

## The Legal Framework and International Mechanisms for the Protection of the Rights of the Child in Complex Humanitarian Contexts

### الإطار القانوني والآليات الدولية لحماية حقوق الطفل في السياقات الإنسانية المعقدة

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#### Abstract:

Children with disabilities face compounded challenges resulting from the intersection of disability issues with displacement conditions, rendering their situations more fragile and complex. They often lack adequate access to essential services, foremost among them healthcare and education, while simultaneously encountering double discrimination due to their status as children with disabilities and as members of a displaced population. This dual vulnerability increases the likelihood of their exposure to violence and neglect, particularly in the context of insufficient legal protection and the absence of effective mechanisms to safeguard their rights. Furthermore, the deterioration of economic conditions imposes an additional burden on these children and their families, at a time when host countries are struggling with a shortage of programs and policies capable of addressing their specific needs. Consequently, the international protection of their rights emerges as an urgent humanitarian necessity, grounded in the enforcement of national laws and relevant United Nations mechanisms, in addition to the application of international conventions and declarations aimed at ensuring comprehensive and

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integrated protection of the rights of children with disabilities and the preservation of their dignity across various contexts.

**Keywords:** Refugee children with disabilities; Rights of children with special needs; Refugee rights; International organizations.

### ملخص:

يواجه الأطفال المعاقون تحديات مضاعفة نتيجة تقاطع قضايا الإعاقة مع ظروف النزوح، الأمر الذي يجعل أو ضاعهم أكثر هشاشة وتعقيداً. فهم غالباً ما يفتقرون إلى الوصول الكافي إلى الخدمات الأساسية، وعلى رأسها الرعاية الصحية والتعليم، ويواجهون في الوقت نفسه تمييزاً مزدوجاً بسبب وضعهم كأطفال ذوي إعاقة ومنتمين لفئة نازحة. هذا الوضع يزيد من احتمالات تعرضهم للعنف والإهمال في ظل قصور الحماية القانونية وغياب آليات فعالة للدفاع عن حقوقهم. كما أن تفاقم الأوضاع الاقتصادية يلقى بعبء إضافي على هؤلاء الأطفال وأسرهم، في وقت تعاني فيه الدول المستضيفة من نقص في البرامج والسياسات القادرة على تلبية احتياجاتهم الخاصة. ومن ثم، تصبح الحماية الدولية لحقوقهم ضرورة إنسانية عاجلة، تستند إلى تفعيل القوانين الوطنية والآليات الأممية ذات الصلة، إضافة إلى تطبيق الاتفاقيات والإعلانات الدولية، التي تهدف إلى ضمان حماية متكاملة وشاملة لحقوق الأطفال المعاقين وصون كرامتهم في مختلف السياقات.

**الكلمات المفتاحية:** الأطفال المعاقون اللاجئون، حقوق الطفل ذوي الاحتياجات الخاصة، حقوق اللاجئين، المنظمات الدولية.

### Introduction

In the midst of escalating global crises and armed conflicts, millions of children find themselves forced to flee their homelands. Among them, refugee children with disabilities face compounded challenges arising from their dual status as both refugees and persons with disabilities. These challenges are multifaceted and complex, and may be further exacerbated by the intersection of displacement issues with disability.

Refugee children are exposed to grave risks that extend beyond material hardship to encompass threats to their fundamental rights. These threats become even more complex when it comes to children with disabilities, who encounter additional difficulties exceeding those faced by their non-disabled refugee peers.

Children with disabilities or special needs require particular attention and an enabling environment that allows them to adapt successfully within their communities. Yet, how can such a supportive environment be provided when they are in a country other than their own, a country that previously ensured their rights and offered the psychological and material support necessary to guarantee their effective participation in society like any other individual?

The significance of this topic lies in the urgent need to ensure that the rights of refugee children with disabilities are safeguarded within a coherent and robust international framework. Protection for these children must go beyond the provision of shelter and food; it must also encompass their rights to education, healthcare, and equitable treatment. Achieving this requires a deep understanding of the international legal framework designed to protect them, as well as knowledge of how to implement international mechanisms to ensure such protection effectively. It also necessitates an intersectional approach between international law on the rights of children with disabilities on the one hand, and refugee rights on the other. Effective protection can be achieved through reliance on international conventions and declarations aimed at safeguarding the rights of children and persons with disabilities, as well as the body of international refugee protection norms, and by working to embody these standards at the domestic level in each state. The central research problem raised here is: What is the legal framework and which international mechanisms are available to address the complex challenges faced by refugee children with disabilities?

On the one hand, challenges arise in the implementation of international law in ways that are responsive to the difficult realities faced by these children. On the other hand, there is an urgent need to develop flexible and effective international strategies and partnerships capable of addressing the challenges on the ground. It is therefore essential to explore how the international response can be improved and operationalized in order to secure the rights of refugee children with

disabilities and to protect them from mounting threats that may undermine their future. This study adopts an analytical methodology by examining relevant international legal texts and treaties, alongside the policies and programs implemented by international organizations and host states, and by assessing their effectiveness in protecting the rights of refugee children with disabilities.

### **Axis One: The Conceptual Framework of Refugee Children with Disabilities and the Challenges They Face**

This section addresses one of the most vulnerable and marginalized groups—refugee children with disabilities—by clarifying the conceptual framework through defining the terms “refugee” and “persons with disabilities” separately

#### **First: The Concept of the Refugee Child with Disabilities**

To define the concept of a refugee child with disabilities, it is necessary to examine the meaning of each term separately, as follows:

#### **1. Definition of a Child with Disabilities**

##### **a/ Definition of a Child**

According to Article 1 of the United Nations Convention on the Rights of the Child (CRC) of 1989, a child is defined as every human being below the age of eighteen years, unless under the law applicable to the child, majority is attained earlier. However, this reference to the age of eighteen is neither absolute nor decisive, since the Convention grants signatory states the right to establish a lower age of majority if their national legislation sets adulthood at an earlier stage (Al-Mousa, 2007, p. 537). Accordingly, two conditions must be met for an individual to be considered a child: first, that he or she has not yet reached the age of eighteen; and second, that national law has not established a lower age of majority (Zidan, 2007, p. 21).

International legal scholarship has witnessed extensive debate over the interpretation of Article 1 of the CRC, particularly with regard to determining the beginning and end of childhood. Some scholars argue that considering a person a child until the age of eighteen does not accurately reflect the psychological and social development of the

individual, since puberty marks the onset of adolescence—a stage distinct from childhood in terms of physical and mental maturity. Therefore, linking childhood to a specific chronological age, detached from developmental considerations, may be illogical or inconsistent with scientific age-related criteria.

Other scholars contend that the wording of Article 1 leaves a margin of ambiguity, particularly regarding the situations in which national laws may define a lower age for considering an individual a child, without necessarily linking this determination to the concept of legal majority. They point out that the current text may create confusion in practice among state parties with differing definitions of childhood or majority age under their domestic legislation. This, they argue, necessitates clearer and more flexible wording that would allow states to adapt the application of the Convention to their legal and social realities.

For this reason, a number of researchers and legal scholars propose reformulating the definition of a child in Article 1 so that it becomes clearer and free from legal ambiguity, along the following lines: “A child is every individual who has not reached the age of eighteen, unless national law provides for a lower age at which an individual is considered a child.” This formulation introduces flexibility, allowing state parties to set a lower childhood age in line with their national legislation, without the need to tie the definition to legal majority or other potentially contentious criteria in the practical application of the Convention (Zidan, 2007, p. 21).

Meanwhile, another line of legal thought supports the approach taken by the 1989 CRC in setting the end of childhood at the age of eighteen. This is seen as extending protection to children for the longest possible period of their lives. The drafters of the Convention did not intend to create legislative confusion; rather, they sought to provide a general standard that would suit diverse domestic legislations and the specific circumstances of each state (Montaser, 2006, p. 22).

Similarly, the beginning of childhood has also been subject to scholarly disagreement. While some scholars favor recognizing birth as the starting point of childhood, others argue for extending it to the prenatal stage. The latter position is championed by Muslim jurists, who unanimously agree that Islamic law recognizes certain rights of the

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fetus, such as the right to inheritance and the right to life, prohibiting any assault against it (e.g., abortion) (Fahmi, 2007, p. 9).

#### **b/The Evolution of the Term “Disability” into “Special Needs”**

The concept of disability has undergone significant transformations over time, both in its definitions and in the terminology used. In earlier periods, persons with disabilities were referred to as “the crippled,” a term limited to those who had lost limbs or suffered from paralysis. The terminology then evolved to “the handicapped,” encompassing a broader range of permanent injuries or ongoing impairments. Later, the expression “the incapacitated” was adopted to designate anyone experiencing limitations that prevented them from performing one or more aspects of daily life activities, whether in employment, livelihood, or in managing their personal and social affairs.

Over time, however, the perception of disability shifted toward a more inclusive and holistic understanding. Greater emphasis was placed on the idea that it is often society itself that fails to accommodate persons with disabilities or to recognize their talents and capabilities—skills which, once cultivated and developed, may enable them not only to adapt to society but even to excel in certain fields beyond their able-bodied peers. From this perspective, the term “disabled persons” came into use, reflecting the notion of obstacles that hinder an individual’s ability to fulfill responsibilities or perform tasks fully.

In recent years, modern approaches have sought to reframe the language of disability in a way that emphasizes empowerment and resilience. Disability has been redefined as a “challenge,” and individuals with disabilities have been described as “challengers,” with the aim of highlighting their capacity to overcome difficulties and encouraging society to change its traditional attitudes by offering support to maximize their potential. Additionally, the term “persons with special needs” has become more widely adopted than “persons with disabilities,” since the latter may carry harsh connotations that could negatively affect individuals’ psychological well-being, reinforcing feelings of helplessness and perpetual dependence on others, and potentially leading to psychological disorders and a sense of inadequacy.

#### **c/Definition of Disability**

The World Health Organization (WHO) provides a comprehensive definition of disability as: “an impairment that affects an individual as a result of a condition of deficiency or incapacity, which prevents or hinders the individual from performing naturally in relation to his or her age and gender, within the social and cultural factors in which the person lives” (Legal Protection of the Rights of Persons with Disabilities in the Arab States, n.d.).

Disability is thus understood as a functional deficiency or impairment affecting an organ or one of the physical or psychological functions of the human being, resulting in a disruption or alteration in the adaptation of this function to the environment. Disability is inherent to the human condition, not external to it, and it impacts the individual’s relationship with the social environment in all its dimensions. This situation requires specialized educational and pedagogical measures that correspond to the specific needs associated with each type of disability.

There are multiple causes and contributing factors to disability, some of which occur before birth, others during childbirth, and still others after birth. Genetic factors also play a role, particularly in intellectual and cognitive disabilities. The main types of disability include physical, sensory, intellectual, communicative, and behavioral disabilities, in addition to multiple disabilities, where an individual may experience more than one of the aforementioned forms simultaneously (Rights of Persons with Special Needs, 2014).

#### **d/Definition of the Child with Special Needs**

Article 23 of the 1989 United Nations Convention on the Rights of the Child explicitly addresses the rights of children with disabilities. It guarantees the right of the disabled child to life and to a dignified existence, emphasizing the necessity of providing special care free of charge whenever possible, whether in the areas of education, healthcare, training, or rehabilitation programs. The Convention also underscores the importance of international cooperation in this regard, through the exchange of information and expertise in preventive healthcare, medical and psychological treatment, as well as vocational training and rehabilitation. The overarching aim is to ensure that children with disabilities can live with dignity and participate actively in society (Article 23, CRC, 1989).

**2. Definition of a Refugee**

The 1951 Convention Relating to the Status of Refugees defines a refugee as a person who, owing to exceptional circumstances threatening his or her life or fundamental freedoms, is compelled to leave his or her country due to a well-founded fear of persecution. Such persecution may stem from factors including race, religion, nationality, membership of a particular social group, political opinion, or engagement in activities deemed objectionable or oppositional by the ruling authorities. A fundamental requirement for refugee status is the individual's inability or unwillingness to seek protection from his or her country of origin as a result of this risk, thereby necessitating international protection.

The definition also extends to stateless persons who find themselves outside their country of habitual residence and are practically unable to return due to similar threats or fear of persecution, leaving them unable to protect themselves or seek assistance from any national authority.

Accordingly, the international concept of a refugee rests upon three essential elements: the presence of a concrete personal threat; the legal justification of that threat based on specific grounds; and the individual's inability to obtain national protection, rendering return unsafe. This definition ensures that the individual falls within the framework of international protection and entitles states and relevant institutions to provide the necessary support to guarantee their safety and fundamental rights, including the rights to life, security, and protection from persecution (Article 1, 1951 Refugee Convention).

**Secondly: The Challenges Faced by Refugee Children with Disabilities**

Refugee children with disabilities represent one of the most marginalized and vulnerable categories in humanitarian crises, as they are subject to double discrimination—first, on the basis of their refugee status, and second, due to their disability. This dual vulnerability places them in a precarious position where their rights are more likely to be violated, and their access to essential services is often severely limited. At the psychological level, these children suffer from the trauma of displacement, the loss of family members, and the rupture of their social environment. These experiences generate profound psychological distress, which is further exacerbated by the stigma and social exclusion

that disability often entails. Many of them endure feelings of isolation, rejection, or diminished self-worth, which can impede their ability to integrate and adapt to new environments.

From a social perspective, refugee children with disabilities frequently encounter systemic barriers that prevent their participation in community life. Traditional stereotypes about disability may be reinforced within refugee settings, where already limited resources are prioritized for able-bodied individuals, leaving children with special needs sidelined. This exclusion not only deprives them of opportunities for socialization but also undermines their chances of building resilience and self-reliance.

Educationally, refugee children with disabilities face severe obstacles in accessing schooling. Camps and host communities often lack inclusive educational policies, trained staff, and adequate facilities that accommodate special needs. Consequently, many of these children are denied the fundamental right to education, which perpetuates cycles of dependency and poverty, and diminishes their prospects for future empowerment and active participation in society.

Health care represents another major challenge. Refugee-hosting countries frequently struggle with limited medical infrastructure, shortages of specialized staff, and insufficient assistive technologies. Children with physical, sensory, or intellectual disabilities are thus deprived of essential rehabilitation and medical support services, leading to further deterioration of their condition. In some cases, even basic healthcare is inaccessible due to geographical, financial, or linguistic barriers.

Compounding these difficulties is the inadequacy of legal and institutional protection mechanisms. Many refugee children with disabilities fall through the cracks of international and national protection systems, as current frameworks often lack the specificity needed to address their unique circumstances. This exposes them to heightened risks of neglect, exploitation, and violence, particularly in unstable humanitarian contexts where accountability mechanisms are weak or absent.

In short, the challenges faced by refugee children with disabilities are multidimensional—psychological, social, educational, health-related, and legal—requiring a holistic and intersectional approach to protection that ensures their dignity, security, and equal participation.

**Axis Two: Legal Protection and International Mechanisms for the Protection of Refugee Children with Disabilities**□

Refugee children with disabilities constitute a doubly vulnerable group, as their identity as refugees intersects with their disability, making them more susceptible to discrimination and neglect. Consequently, international and legal attention has been directed toward protecting their rights through the establishment of legal mechanisms and international conventions aimed at ensuring their protection and securing their basic needs in the areas of education, health, and social protection. This axis focuses on reviewing these legal protections and international mechanisms dedicated to this group to guarantee their right to a dignified and safe life.

**first: The Legal Framework for the Protection of Refugee Children with Disabilities**

There are numerous conventions that provide for the international protection of refugee children with disabilities. Studying this subject requires an intersectional approach between international law on the rights of children with disabilities, on the one hand, and refugee law, on the other.

**1.International Conventions for the Protection of the Rights of Persons with Disabilities****a/The European Social Charter (1961):**

Article 15 of the Charter recognizes the rights of persons with disabilities, whether physical or mental, to receive vocational training and rehabilitation programs that enable them to acquire the necessary skills for effective integration into society. The ultimate goal of this right is to allow individuals to participate in economic and social life on an equal footing with others, by equipping them with knowledge and capabilities that foster self-reliance and ensure social and professional stability.

Thus, Article 15 of the European Social Charter reaffirmed the right of persons with disabilities to education, vocational training, and rehabilitation, with the aim of enhancing their capacities and facilitating

their full participation in society. This principle reflects the commitment of states to ensure equal opportunities for persons with disabilities, with a focus on removing barriers that hinder their access to education and training and on creating a conducive environment to support their effective social and professional integration (Revision, p. 468).

**b/The International Covenant on Economic, Social and Cultural Rights (1966):**

This Covenant emphasizes the protection of mothers and children from disability caused by adverse health conditions, while affirming the right of everyone to enjoy the highest attainable standard of health. Article 10(2) stipulates that mothers must receive special protection for a reasonable period before and after childbirth. This provision is directly relevant to the issue of disability, as many cases of impairment occur during pregnancy or delivery, thereby necessitating the safeguarding of maternal health.

Furthermore, Article 12(1) recognizes the right of every individual to the highest attainable standard of physical and mental health, a right violated when states fail to take measures to prevent or treat diseases that may lead to impairment, or when persons with disabilities are denied access to rehabilitation and training programs. In addition, Article 13 of the Covenant affirms the right of every individual to education, which requires that persons with disabilities be granted access either to mainstream schools or to specialized institutions for special education.

**c/The American Convention on Human Rights (1969):**

Although the Convention does not explicitly address disability, it contains provisions relevant to the protection of individuals from the consequences of unemployment and incapacity, and stresses the need to provide suitable employment and training programs for persons with disabilities. Article 11 recognizes the right of every individual to preserve their health and to live in dignity, through a comprehensive set of essential social and health measures. These include access to adequate food, appropriate clothing, decent housing, and preventive as well as medical care, all of which must be provided in light of the

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resources available to the state and community. This right is intrinsically linked to human dignity and personal autonomy.

Article 16 further recognizes the right of every individual to protection against the loss of livelihood resulting from unemployment, old age, or any physical or mental impairment that prevents normal economic activity. This obliges states to adopt social policies that guarantee economic and social security for individuals who cannot provide for themselves, including the establishment of appropriate social safety nets.

The Additional Protocol to the American Convention on Economic, Social and Cultural Rights (Protocol of San Salvador) devotes particular attention to persons with disabilities, affirming their right to special protection that ensures their full inclusion in society. This includes the provision of appropriate employment programs, specialized vocational training, and support for their families and communities to meet their needs. It also stresses the integration of disability considerations into urban development and planning, ensuring equal access to public, educational, health, and service facilities, thereby enabling effective participation in economic and social life without barriers. These provisions therefore combine the protection of general health and social rights for all individuals with specific measures that acknowledge the unique challenges faced by persons with disabilities, reflecting the international community's commitment to securing a dignified and inclusive life for all, while strengthening autonomy and promoting social and economic integration (Article 18, American Convention on Human Rights, 1969).

**d/Declaration on the Rights of Mentally Retarded Persons (1971):**

The United Nations General Assembly adopted this Declaration as the first international instrument dedicated to the rights of persons with disabilities, specifically those with intellectual impairments. It seeks to establish a common framework for the protection of the rights of the mentally retarded, recognizing that such individuals, to the greatest extent possible, should enjoy the same rights as all other human beings.

The Declaration calls upon states to protect the rights of persons with intellectual disabilities and to prioritize assistance aimed at developing their capacities across various fields of activity. It further emphasizes their right to appropriate medical care, education, training, and

guidance that would enable them to maximize their potential, alongside the right to economic security, a decent standard of living, and access to productive employment. Importantly, the Declaration guarantees protection against exploitation, abuse, and degrading treatment (Abdel-Fattah Murad, Encyclopedia of Human Rights, p. 1116).

Furthermore, the Declaration stresses the need for legal safeguards when persons with intellectual disabilities are unable to exercise their rights due to the severity of their condition. In such cases, restrictions or suspensions of rights must only be imposed under strict legal guarantees, ensuring protection against arbitrary interference (*ibid.*, p. 1117).

#### **e/The Declaration on the Rights of Disabled Persons (1975):**

This Declaration, building upon the 1971 instrument, broadened the scope of protection to encompass all persons with disabilities, regardless of type. Adopted by the General Assembly, it calls for both national and international efforts to establish a common standard for the protection of the rights of disabled persons.

The Declaration reaffirms faith in human rights and fundamental freedoms as part of social justice, aligning itself with the principles of the Universal Declaration of Human Rights and the standards advanced by international organizations such as the ILO, UNESCO, UNICEF, and WHO. It urges states to adopt special measures aimed at preventing disability, providing medical, therapeutic, cultural, and occupational rehabilitation, and facilitating the reintegration of persons with disabilities into society.

The Declaration sets out a series of basic rights, including the right to full civil, political, economic, and social participation without discrimination; the right to human dignity and respect; the right to protection from exploitation; and the right to medical, psychological, and functional care, including prosthetics and orthopedic devices. It also guarantees access to social security, vocational training, and legal assistance to protect both person and property. These provisions aim to ensure not only the protection of dignity but also the active inclusion of persons with disabilities into social and economic life (Abdel-Fattah Murad, Encyclopedia of Human Rights, p. 1119).

#### **f/The International Year of Disabled Persons (1981):**

The UN General Assembly declared 1981 the International Year of Disabled Persons under the theme “Full Participation and Equality.” This initiative sought to shift global focus toward integrating persons with disabilities into all aspects of community life, with an emphasis on children. Its objectives included facilitating the physical and psychological adaptation of disabled children, creating suitable employment opportunities, and encouraging studies and research aimed at enhancing the participation of persons with disabilities in daily life. The Year also emphasized the importance of public education and awareness-raising on disability rights, as well as preventive measures and effective rehabilitation programs. By proclaiming this International Year, the UN underscored the principle that disability is a human rights issue requiring coordinated, practical action at both national and international levels (Rights of the Disabled Child in International Instruments, n.d.).

**g/The World Programme of Action Concerning Disabled Persons (1982):**

Following the momentum of 1981, the General Assembly adopted the World Programme of Action concerning Disabled Persons on 3 December 1982. It established a comprehensive framework and guiding principles for a global strategy aimed at safeguarding the rights and dignity of persons with disabilities.

The Programme advocates for equalization of opportunities, full participation in social development, and protection against discrimination. It also emphasizes the responsibility of the international community to address the needs of persons with disabilities, not through charity, but through integration and empowerment. To this end, a UN Trust Fund for Disabled Persons was established to support implementation.

The Programme thus marked a turning point in disability rights, shifting from declaratory recognition toward concrete strategies for inclusion, rehabilitation, and equality (Rights of the Disabled Child in International Instruments, n.d.).

**h/Principles for the Protection of Persons with Mental Illness (1991):**

Adopted by the UN General Assembly, these Principles constitute a landmark in affirming the rights of persons with mental illness. They emphasize that all individuals are entitled to the best available mental health care and must be treated with humanity and respect for their inherent dignity.

Principle 1 establishes the right of every person to the highest attainable standard of mental health care, while Principle 3 affirms the right of individuals with mental illness to live and work, to the fullest extent possible, within their local communities. Principle 7 underscores the right of patients admitted to psychiatric institutions to receive treatment close to their homes and families, with reintegration into community life at the earliest opportunity. Principle 8 further guarantees that persons with mental illness must receive medical and social care suited to their health needs, under the same standards applicable to all other patients (Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, 1991). Importantly, Principles 23–25 impose obligations on states to adopt appropriate legislative, judicial, administrative, and educational measures to implement these rights, subjecting such measures to periodic review. They also emphasize that no recognized human rights under international or national law may be restricted or denied on the grounds that these Principles provide for lesser protection.

#### **i/Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993):**

Building on the 1982 World Programme of Action, the UN General Assembly adopted the Standard Rules through Resolution 48/96 of 20 December 1993. Unlike earlier soft-law instruments, the Standard Rules introduced a more concrete framework by explicitly recognizing state responsibility in promoting the rights of persons with disabilities and ensuring equal opportunities.

The Rules provided an independent monitoring mechanism through the appointment of a Special Rapporteur to report to the Commission for Social Development. This innovation reflected the growing international recognition of disability rights as integral to comprehensive development policies (UN Secretary-General Report, 2000).

Many states have since reformed their legislative and institutional frameworks in line with the Rules. For example, China amended its Law on the Protection of Disabled Persons to strengthen equality provisions, while Ireland established a National Disability Authority involving persons with disabilities and caregivers in policy monitoring. The Rules thus emphasize both rights and responsibilities: while disabled persons are entitled to equal participation, they are also expected to assume social responsibilities to the extent permitted by their condition. This reciprocal framework highlights disability rights not as exceptional entitlements, but as integral to full citizenship and social inclusion (Special Needs Rights, 2014).

**j/The Convention on the Rights of Persons with Disabilities (2006):**

Recognizing persistent gaps in existing instruments, the UN General Assembly established in 2001 an Ad Hoc Committee to draft a comprehensive treaty specifically devoted to the rights of persons with disabilities. After five years of negotiations, the Convention on the Rights of Persons with Disabilities (CRPD) was adopted unanimously on 13 December 2006, marking a paradigm shift in international human rights law.

The CRPD reframes disability from a matter of welfare and medical care to an issue of human rights and social justice. It underscores that societal barriers and prejudice—not impairment itself—constitute the primary obstacles to equality. The Convention’s 50 articles address a wide range of rights, including accessibility, personal mobility, health, education, employment, political participation, and non-discrimination. The treaty obliges states to adopt legislative and policy measures to eliminate discriminatory laws, practices, and customs, while promoting awareness of the capabilities and contributions of persons with disabilities. It further emphasizes the right to life, equal recognition before the law, and accessibility of public services and infrastructure.

While the CRPD acknowledges resource limitations, it requires progressive implementation and immediate action in key areas such as accessibility and non-discrimination. Opened for signature on 30 March 2007, the Convention required 20 ratifications to enter into force, which it achieved in 2008. Today, it serves as the cornerstone of international disability rights protection, offering a binding legal framework to ensure dignity, equality, and full inclusion (Abed, n.d.).

## 2. International Conventions for the Protection of Children's Rights

### a/ The Declaration of the Rights of the Child (1959):

The 1959 Declaration affirms, in its second principle, that every child must enjoy special protection. It stipulates that: "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually, and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be the paramount consideration" (Principle 2, Declaration of the Rights of the Child, 1959).

Moreover, the Declaration emphasizes in its fifth principle the rights of children with disabilities, stating that: "The physically, mentally, or socially handicapped child shall be given the special treatment, education, and care required by his particular condition" (Principle 5, Declaration of the Rights of the Child, 1959). Accordingly, any child with a physical, mental, or social impairment is entitled to tailored care suitable to his or her condition.

### b/ The Arab Charter on the Rights of the Child (1983):

The Charter calls for the establishment of a system of care for children with disabilities. Among its objectives is Objective 6, which explicitly provides for the creation of a system of special education and care, ensuring their integration into society, fostering their talents, and enabling them to make meaningful contributions. Objective 6 reads: "Establishing a system of care and special education for children with disabilities that ensures their integration into the productive life of their society and highlights their talents" (Arab Charter on the Rights of the Child, 1983).

### c/ The African Charter on Human and Peoples' Rights (1981):

This Charter recognizes the right of children with disabilities to special protection. Article 18(4) provides that older persons and persons with disabilities are entitled to special measures of protection in keeping with their physical or moral needs, with a view to ensuring their dignity, independence, and active participation in the community (Article 18(4),

African Charter on Human and Peoples' Rights, 1981). Thus, children with physical or mental impairments are guaranteed care and protection suited to their specific needs.

**d/Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974):** This Declaration explicitly condemns violence and warfare, particularly for their devastating role in causing disabilities among children.

**e/The Convention on the Rights of the Child (1989):**

The Convention is the most comprehensive international instrument for the protection of children's rights, covering all aspects of their welfare and protection. Article 22 underscores the obligation of States Parties to ensure appropriate protection and humanitarian assistance for refugee children in accordance with applicable international and domestic law. States must cooperate with the United Nations and other competent organizations to safeguard refugee children, facilitate family reunification, and, when this is not possible, provide them with protection equivalent to that available to children deprived of their family environment.

Widely regarded as a landmark in international human rights law, the CRC has been described by the UN Secretary-General as one of the most important documents in the field, offering holistic protection for children, including children with disabilities. Article 23(1) explicitly affirms that a child with physical or mental disabilities should "enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the child's active participation in the community."

The article further stipulates that children with disabilities have the right to special care, adapted to their individual needs, aimed at ensuring their independence and participation in society. Such care includes education, vocational training, health and rehabilitation services, and recreational opportunities, to be provided free of charge whenever possible, taking into account the financial resources of parents or caregivers. Article 23(4) also encourages international cooperation and the exchange of expertise, with special attention to developing countries, in order to promote equal opportunities and holistic development of the child—social, cultural, and spiritual.

It is clear from these provisions that Article 23 recognizes the right of children with disabilities to a dignified life and appropriate special care, including free services wherever feasible. However, the wording of paragraph 3—“whenever possible, taking into account the financial resources of the parents or others caring for the child”—weakens the enforceability of this right by limiting the scope of free services. Moreover, the CRC guarantees these rights only until the child reaches the age of majority (18 years), in accordance with Article 1. This presents a practical challenge, as many children with disabilities may never reach full independence at that age. It has therefore been argued (Mohamedin, p. 466) that their rights should continue to be safeguarded beyond the age of 18, until recovery or throughout life, a concern not explicitly addressed by the Convention.

#### **f/The African Charter on the Rights and Welfare of the Child (1990):**

The Charter largely mirrors the 1989 Convention on the Rights of the Child, with a specific focus on children with disabilities. Article 13 explicitly recognizes the rights and protection of children with disabilities. It obliges States Parties to ensure that every child with a physical or mental disability enjoys a decent and comprehensive life in conditions that safeguard dignity, promote self-reliance, and facilitate the child’s active participation in the community.

The Charter further affirms the right of children with disabilities to receive special care, with adequate support for both the child and their parents or caregivers, in accordance with available resources. This includes access to vocational training, preparation for employment, and recreational opportunities, all aimed at ensuring the child’s integration into society and fostering individual development, including cultural and spiritual growth.

Moreover, States Parties commit themselves to progressively develop infrastructure that guarantees the freedom of movement and accessibility of persons with disabilities to streets, public places, and facilities, thereby strengthening their independence and full participation in community life (Article 13, African Charter on the Rights and Welfare of the Child, 1990).

A close reading of this provision reveals its clear resemblance to Article 23 of the Convention on the Rights of the Child. Both instruments

acknowledge the right of children with disabilities to live a dignified life and to participate actively in society, while specifying the forms of special care to which they are entitled—ranging from vocational training to recreational opportunities. It can thus be argued that Article 13 of the African Charter was heavily inspired by, and in some respects directly drawn from, Article 23 of the 1989 Convention on the Rights of the Child.

### **3. The 1951 Convention Relating to the Status of Refugees:**

Together with its 1967 Protocol, the 1951 Refugee Convention constitutes the primary legal foundation for the international protection of refugees. The drafting efforts began in the early twentieth century and culminated in the post–World War II period with the adoption of the Convention in 1951, alongside the establishment of the Office of the United Nations High Commissioner for Refugees (UNHCR) to provide assistance.

The Convention enshrines key rights for refugees, notably the principle of non-refoulement, which prohibits expulsion or return to a country where the refugee may face persecution on grounds of race, religion, or political opinion. It further guarantees non-discrimination in access to social services and affirms the right to education for refugee children.

Forced displacement of children as a result of armed conflict constitutes a grave situation in which virtually all their rights may be violated—ranging from the right to life, health, and development, to the right to family life, identity, nationality, and education. Refugee children—who constitute nearly 50% of the world’s refugee population—are afforded specific protections under international humanitarian law during both international and non-international armed conflicts. Their treatment must take into account the reasons and circumstances that compelled their flight, particularly when applying control measures under Article 44 of the Fourth Geneva Convention, originally applicable to refugee children of enemy nationality. The scope of this protection was subsequently expanded by Article 73 of Additional Protocol I and Article 4 of Additional Protocol II, both of which eliminated nationality as a basis for distinction in refugee protection.

One of the most acute challenges faced by refugee children relates to limited access to healthcare and education, compounded by deprivation of livelihoods and the disruption of family structures (Machel, 1996, p. 21). Accordingly, host States are under an obligation to grant refugee children care and treatment that is no less favorable than that accorded to other aliens in the same circumstances. On this basis, refugee children are entitled to fundamental rights, including freedom of thought and movement, protection from torture or degrading treatment, access to food, shelter, medical care, and education, as well as the facilitation of family reunification (Shatnawi, 2001, p. 249).

With respect to stateless children, the same protective measures apply as to refugee children. Article 75 of the Fourth Geneva Convention (1949) affirms that such children are entitled to the same protections granted to persons without nationality prior to hostilities, or to those recognized as refugees under international standards or national laws of the host State. This provision aims to ensure legal and social protection for stateless and refugee children, recognizing their particular vulnerability and need for support to secure their safety and development.

Nonetheless, host States may, under exceptional circumstances—such as large-scale influxes—find themselves compelled to restrict certain rights, including freedom of movement or the provision of adequate education for all refugee children. In such situations, the international community bears a complementary responsibility to fill these protection gaps to the greatest extent possible. Ultimately, the protection of both refugees and stateless children rests upon a single principle: non-discrimination and equality of treatment with aliens, and in certain cases, with nationals of the host State (Zanghi, 2006, p. 457). For an effective protection framework for refugee children with disabilities, it is therefore imperative to integrate the principles set out in international instruments on the rights of the child and the rights of persons with disabilities with the specific refugee protection regime. This implies that States are under a binding obligation to ensure that refugee children with disabilities enjoy their rights simultaneously as children, as persons with disabilities, and as refugees.

## **Secondly: International Mechanisms for the Protection of Refugee Children with Disabilities**

The international community and individual states have worked to operationalize the provisions of international conventions relating to the protection of the rights of children with disabilities and refugee children, with the aim of ensuring the provision of special care for them. This has been achieved through enhanced coordination between international governmental and non-governmental organizations, such as the United Nations High Commissioner for Refugees (UNHCR), the World Health Organization (WHO), and UNICEF, in order to guarantee comprehensive and appropriate support for refugee children with disabilities.

### **1.International Governmental Organizations Concerned with the Protection of Refugee Children with Disabilities**

#### **a/United Nations Children’s Fund (UNICEF):**

Established on 11 December 1946, UNICEF is dedicated to issues relating to childhood. Operating in more than 150 countries worldwide, it works to save children’s lives, especially in conflict-affected regions. UNICEF focuses on providing assistance to children from birth to the age of 18. Special attention is given to refugee children separated from their families, in collaboration with UNHCR to identify these children and reunite them with their families. It also partners with organizations such as “Restart” to provide health and psychosocial services to refugees, while raising awareness of the Convention on the Rights of the Child, particularly in areas with low levels of awareness (Rahal, 2021).

#### **b/World Health Organization (WHO):**

Founded in 1948 and headquartered in Geneva, the WHO plays a vital role in providing health care and medical consultations globally, with particular emphasis on children. The organization mobilizes its expertise and medical teams to support refugee children and their families in host countries, thereby alleviating the pressure on national health systems. Article 1 of the WHO Constitution affirms that the organization seeks to ensure health care for all peoples of the world without distinction or discrimination.

### **2.International Non-Governmental Organizations Concerned with the Protection of Refugee Children with Disabilities**

**a/International Committee of the Red Cross (ICRC):**

On the basis of the 1949 Geneva Conventions and their Additional Protocols, the ICRC operates in conflict zones to deliver assistance, including to refugee children, despite the absence of an explicit reference to refugees in its Statutes. Its efforts include the provision of medical care, medicines, vaccines, and food assistance. The ICRC also engages with parties to conflicts to ensure compliance with their international obligations and the protection of refugees, especially children, either through dialogue or by appealing to the international community in cases of violations of humanitarian law (ICRC, Health Services Unit, n.d.).

**b/Amnesty International:**

Founded in 1961, Amnesty International is one of the most prominent non-governmental organizations working in the field of human rights. The organization provides international support to meet the necessary needs for the protection of refugees, with special focus on vulnerable groups, particularly children (Amnesty International, n.d.).

**c/Médecins Sans Frontières (MSF):**

Founded in 1971, MSF is a medical humanitarian organization that provides emergency assistance in cases of natural disasters and armed conflicts. Its teams of doctors and specialists work in affected areas worldwide, including conflict and disaster zones, to deliver health care to refugee children with special needs.

The organization's key activities include providing health care and vaccinations for children and women in refugee camps, implementing nutrition and mental health programs for children, deploying mobile medical teams, supporting local hospitals, and producing reports on the health and social conditions of refugees (MSF, n.d.)

**CONCLUSION**

Over the decades, attention to the rights of children and persons with disabilities has progressively evolved, with particular emphasis on their social inclusion and the provision of adequate protection and care. This evolution reflects a growing international awareness of the importance of these rights. However, the challenges faced by this group demand a strong and multifaceted international response that includes

strengthening legal and social support mechanisms, increasing financial resources allocated to care programs, and raising awareness among host communities about the importance of supporting refugee children with disabilities to ensure the enjoyment of their fundamental human rights. The protection of refugee children with disabilities requires joint efforts by states and international organizations to ensure the provision of comprehensive care, in line with their status as children, as persons with disabilities, and as refugees. The international community must commit to the effective implementation of international rules and conventions to guarantee these children a dignified life and a secure future.

Achieving such protection necessitates the activation of principles enshrined in international conventions on the rights of the child, the rights of persons with disabilities, and refugee protection regimes. States are thus obliged to ensure that refugee children with disabilities fully enjoy their rights under all three frameworks, with host states bearing the responsibility to operationalize the relevant international mechanisms and agreements, particularly in providing them with tailored care and services.

To enhance and consolidate this protection, the international community should prioritize the following recommendations:

- Awareness-raising: Implement educational and awareness programs on international instruments that emphasize the necessity of protecting the rights of children with special needs wherever they may be, particularly their right to physical and psychological health care, education, and integration within the host society.
- Strengthening international cooperation: Reinforce collaboration with international organizations and child welfare institutions to ensure the delivery of comprehensive and adequate support to refugee children with disabilities outside their home countries.

- Enhancing national legal frameworks: Encourage governments to strengthen their domestic legislation protecting the rights of refugee children with disabilities, by establishing specialized institutions for their care and education, alongside monitoring and evaluation bodies to ensure accountability and effectiveness.
- Promoting international commitments: Urge states to accede to all relevant international conventions concerning the rights and protection of persons with disabilities, while also reviewing and amending domestic legislation to address existing shortcomings.
- Encouraging scientific research: Promote academic research in the field of disability to provide better medical, psychological, social, educational, and legal support to this vulnerable group, particularly given the limited attention this issue has received in scholarly inquiry.
- Receiving states must ensure the protection of refugee children from Gaza by providing education, healthcare, and psychological support, while creating a safe environment for their integration and holding accountable anyone who threatens their rights, to guarantee them a life of dignity and safety.



**References****First: Sources**

- 1-Convention Relating to the Status of Refugees, 1951.
- 2-Declaration of the Rights of the Child, 1959.
- 3-European Social Charter, 1961.
- 4-International Covenant on Economic, Social and Cultural Rights, 1966.
- 5-American Convention on Human Rights, 1969.
- 6-Declaration on the Rights of Mentally Retarded Persons, 1971.
- 7-Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1974.
- 8-Declaration on the Rights of Disabled Persons, 1975.
- 9-International Year of Disabled Persons, 1981.
- 10-African Charter on Human and Peoples' Rights, 1981.
- 11-Arab Charter on the Rights of the Child, 1983.
- 12-World Programme of Action Concerning Disabled Persons, 1982.
- 13-Convention on the Rights of the Child, 1989.
- 14-African Charter on the Rights and Welfare of the Child, 1990.
- 15-Principles for the Protection of Persons with Mental Illness, 1991.
- 16-Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 1993.
- 17-Convention on the Rights of Persons with Disabilities, 2006.
- 18-Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care, 1991.

**Second: References****1-Books**

- a-Fahmi, K. M. (2007). Children's Rights and Their Criminal Treatment in Light of International Conventions. Alexandria: New University House.
- b-Hamouda Montaser, S. (2006). Protection of Children's Rights in Public International and Islamic Law. Alexandria: New University House.
- c-Mohamadeen, S. Human Rights Between Theory and Practice in the Field of Childhood Protection Strategies.

- d-Zidan, F. Sh. A. (2007). The Status of the Child in Public International Law. Alexandria: New University House.
- e-Shatnawi, F. (2001). Human Rights and International Humanitarian Law (2nd ed.). Amman: Dar wa Maktabat Al-Hamed.
- f-Sarouji, F. (Trans.), & Omar, I. (Rev. & Ed.). Selections from International Human Rights Instruments and a Bibliography for Research in International Human Rights Law. Al-Ahlia Publishing.
- i-Murad, A. F. Encyclopedia of Human Rights.
- h-Zanghi, C. (2006). International Protection of Human Rights. Beirut: Nashiroun Library.
- g-Alwan, M. Y., & Al-Mousa, M. K. (2007). International Human Rights Law: Protected Rights (Vol. 2). Amman: Dar Al-Thaqafa.
- 2-Articles and International Reports**
- a-The Legal Protection of the Rights of the Disabled in Arab Countries. Retrieved from: <http://www.startimes.com/f.aspx?t=15767856>
- b-The Rights of Persons with Special Needs. (2014, March 29). Retrieved from: <http://www.assakina.com/category/rights/rights-people-special-needs>
- c-The Rights of the Disabled Child in International Charters. Retrieved from: <https://elhaiah.wordpress.com>
- d-Abed, M. (2013, March 28). International Systems and the Rights of the Disabled. Assakina. Retrieved from: <http://www.assakina.com/category/rights/rights-people-special-needs>
- e-Rahal, S. (2021). The Role of International Organizations in Protecting Refugee Children under the Provisions of International Law. Journal of Comparative Legal Studies, 7(1).
- f-Machel, G. (1996). Impact of Armed Conflict on Children. United Nations, General Assembly.
- i-International Committee of the Red Cross (ICRC). (n.d.). Health Services Unit. Retrieved from: <http://www.icrc.org>
- g-Amnesty International. (n.d.). Retrieved from: <https://www.amnesty.org>
- k-Médecins Sans Frontières (MSF). (n.d.). Retrieved from: <https://www.msf-me.org>