



Department of Political Science
Master's Degree in International Relations

Thesis Teaching: International Political Theory

**THE DOUBLE VULNERABILITY:
Children Under The International Refugee Law Framework**

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Academic Year: 2022/2023

Abstract:

Conflicts and humanitarian crisis are increasingly serious issues in the world. Many factors contribute to these problems, including politics, long-standing conflicts, poverty, and natural disasters. Children are an important part of global refugees and often face unique weaknesses and challenges in this forced deportation. The “International Law Framework of Refugees,” including the 1951 “Refugee Status Convention” and its 1967 promise, includes specific provisions on protecting children. However, in this case, children are waiting for double vulnerability due to their age and refugee identity. This thesis studies the concept of dual vulnerability of children in the framework of the International Refugee Law, and strictly reviews challenges and defects (risks), including lack of legal protection, limited opportunities for basic services, and exposure to violence and exploitation.

The thesis analyzes the legal gaps, practical obstacles, and policy limitations that hinder the effective protection of child refugees and proposes recommendations for enhancing their rights and well-being. We will also bare our focus on case studies from Myanmar, South Sudan, and Syria.

Research questions and objectives

- 1. How does the international refugee law framework, including the 1951 Convention and its Protocol, address the protection of children as refugees?*
- 2. What are the legal gaps and challenges in the protection of child refugees under the international refugee law framework?*
- 3. How can the international refugee law framework be strengthened to better address the double vulnerability of child refugees and ensure their rights and well-being are safeguarded effectively?*

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Chapter 1: Introduction

1.1. Overview of the concept of double vulnerability

➤ Definition of the term “Refugee”:

To understand this concept of double vulnerability, it is very important to start by defining who is a refugee in the first place and who is a child. According to different scholars, here are the definitions of a refugee:

➔ The United Nations High Commissioner for Refugees, known as UNHCR,¹ defines a refugee as “*someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion,*” (UNHCR, 1951). This definition is based on the 1951 Convention relating to the term ‘refugee’.

The 1951 Convention was drafted in a specific historical context, primarily in response to the aftermath of World War II and the persecution faced by individuals during that time. Its definition of term ‘refugee’ is based on five specific grounds for persecution which are: race, religion, nationality, membership of a particular social group, or political opinion. As a result, individuals who flee their countries for reasons not explicitly covered may not receive the same level of protection. This is critical since it does not adequately cover all forms that people may face.

➤ Criticism on the 1951 Convention's definition of "refugee"

Some critics argue that the Convention’s definition of "refugee" is too narrow and does not account for individuals who flee due to environmental disasters, gender-based violence, terrorists and/or thugs, or other forms of violence. Even the word “persecution” itself is not clearly defined, as the Convention provides only five grounds, leaving room for interpretation and potentially excluding individuals who do not fit the criteria.

The Convention primarily addresses refugees who are outside their country of nationality. This definition may not fully account for Internally Displaced Persons (IDPs), expelled to leave their residences but remain inside their country. There are persecutions that can take place within a person's own country, leaving them without the

¹ UNHCR – The refugees’ 1951 convention guardian who help governments to implement it.

option of crossing an international border for protection. IDPs often face similar challenges and vulnerabilities as refugees but may not receive the same level of protection and assistance. Certain groups, such as women, children, and LGBTQ+ individuals, may face unique forms of persecution that are not explicitly covered by the Convention.

The Convention also does not address the issue of stateless persons, who may not have a country of origin to which to return. Those who are born in a country where nationality is not granted face legal and administrative barriers, and discrimination based on ethnicity, religion, or gender. This is crucial specifically for child refugees and/or orphans whose births have not been officially registered and/or do not have birth certificates—birth to stateless parents.

Furthermore, as climate change continues to cause displacement and migration, the Convention's definition has been deemed insufficient in providing protection for those who are forced to flee due to environmental factors. The Convention does not recognize environmental factors as a legitimate reason for seeking asylum, leaving those who are displaced due to environmental disasters in a legal limbo².

Many scholars and law experts have offered different definitions of “refugee” based on the 1951 Convention’s explanation, but from a different perspective; however, a broader definition is still needed, an expansion of these to include all forms of displacement.

➔ According to Goodwin-Gill Guy S.³ a refugee is *“any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country,”* (Guy S. Goodwin-Gill, 2008).

➔ Karen Musalo⁴ defines a refugee as *“someone who is outside of their country of origin or habitual residence and who is unable or unwilling to return to that country because of a well-founded fear of persecution on account of their race, religion, nationality, membership in a particular social group, or political opinion,”* (Karen, 2015).

➔ James Hathaway⁵ defines a refugee as *“a person who is outside his or her country of nationality or habitual residence, has a well-founded fear of persecution because of his or her race, religion, nationality, membership in*

² uncertain situation where someone is lost between undocumented, paperless illegality, and refugee status.

³ Goodwin-Gill, G. S. is a legal scholar and professor of international refugee law at the University of Oxford

⁴ Musalo, K. is a professor of law and director of the Center for Gender and Refugee Studies at the University of California Hastings College of the Law

⁵ Hathaway, J. C. (1991) is a leading authority on “The Law of Refugee Status” book.

a particular social group, or political opinion, and is unable or unwilling to avail himself or herself of the protection of that country, or to return there, for fear of persecution,” (Hathaway, 1991).

➔ Jason Pobjoy⁶, defines a refugee as *“a person who is outside their country of nationality or habitual residence and is unable or unwilling to return to that country because of a well-founded fear of persecution on account of their race, religion, nationality, political opinion, or membership in a particular social group,”* (Pobjoy, 2017, p. 2).

These limitations and criticisms highlight the need for continued efforts to improve the protection of refugees and ensure that their rights are upheld. This is because it has some constraints in promoting other human rights and preventing the forced return of refugees to dangerous situation.

➤ **Possible revisions on the definition of term “Refugee”**

Despite these criticisms, the 1951 convention has notably played a crucial role in establishing a framework for refugee protection and has been instrumental in providing legal and humanitarian assistance to millions of displaced people worldwide. However, ongoing discussions and efforts within the international community seek to address some of limitations in the definition of the word “refugee”.

What is needed in the 1951 Convention is the adoption of a boarder and more inclusive definition of the term “refugee”, considering the expansion of protection to the groups and inclusion of environmental and climate-affected refugees. Ultimately, a more inclusive and comprehensive definition of “refugee” could help to ensure that all people who are forced to flee their homes are provided with the necessary support and protection to rebuild their lives.

All in all, a refugee can be understood as a person who has left their place of habitual resistance, whether it be a village, town, or country, due to well-founded fear of harm or persecution based on factors such as war, political, religious, racial, or social group membership, gender, limited knowledge of their origin (statelessness), or environmental disaster and negative consequences of climate change. Refugees seek asylum elsewhere to escape immediate danger, protect their well-being, and safeguard their basic human rights.

⁶ Jason Pobjoy has a broad practice within public and human rights law, refugee and immigration law, and public international law.

This expanded definition considers, not only the traditional reasons for seeking refugee status, such as persecution and conflict, but also factors related to statelessness, gender-based harm, and environmental displacement due to climate change and natural disasters. It acknowledges the complex and evolving nature of displacement, offering protection to a wider range of individuals who find themselves forced to flee their homes for various compelling reasons.

➤ **Who is a child?**

A child is a person who has not yet reached the age of majority, which varies depending on the country and legal system. In many countries, 18 years old is considered the age of majority, but in some countries, it may be lower or higher. Children are entitled to specific rights and protections under international law, such as the UNCRC which recognizes the right of all children to education, healthcare, and protection from violence and exploitation. Under this Convention, any person whose age is under 18 is seen as a child.

UNICEF recognizes that all children have the same rights, regardless of who they are, where they come from, their language, their religion, their looks, their gender, their disability, their family and social status. No child is to be treated differently for any reason at all.

➤ **The Concept of double vulnerability**

The concept of double vulnerability refers to the multiple forms of marginalization and discrimination that child refugees face, stemming from both their refugee status and their age, gender, or other intersecting factors. The combination of being a child and a refugee result in compounded vulnerability. Their specific needs and rights as children intersect with the protection and assistance requirements of refugees.

The term "double vulnerability" in the context of child refugees is a concept that has been used by various practitioners, researchers, and organizations in the field of refugee studies, child protection, and humanitarian assistance. While it may not have a single specific origin, it has gained recognition and usage in academic and policy discussions to describe the challenges faced by child refugees. *"Refugee children are children first and foremost, and as children, they need special attention."*, Sadako Ogata⁷ (UNHCR, 1994)

⁷ Sadako Ogata was the first female to be appointed UN High Commissioner for Refugees from 1991 to 2000.

Child refugees are particularly vulnerable due to their age, which makes them dependent on adults for protection, care, and support. Simultaneously, their refugee status exposes them to the same risks and dangers that adult refugees face, such as persecution, violence or harm, exploitation, and displacement which can lead them to separation from family, loss of education, and limited access to healthcare and other basic services. Refugee children may face additional risks such as child labor, child trafficking, recruitment by armed groups, and sexual and gender-based violence.

The problem is that some people see child refugees as just refugees and end up treating them like adults. This challenge can be met through various basic services like healthcare, where children's life conditions may be ignored for treatments, or services delayed, assuming that their body resistance is the same as that of adults. Also, in some refugee camps, all refugees are obliged to do hard tasks like heavy lifting of luggage, carrying sacks of food, etc. In these cases, some children find themselves being exploited, which might lead to abnormalities and/or other human development obstacles. The current case studies from Myanmar, South Sudan, and Syria highlight those unique challenges faced by refugee children, including the loss of their homes and communities, the disruption of their education, and the psychological trauma of conflict.

Addressing the double vulnerability of child refugees is very important because, in many cases, those children are being bit twice compared to adult refugees. Despite being under refugee status where they are struggling to save their lives from danger, they are also helpless due to their age and limited abilities, as compared to adults. Child refugees are covered because the CRC rights are granted to all under 18 years old people (art. 1) without discrimination of any kind (art. 2), even if the CRC is no a refugee treat. (UNHCR, 1994).

➤ **Understanding the Intersection of Childhood and Refugee Status**

Understanding the intersection of childhood and refugee status is crucial for developing effective policies and programs that address the specific needs and vulnerabilities of child refugees. By recognizing the unique challenges faced by child refugees, and taking a comprehensive and multidisciplinary approach, we can work towards promoting the rights and well-being of these vulnerable children, both in the short and long term. In addition, addressing the intersection of childhood and refugee status requires broader policy and systemic changes. This may involve strengthening the legal and policy framework for refugee protection to better reflect the specific needs and vulnerabilities of child refugees. It may also involve addressing the root causes of displacement, including conflict, persecution, and poverty, to prevent the displacement of children and families in the first place.

The intersection of childhood and refugee status creates a unique set of challenges for child refugees, which require targeted and comprehensive responses to ensure their protection and well-being. Childhood itself is a vulnerable status due to the dependence of children on adults for their basic needs and protection. Childhood vulnerability can be defined as a state in which children are at risk of harm or exploitation due to their age, lack of power, and limited ability to protect themselves. Factors that contribute to childhood vulnerability include abuse, neglect, and exploitation. For instance, children who experience abuse or neglect may have difficulty forming healthy relationships, trust issues, and mental health problems in the long term.

Furthermore, children who are forced to flee their homes due to conflict, persecution, or violence face a range of challenges and risks that are compounded by their age and developmental stage. Understanding the intersection of childhood and refugee status is crucial for developing effective policies and programs that address the specific needs and vulnerabilities of child refugees.

Ongoing and new conflicts have driven forced displacement across the globe. “The number of refugees from Ukraine soared from 27,300 at the end of 2021 to 5.7 million at the end of 2022 – representing the fastest outflow of refugees anywhere since World War II.” (UNHCR, 2023) Conflict and insecurity in other parts of the world either continued or was reignited, such as in the Democratic Republic of the Congo, Ethiopia, South Sudan, Syria, and Myanmar, where at least more than 1 million people were displaced within each country.

The impact of all these displacements on children's well-being is not limited to the immediate period of displacement but can extend into adulthood. Without adequate support and intervention, the physical, emotional, and psychological consequences of displacement can have long-lasting effects on a child's overall quality of life, educational attainment, and ability to live a full and productive life.

Having a childhood and refugee status at the same time poses specific challenges for the legal and policy framework for refugee protection. First, one lacks their rights as a child. They are not under adequate standard of living conditions like other ‘normal’ children. They lack their rights to education, healthcare, and all the other basic rights meant to ensure their well-being as children. Second, they suffer a violation of their human rights due to their refugee status. They are exposed to abuse, exploitation, violence, and other challenges encountered by all refugees.

This makes it a double vulnerability status, specifically for child refugees. The international refugee law (IRL) framework, including the 1951 Convention and its protocol, recognizes the specific needs and rights of child

refugees and provides a legal framework for their protection. However, the implementation of these legal provisions remains a significant challenge, as child refugees often face barriers in accessing their rights and services due to legal, administrative, and practical barriers. The legal framework for refugee protection often fails to consider the specific needs and vulnerabilities of child refugees, particularly those related to age, gender, and other intersecting factors.

1.2. International legal framework for refugees

Being a child and a refugee at the same time is like being cut by a double-edged sword from both sides. A lot needs to be done to ensure that child refugees receive the support they need to thrive and to protect their fundamental rights. This requires a collective effort from governments, non-governmental organizations, and civil society to provide adequate humanitarian assistance and protection for refugee children.

The international refugee legal framework is a complex and evolving system designed to protect and support people displaced by persecution, war, and other forms of violence. The cornerstone of the framework is the 1951 Refugee Convention, developed in response to the refugee crisis caused by World War II. The Convention provides a legal definition of refugees and describes the rights, obligations and protections accorded to them by host countries. It defines a refugee as someone who has been forced to flee his country of origin out of fear of persecution because of their race, religion, nationality, political opinion, or membership in a social group (UNHCR, 1951).

This 1951 Refugee Convention has some restrictions in terms of geographical location of the refugee, duration of validity, and the scope of the convention. It also does not contain clear provisions on family reunification. However, the Convention does recognize the importance of family unity and provides for the possibility of family reunification in certain circumstances. Through it, refugees may be granted permission to reunite with their spouse and/or children under the age of 18 who are unmarried and dependent on them. However, this provision applies only if the family members were living together before the refugee fled their country of origin and if they are still alive and available for reunification. Moreover, the Convention does not provide for the reunification of other family members, such as parents, siblings, or adult children.

Consequently, in addition to the 1951 Convention, other relevant international legal instruments were designed to better protect refugees. The most recognized is its 1967 Protocol that: (i) expanded the definition of ‘refugee’ to include people who were displaced after 1 January 1951, and (ii) granted refugees additional protections. The

Protocol updates and expands the scope of the 1951 Convention to provide more comprehensive protections for refugees worldwide. It removes some restrictions and extends the scope of the Convention: (i) recognizing all refugees located in any part of the world instead of just in Europe, (ii) recognizing the right to be reunited with their family members, regardless of their nationality, (iii) extending the principle of non-refoulement to cover all refugees, regardless of when or where they got their refugee status from, and (iv) eliminating a time limit. The 1967 Protocol extends the right to family reunification to cover all family members, not just spouses and children under 18. This means that refugees have the right to be reunited with their parents, siblings, and adult children, as well as their spouse and minor children. The Protocol does not impose any conditions on the length of separation or the place of residence of family members.

The international legal framework has received numerous criticisms from various experts including Jason Pobjoy who argued that is inadequate and fails to address the complex realities faced by refugees. He emphasizes that the legal framework for refugees does not consider other forms of violence and insecurity that push a person to flee homes, such as armed conflicts and environmental disasters, calling it a failure in considering today's complex realities. However, the international legal framework for refugees remains an essential tool for protecting the rights and dignity of refugees. Continued dialogue and collaboration between states, legal scholars and humanitarian organizations is crucial to ensure that the framework is effective and responsive to be the need of refugees around the world.

Chapter 2: Legal Analysis of The Protection of Child Refugees

The protection of refugee children remains a critical issue which requires careful legal analysis to ensure their rights and well-being status. The 1951 Refugee Convention and its Protocol contain the rights and obligations of states towards refugees and, in this case, child refugees. International law recognizes these children have the right to special protection and assistance, and the UN Convention on the Rights of the Child (UNCRC) stands as the main legal instrument for their protection. The UN Committee on the Rights of the Child recognizes the right of all children to protection and assistance, including refugees or asylum seekers. UNCRC states that “*Children who move from their home country to another country as refugees (because it was not safe for them to stay there) should get help and protection and have the same rights as children born in that country*”⁸. (UNICEF) It also highlights the importance of maintaining family unity and ensuring children are not separated from their families unless it is in their best interests.

However, the protection of these vulnerable groups is hindered by many challenges, including inadequate resources, political and social conflicts, and weak coordination and collaboration between actors. All of these elements raise doubts about the protection and respect of the rights and well-being of child refugees, which makes it vital to call for a deeper development of effective legal frameworks, policies, and programs.

2.1. Addressing The Double Vulnerability

As mentioned above, the double vulnerability of refugee children refers to their unique and heightened susceptibility to various risks and challenges due to their status as refugees and their age as children, leaving them in a particularly fragile position. Thus, addressing the double vulnerability of refugee children requires a comprehensive and child-centered approach.

2.1.1. Examination of relevant provisions in the 1951 Convention and its 1967 Protocol

Under the 1951 Refugee Convention, the UNHCR says that a refugee is a someone who, “*owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the*

⁸ UNICEF, The Convention on the Rights of the Child: The children’s version, #22. Refugee children

*country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it*⁹." (Article 1A(2)) (UNHCR, 1951)

Based on the Universal Declaration of Human Rights' Article 14, which grants a person the right of seek an asylum outside their persecution country, the 1951 Refugee Convention is the United Nations multilateral treaty for excellence that defines who may be identified as refugee, sets out the rights of asylum seekers and individuates the legal obligations arising from the state parties (United Nations, 1948).

The provisions of the 1951 Convention that define who a refugee is consist of three parts, termed respectively "inclusion", "cessation" and "exclusion" clauses. The inclusion clauses define the criteria that a person must satisfy in order to be a refugee. They form the positive basis upon which the determination of refugee status is made. The so-called cessation and exclusion clauses have a negative significance; the former indicate the conditions under which a refugee ceases to be a refugee and the latter enumerate the circumstances in which a person is excluded from the application of the 1951 Convention, although meeting the positive criteria of the inclusion clauses.¹⁰ (UNCHR, 2011)

The Convention is both a status and rights-based instrument and is under-pinned by several fundamental principles, most notably the non-discrimination (art.3), non-penalization (Art.31 para.1) and non-refoulment (Art.33) principles.

Article 3: Non-discrimination

The third article of the Convention states that "*The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.*" The right not to be discriminated against has been described as one of the most significant requirements of the protection provided by the rule of law. Based on this provision, all contracting States, not only the one a refugee might find themselves in, must accord all refugees the same treatment they accord foreigners with disregard to their race, religion, and country of origin. The non-discrimination, however, is not to be exclusively applied to the three concepts denounced by the article. In fact, in the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders the Commissioner broadens the prohibited grounds of discrimination to include migration status, age, disability, statelessness, marital and family status, sexual orientation or gender identity, health status, and economic and social situation.

⁹ UNHCR Convention and Protocol Relating to the Status of Refugees

¹⁰ UNCHR, Handbook and guidelines on procedures and criteria for determining refugee status, Part One: Criteria for determination of refugee status. Geneva, 2011

Contracting States are, moreover, bound by the Charter of the United Nations and may be bound to the principle of non-discrimination beyond the provision in the Convention by other international instruments to which they are Parties, such as the United Nations Convention on the Elimination of All Forms of Racial Discrimination, and the International Covenant on Civil and Political Rights. The principle of non-discrimination as enunciated in Art. 2 of the Universal Declaration of Human Rights is of general application (Weis, 1990).¹¹

Art. 31 para. 1: non-penalization

“The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization...”. A plain text reading of this clause would suggest that only the refugee who finds himself on the state’s territory is deserving of the protection cited in the article. A plain text reading of the Non-Penalization Clause would be to exclude the protection of non-penalization for asylum claimants who are not yet physically present on the territory of a state. However, Article 31 of the Vienna Convention on the Law of Treaties requires us to interpret the provision in line with the ‘object and purpose of the treaty’ which rules out the literal interpretation because in this case the purpose of the Refugee Convention is to protect the rights of refugees and acknowledge the realities of refugee flight. A purposive reading of the provision would suggest that asylum claimants within the jurisdiction of the state may also benefit from the protection offered by this provision. The VLCT suggests that the purpose of the Non-Penalization Clause is to prevent the situation where a claimant may be caught between two sovereign orders where they are forced to leave their country of origin but refused entry to another, hence including the claimants who are seeking to enter or are in the process of entering the state’s territory. This line of interpretation suggests that the purpose of the clause is to prevent an asylum claimant from being left in limbo and that non-penalization would mean, not only punishing the claimant for illegal presence, but also protecting the claimant from the situation of being rejected on both ends.

Art. 33: no-refoulement

“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian, and customary law. It prohibits States from transferring or removing individuals from their jurisdiction or effective control when there are substantial grounds for believing that the person would be at risk of irreparable harm upon return, including persecution, torture, ill-

¹¹ The Refugee Convention 1951, The Travaux preparatoires analysed with a commentary by Dr. Paul Weis. Pp 32-33

treatment, or other serious human rights violations. The prohibition of refoulement under international human rights law applies to any form of removal or transfer of persons, regardless of their status, where there are substantial grounds for believing that the returnee would be at risk of irreparable harm upon return on account of torture, ill-treatment, or other serious breaches of human rights obligations. As an inherent element of the prohibition of torture and other forms of ill-treatment, the principle of non-refoulement is characterized by its absolute nature without any exception. In this respect, the scope of this principle under relevant human rights law treaties is broader than that contained in international refugee law. The prohibition applies to all persons, irrespective of their citizenship, nationality, statelessness, or migration status, and it applies wherever a state exercises jurisdiction or effective control, even when outside of that State's territory¹² (ICJ, 2021). Article 33 is, in fact, among the articles to which the Contracting States, according to Article 42, may not make any reservation.

In addition to these core principles, the Convention offers a wide range of rights for refugees as well as exceptions to such rights. Articles 12-30 of the Convention set out the rights which individuals are entitled to once they have been recognized as Convention refugees. These rights are, among others:

- Free exercise of religion and religious education.
- Free access to the courts, including legal assistance.
- Access to elementary education.
- The right to belong to trade unions.
- The right to belong to other non-political nonprofit organizations.
- The right to engage in wage-earning employment.

Articles 1 (F) and 33 (2) of the Convention outline exceptions in which an individual may not be granted these rights. These exceptions apply to persons who, for example:

- Have committed a crime against peace, a war crime, or a crime against humanity.
- Have committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee.
- Have been guilty of acts contrary to the purposes and principles of the United Nations.

¹² International Commission of Jurists (ICJ), Migration and International Human Rights Law, 2014, Practitioners Guide No. 6, Updated Edition

- An individual whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

Although today the Convention is not the only regime that provide protection to refugees, it has set a moral and legal precedent for global refugee assistance, which still makes it a very important reference tool during different refugee rights agreements around the globe.

➤ **Criteria for refugee status determination**

To be considered a refugee, the following criteria are set out in international refugee law, including the 1951 Refugee Convention and its 1967 Protocol (UNHCR, 1951):

- 1) The person must be outside of their country of nationality or habitual residence.
- 2) The person must have a well-founded fear of persecution due to one of the five specific grounds which are their religion, race, political opinion, nationality, or membership in a particular social group.
- 3) Persecution must be carried out by state or by non-state actors that the state is unable or unwilling to protect individuals from.
- 4) The person must be unable or unwilling to return to their country of origin due to this fear of persecution.

➤ **Principles of protection of refugee children**

The 1951 Refugee Convention and its 1967 Protocol establish several specific obligations of states towards refugees. The effective implementation of these obligations is essential to ensuring that refugees can live in safety and dignity, and to rebuild their lives in a new country.

The international refugee law's cornerstone principle is the principle of non-refoulement whereby states are obligated to ensure that refugees are not sent back to a country where they may face persecution or other life threats. This principle, enshrined in the 1951 Convention and its 1967 Protocol, applies to all refugees, including children, whether or not they are formally recognized as refugees.

This principle is particularly important for refugee children, who are among the most vulnerable refugee groups, and is recognized in several instruments that specifically address the protection of refugee children, including the

Convention on the Rights of the Child and the Guidelines for the Protection of Refugee Children. These instruments emphasize the importance of protecting children from harm and ensuring that their best interests are considered in all decisions related to their care and protection.

➤ **Other specific principles obligated to states towards child refugees**

There are other legal provisions within the international refugee law framework that relate to the protection of children, including the following:

The principle of family unity is particularly important for the protection of refugee children, who are often separated from their families during their refugee journey. States have an obligation to facilitate the family reunification of refugee children and ensure that their best interests are considered in all decisions related to family reunification.

Children can be discriminated against for several reasons. The principle of non-discrimination prohibits discrimination based on race, religion, nationality or membership in a particular social group, and States have a responsibility to ensure this when providing protection and assistance.

The best interest of the child is a principle recognized in the Convention on the Rights of the Child. This principle requires that the best interests of the child be considered first in all actions affecting children, including decisions regarding their refugee status, care, and protection.

States are also obligated to ensure that refugee children have access to education, including primary and secondary education, and that their education is of a comparable standard to that provided to nationals of the host country.

Refugee children are at increased risk of exploitation, abuse, and violence, including forced labor, trafficking, and sexual exploitation. For this matter, states are obligated to take all necessary measures to protect refugee children from such abuses, and to ensure that perpetrators are held accountable.

➤ **Unaccompanied Child Refugees' Special protection and assistance**

Unaccompanied child refugees are at higher risks compared to others who are at least with some adults who might be family members or friends while in exile.

- ❖ For this, states are obligated to identify and register those unaccompanied refugee children as soon as possible after arrival, and to ensure that they have access to legal assistance and representation. These children require appropriate care and support, which also include the appointment of a guardian or the provision of alternative care arrangements, such as foster care or group homes.
- ❖ States are obligated to facilitate family tracing and reunification for unaccompanied refugee children, and to ensure that their best interests are considered in all decisions related to family reunification.
- ❖ Unaccompanied refugee children have the right to education, and states are obligated to ensure that they have access to appropriate educational opportunities, including language support and access to vocational training.
- ❖ Unaccompanied refugee children have the right to access healthcare and states are obligated to ensure that they have access to appropriate health services.
- ❖ Unaccompanied refugee children are at increased risk of exploitation, abuse, and violence, including forced labor, human trafficking, and sexual exploitation. States are obligated to take all necessary measures to protect unaccompanied refugee children from such abuses, and to ensure that perpetrators are held accountable.

These special protection and assistance measures are outlined in several international legal instruments, including the Convention on the Rights of the Child, the Guidelines on the Protection of Refugee Children¹³ (UNICEF General Assembly resolution 44/25, 1989, p. 8), and the Global Compact on Refugees. The United Nations High Commissioner for Refugees (UNHCR) plays a key role in promoting and protecting the rights of unaccompanied refugee children, and works with governments, non-governmental organizations (NGOs), and other partners aid and support to this most vulnerable group of refugees.

2.1.2. Analysis of other relevant international legal instruments, including the Convention on the Rights of the Child

In addition to the 1951 Convention and its 1967 Protocol, there are several other relevant international legal instruments that address the protection of refugees and their rights.

The Convention on the Rights of the Child (CRC) is a key international human rights treaty that was adopted by the UN General Assembly in 1989. The CRC sets out the rights of children in all areas of their lives, including

¹³ UNICEF General Assembly resolution 44/25 of 20 November 1989 during the Convention on the Rights of the Child, the Guidelines on the Protection of Refugee Children, (Art. 22).

their rights to protection, participation, education, and health care. It is widely regarded as one of the most important human rights treaties ever adopted, and it has been ratified by almost every country in the world (UNICEF General Assembly resolution 44/25, 1989).

The CRC is very much relevant to this case as it applies to all children in the territory of a state regardless of their legal status. It specifically ensures the protection of children and obliges countries to put the best interest of the child at the center of their decisions. This includes prioritizing children's rights over any immigration-related procedure or their legal status to ensure they have access to healthcare, education, and housing. The CRC, in fact, urges all State Parties to:

- Art. 2(2): take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment based on the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members,
- Art. 3(1): firstly consider the best interest of the child in all actions affecting children, whether by public or private social welfare agencies, courts, administrative authorities or legislative bodies,
- Art. 22(1): do everything to ensure that children seeking refugee status or considered refugees, under international or domestic laws and procedures, whether unaccompanied or accompanied by their parents or other people, are fully protected in exercise of their applicable rights through humanitarian support,
- Art. 28(1): recognize the right of children to education and ensures the availability of primary education to everyone.

Other provisions particularly relevant to migrant children, include Article 10 on family reunification, Article 36 on protection from all forms of exploitation, Article 37 on protection from torture or other cruel, inhuman, or degrading treatment or punishment, and from unlawful and arbitrary deprivation of liberty.

Part Two of the CRC institutes the Committee on the Rights of the Child with the “Purpose of examining the progress made by State Parties in achieving the realization of the obligations undertaken in the present Convention”¹⁴. States shall also submit reports on the measures they have adopted which give effect to the rights recognized in the treaty to the Committee (Art.44) (UNICEF General Assembly resolution 44/25, 1989).

¹⁴ Art. 43 para. 1 of the Convention on the Rights of the Child

This CRC recognizes the rights of children to be protected from all forms of violence, abuse, exploitation, and neglect. It emphasizes the importance of promoting and protecting the best interests of the child in all decisions and actions that affect them. The CRC also recognizes the importance of children's participation in decisions that affect their lives, and it emphasizes the right of children to express their views and have those views considered in all matters affecting them.

In short, the CRC recognizes their rights as children, and then goes further to accord special rights to children with double vulnerabilities like those with disabilities and refugee children, emphasizing the importance of ensuring that these children have access to the same rights and opportunities as other children.

Article 22 of the CRC specifically addresses the rights of refugee children, emphasizing the importance of protecting their rights and well-being. *“Children who move from their home country to another country as refugees (because it was not safe for them to stay there) should get help and protection and have the same rights as children born in that country¹⁵,”* (UNICEF General Assembly resolution 44/25, 1989). This Article states that refugee children should receive appropriate protection and humanitarian assistance from the state and other organizations, and that they should be treated with the same respect for their human rights as other children. The Article also recognizes the importance of family reunification for refugee children and emphasizes the need to take the best interests of the child into account in all decisions related to their care and protection. In addition, Article 20 also focuses on the right to alternative care for children temporarily or permanently deprived of their family environment, which includes child refugees who have been separated from their families.

Other relevant legal instruments that address the rights of refugee children include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention Against Torture (CAT).

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, recognizes the inherent dignity and equal rights of all human beings, including children, without distinction of any kind, including race, religion, or national origin. Article 14 of the Declaration specifically recognizes the right of individuals to seek asylum from persecution in other countries. *“Everyone has the right to seek and to enjoy in other countries asylum from persecution¹⁶.”* (United Nations, 1948)

¹⁵ UNICEF, The Convention on the Rights of the Child: The children's version, #22. Refugee children

¹⁶ Universal Declaration of Human Rights (1948), United Nations General Assembly, Art. 14

The significance of Article 14 lies in its recognition that individuals have the right to seek asylum as a means of protecting their lives, freedoms, and basic human rights, and it upholds the principle of non-refoulement discussed above. Its inclusion reflects the aftermath of World War II and the recognition of the need for international standards to protect individuals who were displaced and persecuted due to their race, religion, nationality, or political beliefs. The Article emerged as part of the broader response to address the humanitarian crises faced by millions of people during and after the war. It emphasizes that states should not only respect the right to seek asylum but also ensure that asylum seekers can enjoy their rights and access essential services while their claims are being processed. This includes providing shelter, healthcare, education, and other basic needs to asylum seekers.

The International Covenant on Civil and Political Rights (ICCPR), adopted in 1966, recognizes the rights of all individuals to freedom from arbitrary detention and to a fair trial. The first paragraph of Article 9 of the ICCPR recognizes the right to liberty and security of person and prohibits arbitrary detention. *“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law¹⁷.”* (UN General Assembly resolution 2200A (XXI), 1966)

The ICCPR also recognizes the right to freedom of movement and prohibits the expulsion of individuals from a country except in accordance with the law and for the protection of national security or public order. It reflects the international community's commitment to safeguarding individual liberties and protecting individuals from arbitrary detention. It sets out clear procedural safeguards to ensure that individuals are informed of the reasons for their arrest, have access to a fair trial, and can challenge the law.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), also adopted in 1966, recognizes the right of all individuals to an adequate standard of living, including food, clothing, and housing. The first paragraph of Article 11 of the ICESCR states: *“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent¹⁸.”* (UN General Assembly resolution 2200A (XXI), 1966) The Article reflects the recognition of the fundamental right to an adequate standard of living as an essential element of human dignity

¹⁷ International Covenant on Civil and Political Rights, Art. 9 (1)

¹⁸ International Covenant on Economic, Social and Cultural Rights (1966), Art. 11 (1)

and well-being, which also applies to child refugees. It further underscores the obligations of States Parties to ensure access to basic needs such as food, clothing, and housing for all individuals and to work towards the continuous improvement of living conditions.

Furthermore, Article 13 of the ICESCR recognizes the right to education, which includes the right of refugee children to access education on the basis of equality with others. The Article recognizes education as a fundamental human right that is essential for the personal development and well-being of all individuals, as well as for the advancement of societies and the global community.

The Convention Against Torture (CAT), adopted in 1984, also contains certain provisions which contribute to the protection of children's rights, including child refugees. Its Article 2 states: *"Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction (1). No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification of torture (2). An order from a superior officer or a public authority may not be invoked as a justification of torture (3)."* (UN General Assembly resolution 39/46, 1984) This is a clear and unequivocal prohibition on the use of torture and other cruel, inhuman, or degrading treatment or punishment, affirming the absolute nature of this prohibition and the obligation of States Parties to prevent and combat torture in all circumstances.

Article 3 of the Convention Against Torture, recognizes the right of all individuals to protection from refoulement, or the return to a country where they may be at risk of torture or other forms of ill-treatment. *"No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture (1). For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights (2)."* This principle is consistent with broader principles of international human rights law and refugee law, aiming to safeguard the rights and safety of individuals fleeing persecution or danger.

2.2. Criticisms on the legal provisions within the international refugee law framework that relate to the protection of children:

A critique of child protection legislation in international refugee law is critical to identifying the gaps and challenges faced by these vulnerable groups. While international legal instruments such as the UNCRC and the

Convention relating to the Status of Refugees provide the basis for protecting the rights of refugee children, there are some notable criticisms:

a. States' inadequate protection measures for child refugees:

The protection of child refugees is a complex issue that involves various tensions and challenges. On one hand, there is the need to ensure the protection and well-being of refugee children, while on the other hand, there are concerns about national borders, public services, and existing societal perceptions.

States often grapple with balancing their obligations to provide refuge and the need to uphold national interests. While international legal frameworks emphasize the rights of children, including refugees, in practice, these rights may take a backseat to considerations like border security, resource allocation, and political dynamics.

The rights of refugee children are often undermined or overlooked by states, leading to inadequate protection measures. One of the challenges faced by child refugees is their "invisibility", as they often go unnoticed, and their needs are not adequately addressed. They can easily fall through the cracks of administrative systems, lacking proper identification and documentation. This invisibility exacerbates their predicament and hampers efforts to extend necessary support and protection.

In addition to the complexity, the prevailing adult-centric paradigm within refugee law poses significant hurdles in safeguarding the rights and well-being of child refugees. Legal and administrative structures are often designed with adults in mind, failing to adequately account for the unique needs and vulnerabilities of children. As a result, child refugees may struggle to access appropriate education, healthcare, and psychosocial support, leaving them in a state of vulnerability.

The tension between national interests and the rights of child refugees is evident in the limitations on access to public services. Concerns about resource allocation and potential strain on public infrastructure can lead to barriers in accessing education, healthcare, and social services. Moreover, societal perceptions of refugees, fueled by misinformation or xenophobia, can further isolate child refugees and impede their integration and protection.

All in all, there should be a balance of the needs and rights of these vulnerable individuals with national interests and public services, which is a complex task. Recognizing child refugees' rights, addressing their "invisibility",

and shifting the paradigm to a child-centered approach are vital steps toward ensuring their protection and well-being within the international refugee law framework.

Even though seeking asylum is a right and not a criminal act, the protection of child refugees remains a significant challenge. The Convention on the Rights of the Child (CRC) has a crucial role in addressing these challenges and promoting the protection of children from any kind of violence, but its ambitious agenda requires further attention and commitment from states and international actors.

b. Fragmented Approaches in National Legislation:

The international refugee law framework, designed to protect the rights and well-being of refugees, faces a significant challenge due to fragmented approaches in national legislation. The implementation of international legal provisions may vary across different countries, leading to fragmented approaches to protecting refugee children's rights. This criticism highlights the inconsistencies, variations, and gaps in how different countries implement legal provisions related to refugees.

Some countries have adopted a comprehensive approach to implementing international refugee law, while others have fragmented approaches that can create inconsistencies in refugee protection and access to rights, i.e., in the USA's Refugee Act of 1980 established a uniform system for the admission of refugees, while in Australia, the Migration Act of 1958 has been amended numerous times to create a complex and fragmented system for asylum seekers (Wikipedia, 2023). Such fragmented approaches can create challenges in harmonizing national legislation with international law, particularly where national laws conflict with international standards.

Fragmented approaches to refugee legislation can have serious consequences for refugees, including inconsistencies in refugee protection and access to rights. In some cases, refugees may face difficulties in accessing asylum procedures and obtaining refugee status due to the complexity of national legislation. This can lead to delays in obtaining legal status, which can in turn, create barriers to accessing basic services such as healthcare, education, and employment. Additionally, fragmented approaches can create barriers to integration and social inclusion, leading to further marginalization and exclusion of refugees from mainstream society.

By taking these steps, national legislation can be brought into closer alignment with international refugee law, creating a more consistent and predictable system for the protection and rights of refugees.

c. Poor Child Participation in Decision-making):

Children's meaningful participation in decision-making processes that affect their lives is a crucial aspect of child protection. The Convention on the Rights of the Child (CRC) stipulates that children have the right to express their views freely and have those views considered in matters affecting them. However, within the context of the refugee law framework, there exists a critical deficiency in providing adequate opportunities for children to exercise this right.

Meaningful child participation allows children to voice their concerns, share their experiences, and contribute to decisions that affect their daily lives. By involving children in decision-making processes, we empower them to become active agents in their own protection and development. Furthermore, it enhances the quality and appropriateness of interventions and policies, ensuring that they are responsive to the unique needs and vulnerabilities of children.

Where is the insufficient child participation within the Refugee Law Framework?

- **Legal Framework Gaps:** The existing refugee law framework, including the 1951 Convention and its 1967 Protocol, lacks explicit provisions that guarantee children's right to participate in decision-making. While these international instruments recognize the principle of non-refoulement (the prohibition of returning refugees to places where they may face persecution), they do not sufficiently address how this principle should be applied to children, nor do they provide specific mechanisms for child participation.
- **Lack of Mechanisms:** In practice, child participation in asylum and refugee determination processes is often limited or tokenistic. Children are frequently excluded from interviews and decision-making discussions, which involve primarily adults. This exclusion leaves children vulnerable to decisions that may not accurately reflect their best interests and safety.
- **Inadequate Resources and Training:** Insufficient resources and a lack of training for professionals involved in refugee cases contribute to the limited inclusion of children. Social workers, lawyers, and immigration officials may not have the necessary skills or awareness to effectively engage with children in a manner that facilitates their meaningful participation.
- **Cultural and Linguistic Barriers:** Many refugee children come from diverse cultural and linguistic backgrounds, which can pose additional barriers to their participation. Interpreters and culturally sensitive approaches are often lacking, making it challenging for children to express themselves and be understood.

All in all, recognizing the importance of child participation and implementing the necessary reforms and measures is imperative to ensuring that refugee children's rights, safety, and well-being are safeguarded. Efforts to address this issue will not only fulfill international legal obligations but also contribute to more effective and compassionate refugee protection.

d. Lack of Adequate Monitoring and Accountability Mechanisms:

The protection of refugee children's rights is an essential global concern, enshrined in various international conventions and agreements. Central to this protection is the need for effective monitoring and accountability mechanisms to ensure the proper implementation of legal provisions. Critics contend that the current system often falls short in this regard, resulting in gaps that jeopardize the rights and well-being of refugee children.

Monitoring and accountability mechanisms play a pivotal role in safeguarding the rights and well-being of refugee children. These mechanisms serve several critical functions:

- **Ensuring Compliance:** Monitoring helps ensure that states and organizations adhere to international and domestic laws, regulations, and agreements designed to protect refugee children. This compliance is crucial to prevent human rights violations and abuses.
- **Identifying Gaps:** Effective monitoring reveals gaps and shortcomings in the protection system, allowing for timely interventions and policy adjustments to address emerging issues and challenges.
- **Deterrence and Prevention:** Accountability mechanisms, such as legal consequences for violations, serve as a deterrent against abusive practices, thus contributing to the prevention of rights violations in the first place.
- **Empowering Children:** Transparent accountability mechanisms empower refugee children to report abuses and violations, giving them a voice in their own protection.

One can wonder where the lack of adequate monitoring and accountability mechanisms is.

1. **Fragmented Responsibility:** Responsibility for refugee protection often falls on multiple entities, including states, international organizations, and non-governmental organizations. This fragmentation can lead to confusion and a lack of clear accountability.

2. **Inadequate Resources:** Many monitoring bodies lack the necessary resources and capacities to carry out their functions effectively. This limitation hampers their ability to comprehensively assess the conditions and treatment of refugee children.
3. **Limited Access:** In some cases, monitoring bodies may face restrictions or challenges in accessing refugee camps, detention facilities, or other locations where refugee children are housed. This limitation hinders their ability to gather accurate information.
4. **Lack of Enforcement:** Even when violations are identified, the absence of robust enforcement mechanisms often results in impunity for perpetrators. This weakens the overall deterrent effect of accountability mechanisms.

The lack of adequate monitoring and accountability mechanisms is a critical issue that compromises the protection of refugee children's rights. Effective monitoring and accountability mechanisms are essential not only for compliance with international law but also for creating a culture of respect for the rights and well-being of vulnerable populations. Addressing this issue requires a collective effort from states, international organizations, and civil society to ensure that the rights of refugee children are upheld, and their voices are heard and respected.

e. **Inadequate Implementation of Child-Specific Protections:**

Critics contend that certain legal provisions within the refugee law framework fall short in addressing the distinct vulnerabilities of refugee children. This can have detrimental consequences, including:

Insufficient Access to Education: Refugee children often struggle to access quality education due to barriers such as language differences, limited resources, overcrowded schools, and discrimination. Legal provisions may not be effectively translated into policies and actions that ensure these children receive an education.

- **Limited Healthcare Services:** Refugee children may lack access to adequate healthcare services, including vaccinations, regular check-ups, and mental health support. Inadequate implementation of legal provisions can result in limited access to essential healthcare.
- **Psychosocial Neglect:** Legal provisions may not prioritize the mental health and psychosocial support required for child refugees who have experienced trauma and distress.

- **Violence and Exploitation:** Some legal frameworks may not provide adequate safeguards to protect refugee children from violence, abuse, and exploitation. This can expose them to dangerous situations and lifelong trauma.
- **Lack of Family Reunification:** Family reunification is a vital aspect of child-specific protections. However, bureaucratic hurdles, long processing times, and inadequate implementation of such provisions may prevent children from reuniting with their families.
- **Insufficient Definitions:** The definitions of refugees and asylum-seekers may not explicitly include children, leaving them without proper legal recognition and protection.
- **Lack of Age-Specific Provisions:** Some legal provisions may not offer age-specific protections and services necessary to safeguard the well-being, education, and mental health of child refugees.

In short, while international law establishes child protection standards, inconsistent implementation by states and organizations may result in a lack of enforcement and accountability for violations. To truly fulfill the rights and well-being of refugee children, it is imperative that legal provisions are translated into effective policies and actions that address their unique vulnerabilities and ensure their access to essential services and protection.

Chapter 3: Challenges and Risks Faced by Child Refugees

Child refugees represent a substantial and uniquely vulnerable portion of the global refugee population. Forced displacement can result from conflicts, persecution, violence, human rights abuses, environmental disasters, and other crises. Children who flee their homes often face a multitude of challenges and risks that affect their well-being and development prospects. This chapter relies on a multidisciplinary approach, drawing upon academic studies, reports from international organizations, and fieldwork-based case studies. It encompasses both qualitative and quantitative data to provide a comprehensive understanding of the challenges and risks faced by child refugees.

3. 1. Physical Risks

Exposure to violence, discrimination, exploitation, and trafficking

Child refugees are highly vulnerable to violence, including physical and sexual abuse, human trafficking, and forced labor. Lack of legal protection, separation from families, and precarious living conditions contribute to their susceptibility to exploitation. With some well-known examples and empirical evidence throughout history, we can argue that child refugees are subjected to grave risks, emphasizing the urgent need for comprehensive protection measures and international solidarity.



Injured and orphaned: Wafa, aged four, and her sister Shadia, two, were badly injured in an airstrike in the Yemeni port city of Hodeidah in June 2018. Their mother and father were killed.

PHOTO: SAVE THE CHILDREN

a. Exposure to Violence:

The very act of fleeing their homes puts child refugees in danger, as they are often forced to make a perilous journey to safety. During this journey, some are exposed to violence in various forms, including armed conflicts, domestic violence, and gender-based violence. These experiences have lasting physical and psychological effects. Even upon reaching their destination, they may be placed in overcrowded and unsafe refugee camps, where the risk of violence remains high. Exposure to violence can have long-lasting effects on children. Physical injuries and trauma are obvious effects, and sometimes death.

One well-known example is the Syrian conflict, which has displaced millions, with children witnessing violence and experiencing trauma daily. The Aylan Kurdi tragedy shook the world in 2015 when the image of the little boy's lifeless body washed up on the shores of Turkey went viral. Aylan was a Syrian refugee who drowned along with his mother and brother while attempting to cross the Mediterranean Sea to reach safety (ABC News, 2016). This heartbreaking incident highlighted the plight of millions of child refugees who are forced to flee their homes due to conflict, persecution, and other crises.

The Rohingya crisis is another stark illustration, which has been a longstanding issue that has plagued Myanmar for decades, where children have been subjected to ethnic cleansing, sexual violence, and torture (HRW, 2017).

The Rohingya people, a Muslim minority group in the predominantly Buddhist country, have been subjected to ethnic cleansing, sexual violence, and torture. Thousands of people have been killed and hundreds of thousands have been displaced.

Children who have experienced violence may suffer from anxiety, depression, and post-traumatic stress disorder. These issues can hinder their educational and social development, leading to long-term consequences. By failing to protect child refugees from violence, governments and international organizations could be neglecting their duty to ensure the well-being of the most vulnerable members of society.

b. Discrimination and Xenophobia:

Child refugees often face discrimination and xenophobia in host countries, where they are viewed as burdens or threats to local communities. At some point, these children may be stigmatized as outsiders and face prejudice based on their race or nationality. In some cases, they may be denied services because of their status as refugees, which can be detrimental to their well-being. The discrimination may lead to further marginalization and social exclusion, which can impact their integration into the host society.

Social exclusion can significantly impact the lives of refugees, limiting their opportunities for education, employment, and social integration. Moreover, social exclusion can lead to poor mental health, creating long-term challenges for refugees. For example, refugees who face discrimination often struggle to access healthcare services and mental health support, making it challenging to address their mental health concerns. Additionally, social exclusion can lead to poverty, making it challenging for refugees to access basic necessities such as food, shelter, and clothing.

Xenophobia can lead to violence against child refugees. When host communities view refugees with suspicion and fear, it can lead to violence against them. This violence can cause physical harm and trauma, leading to further marginalization and displacement of refugees. Moreover, violence can create a culture of fear and hostility, making it challenging for refugees to integrate into their host communities. It can also create a ripple effect of violence, leading to more significant security concerns for both refugees and host communities.

In the United States, for instance, the separation of migrant families at the border in 2018 led to severe psychological distress for children, sparking widespread outrage (American Psychological Association, 2021). Discriminatory policies and rhetoric can further marginalize these vulnerable children. Likewise, Rohingya

children in Myanmar offer a glaring example of state-sanctioned discrimination. Denied citizenship and declared as “illegal immigrants”, these children have faced institutionalized discrimination, leading to their exclusion from schools and healthcare services.

Some refugee policies can exacerbate tensions between refugees and host communities. It is true that some refugee policies can create tensions between refugees and host communities. Policies that prioritize refugees over citizens can create resentment, making it challenging to build positive relationships between the two groups. Additionally, policies that limit access to public services can create tensions, as both refugees and host communities rely on these services. Finally, policies that disrupt family and community ties can create social isolation, making it difficult for refugees to integrate into their host communities.

Discrimination and xenophobia can perpetuate harmful stereotypes. Stereotypes can significantly impact the lives of refugees, as they can lead to discrimination in housing, employment, and education. Stereotypes can also create barriers to social integration and cultural exchange, making it challenging for refugees to form connections with their host communities. Additionally, stereotypes can contribute to the stigmatization of refugees, creating a negative perception of them in society.

c. Exploitation and Child Labor:

Child refugees often fall prey to exploitation and child labor due to limited legal protection and economic vulnerabilities. They may be forced to work in dangerous and exploitative conditions, such as in factories or on farms, and may be subjected to physical and emotional abuse. For example, in Turkey, Syrian child refugees are often forced to work long hours in textile factories. These children are often subjected to harsh working conditions, including exposure to dangerous chemicals and machinery.

Lack of access to education and other opportunities can perpetuate cycles of poverty and exploitation. Child refugees may be unable to attend school due to financial or legal barriers, such as lack of documentation or transportation. Without access to education and training, they may be forced to work in low-paying jobs with no upward mobility. For example, in Lebanon, many Syrian child refugees have been forced to work in agriculture, construction, and other low-paying jobs due to the lack of access to education (Halldorsson, 2017).

Providing education and training is not always feasible or effective. In some regions, access to education and training is limited or non-existent. Even with education and training, job opportunities may be scarce. Providing

education and training may not address the immediate needs of families in crisis. For example, in South Sudan, many child refugees have limited access to education and job training due to the ongoing conflict and displacement.

Preventing exploitation and child labor may not always be possible in situations of extreme poverty and displacement. For example, Syrian child refugees in Lebanon, Bangladesh children, and Rohingya children who are forced into child labor, working in precarious conditions with inadequate pay (Save the Children, 2019). Similarly, Afghan child refugees in Iran are engaged in laborious jobs, missing out on education and a chance for a better future.

d. Trafficking:

Child refugees are at high risk for human trafficking, with criminal networks exploiting their vulnerability. Firstly, many child refugees lack legal identification documents, making them easier to traffic. Without proper documentation, these children may be unable to access basic services such as education and healthcare, which makes them more vulnerable to traffickers. Additionally, child refugees may be separated from their families, leaving them without a support system. This can make them more susceptible to traffickers who promise them a better life or offer them false opportunities to reunite them with their families.

Take the case of Eritrean children escaping compulsory military service and rampant poverty. As they traverse through Libya en route to Europe, many are kidnapped and held for ransom. If their families cannot pay, these children are often sold, abused, or killed (Jacobs, 2020).

The Mediterranean migration crisis also saw countless unaccompanied child refugees being trafficked for sexual exploitation and forced labor in Europe (UNICEF, 2018). Traffickers prey on the desperation and lack of protection for these children, making them easy targets. This horrific ordeal showcases the extent to which child refugees can be entrapped in sinister networks of trafficking and extortion.

All in all, it is important to recognize that the risks of trafficking faced by child refugees are complex and multifaceted, and that effective solutions require a nuanced and comprehensive approach that takes into account the unique circumstances of each refugee.

3.2. Challenges in accessing basic services.

As child refugees flee conflict and persecution in their home countries, they often find themselves in unfamiliar territories where they struggle to access basic services such as healthcare, education, and housing.

a. Healthcare Access

According to the UNHCR, child refugees are at a higher risk of malnutrition, infectious diseases, and mental health disorders due to the trauma of displacement. They often lack access to adequate healthcare services due to a combination of complex factors related to their displacement.

Firstly, language barriers are a significant challenge that prevents effective communication when accessing basic services with healthcare providers. This leads to miscommunication, inadequate care, and misdiagnosis. As they move to a new country, they may not speak the language of the host country. This language barrier may lead to communication breakdowns, making it difficult for them to express their needs clearly. Moreover, they may miss out on vital information about available services, which may further complicate the process of accessing basic services. This challenge can leave child refugees feeling isolated and unable to navigate the new environment effectively.

Secondly, lack of documentation or legal status restricts access to healthcare services. Some countries may have restrictive policies and legal barriers that limit access to healthcare for refugees, including children. Bureaucratic processes and documentation requirements can be especially challenging for refugees to navigate. In many host countries, child refugees do not have the necessary documents or legal status to access healthcare services, which further exacerbates their vulnerability.

Thirdly, limited availability of healthcare facilities or resources in refugee camps or host communities creates a significant barrier to accessing healthcare services. Many refugee camps lack adequate healthcare resources, and children often must travel long distances to access healthcare services, which can be costly and time-consuming. Rohingya child refugees in Bangladesh's Cox's Bazar region often struggle to access healthcare due to overcrowded camps and limited healthcare facilities. This has resulted in inadequate treatment for common illnesses, malnutrition, and other health issues (Save the Children, 2019).

Additionally, discrimination against refugees, including children, can hinder their access to healthcare. Host communities may perceive refugees as burdens, leading to exclusionary practices and denial of services.

Why do child refugees need immediate healthcare services?

Untreated illnesses or injuries

Child refugees are at high risk of untreated illnesses and injuries due to the harsh conditions of their displacement journey. There are various conditions that often expose these children to a range of physical dangers and hazards.

Most of them embark on perilous journeys, often involving long walks, dangerous border crossings, and travel through conflict zones. Others often travel in overcrowded and poorly maintained vehicles, boats, or makeshift transportation. Some also frequently endure extreme weather conditions, such as scorching heat, freezing temperatures, heavy rainfall, or snowfall which can lead to health issues like heatstroke, frostbite, or hypothermia. Lacking a proper shelter and living conditions can expose child refugees to injuries from collapsing tents or makeshift structures, as well as to vector-borne diseases in areas with inadequate protection from insects and pests. These journeys expose them to the risk of accidents, injuries from falls, slipping on muddy pathways, road traffic incidents or even accidents within congested refugee camp settings.

Unsafe cooking practices or Malnutrition and dehydration are common among child refugees due to a lack of access to clean water and nutritious food. Skin infections and parasitic diseases are also prevalent in refugee camps due to poor sanitation and hygiene. Respiratory infections and communicable diseases such as measles and tuberculosis are also a significant threat to child refugees due to the overcrowded living conditions in refugee camps.

Refugee camps often lack healthcare facilities and trained personnel to provide adequate medical care. Limited resources and funding for refugee healthcare further exacerbate the problem, leaving many child refugees without access to essential healthcare services.

Immunization rates among child refugees

Immunization rates among child refugees may decline, posing risks to public health. Child refugees may come from regions with lower immunization rates, leaving them susceptible to preventable diseases such as measles, polio, and tetanus. Lack of access to healthcare services may prevent child refugees from receiving necessary vaccinations, putting not only their own health at risk but also the health of the broader population. Declining immunization rates can pose a risk to public health, as these diseases can spread quickly and easily.

Central American child migrants and refugees, for example, attempting to reach the United States have faced healthcare access challenges, particularly during their journey through Mexico. They often lack access to essential medical care, including vaccinations, and may face violence and exploitation (Angelo, 2021).

Chronic conditions

Inadequate healthcare services can have long-term effects on overall health. Lack of access to healthcare services can lead to chronic conditions such as diabetes, hypertension, and heart disease. These conditions can result in a lower quality of life and reduced life expectancy. Inadequate healthcare services can also negatively impact future generations, as children born to parents with untreated conditions may be born with birth defects or other health issues.

Psychological Challenges

⇒ Social and Integration Challenges

The challenges that child refugees face in their new communities are substantial, particularly when it comes to social and cultural integration. Their social and emotional integration are affected because of violence and trauma they have experienced in their home countries, which can have long-lasting effects on their mental health and ability to form relationships. Studies have shown that child refugees are at a higher risk of developing anxiety, depression, and post-traumatic stress disorder (PTSD) than their non-refugee peers¹⁹ (Dr. Fazel M., 2005). This can affect their ability to participate in social activities and form friendships, leading to social isolation and loneliness. To address this challenge, there is a need for mental health services that are culturally sensitive and responsive to the needs of child refugees.

Consider that child refugees can bring cultural diversity and enrichment to their communities. Child refugees often bring with them unique traditions, perspectives, and experiences that can enrich the cultural fabric of their new communities. This can promote understanding and tolerance and help to break down stereotypes and prejudice. For example, a study conducted in Canada found that refugee children were more likely to participate in cultural activities and events than their Canadian-born peers, contributing to a more diverse and vibrant community²⁰ (McKeary, 2010).

¹⁹ A study which conducted a systematic review to assess the prevalence of serious mental disorders, including anxiety, depression, and PTSD, among refugees resettled in Western countries.

²⁰ A study that highlights how refugee children, when provided with opportunities, can actively contribute to a more diverse and vibrant community through their engagement in cultural activities.

⇒ **Trauma**

Child refugees often experience trauma that makes it difficult to access basic services. They may have witnessed violence or conflict in their home country, which can lead to mental health issues. Moreover, they may have experienced violence during their journey to the host country, which can further exacerbate their trauma. This can impact their ability to access basic services, as they may struggle with anxiety, depression, and other mental health issues. The stress, trauma, and uncertainty experienced by child refugees can affect their decision-making and risk perception, potentially leading to accidental injuries or self-harm.

⇒ **Profound grief and emotional distress**

Many child refugees experience the loss of family members, friends, and their familiar environments, causing profound grief and emotional distress. Family separation, whether intentional or accidental, can exacerbate these feelings.

⇒ **Uncertainty and Anxiety:**

The constant state of flux, uncertainty about the future, and the fear of deportation or detention can create persistent anxiety among child refugees.

All in all, child refugees may have pre-existing conditions that require medical attention, such as chronic illnesses or disabilities. The stress and trauma of migration can also lead to physical and mental health issues, such as malnutrition, dehydration, and post-traumatic stress disorder. Injuries sustained during migration, such as broken bones or lacerations, may also require immediate medical attention. The immunization rates may decline, and without proper healthcare services, these conditions can worsen and lead to long-term health issues.

b. Education

One of the most pressing issues facing child refugees is the lack of access to education. Education is not only a fundamental human right but also a pathway to empowerment, self-reliance, and a brighter future. However, for child refugees, various obstacles hinder their access to quality education.

Displacement and resettlement often result in a lack of access to schools, as well as trauma and psychological distress affecting their learning and development. Language barriers and cultural differences can also make it difficult for them to integrate into new educational systems. In many refugee-hosting areas, schools are overcrowded due to an influx of refugee children. Overcrowding can lead to larger class sizes; considering the shortage of trained teachers; reduced teacher-student interaction, and a lower quality of education. Also, child

refugees often lack access to essential learning materials, such as textbooks, notebooks, and school supplies, which can hinder their ability to engage effectively in the learning process.

Insufficient funding for education programs is a major barrier, with the UNHCR estimating that only 2% of global humanitarian funding goes towards education. According to a 2019 report by the United Nations High Commissioner for Refugees (UNHCR), there were around 3.7 million refugee children out of school – more than half of the 7.1 million school-age refugee children. 63% of refugee children worldwide have access to primary education, and only 24% have access to secondary education (UNHCR, 2019).

The Syrian refugee crisis, one of the largest humanitarian crises of our time, has left millions of Syrian children without access to quality education. In neighboring countries like Lebanon and Jordan, overcrowded schools, language barriers, and limited resources have significantly hindered the education of Syrian refugee children.

In Uganda, which hosts a large population of South Sudanese refugee children, overcrowded classrooms and a lack of resources also have posed challenges to their education. Many children must walk long distances to reach schools, which can be unsafe.

Bangladesh's Cox's Bazar region has also been home to hundreds of thousands of Rohingya refugees where access to education is a major concern. Overcrowding in makeshift camps and the absence of formal education facilities have resulted in limited access to quality education for Rohingya children²¹ (Save the Children, 2019).

The lack of education not only affects the child's prospects but also has a significant impact on their social and emotional well-being as well as breaking the cycle of poverty and conflict. Providing education for child refugees is not only a moral imperative, but also benefits host countries. Educated refugees can contribute to their host country's economy and society, bringing valuable skills and knowledge. Education can also promote social cohesion and reduce tensions between refugees and host communities, as it fosters understanding and empathy. Additionally, education for child refugees can benefit their home country when they eventually return, as they will have the skills and knowledge to contribute to the rebuilding and development process.

3.3. Challenges faced by unaccompanied and separated children.

²¹ 63% of all children in the study were separated during a direct assault on their village, and 9% as their family attempted to flee to Bangladesh.



Figure 2 - Syria: Zahra, 11, with her sister Fati ma, 3, in the doorway of their family's temporary shelter in the suburbs of Idleb where they have been living for few months after they were forced to leave their hometown because of the violent clashes and heavy. PHOTO: AHMAD BAROUDI / SAVE THE CHILDREN*

Refugee status has brought to light the vulnerability of children in general. But indeed, unaccompanied and separated child refugees often face more significant risks and vulnerabilities compared to child refugees who are accompanied by parents or guardians. The situation is particularly dire for unaccompanied and separated child refugees because they are alone and without the support and protection of their families or elders to hold their hands throughout the exile journey.

Some of them may have witnessed the death of their family members or caretakers, leaving them orphans at a young age in such a cruel world. They are more likely to suffer from mental health issues. These children may easily experience trauma from such situations which can sometimes even lead to post-traumatic stress disorder (PTSD), depression, and anxiety, or even death, sooner than those who are accompanied.

The lack of support and resources for unaccompanied child refugees can increase their vulnerability. They may not have access to education or healthcare, leaving them without basic needs. They may not have access to safe housing, which can leave them homeless and vulnerable to exploitation and many other risks.

➤ **Exploitation and abuse**

Unaccompanied child refugees are more vulnerable to exploitation and abuse. They may be targeted by human traffickers or smugglers who exploit their vulnerability and lack of support. These children may be forced into labor or sexual exploitation, or subjected to physical, emotional, or sexual abuse. UNICEF estimates that 1 in 5 refugees and migrants crossing the Mediterranean is a child, and that many of them are unaccompanied or separated from their families. This puts them at high risk of exploitation and abuse during their journey and in their host countries.

➤ **Abuse and neglect**

The absence of adult caregivers leaves unaccompanied and separated children vulnerable to various forms of abuse, including physical, emotional, and sexual abuse. They may also face neglect, malnutrition, and inadequate living conditions.

➤ **Lack of family reunification**

There are a plethora of complexities and challenges associated with family reunification for separated and unaccompanied children. Lengthy family reunification processes can negatively impact the mental health and well-being of children separated from their families. Separation can cause trauma and psychological distress as well as anxiety and depression in these children. The sudden separation from their primary caregiver can be a traumatic experience, especially when they do not understand why it is happening. Children may also experience feelings of sadness, loneliness, and hopelessness. Prolonged separation can lead to a sense of abandonment and loss. Children may feel like they have been abandoned by their families, which can lead to feelings of helplessness and despair. Furthermore, uncertainty about the reunification process can cause additional stress and trauma. Children may think and worry constantly about when they will see their families again, and whether they will ever be reunited.

Delays in family reunification can have long-term effects, developing post-traumatic stress disorder (PTSD) because of separation. PTSD can cause a range of symptoms, such as nightmares, flashbacks, and hypervigilance. Children can experience ongoing mental health issues even after reunification. The trauma of separation can have lasting effects on children's mental health, and they may require ongoing mental health support. Delays can lead to a loss of trust in the government and the legal system. Children may feel like the government and legal system have failed them, which can lead to a lack of trust and a sense of injustice, which would create a sense of rebellion in the future.

Lengthy legal processes, bureaucratic hurdles, differing immigration policies, and the need to locate and verify family members all contribute to the difficulties in reuniting these children with their loved ones.

➤ **Difficulties in navigating the asylum process**

The asylum process can be a complex and challenging experience for anyone, but it can be particularly difficult for unaccompanied child refugees due to their age, vulnerability, and lack of support. From language barriers to lack of legal representation and a support system, these children may struggle to understand their rights and responsibilities, communicate with officials, and/or integrate into their new communities.

Many of these children do not have the financial resources to hire a lawyer, and they may not understand the importance of legal representation. Without a lawyer, children may not know how to navigate the asylum process and may be at risk of being denied protection. Not having elders to support them, these children may not have access to social workers or other support services. This lack of support can lead to feelings of isolation and confusion, making it even more difficult for these children to understand and navigate the asylum process.

➤ **Barriers in obtaining legal protection and documentation**

In some cases, unaccompanied and separated children may be detained upon arrival in host countries, often in conditions unsuitable for minors. Inappropriate detention can exacerbate their vulnerability. They are more likely to face legal and bureaucratic challenges.

Many unaccompanied child refugees are not aware of their legal rights and may be unable to access legal support. This lack of knowledge can make them more vulnerable to exploitation and abuse, as they may not know how to report abuse or seek help.

Barriers to obtaining legal protection and documentation can be systemic. Legal systems may be complex and difficult to navigate, particularly for children who may not speak the language or understand the process. Authorities may be reluctant to grant legal protection or documentation due to political or ideological reasons. Unaccompanied and separated child refugees may struggle to access legal aid or representation, face difficulty obtaining documentation or asylum, and be placed in detention or deported. Children may be afraid to come forward to request legal protection or documentation due to fear of retaliation or detention. Additionally, the legal and bureaucratic challenges that these children face can limit their access to protections and basic rights such as education and healthcare, and leave them vulnerable to further exploitation and abuse, as they may not be able to

seek justice or hold perpetrators accountable. These systemic barriers can make it incredibly difficult for unaccompanied child refugees to obtain the legal protection and documentation they need.

Barriers to obtaining legal protection and documentation can be logistical. Children may not have access to legal representation or support. They may not have the financial means to pay for legal fees or documentation. Children may not have the necessary identification documents to prove their identity or age. These logistical barriers can be significant obstacles for unaccompanied child refugees seeking legal protection and documentation.

On the other hand, legal protection and documentation can be difficult to obtain due to limited resources. Legal systems may not have the resources to provide adequate support and services to all unaccompanied child refugees. Countries may not have the financial means to provide legal protection and documentation to all unaccompanied child refugees. Resources may be prioritized for other vulnerable populations such as refugees who are victims of violence or persecution. While these are valid concerns, they do not negate the importance of legal protection and documentation for unaccompanied child refugees.

Moreover, legal protection and documentation can be difficult to obtain due to security concerns. Authorities may be concerned about granting legal protection or documentation to children who may pose a security risk. Children may be denied legal protection or documentation if they have a criminal record or are suspected of involvement in criminal activity. Legal protection and documentation may be delayed or denied if authorities are unable to verify a child's identity or age. While security concerns are important, they should not be used as an excuse to deny unaccompanied child refugees the legal protection and documentation they need.

The legal protection and documentation are essential for the safety and well-being of unaccompanied child refugees. It is the responsibility of governments and international organizations to prioritize the protection and documentation of unaccompanied child refugees, and to work towards dismantling the barriers that prevent them from accessing these safeguards. Only then can we truly break down the barriers that prevent unaccompanied child refugees from living safe and secure lives.

➤ **Age Determination Challenges**

The lack of accurate age determination processes can result in discrepancies in treating children as children or adults, affecting their protection status and access to appropriate services. Without accurate age determination, children may be mistakenly treated as adults and denied necessary protections. In some cases, this can lead to children being placed in inappropriate detention facilities with adults or being denied access to education and

other services. Additionally, children may be at risk of being trafficked or forced into labor if they are not accurately identified as children. All these can lead to further trauma and abuse.

Current age determination methods are not always accurate. Physical appearance and development can be misleading, particularly for children who have experienced malnutrition or other health issues. Cultural practices and variations can also affect age assessment, particularly for child refugees' backgrounds. Age determination through documentation can also be unreliable, especially for refugee and migrant children who may not have access to official documentation.

All in all, age determination is a critical aspect of protecting children's rights and ensuring their access to necessary services. While current age determination methods are not always accurate, more efforts need to be made to improve accuracy and consistency across different settings and countries.

3.4. Inadequate Child-Specific Protections

Some legal provisions within the refugee framework fail to account for the specific vulnerabilities of refugee children, leading to inadequate protection measures. Some countries may not have specific laws to protect refugee children, while others may have laws that are not properly enforced. Moreover, laws that do exist may not account for the unique vulnerabilities of children. This means that children are often left without the protections they need to stay safe and healthy. In many countries without specific laws, child refugees can be forced to work in dangerous conditions, which can lead to physical injuries and mental health problems such as depression and anxiety.

Inadequate child-specific protection measures put child refugees at risk in various ways. Children may be forced to live in overcrowded and unsanitary conditions, which can lead to the spread of disease and illness. They may also be denied access to education and healthcare, which can have long-term consequences for their health and well-being. Additionally, children may be at risk of being deported back to dangerous situations, where they may face persecution or violence.

3.5. Barriers in accessing justice and obtaining durable solution

Thirty years after its adoption, the UNCRC is almost universally ratified since every UN member State has ratified the Treaty, apart from the United States who is a signatory. Though it makes it the most ratified UN

Treaty, it is not universally ratified yet, leaving gaps in its application and hindering the full protection of refugee children's rights.

The limited ratification of the UNCRC leaves child refugees vulnerable. Children in non-ratifying countries may not have access to the protections provided by the UNCRC. Even in ratifying countries, if the country has not incorporated the UNCRC into its domestic laws, children may not be fully protected. Additionally, children may be denied protection if the UNCRC is not effectively enforced. This limited application of the UNCRC leaves child refugees vulnerable to exploitation, abuse, and neglect.

The limited application of the UNCRC can lead to violations of refugee children's rights. Children may be denied access to education, healthcare, and other basic needs. Children may be subjected to exploitation, abuse, and neglect. Moreover, children may be separated from their families and placed in inappropriate living conditions. The limited application of the UNCRC leaves refugee children without adequate protection, which can lead to violations of their fundamental human rights.

The United States, while a signatory to the UNCRC, has not ratified it. This has led to concerns about the protection of refugee children's rights, particularly those who arrive at the U.S.-Mexico border seeking asylum. On April 6, 2018, the U.S. implemented a "zero tolerance" policy, intended to ramp-up criminal prosecution of people caught entering the United States illegally, resulting in the separation of thousands of children from their families. Unauthorized immigrant parents traveling with their children were being criminally prosecuted and separated from their children²² (HRW, 2018). It was chosen specifically to prosecute parents traveling with children over adults traveling alone. The government's position seemed to be that the prosecutions required the parents to serve time in criminal custody, and thus due to rules on holding children in either criminal or immigration detention, the separations were the logical result. The limited application of the UNCRC left gaps in the legal framework for protecting the rights of these separated children.

The limited application of the UNCRC undermines the principle of universality of human rights. The UNCRC is a widely recognized human rights instrument, and its limited application undermines the universality of human rights. The limited application of the UNCRC also perpetuates the idea that some children's rights are less important than others. The limited application of the UNCRC undermines the global effort to protect the rights of all children, regardless of their status.

²² URW – A ltogether, nearly 3,000 children were separated from their parents.

The UNCRC is not the only instrument for protecting the rights of refugee children. Other international instruments, such as the Refugee Convention and the Convention Against Torture, also provide protections for child refugees. Some countries may have domestic laws that provide additional protections for refugee children. Moreover, the UNCRC may not be applicable to all situations faced by child refugees.

3.6. Inadequate Resources for Child Protection

An alarming challenge often hampers the realization of children rights: inadequate resources and funding for child protection initiatives. We all know how crucial adequate resources are. Among several reasons are:

Access to Basic Services: Resources enable refugee children to access essential services such as education, healthcare, and psychosocial support. These services are essential for their well-being and development.

Capacity Building: Funding allows organizations to train staff, implement child protection programs, and establish safe spaces for children. This capacity-building is vital for addressing the unique challenges faced by refugee children.

Preventing Exploitation: Adequate resources are essential to prevent the exploitation and abuse of refugee children, ensuring they are not forced into child labor, early marriage, or other harmful situations.

Legal Protections: Resources support the functioning of legal mechanisms that can identify and respond to violations of refugee children's rights. This includes establishing guardianship systems and legal aid services.

Causes of inadequate resources for child protection

1. **Underfunded Humanitarian Efforts:** Humanitarian efforts, including those aimed at protecting refugee children, are often underfunded. This shortfall limits the scope and effectiveness of programs designed to meet children's needs.
2. **Overburdened Systems:** In many refugee-hosting countries, the influx of displaced populations places immense strain on existing infrastructure and resources. This overburdened system often cannot adequately accommodate and support refugee children.
3. **Limited Access to Education:** A lack of funding hinders refugee children's access to education. Without access to schools and educational resources, children's prospects are bleak, and they remain vulnerable to exploitation.

4. **Insufficient Psychosocial Support:** Refugee children frequently experience traumatic events, and they require psychological and emotional support. Inadequate funding for mental health and psychosocial programs leaves these children without essential care.

Limited resources and funding for child protection initiatives can hinder the effective implementation of legal provisions, resulting in insufficient support for refugee children. It is not enough for the international community to acknowledge the rights of these vulnerable children; it must also commit the necessary resources to fulfill these obligations. Adequate funding is not just a matter of financial investment; it is an investment in the future well-being of refugee children, their communities, and the world at large.

Among all refugees, children are particularly vulnerable to a range of challenges and risks. Addressing these challenges and risks requires a comprehensive understanding of the multidimensional nature of the refugee experience. By drawing on a range of perspectives and sources of data, policymakers and practitioners can better understand the root causes and implications of refugee crises, as well as the unique needs and challenges faced by child refugees themselves. While this approach may have limitations and challenges, it remains an essential tool for addressing the global refugee crisis and supporting child refugees in their journey towards safety and security.

Chapter 4: Policy Limitations and Implementation Gaps

(Rohingya, Syria, & South Sudan as Case Studies)

4.1. Overview of the Rohingya crisis, Syria conflicts, and South Sudan conflicts

The Rohingya crisis, Syria conflict, and South Sudan conflicts are global humanitarian crises that have caused significant displacement and suffering for millions of people. They highlight the importance of addressing the root causes of conflicts and providing support to those who have been affected by violence and displacement around the globe.

4.1.1. THE ROHINGYA CRISIS



Figure 3 - © WFP/Sayed Asif Mahmud For many Rohingya refugees, WFP assistance is the only reliable source they can count on to meet their food needs.

The Rohingya crisis is a long-standing and complex humanitarian issue involving the Rohingya Muslim minority group in Myanmar (formerly known as Burma). They have faced systemic discrimination, persecution, and horrific violence for decades. It is considered as one of the largest exodus of refugees witnessed in recent decades.

4.1.1.1. Background

The Rohingya are an ethnic minority group, primarily Muslim, with a distinct language and culture. They have lived in the Rakhine State of Myanmar for generations, with historical roots dating back centuries. During British colonial rule, the Rohingya region was integrated into British Burma. Later, in 1948, when Myanmar gained independence from Britain, the Rohingya were initially recognized as citizens under the new nationality laws. However, their citizenship and rights began to erode in the subsequent decades.

The situation for the Rohingya deteriorated significantly after the military coup in 1962, leading to the restriction of their rights and citizenship. In 1982, Myanmar's government enacted the Citizenship Law, which effectively rendered the Rohingya stateless by denying them citizenship. They were classified as "Bengali" foreigners. The Rohingya have been subjected to various forms of discrimination due to being viewed as illegal immigrants from neighboring Bangladesh. Over the years, the Rohingya faced increasing violence, discrimination, and persecution, including restrictions on movement, marriage, and access to education and healthcare.

In 2012, communal violence erupted in Rakhine State between the Rohingya and the Rakhine Buddhist community. This violence resulted in deaths, displacement, and the destruction of Rohingya homes and villages. The crisis escalated in August 2017 when the Myanmar military launched a brutal crackdown in response to attacks by Rohingya insurgents in Rakhine State. This military campaign included mass killings, sexual violence, and the burning of Rohingya villages. The Rohingya were driven away from their homes and villages were set on fire, prompting them to start their dangerous and often lethal journey to Bangladesh.

By August 2018, more than 700,000 Rohingya Muslims had fled Myanmar to neighboring Bangladesh, seeking refuge from violence and persecution. Such a massive population was joining another existing 213,000 fellow Rohingya refugees who had fled in the previous years, finding themselves in overcrowded refugee camps²³ (Duggal, 2022).

4.1.1.2. Restrictions imposed on the Rohingya people (Human Rights Abuses)

The Rohingya crisis has been marked by reports of human rights abuses, including killings, sexual violence, and the burning of Rohingya villages. The United Nations has described it as a "textbook example of ethnic cleansing."²⁴ This is to describe situations where there is evidence of systematic and organized efforts to forcibly remove a particular ethnic or racial group from a specific region or territory through acts of violence,

²³ UNHCR – Rohingya Refugee Crisis: The Facts (How many Rohingya refugees are there?)

²⁴ UN News – A phrase which is employed when there is clear evidence of ethnic or racial motivations behind the actions.

persecution, and displacement. The aim of using such a language is always about raising awareness and spurring international response to protect the rights and well-being of those affected, i.e. (in this case, the Rohingya population).

Since their arrival in Bangladesh, numerous restrictions have been imposed on the Rohingya people. For instance, Rohingya are not allowed to return home until certain conditions are met. Restrictions on their freedom of movement, access to healthcare and education, and other basic human rights have been faced. Additionally, the refugee camps in Bangladesh faced severe overcrowding and inadequate access to necessities such as food, clean water, and healthcare. The conditions were dire, particularly for children.

Moreover, Rohingya people are forced to carry National Verification Cards (NVC), which effectively identify them as foreigners and do not grant them citizenship. Critics argue that these cards deprive the Rohingya of their identity. The NVC was provided to Rohingya and some other Muslims as a legal sign that they are not identified as citizens. Rohingya groups link NVC to mass displacement and genocide and believe the cards constitute a trap that denies them the chance to gain citizenship by perpetuating their notions of foreign status. In other words, this made them stateless.

The Rohingya crisis has turned into a prolonged emergency in Bangladesh, with over one million refugees living in overcrowded camps in Cox's Bazar. Despite the best efforts of non-governmental organizations, both local and international, to improve the situation, the Rohingya are facing dire living conditions. Shelters are built with bamboo and tarps, leaving the residents exposed to the elements. Therefore, the camps in Bangladesh's Cox's Bazar, a home to the largest refugee camp in the world, got closed to new arrivals due to the overclouded environment. Any refugee attempting the journey to Bangladesh got denied entry.

Bangladesh has not signed the 1951 Refugee Convention and the Stateless Persons Convention but has ratified important human rights instruments. Bangladesh has no national legislation specifically governing the management of refugee and asylum matters. The government manages the response to Rohingya refugees through directives, letters, and administrative tools.

The Rohingya people have no official refugee status in Bangladesh, which limits their access to employment or education. As a result of the crisis, many Rohingya are highly dependent on humanitarian aid for survival. The Atlantic council has cited that: "*Bangladesh has not signed multilateral agreements recognizing the rights and*

protections of international refugees, depriving the Rohingya of formal refugee status, stymying efforts to integrate the population and limiting freedom of movement beyond temporary camps.”

The New York Times also has claimed that Bangladesh got dozens of schools set up shuttered calling them illegal. But it was out of fear that the schools would encourage the refugees to stay on their territory permanently. These schools had been teaching about 400,000 school-age children of Rohingya students²⁵ (Yasir, 2022) “*When I see my school empty, I feel sad,*” said Mohammad Reyaz, a sixth grader who had attended the school for 22 months before it was closed. “*I liked it more than my home.*”

Moreover, the forced repatriation of Rohingya refugees back to Myanmar was introduced, despite protests by the international communities. However, Rohingya community demand guarantees of their citizenship rights before they return to Myanmar. The United Nations criticized the repatriation plans, stating that conditions in Myanmar are still unsafe for Rohingya.

The risk of genocide continues for the Rohingya still in Rakhine, and Myanmar army leaders have been recommended to be referred to the International Criminal Court (ICC) for prosecution for genocide. Unfortunately, the situation in Rakhine State has not improved for the Rohingya, with poor healthcare conditions leading to an increased incidence of waterborne diseases, skin infections, and chronic illnesses.

Other challenges being faced by Rohingya

The camps were constructed on uneven, sandy hills, and the use of concrete and bricks as additional protection is not allowed. This makes the informal settlements in Cox's Bazar vulnerable to flooding and landslides. Lack of access to water and sanitation is also a major issue in the refugee camps.

Another shocking challenge falls under the international donor fundings. According to the UN News, July 2023, food rations have downed to 27 cents a day. Faced with funding constraints, WFP has had to make the difficult decision to maintain food aid until the end of the year. The value of food stamps for camp residents dropped from \$12 to \$10 per person per month in March and to \$8, or 27 cents a day, in June²⁶ (Pirovolakis, 2023).

²⁵ The New York Times: Bangladesh Shuttters Dozens of Schools Set Up by Rohingya in Camps.

²⁶ UNHCR - Rohingya refugees face hunger and loss of hope after latest ration cuts.

As the situation of Rohingya refugees continues to worsen, it is not just WFP that is feeling the pressure of reduced international donor funding. The United Nations' 2023 humanitarian response plan for the Rohingya is only a quarter full of funding. Increasingly, humanitarian organizations are now forced to carry out only the most urgent interventions, meaning that basic needs are not being met. Such cuts have disproportionately affected children and women, who are more than 75% of the refugee population, putting them at greater risk of gender-based violence, exploitation, and abuse.

The situation in Myanmar may not improve unless there is a major shift in the culture of pervasive prejudice towards the Rohingya, which has been a deep-seated resentment in the region for generations. As a result, the implications of the Rohingya crisis extend beyond Myanmar, and have profound consequences for the region.

4.1.2. SOUTH SUDAN CONFLICT

The South Sudan conflict has led to the displacement of over 4.2 million people, including children. The conflict is rooted in political and ethnic tensions, leading to armed confrontations. As a result of the ongoing violence, many civilians have been killed, families have been separated, and communities have been destroyed.

4..1.2.1. Background

South Sudan, the world's youngest nation, has experienced conflict since its independence from Sudan on 9 July 2011, after a brutal civil war that lasted for more than twenty years. In 1983, SPLM/A (Sudan People's Liberation Movement/Army) broke into a civil war in Khartoum against the government of Sudan (BBC News, 2016).

The roots of the conflict can be traced back to the marginalization of the southern region by successive Sudanese governments, which were predominantly Arab and Muslim. The southern population, largely composed of non-Arab ethnic groups and mainly Christians and traditional believers, felt marginalized and oppressed by the central government's policies, which favored the Arab-dominated north.

The civil war was characterized by a series of conflicts, political maneuvering, and shifting alliances. It resulted in widespread displacement, loss of life, and severe humanitarian crises. The SPLM/A, led by John Garang, sought greater autonomy and self-determination for the people of South Sudan.

In 2005, both Sudanese government and SPLM/A put a signature on the Comprehensive Peace Agreement (CPA), bring the civil war to an end. This Agreement provided South Sudan with a six-year period of temporary self-government, followed by an independence referendum.

In January 2011, the people of South Sudan voted overwhelmingly in favor of secession from Sudan, leading to the establishment of the independent Republic of South Sudan in July 2011, with Salva Kiir Mayardit as its first president. However, despite achieving independence, South Sudan faced numerous challenges and internal conflicts.

South Sudan conflicts went on to be portrayed as an ethnic conflict between the Dinka and Nuer communities, which are the two largest ethnic groups in the country. It is important to note that the conflict is not solely based on ethnic differences but has been fueled by political power struggles and competition over resources. Remember that this country is rich in natural resources, particularly oil. Control over oil fields and revenues has been a major driver of the conflict. The struggle for control of these resources, combined with corruption and mismanagement of oil revenues, has exacerbated tensions, and fueled the conflict. Ethnic divisions have been manipulated and exploited by their great political figures to call upon support and gain an advantage.

The tensions within this country escalated into a full-blown conflict in December 2013, when a political power struggle emerged between President Salva Kiir, an ethnic Dinka, and his former deputy, Riek Machar, an ethnic Nuer. The political dispute quickly turned into an ethnic conflict, with violence spreading across the country along ethnic lines.

The conflict in South Sudan is characterized by widespread human rights violations, including extrajudicial killings, sexual violence, forced displacement and the recruitment of child soldiers. The internally displaced persons (IDPs) and refugees have faced food shortages, malnutrition, and inadequate access to healthcare and education. The humanitarian consequences are severe: millions of people are displaced and dependent on aid which was also too hard to be delivered due to insecurity and logistical challenges.

Resolving the conflict requires addressing these underlying factors and building inclusive and accountable institutions to promote stability and development in the country. Several peace agreements have been signed between the warring parties in South Sudan, but they have been marked by numerous violations and a lack of sustained implementation. The most notable peace agreement is the Revitalized Agreement on the Resolution of the Conflict in South Sudan, or simply R-ARCSS, signed in 2018. While the agreement led to a fragile ceasefire

and the formation of a transitional government, challenges remain in implementing key provisions, such as security sector reform and the integration of armed groups.

Failure to the efforts made to resolve the conflict through those various peace agreements and negotiations, got the situation remaining fragile and prone to outbreaks of violence. Hence, this has drawn significant attention and involvement from regional and international actors for peacekeeping and mediation efforts.

The UNMISS, United Nations Mission in South Sudan, has been deployed to protect civilians and support peace efforts. Also, the regional blocks like IGAD, Intergovernmental Authority on Development, have played a crucial role in mediating peace talks. Additionally, neighboring countries, including Uganda, Sudan, and Ethiopia, have been involved in various capacities, providing support to different factions, or participating in peace negotiations.



Figure 4 – © UNICEF/Phil Hatcher-Moore Waves of fighting have displaced families in the Upper Nile State in South Sudan.

4.2.2. Children Rights Abuses

The South Sudan conflict has indeed witnessed serious violations of human rights, including ethnic-based violence, sexual violence, attacks on civilians, and the forced child soldier recruitments. The impact on children has been particularly devastating, with long-lasting physical, psychological, and emotional consequences.

- **Ethnic-Based Violence:**

In the South Sudan conflict, children have been victims of ethnic-based violence, where they have been targeted due to their ethnic background. The conflict has involved clashes between different ethnic groups, and children have suffered as a result. This ethnic-based violence against children took various forms:

Killings and Attacks: Children have been targeted and helplessly killed based on their ethnicity. Armed groups have attacked villages and communities, specifically targeting individuals from rival ethnic groups. Children, along with adults, have been victims of these attacks, resulting in loss of lives and severe trauma.

Displacement: Ethnic-based violence has led to mass displacement of communities, including children. Families have been forced to flee their homes and seek refuge in other areas or across borders to escape targeted violence. Displacement disrupts children's lives, separating them from their families, and exposes them to further risks, such as inadequate shelter, lack of access to food and healthcare, and limited educational opportunities.

Psychological Trauma: Witnessing or experiencing ethnic-based violence can have long-lasting psychological effects on children. They may suffer from PTSD (post-traumatic stress disorder), anxiety, depression, and other psychological disorders, impacting their overall well-being and development.

Discrimination and Stigmatization: Children from targeted ethnic groups may face discrimination and stigmatization within their communities or when seeking assistance. They may be ostracized or marginalized, which further exacerbates their vulnerability and hampers their access to essential services and support.

- **Sexual Violence:**

Sexual violence against children has been widely documented in the South Sudan conflict. Girls and boys have been subjected to several forms of sexual abuse. These acts of violence not only cause immediate physical harm but also have long-term psychological and social impacts on the survivors (Amnesty International, 2020).

Rape and Sexual Assault: Children have been subjected to rape and sexual assault by armed actors, including soldiers, militia members, and other combatants involved in the conflict. These acts of sexual violence cause immediate physical injuries and pain, as well as long-term health consequences. They also have profound psychological and emotional impacts on the victims, often leading to trauma, shame, and stigmatization.

Sexual Slavery and Forced Marriage: Children have been forcibly recruited into armed groups and subjected to sexual slavery. They are exploited for sexual purposes, forced into non-consensual relationships, and subjected to repeated sexual abuse. In some cases, children have been forcibly married off to fighters, denying them their rights to education, protection, and a childhood.

Abduction and Trafficking: Children in conflict-affected areas are at risk of abduction and trafficking, including for sexual exploitation. They may be forcibly taken into captivity or sold into slavery, where they are subjected to sexual violence and exploitation. These children are often cut off from their families and communities, making it challenging to trace and rescue them.

Societal Stigma and Barriers to Reporting: Sexual violence against children in South Sudan is often shrouded in silence and stigma. Fear of reprisals, social judgment, and lack of trust in authorities may prevent children from reporting incidents of sexual violence. The stigma attached to survivors of sexual violence further compounds their suffering, hindering their access to support services and justice.

- **Attacks on Civilians**

The targeting of civilian populations has been a prominent feature of the conflict. Children have been caught in the crossfire of armed clashes, aerial bombings, and attacks on villages, leading to several severe consequences for children's safety, well-being, and development.

Physical Harm and Casualties: Children are exposed to direct physical harm during attacks on civilians. They can be injured or killed because of indiscriminate bombings, shootings, or other violent acts. The loss of family members and loved ones in these attacks has a profound impact on children, leaving them traumatized and vulnerable.

Displacement and Separation: Attacks on civilians often result in mass displacement, forcing children and their families to flee their homes in search of safety. Displaced children face numerous challenges, including inadequate

shelter, limited access to clean water, sanitation, and healthcare. Separation from family members may occur during the chaos of an attack, adding to children's distress and increasing their vulnerability to exploitation and abuse.

Education Disruption: Attacks on civilian areas disrupt children's access to education. Schools and educational facilities may be damaged or destroyed, or families may be displaced to areas where schools are unavailable or unsafe. The loss of educational opportunities has long-term consequences for children's development and future prospects.

Psychological and Emotional Impact: The exposure to violence and the loss of a sense of security have profound psychological and emotional effects on children. They may experience post-traumatic stress disorder (PTSD), anxiety, depression, and other mental health issues. The psychological scars of such experiences can impair their ability to learn, socialize, and lead fulfilling lives.

Increased Risk of Exploitation: Attacks on civilians can expose children to increased risks of exploitation, including recruitment as child soldiers, forced labor, and sexual exploitation. Armed groups may take advantage of the chaos and displacement to prey on vulnerable children, subjecting them to further harm and denying them their rights to protection and well-being.

- **Forced Child Army Recruitment:**

Recruiting and using children as soldiers is prevalent in the South Sudan conflict. Armed groups, including government forces and opposition militias, have forcibly recruited children, often subjecting them to violence, exploitation, and manipulation. This practice has had devastating consequences for the affected children.

Coercion and Abduction: Children in South Sudan have been forcibly recruited into armed groups through coercion, abduction, or threats against themselves or their families. They are often taken from their homes, schools, or communities against their will and forced to join the ranks of fighting forces.

Loss of Childhood and Education: Forced recruitment robs children of their right to a childhood and denies them access to education. Instead of being in school and engaging in age-appropriate activities, these children are thrust into the brutality of armed conflict, where they are trained for combat and exposed to violence and trauma.

Physical and Psychological Harm: Child soldiers face severe physical and psychological harm because of their involvement in armed conflict. They are exposed to direct violence, including being used as frontline fighters, forced to carry out acts of violence, and exposed to risks of injury and death. The experiences of armed conflict can lead to long-lasting psychological trauma, affecting their mental well-being and development.

Exploitation and Abuse: Child soldiers are vulnerable to various forms of exploitation and abuse within armed groups. They may be subjected to sexual exploitation, forced labor, and other forms of mistreatment. They are often denied their basic rights, including access to healthcare, adequate nutrition, and protection from harm.

4.1.2.2. Challenges faced by humanitarian organizations in South Sudan

The ongoing violence, political instability, and economic challenges have had profound consequences for the population in South Sudan, exacerbating existing vulnerabilities and creating new ones. According to OCHA, “an estimated 9.4 million people in South Sudan — including 2.2 million women, 4.9 million children and 337,000 refugees — are projected to need humanitarian assistance and protection services in 2023, reflecting 76 per cent of the population”²⁷ (OCHA, 2022)

The insecurity and fighting by armed groups, mostly youth, in various parts of this country kept on looting some humanitarian facilities, frequently attacking their convoys along key supply routes. This has made it challenging for humanitarian organizations to reach affected populations and provide assistance. Access constraints can be caused by armed clashes, roadblocks, bureaucratic impediments, and restrictions imposed by different parties to the conflict. These limitations hinder the delivery of life-saving aid and essential services to vulnerable communities.

The conflict has forced the evacuation and relocation of humanitarian personnel, reducing the capacity to respond effectively to the crisis. The departure of experienced staff and the closure of aid operations in certain regions have limited the reach and quality of humanitarian assistance, particularly in areas most affected by the conflict. Jonglei State has experienced significant violence and intercommunal clashes, exacerbating many challenges. In 2020, fighting between armed groups in the Pibor area of Jonglei State led to the suspension of humanitarian

²⁷ OCHA – Two thirds of the population are affected by the precarious food security situation, making South Sudan one of the world’s worst food insecurities crises.

activities, leaving thousands of people without essential assistance (UN News, 2022). The insecurity and access constraints in the region have hindered efforts to provide life-saving aid and protection to affected populations²⁸

Some aid workers faced threats of attacks, kidnappings, and looting, which further complicate the delivery of assistance. The volatile security situation often necessitates the deployment of armed escorts or reliance on air transport, which adds logistical complexities and costs to humanitarian operations.

Also, humanitarian organizations often face funding constraints in to respond this South Sudanese crisis. The protracted nature of the conflict and competing global humanitarian needs make it challenging to secure sustained funding for essential relief and recovery programs. Insufficient funding hampers the scale and effectiveness of humanitarian interventions and limits the ability to meet the growing needs of affected populations.

Efforts to address the challenges in delivering humanitarian aid and establishing peace in South Sudan have been made. Humanitarian organizations engage with local communities and work closely with community leaders and organizations. It is crucial to prioritize the protection of civilians, ensure safe and unhindered access for humanitarian organizations, and support initiatives aimed at resolving the underlying causes of the conflict.

4.1.3. SYRIA CONFLICTS

The conflict in Syria, often referred to as the Syrian Civil War, has also resulted in the displacement of millions of people, including children. It involves various armed groups, including the Syrian government, opposition forces, and extremist organizations. The violence has caused widespread destruction of infrastructure, including homes, schools, and hospitals. Millions of Syrians have fled to neighboring countries in search of safety and stability.

4.1.3.1. Background

The Syria conflict traces its origins to the protests that began in March 2011 in the city of Daraa. The arrest and torture of teenagers who had painted anti-government slogans on a school wall served as a catalyst for the initial demonstrations. The protesters called for political reforms and an end to authoritarian rule under President Bashar al-Assad (BBC, 2016).

²⁸ UNMISS – Concerns Grow Over Violence in by armed youth from Jonglei State

The protests in Daraa quickly spread to other parts of the country, fueled by a range of grievances, including political repression, economic hardships, and demands for greater civil liberties. As the government responded to the protests with a heavy-handed crackdown, the demonstrations grew in intensity, eventually evolving into a full-blown armed conflict. Opposition groups, including defected military personnel and civilian activists, began to organize and form armed resistance against the government forces. Shockingly, the initial protests for political reforms and greater freedoms transformed into a multifaceted civil war with various factions vying for power and control. The conflict has resulted in a severe humanitarian crisis, with millions of Syrians displaced internally and externally. The destruction of infrastructure, including healthcare facilities and schools, access to necessities such as food and clean water has further exacerbated the suffering of the civilian population. The use of chemical weapons, including sarin gas, in the conflict has been documented, leading to international condemnation and calls for accountability.

Over time, the conflict became increasingly fragmented, with the emergence of various armed groups. The main actors include the Syrian government's armed forces, rebel factions, and extremist organizations such as the Islamic State of Iraq and Syria (ISIS) and Jabhat al-Nusra (known as Hayat Tahrir al-Sham). These groups attracted foreign fighters who shared their ideological beliefs and sought to establish a radical Islamic state in Syria.

The tension in Syria grew widely and went on to draw significant international involvement. Various countries, including regional and global powers, have supported different actors in the conflict. Russia and Iran have provided military support to the Syrian government, while other countries, such as the United States, Turkey, and Gulf states, have supported opposition groups.

The conflict evolved into a complex web of alliances and rivalries, attracting foreign fighters, including extremist elements. These individuals have traveled to Syria to join different armed groups, including both jihadist and non-jihadist factions. Foreign fighters came from countries in the Middle East, Northern Africa, Europe, and beyond. **Fighters:** Foreign fighters have been motivated by a range of factors. Some are driven by religious or ideological motivations, seeking to defend fellow Muslims or contribute to perceived jihad. Others may be drawn to the conflict due to grievances related to perceived injustices or political grievances in their home countries. Socioeconomic factors, personal motivations, and a sense of adventure have also played a role in attracting foreign fighters.

The presence of foreign fighters has contributed to the radicalization of individuals, increased the capabilities, and reach of extremist groups, and posed security threats to countries of origin and the broader region. The return of foreign fighters to their home countries has also become a major concern, as it presents challenges in terms of monitoring, rehabilitation, and possible re-engagement in violence.

In addition to the conflicts, Syria encountered also natural disasters that fueled the status of refugees to millions of people. On 6 February 2023, an extreme Mw 7.8 earthquake struck southern and central Turkey and northern and western Syria (Wikipedia, 2023). It was estimated that more than 6.8 million people were already internally displaced within Syria. Other millions of Syrians had sought refuge in other countries, primarily in neighboring countries such as Turkey, Lebanon, Jordan, Iraq, and Egypt. These countries have shouldered a significant burden in accommodating and providing for the basic needs of the refugees. “At the end of 2022, almost 7 out of 10 people in Syria needed assistance, the largest number of people in need since the crisis began. However, the devastating earthquakes of February 2023 affected nearly 9 million people. The damage is worst in the north-west, where more than 3 million people have been affected in Aleppo and 3 million people in Idleb” reports the Office for the Coordination of Humanitarian Affairs.²⁹

The influx of Syrian refugees has put immense strain on the resources and infrastructure of these host countries, particularly in areas such as housing, education, healthcare, and employment. It has also created social and economic challenges for both refugees and host communities. Furthermore, a significant number of Syrian refugees have embarked on dangerous journeys and sought asylum in countries in Europe and beyond. This has led to complex migration and asylum issues and has prompted debates and policy responses in receiving countries.

The international community has taken various measures to address the issue of foreign fighters in Syria. These include efforts to enhance border control and security cooperation, share intelligence, and implement legal frameworks to prosecute individuals involved in terrorism-related activities. Countries have also focused on countering extremist propaganda and promoting deradicalization and rehabilitation programs for returning foreign fighters.

Numerous attempts have been made to find a political solution to the conflict. These include the United Nations-led Geneva peace process, the establishment of de-escalation zones, and the Astana peace process led by Russia, Iran, and Turkey. However, achieving a lasting and comprehensive peace has proven challenging due to the complex dynamics and diverging interests of the various parties involved.

²⁹ OCHA – Syria Arab Republic has one of the world’s largest numbers of internally displaced people, with inequalities across the life course of children.

4.1.3.2. Human Rights Abuses

The conflict has been characterized by human rights abuses, including the use of chemical weapons, bombings of civilian areas, and displacement of populations. These violations have had a devastating impact on Syrian civilians, with children being particularly vulnerable to the harms inflicted by the conflict.



Figure 5 – Bodies of victims of a suspected chemical attack on Ghouta, Syria on Wednesday, August 21, 2013. © 2013 AP Photo/Shaaam News Network.

➔ Use of chemical weapons

The use of chemical weapons has been a grave concern during the Syrian conflict. The Syrian government has been accused of multiple instances of using chemical weapons against civilians, including the notorious chemical attack in Ghouta in 2013. It is important to underscore that the use of chemical weapons is a clear violation of international law, including the Chemical Weapons Convention adopted in 1993 and entered into force on 29 April 1997, which prohibits their production, stockpiling, and use (Wikipedia, 2016). The use of such weapons against civilians constitutes a serious war crime and a violation of humanitarian norms.³⁰

³⁰ OPCW — This convention has been ratified by 193 states, making it one of the most widely supported arms control treaties in history.

Under the Chemical Weapons Convention, member states commit to destroying any existing stockpiles of chemical weapons, halting production, and ensuring they do not develop, acquire, or transfer chemical weapons. The treaty also sets up a comprehensive verification regime to monitor compliance, including inspections and reporting requirements.

Organization for the Prohibition of Chemical Weapons (OPCW) is the international agency responsible for implementing and overseeing the Chemical Weapons Convention. The OPCW verifies compliance with the treaty, conducts inspections, and supports member states in destroying chemical weapons stockpiles.

In August 2013, the Ghouta region near Damascus suffered a large-scale chemical attack, resulting in the deaths of hundreds of people, including many children. The attack involved the use of sarin gas, a highly toxic nerve agent. The international community strongly condemned the attack, and there was widespread outrage and calls for accountability. Various investigations were conducted to determine responsibility for the use of chemical weapons in Ghouta and other incidents. The United Nations' OPCW conducted joint investigations to examine the evidence. These investigations concluded that chemical weapons, including sarin gas, were indeed used in Ghouta and attributed responsibility to the Syrian government (HRW, 2013).

Reports from international organizations and independent groups have also provided extensive evidence showing that the Syrian government uses chemical weapons. The reports by the UN-OPCW Joint Investigative Mechanism (JIM) have been particularly significant in documenting and attributing responsibility for the use of chemical weapons in Syria.

➔ Bombings

Bombings of civilian areas, including residential neighborhoods, schools, and hospitals, have been another tragic feature of the conflict. Both the Syrian government and various armed groups have been implicated in carrying out indiscriminate attacks on civilian populations. These attacks have resulted in the loss of countless lives, the destruction of critical infrastructure, and the displacement of communities.

The Syrian government, as the primary authority in the country, has been accused of carrying out aerial bombardments and other attacks on civilian areas. These attacks have often been characterized by the use of barrel bombs and other indiscriminate weapons, causing significant civilian casualties.

Various armed groups involved in the conflict, including opposition groups and extremist factions, have also been implicated in carrying out attacks on civilian areas. These groups have used tactics such as shelling and rocket attacks, resulting in civilian casualties and the destruction of infrastructure.

Numerous reports from international organizations and human rights groups have documented these indiscriminate attacks on civilians, including children. Organizations such as Human Rights Watch, the United Nations, and the Amnesty International have published extensive reports on the subject, highlighting the violations and calling for the protection of civilians and accountability for those responsible.

4.1.3.3. Challenges faced by Humanitarian Organizations in Syria

Humanitarian organizations face immense challenges in providing aid to affected populations in Syria, especially in besieged areas. The political complexity of the conflict has indeed hindered efforts to find a lasting solution, which has further compounded the difficulties in delivering humanitarian assistance effectively.

Besieged areas, where populations are surrounded and cut off from essential supplies, have been particularly challenging for humanitarian organizations to reach. The parties involved in the conflict have imposed restrictions on aid delivery, including bureaucratic hurdles, security concerns, and limited access granted to humanitarian agencies. This has resulted in a lack of essential supplies, including food, medicine, and clean water, exacerbating the suffering of vulnerable populations.

Furthermore, the ongoing hostilities and insecurity in many parts of Syria have put humanitarian workers at risk. Aid convoys and facilities have been targeted, leading to casualties among humanitarian personnel and limiting the ability to provide assistance.

In September 2016, a United Nations and Syrian Arab Red Crescent aid convoy was targeted in the town of Urum al-Kubra, near Aleppo. The attack resulted in the deaths of several aid workers and the destruction of significant amounts of humanitarian aid. (Al Jazeera, 2016). In January 2018, a hospital supported by Médecins Sans Frontières in Maarat al-Numan, Idlib, was hit by airstrikes, causing multiple casualties, and rendering the facility inoperable. This incident was part of a broader pattern of attacks on medical facilities in Syria (MSF, 2018).

These are just a few examples of the numerous attacks on humanitarian workers and facilities throughout the Syrian conflict. Such incidents have had a devastating impact on the ability of humanitarian organizations to provide aid and assistance to those in need.

All of the above-mentioned case studies highlight the complex and multifaceted nature of humanitarian crises, with each presenting unique challenges and requiring international cooperation and intervention to address the needs of affected populations. They also underscore the importance of protecting the rights and well-being of children who are disproportionately affected by such conflicts.

4.2. The International Laws and Policies that Protect the Rights of Child Refugees

As discussed Chapter Two, Legal Analysis of the Protection of Child Refugees, there are numerous international laws and policies which provide protection for the rights of child refugees. These are instruments that represent broad guidelines strengthening and extending legal, policy and practice frameworks for the protection of the rights and well-being of child refugees. They emphasize the need to prioritize the best interests of the child and ensure that child refugees receive the necessary care, protection, and support they require.

a. 1951 Refugee Convention and its 1967 Protocol:

The 1951 Refugee Convention is the key international legal instrument that defines who is labelled refugee, outlines their rights, and establishes the obligations of states towards refugees. The Convention does not specifically address child refugees, but it applies to them in the same way as adult refugees. The principle of non-refoulement (not returning refugees to places where their lives or freedom are at risk) is crucial for child protection.

b. Convention on the Rights of the Child (CRC):

The United Nations' CRC is a widely ratified treaty adopted by the United Nations General Assembly in 1989. It sets out the civil, political, economic, social, and cultural rights of children. Article 22 of the CRC focuses specifically on the protection of child refugees and their rights. It affirms the rights of the child, including those related to refugee children and state responsibilities. States must ensure the legality and standards of their own

provisions for child refugees. Child refugees' rights claims are recognized, respected, and implemented in international and national legal and bureaucratic systems.

c. International Humanitarian Law (IHL)

The International Humanitarian Law is known as the laws of armed conflicts, aiming to protect individuals who are non-participants in hostilities. It includes provisions to safeguard the rights and well-being of child refugees during armed conflicts.

d. United Nations High Commissioner for Refugees (UNHCR) Guidelines

The UNHCR has issued various guidelines and handbooks that provide guidance on the protection of refugee children, including child refugees. These guidelines address issues such as identification, registration, family reunification, education, healthcare, and protection from exploitation and violence.

e. Global Compact on Refugees:

This was adopted by the United Nations General Assembly in 2018 to reaffirm the protection and well-being of child refugees as a priority. It calls for increased support for education and healthcare services for refugee children and aims to enhance their access to national systems.

4.3. Policy Limitations in Ensuring the Rights of Child Refugees

While efforts have been made to protect and support child refugees, there are still areas where policies fall short. Laws and policies may vary across countries, leading to inconsistencies in protection measures and gaps in addressing critical issues. Policies ensuring the rights of child refugees presents several limitations and challenges, despite national and international law recognition.

Many countries lack comprehensive legal and policy frameworks specifically tailored to address the unique needs and rights of child refugees. Existing laws and policies may not adequately cover issues such as access to education, healthcare, protection from exploitation, and family reunification.

Child refugees are consistently relegated to the margins of societal concern and action, with contemporary states not uniformly honoring the CRC-guaranteed rights of refugee children in domestic policies and practices. Child refugees may face discrimination and xenophobia, which can further marginalize them within society. Negative attitudes towards refugees can create barriers to their inclusion and hinder the realization of their rights, i.e. the Rohingya case.

Some countries may have established legal and policy frameworks but meet significant challenges in their implementation. Inconsistencies in interpretation, lack of resources, limited awareness, and varying levels of commitment among government agencies and service providers can impede effective implementation of child refugee rights.

The separation of child refugees from their families is another significant concern due to legal and policy gaps. Policies and procedures related to family reunification can be complex in some states, time-consuming, and challenging to navigate. Delays in family reunification can have detrimental effects on the well-being and protection of child refugees.

Child refugees often face barriers to accessing quality education as well. Challenges include language barriers, lack of appropriate curriculum, limited availability of space in schools, discrimination, and a shortage of qualified teachers. These factors can result in disrupted or inadequate education for child refugees.

Child refugees often experience traumatic events before and during their displacement, which can cause mental health issues. However, mental health and psychosocial support services are often insufficient and/or inaccessible. Limited resources, stigma, and cultural barriers can hinder the provision of adequate support for addressing the psychological well-being of child refugees.

Another significant limitation is the lack of understanding and attention given to children's experiences, which can weaken their claims for asylum. This lack of attention means that children may be treated as collateral damage in the normalization of border protection. Immigration officials may overlook useful information about children's experiences and fail to understand their rights, as has been seen in Sweden's migration system.

Moreover, detention can have severe consequences for child refugees, as it disrupts or destroys family life. Some children are detained alongside their parents or caretakers, others are detained alone, while others are helplessly left alone in the community. Children are sometimes not recognized as children or refugees in immigration

decisions or detention arrangements, putting their rights at further risk. Detention centers do not provide environments suitable for normal family life. Some children can easily be exposed to physical and emotional harm, leading to long-term health problems. These centers represent toxic environments in which they are treated like adults, facing forced tasks that can cause cumulative trauma and loss of self-confidence.

Another concern is that the national well-being is favored over the well-being of child refugees in the current protection dialogue. Take the example of the Rohingya people who were, at some point, seen as a threat to the country to which they had exiled. It is obvious that their lives mattered less compared to that of citizens.

Asylum procedures often involve complex legal requirements, extensive documentation, and lengthy waiting periods. Asylum seekers may face difficulties in navigating the process, understanding legal terminology, and meeting the evidentiary burdens. Access to legal assistance is crucial for asylum seekers to understand their rights, present their case effectively, and navigate the complex asylum procedures. However, many countries lack sufficient legal aid services, leaving asylum seekers without adequate support. Asylum decisions may vary between different adjudicators and asylum offices, leading to inconsistent outcomes. Factors such as the personal biases of decision-makers, limited training, and lack of country-of-origin information can affect the quality and consistency of asylum decisions.

Some countries detain asylum seekers during the application process, which can lead to prolonged detention and inadequate access to legal representation. Detention can have detrimental effects on the mental health and well-being of asylum seekers, hindering their ability to prepare and present their case, for example, in 2019, when Central American child migrants and refugees, attempting to reach the United States have faced healthcare access challenges, particularly during their journey through Mexico.

All of the above-mentioned limitations show that despite international laws and policies protecting the rights of refugee children, there is still much work to be done to ensure that the rights of these vulnerable individuals are protected.

4.4. Impact of Immigration Policies on Child Refugees' Right to Seek Asylum

The impact of immigration policies on the rights of asylum seekers is particularly significant for child refugees. These vulnerable individuals are first and foremost children and as such their rights must be respected and protected. The UN-CRC establishes that refugee children, like all other children, have the right to personal

development, family life, health, safety, and protection. However, the implementation of immigration policies can often result in the denial of these fundamental rights. Child refugees may be deprived of access to adequate medical services and education which, not only puts their physical and mental well-being at risk but also hampers their overall development. It is crucial to recognize that refugee and asylum-seeking children do not forfeit any of their rights under the UN-CRC, and these rights should be upheld regardless of their immigration status. The best interests of the child should always be paramount in decision-making processes related to immigration policies. Therefore, it is essential for governments to ensure that their immigration policies align with international human rights standards and guarantee the rights of child refugees within the asylum system.

- **Restrictive Border Policies**

Stringent border control measures and policies can hinder asylum seekers' access to territory and the ability to lodge their asylum claims. Examples of such policies include the implementation of physical barriers, strict visa requirements, or practices that limit access to asylum procedures at the border. For example, the "Remain in Mexico" policy implemented by the United States in 2019 required displaced Mexicans approaching the American south border to wait in Mexico for their asylum hearings (HRW, 2019). This policy limited their access to the asylum process within the United States, impacting their ability to seek protection. Another example is the government issuance of National Verification Cards (NVC) provided to the Rohingya Muslim population which deprives them of their identity as Myanmar citizens, rendering them stateless and restricting their freedom of movement.

- **Detention and Family Separation:**

Immigration policies that result in the detention of asylum seekers, including families and children, or the separation of families, can pose significant obstacles to the exercise of the right to seek asylum. Detention and family separation can lead to prolonged periods of confinement, limited access to legal representation, and emotional distress. For example, the "zero tolerance" policy³¹ implemented by the United States in 2018 resulted in the separation of families at the border, with children being held in separate facilities. This policy drew international attention and raised concerns about its impact on the right to seek asylum and the well-being of asylum-seeking families.

³¹ Altogether, nearly 3,000 children were separated from their parents.

- **The lack of coordinated and child-sensitive approaches:**

The lack of coordinated and child-sensitive approaches in immigration policies can have a significant impact on the right of child refugees to seek asylum and can lead to family separations at the border. In some cases, such immigration policies may result in the detention or deportation of parents, leaving children alone or in the care of authorities. The lack of these approaches in immigration policies can undermine the rights and protection of child refugees, for example, the U.S. “zero tolerance” policy which resulted in the separation of thousands of children from their parents at the U.S.-Mexico border (HRW, 2018). When policies and practices are not designed to address the unique needs and vulnerabilities of child refugees, situations can result in inadequate protection and support. Effective and rights-based policies should prioritize the best interests of the child, family unity, access to essential services, and alternatives to detention.

To sum up the policy limitations and implementation gaps in ensuring the rights of child refugees, it is important to note that the inconsistencies between countries’ policies and laws can result in gaps and weak protection measures. Policies and mechanisms to protect children from these risks may also be insufficient and/or poorly enforced at national and/or international levels, leaving child refugees vulnerable to abuse and exploitation. Moreover, lengthy and complex family reunification processes, strict eligibility criteria, and limited resources for reunification efforts can result in prolonged separation from their families, negatively impacting their emotional well-being. In addition, child refugees often experience traumatic events, and access to mental health support services may be limited or inaccessible, leaving them without the necessary care and support to address their psychological needs and recover from trauma. Additionally, inadequate data collection and monitoring systems make it difficult to accurately assess the situation and needs of child refugees. The lack of comprehensive data hampers evidence-based policymaking, monitoring of progress, and accountability for the protection and well-being of child refugees.

To address these limitations and implementation gaps, strengthening legal frameworks to provide comprehensive protection for child refugees, and enhancing international cooperation to share best practices, coordinate efforts, and promote the protection and rights of child refugees across borders, are crucial steps to be taken. There should be significant investment in training and capacity building for relevant stakeholders to effectively address the needs of child refugees. States need to establish robust data collection and monitoring systems to assess the situation of child refugees, identify gaps, and inform evidence-based policymaking and interventions. The promotion of awareness and sensitization campaigns to combat discrimination, xenophobia, and prejudice against child refugees is also greatly needed.

These actions require collaboration and commitment from governments, international organizations, civil society, and the broader community to ensure the protection and well-being of child refugees.

Chapter 5: Recommendations for Enhancing The Protection of Child Refugees

Enhancing the protection of child refugees requires a commitment to upholding their rights, addressing their unique needs, and fostering their well-being. Collaboration among governments, humanitarian organizations, and communities is essential to achieving this goal.

5.1. Widening The Definition of Term “refugee”

It is important to note that the 1951 Convention has played a crucial role in establishing a framework for refugee protection and has been instrumental in providing legal and humanitarian assistance to millions of displaced people worldwide. However, it is also important to address that there are some limitations in the Convention which require more clarification. It was drafted in a specific historical context, primarily in response to the aftermath of World War II and the persecution faced by individuals during that time. Its definition of the term “refugee” is based on five specific grounds for persecution which are: race, religion, nationality, membership of a particular social group, or political opinion. As a result, individuals who flee their countries for reasons not explicitly covered may not receive the same level of protection. This is critical since it does not adequately cover all forms of persecution that people may face.

What is needed in the 1951 Convention is the adoption of a broader and more inclusive definition of the term “refugee”, considering the expansion of protection to other groups and inclusion of environmental and climate-affected refugees. Ultimately, a more inclusive and comprehensive definition of "refugee" could help ensure that all people who are forced to flee their homes are provided with the necessary support and protection to rebuild their lives.

In a wide definition, a refugee can be understood as a person who has been compelled to leave their place of habitual residence, whether it be a village, town, or country, due to a well-founded fear of harm or persecution based on factors such as war, political, religious, racial, or social group affiliation, gender, limited knowledge of their origin (statelessness), or the adverse impacts of environmental disaster and climate change. Refugees seek refuge in another location as they endeavor to escape immediate danger, protect their well-being, and secure their fundamental human rights.

This expanded definition considers, not only the traditional reasons for seeking refugee status, such as persecution and conflict, but also factors related to statelessness, gender-based harm, and environmental displacement due to climate change and natural disasters. It acknowledges the complex and evolving nature of displacement, offering protection to a wider range of individuals who find themselves forced to flee their homes for various compelling reasons.

5.2. Fragmented Law Approach

To address the challenges posed by fragmented approaches to refugee legislation, several recommendations can be made. First, legal frameworks should be strengthened to align with international law, to create a more consistent and predictable system for refugees. This can be achieved through the adoption of model laws and guidelines developed by international organizations such as the UNHCR. Second, cooperation and coordination between different branches of government should be encouraged, to ensure that national legislation is consistent with international standards. Finally, access to justice for refugees should be ensured through the provision of legal aid and other support services.

5.3. Child participation in decision making

➔ **Legal Reforms:** One essential step is the revision and amendment of existing refugee laws and policies to explicitly recognize children's right to participate in decision-making processes related to their asylum and refugee status. These reforms should include clear guidelines on how to involve children appropriately.

➔ **Capacity Building:** Investment in training and capacity building for professionals working with refugee children is crucial. Professionals should be equipped with the skills to engage with children effectively, considering their age, maturity, and cultural background.

➔ **Best Interests Assessment:** Decision-makers should prioritize the best interests of the child as a primary consideration, as stipulated in the CRC. This requires a thorough and child-centered assessment of each child's specific circumstances, including their views and preferences.

➔ **Child-Friendly Procedures:** Refugee determination procedures should be adapted to be child-friendly, considering the needs and vulnerabilities of children. This includes providing interpreters, guardians, and support systems tailored to children's requirements.

5.4. Adequate Monitoring and Accountability Mechanisms

➔ **Strengthening Coordination:** Improved coordination among relevant stakeholders, including states, international organizations, and civil society groups, can help streamline responsibility and enhance accountability.

➔ **Resource Allocation:** Adequate resources must be allocated to monitoring and accountability mechanisms, including funding, staff, and training. This investment is crucial for enhancing their effectiveness.

➔ **Transparency and Access:** Governments and organizations should ensure transparency in their operations and grant access to monitoring bodies to promote accountability and prevent rights abuses. Corrupted states should consider that it is the lives of human beings being put into danger and avoid misusing funds received in the name of helping refugees.

➔ **Enforcement and Remedies:** It is every government's obligation to protect the well-being of human life. Thus, legal systems must establish and enforce consequences for those who violate refugee children's rights, sending a clear message that abuses will not be tolerated.

5.5. Resources for child protection

➔ **Increased International Aid:** The international community should commit to increasing financial assistance to countries hosting refugees. Adequate funding is essential to ensure that the needs of refugee children are met.

➔ **Partnerships and Collaboration:** Collaboration between governments, non-governmental organizations, and international bodies can pool resources and expertise to maximize the impact of child protection initiatives.

➔ **Donor Accountability:** Donors and funding organizations should hold themselves accountable for commitments made to refugee child protection. Transparency in resource allocation is essential.

➔ **Innovation and Efficiency:** Organizations should explore innovative and cost-effective approaches to deliver child protection services, ensuring that available resources are utilized efficiently.

5.6. Implementation of Child-Specific Protections

- ➔ **Comprehensive Policies:** Governments and relevant agencies should develop and implement comprehensive policies that translate child-specific protections into practical actions. These policies should cover areas such as child trafficking, child labor, child marriage, and exploitation.
- ➔ **Capacity Building:** Invest in training and capacity-building unique programs for frontline workers, including social workers, teachers, healthcare providers, and law enforcement officials, to enhance their understanding of child protection issues and their ability to respond effectively.
- ➔ **Psychosocial Support:** Adequate resources should be allocated to provide specialized psychosocial support to child refugees to help them cope with trauma, loss, and the challenges of displacement. This can be done through counseling, play therapy, art therapy, and other age-appropriate interventions.
- ➔ **Family Reunification:** Establish efficient systems for family tracing and reunification to locate and reconnect separated child refugees with their families. This involves strengthening coordination among relevant agencies and implementing proper documentation procedures by minimizing bureaucratic obstacles.
- ➔ **Birth Registration:** The birth rate is significant in refugee camps. Facilitate birth registration processes for child refugees to ensure they have legal identities. Birth registration protects children from statelessness, helps prevent child trafficking, and enables access to essential services and protection.

5.7. Ensuring access to basic services, including education and healthcare.

Collaboration among humanitarian organizations, local health providers, and NGOs to deliver comprehensive healthcare services can help ensure child refugees have access to the necessary healthcare services, including routine check-ups, immunizations, and mental health support.

Providing education and vocational training can help child refugees build a better future. For example, in Uganda, the government has implemented a program to provide education and vocational training to refugee children, helping them to gain the skills they need to succeed in the future. By working together to address conflict and

environmental disasters, and providing immediate relief and long-term solutions, we can help protect the rights of child refugees and provide them with the support and opportunities they need to thrive.

5.8. Measures that prevent and respond to conflict between refugees and host communities.

Some refugee policies can exacerbate tensions between refugees and host communities. It is true that some refugee policies can create tensions between refugees and host communities. Policies that prioritize refugees over citizens can create resentment, making it challenging to build positive relationships between the two groups. Additionally, policies that limit access to public services can create tensions, as both refugees and host communities rely on these services. Finally, policies that disrupt family and community ties can create social isolation, making it difficult for refugees to integrate into their host communities.

Governments should be extra careful by: (i) implementing measures that bring the two sides together in friendly harmony, (ii) promoting diversity, equality and inclusion among societies to build a suitable environment for every human, (iii) encouraging community-based participation and engagement in child protection initiatives, and (iv) involving community leaders, local organizations, and refugee families themselves in decision-making processes to ensure their voices are heard and their needs are met. Recommendations for promoting child participation and empowerment in decision-making processes should also be taken into consideration, i.e. the need for child-centered and participatory approaches.

It is essential to recognize that child protection is a multi-faceted issue requiring a comprehensive and coordinated approach involving governments, humanitarian organizations, civil society, and communities. By implementing these recommendations, the protection and well-being of child refugees can be enhanced. That would contribute to their positive emotional, mental, and physical development.

Chapter 6: Conclusion

Key findings:

This thesis highlights the double vulnerability faced by children under the international refugee law framework. Through an analysis of the existing legal framework, gaps in implementation, and the specific needs of child refugees, several key findings have emerged.

1. The 1951 Convention was drafted in a specific historical context, primarily in response to the aftermath of World War II and the persecution faced by individuals during that time. Its definition of the term “refugee” is based on five specific grounds for persecution which are: race, religion, nationality, membership of a particular social group, and political opinion. Thus, individuals who flee their countries for reasons not explicitly covered □ such as environmental disasters, gender-based violence, armed conflicts (gang violence), or other forms of violence □ may not receive the same level of protection. This is critical since it does not adequately cover all forms of persecution that people may face. What is needed in the 1951 Convention is the adoption of a broader and more inclusive definition of the term “refugee”, considering the expansion of protection to other groups and inclusion of environmental- and climate-affected refugees.
2. Child refugees are particularly vulnerable due to their age, which makes them dependent on adults for protection, care, and support. Simultaneously, their refugee status exposes them to the same risks and dangers that adult refugees face. Thus, this puts them under a double vulnerability dome that requires specific attention and protection within the international refugee law framework.
3. The international legal framework, including the 1951 Convention and its 1967 Protocol, the United Nations Convention on the Rights of the Child (UNCRC), and other refugee law instruments, recognizes the rights and protection of child refugees. However, there are significant gaps in the implementation and enforcement of these provisions, especially at national levels.
4. Strengthening legal frameworks at the national and international levels is necessary to protect the rights of child refugees. Advocacy efforts should focus on incorporating child protection provisions into existing legal frameworks.

5. Child protection policies need to be comprehensive and address the specific vulnerabilities faced by child refugees. Strengthening and enforcing these policies is crucial.

In conclusion, the double vulnerability of children under the international refugee law framework demands urgent attention and action. By implementing the recommendations outlined in this thesis, the protection, well-being, and development of child refugees can be enhanced. Ultimately, collective efforts can contribute to a more inclusive and compassionate international refugee law framework that upholds the rights and dignity of all children, regardless of their vulnerability status.

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