

ABUSE OF CHILD RIGHTS IN WAR ZONES: A COMPARATIVE ANALYSIS OF INTERNATIONAL HUMAN RIGHTS LAW AND HUMANITARIAN LAW

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Abstract

Children in armed conflicts face severe violations of their fundamental rights, including recruitment into armed groups, physical and psychological abuse, displacement, and denial of education and healthcare. This research article provides a comparative analysis of IHRL and IHL in protecting child rights in war zones. While IHRL, particularly the United Nations Convention on the Rights of the Child and its Optional Protocols, guarantees universal rights and prohibits derogation except under emergencies, its enforcement in active conflict zones remains limited. Conversely, IHL, embodied in the Geneva Conventions and their Additional Protocols, provides specific regulations for safeguarding of children during armed conflicts, including prohibitions on recruitment and mandates for special protection of non-combatant children. This study highlights the overlapping protections and divergent approaches of the two legal frameworks, noting that gaps in enforcement, age ambiguities, and weak accountability mechanisms contribute to continued violations. Through case studies from Sudan, Gaza, and Ukraine, the article demonstrates the persistent abuse of child rights despite the existence of international legal norms. The study concludes by emphasizing the need for harmonization between IHRL and IHL, stricter enforcement mechanisms, and awareness programs for communities and military actors. Strengthening international cooperation and monitoring can ensure comprehensive protection of children in conflict zones, bridging the gap between legal provisions and ground realities. This research contributes to the discourse on child protection in war zones, offering recommendations for policy, legal reform, and practical measures to preserve the rights of vulnerable children.

Keywords: Child rights, Armed conflict, Recruitment of children, Protection of children, Geneva Conventions, Convention on the Rights of the Child .

1. Introduction

Children are among the most vulnerable victims of armed conflicts. Globally, millions of children are affected by wars, facing displacement, recruitment into armed groups, sexual violence, malnutrition, and the denial of education and healthcare. According to UNICEF, six grave violations are committed against children in conflict zones: killing and maiming, recruitment and use in hostilities, sexual violence, abduction, attacks on schools and hospitals, and denial of humanitarian access. These violations constitute serious breaches of both moral obligations and international law.

Background of the Study

The international legal system recognizes children as a special category of civilians requiring heightened protection in times of conflict. International Human Rights Law (IHRL), through instruments like the Convention on the Rights of the Child (CRC) and its Optional Protocols, guarantees the rights of children universally, emphasizing their protection, development, and participation in society (CRC, 1989; OPAC, 2000). IHRL is applicable during both peace and conflict, although states may enact derogations during emergencies. In contrast, International Humanitarian Law, primarily embodied in the Geneva Conventions of 1949 and their Additional Protocols of 1977, specifically regulates the action of parties during armed

conflicts. IHL recognizes children as a particularly protected group, prohibiting their recruitment under 15 years and mandating special care for those affected by hostilities. The International Committee of the Red Cross highlights that, despite these protections, enforcement on the ground remains inconsistent due to challenges in monitoring and holding perpetrators accountable.

2. Legal Frameworks for Child Protection

The protection of children during armed conflicts is primarily guided by two complementary branches of international law: IHRL and IHL. Both frameworks recognize children as a particularly vulnerable group, yet they differ in scope, applicability, and enforcement mechanisms.

International Human Rights Law (IHRL)

IHRL provides universal protection to all individuals, including children, during both peace and armed conflict. The Convention on the Rights of the Child, 1989, is the cornerstone of IHRL concerning child protection. It affirms the rights of children to survival, development, protection, and participation, while obligating states to guarantee these rights equally. The 2000 Optional Protocol on the Participation of Children in Armed Conflicts specifically prohibits the recruitment of children under 18 into armed forces and encourages states to prevent the participation of children in hostilities. Other instruments, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights further reinforce the rights of children to life, education, and protection from exploitation.

However, IHRL faces certain limitations during armed conflicts. States may suspend certain rights during emergencies, and enforcement largely depends on domestic compliance and international monitoring bodies such as the United Nations Human Rights Council and CRC Committee. Despite these limitations, IHRL establishes an essential legal baseline for child protection that applies universally.

Humanitarian Law in Armed Conflicts

IHL, or the law of armed conflict, applies specifically during wars and internal conflicts. Its primary objective is to limit the effects of hostilities on civilians and non-combatants. The Geneva Conventions of 1949, particularly Convention IV relative to the Protection of Civilian Persons in Time of War, along with Additional Protocols I and II (1977), provide explicit protections for children. These include prohibitions on recruiting children under 15 years into armed forces and obligations to provide special protection to children who are not engaging in hostilities.

IHL also addresses issues such as the protection of schools, hospitals, and humanitarian aid, recognizing that attacks on these institutions disproportionately affect children. Enforcement of IHL is primarily through international tribunals, including the International Criminal Court, and national courts under the principle of universal jurisdiction. Despite its specificity, IHL faces challenges in monitoring compliance, especially in non-international armed conflicts where non-state actors are involved.

Complementarity and Limitations

While both IHRL and IHL seek to protect children, they complement each other in different contexts. IHRL provides a broad framework for rights applicable at all times, whereas IHL offers targeted rules during armed conflicts. Nevertheless, gaps remain, such as the recruitment of children aged 15–18, use of child soldiers by non-state armed groups, and attacks on schools and hospitals. These gaps highlight the need for stronger enforcement, awareness, and harmonization between IHRL and IHL.

3.Comparative Analysis of IHRL and IHL

The Security of children in armed conflicts is governed by each IHRL and IHL. While both frameworks aim to safeguard children, their scope, applicability, and enforcement mechanisms differ, resulting in complementary but sometimes inconsistent protections. This chapter examines the overlapping protections, divergent approaches, and gaps in the implementation of these legal regimes.

Overlapping Protections

Both IHRL and IHL recognize children as a particularly vulnerable category requiring special protection during conflicts. The Convention on the Rights of the Child (CRC) and its additional Protocol on the involvement of children in armed conflict explicitly prohibit the recruitment of children under 18 into armed forces, reflecting IHRL's commitment to their protection. Similarly, IHL, through Geneva Convention IV (1949) and Additional Protocols I & II (1977), prohibits the recruitment and use of children under 15 and obliges parties to ensure their care and protection during hostilities. Furthermore, both frameworks protect fundamental rights such as life, security, education, and access to healthcare. For instance, IHRL under the ICCPR guarantees the right to life and protection against arbitrary deprivation, while IHL mandates the safeguarding of children from direct attacks and ensures that humanitarian assistance reaches them. These overlapping provisions establish a normative baseline for child protection in both peacetime and wartime.

Divergent Approaches

Despite these overlaps, key differences exist between IHRL and IHL. IHRL is universal and continuous, applicable at all times, including during peace and conflict, but allows states to derogate certain rights during emergencies. Enforcement primarily depends on state compliance, reporting to treaty bodies, and international monitoring, making it less immediate in conflict situations.

IHL, by contrast, applies specifically during armed conflicts, governing the conduct of parties and limiting the effects of war on civilians. Its focus is more operational, setting rules for the treatment of non-combatants and combatants, including children. Enforcement relies on international tribunals such as the International Criminal Court (ICC) and domestic courts applying universal jurisdiction. However, challenges arise when non-state actors or insurgent groups disregard IHL, making its application on the ground inconsistent.

Gaps and Inconsistencies

Despite the existence of these legal frameworks, violations persist. Children aged 15–18 may still be recruited legally by some state and non-state actors under IHL, exposing them to hostilities. Attacks on schools, hospitals, and humanitarian convoys continue to harm children, illustrating gaps in enforcement and accountability. Moreover, IHRL often lacks immediate mechanisms to address urgent violations during ongoing conflicts, while IHL enforcement is constrained by the practical difficulties of monitoring hostilities in inaccessible or non-international conflict zones.

The divergence in minimum age standards and the limited enforcement capabilities of both regimes create loopholes exploited by armed groups. In addition, overlapping jurisdictions sometimes lead to confusion regarding which framework to invoke for redress, weakening protection. A unified approach that harmonizes the strengths of IHRL and IHL is therefore essential to ensure comprehensive child protection.

Case Illustrations

- **Sudan:** Children have suffered recruitment into armed groups, displacement, and malnutrition despite IHL and IHRL protections.
- **Gaza:** Frequent attacks on schools and hospitals violate both IHRL and IHL norms, highlighting enforcement challenges.
- **Ukraine:** Forced deportation of Ukrainian children by state actors demonstrates gaps in legal enforcement and accountability.

These cases underscore that while both IHRL and IHL provide normative protections, practical enforcement is insufficient, necessitating stronger international cooperation and monitoring.

4. Case Studies of Child Rights Violations

Children in armed conflicts are disproportionately affected by hostilities due to their physical and psychological vulnerability. Despite the existence of IHRL and IHL, millions of children continue to face severe violations in conflict zones. This chapter examines selected case studies from Sudan, Gaza, and Ukraine to illustrate the persistent abuse of child rights and the challenges of legal enforcement.

Sudan

Sudan has been plagued by prolonged armed conflicts, particularly in regions such as Darfur and South Kordofan. Children in these areas are subjected to multiple forms of abuse, including forced recruitment, displacement, malnutrition, and sexual exploitation. According to UNICEF, approximately 6,000 children are experiencing severe acute malnutrition, with thousands more at risk of disease and death due to the destruction of healthcare facilities.

The recruitment of child soldiers remains a serious concern despite Sudan being a party to the CRC and OPAC. Non-state armed groups often forcibly enlist children as young as 12 to serve in combat and support roles. Attacks on schools and hospitals exacerbate the humanitarian crisis, undermining children's right to education and protection under both IHRL and IHL.

GAZA

The ongoing conflict in Gaza has resulted in repeated violations against children. Schools, hospitals, and other civilian facilities have come under assault, directly affecting thousands of children. UNICEF reports that children in Gaza face constant exposure to psychological trauma, with many witnessing killings and destruction of family homes.

The recruitment and use of children by armed groups, coupled with indiscriminate attacks on civilian facilities, highlight severe gaps in the enforcement of international law. Both IHRL and IHL explicitly prohibit such actions, yet accountability is limited. These violations underscore the difficulties in applying international norms in densely populated conflict zones where parties to the conflict may include both state and non-state actors.

Ukraine

The conflict in Ukraine has exposed children to unprecedented violations, including forced deportations, abductions, and exposure to military operations. Reports indicate that Ukrainian children have been Evicted by force to Russia, stripped of their Ukrainian identity, and placed with Russian families, a practice described as "Russification".

Such acts constitute serious breaches of both IHRL and IHL, including violations of the CRC and Geneva Conventions. The targeting of children for political and military purposes demonstrates how conflict parties exploit gaps in legal enforcement. International monitoring and reporting by bodies such as UNICEF and the Office of the UN High Commissioner for Human Rights (OHCHR) have highlighted these violations, yet enforcement and remedial measures remain limited due to political complexities and ongoing hostilities.

Comparative Insights

Across Sudan, Gaza, and Ukraine, several patterns emerge:

- **Recruitment and Use of Children:** Children are recruited by both state and non-state actors, violating OPAC provisions and IHL prohibitions.
- **Attacks on Civilian Infrastructure:** Schools, hospitals, and shelters are often targeted, impeding access to education and healthcare.
- **Psychological and Physical Trauma:** Children experience long-term consequences, including PTSD, malnutrition, and loss of family support systems.
- **Challenges of Enforcement:** Weak monitoring mechanisms, limited jurisdiction over non-state actors, and political obstacles hinder effective enforcement of international norms.

These case studies point out that despite the existence of robust legal frameworks under IHRL and IHL, violations persist due to enforcement challenges, non-compliance by armed actors, and lack of international accountability mechanisms. A stronger harmonization of both frameworks and proactive international intervention are crucial for safeguarding child rights in conflict zones.

5. Recommendations and Conclusion

The preceding chapters illustrate the widespread abuse of child rights in conflict zones and limitations of existing legal frameworks under International Human Rights Law (IHRL) and International Humanitarian Law (IHL). Despite robust normative protections, enforcement gaps, non-compliance by state and non-state actors, and political challenges have perpetuated violations. This chapter outlines key recommendations to strengthen child protection during armed conflicts and concludes with the overall implications of the study.

Strengthening Legal Frameworks

A primary recommendation is the harmonization of IHRL and IHL to provide comprehensive protection to children. Minimum age standards for recruitment should be uniformly raised to 18 years across all frameworks to prevent the exploitation of adolescents in hostilities (CRC,1989;OPAC,2000). National legislation should incorporate both IHRL and IHL provisions, ensuring that children's rights are protected irrespective of the type or intensity of conflict.

Further, ratification and domestic implementation of international treaties, including the Additional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, can address the broader spectrum of abuse, particularly sexual exploitation and trafficking in conflict zones. Clear incorporation of IHL obligations into domestic criminal codes will enable national courts to prosecute violations effectively.

Enhancing Enforcement Mechanisms

Enforcement of international norms requires strengthening international and regional accountability mechanisms. The International Criminal Court (ICC) and other ad hoc tribunals should prioritize prosecution of crimes involving child victims, including recruitment, abduction, and sexual violence (Bassiouni, 2010). Establishing independent monitoring bodies under the UN or regional organizations can ensure continuous observation of conflict zones and provide timely reporting to international authorities.

Additionally, cross-border cooperation and intelligence sharing among states can prevent the movement of children into conflict areas, guaranteeing accountability for perpetrators under international and national law. Non-state armed groups must also be engaged through advocacy and pressure to comply with child protection norms, with sanctions for violations applied consistently.

Promoting Education, Rehabilitation, and Awareness

Educational and psychosocial programs are crucial for both prevention and rehabilitation. Children affected by conflict should have access to education, psychological counseling, and social reintegration programs. Awareness campaigns targeting communities, armed groups, and security personnel can reinforce the importance of protecting children during hostilities.

International organizations, such as UNICEF, Save the Children, and the ICRC, should be empowered and resourced to provide humanitarian aid and monitor compliance with legal standards. Community-based interventions can also play a role in preventing recruitment, exploitation, and violence against children.

Policy and Advocacy Measures

Global advocacy should emphasize that violations of child rights constitute both moral and legal breaches. Including child protection policies into peace agreements, ceasefire negotiations, and conflict resolution frameworks can institutionalize safeguards. International donors should condition aid and military support on compliance with child protection standards.

Further research and reporting on violations, particularly in underreported regions, are essential to maintaining international attention and pressure. Collaboration between governments, NGOs, and international bodies can ensure consistent monitoring and accountability.

Conclusion

Children in armed conflicts continue to face egregious violations of their rights, despite the existence of IHRL and IHL. The comparative study shows that while both frameworks offer significant protections, gaps in enforcement, legal ambiguities, and the non-compliance of state and non-state actors undermine their effectiveness.

A comprehensive approach that harmonizes IHRL and IHL, strengthens enforcement mechanisms, enhances monitoring, and prioritizes education and rehabilitation is essential. Only through coordinated international action, robust legal frameworks, and proactive advocacy can the rights of children in war zones be safeguarded effectively. Protecting children is not merely a legal obligation but a moral imperative that reflects the international community's commitment to human dignity, justice, and peace.

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