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The Effectiveness of United Nations  
Mechanisms on Protecting Children  
in Armed Conflicts (The Cases of  
Palestine and Libya)

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Master in Human Rights and Democratisation:  
Arab Programme in Democracy and Human Rights



*The Institute of Political Science at Saint Joseph University does not intend to give any approval or disapproval to the opinions expressed in this thesis. These opinions belong solely to their author.*

## Quotation

“Your beliefs become your thoughts,  
Your thoughts become your words,  
Your words become your actions,  
Your actions become your habits,  
Your habits become your values,  
Your values become your destiny.”

Mahatma Gandhi

“Ideas that don’t tend to become words are bad ideas.”

“Words that don’t tend to become acts are bad words.”

Anonymous

*The last three words a three- years -old Syrian said before he passed away:*

“I am gonna tell God everything”

## **Dedication**

*I dedicate this Research ...*

*To all those oppressed human beings, wherever they are, and whomever they are, particularly children, fragile, vulnerable and marginalized human beings suffering aggression, oppression and suppression. Stay sound and stay safe!*

*To all defenders of human rights, equity, and justice, to those who are in empathy, support, and solidarity with them. Stay strong and stay straight!*

*To those who have been wealthy wonderful sources of inspiration, motivation, encouragement, and support for me to accomplish this research, their list of names is endless, but their role is immense, and their thumbprints are visible, and their good memories are engraved in my heart and mind; therefore, my special and warm gratitude to them all is endless. Stay in my mind and stay in the heart!*

*This work is dedicated to all children who have been victims of armed conflicts, may your beautiful souls rest in peace, and your innocence inspire a peaceful world.*

*To my deceased Uncle Rateb who had always encouraged me and wanted to witness my graduation day, peace upon your soul!*

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*My distinctive love, thanks, and gratitude to my dear mother and father whose love, care, and support, inspired me, to my dear brothers and sister and their spouses and children, to my dear grandmother and to all members of my close family members whom I miss dearly. Being a year away from home feels like an eternity, but even in my absence, you never fail to make me feel at home.*

*I am not forgotten my extended family members, friends, and neighbors, whether in Palestine or in Lebanon and Tunisia who have become family. Your presence has made this journey unforgettable.*

*Last, but not least, I would like to thank my university, college, colleagues, and friends who encouraged me and gave me the needed support and trust.*

*Thank you all!*

## Abbreviations

	<b>The Term</b>	<b>Abbreviation</b>
1	United Nations	UN
2	Human Rights	HRs
3	International Human Rights Law	IHRL
4	International Humanitarian Law	IHL
5	International Armed Conflict	IAC
6	Non-International Armed Conflict	NIAC
7	Additional Protocol of Geneva Convention	AP
8	Convention on the Rights of the Child	CRC
9	Optional Protocol of the Convention on the Rights of The Child on the Involvement of Children in Armed Conflict	OPAC
10	Human Rights Council	HRC
11	Security Council	SC
12	International Criminal Court	ICC
13	International Justice Court	ICJ



## **Abstract**

This study examined the effectiveness of the United Nations mechanisms for the protection of children in armed conflicts, taking the cases of Palestine and Libya as examples for the Arab World Countries. Aiming to address the question of the compatibility of United Nations mechanisms with the rules of international humanitarian law in this context.

The study included the legal framework of the International Convention and IHL provisions and the Institutional framework of United Nations organs and structures which relate to the protection of children in armed conflicts.

The study relied on the analytical descriptive approach, following the IRAC legal methodology, which examines the analysis of legal rules and the extent of their application. The study used the tool of interviews with experts as the key informants, which had been analyzed and compared with literary reviews.

The study concluded with a set of results, the most important one is: there is no punishment for the perpetrators of crimes against children in Palestine and Libya due to political considerations. The results showed that Security Council resolutions have a deterrent penalty, but they neither apply in all cases nor in all countries. Moreover, the process is very insufficient and very limited, and the violations are still occurring every day.

The study reached several recommendations, the most important of which is developing the international legal framework for the protection of children so that it is more comprehensive to ensure full protection in times of armed conflicts and calling on the United Nations to develop special mechanisms to protect children. As well as, issuing a guide on the rights of children in armed conflicts, and working to oblige countries to teach it within the military curricula in military academies and establishing a global program to compensate child victims of armed conflicts. As well as to activate strictly the related International laws to provide humanitarian services and protection to children and secure corridors and safe havens.

## الملخص

تناولت هذه الدراسة مدى فعالية آليات الأمم المتحدة لحماية الأطفال في النزاعات المسلحة، أخذة حالي فلسطين وليبيا كأمثلة لدول العالم العربي، بهدف الإجابة على التساؤل البحثي في مدى توافق آليات (أجهزة ومؤسسات وهياكل) الأمم المتحدة مع قواعد القانون الدولي الإنساني والاتفاقيات الدولية في هذا السياق.

تضمنت الدراسة الإطار القانوني للاتفاقية الدولية، وأحكام القانون الدولي الإنساني، والإطار المؤسسي لأجهزة وهياكل الأمم المتحدة ذات الصلة بحماية الأطفال في النزاعات المسلحة.

اعتمدت الدراسة على المنهج الوصفي التحليلي، متبعين المنهج القانوني IRAC، الذي يدرس تحليل القواعد القانونية ومدى تطبيقها. واستخدمت الدراسة أداة المقابلات مع الخبراء، وأصحاب الرأي، والتي تم تحليلها ومقارنتها مع المراجعات الأدبية.

خلصت الدراسة إلى مجموعة من النتائج أهمها عدم وجود عقوبة لمرتكبي الجرائم ضد الأطفال في فلسطين وليبيا لاعتبارات سياسية. وأظهرت النتائج أن قرارات مجلس الأمن لها عقوبة رادعة، لكنها لا تنطبق على جميع الحالات ولا على جميع الدول. علاوة على ذلك، فإن العملية غير كافية ومحدودة للغاية، وما زالت الانتهاكات تتكرر كل يوم.

توصلت الدراسة إلى عدة توصيات أهمها تطوير الإطار القانوني الدولي لحماية الأطفال بحيث يكون أكثر شمولاً لضمان الحماية الكاملة في أوقات النزاعات المسلحة، ودعوة الأمم المتحدة إلى وضع آليات خاصة لحماية الأطفال. كما أوصت على وضع برامج إدماج للأطفال مع بعثات الأمم المتحدة لحفظ السلام، وكذلك إصدار دليل حقوق الأطفال في النزاعات المسلحة، والعمل على إلزام الدول بتدريسه ضمن المناهج العسكرية في الأكاديميات العسكرية، وإنشاء برنامج عالمي لتعويض الأطفال ضحايا النزاعات المسلحة. فضلاً عن تفعيل الصارم للقوانين الدولية ذات الصلة لتقديم الخدمات الإنسانية والحماية للأطفال، وتأمين الممرات والملاذات الآمنة.

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## **Introduction: General Framework of the Research**

Armed conflicts endanger the human rights (**HRs**) of human beings. Whereas children are a fragile segment of the communities; thus, they are more exposed to violence, aggression and oppression that deprive them of basic human rights, well-being, and protection. This requires the existence of general mechanisms of International Law (**IL**) to ensure respect, and application, that guarantee the obedience to the laws and mechanisms with relevant punishment for violations, to protect and safeguard children at risk of losing their rights, dignity, livelihoods and/or even lives.

Mainstreaming child protection is an approach that aims at integrating the protection of children in armed conflict into all aspects of United Nations (**UN**) peacekeeping and security operations, including strategies, policies, guidelines, training, and other related activities.

There are two main legal tools that apply simultaneously during armed conflicts, and the responsibility for protecting children within international law rests on applying the rules of International Humanitarian Law (**IHL**) as the law most specific to cases of armed conflicts, as well as applying the protection mechanisms stipulated by the United Nations.<sup>1</sup>

In this context and in the light of these standards, it is of great importance to study the problem of the ineffectiveness of the mechanisms used to protect children during the increasingly escalating conflicts. Aiming to shed some light on the increase in repression, aggression, risks to lives and human rights violations. Furthermore, to discuss the extent to which the rules of International Humanitarian Law are applied with the mechanisms of the United Nations to reach an actual application in the most difficult cases that children are exposed to, to ensure their protection.<sup>2</sup>

The field of study for this research is legal science studies, in particular, belonging to the field of International Humanitarian Law and International Human Rights Law (**IHRL**). The specialization of the study focuses on the protection of children during armed conflicts, from the perspective of International Humanitarian Law and its compatibility with United Nations Mechanisms and how to be supportive of those mechanisms. The study tackles the situation of the

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<sup>1</sup> Jagriti, (2021), Protection of children under International Humanitarian Law, Law column. Available at: <https://www.lawcolumn.in/protection-of-children-under-international-humanitarian-law/> (Accessed: May 7, 2023).

<sup>2</sup> Voeneky Silja, 2020, "Implementation and Enforcement of International Humanitarian Law", in Fleck Dieter (ed.), The Handbook of International Humanitarian Law, 4 th ed. (forthcoming), Oxford, OUP, 117 pp.

Arab countries, while focusing, mainly, on Palestine and Libya as examples by conducting field studies in the form of key informants interviews.

The main reasons for presenting the cases of Palestine and Libya are, basically, for the long-standing aggression, large-scale magnitude, and severity and its negative consequences of the suppression and the violation of human rights. In addition to the complexities of the situations and the difficulties facing the applications of the mechanisms of protection under the International Humanitarian Law and the International Human Rights Law.

This research is noteworthy due to the importance of its focus on children and the seriousness of their situation in armed conflicts, where children are extremely vulnerable and highly exposed to violence with a clear lack of human rights protection. Although they represent a hugely important segment of society, making up more than half of the population, nearly 415 million children live in conflict zones. 149 million children live in high-intensity conflict areas that experience more than 1,000 war-related deaths each year.<sup>1</sup> The Middle East and North Africa accounts for the largest number of children.

It is obvious with no doubt that genuine challenges and obstacles are facing the practice and application of the rules of International Humanitarian Law and the United Nations Mechanisms for the protection of children, and the difficulties are encountered in their actual application on the ground, that might affect the efficiency and effectiveness of the applied mechanisms that might lead to failure in achieving the desired results.

It has been observed clearly, following the Arab Spring revolutions, that most Arab countries experienced many armed conflicts and internal divisions that placed people, especially children, among the most vulnerable groups. Combined with the complications of growing conflicts and divisions that diminish hope and opportunities for change and improvement. As a result, children in Arab countries are going through difficult, hostile, and critical times that not only endanger their human rights, livelihoods, and dignity, but also endanger their entire lives and existence, especially in countries such as Palestine and Libya. This has been coupled with the difficulty of applying the United Nations mechanisms for the protection of children in effective access to those countries and the non-application of the rules of International Humanitarian Law in them due to the principle of sovereignty and others.

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<sup>1</sup> Rathore, S.C. (2020) Introductory remarks on the protection of children in armed conflict, *Humanitäres Völkerrecht*. BiblioScout. Available at: <https://biblioscout.net/article/99.140005/huv202003018301> (Accessed: May 7, 2023).

The realities and applications prove that the United Nations, which works through conventions and treaties to protect children during armed conflicts, proved to be so crucial, essential and important but still is not sufficient alone to provide a significant level of protection. Supporting the rules of International Humanitarian Law could be more effective in reaching the application of the required protection, and this is what will be discussed in this study.

### **1. Research Problem (Statement & Questions)**

Children are vulnerable, fragile, exposed and primarily unprotected and unsecured during armed conflicts and wars. As the primary victims of war, many boys and girls are subjected to killing and maiming, recruitment and use as child soldiers, sexual violence, abduction, and denial of access to humanitarian assistance. In addition, they are increasingly becoming victims of attacks on kindergartens, schools, and hospitals.

Children in armed conflicts are protected in both International Humanitarian Law and International Human Rights Law, nevertheless, this legal protection may not be sufficient as required, and its aim is to mitigate the effects of conflicts on children and support them with some supplies. However, the application of the rules of each law alone may not constitute effective protection.<sup>1</sup>

In the Arab world countries, children are the largest segment, as they consist, more than half of the population. During armed conflicts, a large number of them are exposed to dangerous violations, especially in some Arab countries, such as Palestine, Libya, Sudan, Syria, Iraq, Yemen and others.

During and aftermath of the Arab Spring, it has been noticed that the situation in Arab countries is genuinely dangerous, hectic, and chaotic. There is a dramatic and significant violation of civilians' human rights, in general, and children in particular.

Therefore, it is important to study this increasingly important and escalating lack of legal protection mechanisms to be more effective and to shed some light on its causes, gearing motivations, risks, application, and ways to suggest solutions to mitigate the effects of this increasingly serious problem.

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<sup>1</sup> Jagriti, (2021) Protection of children under International Humanitarian Law, Law column. Available at: <https://www.lawcolumn.in/protection-of-children-under-international-humanitarian-law/> (Accessed: May 7, 2023).

Thus, the main research question could be tailored as:

**To what extent can United Nations mechanisms protect children during armed conflicts, in accordance with the rules of International Humanitarian Law?**

As well, the main research question could generate sub-questions, i.e.:

1- How could IHL application support/help the application of UN mechanisms on the protection of children?

2- How can challenges that impede child protection mechanisms be effectively addressed and mitigated?

## **2. Research Objectives**

The main objective of this research is to explore the effectiveness of the applied mechanisms of the United Nations on protecting children during armed conflicts, and the extent of interrelation between international conventions and UN institutions and organs to achieve a desired level of protection.

Among the objectives of this research is to shed light on the procedures and process followed by United Nations bodies, especially those stipulated in IHL and IHRL to implement effective protection for children during armed conflicts. Moreover, address the legal framework of conventions, rules and UN Mechanisms role to protect children rights. In addition to discussing the application of the conventions, institutions and organs in some Arab countries i.e.: Palestine and Libya with special focus on challenges and restrictions that prevent the United Nations from applying its mechanisms to protect children in armed conflicts.

## **3. Research Importance / Significance**

The research might benefit to explain the legal framework and institutional framework of United Nations Mechanisms and International Humanitarian Law on protecting children in armed conflicts. Moreover, illustrate the challenges and restrictions facing the United Nations Mechanisms and IHL application on protecting children in armed conflicts and suggest some recommendations on applying the protection of the children in armed conflicts upon the IHL, and IHRL (UN Mechanisms).

## **4. Research Scope Limitations**

The research scope is limited to the Mechanisms of protecting children in armed conflicts, by the United Nations through interviewing legal experts, Human rights officers, UN staff at the Arab Area mainly Palestine and Libya since 2011 till now.

## 5. Research Definition of Terms

This research depends on and adapts terms, such as "United Nations, mechanisms, protection, children, armed conflict, and International Humanitarian Law". In general, terms and concepts may have more than one meaning or different interpretations are given to them. Therefore, defining terms to suit the purpose of the research is crucial.

**United Nations (UN)**; it is defined based on the United Nations Organization as *“an international organization founded in 1945. Currently made up of 193 Member States, the UN and its work are guided by the purposes and principles contained in its founding Charter”*. It was established for maintaining peace and security as a main purpose of its mandates.”<sup>1</sup>

The term United Nations is clear as it was mentioned by the organization when it was established, and its objectives, tasks and purpose were identified, as it seeks to increase political and economic cooperation among its member countries, promote and protect human rights and reach to maintain peace and security. The UN has changed over time to keep up with a world that is changing quickly. But one thing hasn't changed: it continues to be the only place on earth where all nations may come together, talk about shared issues, and come up with solutions that benefit all of humanity.<sup>2</sup>

The term related to the United Nations since its inception is the **mechanisms** developed by the organization to protect human rights, and this term can be explained as the (conventions, treaties and covenants that give interpretation and protection of human rights). There are two types of **human rights monitoring mechanisms** within the United Nations system: treaty-based bodies and charter-based bodies; these mechanisms can be considered as part of International Human Rights Law.

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<sup>1</sup> United Nations, About Us. United Nations. Visited on: May 3, 2023, Available at: <https://www.un.org/en/about-us> (Accessed: May 7, 2023).

<sup>2</sup> Hayes, A. (2022) United Nations (UN): Definition, purpose, structure, and members, Investopedia. Investopedia. Available at: <https://www.investopedia.com/terms/u/united-nations-un.asp> (Accessed: May 7, 2023).

**The Rules of International Humanitarian Law** is considered to be the one concerned with issues of armed conflict, whose provisions are mentioned in the Geneva Conventions and the two protocols on the protection of children.<sup>1</sup>

The mechanisms used by the United Nations have the main objective of **promoting and protecting human rights**, and therefore it is necessary to address the clarification of the concept of **protection**. This concept has been defined by some international organizations as *"all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law"*.<sup>2</sup> Particularly International Humanitarian Law applicable in situations of armed conflict.

There is frequent resort to clarifying the concept of protection legally in times of conflicts and wars, because some groups need special protection, and that protection must be clear based on binding international standards and rules.

Among the categories that need this legal protection is the category of children, since they are the most vulnerable to violations, so the concept of the **child** had to be defined in order to be classified and protected by certain mechanisms different from the rest of the categories, and therefore the Committee on the Rights of the Child defined it in its first article as *"a human being who is below the age of 18 years"*.<sup>3</sup>

Accordingly, the majority of national laws define a child as a person under the age of 18. Therefore, the definition of a child according to the Convention depends on the age criterion.

In order for children to be protected, it is necessary to know the time when specific mechanisms must be put in place to protect them, and there is a lot of talk about times of armed conflict in which children are in grave danger, and therefore what is meant by **armed conflict** must be clarified, and it was defined according to Amnesty International as: *"means a situation in which*

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<sup>1</sup> Instruments & Mechanisms OHCHR. Visited on: May 3, 2023. Available at: <https://www.ohchr.org/en/instruments-and-mechanisms> (Accessed: May 7, 2023).

<sup>2</sup> UNHCR, the UN Refugee Agency, Visited on : May 4, 2023.. Available at: <http://www.UNHCR.org/> (Accessed: May 7, 2023).

<sup>3</sup> Lansdown, G., Vaghri, Z. (2022). Article 1: Definition of a Child. In: Vaghri, Z., Zermatten, J., Lansdown, G., Ruggiero, R. (eds) Monitoring State Compliance with the UN Convention on the Rights of the Child. Children's Well-Being: Indicators and Research, vol 25. Springer, Cham. Published on: January 3, 2022 [https://doi.org/10.1007/978-3-030-84647-3\\_40](https://doi.org/10.1007/978-3-030-84647-3_40),

*there is resort to armed force between States or protracted resort to armed force between governmental authorities and organized armed groups”.*<sup>1</sup>

The armed conflict was classified according to International Humanitarian Law into an **International Armed Conflict (IAC)** and a **Non-International Armed Conflict (NIAC)**.

The definition of an **IAC** is found in Article Two common to the four Geneva Conventions. It states that the rules of **IAC** apply to “*all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties*.” Thus, an **IAC** can only be between two or more States. Article Three common to the four Geneva Conventions a **NIAC is defined** in the negative, as “*an armed conflict not of an international character.*”<sup>2</sup>

In the event of any armed conflict, states are obligated to follow the rules of International Humanitarian Law, which set some controls to govern such conflicts. **International Humanitarian Law (commonly known as IHL)** “*is the legal framework applicable to situations of armed conflict and occupation. As a set of rules and principles it aims, for humanitarian reasons, to limit the effects of armed conflict.*”<sup>3</sup> **International Humanitarian Law** is also recognized as the “*law of war*” or “*the law of armed conflicts*”.<sup>4</sup> *International Humanitarian Law is applied according to the geographical, temporal and personal scope dimensions, where the place of application and the time period for application and who is protected.*<sup>5</sup>

**To sum up**, based on the clarification of those key concepts and terms on which the research is based, a clearer conception of how to address the problem; in order to guide the scope and vision of the direction on which the research will be based. Moreover, to eliminate the lack of

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<sup>1</sup>Amnesty International, (2022), Millions of people have their lives shattered by armed conflict every year. Available at: <https://www.amnesty.org/en/what-we-do/armed-conflict/> (Accessed: May 7, 2023).

<sup>2</sup>International Justice Resource Center ,(2018), International Humanitarian Law, Visited on: April 15 2023 , Available at: <https://ijrcenter.org/international-humanitarian-law/> (Accessed: May 7, 2023).

<sup>3</sup> Ibid

<sup>4</sup> Legal fact sheet - published on 6 April 2022. What is international humanitarian law? | International Committee of the Red Cross available at: (icrc.org).

<sup>5</sup> Marco Sassòli, 203 March, 2019, International Humanitarian Law : Rules, Controversies, and Solutions to Problems Arising in Warfare. 168. Chapter 6: Scope of Application: Available at:[https://searchworks.stanford.edu/articles/edselg\\_\\_edselg.9781786438546.ch06](https://searchworks.stanford.edu/articles/edselg__edselg.9781786438546.ch06) (Accessed: May 7, 2023).

clarity in some definitions. In addition to minimizing the level of misconception or misunderstanding.

## **6. Literature Review**

Reviewing, summarizing, discussing, and commenting on the previous Arabic, and international research studies as a literature review that touches on discussing and addressing a topic of global importance, which is the mechanisms used by the United Nations to protect children as one of the most vulnerable groups during times of armed conflict. The fact that these mechanisms and methods stipulated in International Law, especially International Human Rights Law, and International Humanitarian Law, are so important and crucial, but still insufficient to achieve the required protection for children in times of armed conflict. Whereas these studies are diverse and different in posing this problem.

These mechanisms and their shortcomings in protecting human rights with different methodologies and explained in n this review of the literature, where the focus is placed on three main headings: the role of the United Nations in the promotion and protection of human rights, the mechanisms of International Human Rights Law and International Humanitarian Law to protect children, and the shortcomings and challenges facing international mechanisms in protecting children in times of armed conflict. The main objective is to find the best methodology and suitable and applicable solutions to the problem of ineffective application of protection mechanisms for children during armed conflicts, especially in the Arab countries.

## **6.1- United Nations Mechanisms Role of Promotion and Protection of Human Rights:**

Studies have shown that human rights is an important issue for the United Nations, but many countries do not respect them. The Security Council has been tasked with protecting and promoting these rights, but there is a study<sup>1</sup> confirming that attempts at international intervention and the principle of sovereignty and non-interference remain major obstacles to its application.

This study that discusses<sup>2</sup> and shows the active role of the Security Council in performing its duties by implementing resolutions to seek resolution of disputes, including negotiation, investigation, mediation, conciliation, arbitration, judicial settlement or any other peaceful matter. The most important mechanism of the UN Security Council is the veto mechanism, which is revoked by any of the five permanent members by a majority vote. The Security Council has been seen to lead to decisive results in some cases, such as the establishment of an independent Libya, guardianship over Somalia, and the annexation of Eritrea to liberated Ethiopia.

There is also a study<sup>3</sup> proved that the United Nations mechanisms for the protection of children were mentioned in the treaty bodies, especially the Convention on the Rights of the Child, as well as the special rapporteurs and the universal periodic review. The study considered these mechanisms to explain the most important methods that must be followed in order to preserve human rights.

Another study confirms<sup>4</sup> that there is a set of institutional mechanisms that grant the necessary protection to the category of children during Armed conflict such as: General Assembly, Security Council and UNICEF.

Another study explains<sup>5</sup> the role of the sub-committees of the United Nations in providing support and assistance with a political vision for some countries and the intervention of the United

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<sup>1</sup> John Trent and Laura Schnurr, 2017: A United Nations Renaissance: Promoting and Protecting Human Rights, published by Verlag Barbara Budrich.

<sup>2</sup> Ibid

<sup>3</sup> Malik Qasim Mustafa, 2003, UNITED NATIONS SECURITY COUNCIL: CURRENT CHALLENGES AND IMPLICATIONS, Source: Strategic Studies, Autumn, Vol. 23, No. 3 (Autumn 2003), pp. 125-154 Published by: Institute of Strategic Studies Islamabad.

<sup>4</sup> Zeravan Ameen, Institutional mechanisms of the United Nations to protect children in armed conflict, University of Duhok- College of Humanities. Published by: Abdullah. Teacher KRI.

<sup>5</sup> Renata Segura and Delphine Mechoulan. (2017), International Peace Institute, Report Part Title: The Role of the United Nations, Report Title: Made in Havana: Report Subtitle: How Colombia and the FARC Decided to End the War Report.

Nations in some countries through its role in the peace process. The study focused on the intervention of the United Nations in the Colombian government, which aroused the dissatisfaction of this government, as the participation of the United Nations works to reduce the size of the Colombian armed forces and dismantle them. These reservations have increased because governments believe that UN intervention takes the form of monitoring their actions and violations.

These studies concluded that the protection and respect of human rights cannot be effective without giving sovereign states importance to this issue and applying mechanisms that help in the promotion and protection of human rights. The international security agenda that the United Nations needs to deal with issues must be considered to make the Security Council more effective.

### **6.2- International Human Rights Law and International Humanitarian Law Rules in Protecting Children During Armed Conflict:**

Some studies focused on analyzing the rules of International Humanitarian Law and International Human Rights Law that emphasize the legal protection of children. As it raised controversy about the extent of the commitment of the parties to armed conflicts related to hostilities, and the status of children subject to these parties.

A study showed<sup>1</sup> that the law restricts the means and methods of war as stipulated in **Article III of the four Geneva Conventions.**

Another study confirms<sup>2</sup> that there are two levels of protection for children during armed conflict. The first level is provided in **the Additional Protocols of 1977** and **the Convention on the Rights of the Child**, which set the minimum age for recruitment and participation in hostilities at 15 years. The second level is provided for in **the Optional Protocol to the Convention on the Rights of the Child** on the involvement of children in armed conflict.

Another study confirmed<sup>3</sup> this, as it discussed the prohibition of recruitment and the participation of children in hostilities and the determination of the legal age for children during

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<sup>1</sup> Sylvain Vite, (2011), Protecting Children during Armed Conflict: International Humanitarian Law, 5 Hum. Rts. & Int'l Legal Discourse 14 .

<sup>2</sup> Rathore, S.C. (2020) Introductory remarks on the protection of children in armed conflict, Humanitäres Völkerrecht. BiblioScout. Available at: <https://biblioscout.net/article/99.140005/huv202003018301> (Accessed: May 7, 2023).

<sup>3</sup> Owiso Owiso, 2020, International Law and the Protection of Children Associated with Armed Forces and Armed Groups Source: Humanitäres Völkerrecht: Journal of International Law of Peace and Armed Conflict,, Vol. 3, No.

their participation in the parties to the conflict. Also touched on the **Paris Principles in Article 24**, which recognizes responsibility for the welfare and basic rights of children associated with armed forces or armed groups, and also touched on cases that were referred to the criminal court and how to deal with those cases. By the Court to secure a protective environment for children, given that the Paris Principles are a non-binding instrument.

Thus, these studies only discussed the principle of prohibiting recruitment and determining the legal age, and some found that the Child Convention in the article 38 did not add anything to what was stated in International Humanitarian Law regarding the legal age for the participation of children in hostilities, but it reformulated what did not address their protection effectively.

Nevertheless, the rules of International Human Rights Law and International Humanitarian Law must be complied with, as they are the most appropriate for the protection of children during armed conflicts.

### **6.3- Challenges and Gaps:**

There is a group of studies discussing the challenges, obstacles, and gaps that impede and restrict the work and implementation of the United Nations mechanisms to protect children during the armed conflict. There is a study<sup>1</sup> focused on the security crises which showed the operational and political policies of the United Nations as a challenge, such as the escalation of Israeli forces and violence against the Palestinians, Taliban control of Afghanistan and others. Also, the study clarified the role of the Security Council in dealing with these cases, but the main conflict management tools of the United Nations such as mediation and peacekeeping are no longer relevant to reduce these conflicts, and all the methods used by the United Nations are not sufficient to address the causes radically and boldly.

A study confirms<sup>2</sup> that in some cases, such as the conflicts occurring in Libya and Yemen, the use of some political dynamics may create instability, so the Security Council can take bold measures to intervene in order to reduce this challenge.

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3/4, THEMENSCHWERPUNKT: The Child in International Law (2020), pp. 248-260 Published by: Berliner Wissenschafts-Verlag Stable URL: <https://www.jstor.org/stable/10.2307/48636468>.

<sup>1</sup> International Crisis Group International Crisis Group (2021) , Ten Challenges for the UN in 2021-2022.

<sup>2</sup> *Ibid*

There is a study<sup>1</sup> focused on gaps in United Nations mechanisms and their implementation in armed conflicts, especially those mechanisms and methods related to international health policy and with regard to children and their right to health. The large gap in coordination between humanitarian and health actors reduces access to proper services.

The study also confirmed that there is a greater challenge facing the United Nations in implementing its methods in times of armed conflict, which is the presence of misleading information that leads to the threat of conflict and the disruption of human relations, such as cases in Libya, Syria and others.

The study concluded that in order to reduce these challenges, the United Nations must remain alert to political and social changes in some countries where conflict abounds in order for there to be realism in application. And for there to be an easing of geopolitical tensions that help ignite conflicts, and this is what happened in most of the Arab Spring revolutions.

In conclusion and based on a review of the studies which discussed the issue of the effectiveness of the United Nations mechanisms in protecting children during times of armed conflicts, and to identify the most important challenges impede in the effective implementation of these mechanisms, whether within International Human Rights Law or within International Human Rights Law concerned with identifying norms and standards of armed conflicts.

It was found through the review that there is a shortcoming in the application of the rules of law and that those studies did not reach to identify solutions which could work to reach effective protection on the ground, and therefore this study focuses on finding the extent of the interdependence between International Human Rights Law and International Humanitarian Law and their integration to reach to the best use and application of international mechanisms for the protection of children during armed conflicts.

## **7. Research Methodology**

This research is conducted by using the qualitative research method. It has been proven that the qualitative approach is the best method used in investigating legal, social, economic and

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<sup>1</sup> Alice Debarre , International Peace Institute (2018), Gaps in International Health Policy and Its Implementation in Armed Conflict, Report Title: Hard to Reach: Report Subtitle: Providing Healthcare in Armed Conflict Report.

political phenomena. Multiple in focus, this style includes an interpretive and naturalistic approach to the subject matter.<sup>1</sup>

This is commensurate with the study of the effectiveness of the mechanisms applied by the United Nations and how this protects the rights of children during armed conflicts, especially through the application of the rules of International Human Rights Law and International Humanitarian Law, and how both can be complementary to the other in order to reach the best application of protection on the ground.

As a descriptive and analytical approach and focusing on the use of a IRAC methodology (Legal Problem Solving), it aims to describe, interpret and explain the reality and facts surrounding the subject of the research by reviewing some issues related to Palestine and Libya as they are among the countries in which armed conflicts occur most and the application of protection mechanisms in them is somewhat complicated given the difficult circumstances of those Countries.

To address the problem of this research, data was collected through various tools, such as: document review, key informant interviews using semi-structured interviews,<sup>2</sup> and analyzing the data based on rules of law and summarizing the findings with the resulting recommendations.

The research relied on conducting interviews with experts<sup>3</sup> from several fields related to the work of the United Nations system and its mechanisms for the protection of children in armed conflict to understand the practical reality of these mechanisms. The interviewees were chosen according to their knowledge, experience from different perspectives from child rights experts, civil society activists, UN officers and legal experts.

Analysis of the interviews based on human rights approach in order to identify the triangulation of the study and analyze themes of the research in order to reach potential results and the possibility of addressing the problem and protecting human rights in armed conflict areas.

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<sup>1</sup> Denzin, N.K. and Lincoln, Y.S. (2005) introduce the discipline and practice of qualitative research. Handbook of Qualitative Research, 3rd edition, sage, Thousand Oaks, 1-32. - references - scientific research publishing. Available at: [https://www.scirp.org/\(S\(lz5mqp453edsnp55rrgjt55\)\)/reference/ReferencesPapers.aspx?ReferenceID=1876113](https://www.scirp.org/(S(lz5mqp453edsnp55rrgjt55))/reference/ReferencesPapers.aspx?ReferenceID=1876113) (Accessed: May 7, 2023).

<sup>2</sup> Annex 1

<sup>3</sup> Annex 2

## 8. Research Structure

The research consists, in addition to the introduction, of two chapters as follows:

1. **Introduction:** illustrates the general framework of the research which consists of: the research problem (statement & questions), the research objectives, the research importance \ significance, the research scope limitations, the research definition of terms, literature review, the research methodology, the research structure.
2. **Chapter One:** the legal framework of protecting children in armed conflicts: Provide context of texts and International Conventions with focus on (IHL rules), the application of conventions in Palestine and Libya, and the challenges faced IHL rules and Conventions.
3. **Chapter Two:** Institutional Framework: UN Institutions, organs and structures on protecting children in armed conflicts which illustrate the main mechanisms of the United Nations of protection and review its roles / Application (Cases) - including legal, political and security challenges facing the application of the UN Mechanisms, in addition to incorporation between IHL rules and UN Mechanisms.
4. **Conclusion and recommendations:** cover the main findings and suggested recommendations.

Based on the above, and what children face in terms of violations of their basic rights in armed conflicts and their abundance in Arab countries, and despite the attempts of United Nations mechanisms to protect this category, it may not be realistic enough, as these mechanisms may face a problem between what it supposed to provide verses the reality of its practice on the ground. In addition, International Humanitarian Law is responsible for protection during armed conflicts, whether international or non-international, but its application may face challenges that may limit the effective protection of children. In this study, the focus is placed on discussing United Nations institutions, organs and structures in terms of roles, application, and challenges, as well as International Humanitarian Law in terms of its conventions and rules, and how International Humanitarian Law can be complementary and supportive of United Nations mechanisms.

# Chapter I: The Legal Framework: The International Humanitarian Law Rules and International Conventions on Protecting Children in Armed Conflicts

Wars and armed conflicts exacerbate over time, negatively affect human beings and nature, and destroy civilizations and societies. Dramatically increase with the massive, rapid development and brutal use of weapons. Arab world countries are no exception, if not more as a volatile or continued conflict area. In the current era, Palestine and Libya could be considered as genuine illustrative examples in the Middle East and North Africa.

There was a great interest by the international community to establish rules that control situations of armed conflicts in order to preserve individuals, especially children, as the group most vulnerable to violation at the time of conflict. Given that the participation of children in armed conflicts is one of the most dangerous phenomena that raises concern, there is an urgent need for the existence of international law that regulates the rules of armed conflict and guarantees the protection of civilians in general and children in particular.<sup>1</sup>

So, International Human Rights law and International humanitarian law were established as one of the branches of international law. The legal framework of IHRL has been established with the adoption of the International Bill of Human Rights, which is formed from the Universal Declaration of Human Rights and the two International Covenants, and they have been a source of inspiration for the rest of the international instruments and treaties that orientate the work of the United Nations. IHL is considered the law of war, it specializes in mitigating the effects of conflicts, ensuring the preservation of human rights, protecting children from the consequences of wars, or protecting their participation in armed conflicts, or protecting them in all circumstances that result in disputes, whether they are international or non-international.<sup>2</sup>

In this regard, Mrs. (Ibtisam Zaqout), Director of the Field Research Unit at the Palestinian Center for Human Rights in Palestine, said, "*Human rights are guaranteed by legal texts and international treaties, which guarantees respect and protection for those rights. The existence of*

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<sup>1</sup> العقيد أحمد الأنور، 29، يناير 1993 - حماية ضحايا الحرب بين الشريعة والقانون الدولي الإنساني، المجلة الدولية للصليب الأحمر السنة السادسة، ص 12.

<sup>2</sup> 38. د. عبد العليم محمد، 2004/3/5 دور الإعلام في التعريف بالقانون الدولي، جريدة الأهرام المصرية، الجمعة، ، ص 2

*a legal framework, even if states do not abide by it, constitutes a strength for the protection of human rights."*

With the increase in cases of international and non-international armed conflicts in the Arab countries, especially after **2011** due to the Arab revolutions and internal divisions or because of the occupation, children became in danger, especially in countries such as Libya and Palestine.

International humanitarian law and International Human Rights law protect the lives and dignity of these children affected by armed conflict, but states don't respect and apply these rules. The protection provided by laws depends on multiple standards and legal classifications, whether in terms of objectivity, personal, spatial, or temporal.

The exact protection provided by international humanitarian law depends on the classification of a conflict as international or non-international, the classification of the person affected as a civilian or combatant.<sup>1</sup>

In order to show how to protect children affected by armed conflict and all the conditions resulting from it within International Conventions and the extent of the effectiveness of its application in reality and its compatibility with other United Nations institutions and structures, the most important rules and principles of international humanitarian law, which protect civilians, especially children, addressed through a review of the most important conventions which related to the protection of children, such as the four Geneva Conventions 1949 and the Additional Protocols of 1977m in addition to the International Convention on the Rights of Child and the Optional Protocol of involvement Children in Armed Conflicts. The actual application of these rules and conventions dealt with in specific cases such as the case of Palestine and the case of Libya after the 2011 revolution, in addition to mentioning the challenges that prevent the actual implementation of these conventions and rules.

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<sup>1</sup> Marco Sassòli, 203 March, 2019, International Humanitarian Law : Rules, Controversies, and Solutions to Problems Arising in Warfare. 168. Chapter 1: Introduction, Available at: available at: (elgaronline.com) (Accessed: May 7, 2023).

## **Section One: The International Core Conventions on Protecting Children in Armed Conflict - Rule of Law**

Conventions, treaties, and customary international law are the main sources of the rules and regulations of international law, those rules that set limits to aggression against civilians, obliging the contracting parties that ratify the treaty to take appropriate measures that make civilians immune from being affected by armed conflicts, provided that this is binding on those Countries.

### **A. International Humanitarian Law (IHL) Conventions**

Many of the rules and principles of international humanitarian law seek to limit the effects of armed conflict, and it aims through its rules to maintain a sense of humanity in times of war or conflict in order to ensure protection, whether for participants in armed conflict, citizens of states, or non-citizens.

The most important and basic rules of international humanitarian law in general are to respect the life and safety of persons unable to participate in hostilities and to ensure their protection and humane treatment without discrimination. As well as that, every individual has the right to benefit from basic judicial guarantees that no person shall be subjected to physical, mental or torture corporal punishment or cruel or degrading treatment. In addition, ensuring the protection of medical personnel and institutions that provide humanitarian assistance to children and ensuring their access to relief.<sup>1</sup> Also, parties to a conflict must distinguish at all times between the civilian population and combatants in order to spare the civilian population and property. The civilian population as such, or individual civilians, shall not be the object of attack. Attacks must be directed only against military objectives.<sup>2</sup> This was stated by Mr. (Bassam Aisha), an independent expert on children's rights, "*Commitment to the principle of distinguishing between military targets and civilian targets by the conflicting parties is the first step to providing effective protection.*"

The rules of international humanitarian law and their development with the passage of time and the multiplicity of events are expressed as the realistic legal framework in order to find a balance between humanitarian and military considerations, as well as protection, whether general

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<sup>1</sup> الدكتور فضيل طلافحة - 2010 - حماية الأطفال في القانون الدولي الإنساني- المؤتمر الدولي - حقوق الطفل من منظور تربوي وقانوني جامعة الاسراء الاردن

<sup>2</sup> Cambridge University Press, 2005, Online Version of ICRC's on Customary International Humanitarian Law, with Scope Notes U.S. National Library of Medicine. available at : Customary IHL - IHL Databases - ICRC.

or special protection, given that protection is the guarantees that guarantee respect for human rights in times of armed conflict.<sup>1</sup>

In this part, reference is made to the provisions of international humanitarian law which apply specifically to children and the provisions that relate indirectly to them in order to define special protection for children, in addition to general protection for civilians. By reviewing and analyzing the third and fourth Geneva Conventions 1949 and Protocol I relating to international armed conflicts, and Protocol II 1977 relating to non-international armed conflicts.

## **1. Geneva Conventions 1949**

The Geneva Conventions and its Additional Protocols are the core of international humanitarian law that regulate and strive to mitigate the effects of armed conflict. However, none of these treaties or protocols is specifically dedicated to the protection of children, though their provisions often implicitly protect children as non-combatants or civilians.<sup>2</sup>

The Geneva Conventions are treaties related to the treatment of Persons who do not participate in the hostilities (civilians, medics and relief workers) as well as persons who are no longer able to fight (prisoners of war, wounded, sick and shipwrecked). The conventions regulate the conduct of armed conflict and limit the brutality and effects of war in a way that guarantees a minimum level of protection and respect for individuals who become victims.<sup>3</sup>

The rules of the Geneva Conventions relating to the protection of children are set in the Third and Fourth Conventions. The provisions of these two agreements apply to international armed conflicts, which erupt in an armed conflict between one or more countries against another country.<sup>4</sup>

### **1.1. The Third Geneva Convention**

It is known as the "Geneva Convention Relative to the Treatment of Prisoners of War," and is primarily focused on the rights and treatment of prisoners of war (**POWs**). It contains 143 articles, concerned with the situation of prisoners of war, determining the places of captivity and the relief they receive. The agreement also stipulates the principle of releasing prisoners of war

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<sup>1</sup> Basic Rules of the Geneva Conventions and their Additional Protocols, available at: [Geneva Conventions \(bettercarenetwork.org\)](http://www.bettercarenetwork.org).

<sup>2</sup> *Ibid.*

<sup>3</sup> Garg, R. (2021) All about the Geneva Convention, iPleaders, available at: All about the Geneva Convention - iPleaders.

<sup>4</sup> *Ibid.*

and returning them to their home countries without delay after the cessation of hostilities. It contains provisions about humane treatment, rights to fair trial, and the conditions of detainment for POWs. It does not specifically address the protection of children, there are provisions within the Convention that indirectly safeguard the well-being of children who may be affected by armed conflict. This is based on the convention signed in August 1949 with the intention of revising the convention signed in 1929, these provisions evident in Articles 13, 15, 16 and 49.<sup>1</sup>

By reviewing **Article 13** and understanding its content, which emphasizes the humane treatment of prisoners at all times and their protection, as well as **Article 15**, which refers to the detaining country's commitment to prisoners of war to the need to provide medical care that guarantees their health condition. While, **Article 16** prohibits all forms of discrimination against prisoners of war on the basis of race, nationality, or any other criterion. The right to appropriate work for prisoners of war, taking into account their age, rank, and physical ability, was guaranteed in **Article 49**. Thus, it is clear that the Convention implicitly included children to protect them, preserve their physical and moral health, and not expose them to any violation, as well as guaranteeing their humane treatment and not exposing them to any discrimination.

These provisions mean that steps must be taken to protect vulnerable individuals, including children, from physical and psychological harm as prisoners.<sup>2</sup>

## **1.2. The Fourth Geneva Convention: Convention IV of 12 August 1949)**

It is an international treaty adopted in 1949, designed to protect civilians in times of armed conflict. It contains 159 articles related to a specific system for the treatment of civilian detainees. Although the agreement generally mentions the protection of civilians, it specifically includes children in some articles and provisions:<sup>3</sup>

Whereas, **Article 14** sets out the principle that children should receive the same humanitarian protection as adults and be provided with the necessary care and assistance. And it states that “the High Contracting Parties may, in time of peace, and the parties to the conflict after the outbreak of hostilities, establish in their lands, or in occupied lands if the need arises, safe and

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<sup>1</sup> Ibid.

<sup>2</sup> Geneva Convention relative to the Treatment of Prisoners of War (Convention III of 12 August 1949), articles 13, 15, 16, 49.

<sup>3</sup> Geneva Convention relative to the protection of civilian persons in time of war (Convention IV of 12 August 1949).

hospital areas and sites to be organized in such areas”.<sup>1</sup> The article also included the protection of the wounded, the sick, the infirm, the elderly, children under fifteen, pregnant women, and mothers of children under seven years of age. This refers to providing full protection from a health point of view for children and their mothers. This interferes with **Article 24**, which guarantees respect for the family unit and obliges the parties to the conflict to take the necessary measures to facilitate the reunification of families, especially those separated as a result of armed conflicts. This in itself is a strong protection for children, since their presence within their families prevents the violation of their rights.

The Convention included the protection of the right to education for children during armed conflict by stating that the parties must take the necessary measures to ensure that children under the age of fifteen who have been orphaned or separated from their families because of the war are not neglected, and that they are facilitated in all circumstances, in the practice of their religion, and in their education. In addition to taking the necessary measures to ensure that the identity of all children under the age of twelve can be verified, by carrying an identification plate or by any other means. This corresponds to **article 50** which calls for special protection and care for children who have been orphaned or separated from their families as a result of armed conflict. It stipulated that the occupying state, together with the local authorities, guarantee care and education for children, verify the identity of children about whom there is suspicion, and that no measures that are obligated to protect these children should not be disrupted. Likewise, **Article 38: (5)** included facilitating all preferential treatment for children under fifteen years of age, pregnant women and mothers of children under seven years of age.<sup>2</sup>

The protection provided by these articles is only a guarantee of the basic rights of children in conflict areas.

### **1.3. Common Article 3 of the Four Geneva Conventions**

While the Geneva Conventions are concerned with international armed conflicts, this common article was formed to consider non-international armed conflicts as including civil wars and internal conflicts. The common article defines the basic rules of the Geneva Conventions and makes them applicable to non-international conflicts.

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<sup>1</sup> Geneva Convention relative to the protection of civilian persons in time of war (Convention IV of 12 August 1949, article 14.

<sup>2</sup> Geneva Convention relative to the protection of civilian persons in time of war (Convention IV of 12 August 1949- articles 38, paragraph 5 and article 50.

The article provides for the humane treatment of all persons in the hands of the enemy and prohibits all hostile acts such as killing, maiming, torture, and cruel and degrading treatment.<sup>1</sup>

## **2. The Additional Protocols to the Geneva Conventions 1977**

After the adoption of the four Geneva Conventions and their entry into force, there are many conflicts that broke out in the world, especially in the Middle East, and most of them are non-international armed conflicts. As a result, and in order to enhance the protection of victims and ensure respect for their rights, two Additional Protocols to the four Geneva Conventions of 1949 were adopted in 1977. (Protocol I) for international armed conflicts and (Protocol II) which is considered to be the first treaty devoted to non-international armed conflicts and both protocols set limits for wars.<sup>2</sup>

### **2.1. Additional Protocol to the Geneva Conventions of 12 August 1949, Relating to the Protection of Victims of International Armed Conflicts (Protocol I) 1977**

The Additional Protocol I to the Geneva Conventions of 1977 is an international treaty that aims to enhance the protection of victims of international armed conflicts, and it entered into force in 1979. It contains 95 articles that provides the application of the instruments and rules of international humanitarian law that protect persons, as it stipulates in particular in the first chapter of third section that children are protected and not subjected to any form of violation of their rights, whether in terms of care and assistance or for their participation in hostilities and the provision of necessary resources to facilitate the exercise of their rights, whether to work or education, or to take all necessary steps to facilitate the return of children to their families and country after the end of the armed conflict.<sup>3</sup>

It also includes provisions that indirectly protect children as a vulnerable group. Among the articles which contribute to the protection of children during international armed conflicts, such as **48, 52, 70, 74-78**.<sup>4</sup>

These provisions include a basic rule to ensure respect and protection of the civilian population and civilian objects, including children, by distinguishing between civilian and military

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<sup>1</sup> Cuker A;Arepally GM;Chong BH;Cines DB;Greinacher A;Gruel Y;Linkins LA;Rodner SB;Selleng S;Warkentin TE;Wex A;Mustafa RA;Morgan RL;Santesso N; (2018) American Society of Hematology Guidelines for management of venous thromboembolism: Heparin-induced thrombocytopenia, Blood advances. Available at: [Geneva Conventions and their additional protocols | Wex | US Law | LII / Legal Information Institute \(cornell.edu\)](#).

<sup>2</sup> Protocol III of Geneva Conventions , 2015.

<sup>3</sup> Basic Rules of the Geneva Conventions and their Additional Protocols, available at: [Geneva Conventions \(bettercarenetwork.org\)](#).

<sup>4</sup> Additional Protocol I, Protection of Victims of International Armed Conflicts 1977.

and between civilian objects and military objectives, where Mr. Aisha confirmed that “*The conflict parties are obligated to achieve their objectives away from civilians,*” where operations must be directed only against military objectives and the principle of proportionality and necessity, and this is also referred to **Articles 48 and 52**, whereby civilian objects may not be subject to attack or deterrence attacks. When in doubt, the schools are assumed to be civilian targets. Thus, children are implicitly protected through these articles.<sup>1</sup>

In addition, relief work must be of a neutral civilian nature and with the consent of the concerned parties, according to **Article 70** and when distributing humanitarian aid to the civilian population, priority is given, among other categories, to children, pregnant women, maternity cases, and nursing mothers.

The provisions of **Articles 74-76** include taking into account all circumstances for pregnant mothers and mothers of young children, since such treatment affects their children, which guarantees their protection and not exposing them to abuse.

In order to protect the right to education and health for children, especially since they are the most vulnerable to violation during armed conflict, Mr. (Hani Nassar), field research officer in the northern West Bank, Palestine, stated that “*protecting children during armed conflicts is represented in protecting all their rights, but the focus in international agreements centered on recruitment and the right to education and health.*”, by targeting schools and hospitals, the protocol includes provisions referring to the protection of children and the provision of health care and necessary assistance to ensure their physical and mental integrity, whether because of their age or for any other reason, and this is indicated to it in **Article 77 in Paragraph 1**. Also, children are always at risk of being recruited by the parties to the conflict in the event of their arrest, and this is what the Protocol provided for in protecting children through **Article 77 in Paragraph 2**, which called on the parties to the conflict to take all necessary measures to prevent children from participating in hostilities, and prohibiting the recruitment and use of children under the age of fifteen in armed conflicts, the protocol also provides protection for children who are being recruited by providing special protection, as the parties to the conflict must, when recruiting persons who have reached the age of fifteen years and have not reached the age of eighteen, seek to give priority to those who are older.

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<sup>1</sup> Additional Protocol I, Protection of Victims of International Armed Conflicts (Protocol I) 1977: article 48. article 52.

Children in armed conflicts are vulnerable to detention, and this is what the protocol called for to provide for their protection by placing children in places separate from places of detention for adults, with the exception of cases of family members living together. This is in accordance with the Third and Fourth Geneva Conventions that the real protection of children lies in reunification with their families and not being separated from them.

Moreover, the protection of the right to life is one of the most important matters that the Protocol seeks to protect children, as it is mentioned in **Article 77 in Paragraph 4** that the death penalty may not be carried out for a crime related to the armed conflict on someone who did not reach the age of 18 at the time of the crime.

In the event of the evacuation of children, the necessary arrangements must be made for the evacuation of children - who are not their nationals - to a foreign country, unless the evacuation is temporary and necessary for reasons of force majeure related to the health or safety of the child, according to **Article 78**. In this case, the written consent of the children's parents or legal guardians is required. In addition, the parties to the conflict must pay attention to facilitating appropriate education for children, taking into consideration their special needs and cultural backgrounds. It should also facilitate the return of the evacuated children to their families and countries of origin, the relevant authorities prepare a complete card for each child and send it to the ICRC Central Tracing Agency.

These articles reflect, among others, the international community's recognition of the vulnerability of children during armed conflict and the need to provide them with special protection, care and support.<sup>1</sup>

## **2.2. Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non- International Armed Conflicts (Protocol II) 1977**

Additional Protocol II of the Geneva Conventions, adopted in 1977, relates to the protection of victims of non-international armed conflicts. This protocol came as a response to the large number of internal armed conflicts. Its aim was to affirm Article 3 common to the Geneva Conventions of 1949, in order to ensure better protection for the victims of these conflicts. It contains provisions that afford protection to all civilians, including children, who are affected by such conflicts. The protocol seeks to minimize the suffering and protect the rights of civilians who

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<sup>1</sup> International Committee of the Red Cross, Geneva, 1989 Revised and updated edition, 2005 , Rules of International Humanitarian law and other relating to the conduct of hostilities collection, Page 28, available at : Rules of International Humanitarian Law and other rules relating to the conduct of hostilities (icrc.org).

find themselves in the midst of non-international armed conflicts. It does not apply to internal conflicts represented by riots and incidental acts of violence.

The protocol includes some key provisions that indirectly contribute to the protection of children, such as **Article 4, 5, 6, 13, 14**.<sup>1</sup>

According to **Article 4**, which includes basic guarantees of care and assistance for children, especially that they receive an appropriate education, the parties to the conflict are required to facilitate the proper functioning of educational institutions. as well as taking appropriate steps to facilitate family reunification, and not to recruit children under the age of fifteen into armed forces or armed groups, nor to allow them to participate in hostilities; This special protection for children even if they do not take part in hostilities.

In addition, the protocol guarantees humane treatment and the protection of civilians, including children, from torture, cruel treatment and other forms of inhuman treatment or punishment. and protection of civilian facilities. It is forbidden to attack, destroy, remove or make things indispensable to the survival of the civilian population such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations, supplies and irrigation works, (**Articles 13, 14**). Furthermore, the death penalty may not be imposed on persons who were under eighteen years of age at the time of the offense (**Article 6**).

In addition to that Protocol **II** prohibits rape, sexual slavery, enforced prostitution, and any other form of sexual violence against civilians, including children.<sup>2</sup>

It is noted that the provisions of the Geneva Conventions and the two Protocols with regard to the protection of children during armed conflict are interrelated with each other, Mrs. Zaqout and Mr. Aisha stressed that *"the international conventions concerned with the protection of children in armed conflict are consistent and sufficient and have come gradually in order to provide all aspects"*, as most of them relate to the right to education, health care, physical safety, protection from torture, putting an end to the death penalty, facilitating matters of family reunification, and providing the necessary measures at a time of detention, prohibition to be recruited into hostilities. Hence, it becomes clear that these provisions are strong and clear and

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<sup>1</sup> Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non- International Armed Conflicts (Protocol II) 1977, articles 4, 5,6,13,15.

<sup>2</sup> International Committee of the Red Cross, Geneva, 1989 Revised and updated edition, 2005 , Rules of International Humanitarian law and other relating to the conduct of hostilities collection, Page 41, available at : Rules of International Humanitarian Law and other rules relating to the conduct of hostilities (icrc.org).

obligate the parties to the conflict to provide the possible degree of protection, but they lack specialization in directing direct protection to children and imposing a penalty on those who violate these articles.

The adoption of the two Additional Protocols reflects all contemporary developments in armed conflicts, especially the participation of children in hostilities, especially as mentioned above in **Article 77 (2)** of the first Additional Protocol on legalizing the recruitment of children so that those who have not reached the age of fifteen do not participate, as well as **Article 4 (3) (c)** of Additional **Protocol II**, which affirms that care must be provided to children, in particular those who have not attained the age of fifteen, and that they may not be recruited. In this, **Protocol I** and **Protocol II** signal a change of heart from the post-World War II position that viewed the recruitment and participation of children as a domestic privilege to one converging around the idea of regulating international law.<sup>1</sup>

## **B. Specific Texts and Conventions on Protecting Children in Armed Conflicts**

The protection of children in armed conflicts is of concern to the international community in light of the continuing violations of their basic rights. International organizations concerned with the promotion and protection of human rights have sought to draw up agreements and treaties that would provide the possible measure of protection for children in conflict areas, and preserve their rights from violation and loss. Therefore, in addition to the conventions of international humanitarian law, there are some conventions established by the United Nations system to complement and emphasize the importance of protecting children in armed conflict.

### **1. Convention on the Rights of the Child: 20 November 1989 - Provisions of Child Protection in Armed Conflict**

The convention included all types of protection required for children, whether in times of peace or war. There was a priority in all subjects to provide the necessary protection and care to maintain the health of the child psychologically and physically. The United Nations Convention on the Rights of the Child (CRC) sets out basic rights for children of all abilities. Mr. Aisha stressed that *"there are many conventions and treaties that protect children, but the International Convention on the Rights of the Child of the United Nations is the most specialized, but it does not*

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<sup>1</sup> Owiso Owiso, 2020, International Law and the Protection of Children Associated with Armed Forces and Armed Groups Source: Humanitäres Völkerrecht: Journal of International Law of Peace and Armed Conflict., Vol. 3, No. 3/4, THEMENSCHWERPUNKT: The Child in International Law (2020), pp. 248-260 Published by: Berliner Wissenschafts-Verlag Stable URL: <https://www.jstor.org/stable/10.2307/48636468>.

*include many provisions related to armed conflict.*" The basic principles of the Convention are non-discrimination, fidelity to the best interests of the child, the right to life, survival and development, and protection from harm and exploitation. Special attention was paid to children and armed conflicts, and special protection was provided for them in several articles included in the Convention, whether directly or indirectly.

The survival and development of the child, was guaranteed in **Article 6**, which stipulates that every child has an inherent right to life, and the states parties must It guarantees his growth and survival, and this came from the principle that the child in times of armed conflict is exposed to danger and may be exposed to the loss of his life, and therefore this provision deals with the protection of the child in times of armed conflict indirectly, and this is also confirmed by the Convention in **Article 19** related to the protection of children from all forms of Physical or mental violence, injury, abuse, neglect, ill-treatment or exploitation, and these actions may be exposed to the child in armed conflicts and his rights may be completely violated.<sup>1</sup>

This article allocates obligatory states parties to protect the child and not expose him to these acts, especially in armed conflicts. Moreover, **Article 9** refers to the protection of the child in the event of separation from his parents, which usually happens during international and non-international armed conflicts, and they are removed from their families, which exposes them to great danger. A child may not be separated from his parents against their will unless it is in the best interest of the child. This includes a special provision to indirectly protect children during armed conflicts.<sup>2</sup>

There are some articles that explicitly refer to protecting children in times of armed conflict from providing protection and humanitarian assistance, and this is what was stipulated in **Article 38**, which deals specifically with children in armed conflicts and calls for respect for international humanitarian law applicable to armed children and ensuring that they do not participate in hostilities, especially For those immediately below the age of fifteen, all possible measures must be taken to protect, guarantee and care for children affected by armed conflict.

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<sup>1</sup> The Convention on the Rights of the Child, 1989, article 19.

<sup>2</sup> Owiso Owiso, 2020, International Law and the Protection of Children Associated with Armed Forces and Armed Groups Source: Humanitäres Völkerrecht: Journal of International Law of Peace and Armed Conflict., Vol. 3, No. 3/4, THEMENSCHWERPUNKT: The Child in International Law (2020), pp. 248-260 Published by: Berliner Wissenschafts-Verlag Stable URL: <https://www.jstor.org/stable/10.2307/48636468>.

Armed conflicts have dire effects on children, affecting all their rights, and from this standpoint, the Convention stressed in **Article 39** the rehabilitation of child victims, since children are victims of acts of violence and inhumane acts, so they must receive the necessary support for their recovery and reintegration after the end of the dispute.<sup>1</sup>

Thus, the Convention included many provisions that expressly or implicitly provide for the protection of children in times of armed conflict and what states must and are committed to do to provide that protection in order to implement the provisions of the Convention to the fullest.

However, it is noted that these provisions may be clear and sufficient to some extent, but their effectiveness is not as required, given that the effectiveness of implementing the provisions of the Convention depends on the desire of states and actors to respect and implement them. Likewise, political will is a strong factor in adhering to these texts and applying them from one country to another.

Accordingly, in order to provide other forms of protection specifically related to armed conflict, the Optional Protocol to the Convention on the Rights of the Child was established.

## **2. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000: Provisions of OPAC to Protect Children in Armed Conflict**

The Optional Protocol to the Convention on the Rights of the Child came to be more specialized in cases of armed conflict, since the Convention did not directly address the protection of children in armed conflict except through Articles 38 and 39. It attempts to raise the minimum age of 15 years which is set in the Convention on the Rights of the Child, which raises concerns in some countries about the legal age for children to participate in hostilities.

Special protection that children need in armed conflicts, since these situations expose them to danger and to grave violations, the protocol provided for a set of specific articles for the protection of children, and the protocol came to add some provisions to the Convention, stipulating in **articles 1 and 2** that the states parties ensure that their persons who have not reached the age of 18 shall not take a direct part in the hostilities, and that the state parties shall ensure that persons who have not attained the age of 18 are not compulsorily recruited into their armed forces. This means that states must do everything possible to ensure that children under the age of 18 do not participate in direct combat and that the compulsory recruitment of children into armed forces is

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<sup>1</sup> The Convention on the Rights of the child 1989, article 38 - 39.

prohibited. Effectively, the Protocol raised the age for enlistment and participation to 18 and the age for volunteering to be over 15, which was the limit set by the convention, stipulated in **article (3)** of the Protocol.<sup>1</sup>

Moreover, the protocol specifies in **article (4)** that armed groups distinct from the armed forces of a country may not recruit or use persons under the age of 18 in hostilities. This extends protection to non-state actors.<sup>2</sup>

In addition to the special protection that children receive in armed conflicts, **Article 5** stipulates that the protocol does not restrict any provisions that provide more protection for children. If there is any law or treaty that guarantees stronger protection, it can be used. Ms. Kholoud Najm, an employee of the United Nations Peacekeeping Mission in Libya, stated that *"the protection of children is not limited to the provisions of the conventions, but rather all methods and tools that guarantee such protection must be used."*

Furthermore, States Parties must demobilize anyone under their jurisdiction who has been recruited or used in hostilities in contravention of this Protocol and ensure their physical and psychological recovery and social reintegration, thus contributing to ensuring that children involved in armed conflict receive care and support needed to return to society, specified in **article 6 of the Protocol**.

In order for this protection to be provided, **article 7** emphasized the need to adhere to and cooperate in the implementation of the Protocol, and to prevent any activity contrary to it, especially for persons who are victims of acts that contradict this Protocol. This cooperation is either through financial or technical assistance that ensures the effective implementation of judgments.

In the rest of the articles, the protocol dealt with the procedures that contribute and assist in the implementation of these provisions, the handling of armed conflicts, and the implementation of the protocol through how to ratify or accede to it.<sup>3</sup>

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<sup>1</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000, article 1 - 3.

<sup>2</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, 2000, article 4.

<sup>3</sup> Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000.

To sum up, it is clear that the Convention on the Rights of the Child and the Optional Protocol on the Involvement of Children in Armed Conflicts focus on the recruitment of children and the legal age to participate in hostilities with regard to the situation of children in conflict areas without directly addressing the rest of the rights, although human rights are interrelated and influential. However, this is a failure of the Convention and the Protocol to effectively protect children of all their rights in armed conflict.

## **Section Two: Application of International conventions and IHL Rules on protecting Children in Armed Conflicts: (Cases of Palestine and Libya)**

The application of International Conventions depends on knowing when and where they should be applied and to whom they should be applied in order to apply them effectively and ensure respect for these rules. It also helps to know the extent to which they can be applied and protect persons.<sup>1</sup>

International humanitarian law does not apply in all cases or to all persons, with the exception of the rules that apply in peacetime. These rules apply in cases of armed conflict, and therefore its application depends on the classification of armed conflict. Whereas it provides two systems of protection: international armed conflict (**IAC**) and non-armed conflict (**NIAC**).<sup>2</sup>

Thus, the application takes place within the geographical, temporal and personal scope, so it applies at the start of hostilities and ends with a general closure of military operations, and this, as a general rule, is applied independently. By applying these rules and provisions, it imposes obligations on the parties to the conflict and provides equal protection to all persons affected by the conflict.<sup>3</sup>

### **A. Applicability of the Geneva Conventions**

The Geneva Conventions have been ratified by all countries and are thus universally applicable. The provisions of the Geneva Conventions apply in all cases of armed conflict and

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<sup>1</sup> Emily Crawford, 07 May 2020, The Temporal and Geographic Reach of International Humanitarian Law, edited by Ben Saul, Dapo Akande.

<sup>2</sup> Marco Sassòli, 203 March, 2019, International Humanitarian Law : Rules, Controversies, and Solutions to Problems Arising in Warfare. 168. Chapter 6: Scope of Application: Available at:<https://searchworks.stanford.edu/articles/edselg-edselg.9781786438546.ch06> (Accessed: May 7, 2023).

<sup>3</sup> Marco Sassòli, 203 March, 2019, International Humanitarian Law : Rules, Controversies, and Solutions to Problems Arising in Warfare. 168. Chapter 1: the introduction Available at:<https://searchworks.stanford.edu/articles/edselg-edselg.9781786438546.ch06> (Accessed: May 7, 2023).

declared wars between two or more of the signatory states, as well as in cases where the state has not officially declared war. Thus, the agreements are applied to a signatory country that accepts and applies the provisions even if it is one of the opposing countries.<sup>1</sup>

The Geneva Conventions are concerned with and provide universal jurisdiction, not regional jurisdiction, since it is limited and allocated in order to respect the sovereignty of the state, and universal jurisdiction is allocated because some crimes such as war crimes, genocide, crimes against humanity, and crimes of aggression seriously affect society as a whole, through which the perpetrators can be held accountable and punished. regardless of their nationality.<sup>2</sup>

According to the articles and provisions contained in the convention, in particular Article 2, which clarifies the cases of application of these agreements, whether from any armed conflict or a situation of total or partial occupation.

And that the parties must abide by the agreement in relation to the said country if the other country accepts and applies its provisions. In terms of the principle of application of the Convention according to the geographical scope, **Article 3** stipulates that in the event of a non-international armed conflict occurring in one of the territories of the High Contracting Parties, each party to the conflict must be obligated to apply the provisions that would protect persons who have not taken an active part in the hostilities. This is in addition to the fact that these rules are applied according to the time scale based on the beginning and end of the conflict or the state of occupation, and this is what is stated in **Article 6** of the Convention.<sup>3</sup>

As for the application of the legal rules of the Geneva Conventions with regard to children, especially **Article 24**, which stipulates measures related to the care of children, and **Article 50**, which relates to children in the occupying country and their protection. In order to implement these Articles, the Occupying Power shall not impede the application of any preferential measures with regard to food, medical care, and protection from the effects of war, which may have been adopted before the occupation in favor of children under fifteen years of age, pregnant women, and mothers

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<sup>1</sup> Pictet, J.S. (2017) 'The New Geneva Conventions for the protection of war victims', *The Development and Principles of International Humanitarian Law*, pp. 139–152.

<sup>2</sup> Cuker A;Arepally GM;Chong BH;Cines DB;Greinacher A;Gruel Y;Linkins LA;Rodner SB;Selleng S;Warkentin TE;Wex A;Mustafa RA;Morgan RL;Santesso N; (2018) American Society of Hematology Guidelines for management of venous thromboembolism: Heparin-induced thrombocytopenia, *Blood advances*. [Geneva Conventions and their additional protocols | Wex | US Law | LII / Legal Information Institute \(cornell.edu\)](#).

<sup>3</sup> Ricardo Garcia Vilanova/ICRC, (2017), *When does IHL apply?* . available at: [The ICRC in Israel, Golan, West Bank, Gaza](#).

of children. Children under seven years old. This application to children is considered within the personal scope of application of the Convention.

Knowing that the implementation of the agreement ceases one year after the general closure of military operations; However, the Occupying Power shall, throughout the period of occupation, to the extent that such power exercises the functions of government in those territories, be bound by the provisions of the following **Articles of this Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53 , 59, 61 to 77, 143.**<sup>1</sup>

The parties to the conflict shall endeavor to give effect to all or part of the other provisions of this convention in order to apply effective protection.

### **B. Enforcement of the Additional Protocols of Geneva Conventions**

The application of the provisions of the Additional Protocols of Geneva Conventions depends on whether the armed conflict is international or non-international, as was explained above. The **Additional Protocol I** applies only to cases of international armed conflict, while the **Additional Protocol II** applies only to non-international armed conflict.

In this context, the conditions for applying **Protocol I** are that the conflict arose between one state and another signatory state, and the signatory states are obligated to implement the provisions of this protocol, especially with regard to children, as mentioned in the **article77**, without prejudice to respecting these provisions and ensuring their effective implementation in the event of a conflict.

As for the application of **Additional Protocol II**, it develops and complements common Article 3 without modifying the current application conditions, according to **Article 1, Paragraph 1**. Thus, this definition is restricted and does not apply to the application of **the Second Protocol**, which means that it does not extend to non-international armed conflicts in general. **The Additional Protocol II** does not apply to riots and violence that would only disturb the public order of the state.

It becomes clear that the rules of non-international armed conflict are less detailed than the rules applied to international armed conflict; for example, there are no rules regarding the status of combatants or prisoners of war. Also, international humanitarian law does not apply to cases of

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<sup>1</sup> Geneva Convention relative to the protection of civilian persons in time of war (Convention IV of 12 August 1949).

violence that do not amount to an armed conflict, and these cases are subject to the provisions of international human rights law.<sup>1</sup>

## **C. Application of the Conventions in Palestine and Libya**

### **1. Case of Palestine: Situation of Armed Conflicts in Palestine**

The Israeli-Palestinian conflict has been a complex and protracted conflict marked by periodic escalations in violence, with devastating consequences for civilians, including children. This conflict has deep historical, political, and religious roots, and multiple parties are involved, including the State of Israel, the Palestinian Authority, Hamas, and other Palestinian groups.

#### **1.1. Violations**

The Israeli-Palestinian conflict has been characterized by a series of wars, uprisings (known as Intifadas), and periodic escalations that included air strikes, missile attacks, and ground incursions for many years, but this conflict has intensified in recent years, especially after 2012. Whereas, Mr. Aisha affirmed that “*the specificity of the situation in Palestine, especially in the occupied territories (the occupied territories since 1948), Israel continues to violate children's rights on a daily basis without regard to any considerations.*” He added “*The armed conflict in Palestine raises many problems, as it is a continuous and historical conflict, in which violations are practiced*”. It classifies the armed conflict in two parts of Palestine (West Bank and Gaza Strip), where civilians, including children, have been disproportionately affected, as they have suffered from physical harm, psychological trauma, displacement, and the loss of their homes and lives.

Given the tactics used by both Israeli forces and Palestinian groups, which raise concerns about disproportionate force, the targeting of civilians and the killing of children, the designation of them as military targets and the use of populated areas for military purposes. Mr. Nassar stated “*In Balata camp in the West Bank, Israel used a new technique, which is placing explosive devices inside one floor within an entire building, and only this floor collapsed, which resulted in the killing of 3 people.*” This is what the occupation forces are doing without any considerations. Also, in the Gaza Strip in the recent wars in 2014 and 2021, which were classified as one of the most severe wars in which Israel committed crimes against humanity and clearly violated the rules of international humanitarian law by targeting civilian facilities and killing children and women

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<sup>1</sup> Ricardo Garcia Vilanova/ICRC, (2017), When does IHL apply? . available at: The ICRC in Israel, Golan, West Bank, Gaza.

directly without taking into account any accountability. Mrs. Zaqout emphasized that “ *in the 2014 war, a group of children from the Bakr family were directly and intentionally targeted while they were playing on the roof of their house*”. Likewise, in the West Bank, there was a clear violation of international humanitarian law, especially with regard to the crimes committed by Israel in the Sheikh Jarrah neighborhood in Jerusalem, by displacing residents from their homes and arresting children without reason.<sup>1</sup>

## **1.2. Application of Geneva Conventions and its Protocols: IHL Rules in Palestine**

International humanitarian law provides protection for civilians, including children, in times of armed conflict. Mrs. Maryam Mzoghi, Officer in Save the Children in Tunisia, stated that “*international humanitarian law includes comprehensive provisions that are not directly specialized for children, and this is what makes the violations against children continue.*” The state of conflict between Israel and Palestine is considered a state of occupation, and special rules for occupation and rules for the protection of civilians, including children, have been established in the occupied territories. **Articles (47-78) and Additional Protocol I as well as Additional Protocol II** as the main source of international humanitarian law to which Israel is a party, and it must apply those rules in order to ensure their enforcement.

However, the application of those rules and specifically, **Article 77 of Additional Protocol I** and **Article 4 of Additional Protocol II** and the article providing for special protection for children. They must be provided with the care and assistance they require, and all possible measures must be taken to prevent them from taking part in hostilities. Using children under the age of 15 to participate in hostilities is a war crime.<sup>2</sup>

In describing this situation, it was necessary for the Israeli and Palestinian authorities to abide by the principles of international humanitarian law, but these rules are not applied effectively, because what is happening now in the ongoing Israeli-Palestinian conflict does not indicate that there is any effective protection for children in times of wars and armed conflicts. Continuous violations of those rules, and this is what happened recently in 2021 and in general, by directing

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<sup>1</sup> Advisory Opinion, July 8, 1996, Legality of the Threat or Use of Nuclear Weapons., ICJ Rep. 1996, p. 226; available on <http://www.icj-cij.org>.

<sup>2</sup> Israeli Ministry of Foreign Affairs, July 2009 The Operation in Gaza, Factual and Legal Aspects”, Report, available at <http://www.mfa.gov.il>.

attacks against children under the pretext that there is a military target that must be targeted, and thus there was no regard for the principle of distinction between civilians and combatants and between military targets and civilian targets. Likewise, civilians in the Gaza Strip suffered great losses in the lives of children, using excessive and direct force, which violates the principle of proportionality on which the rules of international humanitarian law are built.

The application of the general rules for the protection of civilians and the special rules for the protection of children in Palestine at the time of armed conflict does not constitute a great effectiveness, as accountability and punishment for these violations are not feasible until this moment.<sup>1</sup>

### **1.3. Application of the Convention on the Rights of the Child and its Protocol in Palestine**

Whereas, Palestine has not been recognized as a sovereign state by all members of the United Nations. However, it is a non-member observer state, which means that it has certain rights and privileges in the United Nations. This is despite its accession to many international treaties and agreements, including the Convention on the Rights of the Child. As a party to the Convention in 2014, Palestine is expected to take measures to ensure the protection of the rights enshrined in the treaty. Where Palestinian children are subjected to multiple violations by the Israeli occupation army, even though Israel was one of the first countries to sign the United Nations Convention on the Rights of the Child in 1991.<sup>2</sup>

The implementation of the Convention on the Rights of the Child, it was a promise the world made to children. Every right for every child, no exceptions. It is not about geography, checkpoints, closed military zones, access to restricted areas, or the Green Line. The Convention on the Rights of the Child does not mention fences or walls, and the Convention states that rights have owners and those who violate children's rights must be held accountable.<sup>3</sup> For example, 13 UNRWA students were killed and over 375 injured by Israeli security forces during demonstrations at the perimeter fence in Gaza in 2018 as part of the so-called Great March of Return. Refugee camps in the West Bank see an average of 650 security operations annually, and

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<sup>1</sup> *Ibid.*

<sup>2</sup> Mustafa Emad, 2021, Violations of the Israeli Occupation Army of the Palestinian Child Rights in 2021 Monitoring and analysis.

<sup>3</sup> Matthias Schmale Gwyn Lewis, 18 November 2019, THE Convention on The Rights of The Child and Palestine Refugee Children.

as these statistics show, children's rights are far from being protected and fulfilled in line with the Convention on the Rights of the Child.<sup>1</sup>

The implementation of the Convention and adherence to its provisions does not effectively protect children from exposure to violence and the denial of their rights in Palestine. All that the Convention does is document and prepare reports that expose violent acts committed by the Israeli occupation forces, and this in itself pressures for the necessary changes to make children's rights a reality today.<sup>2</sup>

In addition to the **CRC**, there is a protocol specifically related to the involvement of children in armed conflict, known as the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (**OPAC**).

Both the CRC and OPAC provide important protections for children in Palestine who are affected by armed conflict. The Convention on the Rights of the Child and the Protocol stress the importance of providing special protection and assistance to children affected by armed conflict. It includes provisions for access to humanitarian assistance, medical care, psychosocial support, education, and access to basic services, as well as provisions relating to the non-involvement of children in armed conflict. Governments are responsible for ensuring the well-being of children and must take all necessary measures to protect them from physical and mental violence, abuse or neglect. However, this provision is not effectively applied in Palestine due to the restrictions imposed by the Israeli occupation on the implementation of these mechanisms, despite the establishment of monitoring and reporting mechanisms, which requires the State of Israel and Palestine to submit regular reports on the measures that are taken to protect the rights of children from violation during the conflict.<sup>3</sup>

It's important to note that while the CRC and OPAC provide a legal framework for the protection of children in armed conflict zones, the actual implementation and enforcement of these provisions depend on the commitment and actions of the governments involved, as well as the support and engagement of the international community and humanitarian organizations.

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<sup>1</sup> *Ibid.*

<sup>2</sup> Child Rights Connect Centre, 2020, initial report of the state of Palestine, session: 28th and 29th January (83rd session). available at: ([childrightsconnect.org](http://childrightsconnect.org)).

<sup>3</sup> *Ibid.*

## **2. Case of Libya: Situation of Armed Conflict**

Libya witnessed a sharp decline in its political and security situation in 2014 and 2015, amid competing legislative bodies, the division of state security institutions and forces, and the multiplicity of armed groups, which had dire consequences for the population. Where Ms. Nijm stated that *"ISIS entered Libya in 2016 in the Derna war and armed groups resisted, children were arrested and placed in prisons and some of them were recruited, and a number of them are still detained."* The violations increased despite its efforts to recover after the revolution in which Gaddafi fell in 2011. After plunging the country into armed conflict, two groups have been raised: the internationally recognized Government of National Accord (**GNA**) based in Tripoli and the Libyan National Army (**LNA**).

Throughout this time, Libya has served as a staging ground for foreign intervention, with nations such as Turkey and Qatar supporting the GNA and Egypt, the UAE, and Russia supporting the LNA. Given the high level of foreign engagement, the conflict has frequently been referred to as a proxy war.<sup>1</sup>

In this regard, Ms. Mozoughi stated that *"The conflict situation in Libya is exacerbated by the interventions of foreign parties such as Turkey, France, Russia and Italy, which complicates the situation further and perpetuates the conflict"*.

### **2.1. Application of IHL Conventions in Libya**

There have been several reports of violations of international humanitarian law, including attacks on civilian infrastructure, extrajudicial killings, and child recruitment, among others.

However, implementing these protection measures in Libya has been a challenge. Armed groups have been reported to recruit and use children in hostilities, a clear violation of the rules of international humanitarian law. In addition, children in Libya are subjected to other serious violations, such as killing, maiming, kidnapping, sexual violence, and attacks on schools and hospitals.

International humanitarian law requires that parties aim only at lawful military objectives while adhering to the principles of distinction, proportionality and precaution. Many of the strikes appear to have been indiscriminate throughout the conflict in 2014 and 2015, with particular impact on

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<sup>1</sup> Human Rights Council, "Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya, Report of the Office of the United Nations High Commissioner for Human Rights" UN Doc. A/HRC/31/47, 15 February 2016, Available at: [http://www.ohchr.org/Documents/Countries/LY/A\\_HRC\\_31\\_47\\_E.pdf](http://www.ohchr.org/Documents/Countries/LY/A_HRC_31_47_E.pdf).

densely populated residential areas, including Benghazi, Tripoli, Shefana, the Nafusa Mountains and the south. This considers that measures to protect civilians, especially children, were not sufficient. Heavy weapons were used, such as Grad rockets, which are not suitable for use in densely populated residential areas due to their inability to aim with sufficient accuracy.

The rules of international humanitarian law are still violated in Libya in light of the increasing conditions and tensions, in which these rules are not respected by armed groups, and therefore the application of the protection rules for children stipulated in the Geneva Conventions and the Protocols and Convention on the rights of child and the optional protocol are not effectively applied and do not protect children as required or guarantee their rights, due to the absence of the will of parties.<sup>1</sup>

## **2.2. Application of Convention on the rights of Child and its Optional Protocol in Libya**

Looking in depth at the extent of commitment to implement United Nations mechanisms such as the International Convention on the Rights of the Child and the Optional Protocol on the Participation of Children in Hostilities, we find that despite Libya's signing of the Convention, there is a breach by the parties to the conflict of all the provisions of the Convention. For example, children are still being recruited when they are less than 18 years old, and this is a clear violation of the Optional Protocol's article. Schools are also used as shelters for military forces, which clearly impedes education. Likewise, the targeting of health facilities continues in Libya, and this is a clear violation of children's right to obtain health and medical care.

## **Section Three: The Challenges of Application of the Conventions in Palestine and Libya**

The legal framework provides rules and conventions that limit the effects of armed conflict for humanitarian reasons, but the application of these texts and conventions often faces many challenges, especially in countries such as Palestine and Libya, since the armed conflict in these two countries has a special nature, so the application of the rules of international humanitarian law in Palestine is fraught challenges are classified as legal, political, social, practical and interpretive challenges.

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<sup>1</sup> *Ibid.*

## **A. Challenges of International Conventions Application in Palestine**

The challenges limit the effective application of the rules and provisions of the law to protect children in Palestine due to the nature of modern war and the emergence of a non-state armed group, as well as technological progress that has a significant impact on limiting this application. The use of new weapons and technologies is not effectively covered by international humanitarian law and UN conventions.

The special nature of Palestine, and the fact that it is an occupied country, makes it more difficult to implement the provisions of international conventions that protect children, and there are many factors that affect this.

Legal recognition of the State of Palestine, as it is a country in which opinions are divided as an independent state or not, which makes it difficult to apply and enforce the texts of the conventions of effective protection for children. In addition, the situation of the occupation and the right to self-determination, as the situation in Palestine is a sensitive issue due to the lack of recognition of the right of the occupied population to self-determination, so conflicts abound, and it is difficult to deal with them with the passage of time. Moreover, one of the most important challenges facing the effective application of child protection in Palestine is impunity.

The principle of accountability is not taken into consideration by Israel when it targets children, as most of the grave violations committed by Israel pass without accountability before international law, and clearly violate the rules of international humanitarian law and international conventions, as Israel manipulates international humanitarian law according to the situation before it, which makes the violations in Palestine continue. Where Mr. (Nassar) stated that *"the absence of a deterrent and the lack of obligation to implement the agreements by states, there is no response from Israel to all the agreements, and what supports this is the lack of a real, strong presidency in Palestine,"* Mrs. (Zaqout) supported that by saying *"Israel's non-compliance with the rules of international humanitarian law, and the biggest example is the presence of settlements in the West Bank, and the ongoing aggression on Gaza. International law is manipulated by Israel and this constitutes a challenge in applying the rules of protection"*.

In addition, the most important challenge in applying the protection conventions in Palestine is Political considerations, since an effective implementation of the protection of children in times of armed conflict requires a clear political will on the part of all parties involved in the

conflict. In the Israeli-Palestinian conflict, the balance of power is disrupted and complicates the effective implementation of international humanitarian law in general.

Furthermore, the failure to allow victims access to real justice,, but the Israeli legal system does not allow access to it by many Palestinians, which limits their ability to seek legal redress for alleged violations of international humanitarian law.<sup>1</sup> Mr. Nassar stated that *“the recent decision that whoever carries a knife far away 2 kilometers should be killed, and this is what the occupation forces used as a justification for killing children under the law”*.

The nature of modern armed conflicts, especially in densely populated areas such as Gaza, poses great challenges, because children and civilian buildings are often used for military purposes, which leads to non-compliance with the principle of balance between military necessity and civil protection, which complicates the application of protection rules, and this the lack of awareness and interpretation of these rules raises, which can be considered a challenge that prevents effective implementation, given that external interference by a third party constitutes an obstacle to the enforcement of the rules of international humanitarian law and International conventions to protect children in Palestine.<sup>2</sup>

## **B. Challenges of International Conventions Application in Libya**

These challenges are not unique to Palestine and are often seen in other areas of conflict. These challenges also constitute a major obstacle to the implementation of the International Conventions that protect Children in armed conflict in **Libya**, in addition to other challenges. Libya still suffers today from armed conflicts. Most Libyan children have been recruited and take part in hostilities despite their young age. Hence, it is clear that the provisions and legal rules stipulated in international agreements are not taken into account in Libya and none of them are applied at all, which worsens the situation. This deterioration in non-compliance with the general and special protection rules for children in Libya is due to several factors.

There are different armed groups in Libya with different ideologies and affiliations. This difference makes it difficult to apply and enforce the rules and texts of conventions. Also, the absence of a strong legal framework in Libya which led to the transitional situations and the

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<sup>1</sup> B'Tselem, November 2020. "Forbidden Roads: The Discriminatory West Bank Road Regime," available at: ([https://www.btselem.org/publications/fulltext/202011\\_forbidden\\_roads](https://www.btselem.org/publications/fulltext/202011_forbidden_roads)).

<sup>2</sup> United Nations Human Rights Council, 17 March 2021. "Accountability and impunity: Syria, Mali, CAR, and the OPT," available at: (<https://www.ohchr.org/EN/HRBodies/HRC/CoIOPT/Pages/AccountabilityImpunityOPT.aspx>).

multiple regimes that Libya has gone through since 2011, helps to ignore all the protection tools and increase the situation in Libya.<sup>1</sup>

Moreover, the political instability resulted in a fragmented state with rival governments, militias, and tribes. This environment complicates the implementation and enforcement of international humanitarian law. This led to lack of training and awareness by the parties to the conflict in Libya, foreign interventions, and the state's inability to control this situation, made the application of legal rules to protect children complicated.<sup>2</sup>

These challenges underline the need for ongoing education and training in IHL, continuous dialogue between parties, development of clear policies and guidelines, and rigorous accountability mechanisms to ensure that laws and International Conventions are respected and applied even in the most difficult circumstances, especially the rules related to protecting children.<sup>3</sup>

To sum up, humanity cannot be guaranteed in armed situations under IHL and UN conventions, because States refuse to embrace procedures that effectively enforce international law and because it is not adequately respected. Armed conflicts would not occur if international law were consistently and effectively applied. IHL regulations and International Conventions cannot always protect everyone everywhere, which is another reason why this is the case. Instead, it is founded on a number of distinctions between armed conflicts and other violent circumstances that are not covered by IHL, IACs and NIACs, civilians and combatants, military goals and civilian objects, and own vs occupied territory.

The complex reality of modern armed confrontations, which only occasionally involve the regular armies of well-organized and well-established States, make it impossible to apply such basic distinctions. These disparities also provide parties and people room to maneuver conventions and their humanitarian ramifications are not always clear-cut. It is also important to note that the application of these conventions does not address the root causes of the conflict, which require political solutions beyond the scope of IHL, and the merging of those rules with the rules of international human rights law.<sup>4</sup>

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<sup>1</sup> UNSMIL, 2020,- 2021, "Report on the Protection of Civilians in the Armed Conflict in Libya.

<sup>2</sup> *Ibid.*

<sup>3</sup> OCHA, 2021, "Libya: Humanitarian Response Plan 2021".

<sup>4</sup> Marco Sassòli, . (2019, March 29). Chapter 11: Conclusion. Pages 168-203 available at: <https://www.elgaronline.com/abstract/9781786438546/ch11.xhtml> ( Accessed on: May 7, 2023).

## **Chapter II: Institutional Framework: Institutions, Organs and Instruments Dealing with the UN Mechanisms on Protecting Children in Armed Conflicts**

The United Nations for Human Rights and the mechanisms it supports operate within international human rights law, which is the basis for the organization's work.<sup>1</sup>

Since its founding in 1945, the United Nations has played a leading and important role in settling international disputes by peaceful or military means, in accordance with its charter and other rules of public international law. It was established as an international organization aimed at achieving and maintaining international peace and security, promoting cooperation between states in various fields, and strengthening international relations. In general, its main tasks are to strive to end wars and conflicts, combat terrorism and protect civilians affected by conflicts, in order to ensure the promotion of human rights, fundamental freedoms and equality among people all over the world, including the rights of children and women.<sup>2</sup>

The promotion, respect and protection of human rights is a major goal and an important principle in the United Nations agenda in protecting human rights, especially children, whether in times of armed conflict or in times of peace, and this is what distinguishes international human rights law as applied at all times, and the role of the United Nations in protecting Human rights and their promotion through the mechanisms, instruments, and organs in which they operate<sup>3</sup>, which will be discussed in this chapter, and clarify the extent to which these mechanisms are applied in armed conflict, and how they can protect children and preserve their rights, especially in countries such as Palestine and Libya, as they are among the countries that suffer most from continuous armed conflicts. What are the challenges facing the implementation of United Nations mechanisms for the protection of children in times of armed conflict?

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<sup>1</sup> United Nations , Human Rights Office of the High Commissioner - Instruments and Mechanisms - OHCHR, Visited on May 3, 2022 , available at: <https://www.ohchr.org/en/instruments-and-mechanisms>.

<sup>2</sup> Convention on The Rights of The Child 1989.

<sup>3</sup> *Ibid.*

## **Section One: The Roles of United Nations Institutions, Organs and Structures on Protecting Children in Armed Conflicts**

The United Nations system is a set of mechanisms and organs that work together to hold states accountable for their human rights obligations and that work towards the overall purpose of the United Nations to promote human rights and protect civilians.<sup>1</sup>

There are two types of United Nations mechanisms for monitoring and promoting human rights and they are divided into treaty-based bodies and charter-based bodies. The ten human rights treaty bodies, made up of panels of independent experts, monitor implementation of the core international human rights treaties. Charter-based bodies include the Human Rights Council, special procedures, the universal periodic review, and independent investigations. This is in addition to some of the organs and agencies established by the United Nations to follow up and monitor human rights and ensure the respect and protection of individuals, as the United Nations system provides expertise and support to all these various mechanisms and organs to carry out their work to the fullest.<sup>2</sup>

Bearing in mind that most of those mechanisms that follow the United Nations include special protection and care for children, whether in times of war or times of peace, and this care and protection was referred to in many, treaties, relevant statutes, and instruments, as well as, agencies, organs and international organizations concerned with the care of children. This interest in the rights of the child and the endeavor to protect him in emergencies and armed conflicts came, given that in all countries of the world children live in very difficult conditions.<sup>3</sup>

The inclusion of this care within the United Nations system takes into consideration the traditions and cultural values of each people and the national laws of countries to improve the living conditions of children in every country, especially countries where armed conflicts abound.<sup>4</sup> In this regard, Ms. Nijm emphasized that *"during my work in the UNSILM, we focus on ensuring that special care is provided to children, women and people with disabilities."*

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<sup>1</sup> United Nations, Human Rights Office of the High Commissioner - Instruments and Mechanisms - OHCHR, Visited on May 3, 2022, available at: <https://www.ohchr.org/en/instruments-and-mechanisms>

<sup>2</sup> Ibid.

<sup>3</sup> Convention on the rights of the child 1989.

<sup>4</sup> Cihan University-Erbil, (2023, February 23). Journal of Humanities and Social Sciences, 97-109, Available at: <https://journals.cihanuniversity.edu.iq/index.php/cuejhss>.

United Nations peacekeeping mechanisms are operations undertaken by the United Nations to maintain peace and security in areas of conflict and war. Therefore, reference will be made to some of the mechanisms followed by the United Nations structures, organizations and organs that ensure the protection of children in times of armed conflict: the role of these mechanisms will be addressed, such as: The Human Rights Council, the Special Rapporteur on Armed Conflicts, the Security Council and UNICEF. In addition, some judicial bodies that support these mechanisms, such as: International Criminal Court (**ICC**) and the International Court of Justice (**ICJ**).<sup>1</sup>

### **A. Human Rights Council (UNHRC) Role and Mechanisms**

The UNHRC has several mechanisms that monitor, report on and address human rights issues, in place to protect the rights of children. Among those mechanisms the universal periodic review, special procedures, and complaint procedures. It pays attention to providing the required protection for children in armed conflicts in order to mitigate and limit the effects of those conflicts, and it does so by following specific strategies and procedures that help in reaching the best protection for children's rights.<sup>2</sup>

#### **1. Monitoring and reporting, monitoring and documenting violations**

It carries out this task by collecting and disseminating information about violations of children's rights in conflict areas, especially with regard to the right to life, not to be subjected to torture and not to be recruited into the armed forces, and sheds light on exposing the perpetrators, so the Human Rights Council also appoints independent experts They are known as special rapporteurs or independent experts, on specific country situations or thematic issues. The mandate of the Special Representative of the Secretary-General for Children and Armed Conflict, for example, focuses on the protection of children in war. These experts are charged with monitoring and reporting on human rights situations and providing the international community with crucial insights and information about a specific country.<sup>3</sup>

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<sup>1</sup> Ibid.

<sup>2</sup> Rathore, S.C. (2020) Introductory remarks on the protection of children in armed conflict, Humanitäres Völkerrecht. BiblioScout. Available at: <https://biblioscout.net/article/99.140005/huv202003018301> (Accessed: May 7, 2023).

<sup>3</sup> Madeson, F., Angela Weiss / AFP via Getty Images, Zhang, S., Frances Madeson Frances Madeson has written about liberation struggles in the U.S. and abroad for Ms. Magazine, Bloomfield, CJennings &, A., Kurashige, S., Corbett, J., Cole, J., Amit, T., Malley, B., Estus, J., Goodman, A., Belser, J. W., Goodman &, A., González, J., & McNeill, Z. (2023, July 27). How an Illinois city council passed unprecedented local human rights protections.

## **2. Universal Periodic Review (UPR)**

The UPR is a unique process that involves reviewing the human rights records of all 193 member states of the United Nations once every five years. The Universal Periodic Review provides an opportunity for all states to announce the actions they have taken to improve the human rights situation in their countries and to fulfill their human rights obligations. It is an important tool that provides an opportunity to address concerns about children's rights in specific countries, including those affected by armed conflict, and to hold states accountable for their human rights obligations, and to recommend states to take specific actions to improve the protection of children in these situations.<sup>1</sup>

## **3. Commissions of Inquiry and Fact-Finding Missions**

The Council has the power to establish commissions of inquiry or fact-finding bodies that collect evidence and establish facts on gross violations of human rights law, including those involving children in armed conflict, and can make recommendations for accountability. Their findings provide a historical record that can serve as a basis for future justice processes.

The HRC can also provide technical assistance and capacity building support to countries by providing advice on implementing child protection programmes, or helping to develop legislations that protect children in conflicts. Moreover, HRC cooperates with other entities, it often works alongside other international bodies such as the International Criminal Court (ICC), the Security Council, and UNICEF. These bodies have specific roles in addressing children's rights in conflict situations, such as prosecuting war crimes involving children or providing immediate protection and humanitarian assistance.

It is important to note that while the HRC plays a crucial role in protecting children during armed conflict it does not have any direct enforcement power; since it cannot force any country to do anything, the implementation of his decisions and recommendations depends greatly on the political will of countries, and must rely on diplomatic, moral or political pressure to change. HRC recommendations are often broad and lack specific implementation mechanisms, which can make implementation of these mechanisms difficult.

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Truthout.<https://truthout.org/articles/how-an-illinois-city-council-passed-unprecedented-local-human-rights-protections/>

<sup>1</sup> Universal Periodic Review. OHCHR. (November 2022). <https://www.ohchr.org/en/hr-bodies/upr/upr-home>.

## **B. Special Rapporteur on Armed Conflict**

In light of the worsening armed conflict situations in the Middle East and North Africa region, such as the current armed conflicts in Palestine and Libya, the Special Rapporteur plays an important role in working to protect children to investigate, monitor, advise and report on a specific human rights situation in a particular country or a topical issue around the world by relying on the principles of general protection for children affected by armed conflict, which includes protection from recruitment, as Children should not be forcibly recruited and should not be allowed to join armed forces or groups under any circumstances consistent with Article 38 of the International Convention on the Rights of the Child.<sup>1</sup>

In addition, the Special Rapporteur works under the principle of protecting civilian facilities such as schools and hospitals, which ensure the provision of quality care and education for children. As well as humane treatment and ensuring access to it. During his work, the Special Rapporteur ensures that impunity for perpetrators of these violations against children is combated through his support for the work of the Criminal Court and other judicial mechanisms.

The Special Rapporteur on armed conflicts in a particular region, his work is linked with other special rapporteurs, such as the Special Rapporteur on the right to education, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and others to ensure a comprehensive approach to child protection in conflict situations. They work through using some procedures and mechanisms like investigation, monitoring, reporting, lobbying and advocacy. In addition to advance warning and to ensure that perpetrators of violations are held accountable.<sup>2</sup>

To carry out those tasks effectively, the Special Rapporteur must have full and unhindered access to relevant information and to the sites and people they need to visit in order to carry out their investigations. They also need the support of the international community to ensure that their findings are taken seriously and acted upon.

## **C. Security Council**

The United Nations Security Council (UNSC) is one of the six principal organs of the United Nations (UN), which was founded in 1945 and its creation, with the creation of the United Nations, was the result of a collective international effort aimed at preventing devastating conflict. It was

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<sup>1</sup> Special Rapporteur on Children and Armed Conflict.

<sup>2</sup> *Ibid.*

created by the Charter of the United Nations, which was signed at the San Francisco Conference in June 1945, to define its mandate and mechanisms of action and its main objective is to maintain international peace and security. It is the only body in the United Nations empowered to issue decisions that are binding on member states.

The UN Security Council has broad powers to carry out its mission of maintaining international peace and security, and in order to achieve this primary goal it plays an important role in peacekeeping, peace enforcement, resolving and preventing conflicts and implementation of sanctions.

### **1. Security Council's Mechanisms**

In order to carry out these tasks and ensure the protection of children in armed conflicts, the Security Council works through some of the mechanisms it uses to maintain international peace and security. It reviews the reports of the monitoring and reporting mechanism, and takes action such as making recommendations, dealing with the concerned country, or calling for the development of action plans to address violations of children's rights. In addition to cooperating with other United Nations agencies and promoting action plans that must be implemented by the parties to the conflict included in the annual report of the Secretary-General to commit grave violations against children, these plans set concrete and time-bound steps to stop and prevent violations against children.

#### **1.1. Monitoring and Reporting Mechanisms (MRM)**

This mechanism generally refers to the systematic processes organizations or projects use to track progress, identify areas for improvement, and report on results and impacts. The primary purpose of this mechanism is to aid decision-making, improve efficiency and effectiveness, and promote accountability and transparency as it tracks, documents and reports grave violations against children in armed conflict. Specifically, these violations include the killing or maiming of children, recruitment or use of children as soldiers, sexual violence against children, attacks on schools or hospitals, denial of humanitarian access to children, and abduction of children. This mechanism works by defining goals and objectives before starting to prepare reports, then it identifies indicators that work to measure the goals that have been previously identified, and then it collects data on violations that children are exposed to in a specific conflict area, and then

prepares reports in written form A, presentation Depending on the nature of data collected on violations.<sup>1</sup>

MRM reports are essential to keep the international community informed and action oriented. This mechanism is considered a periodic process, and changes are reviewed as a result of the submitted reports.

## 1.2. Resolutions

The Security Council issued several resolutions related to the protection of children in armed conflict. These decisions aim to address this issue that has been of concern to many for years, and these decisions were issued to provide protection and support to the most vulnerable groups affected by war and conflict.

The first resolution established by the Security Council was **Resolution 1261 (1999)**: which dealt with the impact of armed conflict on children and their use as soldiers. Then the Council issued an expanded and supportive resolution of the previous resolution, **Resolution 1314 (2000)**:<sup>2</sup> in which it called on the parties to the conflict to respect international law related to the protection of children. In addition to **Resolution 1379 (2001)**:<sup>3</sup> in which the Security Council requested the Secretary-General to include the parties that recruit children in armed conflicts in his annual report, and the Council called for an immediate end to the recruitment and use of children as soldiers through **Resolution 1460 (2003)** and to provide comprehensive and accurate reports on Compliance of the parties to the conflict with this decision. In addition, the Council passed **Resolution 1539 (2004)**, which strengthened the call to end the use of child soldiers, and **Resolution 1612 (2005)**: considered the most important resolution of the Security Council, this resolution established a Monitoring and Reporting Mechanism (MRM) on children and armed conflict. It also established a Working Group on Children and Armed Conflict.<sup>4</sup> These mechanisms are considered to be effective in applying protection to children in armed conflict.

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<sup>1</sup> Jennifer F. Klot, 2015, The United Nations Security Council's Agenda on 'Women, Peace and Security': Bureaucratic Pathologies and Unrealised Potential.

<sup>2</sup> Security Council Resolution 1314, 2000.

<sup>3</sup> Security Council Resolution 1379, 2001.

<sup>4</sup> Wallensteen and Johansson, 2016, "The UN Security Council: Decisions and Actions." available at: <https://doi.org/10.1515/9781685853730-005>.

Furthermore, the Council also passed **Resolution 1882 (2009)**: which expanded the reasons for including the parties in the annual report of the Secretary-General to include killing and maiming of children, and rape and other forms of sexual violence against children. There were also resolutions issued regarding repeated attacks on schools and hospitals in situations of armed conflict, and **Resolution 2068 (2012)**: to promote and urge the parties to develop action plans to end violations against children. As well as **Resolution 2143 (2014)**: which emphasized the importance of children's access to education in conflict situations and not targeting schools, in addition to **Resolution 2225 (2015)**: which emphasized the importance of providing support for the physical and psychological recovery and social reintegration of children affected by armed conflict. and **Resolution 2427 (2018)**, which stresses the importance of giving due consideration to the promotion and protection of children's rights in all its deliberations.<sup>1</sup>

These resolutions establish an international framework for the protection of children in armed conflict, although implementation often depends on the desire and capabilities of individual states and the international community.<sup>2</sup>

With these mechanisms used by the Security Council to protect children in armed conflicts, it has achieved some success in many cases, as the mechanisms used by the United Nations are complementary to the measures and penalties stipulated in international agreements, but there are some cases in which it is difficult to achieve the best protection. Due to non-compliance by parties to the conflict, inability to access affected areas, and insufficient resources for implementation and follow-up.

#### **D. UNICEF**

UNICEF is a permanent part of the United Nations system, which was established by the General Assembly in 1946 as the United Nations Children's Fund, and came as a response to the protection and care of children after the Second World War. Its main mission is to provide emergency food and health care for children in countries where armed conflicts abound, and it is

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<sup>1</sup> Olsson et al., 5 June 2021 Sweden as an Elected Member of the UN Security Council; Prantl, "Informal Groups of States and the UN Security Council"; and Schia, Power, Complexity and Consensus-Making in the United Nations Security Council.

<sup>2</sup> Graça Machel, 1996, Report on the impact of Armed Conflict on Children.

considered an important organ of the United Nations that uses several mechanisms to provide the required protection for children and mothers in developing countries.

UNICEF has a broad mandate to protect children's rights, meet their basic needs and expand their opportunities to reach their full potential, by being guided by the Convention on the Rights of the Child and other United Nations mechanisms and conventions, so that UNICEF's work includes child survival and development, basic education, preserving the child's public health and child protection from being exploited and access to all his needs and the consolidation of their rights as moral principles. It is working on this in more than 190 countries and territories.

### **Protection of Children in Armed Conflict by UNICEF**

UNICEF devotes its efforts to protecting children in situations of armed conflict and has many mechanisms and methods to do so. The use of advocacy and awareness-raising methods is one of the tools used by UNICEF and it works to strengthen adherence to the Convention on the Rights of the Child and international treaties that protect children. Children's rights, and works with governments, armed forces, and other parties involved in conflicts to ensure children's rights are respected and protected and to raise awareness of specific issues such as child recruitment, disruption of education, sexual violence, other forms of exploitation, and deterioration of the diet.

UNICEF is also working on implementing specific programs in conflict areas to provide emergency aid, education, health care and others.

Among the methods used by UNICEF that it works to protect children is its cooperation with other United Nations agencies, non-governmental organizations and governments to coordinate responses to provide better protection for children, such as its cooperation with the Special Rapporteur on Armed Conflict, to monitor and report violations of the rights of children in times of conflict, as well as the participation of the monitoring and reporting mechanism (**MRM**) on grave violations against children in times of armed conflict, according to Security Council resolutions.

In addition, UNICEF uses policy and programming to support child protection systems and services in conflict-affected countries. They provide technical assistance and capacity building to organizations and local governments to ensure that their policies and programs are child-friendly and can effectively protect children in armed conflict. It also works on the reintegration of children into their communities, to include psychological support, education and vocational training.

Through these methods, tools and mechanisms, UNICEF works tirelessly to protect and support children caught up in armed conflict and to mitigate the severe impact these situations can have on their lives. It takes action on several fronts. However, the effectiveness of the organization depends on the nature of the armed conflict and the political will of the countries. In some areas, such as Palestine and Libya, it is difficult to reach all children in need and provide services without interruption. *"UNICEF is still not working properly in Libya, despite the important role it plays,"* Mrs. Mozughi said.

### **E. Universal Judicial Mechanisms**

The institutions and organs of the United Nations do not work alone in order to implement effective protection, and to prosecute the perpetrators of crimes. Despite the role played by the United Nations mechanisms for the protection of children in armed conflict, impunity still persists in Palestine and Libya. Therefore, United Nations agencies cooperate with international judicial bodies in order to hold accountable anyone who commits a crime. This is what the International Criminal Court and the International Court of Justice are doing, although they are not UN mechanisms, but work based on what the UN is doing. It supports the role of UN Mechanisms by investigating, documenting and issuing legal decisions.

Judicial bodies have an important role in the international criminal responsibility of anyone who commits a war crime, a crime against humanity, a crime of genocide, or a crime of aggression. Judicial bodies form the legal basis for sanctions, including the International Criminal Court and the International Court of Justice.<sup>1</sup>

To sum up, the UN works diligently to protect children around the world through its different mechanisms. These mechanisms function on various levels, including the establishment of international norms and standards, the observation of national conformity, advocacy, and the provision of hands-on assistance in the field. Even though many regions of the world still struggle to fully realize children's rights, United Nations institutions offer a crucial framework for their protection.

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<sup>1</sup> Toby Sterling, Stephanie van den Berg February 5, 2021 International Criminal Court says it has jurisdiction in Palestinian territories.

Among all these previous mechanisms can be considered the Monitoring and Reporting Mechanism (MRM) mandated by the Security Council to systematically monitor, document and report grave violations against children in armed conflict. It is an effective tool to hold perpetrators accountable and to put pressure on armed groups to enter into action plans with the United Nations. Otherwise, the main work of most of the United Nation's mechanisms for the protection of children in armed conflict is to document, monitor and expose violations within a legal framework. In this regard, Mrs. Zaqout mentioned, *"The United Nations organs are still operating within the framework of international law and by following the provisions of international humanitarian law specialized in armed conflicts."*

Therefore, most of the organs, institutions and structures of the United Nations are compatible with the rules and provisions of international conventions stipulated in international humanitarian law and international human rights law. The effectiveness of these mechanisms in providing the required protection for children in armed conflicts can only be achieved by working together in a coherent manner.

## **Section Two: The Practice of the UN Institutions, organs and structures on Protecting Children in Armed Conflict in Palestine and Libya**

This part discusses the extent to which the United Nations mechanisms for the protection of children in armed conflict are applied, with a focus on how they are applied in practice in countries such as Palestine and Libya, and highlights the current situation in each country and how they deal with these mechanisms to provide effective protection for children.

The United Nations has verified 266,000 cases of grave violations against children in more than 30 conflict situations in Africa, Asia, the Middle East and Latin America over the past 16 years.

Conflict has a profound and long-lasting impact on children, no matter where they live, and this is a matter of concern for all. <sup>1</sup>

There are legal tools, mechanisms and frameworks through which civilians can be protected, but what states and warring parties must do is apply them effectively to ensure that the

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الأمم المتحدة - نقاش في مجلس الأمن: أدوات حماية المدنيين خلال النزاعات متوفرة، لكن ما ينقص هو تطبيقها - 25 مايو 2021 - المساعدات الإنسانية

required protection is provided to children, but the roles and activities of duty-bearers and stakeholders differ from one country to another due to a wide range of factors.<sup>1</sup>

Thus, the differences in the effective application of child protection in countries such as Libya and the Palestinian Territories are large and depend on the nature of the situation in each country. However, despite these differences in roles and activities, a certain standard of protection must be available to all. And most importantly, the state is primarily responsible for the rights of the child.<sup>2</sup>

#### **A. Application of the United Nations Institutions and Structures in Palestine**

Palestine suffers from a complex state of armed conflict that has been going on for many years. Palestine is under Israeli occupation, armed conflict in the Gaza Strip, Palestinian division, and prolonged displacement in the West Bank. The Palestinian child faces the most severe restrictions and violations in the world, and the Israeli occupation army continues to infringe on all the rights of the Palestinian child.

This abuse of children constitutes an obstacle to the continuation of Palestinian life, as Palestinian children face the threat of deprivation of education and health, arbitrary arrest, torture, unfair trials, murder and sometimes rape. Since 2011, the occupation forces have executed more than 781 Palestinian children, in addition to widespread arrests of children, despite the outbreak of the "Corona" pandemic.<sup>3</sup>

Palestinian children who have grown up in the context of the protracted Israeli-Palestinian conflict are particularly vulnerable and in need of protection. In this regard, Mr. Nassar stated that *“ during the past three years there has been an increase in violations, as 3 children are killed every week in Palestine, and the reason is that the armed conflict in Palestine is a mutual process between the occupation forces (Israel) and the Palestinian factions.”*

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<sup>1</sup> Matthias Schmale, Director of UNRWA Operations in the Gaza Strip and Lucia Elmi, UNICEF Special Representative in the State of Palestine, 11 May 2021, Violations against children must end: Nine children killed in latest Gaza Strip escalation, many injured.

<sup>2</sup> Mariti Amjad, 2011 , Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East , published by: Save the Children , available at: [Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East | Save the Children's Resource Centre](#).

<sup>3</sup> Matthias Schmale, Director of UNRWA Operations in the Gaza Strip and Lucia Elmi, UNICEF Special Representative in the State of Palestine, 11 May 2021, Violations against children must end: Nine children killed in latest Gaza Strip escalation, many injured.

In this context, ensuring the realization of the rights of Palestinian children through effective protection mechanisms is obligatory for all parties. However, the implementation of these mechanisms is very weak, given the special situation that Palestine is facing so far. Protection mechanisms are still not fully respected. This includes ensuring access to education and health care and protection from violence and exploitation for children in Palestine.<sup>1</sup>

In an overview of the situation in the Palestinian Territories, the most common perpetrators of child rights violations in the Occupied Palestinian Territories are the Israeli authorities and Jewish settlers. In the Occupied Palestinian Territory, the Palestinian Authority also has protection responsibilities towards the Palestinian population, but its ability to protect is restricted by Israel.

In 2021, indicators of violations against children by the Israeli occupation army increased. Whereas, Mrs. Zaqout said that “*violating human rights systematically, this was evident during the wars that broke out in Gaza, and there was direct targeting of children*”. Despite all these humanitarian violations, especially in the May 2021 war on the Gaza Strip, no official in Israel was affected by international sanctions, and until now the United Nations has not included Israel in the blacklist of violators of children’s rights in conflict zones in the world. This is what makes the application of protection mechanisms not work effectively.

Given the general situation in Palestine and the daily violations against children and how to apply and implement protection mechanisms by the Human Rights Council, the Security Council and the Special Rapporteur on armed conflict situations. We find that these mechanisms do not operate sufficiently, efficiently or effectively within the occupied territories and within the Gaza Strip in particular.

The United Nations Security Council has addressed the situation of children in Palestine through various resolutions, discussions, and initiatives aimed at protecting their rights and improving their living conditions. However, it is important to note that the Security Council's ability to directly enforce these measures is limited, as the responsibility for implementing them lies with the relevant parties on the ground.<sup>2</sup>

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<sup>1</sup>Mariti Amjad, 2011 , Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East , published by: Save the Children , available at: [Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East | Save the Children’s Resource Centre.](#)

<sup>2</sup> *Ibid.*

One way the Security Council has provided protection for Palestinian children is by issuing resolutions such as **Resolution 2427 (2018)**, for example, which called for an immediate cessation of all acts of violence against civilians, particularly in Gaza. **Resolution 2334 (2016)** condemned Israeli settlements in the Occupied Palestinian Territories as illegal and an obstacle to peace, indirectly affecting the lives of Palestinian children. In this regard, Mr. Aisha stated that *“The Security Council resolutions that are considered to have the power to punish the perpetrators of violations, especially the six grave violations of killing, kidnapping, sexual assault, assault on educational institutions, assault on health facilities, preventing the arrival of aid, and the implementation of Security Council resolutions on these violations is gradual in dialogue with the parties.”* In addition to preparing reports and monitoring the impact of the conflict on children and sending peacekeeping missions. It is important to recognize that achieving lasting change and full protection of children's rights requires the commitment and cooperation of all stakeholders, including governments, armed groups and the international community as a whole.

At that time, the Human Rights Council (HRC) had been addressing the situation of children in Palestine by monitoring and documenting human rights violations, advocating for their protection, and promoting accountability for perpetrators.<sup>1</sup>

In addition, UNICEF has taken many measures to provide care and basic needs for children and is working continuously despite all the obstacles and restrictions it faces in Gaza in particular. However, its work does not constitute a prevention of violations committed by Israel against children in Palestine, but it is considered an aid and contribution to alleviating the harsh situation that children live in.

Furthermore, all those international mechanisms, organs and structures are still carrying out their work according to legal rules as stated in the United Nations Convention on the Rights of the Child (Convention on the Rights of the Child; United Nations General Assembly, 1989) and other international conventions.

It is worth noting that civil society organizations in Palestine are working hard to implement these mechanisms and cooperate with United Nations organizations in order to document Israeli violations. This indicates the Palestinian society's desire and willingness to

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<sup>1</sup> Janette Habashi, 2015 The Palestinian path to the Convention on the Rights of the Child: Anticipation and discussion : University of Oklahoma, USA available at: [The Palestinian path to the Convention on the Rights of the Child: Anticipation and discussion \(sagepub.com\)](https://www.sagepub.com/journalsPermissions.nav?path=/journals/anticipation-and-discussion/vol21-no1/10.1177/1525425015588888).

participate with the international community to provide protection for children. In order to make human rights treaties and mechanisms workable and viable, it is essential that their premises and articles are supported and compatible with Palestinian laws and local policies.<sup>1</sup>

Despite that Mrs. Zaqout stated that *"The role played by the United Nations and civil society organizations is a documenting role and relies heavily on reporting and monitoring violations and preparing reports, which has led to citizens' lack of confidence in the role of the United Nations in protecting their children."*

In addition to that, the application of UN Mechanisms needs support from the International Judicial bodies, International Criminal Court's (ICC) ruling that it has jurisdiction over grave crimes committed in occupied Palestinian territory, including potential war crimes, is a major move towards ending impunity and ensuring justice.

A report into the 2008-09 Gaza aggression emphasized that justice and respect for the rule of law are the indispensable basis for peace. The prolonged situation of impunity has created a justice crisis in the Occupied Palestinian Territory that warrants action<sup>2</sup>. The court has jurisdiction over war crimes committed in the Palestinian territories, paving the way for a possible criminal investigation, despite Israeli objections. This prompted swift reactions from both Israel, which is not a member of the court and rejects its jurisdiction, and the Palestinian Authority, which welcomed the ruling. The United States objected to the decision.<sup>3</sup>

In view of the authority enjoyed by the Criminal Court to consider crimes committed in Palestine after a decision is taken by the court's judges, and an example of the measures taken by the International Criminal Court in the Palestinian territories against the perpetrators of crimes in Gaza, as on May 22, 2018, and pursuant to **Articles 13 (a) and 14 of the Rome Statute**, Palestine referred to the Prosecutor the situation since 13 June 2014, without an end date. This referral does not automatically lead to the opening of an investigation, as the Prosecutor must still determine whether the legal criteria for opening an investigation are met.<sup>4</sup> On 20 December 2019, the Prosecutor announced that, after a thorough, independent and objective assessment of the reliable

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<sup>1</sup> Ibid.

<sup>2</sup> Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967. 09 February 2021, ICC ruling on jurisdiction in occupied Palestinian territory welcome step towards justice.

<sup>3</sup> Ibid.

<sup>4</sup> ICC, 2021, Situation in the State of Palestine- ICC-01/18.

information available to her Office, the preliminary examination of this situation had concluded that all legal criteria under the Rome Statute for opening the case were met.

This makes it possible to implement effective protection for children and to hold Israel accountable for its actions. Moreover, of the actions undertaken by the International Court of Justice in the Palestinian Territories, it announced that it would continue to investigate the legal consequences of the Israeli occupation of the Palestinian territories. A deadline of 25 July 2023 has been set for the submission of written submissions by governmental bodies and organizations on the issue of the Israeli occupation. This is a step towards the effective implementation of the protection of Palestinian children.<sup>1</sup>

### **B. Application of the United Nations Institutions and Structures in Libya**

Libya is a matter of concern to the United Nations, as it is an area of violent armed conflict and danger. The United Nations, through its mechanisms, seeks to apply all means and tools that work to mitigate the grave violations being committed against children in Libya.

The application of the United Nations mechanisms to protect children in armed conflict is very complex and is not applied to the fullest due to the difficult situation in Libya, especially after 2011 until now. The United Nations has worked to implement its mechanisms and work with all its organs by issuing reports and sending peace missions. Several reports have been published by the United Nations, such as the report of the United Nations Secretary-General on children and armed conflict in Libya: This report was issued on July 20, 2020 and stressed the continuation of violations of children's rights in Libya, including direct and indirect targeting of children, threats of displacement, torture and sexual exploitation, and the use of children as human shields. Another report was issued on February 12, 2021 and focused on the worsening child rights situation in Libya, with a focus on widespread violations including killing, injury, forced recruitment, rape, and sexual exploitation of children.<sup>2</sup> In this regard, Ms.Nijm stated that *“The six violations are linked to the International Convention on the Rights of the Child, as well as the third protocol of the Convention that allows children to submit complaints, which constitutes a step in prosecuting the perpetrators of these violations”*

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<sup>1</sup> Middle East Monitor (2023), ICJ sets date for investigation of Israeli occupation of Palestine. Available at: <https://www.middleeastmonitor.com/20230209-icj-sets-date-for-investigation-of-israeli-occupation-of-palestine/> (Accessed: 26 August 2023).

<sup>2</sup> OCHA, Watchlist on Children and Armed Conflict,( January 2021), Children and Armed Conflict Monthly Update, Recommendation to Security Council - Libya.

These reports aim to educate the international community about the situation of children in Libya and urge immediate action to protect them and stop violations of their rights. These reports encourage states to take effective measures to provide protection. However, these reports were not adhered to by the parties to the conflict in Libya, and there is still a large gap in the implementation of these mechanisms, despite the expansion of the child protection mandate in the United Nations Support Mission in Libya.

Libya's warring parties signed a nationwide ceasefire agreement on October 23 following UN-facilitated talks, but children continue to be subjected to grave violations of all their rights.<sup>1</sup>

Between March and September 2020, nearly **500** children, intercepted at sea and returned to Libya, were sent to detention centers, according to **IRC** data.

Thus, the application of effective United Nations protection mechanisms that seek to strengthen the rule of law and monitor and protect the rights of children by helping the Libyan authorities to reform and build a justice system and support work to ensure the correct treatment of detainees and the release of any children still associated with the revolutionary brigades.<sup>2</sup>

Libya has suffered through more than seven years of persistent conflict that has left at least **820,000** people, including some **250,000** children, in dire need of humanitarian assistance and the situation is deteriorating yet again. For their sake, and the sake of the country's future.

“Nearly **1,800** children are among civilians who urgently need evacuation from areas under frontline fighting, while **7,300** children have already been displaced from their homes by the raging violence. Around **500,000** children are estimated to be affected by violence across western Libya.”<sup>3</sup> “Children trapped in conflict areas are at risk of running out of food and losing access to medical care. Unable to leave these areas, they cannot safely seek protection or assistance”.<sup>4</sup> This was emphasized by the Special Representative of the Secretary-General for Children and Armed Conflict.

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<sup>1</sup> *Ibid.*

<sup>2</sup> *Ibid.*

<sup>3</sup>Henrietta Fore, UNICEF Executive Director, and Virginia Gamba, Special Representative of the Secretary-General for Children and Armed Conflict, 18 April 2019, Children's lives and well-being in danger as fighting intensifies in Tripoli, Libya, Available at : [Children's lives and well-being in danger as fighting intensifies in Tripoli, Libya – Office of the Special Representative of the Secretary-General for Children and Armed Conflict \(un.org\)](#).

<sup>4</sup> *Ibid.*

In line with the decisions of the Security Council and the role it plays through the monitoring and reporting mechanism and the decisions it issues in order to provide protection and hold the perpetrators accountable, the violations still continue on the ground. All that is being done now is issuing reports documenting violations without taking any actual measures to protect children or hold perpetrators accountable, and this is what raises controversy about the obstacles and challenges that prevent the application of United Nations protection mechanisms in Libya. Where Mr. (Aisha) stated that "*what the United Nations mechanisms, whether treaty or non-treaty, are doing is nothing but exposing the violations and documenting them in reports without taking strict measures against the violators,*" and emphasized several facts related to the failure to effectively protect children in Libya and Palestine. "*As documentation of the violation depends on reporting. In 2020, Libya submitted its report by the government and civil society organizations, but the Committee on the Rights of the Child did not discuss it. Also, he stated that "The UPR also made recommendations for Libya, including recommendations related to children, and Libya accepted those recommendations, and acceptance means implementation, but this implementation has not happened yet"*".

In addition to that, Libya is not a State Party to the Rome Statute. However, on 26 February 2011, the United Nations Security Council unanimously referred the situation in Libya since 15 February 2011 to **the ICC in Resolution 1970 (2011)**. ICC may therefore exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of Libya or by its nationals from 15 February 2011 onwards.

The situation in Libya was the second to be referred to the ICC by the United Nations Security Council and the second ICC investigation on the territory of a non-State Party to the Rome Statute.<sup>1</sup>

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<sup>1</sup> ICC, February 2011, Situation referred to the ICC by the United Nations Security Council, Available at: [Libya | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int).

### **Section Three: Challenges of United Nations Institutions and Organs Application to Protect Children in Armed Conflict**

In the context of the armed conflict in Libya and Palestine, the challenges associated with applying protection mechanisms may be complex given the changing nature of the conflict and the multiple conflicting parties. In this regard, Ms. Mozoughi stated that *“The ineffectiveness of the United Nations mechanisms for the protection of children in armed conflict and the rules of international humanitarian law in Palestine and Libya does not mean that they are insufficient, rather, there are challenges that prevent the effective application of these mechanisms”*. The application of United Nations mechanisms for the protection of children in armed conflict is influenced by many factors, including the legal, political and security complexities associated with the conflict.<sup>1</sup>

#### **A. First: Legal Challenges**

The organs, structures and institutions of the United Nations laid the foundation for designing tools that would ensure the effective application of child protection in conflict areas, which in turn follow the laws and provisions stipulated in international conventions on the protection of children. However, cases such as Palestine and Libya, due to their difficult legal situation, lack these international structures to implement their role due to some legal challenges.<sup>2</sup>

##### **1. Varying Legal Status**

Palestine and Libya have different legal statuses and relationships with the UN, which can impact the applicability and enforceability of UN mechanisms. While Palestine is a non-member observer state, Libya is a member state. The legal implications and obligations associated with these different statuses can influence the extent to which UN mechanisms can be applied and enforced in each context. This leads to interpreting legal frameworks differently. Conflicts and different interpretations of international legal frameworks create obstacles to the implementation of United Nations mechanisms, because the conflicting parties have different points of view, and some of them may be signatories to the agreement and others have ratified it, which raises a

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<sup>1</sup>Mariti Amjad, 2011 , Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East , published by: Save the Children , available at: [Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East | Save the Children’s Resource Centre](#).

<sup>2</sup> Geneva Call Centre, ,3 December 2021: Officials Pledge to Strengthen the Protection of Children and Education in Libya Available at: [Libya: Officials Pledge to Strengthen the Protection of Children and Education in Libya - Geneva Call](#).

problem in application and the extent of the parties' commitment to implement the provisions of the agreements. international. In addition, the discrepancy over the legal situation in Palestine, being an occupied country, makes it difficult from a legal point of view, which hinders progress in protecting children.

One of the primary challenges is ensuring compliance with and enforcement of international legal standards. Ensuring that all parties concerned adhere to these obligations may be difficult, due to the fact that some of the international agreements concerned with the protection of children are non-binding.

United Nations mechanisms, such as Security Council resolutions and international treaties, specify obligations to protect children in armed conflicts, but the conflicting parties in Libya, for example, do not bother to implement these agreements in order to achieve their goal. So are both Israeli forces and Palestinian armed groups. Despite the existence of UN mechanisms, violations of children's rights, such as recruitment, attacks, detention and killings, still occur.<sup>1</sup>

## **2. Lack of access and monitoring**

The provisions of the agreements and the resolutions of the United Nations organs include what refers to monitoring and documenting violations, but they do not include protection for United Nations workers to carry out their work, as peacekeeping forces and persons responsible for carrying out their work are denied access to conflict areas, and this is what was found Clearly in 2014 in Gaza, where the Israeli forces refused to grant entry permits to many special rapporteurs and United Nations workers to complete their investigative work, which impedes access and monitoring by international bodies, making it difficult to collect accurate and timely information on the situation of children in conflict areas, which limits the ability to assess violations and hold perpetrators accountable.<sup>2</sup>

## **3. Impunity and Accountability**

Impunity often prevails due to various factors, including limited resources, weak judicial systems, and political obstacles. This can undermine efforts to address abuses and achieve justice for affected children. Mr. Aisha confirmed that *“most of the sanctions are moral penalties only,*

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<sup>1</sup> Ibid

<sup>2</sup> Unicef Organization , 2017 , Child Protection - State of Palestine. Available at: [Child protection | UNICEF State of Palestine](#) Visited on: May 16, 2023.

*there is a problem in applying the conditions required for the MRM mechanism in Libya and Palestine”.*

The ineffective application of protection mechanisms is mainly due to the lack of a strong deterrent. And this may be its cause the lack of legal alternatives, whereas, the international agreements and treaties were established a period of time ago and were not developed to suit the nature of the current conflicts. The failure to amend laws and work on their compatibility with the nature of the conflict raises a problem in protecting children during the conflict, and this is evident from what happened recently in Palestine in the 2021 aggression.<sup>1</sup>

### **3. Weakness of National Laws**

The protection of children in armed conflicts requires that international standards be incorporated into the local laws of each country that has signed and ratified the conventions. Renewable and does not contain mandatory clauses of the agreements.

## **B. Political Challenges**

Several political challenges face the application of UN institutions, organs and structures to protect children in armed conflict in Palestine and Libya. The lack of political will, the law of power, the interests of the states, double standards, the interference of powerful states, etc. the political challenges are the most important and the most difficult to resolve.

### **1. Dynamics of Armed Conflict**

Palestine and Libya were distinguished by the lengthy armed conflicts that include multiple actors. The Israeli -Palestinian conflict is a firm and political issue, as well as the presence of armed groups in Libya and the absence of the central authority holding efforts to protect children. Ms. Nijm emphasized that *“In Libya, there are no national mechanisms and the International Convention on the Rights of the Child is not applied, and civil society organizations are established instead of those international mechanisms, and these organizations do not work effectively due to political restrictions”*, and confirmed by Mrs. (Maryam) which said that *“there is a significant weakness in the implementation of United Nations mechanisms, and serious measures must be*

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<sup>1</sup> *Ibid.*

*taken to stop armed groups.*" The nature of these lengthy armed conflicts works on violations of international humanitarian law and international human rights law, including targeting civilians, including children. The conflict itself creates great challenges to implement effective mechanisms, as the situation is characterized by constant violence, regional conflicts, and complex power dynamics.<sup>1</sup>

## **2. Political Divisions and Fragmentation**

Political divisions between Palestinian factions, such as Fatah and Hamas, are additional challenges. In this regard, Mrs. Zaqout stated that *"the state's unwillingness to abide, as is happening now in Palestine as a result of the political division between Hamas and Fatah"*. Since 2007 until now, these divisions have created difficulties in creating a unified approach to protecting the child and limiting the effectiveness of the United Nations with the Palestinian authorities. The fact that Gaza is affiliated with the Hamas government and the West Bank under Fatah government, which constituted this obstacle to uniting the forces to confront the occupation and prevent violations against children. The political fragmentation impedes the coordination of resources, policies, and efforts to address the issue comprehensively.

## **3. Political Intervention and Competition**

Since the revolution in 2011 in Libya, international intervention by regional and international actors that have their interests in the Libyan conflict has often supported opposition factions, which leads to the continued conflict. These actors sometimes give priority to their own strategic goals on child protection concerns. External support for armed groups, and the competition between external actors complicates the efforts of the United Nations to protect children and create a favorable environment for their rights. This geopolitical context prohibits the implementation of United Nations mechanisms effectively.<sup>2</sup>

## **4. The Limited Control of the Government**

The globally recognized National Agreement (**GNA**) in Libya is having difficulty enforcing its authority over the entire nation due to rival agencies and armed organizations. The

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<sup>1</sup> Matthew Happold, (2010), Protecting Children in Armed Conflicts: Harnessing The Security Council's "Soft Power"., Published online by Cambridge University Press.

<sup>2</sup> Crisis Group Special Briefing, 14 September 2022, Ten Challenges for the UN in 2022-2023.

implementation of programmes and activities aimed at protecting children is hampered by this absence of central governance.

The fact that the United Nations Institutions and thus the mechanisms need national support to protect children, and because of the non-control of the government as it happens in Palestine, In addition to the lack of political will, the law of power, the interests of the states, double standards, the interference of powerful states, etc. the political challenges are the most important and the most difficult to resolve it limits its ability to carry out its duties. This leads to insufficient and inefficient practices and impact.

## **5. Diplomatic issues**

The Israeli-Palestinian conflict has significant geopolitical ramifications, which may make it more difficult for the United Nations to advance its efforts to safeguard Palestinian children. The United Nations Security Council authorities often lead to political interests between member states to a political maneuver and hinder the adoption of strong decisions or enforcement mechanisms.<sup>1</sup>

### **C. Security Challenges**

Protecting children in Libya and Palestine is quite difficult due to insecurity. The possibility of using children as soldiers, sexual assault against minors, and other grave human rights violations increases in areas where there are armed groups, militias, and extremist organizations. Security issues make it challenging for the UN to get to places affected by conflicts and offer children the safety and assistance they need.

#### **1. Security Concerns and Operational Limitations**

In conflict zones, ensuring the safety and security of people taking part in the implementation of UN procedures can be extremely difficult. Effective inquiry, support, and compliance may be hampered by operational constraints and security worries.

The volatile security situation in Palestine makes it difficult for United Nations employees and agents to work effectively on the ground. Access to conflict -affected areas is often limited to the United Nations' ability to monitor and respond to violations against children. where Ms. (Nijm) said that *"there is a great lack of awareness of human rights in Libya, and there is no trust on the part of citizens. The performance of the government to protect their rights, as I was personally*

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<sup>1</sup> Unicef Organization , 2017 , Child Protection - State of Palestine. Available at: [Child protection | UNICEF State of Palestine](#) Visited on: May 16, 2023.

*arrested by armed groups while I was doing my work within the United Nations peacekeeping mission in Libya*". Moreover, the presence of checkpoints, military operations and continuous violence endangers children, which makes it difficult to provide comprehensive protection.<sup>1</sup>

## **2. Resource Limitations**

These limitations have an impact on the UN's capacity to handle the issues of protecting children in Palestine. In order to run efficient programmes, give humanitarian relief, and check infractions, resources for entertainment and coffee are essential; however, the availability of the required resources may be constrained by conflicting priorities, donor fatigue, and political factors.<sup>2</sup> Addressing these challenges requires sustained political will, increased international cooperation, and a comprehensive approach that focuses on the rights and well-being of children in Palestine and Libya.<sup>3</sup>

In this regard, Mrs. (Mozughi) stated that *"There is a weakness in coordination between the United Nations agencies and the provision of services that is not done seriously due to the lack of resources."*

To Conclude, being at a legal crossroads, the phenomenon of protecting children in armed conflict requires incorporation between both international humanitarian law and international human rights law. The rules of international humanitarian law and the United Nations Conventions, treaties, institutions and organs complementary roles in meeting the protection and assistance needs of children in situations of armed conflict. In this regard, Mr. Aisha stated that *"The human rights system is as interdependent as human rights are interconnected, as well as interdependent with the mechanisms of international humanitarian law"*. But from the point of view of Ms. Zaqout *"There is complementarity between the rules of international humanitarian law and the mechanisms of the United Nations, but this complementarity is not absolute, but it is marred by many shortcomings"*.

International humanitarian law and international human rights law are part of international law, interaction takes place between them by complementing their rules for each other, since international humanitarian law rules governs the behavior of armed conflicts and defines the legal

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<sup>1</sup> Ibid.

<sup>2</sup> Crisis Group Special Briefing, 14 September 2022, Ten Challenges for the UN in 2022-2023.

<sup>3</sup> Ibid.

obligations of states and non-state actors during armed conflict, defines protections for children and prohibits certain acts, such as the recruitment and use of children as soldiers. This requires that the mechanisms of the United Nations and the rules of international human rights law be compatible with those provisions and that the real goal is to prevent any act that endangers or violates the child.<sup>1</sup>

The two laws both have provisions for the protection of children during armed conflict. These laws take note of the child's general legal rights, which are particularly likely to be violated during times of war.<sup>2</sup>

International Conventions, UN Institutions which are organized by IHRL and IHL Rules are complementary in armed conflicts. They are, however, distinct and separate, especially "jus in bello" (or IHL), which regulates the way war is conducted and "jus ad bellum", which covers the reasons for war. Both laws aim to protect the life, health and dignity of human beings. Whereas IHL applies only in times of armed conflict, human rights law applies at all times, in peace and in war<sup>3</sup>

Although the two laws seek the same goal of protecting civilians in armed conflict and respecting human rights, each law has its own different tools and methods to protect Children in hostilities and recruitment during the conflict.<sup>4</sup>

These two legal instruments differ in terms of the legal protection for children who were so-called voluntarily recruited into the armed forces and those who perform military supportive roles (i.e. do not participate directly in hostilities). Whereas, the primary purpose of the United Nations is to prevent war, maintain peace and respect human rights, not to regulate the conduct of hostilities, while international humanitarian law defines the form of hostilities and imposes conditions on the conduct of hostilities.

Moreover, determining the legal age for recruiting children and their participation in hostilities differs between the two laws, as the age limit is less than 15 years in international humanitarian law, while the Optional Protocol to the International Convention on the Rights of the Child limits the age to 18 years.

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<sup>1</sup> Marko Milanovic, July 14, 2014, Two Articles on the Relationship between IHL and IHRL.

<sup>2</sup> Ibid.

<sup>3</sup> Monique Nanchen, (2019), Global Adviser on Children, ICRC, Q&A: The ICRC's engagement on children in armed conflict and other situations of violence, International Review of the Red Cross, 101 (911), 653–663. Children and war.

<sup>4</sup> Ibid.

The United Nations may be bound by international humanitarian law either because its internal law provides for it, or because it has undertaken to be bound by it. Respect for human rights is one of the goals of the United Nations, and international humanitarian law can be seen as guaranteeing these rights in armed conflicts. However, the intervention of the United Nations may hinder the application of international humanitarian law in conflict areas, especially the controversy surrounding the application of all rules of international humanitarian law in Occupied territories such as Palestine.<sup>1</sup>

The UN Security Council, the UN General Assembly and the UN Human Rights Council increasingly refer in detail to IHL in their discussions and decisions. The Secretary-General of the United Nations publishes regular reports on the protection of civilians in armed conflict.

In view of the two laws seeking to provide protection for children in armed conflicts, the political challenges and the unwillingness of states to comply with international laws, the indifference of some armed groups to legal rules and the lack of punishment for the perpetrators of crimes still constitute an obstacle to achieving this protection.

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<sup>1</sup> *Ibid.*

## Findings and Discussion

This research presented a descriptive analytical discussion by presenting the viewpoints of interviewees and previous studies related to the effectiveness of United Nations mechanisms in protecting children in armed conflict, leading to valuable results.

By discussing the legal framework of the international conventions concerned with the protection of children in armed conflicts and the institutional framework, the research reached that **In Palestine**, the matter depends on the historical conflict linked to the right to self-determination and independence, the end of the occupation, and the establishment of the State of Palestine. When the internal division and geographical division are ended, there is hope for the protection of all human rights. **In Libya**, the matter is linked to resolving the crisis and the political conflict, and it depends on the disarmament of the groups, and it also depends on the regional and international conflict through international intervention, which complicates the matter. External interference must be prevented in order for there to be steps to mitigate the effects of the conflict. Also, it finds that the principle of complementarity between the rules of international humanitarian law and international human rights law does not work in absolute terms and is flawed at some points. In addition, UN Mechanisms and IHL Rules should be developed to have provisions on protecting children in armed conflict to keep pace with modern conflicts.

As well as, the research finds that there is a weakness in stipulating direct legal rules on the protection of children in armed conflict except in some articles and provisions, which restrict the efficiency and effectiveness of its application. Moreover, the challenges that impede the work of the United Nations are divided into legal challenges and political challenges and overcoming them can only be with the strong will of states and reducing the challenges of applicability of UN Mechanisms in Palestine and Libya, the coordination between all actors should happen.

The research sought to confirm the validity of the information given by interviewees by comparing their responses in a specific context. Most of the interviewees confirmed that most United Nations mechanisms do not contain strict penalties for violating children's rights during armed conflict, with the exception of Security Council resolutions, but their application is limited to some countries.

From the point of view of legal experts and officers in the United Nations shows that the deterrent role played by Security Council resolutions and the MRM mechanism is played on some countries and excludes some countries, which makes punishment not possible. In addition, non-

compliance with treaty and non-treaty mechanisms leads to an increase in violations without a strong deterrent.

Thus, after analyzing these data and their relevance to other sources, it was found that the findings of the research depended on the point of view of interviewees and some previous studies.

In sum, children in Palestine and Libya are still at risk and their rights are being violated continuously and systematically, whether by the occupation forces in Palestine or by armed groups in Libya, due to the nature of the ongoing conflict so far, and this was shown through the research, as the absence of the effective role of United Nations mechanisms and the rules of international humanitarian law has led to the continuation of the heinous violations against children. Although the role of the United Nations system is working seriously and making efforts to provide effective protection and promotion of human rights at all times, and to take into concentration the rules of international humanitarian law in situations of armed conflict, protection is still largely ineffective.<sup>1</sup>

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<sup>1</sup> Monique Nanchen, (2019), Global Adviser on Children, ICRC, Q&A: The ICRC's engagement on children in armed conflict and other situations of violence, *International Review of the Red Cross*, 101 (911), 653–663. Children and war.

## **Conclusion**

The ongoing conflicts in Palestine and Libya show that the role of the United Nations mechanisms has not been as effective as expected, which weakens states' recourse to them in conflict cases. Where, the political influence within countries has influenced the United Nations to play its effective role in protecting children in armed conflict. This shows that security council resolutions illustrate that they have not been implemented in Palestine to date, and Israel has not been held accountable for the crimes committed in the aggression against Gaza. Moreover, Israel exploited the manipulation of the rules of international humanitarian law, by issuing decisions in Israeli law, such as killing people carrying sharp tools at a distance of 2 kilometers, which allowed Israeli soldiers to kill children under the pretext of this decision.

In addition to that, the role of the United Nations system, through some of its mechanisms, was limited to documenting violations and submitting reports on those violations without effective punishment and the role of the United Nations has been declining over the years, due to the failure of the conventions on child protection to keep pace with the development in the use of weapons and the development in the form of conflict. Moreover, the process is very insufficient and very limited, and the violations are still occurring every day.

International humanitarian law does not provide for agreements directly concerned with the protection of children, as the Geneva Conventions are concerned with the protection of civilians, including children. Still, there is a lack of respect for the rules of international humanitarian law and the relationship between international humanitarian law and international human rights law is integrated in the principle of protecting children, and promoting and respecting their rights. As well, there is a great incompatibility between the rules of those laws as a result of the absence of a real will on the part of countries to solve the problem of the conflict, and the intervention of some other countries increases the continuation of conflicts, such as the intervention of European countries in the issue of Libya.

Furthermore, the monitoring and reporting mechanism is one of the most important mechanisms followed by the United Nations in prosecuting perpetrators of violations, but this mechanism continues to operate within certain restrictions and conditions, which hinders its effective implementation and impact.

## **Recommendations**

The researcher recommends developing the international legal framework for the protection of children so that it is more comprehensive to ensure full protection in times of armed conflicts, including the side effects resulting from conflicts. Also, the United Nations needs to reconsider its role in protecting children in armed conflict, especially in Palestine and Libya, by promoting the work with International Judicial bodies according to the Universal Jurisdiction, so that it can effectively implement its decisions and mechanisms.

Furthermore, it is recommended to call on the United Nations to develop special mechanisms to protect children, especially in times of armed conflicts, including defining a special decision in this regard, and not only including them in the protection mechanisms related to civilians, or limited to specific violations against children. Moreover, create specific and clear executive mechanisms to ensure accountability and remedy for crimes committed against children, in order to ensure an end to the common policy of impunity.

In this regard, it's recommended to create a special section specialized in war crimes against children in United Nations peacekeeping missions to work on spreading the culture of children's rights and raise awareness of them among the various segments of society, especially how to file complaints and submit communications by children who have been subjected to violations during armed conflicts. In addition, to work on the inclusion of children in the process of resolving conflicts and establishing peace in a way that ensures their voices are heard, their special needs are taken into account, and the best interest of the child is achieved. Similarly, a Security Council resolution is issued similar to Resolution 1325 regarding the involvement of women.

Adding to that, issuing a guide on the rights of children in armed conflicts, and working to oblige countries to disseminate and communicate it and teach it within the military curricula in military academies as a comprehensive and holistic strategy for awareness raising and educating relevant individuals and entities. As well as establishing a global program to compensate child victims of armed conflicts, through which the victims can be reintegrated into society and a decent life is guaranteed for them.

To close up, effective coordination between the United Nations agencies and cooperation with civil society organizations to face all challenges that impede the implementation of United Nations mechanisms and include strict decisions with a deterrent penalty for all parties to the conflict within the United Nations system. Educating communities about documentation

mechanisms and integrating modern technological methods to detect and prosecute crimes. As well as, launch initiatives for the immunity of United Nations officers, and oblige the state parties to abide and give an opportunity for a cease-fire, and activate strictly the related International laws to provide humanitarian services to children and secure corridors and safe havens, at all times and circumstances to protect vulnerable individuals as a guaranteed minimum bottom line of basics of the human rights and protection.

## **Bibliography / References List**

### **A. Official Instruments**

1. Geneva Convention relative to the Treatment of Prisoners of War (Convention III of 12 August 1949).
2. Geneva Convention relative to the protection of civilian persons in time of war (Convention IV of 12 August 1949).
3. Additional Protocol I, Protection of Victims of International Armed Conflicts (Protocol I) 1977.
4. Additional Protocol to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non- International Armed Conflicts (Protocol II) 1977.
5. Additional Protocol III to the Geneva Conventions , 2015.
6. The Convention on the Rights of the Child, 1989.
7. The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000.
8. Universal Periodic Review. OHCHR.
9. Special Rapporteur on Children and Armed Conflict.
10. Security Council Resolutions.
11. International Criminal Court Decisions in Palestine and Libya: ICC, 2021, Situation in the State of Palestine- ICC-01/18.

### **B. Books**

1. Voeneky Silja, 2020, "Implementation and Enforcement of International Humanitarian Law", in Fleck Dieter (ed.), The Handbook of International Humanitarian Law, 4 th ed. (forthcoming), Oxford, OUP, 117 pp.
2. John Trent and Laura Schnurr,: A United Nations Renaissance,: Promoting and Protecting Human Rights, published by Verlag Barbara Budrich.
3. Malik Qasim Mustafa, 2003, United Nations Security Council: Current Challenges and Implications, Source: Strategic Studies, Autumn, Vol. 23, No. 3 (Autumn 2003), pp. 125-154 Published by: Institute of Strategic Studies Islamabad.

4. Denzin, N.K. and Lincoln, Y.S. (2005) introduce the discipline and practice of qualitative research. Handbook of Qualitative Research, 3rd edition, sage, Thousand Oaks, 1-32. - references - scientific research publishing. Available at: [https://www.scirp.org/\(S\(lz5mqp453edsnp55rrgjt55\)\)/reference/ReferencesPapers.aspx?ReferenceID=1876113](https://www.scirp.org/(S(lz5mqp453edsnp55rrgjt55))/reference/ReferencesPapers.aspx?ReferenceID=1876113) (Accessed: May 7, 2023).

5. العقيد أحمد الأنور، 29، يناير 1993 - حماية ضحايا الحرب بين الشريعة والقانون الدولي الإنساني، المجلة الدولية للصليب الأحمر السنة السادسة، ص 12.
6. د.عبدالعليم محمد، 2004/3/5 دور الإعلام في التعريف بالقانون الدولي الإنساني الدولي، جريدة الأهرام المصرية، الجمعة، ص 38.
7. الدكتور فضيل طلافحة - 2010 - حماية الأطفال في القانون الدولي الإنساني- المؤتمر الدولي - حقوق الطفل من منظور تربوي وقانوني جامعة الاسراء الاردن.

### C. Reports

1. Renata Segura and Delphine Mechoulan, (2017), International Peace Institute .: The Role of the United Nations: Made in Havana:: How Colombia and the FARC Decided to End the War Report.
2. Alice Debarre , International Peace Institute (2018), Gaps in International Health Policy and Its Implementation in Armed Conflict, Report Title: Hard to Reach: Report Subtitle: Providing Healthcare in Armed Conflict Report.
3. Israeli Ministry of Foreign Affairs, July 2009 The Operation in Gaza, Factual and Legal Aspects”, Report, available at <http://www.mfa.gov.il>
4. Child Rights Connect Centre, 2020, initial report of the state of Palestine,session: 28th and 29th January (83rd session). available at: ([childrightsconnect.org](http://childrightsconnect.org)).
5. UNSMIL, 2020,- 2021, "Report on the Protection of Civilians in the Armed Conflict in Libya.
6. Graça Machel, 1996, Report on the impact of Armed Conflict on Children.
7. Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967. 09 February 2021, ICC ruling on jurisdiction in occupied Palestinian territory welcome step towards justice.

#### **D. Articles, Journals and Websites**

- 1.** Jagriti, (2021), Protection of children under International Humanitarian Law, Law column. Available at: <https://www.lawcolumn.in/protection-of-children-under-international-humanitarian-law/> (Accessed: May 7, 2023).
- 2.** Rathore, S.C. (2020) Introductory remarks on the protection of children in armed conflict, Humanitäres Völkerrecht. BiblioScout. Available at: <https://biblioscout.net/article/99.140005/huv202003018301> (Accessed: May 7, 2023).
- 3.** Hayes, A. (2022) United Nations (UN): Definition, purpose, structure, and members, Investopedia. Investopedia. Available at: <https://www.investopedia.com/terms/u/united-nations-un.asp> (Accessed: May 7, 2023).
- 4.** Instruments & Mechanisms OHCHR. Visited on: May 3, 2023. Available at: <https://www.ohchr.org/en/instruments-and-mechanisms> (Accessed: May 7, 2023).
- 5.** United Nations, About Us. United Nations. Visited on: May 3, 2023, Available at: <https://www.un.org/en/about-us> (Accessed: May 7, 2023).
- 6.** UNHCR, the UN Refugee Agency, Visited on : May 4, 2023.. Available at: <http://www.UNHCR.org/> (Accessed: May 7, 2023).
- 7.** Lansdown, G., Vaghri, Z. (2022). Article 1: Definition of a Child. In: Vaghri, Z., Zermatten, J., Lansdown, G., Ruggiero, R. (eds) Monitoring State Compliance with the UN Convention on the Rights of the Child. Children's Well-Being: Indicators and Research, vol 25. Springer, Cham. Published on: January 3, 2022 [https://doi.org/10.1007/978-3-030-84647-3\\_40](https://doi.org/10.1007/978-3-030-84647-3_40).
- 8.** Amnesty International, (2022), Millions of people have their lives shattered by armed conflict every year. Available at: <https://www.amnesty.org/en/what-we-do/armed-conflict/> (Accessed: May 7, 2023).
- 9.** International Justice Resource Center ,(2018), International Humanitarian Law, Visited on: April 15 2023 , Available at: <https://ijrcenter.org/international-humanitarian-law/> (Accessed: May 7, 2023).
- 10.** Legal fact sheet - published on 6 April 2022. What is international humanitarian law? | International Committee of the Red Cross available at: ([icrc.org](http://icrc.org)).
- 11.** Marco Sassòli, 203 March, 2019, International Humanitarian Law : Rules, Controversies, and Solutions to Problems Arising in Warfare. 168. Chapter 6: Scope of Application:

Available,at:[https://searchworks.stanford.edu/articles/edselg\\_\\_edselg.9781786438546.ch06](https://searchworks.stanford.edu/articles/edselg__edselg.9781786438546.ch06) (Accessed: May 7, 2023).

12. Zeravan Ameen, Institutional mechanisms of the United Nations to protect children in armed conflict, University of Duhok- College of Humanities. Published by: Abdullah. Teacher KRI.
13. Sylvain Vite, (2011), Protecting Children during Armed Conflict: International Humanitarian Law, 5 Hum. Rts. & Int'l Legal Discourse 14.
14. Owiso Owiso, 2020, International Law and the Protection of Children Associated with Armed Forces and Armed Groups Source: Humanitäres Völkerrecht: Journal of International Law of Peace and Armed Conflict,, Vol. 3, No. 3/4, THEMENSCHWERPUNKT: The Child in International Law (2020), pp. 248-260 Published by: Berliner Wissenschafts-Verlag Stable URL: <https://www.jstor.org/stable/10.2307/48636468>.
15. International Crisis Group International Crisis Group (2021) , Ten Challenges for the UN in 2021-2022.
16. Cambridge University Press, 2005, Online Version of ICRC's on Customary International Humanitarian Law, with Scope Notes U.S. National Library of Medicine. available at : Customary IHL - IHL Databases - ICRC.
17. Garg, R. (2021) All about the Geneva Convention, iPleaders, available at: All about the Geneva Convention - iPleaders.
18. Cuker A; Arepally GM; Chong BH; Cines DB; Greinacher A; Gruel Y; Linkins LA; Rodner SB; Selleng S; Warkentin TE; Wex A; Mustafa RA; Morgan RL; Santesso N; (2018) American Society of Hematology Guidelines for management of venous thromboembolism: Heparin-induced thrombocytopenia, Blood advances. Available at: [Geneva Conventions and their additional protocols | Wex | US Law | LII / Legal Information Institute \(cornell.edu\)](#).
19. International Committee of the Red Cross, Geneva, 1989 Revised and updated edition, 2005 , Rules of International Humanitarian law and other relating to the conduct of hostilities collection, Page 28, available at : Rules of International Humanitarian Law and other rules relating to the conduct of hostilities (icrc.org).

20. Emily Crawford, 07 May 2020, The Temporal and Geographic Reach of International Humanitarian Law, edited by Ben Saul, Dapo Akande.
21. Pictet, J.S. (2017) 'The New Geneva Conventions for the protection of war victims', The Development and Principles of International Humanitarian Law, pp. 139–152.
22. Ricardo Garcia Vilanova/ICRC, (2017), When does IHL apply? . available at: The ICRC in Israel, Golan, West Bank, Gaza.
23. Advisory Opinion, July 8, 1996, Legality of the Threat or Use of Nuclear Weapons,, ICJ Rep. 1996, p. 226; available on <http://www.icj-cij.org>.
24. Mustafa Emad, 2021, Violations of the Israeli Occupation Army of the Palestinian Child Rights in 2021 Monitoring and analysis.
25. Matthias Schmale & Gwyn Lewis, 18 November 2019, THE Convention on The Rights of The Child and Palestine Refugee Children.
26. Human Rights Council, "Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya, Report of the Office of the United Nations High Commissioner for Human Rights" UN Doc. A/HRC/31/47, 15 February 2016, Available at: [http://www.ohchr.org/Documents/Countries/LY/A\\_HRC\\_31\\_47\\_E.pdf](http://www.ohchr.org/Documents/Countries/LY/A_HRC_31_47_E.pdf).
27. B'Tselem, November 2020. "Forbidden Roads: The Discriminatory West Bank Road Regime," available at: ([https://www.btselem.org/publications/fulltext/202011\\_forbidden\\_roads](https://www.btselem.org/publications/fulltext/202011_forbidden_roads)).
28. United Nations Human Rights Council, 17 March 2021. "Accountability and impunity: Syria, Mali, CAR, and the OPT," available at: (<https://www.ohchr.org/EN/HRBodies/HRC/CoIOPT/Pages/AccountabilityImpunityOPT.aspx>).
29. Cihan University-Erbil, (2023, February 23). Journal of Humanities and Social Sciences, 97-109, Available at: <https://journals.cihanuniversity.edu.iq/index.php/cuejhss>.
30. Madeson, F., Angela Weiss / AFP via Getty Images, Zhang, S., Frances MadesonFrances Madeson has written about liberation struggles in the U.S. and abroad for Ms. Magazine, Bloomfield, CJennings & A., Kurashige, S., Corbett, J., Cole, J., Amit, T., Malley, B., Estus, J., Goodman, A., Belser, J. W., Goodman & A., González, J., & McNeill, Z. (2023, July 27). How an Illinois city council passed unprecedented local human rights

protections. Truthout. <https://truthout.org/articles/how-an-illinois-city-council-passed-unprecedented-local-human-rights-protections/>.

- 31.** Jennifer F. Klot, 2015, The United Nations Security Council’s Agenda on ‘Women, Peace and Security’: Bureaucratic Pathologies and Unrealised Potential.
- 32.** Wallensteen and Johansson, 2016, “The UN Security Council: Decisions and Actions.” available at: <https://doi.org/10.1515/9781685853730-005>.
- 33.** Olsson et al., 5 June 2021 Sweden as an Elected Member of the UN Security Council; Prantl, “Informal Groups of States and the UN Security Council”; and Schia, Power, Complexity and Consensus-Making in the United Nations Security Council.
- 34.** Matthias Schmale, Director of UNRWA Operations in the Gaza Strip and Lucia Elmi, UNICEF Special Representative in the State of Palestine, 11 May 2021, Violations against children must end: Nine children killed in latest Gaza Strip escalation, many injured.
- 35.** Mariti Amjad, 2011 , Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East , published by: Save the Children , available at: [Mapping Child Protection Systems in Place for Palestinian Refugee Children in the Middle East | Save the Children’s Resource Centre](#).
- 36.** Janette Habashi, 2015 The Palestinian path to the Convention on the Rights of the Child: Anticipation and discussion : University of Oklahoma, USA available at: [The Palestinian path to the Convention on the Rights of the Child: Anticipation and discussion \(sagepub.com\)](#).
- 37.** OCHA, Watchlist on Children and Armed Conflict,( January 2021), Children and Armed Conflict Monthly Update, Recommendation to Security Council - Libya.
- 38.** Henrietta Fore, UNICEF Executive Director, and Virginia Gamba, Special Representative of the Secretary-General for Children and Armed Conflict, 18 April 2019, Children’s lives and well-being in danger as fighting intensifies in Tripoli, Libya, Available at: [Children’s lives and well-being in danger as fighting intensifies in Tripoli, Libya – Office of the Special Representative of the Secretary-General for Children and Armed Conflict \(un.org\)](#). Geneva Call Centre, ,3 December 2021: Officials Pledge to Strengthen the Protection of Children and Education in Libya Available at: [Libya: Officials Pledge to Strengthen the Protection of Children and Education in Libya - Geneva Call](#).

- 39.** Unicef Organization , 2017 , Child Protection - State of Palestine. Available at: [Child protection | UNICEF State of Palestine](#) Visited on: May 16, 2023.
- 40.** Crisis Group Special Briefing, 14 September 2022, Ten Challenges for the UN in 2022-2023.
- 41.** Matthew Happold, (2010), Protecting Children in Armed Conflicts: Harnessing The Security Council’s “Soft Power”., Published online by Cambridge University Press.
- 42.** Monique Nanchen, (2019), Global Adviser on Children, ICRC, Q&A: The ICRC’s engagement on children in armed conflict and other situations of violence, International Review of the Red Cross, 101 (911), 653–663. Children and war.
- 43.** Marko Milanovic, July 14, 2014, Two Articles on the Relationship between IHL and IHRL.
- 44.** Toby Sterling, Stephanie van den Berg February 5, 2021 International Criminal Court says it has jurisdiction in Palestinian territories
- 45.** Middle East Monitor (2023), ICJ sets date for investigation of Israeli occupation of Palestine. Available at: <https://www.middleeastmonitor.com/20230209-icj-sets-date-for-investigation-of-israeli-occupation-of-palestine/> (Accessed: 26 August 2023).

## **Appendices:**

Annex 1: Interview Guideline

### **English Version:**

Dear Participant,

I am conducting a research entitled “The Effectiveness of United Nations Mechanisms on Protecting Children in Armed Conflicts- The Cases of Palestine and Libya” in partial fulfillment of the requirements for the Master’s degree in Human Rights and Democratization, at Saint Joseph University in Beirut - Lebanon to address the extent of UN mechanisms can protect children in armed conflicts, in accordance with the International Humanitarian Law rules.

I would like to conduct an interview with you about this issue. Your experience and knowledge in this matter will enrich my thesis.

The interviews will be analyzed and its results will be used in the research. It will take from 30 to 60 Minutes. It will be recorded, but this record will be destroyed after writing the transcript.

Thank you for your willingness to participate.

### **Questions:**

#### **The main research question:**

To what extent can United Nations mechanisms protect children during armed conflicts, in accordance with the rules of International Humanitarian Law?

#### **Sub questions:**

##### **1. The Law / Rule**

- a. What is the Law / Rule of United Nations Mechanisms and International Humanitarian Law in protecting children during armed conflicts?
- b. What is the main legal framework of IHL and IHRL rules to protect Human Rights?

c. What are the main procedures and processes followed by United Nations bodies, especially those stipulated in IHL and IHRL to implement effective protection for children during armed conflicts?

## **2. Application (Cases)**

a. To what extent do you think that the applied mechanisms of the United Nations are efficient in protecting children during armed conflicts, in Libya / Palestine?

b. What is the practice in the application of the rules of IHL in Libya / Palestine?

## **3. Challenges, Gaps and Restrictions**

a. What are the main challenges, gaps and/or restrictions facing the United Nations Mechanisms and IHL application on protecting children in armed conflicts efficiently in Palestine and Libya?

b. What are the main challenges and restrictions that prevent the United Nations from applying its mechanisms to protect children during armed conflicts?

## **4. Incorporation between IHL and UN Mechanisms**

a. What is the interrelation between IHL and IHRL that could contribute to achieve a desired level of protection?

b. How could IHL application support/help the application of UN mechanisms on the protection of children?

## **5. Future Research**

a. What is the main suggested future research that are needed to enlighten the application of the protection of the children during armed conflicts, and to make it to be more effective?

### **Arabic Version:**

عزيزي المشارك،

أقوم بإجراء بحث بعنوان " فعالية آليات الأمم المتحدة في حماية الأطفال في النزاعات المسلحة" استيفاء لمتطلبات الحصول على درجة الماجستير في حقوق الإنسان والديمقراطية في جامعة القديس يوسف - بيروت - لبنان لمعالجة مدى دور الأمم المتحدة في حماية الأطفال في النزاع المسلح من خلال آلياتها وأجهزتها، بالتوافق مع قواعد القانون الدولي الإنساني. أود إجراء مقابلة معك حول هذا الموضوع، كون أن خبرتك ومعرفتك في هذا الشأن ستثري على الأطروحة.

سيتم تحليل المقابلات واستخدام نتائجها في البحث. ستستغرق المقابلة من 30 إلى 60 دقيقة وسيتم تسجيلها، ولكن سيتم تدمير التسجيل بعد تفرغها في نص.

شكراً لاستعدادك للمشاركة.

## الأسئلة:

### السؤال الرئيسي للبحث:

إلى أي مدى تستطيع آليات الأمم المتحدة حماية الأطفال أثناء النزاعات المسلحة، وفقاً لقواعد القانون الدولي الإنساني؟  
الأسئلة الفرعية:

### 1. القانون/ القاعدة

- أ. ما هو قانون/حكم آليات الأمم المتحدة والقانون الدولي الإنساني في حماية الأطفال أثناء النزاعات المسلحة؟
- ب. ما هو الإطار القانوني الرئيسي للقانون الدولي الإنساني وقواعد القانون الدولي لحقوق الإنسان لحماية حقوق الإنسان؟
- ج. ما هي الإجراءات والعمليات الرئيسية التي تتبعها هيئات الأمم المتحدة، وخاصة تلك المنصوص عليها في القانون الدولي الإنساني والقانون الدولي لحقوق الإنسان لتنفيذ الحماية الفعالة للأطفال أثناء النزاعات المسلحة؟

### التطبيق (الحالات)

- أ. إلى أي مدى تعتقد أن الآليات المطبقة للأمم المتحدة فعالة في حماية الأطفال أثناء النزاعات المسلحة في ليبيا/فلسطين؟  
ما هي الممارسة المتبعة في تطبيق قواعد القانون الدولي الإنساني في ليبيا/فلسطين؟

### التحديات والثغرات والقيود

- أ. ما هي التحديات والثغرات و/أو القيود الرئيسية التي تواجه آليات الأمم المتحدة وتطبيق القانون الدولي الإنساني لحماية الأطفال في النزاعات المسلحة بكفاءة في فلسطين وليبيا؟
- ب. ما هي أبرز التحديات والقيود التي تمنع الأمم المتحدة من تطبيق آلياتها لحماية الأطفال أثناء النزاعات المسلحة؟  
الدمج بين القانون الدولي الإنساني وآليات الأمم المتحدة
- ج. ما هي العلاقة المتبادلة بين القانون الدولي الإنساني والقانون الدولي لحقوق الإنسان التي يمكن أن تساهم في تحقيق المستوى المنشود من الحماية؟
- د. إلى أي مدى يمكن للعلاقة المتبادلة بين القانون الدولي الإنساني والقانون الدولي لحقوق الإنسان أن تحقق المستوى المنشود من الحماية؟

ه. كيف يمكن لتطبيق القانون الدولي الإنساني أن يدعم/يساعد في تطبيق آليات الأمم المتحدة بشأن حماية الأطفال؟

### رؤية مستقبلية

- أ. ما هي أهم البحوث المستقبلية المقترحة واللازمة لتطوير تطبيق حماية الأطفال أثناء النزاعات المسلحة، وجعلها أكثر فعالية؟

## Annex 2: List of Interviewees

Name	Position / Organization
Bassam Aisha	Consultant expert to the United Nations organizations
Kholoud Nijm	Officer/ UNSMIL
Ebtisam Zaqout	Field Research Director/ Palestinian Centre for Human Rights - Palestine
Hani Nassar	Field Researcher in the north or west bank - Palestine.
Mariam Mozoughi	Officer / Save the Children - Tunis