

PROTECTING CHILDREN FROM VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW AND ENSURING ACCOUNTABILITY

THE ISSUE

UPHOLDING HUMANITY - THE ROLE AND FUTURE OF INTERNATIONAL HUMANITARIAN LAW



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Children caught in armed conflict represent one of the most vulnerable segments of the population, facing grave risks to their life, safety and well-being.

In 2023 only, violence against children in armed conflicts surged dramatically, with a 21% rise in grave violations and a 35% increase in killings and maiming, reflecting a shocking disregard for the children's rights.¹ Young lives are under attack on a shocking scale. The killing and injuries of children often result from indiscriminate military actions, where the distinction between combatants and civilian population is blurred. In particular, the attacks on schools and hospitals not only jeopardize lives but also disrupt access to humanitarian assistance, education and healthcare, leaving lasting impacts on children's futures.

The European Union recognizes protection of children's rights as central to its work with its member states as well as abroad. The protection of children's rights is a fundamental objective outlined in the Treaty on European Union and the Charter of Fundamental Rights of the EU. The best interests of the child must be a primary consideration in all actions affecting them. The EU's responsibility to actively promote, protect, and fulfill children's rights on a global scale is anchored

in this legal and policy framework and reinforced by international law, including the 1989 Convention on the Rights of the Child, which has been ratified by all EU member states. This obligation is further emphasized by the EU Guidelines on Children and Armed Conflict, which call attention to the urgent need to address the challenges faced by children in conflict zones.

PROTECTION OF CHILDREN'S RIGHTS UNDER INTERNATIONAL LAW

When discussing protection of children under International Humanitarian Law (IHL), it is crucial not to overlook the relevance of International Human Rights Law (IHRL) because the two frameworks overlap significantly. Key instruments like the 1989 Convention highlight obligations that intersect with IHL. IHRL emphasizes the best interests of the child, recognizing their vulnerability and immaturity, while IHL primarily categorizes children as a group to be protected in armed conflict, when it does not compromise 'a military necessity'.² However, IHL has stronger enforcement mechanisms than human rights law because its longer history and violations are taken more seriously and prosecuted more effectively.³

1. Children and armed conflict, 3 June 2024, [A/78/842-S/2024/384 General Assembly Security Council](#)

2. Vesselin Popovski, Protection of Children in International Humanitarian Law and Human Rights Law, p. 385

3. Ibid, p. 384

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Acknowledging IHRL alongside IHL is essential to provide comprehensive protection for children in armed conflict situations.⁴

In addition to the standard protection of civilians, IHL includes specific standards designed to protect children during armed conflict. The 1949 Geneva Conventions and their Additional Protocols outline several key provisions: for instance, Article 24 of the Fourth Geneva Convention mandates that children under 15 who are orphaned or separated from their families must receive assistance and protection. Article 50 requires occupying powers to ensure the effective operation of childcare and education institutions, while Article 51 prohibits the occupying power from forcing individuals under eighteen to join the military or engage in labor under any circumstances.

Additionally, Article 77 of Additional Protocol I emphasizes that **children must be treated with special respect and protection from all forms of violence**. This commitment extends to non-international armed conflicts as outlined in Article 4 of Additional Protocol II. Key protections include the establishment of safe zones, safe evacuations, prioritization in food and medical care, family reunification, access to education, special care for detained children, and immunity from the death penalty. The Additional Protocols also highlight the crucial need to safeguard children from recruitment into armed forces.

The codification of the IHL is only a small part of its effectiveness, as true **enforcement relies on states ratifying and applying these norms while ensuring accountability for violations**. The challenges of implementing IHL often arise from the need to balance military necessity with humanitarian concerns.⁵ Often, states have attempted to evade their obligations under IHL, particularly in conflict zones, resulting in ongoing violence against children. Finally, the denial of humanitarian access exacerbates the suffering of children, preventing essential aid from reaching those in dire need.

URGENT NEED TO PROTECT CHILDREN’S RIGHTS IN PALESTINE

As armed conflict in the Middle East persists, the impact on children is devastating, underscoring the pressing need for the EU to take immediate and decisive action. “Gaza is the real-world embodiment of hell on earth for its one million children. And it’s getting worse, day-by-day, as we see the horrific impact of the daily airstrikes and military operations on Palestinian children”. (James Elder, UNICEF Spokesperson, Geneva, 18 October 2024).

As the prolonged occupation and protracted military conflict in the Occupied Palestinian Territory (OPT) continues, the rights of all Palestinian children are increasingly under threat from indiscriminate attacks. We witness a devastating impact on Palestinian children of the ongoing military assaults in the OPT with an alarming 155% increase in grave violations against children.⁶ International community indicates that an unprecedented number of Palestinian children have been killed or maimed by Israeli armed and security forces in the Gaza Strip and the West Bank, including East Jerusalem.⁷ In 2023 the United Nations verified 371 attacks on schools and hospitals, disrupting education for over 625,000 Palestinian children who have been denied their right to learn.⁸ Humanitarian access has been severely restricted, preventing children from receiving critical medical care and assistance.⁹ In 2024, the alarming reports from the Gaza Strip stated that a death toll rose to 40,988 persons and at least 94,825 injured, including children (September 2024, the Ministry of Health in Gaza). Thousands of people remain buried under the rubble and are presumed dead. This highlights the urgent need to protect children caught in the crossfire, as their safety and futures hang in the balance.

“Finally, the denial of humanitarian access exacerbates the suffering of children, preventing essential aid from reaching those in dire need.”

4. Ibid, p. 385

5. Ibid, p. 389

6. Children and armed conflict, [A/78/842-S/2024/384 General Assembly Security Council](#), para 8.

7. Ibid., para 115

8. Ibid, para 111

9. Gaza Humanitarian Access Snapshot #5: (27 August - 10 September 2024), <https://reliefweb.int/report/occupied-palestinian-territory/gaza-humanitarian-access-snapshot-5-27-august-10-september>

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CALL FOR CONCRETE MEASURES AND ACTION TOWARDS PROTECTION OF CHILDREN

Children in Palestine and all other places suffering under armed conflicts face immense risks, highlighting the urgent need for stronger protections and effective legal measures to safeguard their rights and well-being. The Updated EU Guidelines on promoting compliance with IHL outline key actions the EU can take to reinforce its commitment.¹⁰ When violations of IHL occur, the EU must take a firm stand. Public statements followed by potential sanctions against perpetrator convey a crucial message: such actions will not be tolerated.



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Collaboration with international community is vital for monitoring violations affecting children. Together, we can advocate for accountability, ensuring that perpetrators face justice.

The EU must guarantee that there is no impunity for war crimes and potential crimes against humanity by promoting visible prosecutions in relevant states, encouraging third countries to enact national legislation against IHL violations, and urging its Member States in strengthening their support for the international bodies investigating those crimes, for instance the International Criminal Court (ICC).

Finally, under the Council Common Position 2008/944/CFSP, the EU must assess an importing country's compliance with IHL before granting military export licenses. The EU should halt arms exports to Israel due to a clear risk that these weapons could be used to violate IHL, as indicated by the UN experts' findings on extensive civilian casualties and disproportionate and indiscriminate attacks in the Gaza Strip. This need for an arms embargo is further heightened by the International Court of Justice's ruling on January 26, 2024, which identified a plausible risk of genocide.

In the face of ongoing crises impacting children in armed conflict, the EU institutions and member states have a unique opportunity to lead by example.

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10. Updated European Union Guidelines on promoting compliance with international humanitarian law (IHL) <https://www.onlinelibrary.iihl.org/wp-content/uploads/2021/06/EU-Guidelines-Compliance-IHL.pdf>