

RUSSIA'S VIOLATION OF THE PRINCIPLE OF NON-INTERVENTION AGAINST UKRAINE IN THE PERSPECTIVE OF INTERNATIONAL LAW

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Abstract: Russia's participation in the internal affairs of Ukraine is something that should not be done. Because, it can violate the provisions of the United Nations Charter. Currently the security of countries is something that should be guarded. The behavior of the Russian state in violation of the principle of non-intervention by interfering in the independence of Donetsk and Luhansk which is part of the Ukrainian state. Russia's behavior has disturbed the Ukrainian household, which is actually what is happening in Ukraine is Ukrainian business because Ukraine is the one who knows better about the problems in his country. The purpose of this paper is to find out the violations of the principle of non-intervention that have been carried out by Russia against Ukraine and the responsibility of the Russian state for violations of the principle of non-intervention in the conflicts that occur within the Russian state. This writing uses normative legal methods or legal research which is a document study, such as by using laws and regulations, decisions or decisions from courts, contracts or agreements or contracts, legal theory.

Keywords: Aggression, Intervention, Russia, Ukraine, International Law

1. INTRODUCTION

Governments of countries around the world have responded to Russia's acknowledgment of regions seeking to separate from Ukraine in the eastern part of Ukraine as independent states. Many of the governments of these countries swear by the steps they have taken and press for a diplomatic resolution to the crisis in Ukraine.¹ Russia's treatment is not in accordance with existing provisions. Actually, states may help each other but not in terms of state politics, state sovereignty or other matters that are indeed Ukrainian household affairs. In the past, Ukraine was very good with Russia. However, the current leader in Ukraine is closer to Western countries and wants to be a part of NATO (North Atlantic Treaty Organization).

The signing of friendship in a treaty between Russia and Ukraine was carried out in May 1997, in the agreement Russia was granted permission to operate ships that landed in Crimea Ukraine, with the condition that they still pay rental fees for using the Port of Sevastopol. The relationship between Russia and Ukraine was destabilized again in 2014, as a revolution broke out against Russian supremacy. During the anti-government period in Ukraine, Viktor Yanukovich, the president of Ukraine, was closer to Russia. The revolution has made Ukraine's intention to unite with the European Union and NATO emerge. In addition, the stage of the establishment of a NATO base near the Russian border is a trigger for Putin's anger. After Yanukovich stepped down,² The joining of Russia in Ukrainian affairs is something that should not be done. Because, it can violate the provisions of the United Nations Charter Article 2 paragraph (7), Article 42 and Article 51. In addition, the UN Charter has been strengthened by a declaration in 1970 (UN General Assembly Resolution 2625 (XXV) 1970), the principle of non-intervention contained in Article 1 paragraph (3).

Currently, national security is something that should be guarded. Non-intervention is a principle or norm in an international relationship in which a country is not allowed to intervene in the interests which are basically included in domestic affairs or problems (domestic jurisdiction) in other countries. Interest or a problem such as regarding the determination of a country's political, economic, social, cultural system and foreign policy system.³

This writing aims to find out the principle of Non-Intervention that has been violated by Russia against Ukraine and to find out Russia's responsibility for the violation of the principle of Non-Intervention which was committed to the conflict that occurred in Ukraine.

2. RESEARCH METHODS

This research is a normative research or legal law which in American literature is called legal research is an internal research conducted in the discipline of law. Normative legal research or legal research is generally "only" a document study, which uses legislation, court decisions or decisions, contracts or agreements or contracts, legal theory, and the opinions of scholars.⁴

¹ Voa Indonesia, 22 February 2022, The World Reacts to Russia's Actions Against Ukraine, www.voaindonesia.com., Accessed on July 26, 2022 at 20.45 WIB at <https://www.voaindonesia.com/a/dunia-reaksi-at-aksi-russia-terhadap-ukraine-/6453737.html>

² Sefti Oktarianisa, 04 March 2022, Chronology and Background of the Conflict between Russia and Ukraine, www.cnbcindonesia.com., Accessed on 27 July 2022 at 19.02 WIB at <https://www.cnbcindonesia.com/news/20220304134216-4-320044/kronologi-dan-latar-luar-konflik-russia-dan-ukraina/2>

³ United Nations, www.un.org., accessed on 27 July 2022 at 18:38 at https://unic.un.org/aroundworld/unics/common/documents/publications/uncharter/jakarta_charter_Bahasa.pdf

⁴ Muhaimin, 2020, Legal Research Methods, Mataram, Mataram University Press. Thing. 45

3. RESULTS AND DISCUSSION

3.1. Chronology of Russia's involvement in the conflict in Ukraine

Russia and Ukraine are a unity that occurred during the cold war period that occurred before 1990. However, the current leader of the Ukrainian state (Volodymyr Oleksandrovych Zelenskyy) is more familiar with Western states and wants to be part of the membership of the NATO organization. The Soviet Union was one of the strongest communist countries of its time. After Germany lost and World War II ended, the Soviet Union was one of the most influential countries in eastern Europe. In 1991 the Soviet Union and the Warsaw Pact decided to dissolve and Ukraine took the decision to secede or separate from the Soviet Union in a referendum. The friendship agreement was signed in May 1997, the friendship agreement was established in accordance with the agreement of the Russian and Ukrainian states. Making this agreement is useful for pursuing a mediation process to resolve this issue. Russia is allowed to use ships in the Crimea region of Ukraine, under the terms of the agreement that Russia must pay charter fees to Ukraine for using the Sevastopol port.

Relations between Russia and Ukraine cracked again in 2014. Due to a revolution against the supremacy of the Russian state. At the time the anti-Ukrainian government had succeeded in demoting the former Ukrainian president who was closer to Russia, namely Viktor Yanukovich. So there was scuffling and rioting but only misguided which was right before concluding in 2015 with the Minsk agreement. Because of the revolution, it has opened up opportunities for the Ukrainian state to join the European Union (EU) and become a member of NATO. (quoted from CNBC Indonesia from Al-Jazeera) the establishment of a NATO base near the Russian border made Putin angry. In addition, the growing close relationship between a number of Eastern European countries with NATO such as Poland and the Balkans has become a hot ball for Putin.

Yanukovich's fall was a good opportunity for Russia to take advantage of the power vacuum through the 2014 transfer of Crimea to Ukraine. Eastern Ukraine has received support from Russian separatists, namely the Donetsk and Luhansk regions, to rebel against the Ukrainian state government. In 2021, the split between Russia and Ukraine began. Because the issue of attacks has continued since November in 2021. One of the available satellite images shows a buildup in which Russian troops are in the Ukrainian border region.

Western countries have the perception or belief that in the Moscow Region has mobilized 100,000 troops and their tanks and followed by other military forces. The Western Intelligence Service stated that Russia was preparing an attack on Ukraine. In December 2021, economic sanctions were issued by the current President of the United States (US), namely Joe Biden to stop attacks on Ukraine because information was continuously received regarding military cases that occurred in the border region. Russia has denied information about attacking Ukraine. However, Putin did submit a clear and detailed security demand letter to the Western Region state. In other words, apply for NATO approval to stop all military activities in the territory of Eastern Europe and the Ukrainian state. Russia appealed to the alliance not to accept Ukraine or other formerly part of the Soviet Union as part of NATO membership.

Quoted on CNBC Indonesia, in an exclusive interview with CNBC Indonesia on February 16, 2022, Lyudmila Georgievna Vorobieva as the Ambassador of the Russian state, said that the problems that occurred between Russia and Ukraine were merely a diversion of issues where the Russian government never intended to attack its neighboring countries. (Ukraine), an issue that arose after information was heard about the US, NATO and their allies. That all the things between the two occurred because of the diversion of issues from the Russian state security regarding the Russian Federation. For approximately 30 years, NATO's expansion has been seen by Russia in terms of the infrastructure that NATO has close to Russian territory. In the current situation, Ukraine is a tool used to disseminate information about the war against Russia. Meanwhile, Russia is pursuing diplomacy. However, the Western

states continue to disseminate information about the war which has led to persistent tensions in the territory of the Russian-Ukrainian border. What really happened, Russia never flew a war flag against Ukraine, because Russia considers Ukraine as a brother. Russia announced that NATO had carried out several phases of expansion starting from 1999 to 2020.

At a press conference held on 15 February 2022 with German Chancellor Olaf Scholz in Moscow, Russia. Russian President (Putin) promised to withdraw all troops from the Border. But Putin did not keep his promise. At the conference Putin said he did not want war. Putin argues that Russia is ready to find a solution Together with Western countries which Putin is ready to cooperate with through negotiations. Even so, Western countries have doubts about Putin's initiative as President of Russia. In fact, NATO intelligence in Eastern Europe said that there was a possibility that Russia would still attack, even if it was limited, that Russia would use the territory of East Ukraine, which is an area where an insurgency is taking place.

Quoted from CNBC Indonesia, that Putin made an announcement on Monday, February 22, 2022 regarding Donetsk (DPR) and Luhansk (LRP) as an independent country. Basically the two parts of the region are the territory of Ukraine which is currently in rebellion. Putin declared the region's independence on the grounds that it was to "Keep the Peace". In addition, Putin signed the Decree and sent Russian troops to Ukrainian territory. Because Putin took the decision Putin has violated his statement in front of Olaf.

According to RIA-Novosti's transcript of the televised speech. Putin said that the Donbass Region is one of the regions of eastern Ukraine that is pro-Russian asking for help from the Russian state. Therefore, according to Article 51 section 7 of the UN Charter with witnesses from the Federation Council, in accordance with the Treaty of Friendship between Russia and Ukraine which was ratified by the Federal Deliberation and mutual cooperation with the DPR and also the LPR, Russia decided to carry out Special Military Operations.

Quoted from CNBC Indonesia, the current Ukrainian President, Zelensky, said that it was Russia that had started the attack on Ukraine first today. In that way Russia is starting a war on Ukraine which is tantamount to fighting the entire democratic world. In this way, Putin (Russian President) intends to destroy Ukraine, which is the country of all of us, the country that we have built and have lived.

The reasons for Russia's attack on Ukraine raise many questions. Experts have the belief that Putin is doing all these things with the aim of imposing change on Ukrainian territory. Because Putin (President of Russia) wants the leadership of the Ukrainian state to be pro against Moscow. Quoted from CNBC International, Hanry Rome as Director of Global Macro Research at Eurasia Group explained that based on a speech that Putin conveyed his subordinates Russia carried out an attack to overthrow the Kyiv government by military means by flying war flags throughout Ukraine. Although Putin has stated otherwise, it is likely that the occupation of some parts of Ukraine will be carried out by Russian forces.

Quoted from CNBC Indonesia from CNN International. In addition, there is a long essay that has been published by Putin in July 2021, that Putin had mentioned Russia and Ukraine as "One Person". From the essay, Putin announced that Russia and Ukraine are a unit which can give rise to the perception that Russia will not be able to attack Ukraine.

Quoted from CNBC Indonesia, at a meeting with the media which was attended by CNBC Indonesia. Whereas a senior official from the United States Embassy in Jakarta said that the violations that Russia had committed openly before international law against the international-based order became a direct challenge. Ukraine's membership as a member of the United Nations, in essence Ukraine is one of the countries that has become fully independent and sovereign.⁵

⁵ Sefti Oktarianisa, 04 March 2022, Chronology and Background of the Conflict between Russia and Ukraine, www.cnbcindonesia.com., Accessed on 27 July 2022 at 23.03 WIB at

3.2. Russia's Violation of the Non-intervention Principle against Ukraine

Intervention has a description that regarding foreign ties, it is not allowed to interfere in the affairs of other countries. However, in general there has been agreement on the principle of non-intervention that applies if there is an element from one party to try to put pressure, force or order another party to take action in certain ways.⁶ However, basically in the UN Charter or other regulations there are no provisions regarding prohibitions in the event that other countries can help other countries in terms of eradicating rebellions against their government, especially among the Indonesian people who still contain Gotong Royong or mutual assistance because it can ease and speed up a process or process. profession. However, if the assistance is given to the rebels, then the action is considered as one part of an illegal intervention (Illegitimate Intervention).

The United Nations (UN) is the largest organization with nearly 200 members. The United Nations is equipped with various organs that deal with various political, economic, security, legal, and other issues. In addition, the United Nations also has an International Court of Justice. Despite having all of these, the UN is not a supranational body. The UN's authority is very limited, limited by the principles and objectives of the UN, it cannot interfere in the internal affairs of its members. Although it has an International Law Commission (ILC) which consists of well-known international law experts from many countries and often prepares drafts of an international convention, the ILC or the United Nations cannot make all international rules because they do not have the authority to make all international rules. Because the United Nations cannot force a country to ratify a convention or an international treaty. Therefore, the United Nations is not a supranational body.⁷

Russia's behavior towards Ukraine is a form of Russian intervention against Ukraine. Because what Russia did against Ukraine was part of aggression because it deployed weapons including using Russian military power. In addition, the behavior carried out by Russia has fulfilled the elements in the definition of aggression.

The definition of aggression in Article 1 of the United Nations General Assembly Resolution 3314:

*Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the charter of the United Nations, as set out in the term "State".*⁸

The definition of aggression is part of a deeper explanation in the United Nations Charter contained in Article 2 paragraph 4 of the United Nations Charter.

Carrying out such acts by using armed force or military forces for sovereignty, territorial integration or independence from politics from other countries with actions that are not in accordance with the provisions set by the United Nations that have been in effect set forth in Article 1 of the United Nations Charter. Russia developed a strategy to interfere in the political and economic independence that occurred in Ukraine.

The 1998 Rome Statute on the International Criminal Court (ICC) identifies that acts that are considered aggression are:⁹ (1) Countries that carry out an invasion or attack on the

<https://www.cnbcindonesia.com/news/20220304134216-4-320044/kronologi-dan-latar-gunung-konflik-russia-dan-ukraina/2>

⁶ Heryandi, 2014, Dimensions of International Law, Bandar Lampung, Center for the Study of Constitution and Legislation (PKKPUU) & International Law Department, Faculty of Law, University of Lampung. Thing. 35

⁷ Sefriani, 2010, An Introduction to International Law, Jakarta, PT Rajagrafindo Persada., p. 4

⁸ United Nations General Assembly Resolution 3314, accessed on 30 July 2022 at 10.50 WIB https://crimeofaggression.info/documents/6/General_Assembly_%20Resolution_%203314.pdf

⁹ Alya Zafira, April 14, 2022, The Russo-Ukrainian Conflict: Reviewing What is Aggression According to International Law, dntlawyers.com., Accessed July 30, 2022 at 09.50 WIB at <https://dntlawyers.com/konflik-russia-ukraine-meninjau-what-is-aggression-according-to-international-laws/>

territory of another country; (2) The use of armed forces to carry out bombings or the use of any other weapon in another country; (3) Blockade of a port or coast belonging to or in the territory of a country by armed forces from another country; (4) Attacks carried out by the army, or sea, and or air from one country to another; (5) The sending of armed forces to the territory of another country upon the agreement of that country, but not in accordance with the conditions contained in the agreement; (6) State actions that allow other countries to use their territory to carry out acts of aggression against third party countries; (7) The country sending an armed gang and/or hired troops,

Article 5 of the Rome Statute in 1998 had regulations regarding jurisdiction to adjudicate Aggression that the crimes classified as The Most Serious Crimes were in the form of genocide, which were committed against humanity, war, and aggression. Therefore, the act of aggression is a crime that has been prohibited in Chapter VII of the UN Charter on Action with Respect to Threats to The Peace, Breaths of The Peace, And Acts of Aggression. In fact, these crimes can be submitted for recommendation to the public prosecutor of the International Criminal Court (ICC) so that an investigation can be opened and a trial can be made. However, there is a criminal mechanism by the ICC, that the UN Security Council (DK) can also take actions such as economic sanctions by not using force so that the UN Security Council's decisions can be obeyed by that country. However,¹⁰

3.3. Russia's Responsibility for Violation of the Principle of Non-Intervention in the Conflict in Ukraine

The concept of “responsibility” can be interpreted that, even though there are sanctions against the perpetrator, the state is still responsible for paying compensation that is returned to the victim or the victim's family as a result of his actions. Article 51 of the 1949 Geneva Convention states that the losing party waives its right to the Armistice Agreement to force the winning party to sue/punish anyone who has violated the Convention or to pay compensation for serious violations by members of the armed forces by the opposing party.¹¹

CharterThe United Nations regulates the actions of member states affected by violations of international relations. Article 5 of the United Nations Charter provides that a member of the United Nations who is subject to a precaution or prohibition by the Security Council may, upon recommendation of the Security Council by the General Assembly, be deprived of its rights and privileges. as a crime. Members The use of these rights and privileges may be reinstated by the Security Council.¹²

All members of the United Nations who violate the rules will be subject to sanctions by the United Nations for violations that have been committed. The sanctions received can be in the form of administrative sanctions such as suspension of membership rights wherein the suspension of ordinary rights with UN membership privileges. Article 5 of the UN Charter can only be applied to a country that has taken preventive measures or coercive measures by the Security Council. In addition, preventive measures in Article 5 of the UN Charter are actions that can be in the form of a peace movement, without violence. However, the peace act must be firm so that it can have a positive effect on the conflicts that occur in Russia and Ukraine, such as non-coercive interventions, including the imposition of sanctions or embargoes in the economic, diplomatic, or other fields. In the conflict between Russia and Ukraine, the UN Security Council took preventive or coercive measures. Thus, an economic embargo was

¹⁰ Alya Zafira, Ibid.

¹¹ Mochtar Kusumaatmadja, 1968, 1949 Geneva Conventions Concerning the Protection of War Victims, Binatjipta, Bandung, page 40.

¹² United Nations, www.un.org., accessed on 27 July 2022 at 18:38 at https://unic.un.org/aroundworld/unics/common/documents/publications/uncharter/jakarta_charter_Bahasa.pdf

applied to limit the activities of the (Russian) insurgents in economic transactions until they surrendered.

Russia's intervention in Ukraine, it distracts the world. Efforts to prevent the occurrence of more severe impacts and on a wider scale. Accordingly, the United Nations Council shall take into account the provisions of Article 11, paragraph 2 of the United Nations Charter, by which the General Assembly may consider any matter relating to the maintenance of peace and security referred to the Assembly by any member of the United Nations. Nation. or the Security Council; or from a country that is not a member of the Organization of the United States of America. in accordance with the rules of paragraph 2 of Article 35, which in accordance with the provisions of article 12 of the United States Charter, may submit recommendations to the Security Council or both on matters relating to them.¹³ Due to matters relating to issues of global concern and existing international security, the provisions of Article 11, paragraph 3, allow the General Assembly to call the attention of the Security Council on situations that may threaten international peace and security.¹⁴

Efforts to prevent and stop armed conflict and can help the parties to the dispute for a peaceful settlement of disputes are carried out by the United Nations through four steps:¹⁵

- a. *Preventive Diplomacy* :
Action taken to avoid disputes between the parties, prevent the spread of disputes or limit the spread of disputes.
- b. *Peace Making* :
- c. Action to bring the parties to agreement, in particular by peaceful means, on the provisions of Chapter VI of the Charter of the United Nations. The purpose of the United Nations is to prevent conflict and maintain world peace.
- d. *Peacekeeping* :
Arrangements for the presence of United Nations peacekeepers in accordance with the agreement of the parties concerned.
- e. *Peace Building* :
- f. Actions to identify and support existing structures to strengthen peace and prevent the recurrence of resolved conflicts.
- g. *Peace Enforcement* :
The Security Council's power under the United Nations Charter is to determine actions that threaten the peace or suggest acts of aggression.

Of course, the ability of the UN Secretary-General to sustain a unilateral conflict does not guarantee that such an intervention will be successful. The options for dispute resolution in the form of mediation, conciliation and fact-finding services are very limited, so this method can be implemented by the Secretary General or his agent or other parties.

Article 24 of the Geneva Conventions of 1949 obliges the parties to the conflict to take the necessary steps to ensure the safety of children under the age of 15, orphans or children separated from their families as a result of war. So that children are not neglected, they must help children physically, mentally, academically and spiritually. The International Committee of the Red Cross did much during World War II to reunite young children with their parents and establish homes as places to care for these children.¹⁶

Due to the violations committed by Russia, the UN General Assembly had to convene an Emergency Session of the UN General Assembly regarding the cessation of the war carried out by Russia against Ukraine because it not only resulted in casualties from the parties (Russia-

¹³ United Nations, Ibid.

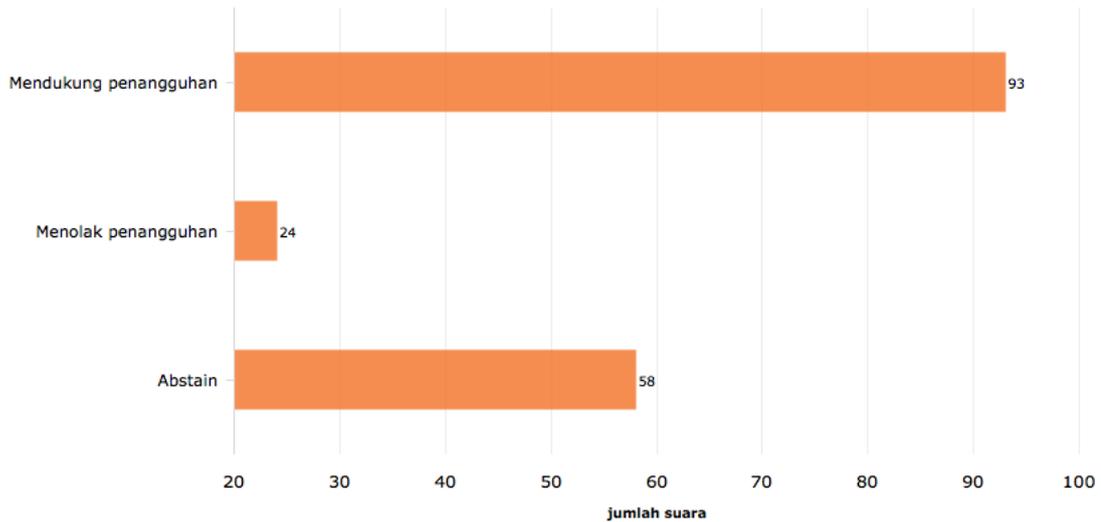
¹⁴ United Nations, Ibid.

¹⁵ Heryandi, 2014, Dimensions of International Law, Bandar Lampung, Center for the Study of Constitution and Legislation (PKKPUU) & International Law Department, Faculty of Law, University of Lampung, page. 134

¹⁶ Commentary to the IVth Convention, p. 185.

Ukraine), because the war had an impact on stability such as the economy, and the lack of a number of resources in this world. The Emergency Session resulted in decisions taken by voting of the Members of the United Nations. The results are listed in the following table:¹⁷

Table 1. Voting Results Regarding the Suspension of Russia's Membership in the UN Human Rights Council



Source. Databoks.katadata.co.id

The decision of the United Nations General Assembly on Thursday, April 7, 2022, to suspend Russia's membership on the United Nations Human Rights Council is official. The suspension was carried out after Russia was indicated to have committed serious human rights violations in Ukraine, and the results of consultations with a majority vote of UN member countries supported the suspension. As a result of the vote, 93 countries supported the termination of Russia's activities, 24 countries opposed it, and 58 countries remained neutral or abstained. The result of the decision is one of the risks that Russia faces because it has ignored restrictions that threaten World Peace and Security.

4. CONCLUSION

Russia has supported rebels in eastern Ukraine, particularly in parts of Donetsk and Luhansk, against the Ukrainian government. In 2021, there will be a violent conflict between Russia and Ukraine. Because of the problem of the attack that has been going on since November 2021. One of the existing satellite images shows a buildup in which the buildup is Russian troops in the Ukrainian border area. Russia's behavior towards Ukraine is a form of Russian intervention against Ukraine. Because the intervention carried out by Russia against Ukraine is part of the aggression because the deployment of weapons includes the use of Russian military force. In addition, the behavior carried out by Russia has fulfilled the elements in the definition of aggression.

Article 5 of the Charter The United Nations regulates the actions of its member states in relation to violations of international law. That a member of the United Nations who receives

¹⁷Reza Pahlevi, 2022, UN Voting Results on Russia's Membership in the Human Rights Council, Indonesia Abstain, databoks.katadata.co.id, accessed on 29 July 2022 at 21.28 WIB at <https://databoks.katadata.co.id/datapublish/2022/04/08/results-voting-un-registered-Russia-membership-in-board-ham-Indonesia-abstain>

preventive measures or prohibitions imposed by the Security Council may be deprived of his rights and privileges as a member of the United Nations upon the recommendation of the Security Council by the General Assembly. The use of these rights and privileges may be reintroduced by the Security Council. In addition, the parties are obliged to take the necessary measures for children under the age of 15 years, according to Article 24 of the Geneva Conventions of 1949, which obliges the parties to the conflict to take the necessary steps to ensure the safety of the children. under the age of fifteen, orphans or children separated from their families in war. So that children are not neglected, they must help children physically, mentally, academically and spiritually. The International Committee of the Red Cross did a lot of work during World War II to reunite young children with their parents and build homes as orphanages for these children.

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