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International Protection of Children's Rights Under the Provisions of International Human Rights Law

Abstract

Protecting children's rights has developed internationally through the issuance of various declarations, covenants, and international conventions, from the Geneva Declaration of 1924 to the Convention on the Rights of the Child of 1989 and its optional protocols. These agreements aim to ensure children's fundamental rights, such as the right to life, education, healthcare, and protection from exploitation or recruitment in armed conflicts, in addition to combating child trafficking and sexual exploitation. Despite international efforts, children's rights continue to be violated, especially in developing countries, which necessitates strengthening legislation and international cooperation to eliminate these phenomena and provide a safe environment for children.

Keywords: *Children's rights, Convention on the Rights of the Child, Geneva Declaration, International conventions, Optional protocols*

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Müddəalarına əsasən uşaq hüquqlarının beynəlxalq müdafiəsi beynəlxalq insan hüquqları hüququ

Xülasə

Uşaq hüquqlarının müdafiəsi 1924-cü il Cenevrə Bəyannaməsindən tutmuş 1989-cu il Uşaq Hüquqları Konvensiyasına və onun əlavə protokollarına qədər müxtəlif bəyannamələrin, paktların və beynəlxalq konvensiyaların verilməsi yolu ilə beynəlxalq səviyyədə inkişaf etmişdir. Bu müqavilələr uşaq alveri və cinsi istismara qarşı mübarizə ilə yanaşı, uşaqların yaşamaq, təhsil, sağlamlıq və istismar və ya silahlı münaqişələrdə işə götürülmə hüququ kimi fundamental hüquqlarını təmin etmək məqsədi daşıyır. Beynəlxalq səylərə baxmayaraq, xüsusilə inkişaf etməkdə olan ölkələrdə uşaq hüquqları pozulmaqda davam edir ki, bu da bu halların aradan qaldırılması və uşaqlar üçün təhlükəsiz mühitin təmin edilməsi üçün qanunvericiliyin və beynəlxalq əməkdaşlığın gücləndirilməsini zəruri edir.

Açar sözlər: *uşaq hüquqları, Uşaq Hüquqları Konvensiyası, Cenevrə Bəyannaməsi, Beynəlxalq konvensiyalar, Fakültativ protokollar*

Introduction

The two world wars resulted in blatant violations of human rights, prompting the international community to pay greater attention to ensuring that individuals live dignified lives within the framework of freedom, justice, and peace. As a result, legal frameworks were established to protect these rights, both in times of peace through international human rights law and in times of war through international humanitarian law. Given that the child is an integral part of the international community, the latter has paid significant attention to children's rights, especially considering that children are among the most vulnerable and fragile groups in society, unlike other segments that are capable of claiming their rights. Children are generally unable to claim their rights due to a lack of understanding, and children around the world suffer from inadequate healthcare, high mortality rates, exploitation in prostitution, and the devastating effects of both internal and international armed conflicts. These dire conditions lead us to the following problem:

Research

***- What is the role and position of international human rights law in protecting children's rights, and how effective are international texts and conventions in safeguarding children?**

To answer this problem, the study of the protection of children's rights under the provisions of international human rights law requires an examination of the protection of children's rights in light of general international conventions (Section One), followed by an analysis of the protection of children's rights in light of specific international conventions (Section Two).

Section One: Protection of Children's Rights in Light of General International Conventions

The international community did not stand idly in the face of severe violations of children's rights. The United Nations issued numerous conventions concerning the protection of children's rights, whether through its declarations on human rights (Subsection One) or its international covenants (Subsection Two).

Subsection One: Protection of Children's Rights within Human Rights Declarations

The international community has shown concern for children's rights before and after the establishment of the League of Nations. In 1924, the Geneva Declaration of the Rights of the Child was adopted, granting significant attention to the rights of children around the world (Branch One). This was followed by the Universal Declaration of Human Rights in 1948 (Branch Two) and then the Declaration of the Rights of the Child in 1959 (Branch Three).

Branch One: The 1924 Geneva Declaration of the Rights of the Child

The International adopted the Save the Children Union declaration during its Fourth General Assembly on February 23, 1923. It was later signed by the members of the Fifth General Assembly of the Union on February 28, 1924. On September 26, 1924, it was adopted by the League of Nations and named the Geneva Declaration (Humanium, n.d.), marking a historic day as it represented the first official recognition of special rights for children. The declaration consisted of a preamble and five articles (Wikipedia contributors, 2025).

The preamble emphasised the need for the world's people—men and women—to recognise children's rights. It stated that humanity owes its best efforts to this group and must uphold these rights without discrimination among children worldwide. This reflects the principle of equality in rights, without discrimination on the basis of gender, nationality, or religion.

The Geneva Declaration established five principles, with a focus on the following:

- The necessity of providing adequate care for the child, materially and morally, along with ensuring all the necessary means for the child's natural development, is stipulated in Article 1 of the Declaration.
- According to Article 2 of the Geneva Declaration, feeding, medical treatment, education, rehabilitation, and assistance are essential for children. A hungry child must be fed, a sick child must be treated and cared for, and a child with learning difficulties must be educated and encouraged. Moral care must also be provided to children who are victims of delinquency through their reintegration into society and behavioural correction. Orphaned and homeless children must be sheltered and supported.

- Providing sufficient care and relief to children in difficult times—Article 3 of the Geneva Declaration stipulates that the child must be the first to receive aid.
- Ensuring proper protection for working children—Article 4 of the Geneva Declaration—through the provision of suitable working conditions and protection from all forms of exploitation.
- The development of a sense of responsibility in children contributes to nurturing and encouraging their talents and good qualities to benefit other children.

This declaration was criticised for not explicitly referring to rights themselves but rather to the obligations of adults toward children.

Moreover, despite addressing some fundamental rights, the Geneva Declaration did not possess a binding international legal force. The situation remained unchanged even after the League of Nations General Assembly approved the Geneva Declaration in 1934, and signatories pledged to incorporate its principles into national laws. Nevertheless, it gained significant moral authority (Buck, 2014).

Branch Two: The Universal Declaration of Human Rights of 1948

The United Nations General Assembly adopted the Universal Declaration of Human Rights on December 10, 1948. It is considered the first international document to outline the fundamental human rights that must be protected globally, thus representing a milestone in the history of human rights. It was drafted by representatives from various countries worldwide with diverse legal and cultural backgrounds.

The declaration comprises 30 articles that collectively define the fundamental rights and freedoms of individuals, including children, who are granted protection through Articles 25(2) and 26. Article 25(2) states that children are entitled to protection by receiving assistance, care, and social support, regardless of whether they were born in or out of wedlock.

Article 26 affirms the child's right to free education—particularly at the elementary level—and emphasises that education should develop the child's personality and promote respect for fundamental rights and freedoms without discrimination.

Notably, this declaration is not legally binding owing to its nature; it is neither a treaty nor an international agreement, nor does it constitute a statement of law. Therefore, it cannot be considered a legal obligation but rather a declaration of the fundamental principles of human rights and freedoms (Hannum, 1998).

Branch Three: The 1959 Declaration of the Rights of the Child

The United Nations General Assembly adopted this declaration through Resolution No. 1386, dated November 20, 1959. It consists of 10 principles, with some of the most important being:

First, the child must enjoy all the rights in this declaration without discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, or birth.

Second, the child must be given special protection and the necessary facilities to ensure their physical, mental, moral, spiritual, and social development healthily and naturally within an environment of freedom and dignity, with the child's best interest being a primary consideration.

Third, from birth, the child has the right to a name and nationality and must benefit from social security. The child is entitled to healthy development, adequate nutrition, shelter, recreation, and medical care.

Fourth, a child with physical, mental, or social disabilities must receive special treatment, education, and care.

Fifth, the child needs love and understanding in an atmosphere of affection and moral security and should not be separated from their mother except under exceptional circumstances.

Unlike the previous declaration, this declaration gave particular importance to a specific group of children—those with physical or mental disabilities. This emphasised the necessity of providing these children with appropriate care, treatment, and education while considering their conditions. It also places great emphasis on the dignity of the child by protecting them from all forms of neglect, cruelty, and exploitation. It strictly prohibited forcing the child to work or allowing them to engage in any occupation that could harm their health or education.

Furthermore, the declaration granted the child protection against all forms of racial, religious, or other types of discrimination.

However, this declaration is also not legally binding due to its legal nature, as it does not constitute an international treaty. Instead, it is a statement of the child's fundamental rights directed at individuals, voluntary organisations, local authorities, and national governments, urging them to recognise these rights and strive to uphold them through gradually adopted legislative measures.

Subsection Two: Protection of Children's Rights within International Covenants

The United Nations has increasingly focused on protecting human rights. It did not limit its efforts to the international agreements established under human rights declarations but extended legal protection to children through its international covenants, such as the International Covenant on Civil and Political Rights of 1966 (Branch One) and the International Covenant on Economic, Social and Cultural Rights of 1966 (Branch Two).

Branch One: The International Covenant on Civil and Political Rights of 1966

This covenant was adopted by the United Nations General Assembly and opened for signature and ratification by Resolution No. 2200 (21st session), dated December 16, 1966. It entered into force on March 23, 1966. The covenant includes a preamble and 53 articles, most of which affirm human rights shared by all members of humanity, including children, who are granted a set of rights through five specific articles, the most important of which are:

First, the right to life is guaranteed to every human being—Article 6(5) of the covenant—which explicitly prohibits the imposition of the death penalty on children under the age of 18.

Second, according to Article 10 of the Covenant, juveniles must be provided with guarantees that ensure their right to a fair trial. For example, juvenile defendants must be separated from adult offenders to prevent any interaction between them. They must also be promptly referred to competent judicial authorities. Juveniles should be treated appropriately for their age and legal status, with a focus on rehabilitation and reintegration into society.

Third, juvenile trials must be held in public—Article 14(1) of the covenant—unless the child's best interest requires otherwise.

Fourth, the rights of children must be protected and guaranteed in the event of a divorce between parents—Article 23 of the Covenant—so that they do not become victims within society.

Fifth: Every child has the right to protection without any form of discrimination—Article 24 of the Covenant—including the right to be registered in civil records and to be given a name and nationality.

Branch Two: The International Covenant on Economic, Social and Cultural Rights of 1966

This covenant was also issued by the United Nations General Assembly and opened for signature and ratification by Resolution No. 2200 (21st session), dated December 16, 1966. It entered into force on January 3, 1976. The covenant includes a preamble and 31 articles. It aims to affirm the right of every human being to enjoy economic, social, and cultural rights equally and without discrimination, stemming from the inherent dignity of the human person.

The International Covenant on Economic, Social and Cultural Rights provides legal protection for children, as it includes a set of rights, which are as follows:

First, the family must be provided with adequate protection and assistance—Article 10(1) of the Covenant—due to its vital importance and role in society, as it bears the responsibility of raising and supporting children.

Second, special protection must be granted to pregnant women—Article 10(2) of the Covenant—by ensuring rights, such as paid maternity leave, both before and after childbirth, to allow for proper care and nurturing of the child under the best conditions.

Third, all children must be protected and assisted without discrimination—Article 10(3) of the covenant—particularly by shielding them from economic and social exploitation. Anyone employing children at work that harms their lives, health, or morals must be punished. The minimum age for employment must be established, and penalties must be imposed on those who violate it.

Fourth, every child has the right to adequate health protection—Article 12(2)(a) of the covenant—both physically and mentally, with efforts to reduce infant and child mortality and ensure proper and healthy development.

Fifth: Every child has the right to education—Article 13(2) of the covenant. Education must be guaranteed for all children, free and compulsory at the primary level, and secondary and higher education must be made accessible to all.

Notably, both covenants are considered binding international treaties for all state parties. This marked a significant advancement in promoting and protecting children's rights and freedoms, in contrast to earlier declarations, which are not considered legal obligations but merely statements of basic human rights principles.

Section Two: Protection of Children's Rights in Light of Specific International Conventions

The United Nations has issued several conventions that protect and guarantee children's rights. In addition to the general conventions on human rights—previously discussed—which include children's rights among other human rights, special conventions have been adopted to focus exclusively on the protection of children. The most significant are the Convention on the Rights of the Child of 1989 (Subsection One) and the Optional Protocols to the Convention on the Rights of the Child (Subsection Two).

Subsection One: Convention on the Rights of the Child of 1989

This convention, which consists of 54 articles, was adopted by the United Nations General Assembly through Resolution 44/25 dated November 20, 1989, and entered into force on September 2, 1990, pursuant to Article 49.

The Convention on the Rights of the Child considers the child's best interests as its paramount objective, particularly in light of the challenges and concerns surrounding children in the adult world. The convention grants children specific rights on the basis of their unique and vulnerable status owing to their physical and mental immaturity. This vulnerability necessitated the adoption of the Convention on the Rights of the Child, which recognises that the child, because of their physical and mental condition, requires special care, including appropriate legal protection.

The main features of this convention include the following:

First, the convention defines its scope of application to children under 18. Article 1 states: *"For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."*

This convention applies only in countries where the age of the majority is under 18. Therefore, it does not apply in countries where according to domestic law, the majority is attained at a later age, such as 19 or 21. To resolve the issue of age definition, some scholars suggest that the matter should not be strictly tied to legal adulthood but should instead consider each society's social, cultural, historical, and geographical particularities.

Second, the Convention on the Rights of the Child—Articles 2 and 37—recommends a set of rights, including the protection of the child from all forms of discrimination or punishment and any form of torture or inhuman treatment.

Third, the convention—Article 8—obligates state parties to respect the child's right to preserve their identity, including their nationality, name, and family relations, as recognised by law, without unlawful interference. Suppose a child is illegally deprived of any element of their identity. In that case, the state parties are required to provide appropriate assistance and protection to re-establish the child's identity.

Fourth, Article 23 of the convention also pays special attention to a specific category of children: children with disabilities. It emphasises that a mentally or physically disabled child has the right to enjoy a whole and decent life in conditions that ensure dignity, promote self-reliance, and facilitate the child's active participation in the community.

The convention guarantees that children with disabilities and their caregivers receive appropriate financial assistance suited to the child's condition and the circumstances of the parents or guardians. It also ensures access to education, training, healthcare services, rehabilitation, preparation for

employment, recreational opportunities, and support, enabling the child's social integration and personal development.

Fifth, the Convention on the Rights of the Child—Article 38(1)—emphasises the necessity of respecting the rules of international humanitarian law in armed conflicts as they relate to children. Paragraph 2 of the same article obligates state parties to take all feasible measures to ensure that children under 15 do not directly participate in hostilities.

Paragraph 3 prohibits recruiting children under 15 years of age into the armed forces. In cases where children between 15 and 18 are recruited, the state parties must prioritise the oldest individuals within that age range.

However, a significant criticism of this provision is the apparent contradiction between Articles 1 and 38. Article 38 allows state parties to recruit children between the ages of 15 and 18 into their armed forces, even though these individuals are considered children according to Article 1 of the convention. As such, some legal scholars argue for an absolute prohibition on the recruitment of children under the age of 18. The alarming statistics reinforce the concern that an estimated 300,000 children under the age of 18 are currently serving in armed forces in more than 30 countries around the world.

Sixth, Article 43 of the Convention on the Rights of the Child established the Committee on the Rights of the Child. This committee is responsible for monitoring the progress made by state parties in fulfilling the obligations outlined in the Convention on the Rights of the Child and its two Optional Protocols.

The committee consists of 10 experts with high moral standing and recognised competence in the field covered by the convention. Members are elected by state parties from among their nationals and serve in their capacity. Consideration is given to equitable geographical representation and the principal legal systems of the world.

Subsection Two: The Optional Protocols to the Convention on the Rights of the Child

It is widely acknowledged that children remain the most vulnerable group worldwide, particularly in the context of both international and noninternational armed conflicts. The alarming rise in the phenomena of child trafficking, exploitation in prostitution, and involvement in pornography has compelled the United Nations to assume its responsibility by providing legal protection for children. This led to the adoption of the Optional Protocol on the Involvement of Children in Armed Conflict (2002) (Branch One), as well as the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2002) (Branch Two).

Branch One: The Optional Protocol on the Involvement of Children in Armed Conflict (2002)

The Optional Protocol on the Involvement of Children in Armed Conflict was adopted by the United Nations General Assembly Resolution 54/263, dated May 25, 2000, and entered into force on February 23, 2002.

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2002) addresses the situation of children who require special protection and highlights the need to continually improve their conditions without discrimination while ensuring their upbringing in an environment of peace and security.

The protocol explicitly condemns the targeting of children during armed conflicts and direct attacks on facilities protected under international law, including locations that typically host large numbers of children, such as schools and hospitals. It also denounces both the compulsory and voluntary recruitment, training, and use of children in hostilities by armed groups, whether within national borders or across them. The protocol reaffirms the obligation of all parties to an armed conflict to comply with the rules of international humanitarian law.

Furthermore, Article 3(1) of the protocol raises the minimum age for voluntary recruitment into national armed forces above the age set in Article 38(3) of the 1989 Convention on the Rights of the Child, which is fifteen full years. This rule does not apply to military academies. This provision acknowledges the right of individuals under eighteen years of age to special legal protection under the Convention (International Committee of the Red Cross (ICRC), n.d).

In this context, the protocol guarantees protection for children under eighteen years of age. It provides them with a set of safeguards outlined in Article 3(3) of the protocol, applicable when state parties allow individuals under eighteen years of age to enlist in their national armed forces voluntarily. These safeguards include the following:

1. The recruitment must be genuinely voluntary.
2. The voluntary enlistment must have the informed consent of the child's parents or legal guardians.
3. The children must be fully informed of the duties involved in military service.
4. The children must provide reliable proof of age prior to acceptance into national military service.

Article 6(1) requires state parties to take all necessary legal and administrative measures to ensure the effective implementation and enforcement of the protocol's provisions. Additionally, Article 6(2) obliges state parties to promote and widely disseminate the principles and provisions of the protocol through appropriate means among adults and children alike.

Moreover, under Article 6(3), states must take all feasible measures to ensure the demobilisation or release from service of children recruited or used in hostilities violating the protocol and, where necessary, provide appropriate assistance for their physical and psychological recovery and social reintegration.

Branch Two: The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography

The United Nations has prioritised combatting the sale of children and their exploitation in prostitution and pornography by adopting the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography. This protocol consists of a preamble and 17 articles and was adopted by the United Nations General Assembly Resolution 54/263, dated May 25, 2000, and entered into force on January 18, 2002 (United Nations, 2000).

The state parties to the protocol focused on the need to coordinate efforts to increase public awareness and reduce consumer demand for the sale and sexual exploitation of children. The protocol stresses the importance of eradicating this phenomenon by adopting a comprehensive approach that addresses contributing factors, including underdevelopment, poverty, income inequality, the weakening role of the family in education and moral guidance, rural-to-urban migration, armed conflicts, and child trafficking. This is to be achieved by strengthening global partnerships among all relevant stakeholders at both the national and international levels and by improving the enforcement of laws at the national level.

In line with the above, Article 1 of the protocol stipulates that state parties prohibit the sale of children, child prostitution, and child pornography. According to Article 2:

- **The sale of children** means any act or transaction whereby any person or group transfers a child to another child for remuneration or any other consideration.
- **Child prostitution** is defined as the use of a child in sexual activities in exchange for remuneration or any other form of consideration.
- **Child pornography** refers to any representation, by any means, of a child engaged in actual or simulated explicit sexual activities or any representation of the sexual organs of a child for primarily sexual purposes.

According to Article 3, each state party to the protocol must ensure that, at a minimum, the following acts and activities are fully covered under its criminal law, whether committed domestically or transnationally or carried out individually or in an organised manner:

1. The offering, delivery, or acceptance of a child by any means for:
2. Sexual exploitation of the child.
3. Transfer of the child's organs for profit.
4. Forcing the child to perform labour.
5. Offering, obtaining, procuring, or providing a child for exploitation in prostitution.
6. The production, distribution, dissemination, importation, exportation, offering, sale, or possession of child pornography as defined in Article 2.

The obligations of state parties under the protocol also include suppressing these crimes. This encompasses extending jurisdiction beyond national territory, matters related to extradition, mutual legal assistance, and the seizure and confiscation of proceeds derived from such crimes, as established in Articles 4 to 7 (UNICEF, n.d.).

In this regard, Article 10 of the protocol emphasises that state parties must take appropriate measures to strengthen international cooperation through bilateral or multilateral arrangements. This cooperation aims to prevent, detect, investigate, and prosecute offences related to the sale of children, child prostitution, child pornography, and sex tourism.

The article also encourages state parties to enhance international cooperation between their authorities and national and international nongovernmental organisations.

Conclusion

Through this study, we concluded that protecting children's rights in times of peace is currently among the highest priorities of the international community. Accordingly, the United Nations has issued several international agreements to safeguard children's rights. These include general conventions, which address human rights as a whole and encompass children's rights, the most notable being the 1924 Geneva Declaration of the Rights of the Child, the 1948 Universal Declaration of Human Rights, the 1959 Declaration of the Rights of the Child, and the two International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.

For the specific conventions, the United Nations has also adopted several treaties dedicated solely to protecting children and securing their rights, with a particular focus on this vulnerable group. The 1989 Convention on the Rights of the Child and its Optional Protocols are among the most important.

Despite the considerable attention given by the international community, the condition of childhood worldwide remains subject to marginalisation, exploitation, injustice, displacement, and even murder—especially in developing countries, where horrific practices such as child abduction, rape, and killing are on the rise. A review of international reports in this field reveals alarming statistics reflecting the scale of children's suffering and highlights the significant challenges that remain. The international community must address these issues with more practical and effective approaches.

In this context, the following recommendations may be proposed:

1. Punitive legislation aligns with the level of international agreements concluded in this field while activating the role of punishment and security agencies to combat crimes committed against children.
2. Strengthen assistance to ensure adequate care and protection for children everywhere, especially for children living in the world's poorest countries, such as those in Africa.
3. Targeted development policies that provide families with a decent standard of living and enable them to care for and protect their children to address poverty, hunger, and high unemployment rates should be adopted.
4. Develop purposeful educational curricula to confront social and cultural changes that may negatively impact children.
5. School dropout rates should be reduced, training centres for children who do not complete their studies should be established, and efforts to align educational programmes with international conventions' objectives and human values and principles should be intensified.
6. The blockade imposed on specific countries should be lifted, especially since the most affected groups are children and women.
7. Involve civil society and nongovernmental organisations in developing strategies and programmes to improve the condition of children worldwide.
8. Promote and institutionalise a high level of awareness among members of the international community regarding the importance of childhood, the need to protect and nurture it, and the need to educate citizens about the dimensions of the challenges that children face.

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