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ABSTRACT

of the dissertation for the degree of Doctor of Philosophy

**PROTECTION OF THE RIGHTS OF THE CHILD DURING
MILITARY CONFLICTS IN MODERN INTERNATIONAL LAW**

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GENERAL CHARACTERIZATION OF THE DISSERTATION

Relevance of the topic. Since the second half of the XX century, many significant achievements have been made in the development of international law. At the time, the protection of the rights of the child as one of the main directions of human rights protection is of particular relevance. Even as a result of the specificity and importance of this area, specific principles of protection of the rights of the child have been formed in the system of human rights principles. Thus, by means of important international documents, a number of key principles are distinguished in this area: the principle of inadmissibility of discrimination against children; the principle of the best interest of the child; the principle of free expression of the child's own views; the principle of ensuring the right of child to survive and develop; the principle of special defending and safeguarding of children; the principle of a special approach to children in all areas¹.

The second direction of the topic's relevance is the protection of human rights, including the rights of child, during military conflicts. One of the main goals of international humanitarian law is to protect those who do not participate in military conflicts, primarily civilians, from the negative consequences of the conflict. Improvement of military equipment and armament, as well as changes in the methods of warfare hinder the realization of this goal².

Children belong to a more vulnerable group of the population. Vulnerability means more need for patronage, special protection, attention and care. At the same time, it should also be noted that children are not able to freely defend their rights and freedoms. According to Article 5 of the Declaration of 1974 on the Protection of Women and Children in Emergency and Military Conflicts, States parties to a military conflict must make every effort to protect women and children from the destructive effects of war, must achieve abolition of persecution, torture, humiliating behaviour and violence and etc. Former

¹ Aliyev, A.I. Human Rights. Manual. – Baku: Nurlar, - 2019. - p. 144. (in Azerbaijani)

² Jinks D., Maogoto J.N., Solomon S. Applying International Humanitarian Law in Judicial and Quasi-Judicial Bodies. - The Hague: T.M.C. Asser Press, - 2014. -p. 9.

UN Secretary-General Kofi Annan, in his speech on the protection of children in military conflicts, noted that children were the future and hope of any society, and to destroy them was to destroy society³.

There are concrete scientific explanations that children suffer more from military conflicts, compared to other civilians. First of all, children suffer much more from consequences of military conflicts in the vulnerable phase of vital development cycle, i.e., children who are victims of military conflict, compared to adults, keep traces of that military conflict for a long time in their future development. Second, compared to adults, children are less able to adapt to conflict situations and take adequate steps to do so. Third, children who are victims of military conflicts face serious material (poverty, misery, predisposition to crime), social (drug addiction, various diseases) and moral (deprivation of parental care, mental disorders, dropping out) violations⁴. Fourth, in the process of protecting the rights of child there is a need for constant attention to them by the state, society and the family.

According to statistics for 2017, more than 240 million children around the world live in countries with military conflicts. Most of them face violence, displacement, starvation, and the exploitation by military forces and groups. According to UN reports, in 2017, there were more than 21,000 serious violations of the rights of the child, including involvement and exploitation in military conflicts. In 2018, children were actively used in military conflicts in 7 countries (Afghanistan, Syria, Myanmar, Somalia, South Sudan, Sudan, Yemen) and 56 non-governmental military groups. Anthony Lake, UNICEF Executive Director, notes that today, about 30 million children have left their homes as a result of the war⁵. Most children in this category lose their parents, are subject to rape, sexual humiliation, or face severe trauma. About 300,000 children under the age of 18, with weapon in their hands fight in various military conflicts as child-soldiers⁶.

³ Protection of children affected by armed conflict. Note by the Secretary-General. United Nations. A/54/430. Fifty-fourth session. -1999.- p. 6.

⁴ <https://www.child-soldiers.org/where-are-there-child-soldiers>

⁵ <https://www.un.org/press/en/2016/sc12470.doc.htm>

⁶ <http://www.warchild.org.uk/what-we-do/protection/child-soldiers>

Significant achievements have been made at the international legal level in determining the age limit for the participation of children in military conflicts. While in the Optional Protocol I to Geneva Conventions of 1949 and the 1989 Convention on the Rights of the Child, this age limit was 15, in the Optional Protocol to the 1989 Convention on the Rights of the Child, adopted in 2000, the limit age for direct participation in military operations and being called up for military service was defined as 18 by increasing the minimal age. However, in modern military conflicts, the involvement of children under the age of 18 in active military operations has become widespread. Referring to the 2016 report of the UN Secretary-General on Children and Military Conflicts, it should be noted that minors are actively used in military conflicts in 14 countries, especially in Central Africa and the Middle East⁷. Therefore, non-compliance with the age limit for involvement in military conflicts is a particularly pressing problem of modern international law. In addition, one of the problems of the protection of the rights of the child in military conflicts is that the protection of children involves not only their involvement or participation in military conflicts, but also the restoration of their rights in the post-conflict period. Certain documents have been signed at the international level on the rehabilitation of children who are victims of military conflict, the search for missing children, their return to normal society, returning them to their families, and the restoration of access to education, but these documents are declarative in nature and cannot effect properly.

One of the issues that shows the relevance of the research topic is related to the violation of the rights of child, social problems of refugees and internally displaced persons, as a result of the aggression of the Republic of Armenia (hereinafter Armenia) against the Republic of Azerbaijan (hereinafter Azerbaijan), economic, social and cultural problems of children who have lost their parents or been deprived of parental care as a result of the war. As a result of international crimes committed by Armenia, not only the rights of child, but also human rights and freedoms in general have been massively and grossly

⁷ Children and armed conflict. Report of the Secretary-General. United Nations A/70/836-S/2016/360. General Assembly. Security Council. 20 April 2016.- p. 37-40.

violated. Although this issue has been brought to the attention of the international community with serious evidences, the problem has not been fairly assessed yet, and the aggressor has not received a deserved punishment. Over a long period of time, more than twenty per cent of Azerbaijan's territory was occupied. National leader Heydar Aliyev said: "The loss of every inch of our land is terrible for us, ... being under the enemy's footsteps is a great sorrow for us, a great tragedy. Our main problem is to eliminate the Armenian aggression against Azerbaijan, to liberate our occupied lands, to ensure the territorial integrity of the Republic"⁸. Finally, during the 44-day Patriotic War, which lasted from September 27 to November 9, 2020, the Azerbaijani territories occupied by Armenia were liberated under the direct leadership of the Supreme Commander-in-Chief of Azerbaijan, President Ilham Aliyev and the true heroism of the Azerbaijani army.

Armenia's long-term occupation policy has had serious consequences for Azerbaijan. In addition, Armenia committed the Khojaly genocide, one of the most terrible tragedies of modern times. As a result of this genocide, 613 people, including 106 women, 63 children and 70 elderly people were killed, 1275 people were taken hostage, the fate of 150 people is still unknown, 6 families were completely destroyed, 25 children lost both parents and 130 children lost one parent⁹. As a result of international crimes committed by Armenia, about 1 million people have become refugees and internally displaced persons. In addition, 693 schools were destroyed in the occupied regions of Azerbaijan, where more than 100,000 children studied. During the conflict, 53 Azerbaijani children went missing, and 18 children are still held captive in Armenia¹⁰.

For almost 30 years, not only adopted resolutions of international organizations (for example, UN Security Council

⁸ National leader of the Azerbaijani people. Selected views. Heydar Aliyev Electronic Documents Collection. Presidential Library of the Office of the President of the Republic of Azerbaijan. – Baku: 2003.- p. 62. (in Azerbaijani)

⁹ Aliyev A. I Azerbaijan as a target of international crimes: legal analysis. - Baku: "Nurlar" Publishing and Printing Center, - 2018.- p. 30-31. (in Azerbaijani)

¹⁰ Aliyev, A.I. Human Rights. Manual. – Baku: Nurlar, -2019, - p. 141. (in Azerbaijani)

Resolutions 822, 853, 874 and 884, UN General Assembly Resolution on "The situation in the occupied territories of Azerbaijan" of March 14, 2008, the Resolution on the "Nagorno- Karabakh conflict in the OSCE Minsk Group" of 2005, adopted by The Parliamentary Assembly of the Council of Europe, the Resolution of the Parliamentary Assembly of the Council of Europe on "Intenational deprivation of water to residents of border areas of the Republic of Azerbaijan" of 2016, etc.) were not implemented by Armenia, on the contrary, on September 27, 2020, Armenia violated the ceasefire and tried to occupy new territories of Azerbaijan. By exercising the right to individual self-defense enshrined in Article 51 of the UN Charter, Azerbaijan liberated the territories that must be liberated by Armenia according to the above-mentioned UN Security Council resolutions. Subsequently, in accordance with the Tripartite Declaration signed between Russia, Azerbaijan and Armenia on November 10, 2020, the other three occupied regions of Azerbaijan were handed over by Armenia, including suspending military operations. The rest of Azerbaijan is currently under the temporary control of Russian peacekeeping forces, according to the Declaration. For comparison, it should be noted that the situation is exactly the same in the territories, liberated by the Azerbaijani army (Shusha, Fizuli, Jabrayil, Gubadli, Zangilan, etc.) and in the territories, handed over by Armenia (Aghdam, Kalbajar and Lachin): the occupied territories for about 30 years, including its cultural heritage, were completely destroyed and looted, rendered uninhabitable, and massively mined¹¹.

Another issue that shows the relevance of the topic is related to bringing the perpetrators of the military conflict to international responsibility. In the analysis of international responsibility in the practice of the Armenian-Azerbaijani conflict, it is necessary to distinguish between the responsibility of the state and individuals. In this regard, the responsibility of Armenia as a state, as well as the responsibility of individuals for international crimes should be determined on the basis of the provisions of important international documents.

¹¹ Comprehensive international report on violated rights of Azerbaijani IDPs. - Baku: BSU. - 2021, -p. 6-7.

Finally, one of the urgent issues on the topic is the analysis of the purposeful activities of our state in the field of protection of the rights of the child as a whole. It should be noted that our state is the member of major international conventions in this area, and so far domestic regulations have been adopted. As for practical activities, the approach to this issue has been seriously established in all state bodies. The activity of the First Vice-President of the Republic of Azerbaijan, President of the Heydar Aliyev Foundation Mehriban Aliyeva in this field has also made a significant contribution to the protection of the rights of the child and very important achievements have been made in this direction.

Degree of scientific elaboration of the topic. In the dissertation, a number of local legal scholars- A.I.Aliyev, L.H.Huseynov, R.F.Mammadov, R.K.Mammadov, I.M.Rahimov, V.I.Ibayev, E.T.Suleymanova, H.K.Huseynova, A.I.Mustafayeva, N.A.Adilov, S.A.Garamollayeva; from foreign scientists, first of all, from Russian scientists V.V.Alyoshin, S.V.Bakhin, A.V.Belov, V.S.Vereshetin, A.G.Volevodz, L.N.Galenskaya, S.V.Glotova, I.K.Gorodestkaya, A.Y.Kapustin, I.I.Kotlyarov, L.V.Korbut, Q.I.Kurdyukov, I.I.Lukashuk, T.D.Matveyeva, A.B.Mezyayev, O.P.Miroshnichenko, O.V. Pishkova, A.S.Podshibyakin, S.V.Polenina, M.Q.Smirnov, T.A.Titov; from Western Europe and American scientists T.Betancourt, D.Bonn, R.Williamson, E.David, M.Dutley, M.DaSilva, L.Doswald-Beck, F.Calhoven, F.Krill, G.Machel, D.Plattner, R.Karvin, M.J.Henkerts, D.Enyu, G.Solis, A.Cassese, A.C.Nilsson, S.C.Grover, G.Oberleitner, M.Bote, K.J.Parch, V.A.Solf, F.Gomez, K.Feyter, D.Shelton, P.G.Carozza, S.Detrix, M.A.Dramble, T.Buck, S.Lundi, N.Walker and others, who have conducted research in the field of international law, protection of human rights, international humanitarian law, the level and direction in which they analyzed the issue were studied comparatively.

The object and subject of research. The object of the study consists of relations in the field of protection of the rights of the child during military conflicts. The subject of the study is the legal regulation of the protection of the rights of the child during military conflicts, in particular the norms of international humanitarian law, universal and regional acts on the protection of human rights, decisions

of international organizations, decisions of international courts, legal norms, established in the legislation of Azerbaijan and doctrine of international law.

The purpose of the study is a comprehensive research of the protection of the rights of the child during military conflicts, to study the activities of international intergovernmental and non-governmental organizations for the protection of children in military conflicts, the identification of negative aspects of international cooperation in the protection of the rights of the child in military conflicts, preparation of proposals and recommendations on post-war rehabilitation of children. At the same time, one of the goals of the current research is to form a theoretical and legal basis for bringing Armenia to international responsibility for violating the norms of international humanitarian law, including the rights of the child, and to make proposals to improve the implementation of international law in the protection of the rights of the child in Azerbaijan.

In order to achieve these goals, **the following tasks** have been identified in the research:

- Study of the theoretical and practical problems of the concepts of "military conflict" and "child" in modern international law;
- Investigation of existing problems in preventing the involvement of children in military conflicts;
- Analysis of international legal acts adopted in the field of protection of the rights of the child in connection with military conflicts;
- Analysis of the activities of international organization and UN, including UNICEF, Committee on the Rights of the Child, etc. to provide assistance to children victims of military conflict;
- Study of the activities of international non-governmental organizations in the field of protection of the rights of the child in connection with military conflicts;
- Study of issues related to the protection of children's rights in the legal and institutional mechanisms for the protection of human rights adopted at the regional level in Europe, America and Africa;

- Investigation of the problem of observance of international humanitarian law by states and military units in the course of military conflicts, to identify specific violations of law;
- Study of international legal aspects of general and special protection of the rights of the child during military conflicts;
- Identification of violations of international law on human rights in general, and especially, the rights of the child in the context of international crimes committed by Armenia;
- Investigation of the grounds for bringing the perpetrators to justice by revealing the facts proving the international crimes committed by Armenia;
- Analysis of the issue of improving the national legislation on the protection of the rights of the child in our country in accordance with international standards;
- To study the tendencies of improvement in the activities of governmental and non-governmental bodies engaged in the implementation of international law in the field of protection of the rights of the child in Azerbaijan.

Research methods. General and special scientific methods were widely used in the research. The research is based on dialectical methods that reflect the relationship between theory and practice, the subject, content and form of research. General and special research methods: historical-legal, comparative-legal, formal-logical, statistical, concrete-sociological, etc. methods have also been widely used in the research.

The main provisions of the defense. The following new scientific provisions reflecting the scientific novelty of the research are submitted for defense:

1. The protection of the rights of the child in connection with military conflicts includes a number of important components, the most important of them is the clarification of the concepts of "military conflict" and "children". It should be noted that the age limit criterion should be taken as a basis when determining the concept of "child" in relation to military conflicts. In this case, along with international legal documents, national legislation should also take into account the age of 18 years. At the same time, the definition of "military conflict" in

relation to children should take into account the harm that its consequences may cause to the civilian population, especially to children, the most vulnerable group. Taking all of this into consideration, it is necessary to develop a separate international legal document defining serious international obligations and improved control mechanisms for the protection of the rights of children victims of military conflict, where a number of important issues need to be addressed.

2. Mass human rights violations occur in modern international and non-international military conflicts, international terrorism, religious extremism, and domestic conflicts. One of the main reasons for such a situation is the neglect or failure to fulfill by states their obligations on international humanitarian law. Of course, there are enough provisions in international legal acts that call on states to avoid military conflicts and to resolve disputes peacefully. However, failure to implement these norms leads to mass casualties, massacres, and the formation of millions of refugees and internally displaced persons. For this reason, existing mechanisms at the international level that force states to comply with international obligations must be significantly improved or new working mechanisms developed.

3. Protection of human rights, including the rights of the child in the period of military conflicts, should be regulated not only by the contractual norms of international law, including international humanitarian law and international human rights law, but also by international customary norms in this field. It should be considered that in the field of international humanitarian law there is a sufficient number of international practice (for example, international tribunals), which provides responsibility for violations of international customary norms. This forces states to fulfill their international obligations under the international law, including international humanitarian law and international human rights law, as well as international customary norms in this field in the direction of protection of the rights of the child during the period of military conflicts, and to strengthen the responsibility of states.

4. To increase the effectiveness of the interaction of international intergovernmental and non-governmental organizations on the restoration of the rights of the child after military conflicts, the adoption of the Optional Protocol to the 1989 Convention on the

Rights of the Child, which deals with the medical, psychological and social aspects of the restoration of the rights of children involved in military conflicts, should be considered expedient. Further, the necessary steps must be taken for its internal implementation by ensuring the participation of states in the Protocol. Finally, an international control mechanism should be established under the Protocol.

5. Taking into account the existing activities of the International Committee of the Red Cross, UNICEF and the Committee on the Rights of the Child to protect the rights of children in military conflicts, within these organizations, it should be considered expedient to establish special institutions (working groups, units and other structural units) dealing with the protection of the rights of children abducted, missing and involved in military units during military conflicts. At the same time, there should be strict coordination between these institutions established within the framework of various international organizations.

6. In military conflicts, children, especially underage girls, are subjected to various forms of torture and sexual abuse. One of the ways to eliminate such cases is to include in the national legislation of the states provisions on the imposition of the most severe type of punishment for the commission of the crimes, as mentioned. At the same time, in order to increase the effectiveness of activities in this area, a special agreement must be reached between the states to ensure that the perpetrators of these crimes are extradited to the relevant state without any legal and political delays. The adoption of this agreement in the form of additional protocols to universal and regional international treaties may be considered more expedient.

7. One of the most important issues in the protection of children and civilians in general, during military conflicts is the creation of sanitary and security zones. Attacks on such areas are unacceptable. However, the observance of this "inadmissibility" by the military units of the parties to the conflict already raises a serious question. All parties to the conflict should educate their soldiers about the instillation of the idea of not attacking such zones. In our opinion, the issue of creating such zones should be developed and practically applied, because the implementation of this measure is one of the possible

effective ways to protect children. In this regard, during drafting a new international legal document on the protection of the rights of children who are victims of military conflict, it should be considered expedient to establish norms related to sanitary and safe zones in that document. Furthermore, the rules and elements, regulating these relations should be fully enshrined in the national legislation of the states.

8. In addition to universal and regional international control mechanisms in the field of protection of the rights of the child, NGOs also keep the issue of protection of the rights of the child during military conflicts on the agenda in their activity programs. NGOs are considered to be a more effective tool in covering specific problems and revealing facts of violations. Taking this into account, it is necessary to intensify the activities of NGOs during military conflicts and adopt a number of international documents in this direction.

9. The commission of international crimes (aggression, genocide, war crimes, crimes against humanity) by Armenia against Azerbaijan and the Azerbaijani people has been fully substantiated by sufficient international documents, facts, videos and testimonies. In addition, violations of the rights of the child by Armenia have become commonplace, which once again justifies Armenia's international legal responsibility. These were fully brought to the attention of the international community during the 44-day Patriotic War, which makes it necessary to take appropriate international legal steps and further raise the issue of Armenia's international legal responsibility.

10. Armenia's responsibility for violations of human rights, including the rights of the child, should be determined both in accordance with international law, international humanitarian law and the contractual norms of international human rights law, and international customary law in this field. It should be considered that despite the fact that Armenia does not join some international treaties in this field (for example, treaties that prohibit the use of certain types of weapons, treaties on the responsibility for mines), as well as the late ratification of important international treaties (for example, Azerbaijan became a member of the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries since 1997, Armenia joined the Convention in early November 2020) does not

release it from responsibility for international crimes committed. The existence of international customary law is the basis for the international responsibility of Armenia, and quite a lot of international practice has already been established in this area.

11. In modern times, the European Court of Human Rights is considered as the most effective international organizational mechanism in the protection of human rights and freedoms, the restoration of violated human rights, the development of unified standards for the realization of human rights. One of the main reasons for this is the implementation of the decisions of the European Court of Human Rights. For this reason, given the European Court of Human Rights' influence, the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (European Convention on Human Rights), which is its legal basis, it should be considered expedient to include in the form of an additional protocol the norms on protection of the rights of victims of military conflict, including children, in particular compensation for material damage caused to them and changes in the application procedure on relevant issues. In addition, the European Court of Human Rights should be empowered to interpret international humanitarian law.

12. The most important step for the effective implementation of international law in the field of the rights of the child in our country is the proper establishment and development of interaction between international and domestic security mechanisms in this field. In addition, there is a need to improve both the legal framework and the organizational level in the implementation of international law in the field of protection of the rights of the child. Every governmental or non-governmental body with the function of protecting the rights of the child must take into account the priority of this function and update its activities from time to time. These innovations should directly serve the development of children as useful citizens for the society.

The scientific novelty of the research should be attributed to the fact that in the field of national legal science at the dissertation level has not yet conducted a comprehensive study on the international legal protection of the rights of the child in military conflicts, the restoration of the rights of children victims of military conflict. In general, although

there are some legal studies on the protection of the rights of the child in our country, they are based on a general or specific regional approach to this issue. In the present research, for the first time, the protection of the rights of the child in connection with military conflicts is analyzed in detail¹² and extensively through the prism of the restoration of the rights of the child in two areas – both during the military conflict and in the post-conflict period¹³. Such a systematic approach to the protection of the rights of the child in military conflicts is a novelty in the formation of a unified theoretical and legal understanding of the relevant issue.

In addition, the issues of international responsibility for the violation of the rights of the child as a result of international crimes committed by Armenia for the first time, and then the formation and development of national legislation on the protection of the rights of the child in Azerbaijan were comprehensively examined in the dissertation.

The theoretical and practical significance of the research consists of a comprehensive study of international protection of the rights of the child in connection with military conflicts. Recommendations about the adoption of a new international legal instrument in the study were given, proposals were made to deepen and improve cooperation between states and international organizations in this direction. Key findings and recommendations, as well as research materials can be used by experts working in the field of child protection; in the development and adoption of international legal acts; in the process of teaching disciplines such as "General International Law", "International Humanitarian Law", "International Criminal Law", "Human Rights", etc.

Approbation and application. A number of issues related to the important aspects of the dissertation have been published in journals and international conference materials printed out in

¹² Adilov N.A. Modern international law and protection of children's rights in the legislation of the Republic of Azerbaijan: theoretical and practical issues. - Baku: 2010. -p. 1. (in Azerbaijani)

¹³ Qaramollayeva S.A. Protection of children's rights during ethnic conflicts in the South Caucasus (on the example of the Nagorno-Karabakh conflict). Author's abstract of the dissertation for the degree of Doctor of Philosophy in Law. -Baku: 2012. -p. 22. (in Azerbaijani)

Azerbaijan and abroad. Moreover, the researcher is one of the authors of a comprehensive international report¹⁴ on the violated rights of Azerbaijani IDPs, prepared by the UNESCO Chair of "Human Rights and Information Law" of Baku State University and published in Azerbaijani and English and here, some important ideas and conclusions obtained in the dissertation research are identified.

Name of the organization where the dissertation work was performed. The dissertation was completed at the UNESCO Chair of "Human Rights and Information Law", Faculty of Law, Baku State University.

The structure of the research. The dissertation consists of an introduction, 3 chapters containing 9 paragraphs, conclusion and a list of references.

MAIN CONTENT OF THE RESEARCH

The introductory part of the research substantiates the relevance of the topic, explains the degree of scientific elaboration, object and subject, goals and objectives, scientific novelty of the work, new scientific provisions and practical significance, approbation of research results and structure of research.

The first chapter is entitled "Protection of the rights of the child during military conflict as an actual issue of modern international law" and consists of four paragraphs.

The concept of "military conflict" in modern international law, and theoretical and practical problems associated with this concept are analyzed **in the first paragraph.**

The need for a clear definition of the concepts of "war" and "military conflict" also lies in the fact that radically different dimensions and legal documents are applied during the war, but not during military conflicts. During a war, all diplomatic, political and economic relations between states can be severed, but during military

¹⁴ Comprehensive International Report on Violated Rights of Azerbaijani IDPs. - Baku: BSU. -2021, - 328 p.

conflicts, those relations continue and have different legal consequences. Taking these into account, the dissertation analyzes the differences of opinion in the legal literature in this direction.

The analysis concludes that in defining the concept of military conflicts, it is also necessary to take into account the characteristics of international and non-international conflicts existing in international humanitarian law.

Considering aforementioned, in the dissertation it is noted that in the preparation of a single international legal document on the protection of the rights of children victims of military conflicts, special attention should be paid to defining the concept of military conflict and the characteristics of international and non-international conflicts existing nowadays should be reflected. This can ensure full protection of the rights of the child during military conflict, taking into account their specific features.

The second paragraph examines the status of children during military conflicts: the concept of "child", the involvement and participation of children in military conflicts.

In general, the term "child" is ambiguous and is widely used in relation to the period of human life, as well as the period of physical and mental development.

Along with the Convention on the Rights of the Child, other international legal instruments use different concepts to protect minors. Thus, the International Covenant on Civil and Political Rights uses terms such as "persons under the age of 18", "minors", and the European Social Charter as "young persons".

In defining the concept of "child" in the context of the protection of the rights of children victims of military conflict, it is necessary to note the existing standards of international humanitarian law. According to the prevailing norm, the age limit for children to use special protection is 15. However, most of the norms set the upper age limit at 18 years.

The analysis of the dissertation concludes that the Member States of the Convention on the Rights of the Child should activate national and international measures to prevent the involvement of children in the military, in particular, adopt legislation in this direction,

create normal conditions for international mechanisms within the state, promote cooperation between states, as well as within international organizations to identify and eliminate problems. Further, other international norms, standards and recommendations on the protection of children from vulnerable groups should be enforced.

The third paragraph examines issues of international legal aspects of the general and special protection of the rights of the child during military conflicts.

It is noted that international humanitarian law provides for the general protection of children who do not take part in military operations and the special protection of children as persons of a more vulnerable category.

Special protection standards for children during military conflicts can be divided into direct and indirect. Indirect norms provide for the protection of pregnant women, elders and mothers with young children, as well as the integrity of the family during special protection. Direct norms apply directly to the child, and in this case, the rights of the child fall within the full range of norms that protect him.

Further, in the dissertation referring to important international agreements, the main features of the general and special protection of child victims of military conflicts are analyzed, as well as the main features of regulations of important issues such as rehabilitation of children after military conflicts, restoration of their rights, reinstatement, access to education are identified, moreover, the necessity of normative regulation is justified by highlighting gaps in international law in this area.

The fourth paragraph examines the problems associated with the restoration of the violated rights of child victims of military conflict in various fields.

In military conflicts, human rights and freedoms – freedom, health, property, education, etc. are violated in various areas and the most difficult thing is that the restoration of these rights is complicated and sometimes impossible. Restoration of the violated rights of children as vulnerable group in military conflicts requires a serious and effective interaction of both international and domestic mechanisms.

Summarizing the ideas outlined in the dissertation on the restoration of violated rights of the child after military conflicts, their return to society, it is concluded that for a more effective restoration of the rights of the child, first of all, age limit for involving children in military conflicts must be observed, i.e. the 18-year norm must be faithfully observed by all states without any reservations. Thus, in recent military conflicts, the number of children under the age of 18 participating in active military operations has increased significantly.

The dissertation further notes that the standards, rules and procedures of universal and regional international organizations, such as UNICEF, the International Committee of the Red Cross, etc., which have a positive experience in the field of restoring the rights of children in the post-conflict period should also be effectively implemented at the domestic level.

In addition, the adoption of international standards that set out in detail the procedure for searching for children during hostilities and the possible timing of post-conflict searches may enable families to be reunited as soon as possible during or after war.

The second chapter is entitled "International legal mechanisms for the protection of the rights of the child during military conflict" and consists of three paragraphs.

The first paragraph examines issues related to the normative legal mechanisms of international legal protection of the rights of the child during military conflicts.

In the modern sense the Geneva Declaration of 1924, adopted as the first international legal instrument in the field of protection of the rights of the child, was of a recommendatory nature and could not impose obligations on states. The Fourth Geneva Convention of 1949 provides for the general protection of children as non-combatants by establishing more serious international obligations. This document also contains special norms on the protection of children from the consequences of military operations. Additional Protocols I and II of 1977, for the first time, clearly summarized the principle of special protection of children during international military conflicts.

The main international legal mechanism for the protection of the rights of the child, not only in military conflicts, but in general, is the

Convention dated 1989 on the Rights of the Child. Additional Protocol I to the Convention of 1989 raised the age limit to 18 that was one of the most crucial points in military conflicts. The ratification of this Protocol by most countries of the world shows that the world community is already taking the issue of reducing the number of minors among those involved in military conflicts very seriously.

Along with the conventions on the protection of the rights of the child, which have binding legal force and define the obligations for states, a declaration of a recommendatory nature and other adequate documents were adopted, which were also analyzed in detail in the dissertation.

Further, the dissertation notes that, unlike universal international legal acts, the norms on the protection of the rights of the child, international legal documents adopted within the regional framework cannot be assessed effectively enough. This makes it necessary to adopt a number of documents within different regions. A more careful and comprehensive approach to the issue within the regional context can quickly eliminate the problems in this area, taking into account the specific features of the region.

The second paragraph examines issues related to the activities of international organizational mechanisms for the protection of the rights of the child during military conflicts.

Organizational mechanisms for the international legal protection of the rights of the child during military conflicts include the activities of UNICEF, UNESCO, UNHCR, WHO, ILO, the Committee on the Rights of the Children within the UN, as well as various regional organizational mechanisms.

Each of the mechanisms mentioned in the dissertation is analyzed separately and at the same time in interaction with each other, the main directions of their activities are determined.

In modern times, the complexity of military conflicts, the magnitude of their negative effects and the non-compliance of the parties to international law often create serious problems with the rights of the child, and the solution of these problems requires more material and technical resources and funds from these organizations. For this reason, increasing the funding sources of these organizations must be in the interest of the member states.

Along with universal organizational mechanisms, the dissertation also analyzes regional organizational mechanisms in this direction. Thus, the activities of the Council of Europe, the European Court of Human Rights and other international institutions are analyzed, and was highlighted that the European Convention on the Rights of the Child, adopted by the Council of Europe in 1996, serves as a kind of annex to the 1989 Convention on the Rights of the Child, especially plays an important role in protection of the rights of the child in litigation and administrative practice.

Unlike universal organizational mechanisms, regional mechanisms can be distinguished by their effectiveness in the implementation of international legal norms on human rights. The main criterion here is to take into account the specifics of each region. However, as in the normative mechanisms for the protection of the rights of the child, this activity is not strongly noticeable in the organizational mechanisms. Therefore, there is a need to take practical steps to strengthen the activities of these regional institutions for the protection of the rights of the child.

The third paragraph examines the activities of international non-governmental organizations on the protection of the rights of children victims of military conflict.

The activities of international non-governmental organizations in the field of human rights are expressed in a number of areas in the legal literature as follows: identifying human rights violations and mobilization of public opinion to seriously criticize them; direct legal assistance to victims of violations by international non-governmental organizations; assistance in the adoption of new norms in the field of human rights in the framework of international organizations; providing legal and technical assistance, dissemination of knowledge about human rights¹⁵.

According to the analysis of the dissertation, the real activity of international non-governmental organizations in the field of protection of the rights of the child and their serious cooperation with intergovernmental organizations is expedient, since international non-

¹⁵ Aliyev, A.I. Human Rights. Manual. -Baku: Nurlar, -2019. - p. 247. (in Azerbaijani)

governmental organizations are considered as effective means of highlighting specific problems and revealing facts of violations.

Their role in the process of international law-making process should also be emphasized. For example, the International Committee of the Red Cross was closely involved in the development of a number of international legal instruments aimed at protecting the rights of the child related to military conflicts, in particular the Convention on the Rights of the Child, the Facultative Protocol to the Convention on the Involvement of Children in Military Conflicts, etc.

The dissertation also analyzes the activities of other international non-governmental organizations (Human Rights Watch, Amnesty International, etc.).

The dissertation notes that only a comprehensive approach of various non-governmental organizations to the protection and restoration of the rights of the child especially related to military conflicts, can provide full information in this area and a positive solution to child protection in military conflicts. The essence of this importance is also that international non-governmental organizations, as independent bodies, usually take the opposite position to the reports of governments, which is seen as an important tool in ensuring objectivity in the process.

The third chapter is entitled "Protection of the rights of children victims of war in the Republic of Azerbaijan" and combines two paragraphs.

The first paragraph examines the issues of international responsibility for the violation of the rights of the child as a result of international crimes committed by Armenia.

By pursuing a policy of aggression against Azerbaijan at various stages of history, Armenia has occupied our historical lands, forcibly displaced the local population, committed various international crimes, including the Khojaly genocide, one of the gravest tragedies in the history of mankind. The occupation policy of the aggressor Armenia against Azerbaijan has resulted in mass and gross violations of human rights, including the rights of the child.

According to the Prosecutor General's Office of Azerbaijan, only as a result of strikes by the Armenian armed forces between September 27, 2020 and November 10, 2020, about 30,000 shells and

227 rockets were fired at the regions and cities densely populated by Azerbaijani civilians. At the same time, as a result of the shelling of the civilians 93 people, including 12 minors and 27 women, were killed and 407 people, including 50 minors and 101 women, were injured, also 2,442 houses, 92 high-rise buildings and 423 civilian objects were demolished¹⁶. During the first period of the Armenian-Azerbaijani conflict, more than 20,000 (more than 1/3 of them were civilians), and during the Patriotic War, about 3,000 (93 of them were civilians) Azerbaijani citizens were killed. During the conflict, more than 6,000 Azerbaijani citizens went missing, taken hostage, and more than 50,000 Azerbaijani citizens became disabled.

In general, in the Armenian-Azerbaijani conflict, Armenia's actions that violated international law, which created international legal responsibility, were carried out in three stages: during the occupation; during the period of occupation; during the liberation from occupation.

Thus, the analysis and the number of facts prove that Armenia has committed serious international crimes, as well as systematic, severe and gross violations of the rights of the child. This makes it necessary to take international measures against Armenia. In this regard, the dissertation states that in any case, the issue of bringing Armenia to international arena can be resolved within the jurisdiction of an international treaty (European Court of Human Rights) or special bodies responsible for international security and peace, such as the UN Security Council. At the same time, there are opportunities to resolve these issues on the basis of the relevant decision of the UN General Assembly. Since the UN General Assembly represents all states, in accordance with the UN Charter, it may consider any issues within its competence and make appropriate decisions. The application of such a practice, on the one hand, creates a tendency for all states to respond to the issue, and, on the other hand, leads to a speedy resolution of the issues of responsibility for international crimes committed.

¹⁶ Comprehensive International Report on Violated Rights of Azerbaijani IDPs. - Baku: BSU. 2021.- p.30-32.

As the responsibility of Armenia's actions violation to international law, these actions include the criminal liability of individuals and the state itself. Prosecution of guilty individuals does not absolve Armenia from responsibility as a state. According to Article 1 of the Draft Articles on the Liability of States for Acts of Violation of International Law of 12 December 2001, every internationally wrongful act of a state entails the international responsibility of that state.

The second paragraph examines issues related to the formation and development of national legislation on the protection of the rights of the child in Azerbaijan.

Azerbaijan is a member of the most international agreements in the field of human rights and international humanitarian law, which have also had a positive impact on the formation and development of national legislation in these areas. Consideration of international law in the development of national legislation in these areas is directly related to the principle of “pacta sunt servanda”, which includes the statement that treaties must be complied with and has its roots in ancient Roman law. Article 15 of the Law of the Republic of Azerbaijan on procedure for the conclusion, execution and denouncement of international treaties of the Republic of Azerbaijan states that Azerbaijan must abide by its international agreements in accordance with the norms of international law.

Speaking about interaction, it should be noted that there are contradictions between international and domestic law. Articles 148 and 151 of the Constitution of Azerbaijan play a key legal role in this regard, and the issue is proposed in the context of the supremacy of international law. Article 12 of the Constitution makes a direct reference to international agreements in the field of human rights. Thus, it is noted that the rights and liberties of a person and citizen listed in the present Constitution are implemented in accordance with international treaties wherein the Azerbaijan Republic is one of the parties.

Three areas of activity are defined in this sphere: participation in important international conventions, adoption of domestic normative legal acts, improvement of national legislation.

International treaties in the field of international humanitarian law, which Azerbaijan is a party to, have had a positive impact on the formation and development of national legislation in this area. As a party of these documents, Azerbaijan has also made the necessary changes in the criminal law against those violating international humanitarian law.

The dissertation also considers important normative legal acts adopted by our state and analyzes their main features. It was noted that the Law on the Rights of the Children dated May 19, 1998, which is the main legal mechanism for the protection of the rights of the child in our Republic, was prepared in accordance with international law and implemented in Azerbaijan the rights and freedoms of children, the basic principles of state policy related with children, defines the functions of state bodies operating in the child protection field.

The dissertation notes that the implementation of the norms of international humanitarian law at the level of national legislation is of paramount importance, since this process allows to fully ensure the protection of the rights of victims of any type of conflict. Therefore, any step taken in this direction is considered an important measure contributing to the strengthening of mutual trust in international relations.

Important proposals and results obtained in the **conclusion part of the dissertation** can be summarized as follows:

1. The classification of military conflicts should be reconsidered at the international level, given the growing number of civilian deaths, especially children, in modern-day military conflicts.

2. International responsibility for the protection of the rights of the child in the period of military conflicts preconditions a unified systematic approach to the contractual and customary norms of international law.

3. During the preparation of a single international legal document on the protection of the rights of children victims of military conflicts, special attention should be paid to defining the concept of military conflict, which should reflect the specific features of various military conflicts in modern times. In this case, it is necessary to take into account the theoretical considerations in the current direction and the main provisions of the practical situation.

4. There is also a serious need to elaborate and adopt a separate international legal document, which covers important issues such as the rehabilitation of children after military conflicts, the restoration of their rights, their return to their families, and the restoration of access to education.

5. States Parties to the Convention on the Rights of the Child should intensify national and international measures to prevent the recruitment of children into the armed forces, as well as legal norms should be adopted, condition for international mechanism in the country should be created, cooperation within international organizations and countries should be strongly encouraged to identify and solve the problems. These measures should be considered very important and serious international discussions should be organized in this regard.

6. Standards, rules and procedures of international organizations such as UNICEF and the International Committee of the Red Cross, which have a positive experience in the field of restoring the rights of the child in the post-conflict period, should be effectively implemented at the domestic level.

7. The adoption of standards that set out in detail the procedure for searching for children during hostilities and the possible timing of post-conflict searches may also allow families to be reunited as soon as possible during or after military conflicts. These make it necessary to bring these issues under international control.

8. The activities of international non-governmental organizations in the field of protection of the rights of the child and their comprehensive cooperation with intergovernmental organizations are fully expedient, as international non-governmental organizations are considered to be more effective means of highlighting specific problems and revealing facts of violations, and at the same time, supported by the international community.

9. There is a great need for improvements providing for constant development of universal and regional international legal norms in the protection of the rights of the child, taking into account various aspects of the international protection of the rights of the child during military conflicts and the problems of post-conflict restoration of their rights.

10. The analysis and the numerous facts mentioned prove that Armenia has committed significant international crimes, as well as systematic, serious and gross violations of the rights of the child. This makes it necessary to take international responsibility measures against Armenia.

11. The international community should determine the international legal responsibility of Armenia in two main directions: the responsibility of Armenia as a state for crimes committed and the personal responsibility of individuals committing these crimes.

12. Despite the fact that all domestic regulations adopted in Azerbaijan to protect the rights of the child, both in peacetime and in wartime, are based on the principle of respect for international law, our state continues to take regular and significant steps towards their improvement.

The main provisions of the dissertation are reflected in the following scientific works of the applicant:

1. The protection of the rights of the child during armed conflicts is one of our most advanced goals // - Baku: Scientific-Analytical and Practical Journal of International Law and Integration Problems, - 2016. № 3(47), - pp. 39-43. (in Azerbaijani)

2. Legal status of children in armed conflicts: the concept of "child", the problem of involvement and participation of children in armed conflicts // - Baku: News of Baku State University, Series of Social-Political Sciences, - 2017. № 4, -pp. 50-59. (in Azerbaijani)

3. Children during military conflicts // - Kiyev: Science and Law Enforcement, - 2017. № 3(47), pp. 272-277. (in Russian)

4. International legal aspects of general and special protection of the rights of the child during armed conflicts // - Baku: Scientific-Theoretical and Practical Journal of Transport Law, - 2017. № 2, - pp. 183-189. (in Azerbaijani)

5. The problem of compliance by States and armed formations with the norms of international humanitarian law during armed conflicts // - Kiyev: Legal Science, - 2017. № 11(77), pp. 12-21. (in Russian)

6. The problem of international legal responsibility for the violation of international legal norms on the rights of the child as a result of aggression of the Republic of Armenia to the Republic of Azerbaijan

// - Baku: Scientific-Theoretical and Practical Journal of Transport Law, - 2017. № 3, - pp. 150-158. (in Azerbaijani)

7. General protection of children as part of the civilian population during armed conflicts // Proceedings of the XX All-Ukrainian Scientific-Practical Conference "Human in the dimensions of modern social transformations", - Kiyev: - 2017, pp. 190-191. (in Russian)

8. Functions of international institutional mechanisms of protecting children's rights during armed conflicts // Materials of the International Scientific Conference "Major trends of development of legal science and studies in the current period in the Republic of Azerbaijan" dedicated to 94th anniversary of Azerbaijan's National leader Haydar Aliyev, Issue I, - Baku: - June 1-2, - 2017, - pp. 45-51. (in Azerbaijani)

9. The problem of defining the concept of "child" in relation to armed conflicts // - Baku: Scientific-Theoretical and Practical Journal of Transport Law, - 2018. № 1, pp. 139-146. (in Azerbaijani)

10. International legal basis for the protection of the rights of the child during armed conflicts // Proceedings of the VIII International Scientific and Practical Conference "Modern University Legal Education and Science", Vol. 1, - Kiyev: - February 23, - 2018, - pp. 21-24. (in Russian)

11. Main problems of protecting the rights of the children in armed conflicts // Materials of the International Scientific and Practical Conference "Major contemporary trends of development of legal science and studies in the Republic of Azerbaijan" dedicated to 90th anniversary of M.N.Alasgarov, - Baku: - October 2-3, - 2018, - pp. 311-314. (in Azerbaijani)

12. International non-governmental organizations and protection of the rights of children victims of military conflict // - Baku: Azerbaijan Law Journal, - 2020. № 2, - pp. 209-214. (in Azerbaijani)

13. Problems of restoration of violated rights of children victims of military conflict in various directions // Proceedings of the Republican Scientific-Practical Conference on "Interaction and application of the branches of law in modern times: theory and practice" dedicated to the 97th anniversary of National leader of the Azerbaijani people Haydar Aliyev, - Baku: - June 2, - 2020, - pp. 535-543. (in Azerbaijani)

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