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Protecting the right to health of children and the elderly in armed conflicts

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Abstract

Nowadays, many armed conflicts destroy everybody's lives regardless of who they are and violate the people's fundamental rights, including the right to health. As fighting continues, more people die daily, especially vulnerable groups such as children and the elderly, who are particularly affected due to their limited physical resilience. Although some conventions required parties to a conflict to collect and care for the wounded and sick in war, few countries that strictly implement these regulations. Therefore, this article will analyze the challenges of armed conflicts for public health, thereby propose some solutions for states, as well as governmental and non-governmental organizations, to protect the right to health of children and the elderly in armed conflicts.

Keywords: Right to health; Children; The elderly; Public health; Armed conflicts

1. Introduction

In recent years, more and more armed conflicts have occurred in some countries around the world, causing serious human consequences. For instance, the conflict in Ukraine has severely impacted children's health, with pharmacies closed due to a lack of medical supplies [1]. Additionally, armed conflicts also affect the right to health of the elderly. Untreated chronic health conditions – like diabetes and high blood pressure – had caused many to lose their independence, develop disabilities and face unnecessary suffering while the fear of intermittent shelling and the risk of landmines was constant [2]. Therefore, the primary issue is how to ensure the right to health of children and the elderly in armed conflicts to minimize human risks and protect public health.

However, since the World Wars, ensuring the protection of the right to health during armed conflicts has remained challenging. Many countries make effort to support affected populations as much as they can but there are still difficult for most of them. Insecurity often limited states' ability to ensure the resources needed to maintain access to health although some conventions require parties to the conflict to collect and care for the wounded and sick in war [3]. So there are also some questions raising from the practical of protecting the right to health of children and the elderly, such as which methods can be issued to help children and the elderly to access the best and timely health care system? And which policies should the government issue to ensure the right to health protection of people vulnerable like children and the elderly? Besides that, how can states, governmental, non-governmental organizations and community support the elderly and children to exercise their right to health?

Within the limits of this article, the authors do not give a view on assessing the correctness and wrongness of the behavior of countries in armed conflicts, but focuses on assessing the achievements and limitations in protecting the right to health of children and the elderly during past armed conflicts. Based on this, the authors propose some solutions to improve the effectiveness of enforcing this right for children and the elderly under international humanitarian law.

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2. Materials and methods

To evaluate the practice of protecting the right to health of children and the elderly in armed conflicts, the author use secondary data frequent updated on the website of The General Assembly of the United Nations [4]. In addition, comparative methods are also used to compare the numbers of children and the elderly who were injured or died due to armed conflicts and other factors to demonstrate the severe consequences of armed conflicts on protecting the right to health. Other methods are analysing, evaluating and collecting information about the practice of protecting the right to health in armed conflicts, such as in Ukraine and other countries such as Gaza, Myanmar, the Sudan, Nigeria.

3. Results and discussions

3.1. The consequences of armed conflicts on the protection of health rights for children and the elderly

In conflicts, children are always “on the frontline”. Many schools and hospitals are bombed and humanitarian blockades deny them access to food, shelter, and life-saving medicines. The number of deaths and injuries caused by war has increased dramatically every day. The newest data shows that, up to September 2023, there are more than 522 boys and 379 girls were injured while 289 boys and 237 girls were injured and 285 children who is not unknowed the sex, due to the armed conflicts in Ukraine. This is a significant number when it's only been over a year of conflict there.

Moreover, as the Report of United Nations, “a total of 335 attacks on schools (243) and hospitals (92), including attacks on protected persons in relation to schools and/or hospitals, were verified and attributed to Russian armed forces and affiliated armed groups (249), the Ukrainian armed forces (70) and unidentified perpetrators (16), including 3 by shrapnel when the Ukrainian armed forces intercepted missiles or loitering munitions launched by Russian armed forces. The United Nations verified 60 incidents of the denial of humanitarian access attributed to Russian armed forces and affiliated armed groups (44), unidentified perpetrators (15) and the Ukrainian armed forces (1). Incidents involved attacks affecting humanitarian sites and/or operations (29), the denial of access to cross the frontline to deliver humanitarian assistance (16) and attacks on energy infrastructure (15).” [4, 39].

In addition, the use of explosive ordnance, including explosive weapons and remnants of war, improvised explosive devices and landmines, including in populated areas, were the main cause of the killing and maiming of children. These weapons have disproportionate effects on children, youth, displaced populations and persons with disabilities, including after conflict ends. Child survivors often experience lifelong impairments and are likely to face resultant discrimination and stigma. These weapons imposed severe restrictions on humanitarian assistance, including mine action operations, impeded the reconstruction of infrastructure critical for children, such as schools, and caused the killing and maiming of humanitarian personnel, while increasing access challenges, including in Gaza, Myanmar, the Sudan and Ukraine.

Especially, in 2023, violence against children in armed conflict escalated to unprecedented levels, with a troubling 21 percent rise in serious violations. The suffering of children was exacerbated by intensifying crises that showed a blatant disregard for their fundamental rights, particularly the right to life. Instances of killing and maiming surged by an alarming 35 percent. “Children were killed and maimed in unprecedented numbers in devastating crises in Israel and the Occupied Palestinian Territory, notably in the Gaza Strip, in Burkina Faso, the Democratic Republic of the Congo, Myanmar, Somalia, the Sudan, the Syrian Arab Republic and Ukraine, among many other situations” [4, 2]. Despite Gaza's history of military incursions and attacks since its transition from Israeli to Palestinian control in 1994 following the Oslo Accords, the number of children killed in armed conflicts was extraordinarily high, with 2,364 reported deaths in 2023.

Similarly, the elderly have had their right to health violated while facing many difficulties accessing essential health needs. The report compiled by U.N. human rights monitors showed that “around a third of the civilians killed in the first year of the war were over 60, while many others face huge financial, practical and emotional hardship. There are 4.2 million older people in need of humanitarian assistance in Ukraine. For those with disabilities and chronic diseases, evacuation is especially arduous as they need social assistance and support with transportation. Among the displaced persons, 46 per cent of families live with at least one elderly relative” [5].

In fact, the elderly are more likely to be injured or killed during armed conflict due to their reduced mobility, impaired senses, and other health issues. In the Central African Republic, for example, the armed forces executed Dieudonne, a blind 60-year-old man in July 2017. In Ethiopia, after Tigrayan forces recaptured most of the Tigray region in 2021, authorities arbitrarily arrested and detained older Tigrayans in Addis Abeba. Amhara forces in control of the Western

Tigray zone detained elderly people in overcrowded detention facilities, subjecting them to beatings and other forms of ill-treatment. In South Sudan during government operations against rebel forces in February 2019, a soldier made a 50 year-old woman carry looted property, beat her with a gun, and raped her repeatedly [6].

Obviously, when a war breaks out, vulnerable populations such as the elderly and children are at the greatest risk due to their limited mobility and certain physical limitations. Therefore, ensuring the right to health protection for these individuals is one of the most effective ways to minimize the loss of life caused by war.

3.2. Definition of the right to health

As one of the fundamental human rights, the term *right to health* is mentioned in the Universal Declaration of Human Rights and in the General comment No.14: “The Right to the Highest Attainable Standard of Health (Art. 12) of Office of High commissioner for Human Rights (OHCHR), the right to health is “an inclusive right, extending not only to timely and appropriate health care, but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health”. The right to health is also mentioned in many multilateral agreements such as: The International Convention on the Elimination of All Forms of Discrimination race in 1966 (Article 5), The International Convention for the Elimination of All Forms of Discrimination Against Women in 1979 (Articles 11 and 12), The Convention on the Rights of the Child 1989 (Article 24), The Convention on Economic, Social and Cultural Rights in 1966 (Article 12),...

In this term, the concept of “health” is not clearly mentioned but it was recognized in the preamble of Constitution of the World Health Organization of WHO (The World Health Organization) as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. In this regard, US President Franklin Roosevelt also called for the enforcement of “the right to adequate medical care and the opportunity to attain a healthy life” [7].

In a fully meaning, the right to health includes “the right to access the health care system and the right to enjoy the necessary socio-economic conditions to support health”. The right to access the health care system includes “the right to medicine, the right to medical care when needed (sickness, reproduction, disease), the right to mental health care, and the right to mental health care. access to information on public health. In which, the right to access medicine is the most basic right of the right to health”[8]The right to enjoy the necessary socio-economic conditions to support health is “the such as clean water, sufficient essential food, shelter and clothing to meet daily needs in order to have a good life”. Although these rights may not have an immediate and direct impact on everyone's health, they profoundly influence individuals' lives both physically and mentally, ultimately enhancing overall quality of life. For instance, investments in transportation infrastructure can improve access to healthcare services, efforts to control inflation may affect health budgets, and reforms in administrative services could either increase or decrease the number of medical professionals available to the community[9].

Moreover, the right to health also includes freedoms and entitlements, and the ability to access the best quality health care conditions[10]. Freedom is manifested through the right to control one's own health and body, which includes protection from torture and the prohibition of involuntary participation in medical research and experiments. Additionally, it encompasses the right to equal access to the healthcare system to ensure the highest attainable level of health for all.

3.3. The obligations of government to protect the right to health

Having a special role in govern the society, States have obligations to protect the human rights, including the right to health, as defined in Article 12 of the CESCRC Convention that States must take steps to ensure the right of everyone to enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of physical and mental health (the right to health).

So, what the State does have to guarantee, however, is the combination of situations which, like food, nutrition, medical assistance, hygiene, etc., contribute to the improvement of health [11]. The General Comment No.14 states that the right to health contains the core obligations to maintain essential primary health care, access to minimum essential food, basic shelter, housing and sanitation, and an adequate supply of safe and potable water, as well as the obligation to provide essential drugs. These core obligations are non-derogable and require States to respect, protect and ensure the right to health. The right to medical care is also provided under Article 25 of the Universal Declaration of Human Rights, an instrument accepted by most as international customary law.

Consequently, governments must ensure that the privatization of healthcare does not jeopardize the availability, accessibility, acceptability, and quality of health services, goods, and facilities. They should also regulate the marketing of medical devices and drugs by third parties.

Furthermore, the duty to protect necessitates that states ensure the practical realization of the right to health. This includes guaranteeing that pharmaceutical manufacturers do not impede access to essential medicines. High drug prices can restrict access for patients unable to afford hospital fees. Countries can address this by purchasing medications and providing them free of charge to patients through comprehensive insurance policies, as long as these measures align with their international treaty obligations.

3.4. The practice of protecting right to health of children and the elderly in armed conflicts in Ukraine and Russia

To implement their obligations, in Ukraine, in August 2023, the Government of Ukraine signed a joint prevention plan with the United Nations to end and prevent grave violations against children in Ukraine. In July 2023, an interministerial working group on children and armed conflict was established to support its development and implementation. Subsequently, significant progress was reported, including the adoption of a revised plan to implement the Safe Schools Declaration. The Government of the Russian Federation continued to engage with the Special Representative to end and prevent grave violations against children in Ukraine, with practical prevention measures reported by the Russian Federation.

In the Syrian Arab Republic, in June 2024, the United Nations signed an action plan to end and prevent the recruitment and use and killing and maiming of children with the opposition Syrian National Army, including Ahrar al-Sham and Army of Islam, and its aligned legions and factions. In November 2023, the United Nations signed a road map with the Syrian Democratic Forces to prioritize the implementation of the 2019 action plan, including the reappointment of senior-level focal points, the establishment of an implementation committee and a military order reiterating the prohibition of the recruitment and use of children.

In practice, however, countries engaged in armed conflicts often lack the financial and human resources necessary to fulfill these responsibilities, leaving many children and the elderly without guaranteed access to health care. This shortfall has significant repercussions. Although the Geneva Conventions address some aspects of health in conflict situations, they leave crucial gaps. The Conventions require that parties in conflict avoid attacking the wounded, sick, and healthcare workers, and that they collect and care for the injured impartially. However, they do not specify the ongoing obligations of warring states to provide health services that are available, accessible, acceptable, and of high quality to the civilian population. Even during military occupations, the Conventions only mandate the preservation of existing services without setting human rights standards for their operation or ensuring local community involvement and accountability. The right to health addresses these gaps by demanding the continuity of health services and mitigating the impact of war on civilians, such as through the prevention and treatment of war-related infectious diseases. In prolonged conflicts, governments cannot evade their responsibilities by neglecting the right to health.

The right to health also plays a crucial role in protecting individuals in need of care, as well as healthcare workers and facilities, during periods of political violence that do not escalate to full-scale war. Often, protesters are denied medical care due to their political activities, and health workers face arrest and prosecution for providing treatment. As recently as the Arab Spring in 2011, a leading human rights organization questioned states' obligations to avoid interfering with healthcare workers attending to injured protesters, beyond prohibitions on arbitrary arrests and suppression of free expression. Moreover, while the misuse of counter-terrorism laws to limit medical and humanitarian efforts in conflict is clearly against international humanitarian law, the right to health offers only indirect means to combat the criminalization of healthcare by states minimally involved in conflicts.

The significance of the right to health in war and other forms of political violence has only recently begun to be recognized. A notable advancement in 2023 came with a report by Special Rapporteur on the Right to Health, Anand Grover, which acknowledged that insecurity often hampers states' ability to ensure necessary resources for health access. Nonetheless, it emphasized that the requirement for progressive realization of the right to health remains, demanding "concrete steps toward the full realization of this right for all, without discrimination, regardless of whether individuals are combatants or civilians." In Afghanistan, ongoing insecurity and violence against civilians and health facilities has resulted in enormous strains in the country's effort to construct a functioning health system. Threats and violence have led to closure of large numbers of clinics and hospitals. Nevertheless, the government's national health plan is premised on the right to health, using its criteria to develop its governance and programs. The right to health is also being used to contest the criminalization of health care and discriminatory and inequitable health care under occupation.

Emphasizing the need for support in mine action to expand humanitarian space, she highlighted that international humanitarian law mandates the protection of all civilians, their homes, schools, hospitals, and other crucial infrastructure. It is essential to ensure their safety and allow them to leave conflict zones voluntarily and securely, particularly addressing the needs of women, children, the elderly, and people with disabilities. Additionally, any obstacles to the movement of humanitarian personnel must be eliminated to ensure the uninterrupted delivery of life-saving assistance throughout Ukraine.

With the devastating impact of the war on Ukraine's children becoming increasingly apparent, humanitarian efforts, including several significant evacuations of trapped civilians, must continue to expand. For the elderly in areas controlled by non-government forces, they are required to travel to government-controlled territories to receive their pensions, register as internally displaced persons, and provide addresses in these areas. They must cross Ukrainian checkpoints at least every 60 days to avoid having their pensions suspended. In 2020, legislation that would have addressed the pension issue for displaced persons was not passed, citing budgetary constraints.

This discriminatory policy has severely affected the elderly, with many unable to receive their pensions. According to Ukraine's ombudswoman, over 450,000 of the 1.2 million pensioners in these areas did not receive their pensions in 2019. The Organization for Security and Co-operation in Europe reported that between January and early April 2019, at least 19 people, mostly elderly individuals with heart-related complications, died while crossing checkpoints.

Another issue is that displaced elderly individuals often cannot access humanitarian aid. Many elderly people remain in conflict zones because they believe they are safe or wish to protect their ancestral land. Limited mobility and disability further discourage them from fleeing. In 2017, in Myanmar, security forces forced elderly individuals who could not flee back into burning homes. Similarly, displaced elderly individuals in South Sudan faced significant challenges in accessing aid compared to those who sought refuge in Protection of Civilians sites within UN bases. Amnesty International has documented failures by humanitarian actors to meet standards and adequately include the elderly in responses to conflict-driven displacement.

This ongoing crisis should serve as a wake-up call for governments and the international community to urgently reassess their approach. The specific needs of older Ukrainians must be addressed, setting a precedent for a more inclusive approach to humanitarian emergencies globally.

In summary, current sanctions against countries that violate these rights are insufficient, largely depending on the goodwill of the parties involved. Meanwhile, conflicting nations often prioritize national interests over their obligations to protect the right to health for their populations.

4. Some solutions for countries in protecting the right to health of children and the elderly in armed conflicts

As we mentioned below, in the current crisis, all of states, governmental as well as non-governmental organizations and community have to do some solutions to protect the right to health of children and the elderly in armed conflicts such as:

Firstly, for the United Nations and Governments of countries in armed conflicts

To minimize the impact of armed conflicts on children and the elderly, the United Nations and national governments, especially in conflict zones, play a crucial role. Although there are many international treaties currently in place that require countries experiencing armed conflict to commit to ensuring the health rights of their people during wartime, these countries often lack the capacity to enforce or deliberately evade their obligations when conflicts occur. Furthermore, current appeals from UN offices are merely recommendations and lack binding authority for member states. Therefore, it is essential to have official documents from the United Nations or member states requiring strict compliance with government obligations to ensure the protection of health rights during conflicts, with a particular focus on the elderly and children.

Additionally, it is necessary to stipulate that ensuring the protection of health rights is a minimum responsibility in the planning and execution of armed conflict strategies and to consider this as a prerequisite for evaluating the legitimacy of state actions involving the use of force. Failure to meet this condition could be deemed as engaging in illegal use of force.

Moreover, in cases where armed conflict is unavoidable, it is crucial to establish safe corridors for the timely evacuation of civilians, particularly the elderly and children. This is the quickest and most effective solution to reduce the number of elderly and children injured or killed by war, as no life is peaceful under constant threat from weapons and bombs, and no one can guarantee survival under such circumstances.

To support injured elderly and children in need of medical care, it is necessary to quickly train medical personnel and equip them with the essential medical tools and devices. Governments should coordinate with non-governmental organizations such as the Red Cross or global health associations to ensure the timely provision of doctors, medical staff, medications, and medical equipment for those severely affected by the consequences of armed conflicts. Specifically, it is important to facilitate charitable organizations in providing medications, necessities, and food to people in conflict areas.

Simultaneously, governments need to work with health agencies to train and guide self-first aid and self-care skills for the elderly and children, as no one can take better care of themselves than themselves. Even those trained elderly and children can support their peers in similar situations to overcome the difficult period during prolonged armed conflicts. Many cases in countries have shown that trained medical volunteers from among the victims of armed conflicts understand the worst conditions of war and know how to protect their own and others' health.

Secondly, for other countries that are not in armed conflicts

At first, it is necessary to enhance the application of peaceful measures between countries and regions. For example, when a country wants to join an international treaty, including a free trade agreement, other member states could require the cessation of all conflicts or conflict plans as a minimum condition for the country to join the treaty.

The second, there should be prosecutions for violations of health care obligations during war, similar to genocide charges, especially for acts of attacking or refusing to provide healthcare to children, as they are the future leaders of the world.

The third, economic sanctions should be implemented for violations. Member states might view a country's unilateral initiation of armed conflict as a serious breach of international commitments, warranting corresponding economic sanctions to deter and prevent the expansion or use of illegal force, impacting global peace.

The fourth, the supply of weaponry to armed conflicts should be restricted. Whether for positive or negative purposes, such actions contribute to prolonging armed conflicts and adversely affecting the lives of people in these areas, especially by severely violating health protection rights. Instead, only support medical equipment, food, and necessities for people should be provided, ending military equipment support—an international responsibility to maintain regional peace and security.

Thirdly, for non-governmental organizations and people in various countries

First, to maintain peace, as people have the right to govern their countries, every individual should demand that their leaders commit to preserving peace and ensuring no violent attacks against children and the elderly occur during armed conflicts. Citizens need to use their influence to pressure their governments to fulfill peace commitments and protect people's health (including the elderly and children) to ensure sustainable development for their country and the world in the future.

Second, actively support people from countries and neighboring regions experiencing conflict by providing food, water, medicine, and shelter to stabilize their lives and address the damages caused by armed conflicts. These small actions can have a significant impact on the collective future development of humanity. No war, no disease, no disasters, no global warming, nothing anymore except peace, happiness and abundance [12].

5. Conclusion

In conclusion, armed conflict is an inevitable aspect of international relations, especially in the current tense economic and political climate. Therefore, implementing solutions to ensure the protection of health rights for people (especially children and the elderly) is a minimum responsibility for each country, particularly in conflict zones. However, the quickest and most effective solution is to maintain peace negotiations and resolve conflicts through discussions that consider the legitimate rights and interests of all parties without resorting to force. This will help reduce the number of elderly and children injured or killed by war, as no life is peaceful and no one can guarantee survival under constant

threats from weapons and bombs. This will lead to a more developed society and a more sustainable and beautiful world in the future. Finally, let us all pray and strive for a peaceful world.

Compliance with ethical standards

Disclosure of conflict of interest

No conflict of interest to be disclosed.

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