

**Written Contribution to the General Discussion Day  
Committee on the Rights of the Child :  
Resources for the Rights of the Child**

By Mervat Rishmawi<sup>1</sup>

The following is a brief note to contribute to the discussion of the Committee on the Rights of the Child in the General Discussion Day on “**Resources for the Rights of the Child**”. The contribution below complements the analysis in my publication *Article 4: the Nature of State Parties’ Obligations*, published as part of the series “A Commentary on the United Nations Convention on the Rights of the Child”, which I believe is already before the Committee.<sup>2</sup>

This submission is to urge the Committee to look into the allocation of resources for civil and political rights, which contribute to the realization of economic, social and cultural rights of children. This, therefore, demonstrates how rights are inter-dependent in a “cycle of rights”. Allocation of resources is also essential in relation to armed conflict. These are the two short themes that I wish to explore here through a few examples.

### **1. The Cycle of Rights**

Enjoyment of economic, social and cultural rights by children is often dependent on the enjoyment of civil and political rights. Unless resources are allocated for civil and political rights, the economic, social and cultural rights of the child will be hampered. The following are few illustrative examples to this simple proposition:

- Enjoyment of children to right to education is often dependent on the child obtaining a birth certificate. However, often this is hindered due to in-affordability and inaccessibility of obtaining such birth certificates. Unless states make resources available to create the infrastructure to make obtaining birth certificates accessible physically and financially, children will continue to be hampered to access education, especially in remote areas.
- Enjoyment of ESC rights also requires ensuring the access to remedies in cases of violations. This would require, in turn, ensuring that court fees – for example in administrative cases – are affordable, and that the system of launching cases and complaints is accessible physically and also for people of various backgrounds, including various levels of knowledge of complications of legal systems.
- Juvenile justice should aim at reforming the child rather than punishment, as has been repeatedly emphasized by the Committee and is reflected in many international standards. This would therefore require investing enough resources in the juvenile justice system in order to ensure that children have access to education or vocational training once they are in juvenile institutions.

Similarly, the allocation of resources to guarantee the ESCR of the child contributes to protection of the rights of the child generally, including their civil and political rights. For example, access of children to education keeps children “off the streets” and from coming into conflict with the

---

<sup>1</sup> Mervat Rishmawi is a legal advisor at the International Secretariat of Amnesty International. This contribution is written in a personal capacity and does not necessarily reflect the views and positions of Amnesty International on the subject.

<sup>2</sup> M. Rishmawi, “Article 4: The Nature of State Parties’ Obligations”, in A. Alen, J. Vande Lanotte, E. Verhellen, F. Ang, E. Berghmans, M. Verheyde (Eds.) *A Commentary on the United Nations Convention on the Rights of the Child* (Martinus Nijhoff Publishers, Leiden, 2006).

law. In addition, it contributes to children's development in order to be able to make informed choices in their future life. It is equally important to emphasize the inter-dependence of rights. For example, enjoyment of the rights to health and highest standard of living enables children to benefit more from their education.

## 2. Armed Conflict

The distinction between civilians and combatants and between civilian objects and military objectives, and therefore the prohibition of attacks on civilian objects, is one of the important principles of customary international humanitarian law.<sup>3</sup> During armed conflict itself, children are often deprived of access to many goods and services including schools, medical institutions and treatment, food and water. Many of the specific prohibitions in international humanitarian law, including in customary law, relate directly to economic, social and cultural rights. It is prohibited, for example, to launch an attack on medical units assigned exclusively for medical purposes, medical transports assigned exclusively for that purpose, whilst special care must be taken in military operations to avoid damage to buildings dedicated to religion, art, science, education or charitable purposes and historic monuments unless they are military objectives.<sup>4</sup>

Further, despite the clear prohibitions in humanitarian law, attacks are frequently launched against civilian objects often resulting in massive destruction. Consequently, after the end of the armed conflict, substantial resources – both by the country concerned and the international community - need to be allocated for the reconstruction of these facilities that are essential for the enjoyment by children of their economic, social and cultural rights. In this respect, the responsibility of providing reparations for losses due to violations of humanitarian law falls on the state which has caused them requiring the allocation of adequate resources.<sup>5</sup>

The international community is also increasingly involved in resolving armed conflicts and in subsequent reconstruction. Whilst there is no obligation on the international community to compensate for the losses made by another state, its duties in relation to international cooperation mean that it is very important that the international community allocates adequate resources to ensure the reconstruction of facilities and services that are essential for the enjoyment of children's rights. In addition, it is equally important that the international community intervenes in order to ensure respect for international humanitarian law, in accordance with the obligations in Common Article 1 of the Four Geneva Conventions of 1949 and Protocol 1 Additional to the

---

<sup>3</sup> See Rules 1-10 of the ICRC study on customary international humanitarian law available at [http://www.cicr.org/Web/Eng/siteeng0.nsf/html/section\\_ihl\\_customary\\_humanitarian\\_law](http://www.cicr.org/Web/Eng/siteeng0.nsf/html/section_ihl_customary_humanitarian_law)

<sup>4</sup> See Rules 28, 29, and 38 of the ICRC study (ibid.)

<sup>5</sup> Rule 150 provides “A State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.” Rule 149 details the responsibility for the violations stating that “A State is responsible for violations of international humanitarian law attributable to it, including:

- (a) violations committed by its organs, including its armed forces;
- (b) violations committed by persons or entities it empowered to exercise elements of governmental authority;
- (c) violations committed by persons or groups acting in fact on its instructions, or under its direction or control; and
- (d) violations committed by private persons or groups which it acknowledges and adopts as its own conduct.”

Conventions. These provide that the High Contracting Parties of the Conventions and the Protocol undertake to respect and to ensure respect for the treaties in all circumstances.

### **3. Conclusion**

It is clear that resources should be allocated by state parties to the CRC for the realization of the economic, social and cultural rights of children. International cooperation plays an important role in this respect, in so far as “available resources” should be understood to include both those within the state and those provided by other states to ensure compliance. However, it is equally important to allocate resources for those institutions – administrative and judicial - that are normally seen as essential for the realization and protection of civil and political rights of the child. The cycle and interdependence of rights requires that resources are allocated in both areas of rights.

Further, it is important that resources are allocated not only for peace time, but during armed conflict. This would include resources for prevention and intervention to halt violations, interventions to end armed conflict, and for the reconstruction effort. Whilst the international community, through international cooperation, has an important role to play in this area, those parties responsible for violations must be held accountable for providing sufficient compensation.