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LEGAL ASSESSMENT OF ALLEGATIONS OF ARMENIA’S CHILD SOLDIER USE IN SECOND KARABAKH WAR

(ERMENİSTAN’IN 2. KARABAĞ SAVAŞI’NDA ÇOCUK ASKER
KULLANIMI İDDİALARININ HUKUKİ DEĞERLENDİRMESİ)

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Abstract: *During the Second Karabakh War (September 27 – November 10, 2020), Azerbaijani authorities accused Armenia of using child soldiers in the conflict. However, current international reports do not corroborate these allegations. UNICEF and other UN agencies, as well as leading human rights organizations (Amnesty International, Human Rights Watch), documented numerous serious violations during the war, particularly the targeting of civilian settlements, indiscriminate bombardments, and the use of prohibited munitions; however, they did not provide any verified findings regarding the use of child soldiers. Armenia has described Azerbaijan’s allegations in this regard as “baseless” and rejected them in official letters sent to the UN Secretary-General.*

Legally, Article 8/2(d)(vii) of the Rome Statute defines the direct or indirect involvement of children under the age of 15 in armed conflicts as a war crime. As Armenia is not a party to the Rome Statute, the International Criminal Court does not have direct jurisdiction. However, international mechanisms such as the UN Human Rights Council or the European Court of Human Rights could theoretically examine such allegations.

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Currently, the lack of evidence verified by independent and reliable institutions prevents the establishment of legal responsibility. In order to substantiate the allegations, audiovisual evidence, witness statements, and official records must be collected and then examined by independent experts. Until this process is completed, the allegations remain merely political rhetoric and do not produce any binding results under international law.

Keywords: *Child Soldiers, Armenia, Second Karabakh War, Human Rights, Law of Armed Conflict*

Öz: *İkinci Karabağ Savaşı (27 Eylül – 10 Kasım 2020) sırasında, Azerbaycan makamları Ermenistan'ı çatışmalarda çocuk asker kullanmakla suçlamıştır. Ancak mevcut uluslararası raporlar bu iddiaları doğrulamamaktadır. UNICEF ve diğer BM kuruluşlarının yanı sıra, önde gelen insan hakları örgütleri (Amnesty International, Human Rights Watch), savaş süresince çok sayıda ciddi ihlali, özellikle sivil yerleşim yerlerinin hedef alınması, ayırım gözetmeden gerçekleştirilen bombardımanlar ve yasaklı savaş malzemeleri kullanımı belgelemiş; ancak çocuk asker kullanımı konusunda herhangi bir doğrulanmış tespit sunmamıştır. Ermenistan, BM Genel Sekreterliği'ne ilettiği resmi yazılarda, Azerbaycan'ın bu yöndeki suçlamalarını “asılsız” olarak nitelendirmiş ve reddetmiştir.*

Hukuki açıdan, Roma Statüsü'nün 8/2(d)(vii) maddesi, 15 yaşın altındaki çocukların silahlı çatışmalara doğrudan veya dolaylı olarak dâhil edilmesini savaş suçu olarak tanımlamaktadır. Ermenistan Roma Statüsü'ne taraf olmadığı için/olmaması dolayısıyla, Uluslararası Ceza Mahkemesi'nin doğrudan yargı yetkisi bulunmamaktadır. Bununla birlikte, BM İnsan Hakları Konseyi veya Avrupa İnsan Hakları Mahkemesi gibi uluslararası mekanizmalar açısından bu tür iddiaları incelemesi mümkündür.

Mevcut durumda, bağımsız ve güvenilir kurumlarca doğrulanmış delil eksikliği, hukuki sorumluluğun tesis edilmesini engellemektedir. İddiaların somutlaştırılması için görsel-işitsel kanıtların, tanık beyanlarının ve resmi kayıtların toplanması, ardından bunların bağımsız uzmanlarca incelenmesi gereklidir. Bu süreç tamamlanmadan, iddialar yalnızca siyasi söylem düzeyinde kalmakta ve uluslararası hukuk bakımından bağlayıcı bir sonuç doğurmamaktadır.

Anahtar Kelimeler: *Çocuk Asker, Ermenistan, İkinci Karabağ Savaşı, İnsan Hakları, Silahlı Çatışma Hukuku*

Introduction

The Second Karabakh War (2020) between Azerbaijan and Armenia partially paved the way for a solution to the Karabakh Conflict, which is considered a “frozen conflict” in international relations and international law. While many low-intensity conflicts exist in the region, similar to the Karabakh Conflict, the Second Karabakh War represented the peak of these long-standing conflicts. The war, which lasted six weeks and involved heavy armed clashes at the end of a 30-year process in Karabakh, preoccupied the agenda of actors in the immediate region. The security of the region, human rights violations during the conflict, and the legal consequences of these violations became a global agenda item immediately after the war. Despite the prohibition of the use of “child soldiers” under international law, allegations that Armenia used “child soldiers” in the armed conflict led to questions about the effectiveness of the Law of Armed Conflict and Human Rights Law. Human Rights Law is a field of law that has its roots in the doctrine of natural law and should be made an ideal part of positive law. In this context, the shortcomings of this branch of law were felt immediately after the two major wars experienced by the world public. The reality that human rights must be protected not only in times of peace but also in times of war has been incorporated into the application of the Law of Armed Conflict and has therefore exerted its influence here as an important element of legal regulations. The use of child soldiers is considered a serious violation of human rights under international law and is a phenomenon that has irreversible consequences, especially in war zones. The use of children as combatants or support personnel in armed conflicts is a practice that negatively affects their physical, mental, and emotional development and has long-term consequences on their bodies and minds. The “child,” defined by society as a group in need of protection in terms of physical, mental, and many other aspects, has thus been granted international legal regulations that protect their rights. International law, taking into account the reality that these vulnerable groups cannot be protected on their own, has insisted that states make the necessary adjustments in their domestic laws. Despite all these efforts, it is also a fact that effective protection for children cannot be ensured even in times of peace, let alone during armed conflicts.

In light of the legal texts that international law has regulated and implemented to protect children, this study will conduct a legal assessment of the use of “child soldiers” in the 2020 armed conflict between Armenia and Azerbaijan () using qualitative research methods. Quantitative data on the subject will be used where appropriate and to a limited extent. As this is a legal text study, the subject will be kept as far as possible from the fields of security and

international relations and will be shaped in terms of the consequences of violating the legal regulations on the subject.

1. The Process Leading to the Second Karabakh War and the Background of the War

The issue of Karabakh, referred to until recently as “Nagorno-Karabakh,” became an increasingly prominent problem during the breakup of the Union of Soviet Socialist Republics (USSR). The political and governmental vacuum created by the collapse of the Soviet Union became a means for Armenia to gain territorial gains in the region. In this sense, Armenia, which already considered Karabakh a part of its own territory, embarked on an effort to define it as part of its territory without room for doubt or objection. This dispute between the two countries defined the region as one of the frozen conflict zones. It is well known that a ceasefire was achieved with the Protocol signed in Bishkek in 1994 after the First Nagorno-Karabakh War, and that the United Nations Security Council (UNSC) and the United Nations General Assembly (UNGA)¹ regarding the regional issue, and despite this decision, the occupation of Karabakh and seven regions continued. Armenia’s insistence on maintaining these occupations formed the scope of the Karabakh Issue, the last thirty years of conflict between the two countries. The armed clashes that resumed on September 27, 2020, and Azerbaijan’s establishment of control in the region on November 10, 2020, produced a solution to the Karabakh Problem. (Ataman & Pirinççi, 2021, pp. 17-35).

Although the events that have taken place in Karabakh from yesterday to today are associated with the start of the First Karabakh War, the beginning

1 See: United Nations General Assembly Resolution 62/243 United Nations General Assembly Resolution 62/243, entitled “The Situation in the Occupied Territories of Azerbaijan,” is a resolution adopted by the United Nations General Assembly on March 14, 2008, during its 62nd session, regarding the situation in Nagorno-Karabakh. UN Security Council Resolution 822 of April 30, 1993, calling for the cessation and withdrawal of attacks by Armenian forces from Kelbecer and other remaining occupied territories of the Republic of Azerbaijan following the occupation on April 3, 1993, UN Security Council Resolution 853 of July 28, 1993: “Demands the immediate cessation of all hostilities, calls for the withdrawal of Armenian forces from Agdam and other recently occupied territories of the Republic of Azerbaijan, and reaffirms UN Resolution 822,” UN Security Council Resolution 874 dated October 14, 1993: “Calls for the preservation of the ceasefire, the cessation of hostilities, and the withdrawal of Armenian forces from the recently occupied districts of Fuzuli (August 23, 1993), Jabrayil (August 26, 1993), Kubadli (September 31, 1993), and other recently occupied territories,” and reaffirms UN Resolutions 822 and 853,” UN Security Council Resolution 884 dated November 12 “Condemns the recent violations of the ceasefire established between the parties, which led to the resumption of hostilities; Calls upon the Government of Armenia to exert influence on the Armenians in the Nagorno-Karabakh region of the Republic of Azerbaijan to comply with Resolutions 822, 853, and 874; calls on the parties to immediately cease armed attacks; calls on Armenia to withdraw from the Zangilan district of Azerbaijan and reaffirms UN Resolutions 822, 853, and 874.”

of the regional problem cannot, of course, be limited to this process. The necessity to limit the subject for a more original approach forces us to explain this historical process not from beginning to end, but in a limited way. Therefore, it is essential to convey the recent historical process here. The most important factor leading to the First Karabakh War was, of course, the efforts of the Armenian Lobby. These efforts were not actually an approach that was widely accepted by "Moscow." However, with Mikhail Gorbachev's appointment as Secretary of the Politburo of the USSR in 1985, the policies of Perestroika (restructuring) and Glasnost (openness) led to the development of more flexible ideas about the nations within the USSR (Akman, 2005, p. 61). The changes made in USSR policy during this process paved the way for Armenia to reconsider its political approach to Karabakh. In Azerbaijan, the USSR's aforementioned policies resulted in the resurgence of nationalism. The most notable development was the departure of Haydar Aliyev, former head of the Communist Party of Azerbaijan, from the Politburo in 1987. All these developments, coupled with the open support given to Armenia by Gorbachev's advisors, led to an increase in Armenian actions in Karabakh (Garibov, 2017, pp. 255-266).

In 1988, the Armenian Parliament and the Parliament of the Nagorno-Karabakh Autonomous Republic passed a resolution to "separate the Nagorno-Karabakh Autonomous Republic, which is part of Azerbaijan, from Azerbaijan and unite it with Armenia" (İsmayılov, 2010, p. 117). (Garibov, 2017, p. 273). The political structures of the Azerbaijan SSR and the USSR also stated that the decision taken by Armenia and the Karabakh Administration was legally impossible, referring to the provision that "borders cannot be changed" in the 1936 and 1977 USSR Constitutions (Yıldırım, 2018, pp. 186-188), (İşyar, 2020, pp. 388-389). These developments increased tensions between the two countries. The USSR's response to the rising tension was to annex Nagorno-Karabakh to Moscow on January 12, 1989 (Yıldırım, 2018, pp. 189-199), (İşyar, 2004, pp. 383-384). On November 28, 1989, the USSR again ceded the Nagorno-Karabakh Administration to Azerbaijan. Following this decision by the USSR, the Armenian National Movement was established in Armenia, and the United Armenian Republic was declared in Nagorno-Karabakh on December 1, 1990 (İşyar, 2004, p. 387). The tension heightened by all these developments resulted in clashes between the two countries on January 12, 1990, known as the Sumgayt Incident. The USSR administration declared a state of emergency in Karabakh and many other places, aiming to end the clashes (Yıldırım, 2018, pp. 191-192). The Red Army carried out arrests in Azerbaijan, leading to events that became known in history as the "January Massacre" (İşyar, 2004, p. 387). The collapse of the USSR in 1991 also created a regional political vacuum (Garibov, 2017, p. 294).

Today, the decision dated November 26, 1991, is legally valid, and there is no autonomy in the legal status of Nagorno-Karabakh. Within the scope of the region's legal status, it must be considered part of Azerbaijan and accepted as Azerbaijani territory (Garibov, 2017, p. 359). After the collapse of the USSR, the Russian Federation was established, and Russia signed a "Friendship, Cooperation, and Mutual Security Agreement" with Armenia, supporting Armenia against Azerbaijan within the scope of the "Near Abroad Doctrine" (Salamov, 2021, p. 81). With this move, the Russian Federation sought to maintain the influence of the policy it had pursued since the Tsarist era over the newly established states that had seceded from the USSR. When viewed from its own perspective, the Russian Federation's political policies in question are a "rational policy," as the state deemed it appropriate to create a sphere of influence in terms of the country's supreme interests. However, it should be noted that the supreme interests of the state were to support Armenia with the 366th Motorized Brigade of the Red Army in its occupation and genocide actions in the town of Khojaly on February 25-26, 1991, and, as a result of this support, to occupy the regions of Shusha, Nagorno-Karabakh, and Lachin in 1992 (Çora, 2000). and supporting Armenia with the 366th Motorized Brigade of the Red Army, and that this support paved the way for the occupation of the regions of Shusha, Nagorno-Karabakh, and Lachin in 1992 (Çora, 2018, p. 68; Derin, 2023, 24-28) in 1992. Indeed, the Russian Federation's support has been part of a historical process that continues to this day, and this policy of support has actually become a tool for inflaming hostility between the peoples of the region. Empowered by the same political platform, Armenia opened fire on military base positions in Azerbaijan's Tovuz District between July 12 and 16, 2020 (Derin, 2023, 81). The attacks continued, encompassing the villages of Agdam, Dondar Kushchu, and Vahitli. The process lasted four days and went down in history as the "Tovuz Conflict." (İşyar, 2020, p. 289). Armenia's attacks were not limited to the Tovuz District; they also took place in the Shahbuz and Culfa provinces of Nakhchivan from July 12, 2020, to July 13, 2020. According to the Azerbaijani Army Newspaper, "*As a result of Azerbaijan's response to the Armenian attack, more than twenty pieces of military equipment belonging to the Armenian army were destroyed*" (Azerbaijani Army Newspaper, 2020). Armenia continued its attacks on September 27, 2020, in Nagorno-Karabakh, which has been a disputed region since 1994. Azerbaijan was forced to exercise its "right to self-defense" under the provisions of the UN Charter in response to Armenia's attacks (Aslan, 2021, p. 245).

As a result of all these events, it is a fact that both countries suffered heavy losses during the renewed clashes in 2020. The parties to the conflict have

been accused of violations of international law, including targeting civilians, human rights violations, and war crimes. In particular, allegations that Armenia used child soldiers became one of the most controversial issues of the conflict.

The concept of child soldiers is not legally acceptable, but the reality of children being used in armed conflict is undeniable. No other concept can be used to describe this reality. The very juxtaposition of the concepts of “child” and “armed conflict” is unreasonable. For this reason, international law has acted with an awareness of the magnitude of the problem and has endeavored to make the necessary regulations. Although all regulations created by law are binding on every state, the regulations in the domestic laws of states and the practice of “compulsory military service” under the citizenship law of the nation-state, the involvement of non-state actors in armed conflicts, and the ease with which children can be recruited into armed conflict are causing the problem of child soldiers to increase day by day.

2. Definition of the Use of Child Soldiers and International Law

At this point in the world, it is thought that many habits have changed. In fact, it is not only the habits of societies that have changed. The system is changing, and the technology and behaviors that develop alongside this system present “change” by creating the necessity to adapt everything that has been applied throughout history to the conditions of the time. The concept of war is also like this. The methods of warfare used centuries ago are not actually different today; what has changed are the conditions of the times. These conditions are generally parallel to the stage of technological development that has been reached. The limits of technological development three centuries ago determined the conditions of warfare at that time. Today’s technological conditions have determined today’s form of warfare. This is why Kaldor spoke of new generation warfare methods (Kaldor; 2012, 2-4), and every form of warfare appropriate to the conditions of the day was referred to under a larger umbrella concept such as “armed conflict,” stemming from this new understanding of warfare. In general, the most important indicators for labeling these conflicts as new are how and where they are financed, the identities of the warring parties, their tactics, and their objectives. The law, which changes and develops according to the needs of society, had already established the rules of war with the emergence of society and norms, but like everything else that develops, human rights also had to evolve. The fact that a person is born simply as a human being implies that they are entitled to many rights. Along with the right to life, the identity of the child became clear. Ultimately,

the law accepted that children should be protected and, in this sense, should not be involved in violent events such as armed conflict. It should be noted that children are not involved in today's wars or armed conflicts. Children have always been present in war (Altinsoy; 2022, 150-152). While the modern legal system refers to children as individuals under the age of eighteen within the scope of international human rights law, such a distinction did not exist in earlier periods. In this context, participation in war was either voluntary or forced. Children had no say in whether or not they participated in war. Today, the concept of "child soldier" still defines children who are involved in armed conflict, either voluntarily or by force. Legally, regardless of whether a child directly participates in combat, even their involvement in supporting roles (as a messenger, spy, carrier, etc.) in armed conflict requires them to be defined as combatants. The use of children in armed conflicts concerns both humanitarian law and human rights law as a "lex specialis" because of the existence of armed conflict (Henckarerts and Doswald-Beck, 2009, 235-278). Article 2 common to the 1949 Geneva Conventions also states that the rules of humanitarian law covered by the Convention shall apply in all types of armed conflict between states (Pazarci, 529). The 1989 United Nations Convention on the Rights of the Child (CRC) and the Additional Protocol on the Involvement of Children in Armed Conflict, which entered into force in 2000², strictly prohibit the use of child soldiers. On the other hand, the Statute of the International Criminal Court (Rome Statute or ICC) considers the use of children under the age of fifteen in armed conflicts, even within the armed forces of states, to be a "war crime." Despite this legal recognition, there are reports compiled by the United Nations (UN) on the use of child soldiers in armed conflict zones around the world (Human Rights Watch, 2008; Brett and Specht, 2004, 34-78; Machel, 1996).

Articles 38(2) and (3) of the CRC, recognized as the first international treaty protecting children's rights internationally, specifically address the issue of

2 CRC Article 32; —States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. States Parties shall take all appropriate legislative, administrative, social, and educational measures to ensure the implementation of this article. With a view to achieving these objectives and taking into account the relevant provisions of other international instruments, States Parties shall, in particular, take the following measures: establish one or more minimum age limits for admission to employment; establish appropriate regulations concerning the duration and conditions of work. They shall provide for penalties or other appropriate sanctions to ensure the effective implementation of this article. CRC Article 33; States Parties shall take all appropriate measures, including legal, social, and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in international agreements, and to prevent the use of children in the illicit production and trafficking of such substances.

“child soldiers.” The relevant articles of the CRC contain a view parallel to that of the Additional Protocols to the Geneva Conventions. Although the Committee on the Rights of the Child has imposed an obligation on states to ensure that persons under the age of fifteen do not participate directly in armed conflicts and to prevent their participation in hostilities under the Right of the Child to Freedom from All Forms of Violence, this does not narrow the protection afforded to children by the Additional Protocols. In other words, the use of the term “under fifteen years of age” does not exclude the group between fifteen and eighteen years of age from the scope of protection. Therefore, children over the age of fifteen may participate in war or armed conflict within the armed forces of the state in cases of necessity, but legally, the involvement of children under the age of eighteen in armed conflict by the state is considered a war crime. Children under the age of fifteen, on the other hand, cannot be involved in armed conflict under any circumstances. Armed conflict is a form of violence, and the aim of the CRC here is to protect children from all forms of violence. The CRC has moved away from a narrow interpretation of “violence” as “physical harm or harm caused intentionally.” In its General Comment No. 13, the CRC stated that the term “violence” should in no way be understood as referring solely to physical harm, and that the psychological effects of harm are also taken into account by the Commission. Thus, the Commission found that Article 19 is also directly related to the optional protocols concerning the sale of children, child prostitution, child pornography, and the involvement of children in armed conflict (CRC/GC/14, 2013, 12; GC/13, CRC/C/GC/13, 2011, para. 7).

3. Allegations of Child Soldier Use in Armenia

In January 2004, the UN Committee on the Rights of the Child (UNCRC) conducted a visit throughout the country to prepare its second periodic report on Armenia's compliance with the provisions of the Convention on the Rights of the Child. The CRC made recommendations to prevent the employment of children at a young age and the increase in child labor throughout the country. In fact, in the report's conclusion, it stated that Armenia had paid close attention to the issue and made great efforts to prevent it from remaining a problem. Aghvan Vardanyan, Armenia's Minister of Social Security at the time, who presented the report, said that since the evaluation of the first report, Armenia had continued to comply with the provisions of the Convention by implementing legal and administrative measures (UN Human Rights 2004, 1). Most of the activities related to the protection of children's rights in the country focused on social activities aimed at improving children's rights in the

country. The development of these activities by the country can be considered an important step in supporting the child's adaptation to the social environment and psychological and spiritual development. Joyce Aluoch, the country rapporteur responsible for drafting and following up on Armenia's report, said in her speech on the report that "the State party needs to take further steps to ratify the two Optional Protocols to the Convention on the sale of children, child prostitution, and child pornography" (UN Human Rights 2004,1). The Rapporteur's statements certainly indicate that Armenia is expected to make further progress in demonstrating the necessary sensitivity to the issue, while also showing that the main focus is expected to be on "children in armed conflict."

The Rapporteur also noted that he had invited Armenia to ratify International Labor Organization (ILO) Conventions Nos. 182 and 138 without waiting for the adoption of the new labor code. The Rapporteur stressed that Armenia's insistence on becoming a party to the relevant ILO Conventions in taking the necessary steps regarding child labor in harmful environments was likely, given that it recognized the exploitation of children in armed conflict as harmful work ⁽³⁾ and that it must refrain from exploiting children in such situations.

Allegations that Armenia used child soldiers in the Second Karabakh War have been raised by Azerbaijan and some international observers. News that commanders in the Armenian army were gathering child rebels in the occupied Nagorno-Karabakh began to spread immediately after Prime Minister Nikol Pashinyan refused to accept diplomatic efforts to resolve the Armenia-Azerbaijan conflict. Pashinyan's speech calling on all Armenians to take up arms (İbrahimov, 2020, 1) also led to the development of ideas that actually paved the way for the use of child soldiers. In other words, allegations that the Armenian armed forces had involved children under the age of 18 in the conflict, either "by force or voluntarily" (Azerbaijan 24 TV), began to gain significant traction in the international public sphere. This action, prohibited by international law, was also carried out in 2000 by the FPLC, —Union des Patriotes Congolais (UPC) (The Prosecutor v Thomas Lubanga Dyilo ICC-01/04-01/06) (Altinsoy, 2019,206). In this context, *Article 8(2) (d) of the Rome Statute states: "Other serious violations of the laws and customs applicable in armed conflict, not of an international character under existing international law; namely, any of the following acts: i) Deliberately directing attacks against civilians who are not taking direct part in hostilities*

3 Further detailed explanations are provided in the continuation of the work on the relevant ILO Conventions.

or against the civilian population...vii) The recruitment, enlistment, or active use in hostilities of children under the age of 15; viii) The displacement of civilians for reasons other than those necessitated by the security of civilians or military reasons, unless required by the circumstances of the conflict...” All these discussions served as a reminder that international law had been violated, regardless of how children were used on the front lines. Even if children are assigned tasks such as fighting on the front lines, carrying ammunition, delivering messages, or spying, or even “peeling potatoes” for combatants within the warring parties, this means that the law’s efforts to protect children are disregarded (Altinsoy, 2022, 94; Brett, Speckh, 2004, 122). In this context, it has been reported that Armenia sent Armenian youths to the front during the war in the Karabakh region, where the Armenian population is sufficiently large, and forced them to perform military service in the midst of the conflict (İbrahimov, 2020, 2-8). From the perspective of international law, the fact that these youths are Armenian citizens does not mean that they can be conscripted. Even if a person is bound to the country by citizenship, this does not grant the freedom to involve their child in the conflict. As stated above, Article 8(2)(d)(vii) of the Rome Statute prohibits *the recruitment, enlistment, or active use of children under the age of 15 in national armed forces or in hostilities*. Although Armenia denies all allegations on this matter, images of children have been widely circulated in the media, and because it has been difficult for international observers to enter the area, the allegations cannot be conclusively proven. The International Criminal Court has conducted serious war crimes investigations related to the use of child soldiers in many regions and incidents. In the Karabakh region, Armenia must accept the Rome Statute for a full investigation to be conducted. As of now, there is no question of accepting the Statute, and Armenia has even recently accepted the secondary jurisdiction of the Statute and the Court as a result of tensions with Russia and security concerns related to these tensions. Otherwise, the acceptance of the Statute is not a prerequisite when serious international crimes are involved. The ICC Prosecutor can act on his own initiative, but the ICC has chosen to remain indifferent to the allegations. Therefore, a full-fledged trial process has not been initiated in Karabakh, nor has it even been considered. Given the geopolitical tensions in the region and the fact that it is difficult to even consider initiating a peace process between Armenia and Azerbaijan, the reality is that it is difficult to ensure justice, especially for Armenian children. On the other hand, as with every child caught up in armed conflict, the rehabilitation of Armenian children is also a significant problem due to the situations they experience in the conflict that violate human rights and children’s rights.

4. International Reactions to the Use of Child Soldiers and Human Rights Violations

The use of child soldiers leaves deep psychological and social scars on individuals and communities. Children experience serious trauma during armed conflicts, and this trauma leads to lifelong psychological problems. General Comment No. 13 of the CRC states that children must be protected from violence for their physical, mental, spiritual, moral, and social development. The Committee has stated that any situation in which a child is exposed to violence will result in serious injuries and fatal disabilities, primarily psychological and cognitive developmental deficiencies, in the long or short term (CRC/C/GY/13, para:15).

In its 2008 “Child Soldiers Report 2008” on child soldiers, the United Nations Human Rights Commission stated that Armenia subjects schoolchildren aged 16-18 to military training and that this training is part of compulsory education. In addition, it reported that girls in grades 8 and 9 received training on how to use automatic weapons during weekly classes. In this regard, the point highlighted by the Commission is that Armenian youth are radicalized at a young age. The same report states that even 11-year-old children receive weapons training at school through a pilot program implemented by Armenia (UNHR, REFWORL 2008). On the other hand, the most important finding mentioned in the report is that it is very similar to the model of using child soldiers implemented by the Houthis, a separatist group in Yemen, which is known to have been in a civil war for many years (UNHRC, Refworld, 2008). The significance of this finding is that children will be instrumentalized to a considerable extent in situations involving internal armed conflict, which is thought-provoking for the future of Armenia, which is still dependent on Russia and other Western countries under all circumstances. From the children’s perspective, it is stated that children trained as “killing machines” under this model are not taught to develop the ability to protect themselves from armed conflict. This situation also makes the child a direct target, as they do not know how to defend themselves against military attacks in the conflict (UNHRC, Refworld, 2008).

Beyond all these consequences, there are justifications for the use of child soldiers in many internal conflicts occurring regionally. One of the most important reasons is that children are not seen as a threat by the parties to the conflict because they are individuals who have not yet completed their physical, mental, and psychological development, and because they are actually faster in many counterattacks and intelligence operations and are unaware of the

consequences of their actions, they can be ruthless and unrestrained (Altinsoy, 2022, 34).

The fact that children are seen as such a useful tool has been recognized as a problem of concern to the international system, and efforts have been made to take measures to prevent children from being involved in conflict. Despite numerous international agreements and coercive rules, children are still not saved from being involved in armed conflict today. However, in today's conflicts, children are actually more victims of "human trafficking" than combatants, and considering that their will is not accepted, they are also subject to practices that fill the concept of "modern slavery," even if it is incorrectly defined.

5. Efforts to Prevent the Use of Child Soldiers

The international community has made numerous efforts to prevent the use of child soldiers. As stated in relevant United Nations reports, the longer the armed conflict lasts, the more these children suffer psychologically and physically due to the actions they witness in their situation. In addition, the difficulties they experience in adapting to social order cause serious trauma in later stages of their lives (A/75/873– S/2021/437, para. 4). International initiatives exist to eliminate or minimize these traumas. Educational programs aimed at protecting children from armed conflict, encouraging peaceful solutions, and awareness-raising efforts by civil society organizations are recognized as initiatives that can minimize the harm caused to children by conflict. Rehabilitation centers have been established, particularly in post-conflict situations, to reintegrate children into society, providing them with education and psychological support (Brett, Specht; 2004: 122). The legal regulations that shed light on these efforts constitute many texts of international law. The United Nations Convention on the Rights of the Child is one of the most fundamental international documents on the protection of children from armed conflict. Adopted in 1989, this convention broadly guarantees children's rights and aims to prevent their participation in armed conflicts. Article 38 of the UN Convention on the Rights of the Child obliges states to prevent the direct use of children under the age of 15 in armed conflicts. However, this age limit has been deemed insufficient by many human rights advocates, and subsequent regulations have set the age limit at 18. The United Nations Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflict, adopted in 2000, are documents that strengthen the Convention and prohibit the use of children in armed

conflicts more strictly. According to this protocol, the forced recruitment of individuals under the age of 18 into armed forces is prohibited, and states are obliged to restrict voluntary recruitment as well. The use of child soldiers by non-state armed groups is completely prohibited.

The Geneva Conventions, which form the basis of International Humanitarian Law, and their additional protocols contain provisions for the protection of civilians in war and indirectly prohibit the use of child soldiers. Additional Protocol I and Additional Protocol II of 1977 prohibit the use of children under the age of 15 in conflicts and require states to take the necessary measures to comply with this obligation. However, there are also views that this age limit should be set at 18. One of the most important regulations on the use of child soldiers in the context of international criminal law is the Rome Statute, the founding document of the International Criminal Court (ICC). Adopted in 1998, the Rome Statute defines the use of child soldiers as a “war crime.” According to this definition, the use of children under the age of 15 in conflicts by national armed forces or armed groups is considered a war crime, and those who commit this crime can be tried in international criminal courts. On the other hand, the International Labor Organization’s (ILO) Convention No. 182 of 1999 prohibits the worst forms of child labor and, in this context, also addresses the use of child soldiers. This convention considers the forced involvement of children in armed conflicts as one of the worst forms of child labor and prohibits this practice.

The criminal laws of many states contain provisions prohibiting the use of children in armed conflicts. However, some states tolerate the use of child soldiers or use children in their own armed forces despite their laws. Some African and Middle Eastern countries, particularly those in conflict zones (Brett, Specht; 2004: 34-42), face serious problems in this regard due to weak legal enforcement and inadequate oversight mechanisms concerning the use of child soldiers.

According to the Armenian Constitution, these efforts have already been made through constitutional regulations. According to the constitutional regulation, which ostensibly contains many humanitarian provisions, “Every citizen shall participate in the defense of the Republic of Armenia in the manner prescribed by law. Article 47” (Constitution, at National Assembly of the Republic of Armenia). Military service and voluntary military service are regulated by the Military Service Act, amended in 2002, and the 1998 Military Act (UN Doc. CRC/C/93.Add 6, 17 July 2003). In July 2003, Armenia informed the UN Committee on the Rights of the Child that boys are registered for military

service at the age of 16 and that men between the ages of 18 and 27 who meet the necessary health standards are subject to military service in accordance with the Military Service Act (Articles 5 and 11). The minimum age for voluntary military service is 18. Men and women who have completed compulsory military service may apply to serve voluntarily. According to Armenia's UN Report, it is stated that there has been no recruitment of underage soldiers since the end of the First Nagorno-Karabakh conflict in 1994 (UN Doc. CRC/C/93.Add 6, 17 July 2003). However, the Report also states that the conscription of ethnic Armenian refugees from Azerbaijan continues in violation of the 1999 Refugees Act, which exempts them from military service. The Report states that the parents of such refugees are reluctant to complain due to their concern about the ill-treatment their sons are likely to suffer while under arms. The report also cites an example of a 15- or 16-year-old child being conscripted while in the company of another student in the tenth grade (UN Doc. CRC/C/93.Add 6, July 17, 2003).

Conclusion

The Second Karabakh War has gone down in history as a conflict that was not limited to a struggle over territory and political power, but also involved human rights violations. Allegations that Armenia used child soldiers are among the most serious accusations against this war and constitute a clear violation of international law. The use of children in conflicts causes irreversible damage at both the individual and societal levels; therefore, stronger mechanisms must be established to prevent such practices.

Resolving the conflicts between Armenia and Azerbaijan through peaceful means will be a crucial step towards ending such human rights violations. However, unless a lasting peace agreement is reached, the risks to children in the region will continue.

According to information obtained from Armenian social networks, children are serving as soldiers in the armed conflict over Nagorno-Karabakh against Azerbaijan. Some of these boys and girls, as young as 8 years old, are serving in the so-called Nagorno-Karabakh Armenian government forces and armed separatist groups, acting as spies, messengers, or observers. Many are kidnapped or forcibly recruited, while others join out of desperation, believing the Armenian government offers their best chance of survival.

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