civilians, a significant number of whom are children (4,5). Children are increasingly exposed to armed conflict and targeted by governmental and nongovernmental combatants. In 2020, the United Nations (UN) released its annual Report on Children and Armed Conflict identifying 10,173 child casualties and 4019 children killed the preceding year (6). Most of these children were victims of “internationalized” conflicts, defined as in-country conflicts in which third party governments are involved with combat personnel. Five such protracted conflicts have involved the United States and allied armies (Afghanistan, Syria, Yemen, Somalia, and Mali). These account for 69% of total reported child casualties and 64% of children killed (7). However, these are underestimates of the trauma and death experienced by children—there are no systematically acquired global and regional data on the magnitude of childhood injury and death (8). Children are also recruited as child soldiers and forced into conflict, with devastating consequences for their health and long-term well-being (9). In addition, conflict results in the migration both within and across international borders. Many children affected by armed conflict are forcibly displaced (10). Globally, among the 68.5 million people forcibly displaced, more than 25 million are refugees living outside of their countries of origin; over half are children, many of whom have spent their entire childhoods as displaced persons (11). In the United States, the emigration of people through Mexico to the U.S. has increasingly involved families and unaccompanied children. In 2019, there were over 851,000 persons apprehended by the Border Patrol on the US Southwest border, including 473,682 families and nearly 76,020 unaccompanied minors. (12)

The world is now witnessing Russia’s invasion of Ukraine, including the indiscriminate destruction of cities and towns with the targeting of civilians, including children. The bombing of the Maternity and Children’s Hospital in Mariupol is a singular example of Russia’s systematic targeting of adult and children’s hospitals. Hundreds of children have been injured and died as a result of this indiscriminate and targeted bombing (13). Children are no longer considered as collateral damage. Instead, they are actively targeted by combatants (14).

Beyond physical injuries, the direct effects on the mental, developmental, and behavioral health of children are profound. These include post-traumatic stress disorder, depression, anxiety, and behavioral and psychosomatic conditions that persist long after cessation of hostilities (15, 16). In Ukraine, almost a quarter of the population (10 million people) have been forced from their homes. This includes 3.7 million people who have migrated into neighboring countries as refugees, over half of whom are children (17). Unaccompanied children are at high risk for exploitation, trafficking, and psychological problems (18).

In order to respond, it is critically important that health professionals understand the international laws, treaties and conventions that establish the standards, norms, and boundaries of global interactions within and between states. Article 1 of the Charter of the United Nations defines the role of the UN, “To maintain the international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, ...and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment, or settlement of international disputes...”, serves as the foundation for all efforts to protect the rights of children to optimal survival and development (19).

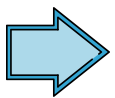
The UN Convention on the Rights of the Child (CRC), and its principles of child rights, provide the framework and strategies necessary to provide, protection and nurture throughout a child’s life in both peacetime and war (20). The CRC and its related Optional Protocols are particularly relevant to the impact of armed conflict on children.

International Humanitarian Law (IHL), derived from the Geneva Conventions and related protocols, establishes the rules of war and provisions that aim to limit the impact of armed conflict on civilians and non-combatants (21). International Criminal Law (ICL) provides the mechanisms for prosecution and adjudication for those who commit war crimes, genocide, and crimes against humanity (22). Detailed discussions about each of these international codices of laws are presented in the Addenda. Of particular note is the identification of limitations in these three domains that negatively impact their capacity to protect children in armed conflicts (23).

The first three deal specifically with the rules of engagement and the treatment of soldiers and combatants. It is the fourth Convention and its two additional Protocols that relate directly to the treatment of civilians including children.

POLICY RECOMMENDATIONS: IMPROVING THE LIVES OF CHILDREN EXPERIENCING ARMED CONFLICT

Despite International Human Rights, Humanitarian, and Criminal laws—and multiple international declarations, conventions, treaties, and courts—injury and death of children due to armed conflicts have worsened over the decades (24). It is critically important that a concerted effort be undertaken to address and rectify this issue. Toward this end, the International Society of Social Pediatrics and Child Health (ISSOP) and its partners are calling for the implementation of a UN Humanitarian Response on Child Casualties in Armed Conflicts—immediately. Elements of this response must include, but not be limited to the following.



Best Interest

- Disputes should always be resolved diplomatically. The best interests of children should be included in all dialog and discussions and specified in all agreements.
- Military policies must emphasize protection of areas where children live and frequent—such as houses, schools, buses, marketplaces, hospitals and clinics, water wells, and places of worship.
- Military operations should follow robust, thorough, and transparent civilian harm mitigation practices that are continuously reviewed and revised. This should also include assistance and training of allied militaries and non-state armed groups to ensure the protection of children.
- Military conflict resolution strategies (deconfliction) between adversarial parties should prioritize the protection and best interests of children and young people, including voluntary evacuation and safe access to pediatric health care facilities.



Data Collection and Reporting.

Accurate and systematic reporting on child casualties and deaths due to war or armed conflicts must be maintained over time.

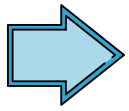
- Reliable data reports should be an integral part of the UN interagency emergency response system.
- At national levels, all countries with deployed armies or otherwise involved in armed conflicts, including the sale of arms, should provide annual civilian casualty reports that include numbers of children injured or killed by their actions and/or manufactured armament.



Acute and chronic health care for children injured in combat zones

The specialized care of children injured in armed conflicts is the responsibility of the UN and all states engaged directly or indirectly in the conflicts.

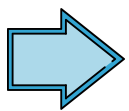
- Military combat hospitals should include appropriate provisions of care for children, such as proper personnel training and equipment.
- Children should have access to effective rescue, triage, emergency transportation, and competent and properly equipped medical services—in partnership with existing local and regional health care systems. These systems must be protected from the impact of the conflicts.
- Strategies for long-term rehabilitation, reintegration, and mental and behavioural healthcare must also be addressed.
- An independent and transparent international health research body should fund peer-reviewed research on care of children injured in austere environments. These studies should include epidemiological research to examine immediate and long-term effects of armed conflicts on children, in collaboration with local and regional academic institutions.



Governance

Governments should enforce and enhance laws that ensure civilian harm prevention and mitigation provisions in armed conflicts.

- All member states and those that purchase arms from them should be required to comply with such laws.
- Policy makers should be accountable to ensure their policies follow such laws.
- The protection of children against harm in armed conflicts should be a priority of corporations that build and sell arms.
- Institutional, national, and global financial interests invested in arms industries should be held accountable to global standards and norms related to the protection and mitigation of harm to children.



New International Agreement

The ultimate objective is to pursue an Optional Protocol to the CRC, and/or a new convention or agreement with legal force to protect children from the impact of war and armed conflict.

Summary

A sense of futility can arise as a reaction to the present reality we face with the global increase in injury and death to the world's children during times of conflict. However, as child advocates, we must bring focus to these atrocities and dedicate our efforts to alleviate the suffering faced by children and youth who find themselves invisible during times of war and conflict.

APPENDA

IDENTIFYING GAPS IN CURRENT INTERNATIONAL CHILD RIGHTS, HUMANITARIAN, AND CRIMINAL LAWS

The Role of International Child Rights, Humanitarian & Criminal Law in Protecting Child during Armed Conflicts

International Children's Rights are a component of International Human Rights Law (IHR) with the Focus on Children & Youth

International Child Rights Law

It Includes the UN Convention on the Rights of the Child (CRC) & three additional Protocols



Protecting Children during Armed Conflicts?

International Criminal Law

International Criminal Law (ICL) consist of the International Criminal Court (ICC)

It investigates & prosecutes those who have been charged with crimes against humanity



International Humanitarian Law

International Humanitarian Law (IHL) is the set of rules that aim to limit the effects of armed conflict.

It includes the Geneva Conventions & related Protocols

Addendum I

International Child Rights Law

The establishment of a codex of human rights in general, and of children's rights in particular, has evolved over the past seventy years. These consist of declarations, treaties, covenants and conventions that articulate the inalienable rights of the child (25). Addendum I provides a description of two of the major rights documents that have been established by the United Nations over this time period that speak to violence against children during time of war and conflict.

The ultimate objective is to pursue an Optional Protocol to the CRC, and/or a new convention or agreement with legal force to protect children from the impact of war and armed conflict.

Universal Declaration of Human Rights

The newly formed United Nations in 1948 formulated and passed the Universal Declaration of Human Rights (UDHR) that provided a broad framework for the assurance of basic human rights. The preamble states that, "...recognition of the inherent dignity and of the equal and inalienable rights of the human family is the foundation of freedom, justice, and peace in the world..." The Declaration articulates thirty Articles that delineate what those rights entail. There are two that are of particular relevance to this discussion of children's rights. Articles 3 proclaim, "Everyone has the right to life, liberty and security of person." Article 5 states that, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (26)." These two statements provide the foundation for the importance of "to provide" and "to protect" that emerge and are clarified in subsequent documents, including the Convention on the Rights of the Child..

The United Nations Convention on the Rights of the Child

The UDHR established the universally accepted framework for human rights but left significant gaps regarding the specific rights of children. A focus on children's rights began with adoption of the Declaration on the Rights of the Child by the League of Nations that arose following World War I. The United Nations reaffirmed the Declaration of the Rights of the Child and directed its members to follow its principles of protection for all children in 1959. The Declaration espoused the basic principle of civil and political as well as economic, societal, and cultural rights for all children. Then on November 20, 1989, the General Assembly passed the UN Convention on the Rights of the Child (CRC). On September 1, 1990, the CRC was put into force making it the fastest international treaty to move from passage to ratification and implementation by member nations (27). The CRC establishes the responsibility of governments, institutions, citizens, and families to ensure that the rights of the child are respected, and all actions are directed toward achieving the "best interest of the child". The CRC was the first comprehensive international treaty to recognize the rights of the child. The right to optimal growth and development and the right to safety and protection are among the essential themes of the CRC. Safety and protection involve freedom from all forms of violence, including forced labor, unsafe work conditions, maltreatment, sexual exploitation, and death—including that which occurs during times of war and conflict (28). Three additional Optional Protocols have been added to the canon of the CRC. The Optional Protocol on the Involvement of Children in Armed Conflict speaks specifically to children impacted by war and armed conflict, primarily children conscripted as child soldiers (29).

Limitation: There are few enforcement mechanisms, except ratifying states' laws that uphold the articles of the CRC and principles, standards, and norms of child rights. The primary role of the Committee on the Rights of the Child is oversight of member states' progress in fulfilling the rights of children in their countries. States are required to submit a progress report every five years to the Committee, which then provides recommendations to advance the rights of children in the respective countries.

Addendum II

International Humanitarian Law

International Humanitarian Law (IHL), or law of armed conflict, is a field of public international law that attempts to regulate the actions of parties engaged in war and armed conflict (30). IHL seeks to limit the consequences of armed conflict and aims to protect individuals, both military and civilian. IHL includes both the Hague regulations and the Geneva Conventions. Hague law refers to the Hague Convention of 1899 and 1907. The four 1949 Geneva Conventions codified the protection of certain individuals during times of armed conflict. The first three Conventions deal specifically with the rules of engagement and the treatment of soldiers and combatants. The fourth Convention and its two additional Protocols of 1977 relate directly to the treatment of civilians, including children.

Geneva Convention IV: Relative to the Protection of Civilians in Time of War

This Convention states that if civilian populations are lacking in basic needs, relief actions providing food, medical supplies, clothing, etc. must be undertaken. In addition, in occupied territories, if the occupying power cannot guarantee the food and medical supplies needed by the population under its control, it must accept relief actions on their behalf.

Women and children must be accorded special respect and must be protected against any form of indecent assault. The reunification of dispersed families and the exchange of family news between separated relatives must be facilitated. Above all, every person affected by armed conflict is entitled to his/her fundamental rights and guarantees without discrimination—that his/her person, honor, convictions, and religious practices will be respected (31).

Limitation: International Humanitarian Law itself does not regulate in detail how criminal prosecution and sanctions should be carried out when the laws of armed conflict are violated. This is generally the task of domestic and international criminal law.

A second limitation is that IHL is somewhat vague when dealing with intra-state conflicts, such as insurrections and civil war, even when outside states provide both direct and indirect support (32).

Addendum III

International Criminal Law

International Criminal Law (ICL) was established to suppress violations of IHL through the initiation of criminal prosecution and sanctions. The purpose of ICL is to monitor and enforce bilateral international treaties and multilateral treaties adopted by the United Nations. However, while the United Nations may approve the text of a treaty, each State becomes bound to the treaty only when it has been approved through the State's internally proscribed processes.

International Court of Justice

While there is no single international judiciary, there are numerous international courts established by treaty that clarify and develop law, resolve disputes impartially, and compel nations to observe the law. The most influential is the International Court of Justice (ICJ). The ICJ can issue advisory opinions when requested to do so by the Security Council and can exercise jurisdiction in cases between two or more States with the consent of the parties.

International Criminal Court

In 2002 the UN Security Council established the permanent International Criminal Court (ICC) that is composed of 122 State Parties. The purpose of the ICC is to prosecute war crimes and crimes against humanity—to end the impunity of those who commit the most serious crimes of concern to the international community (32). Prior to its creation, there were five Security Council international war crimes tribunals for the former Yugoslavia, Rwanda, Sierra Leone, Cambodia, and Lebanon. The International Criminal Court has jurisdiction over four main types of crimes including Genocide, Crimes Against Humanity, War Crimes, and Crimes of Aggression. There are three mechanisms for referral and prosecution. First, grievances may be filed by states that have ratified the treaty. Second, a UN Security Council resolution can refer a complaint to the ICC. Finally, the Prosecutor may initiate an investigation on her/his own.

Limitation: First, in accordance with the principle of *jurisdiction racione temporis* (temporal jurisdiction) the Court can only investigate crimes committed after July 1, 2002, when the ICC Statute came into force (33). Second, the threshold necessary to launch an investigation is high and needs to be reexamined to address the specific needs of the innocents of children.

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