



Department of Digital Business

Journal of Artificial Intelligence and Digital Business (RIGGS)

Homepage: <https://journal.ilmudata.co.id/index.php/RIGGS>

Vol. 4 No. 1 (2025) pp: 410-416

P-ISSN: 2963-9298, e-ISSN: 2963-914X

Child Protection in International Law: Synergy between CRC, Humanitarian Law, and Human Rights

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Abstract

This study examines child protection from the perspective of international law, focusing on the synergy between three principal instruments: the Convention on the Rights of the Child (CRC), International Humanitarian Law (IHL), and Human Rights (HR). Although each framework has distinct characteristics, they complement one another in ensuring the fulfillment and protection of children's rights, both in times of peace and during armed conflict. The CRC provides a comprehensive normative framework emphasizing the best interests of the child, whereas IHL specifically regulates the protection of children in the context of armed conflict, including the prohibition of child soldier recruitment and the safeguarding of education and safety rights. Meanwhile, human rights law serves as a universal foundation whose guarantees cannot be suspended, even in states of emergency. This research employs a normative-juridical method combined with a qualitative approach to examine the interrelation among these three legal systems and the challenges in their implementation. The analysis reveals that the main issues stem from the gap between international norms and their enforcement at the national level, including jurisdictional conflicts, weak law enforcement, and the lack of harmonization with domestic legislation. To address these challenges, integrative strategies are needed, including regulatory harmonization, capacity-building for state officials, strengthening cross-sectoral cooperation, and enhancing the role of civil society in monitoring mechanisms. Accordingly, the synergy among the CRC, IHL, and HR should not only remain a normative framework but must also serve as the foundation for a concrete, effective, and sustainable child protection system at both global and national levels.

Keywords: Child Protection, Civil Law, Private International Law

1. Introduction

The Child protection constitutes a fundamental issue in international law, encompassing various domains ranging from human rights to humanitarian law. Children, as an inherently vulnerable group, possess biological, psychological, and social limitations, rendering them incapable of fully safeguarding themselves against various forms of violations, including violence, exploitation, and neglect. International law plays a crucial role in establishing universal norms and standards that guarantee children's rights in diverse situations, including peacetime and armed conflict [1].

A major milestone in the global development of child protection was the adoption of the Convention on the Rights of the Child (CRC) by the United Nations General Assembly in 1989. The CRC stands as the most comprehensive international legal instrument regulating children's rights, encompassing civil, political, economic, social, and cultural rights, while emphasizing the principle of the best interests of the child as its primary foundation [2]. With near-universal ratification, the CRC reflects a global consensus that children are legal subjects endowed with inherent rights that must be respected and protected by states [3].

However, in situations of armed conflict and humanitarian crises, the CRC alone is insufficient to provide adequate protection. Here, international humanitarian law plays a critical role through instruments such as the 1949 Geneva

Conventions and the 1977 Additional Protocols, which provide specific protections for children, including the prohibition of child soldier recruitment and the protection of educational rights and physical safety [4]. Human rights law, through instruments such as the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights, further ensures fundamental guarantees of children's rights to life, liberty, and security, strengthening the framework established by both the CRC and humanitarian law [5].

These three legal frameworks—the CRC, international humanitarian law, and human rights—form a synergistic architecture that complements each other in ensuring holistic protection for children. However, their implementation faces various challenges on the ground, such as jurisdictional conflicts, variations in national legal systems, weak law enforcement, and lack of intergovernmental coordination. For instance, during armed conflicts, many states fail to enforce prohibitions on child recruitment due to weak monitoring mechanisms and inadequate domestic legal frameworks [6].

To address these challenges, an integrative approach placing the best interests of the child at its core must be consistently adopted. This involves harmonizing international and national legal frameworks, training law enforcement officials, and fostering stronger multilateral cooperation. Therefore, child protection in international law must not merely remain a normative discourse but must be realized through concrete and sustainable policy measures and practices [7].

2. Research Methods

This research employs a normative-juridical method combined with a qualitative approach, relying primarily on the study of international legal norms, convention documents, and relevant scholarly literature concerning child protection. This approach is chosen to analyze the interrelationship and synergy among international legal instruments such as the Convention on the Rights of the Child (CRC), international humanitarian law, and human rights principles, and to examine their implementation in practice across different states. Secondary data were collected through literature reviews of international treaties, decisions of international courts, reports from international organizations (such as UNICEF, UNHCR, and ICRC), and in-depth academic studies. The analysis was conducted using descriptive and interpretive methods to identify relevant legal principles and examine challenges to the harmonization of these legal instruments [8][9].

3. Results and Discussions

a. The Convention on the Rights of the Child (CRC) as the Primary Pillar of International Child Protection

The Convention on the Rights of the Child (CRC) stands as the most comprehensive and normatively powerful international legal instrument ensuring children's rights globally. Adopted by the United Nations General Assembly on November 20, 1989, and entering into force on September 2, 1990, the CRC has been ratified by almost every country, making it the most widely accepted human rights convention. It represents a significant paradigm shift in international law, recognizing children not merely as objects of protection but as legal subjects with inherent rights that must be respected, protected, and fulfilled [10].

The CRC is built upon four fundamental principles that form the interpretive foundation of all its provisions: the principle of non-discrimination (Article 2), the best interests of the child (Article 3), the right to life, survival, and development (Article 6), and respect for the views of the child (Article 12). These principles not only guide national policymaking but also serve as the main reference in judicial assessments of both domestic and international policies. The principle of the best interests of the child is regarded as an overarching principle, meaning it must be the primary consideration in all administrative, legislative, and judicial decisions affecting children [11].

Substantively, the CRC covers civil and political rights (such as the right to a name, nationality, and identity), protection against violence, exploitation, and neglect (Articles 19 and 34), rights to education (Article 28), health (Article 24), and participation in cultural and recreational activities (Article 31). What distinguishes the CRC is its integrative character, recognizing children not only as recipients of protection but also as active participants with the right to express their views. This progressive approach marks a significant departure from earlier instruments, such as the non-binding 1959 Declaration of the Rights of the Child [12].

The CRC is supplemented by three Optional Protocols addressing contemporary challenges:

- The Optional Protocol on the Involvement of Children in Armed Conflict, which prohibits the compulsory recruitment of children under the age of 18;
- The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography;

- The Optional Protocol on a Communications Procedure, enabling individual complaints regarding violations of rights guaranteed under the CRC [13].

Monitoring of CRC implementation is conducted by the Committee on the Rights of the Child, an independent body composed of child rights experts from various countries. State parties are required to submit periodic reports on measures taken to implement the CRC in their legal systems and policies. The Committee reviews these reports and issues Concluding Observations containing recommendations and notes on compliance. Although the Committee lacks direct enforcement powers, this process serves as a soft law mechanism, encouraging moral and political accountability among states [14].

One of the CRC's strengths lies in its flexibility for adoption into diverse national legal systems, whether based on common law, civil law, or mixed legal traditions. However, implementation faces challenges, particularly conflicts between international norms and domestic laws. In some cases, local values, religious systems, or customary laws conflict with CRC provisions, such as minimum marriage age regulations that remain below CRC standards. This tension highlights the ongoing challenge of reconciling universal child rights principles with respect for cultural diversity [15].

Despite being legally binding upon ratification, the effectiveness of the CRC depends heavily on political will and institutional capacity at the national level. Many countries experience significant gaps between ratification and practical implementation. For instance, UNICEF reports that key barriers to CRC enforcement in developing countries include weak institutional capacity, insufficient dedicated budgets for child protection programs, and low levels of public legal literacy regarding children's rights [16].

Critiques of the CRC also arise, particularly concerning its weak enforcement mechanisms and the absence of binding sanctions for violations. Scholars such as Liefwaard and Doek argue that the CRC exerts less pressure compared to other human rights instruments, such as the Convention Against Torture, resulting in serious violations against children often receiving insufficient international attention unless highlighted by major media coverage [17].

Nevertheless, the CRC has become a principal reference in the development of national laws and public policies related to children. Numerous states have established child protection commissions, strengthened legislation against child sexual exploitation, and reformed juvenile justice systems to be more child-friendly. The CRC thus serves not only as a normative instrument but also as a catalyst for social and legal transformation, aiming to create a safer and more just world for children.

Given evolving global challenges—such as climate change, armed conflicts, and digitalization—it is crucial for the international community to continuously strengthen CRC implementation and ensure that children's rights are fully realized, free from discrimination and structural barriers.

b. Child Protection in International Humanitarian Law

International humanitarian law (IHL), also known as the law of armed conflict, forms an essential component of international law regulating military conduct during armed conflicts, with the primary aim of protecting victims and restricting the means and methods of warfare. These provisions are binding on military personnel to prevent serious human rights violations, such as murder, sexual violence, and looting, which could tarnish both the military's and the state's reputations in international law [18]. Within this framework, children, as vulnerable non-combatants, require special protection due to their physical and mental immaturity.

Child protection during armed conflict is grounded in humanitarian principles and is explicitly regulated in various international legal instruments, including the 1949 Geneva Conventions and their 1977 Additional Protocols, which stress the importance of safeguarding the safety and dignity of children amidst the horrors of war [19]. The Fourth Geneva Convention specifically addresses the protection of civilians and provides the legal basis for safeguarding children during wartime. Article 24 of the Convention states that children, especially those separated from their families, are entitled to special protection and assistance, including safe evacuation, medical aid, and reunification with their families [20].

Article 50 of the same Convention also emphasizes the obligation of occupying powers to facilitate education for children during military occupation. These provisions demonstrate that IHL not only regulates combat operations but also addresses humanitarian aspects crucial for the survival and development of children.

One of the main instruments under IHL that focuses on child protection is the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War. Under Article 24, it stipulates that children under the age of fifteen, orphans, and those separated from their families must be afforded special protection and care. States parties are obliged to take all necessary measures to ensure the care, education, and reunification of these children. This protection is further reinforced by Article 77 of Additional Protocol I (1977), which explicitly states that "children shall be the object of special respect and shall be protected against any form of indecent assault." Furthermore, it strictly prohibits the recruitment of children under fifteen years of age into armed forces or groups and forbids their participation in hostilities [21].

Additional Protocol II (1977), which applies to non-international armed conflicts, also enshrines crucial protections. Article 4(3) emphasizes that children must receive the care and aid they require, including access to education and protection from recruitment or direct participation in hostilities. This recognition reflects an awareness that internal armed conflicts, now predominant in modern warfare, pose acute risks to children's rights, particularly in developing countries and civil war settings [22].

It is important to note that IHL's protection of children is not only negative—prohibiting certain acts—but also positive, requiring states and parties to the conflict to actively take measures. For example, Article 89 of Additional Protocol I mandates that states cooperate in ensuring the implementation of IHL and act jointly in cases of grave breaches against children. This implies a principle of collective responsibility within the international community to prevent the exploitation and suffering of children during armed conflicts [23].

A central issue in this context is the recruitment and use of child soldiers. Despite the explicit prohibition under IHL, this practice continues in conflict zones such as the Democratic Republic of Congo, Myanmar, and parts of the Middle East. Marco Sassòli asserts that the prohibition of recruiting child soldiers constitutes not only a legal obligation but a universal moral principle that must not be compromised [24]. He further emphasizes that the lack of strong enforcement mechanisms significantly contributes to the persistence of systematic violations against children during conflicts.

However, IHL also faces limitations in enforcement, particularly because not all parties involved in modern conflicts are states bound by international treaties. Many contemporary conflicts involve non-state armed groups, which often disregard international legal obligations. Scholars such as Lindsey Cameron and Vincent Chetail highlight that child protection under IHL tends to be less effective in non-international armed conflicts due to the gap between written law and practical implementation [25]. They therefore advocate for strengthening monitoring mechanisms and imposing sanctions on non-state actors.

The International Committee of the Red Cross (ICRC) plays a vital role in promoting the implementation of child protection measures during conflicts. The ICRC actively advocates for the application of IHL principles and conducts humanitarian interventions in conflict zones, including providing medical aid, facilitating family reunifications, and protecting detained or displaced children. In its annual reports, the ICRC stresses the importance of preventive approaches, including educating combatants on child protection and integrating IHL values into national military doctrines [26].

While IHL provides a strong normative framework for the protection of children in wartime, it does not stand alone. It complements instruments such as the 1989 CRC and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict. However, what distinguishes IHL is its direct applicability during armed conflict and its binding nature even during emergencies. Sivakumaran observes that IHL offers a more operational legal framework on the battlefield compared to broader human rights law, which tends to be more normative in nature [27].

In practice, there is a growing need to strengthen the linkage between IHL and international human rights law to ensure comprehensive protection for children. For example, while human rights law is universally applicable and non-derogable even during conflicts, IHL provides technical guidelines on how to protect children during hostilities. Developing synergy between these two legal regimes through integrative approaches at the policy level is essential.

Another significant limitation of the IHL framework is the limited access to justice for children affected by conflict. Although the Rome Statute of the International Criminal Court (ICC) recognizes the recruitment of child soldiers as a war crime (Article 8(2)(b)(xxvi)), the prosecution of perpetrators remains limited and slow. The conviction of Thomas Lubanga Dyilo by the ICC for recruiting and using children under the age of fifteen during the conflict in the Democratic Republic of Congo is a landmark case, but it remains symbolic and does not yet reflect a consistent global commitment [28]. Antonio Cassese also notes that international justice mechanisms remain insufficiently responsive to the suffering of children in armed conflicts [29].

International humanitarian law provides a robust normative foundation for the protection of children during armed conflict. However, the greatest challenges lie in enforcement and implementation, particularly in internal conflicts involving non-state actors or occurring in failed states. Addressing these challenges requires strong political will, institutional support, and active civil society participation in monitoring, documenting, and reporting violations. Integrating IHL principles into military education, national judicial systems, and foreign policy strategies of state parties is crucial to ensuring that children are not merely treated as victims but recognized as rights-holders deserving full protection under any circumstances.

c. Synergy between CRC, Humanitarian Law, and Human Rights: Challenges and Implementation Strategies

Child protection in international law cannot be separated from the existence of three principal pillars that structure the global legal architecture for children: the Convention on the Rights of the Child (CRC),

international humanitarian law (IHL), and international human rights law (IHRL). Although each framework has distinct characteristics, scopes, and mechanisms, their fundamental objective remains the same: to ensure that children, in all circumstances and conditions, enjoy the maximum protection of their rights. To realize a holistic and effective child protection system, synergy among these frameworks is essential to avoid both legal overlaps and protection gaps [30].

The CRC serves as the most comprehensive instrument for guaranteeing children's civil, political, economic, social, and cultural rights, applicable during both peace and conflict. It emphasizes universal child rights principles, including non-discrimination, the best interests of the child, the right to life and development, and respect for children's views. However, the CRC is general in nature and does not specifically regulate the protection of children during armed conflict. Here, IHL plays a critical role through instruments such as the 1949 Geneva Conventions and the 1977 Additional Protocols, providing specific protections to children in conflict, including prohibiting child recruitment and mandating the safeguarding of children's education and welfare.

Meanwhile, human rights law—enshrined in instruments such as the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—provides universal guarantees that are non-derogable, even in times of armed conflict. The International Court of Justice (ICJ) in its 1996 Advisory Opinion emphasized that IHL and IHRL are complementary during armed conflict, confirming that children's protection is reinforced through multiple overlapping legal systems [31].

However, substantial challenges persist, particularly concerning the differing capacities of states to integrate international norms into domestic legal systems. Many developing countries, although having ratified the CRC and Geneva Conventions, have yet to fully incorporate their principles into national legislation and policy. In Indonesia, for instance, despite ratifying the CRC and the Geneva Conventions, there remain legal gaps regarding child protection during emergencies or social conflicts, highlighting the critical need for harmonization between international and national laws [32].

Another major challenge lies in the lack of effective enforcement and accountability mechanisms. Numerous violations against children in armed conflicts—such as child soldier recruitment, sexual violence, and attacks on educational facilities—often go unaddressed due to jurisdictional limitations, the weakness of international institutions, or the political unwillingness of involved states. Although the International Criminal Court (ICC) is mandated to address war crimes against children, many countries have yet to ratify the Rome Statute or to fully cooperate in the prosecution and extradition of offenders [33].

In response to these challenges, several strategic measures must be implemented:

First, states need to harmonize their domestic laws with the standards set out in the CRC, IHL, and IHRL. This involves revising child protection statutes, military codes, criminal laws, and emergency regulations to align with international norms. In Indonesia, for example, revising Law No. 23 of 2002 on Child Protection, strengthening the mandate of the Indonesian Child Protection Commission (KPAI), and formulating specific regulations addressing children in conflict situations are necessary steps [34].

Second, institutional and human resource capacities must be strengthened, particularly among law enforcement agencies, military personnel, educators, and social service providers. Training on IHL, child rights, and human rights principles must become a compulsory component of national education and military curricula. Without sufficient field-level knowledge, international norms risk being ineffectively implemented [35].

Third, mechanisms for intersectoral coordination and cooperation must be reinforced. Protecting children in conflict and disaster situations requires the active involvement of government agencies (such as the Ministry of Social Affairs, the Ministry of Law and Human Rights, and the police/military), civil society organizations, and international agencies like UNICEF, ICRC, and UNHCR. A multi-stakeholder approach ensures more comprehensive monitoring, response, and recovery efforts [36].

Fourth, monitoring and reporting mechanisms must be strengthened. Under the CRC, state parties are required to submit periodic implementation reports to the UN Committee on the Rights of the Child. However, such reporting must be substantive, reflect ground realities, and be accompanied by active civil society participation. Shadow reports submitted by NGOs and independent organizations play a vital role in ensuring transparency and holding governments accountable [37].

Finally, to enhance the synergy among CRC, IHL, and IHRL, a child rights-based approach must be mainstreamed into all public policies, including education, health, social protection, and national security. Every policy must be analyzed from a child rights perspective: whether it protects or risks harming children. For example, in counterterrorism policies or riot control measures, states must ensure that children are not secondarily victimized or subjected to disproportionate state actions [38].

Thus, the synergy between the CRC, IHL, and IHRL is not merely a conceptual ideal but a concrete necessity for constructing an effective, holistic, and sustainable child protection system. In a world increasingly marked by conflict, disaster, and multidimensional crises, children must remain a top priority in both national and international policymaking. Their rights must not only be protected but also actively realized through tangible, rights-based actions.

4. Conclusion

The synergy between the Convention on the Rights of the Child (CRC), International Humanitarian Law (IHL), and Human Rights (HR) reflects an urgent need for a holistic approach to child protection at the global level, transcending sectoral and situational boundaries. The CRC provides a progressive and universal normative framework for guaranteeing children's rights under all conditions, while IHL offers specific protections for children within the context of armed conflict, and HR serves as the safeguard for fundamental rights that must not be derogated under any circumstances. However, the success of these three frameworks heavily depends on their consistent integration into national legal systems, institutional preparedness, and the existence of effective enforcement mechanisms. The absence of binding sanctions and weak implementation on the ground create a significant gap between established norms and the realities faced, particularly in countries with limited institutional capacity. Therefore, the synergy among these legal regimes must be translated into concrete policies, child rights-based education, and robust cross-sectoral cooperation to ensure that every child, regardless of geographical, political, or social context, can fully and indiscriminately enjoy their rights.

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