

# Safeguarding children's rights through international legal frameworks



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**Abstract** Every state exists to protect the freedoms and rights of children. This universally recognized norm has gained worldwide recognition. The protection of children's rights in international law deserves special attention. The article highlights the problematic issues of child rights protection at the global level. These issues are essential in international law, as they extend to the entire world. International law on the protection of children's rights and freedoms makes it possible to address urgent problems of implementation and improvement of the organizational and legal framework for preventing violations of children's rights. This includes the study of legal reform in the world and Ukraine and the harmonization of national legislation with international law. Nowadays, the protection of children's rights and freedoms is critical since children in Ukraine are forced to make significant efforts to get even an education. However, according to international law, every child should grow up in peaceful and safe conditions. The research was conducted using the historical method, the method of comparison, analysis, and the systematic method. The analysis of the theory and practice of child rights violations as an urgent and global problem in Ukraine and worldwide will improve legal consciousness and awareness. This will make it possible to avoid offenses and draw attention to the mandatory consideration of international norms. It is worth noting that the problems that arise in our country today need to be addressed at the global level, as children are our future, and they need to grow and develop in a safe, peaceful, and harmonious environment. Children need support and care for their growth and the formation of the ideology of the rule of law and legal awareness. The freedoms and rights of children should be in the first place, both at the national and international levels.

**Keywords:** international protection, freedoms, optional protocol, rights of the child, UN general assembly, UNICEF

## 1. Introduction

The protection of children's rights in each country depends on international legislation. A child is the future of every state. The future development of society depends on the extent to which it develops, grows, and changes. It is worth noting that the task of the state is the indisputable protection of the rights of the child, the protection of his childhood. In accordance with international legal norms, childhood is protected. Every child has the right to childhood. Unfortunately, the war took away childhood from Ukrainian children. Russia did everything to ensure that Ukrainian children became adults early, suffered both physically and morally. As H. Solodovnikova rightly notes, a child is a special category of citizens who cannot exercise their rights until they reach adulthood. With this in mind, a number of normative legal acts have been developed and successfully implemented in the world, which contribute to the safe development of the child (Solodovnikova, 2020).

Studying the issue of protection of children's rights in international law, it is worth emphasizing that the problem of childhood protection due to increased vulnerability and discrimination in a crisis situation is only getting stronger. With this in mind, in any crisis situation it is important to first of all strive to protect the child, and thereby make his life more comfortable (Bida, 2016). By involving international partners and taking into account foreign experience, we must avoid gaps in state regulation. Theoretical analysis will allow us to expand our understanding of the protection of children's rights in Ukraine and the world.

## 2. Literature review

The research material includes the current international legal framework that addresses the international protection of children's rights.



We analyzed the following international legal documents: the Declaration of the Rights of the Child (1959), the United Nations Convention on the Rights of the Child (1989), the European Convention on Human Rights (1950), and the Universal Declaration of Human Rights (1948).

As for the national legislation, the Constitution of Ukraine (Constitution of Ukraine, 1996) has been studied and analyzed. It is the fundamental law of our country and corresponds to the international document Declaration of the Rights of the Child (1959). The Law of Ukraine "On Protection of Childhood" (2001) was summarized and studied.

The research papers by M. Hrushko (2019), T. Hnatiuk (2020), V. Gutnyk (2023), L. Kryvachuk (2011), and O. Nadybska (2020) have been reviewed and studied.

The scholars L. Tokarchuk (2020), V. Denysov (2020), Y. Shemshuchenko (2020), O. Skrypniuk (2020), N. Onishchenko (2020), O. Kochemyrovska (2014), V. Lutkovska (2014), and O. Mykolaiuk (2014) studied the protection of children's rights in eastern Ukraine and in the temporarily occupied Autonomous Republic of Crimea since 2014.

During our research, we used the following studies: H. Fedotova (2020), S. Shcherbyna (2020), Y. Chornous (2020), I. Basysta (2020), and G. Van Buren (2006).

The paper also considers and analyzes the studies by T. Lysenko (2020), S. Tuchkov (2020), S. Myrnyi (2020), V. Ilkov (2020), and J. Shekhovtsova (2020). The authors considered the scientific theoretical aspects. They studied human rights, as well as proposals for the use of positive international experience and its implementation in the country.

### 3. Methods

We employed logical, legal, structural, and functional methods when writing this article. The study was conducted using the following methods:

- comparison (to compare the protection of children's rights in Ukraine and at the international level);
- historical method (to analyze the historical development of the international and national regulatory framework);
- systematic method (to consider the system of the legislative framework);
- analysis (to explore the scientific works of scholars).

The generalization method was used in this paper. Also, we used the formal legal method, the logical legal method, and the forecasting method. The latter indicates the direction of the development of legislation on the protection of children's rights. The linguistic method was used to study the terminology of international law.

### 4. Results

The analysis and theoretical disclosure of international legislation on the protection of children's rights allows for the identification of gaps and solving problems at the national level of each state. In this way, children can grow up having a happy childhood. Their rights and freedoms are a nationwide and international norm, and they are recognized globally.

The article conducts a scientific and theoretical study with proposals on the means of solving the problem under study. It is realized through the analysis of the theoretical and legal framework for the protection of children's rights in international law. After analyzing and revealing the problem, the authors have made practical generalizations and recommendations, as well as scientific proposals based on the scientific findings of scientists who have also studied the protection of children's rights and international legislation in this area.

The authors analyze the authorities that monitor the observance of children's rights worldwide. The article provides an analysis of international legislation. The paper describes the normative activities in this sphere in detail. The study shows that UNICEF implements urgent, essential programs and projects to improve children's childhood in Ukraine and foreign countries.

The authors determined the relevance and importance of the Ombudsman's role in the international protection of children's rights. The authors also analyzed the problematic and urgent issues of children's rights protection at the national level.

After analyzing the scientific and regulatory framework, the authors proposed introducing advanced training for employees working in the civil service and the field of child protection by competent persons from foreign countries. It has been shown that such a regulatory and supervisory program would improve the efficiency of operations. It was established that such a program would be open and transparent and thus would enhance knowledge by sharing positive experiences between countries. It is worth noting that the proposal is necessary and relevant and needs to be studied in the future.

After analyzing the national and international scientific literature, the authors conclude that only precise planning by countries regarding the strategy of development and ensuring children's rights can be a significant leverage for protecting the freedoms and rights of children globally. Also, it is crucial to consider each country's national and social characteristics.

### 5. Discussions

Scholars and researchers from various countries, including Ukraine, have studied international protection of children's rights. When the rights and freedoms of the child are prioritized, the rule of law reaches its highest stage of development.

In her scientific analysis, T. Hnatiuk (2020) points out that L. Kryvachuk rightly emphasizes the effectiveness of legislatively enshrined mechanisms for ensuring children's rights and their socio-legal protection. The level of professional competence of government officials working in this field (Hnatiuk 2020), as highlighted by Kryvachuk L. (2011), is crucial. T. Hnatiuk asserts that it is hard to disagree with this, as a qualified workforce in any field is an effective path to success (Hnatiuk 2020). The effectiveness of child rights protection depends on professionalism, hence the proposal for an annual assessment of professional competence for these people, possibly delegated by foreign states. In our opinion, such a regulation program would be transparent and open. It would enhance work efficiency, improving knowledge through the exchange of positive experiences between countries. Thus, considering the practices of foreign nations is extremely important to avoid gaps in legislation and operations, ensuring that children grow up in the best developmental conditions.

M. Hrushko notes that 1919 the Committee on Child Welfare, formed by the League of Nations, began its work. It dealt with the development of essential measures regarding child trafficking, homeless children, child labor, slavery, etc. The researcher also mentions that 1924 the Geneva Declaration of the Rights of the Child was adopted, formulating principles and goals for protecting children's rights. However, this document did not have universal recognition (Hrushko 2019).

It is essential to mention that on December 10, 1948, the Universal Declaration of Human Rights was adopted. M. Hrushko examined this document and pointed out that children need special assistance and protection. The document states that everyone has and enjoys general rights regardless of age. Motherhood and childhood require special protection. According to Article 25, a mother always takes care of and assists in a happy childhood. It is right to note that children have the right to social protection, regardless of the completeness of their family (Hrushko 2019). Article 26 also highlights the general conditions for acquiring education (Universal Declaration of Human Rights, 1948). Motherhood is an integral part of a child's happy growth, even in cases where the "state" performs this function. This should create all conditions for children's safe and peaceful growth and provide them with a happy childhood.

The "Declaration of the Rights of the Child" was adopted on November 20, 1959 (Declaration of the Rights of the Child, 1959). According to the principles of this first international document, the rights specified in it apply to all children, regardless of language, religious beliefs, race, gender, nationality, financial status, etc. (Declaration of the Rights of the Child, 1959). This normative document has national significance.

In the preamble of the document mentioned above, it is stated that due to a child's intellectual and physical immaturity, they require special care, as indicated by the Geneva Declaration of the Rights of the Child in 1924 (Gutnyk 2023), and in the statutes of international organizations and specialized institutions dealing with the well-being and proper legal protection of children (Declaration of the Rights of the Child, 1959), both before and after birth (United Nations Convention on the Rights of the Child, 1989).

The Declaration emphasizes that humanity, on a global scale, must ensure a happy future for children (Declaration of the Rights of the Child, 1959). After all, children are our future, and it depends on how well-informed they will be about developing legal awareness and legal culture in the country where they are growing up. The freedoms and rights of the child should always take precedence at the international, national, societal, and family levels because children deserve a safe, happy childhood and careful treatment, along with a range of other rights that are normatively enshrined in international law. All children should grow up in peace. States, united at the international level, through effective legislative activity, can implement these provisions in practice since the rights of children must always be protected at both the national and international levels. This is the only and crucial way for the development of any country (Kubiv et al., 2020).

On November 20, 1989, the United Nations General Assembly adopted the United Nations Convention on the Rights of the Child (hereinafter referred to as the Convention) (United Nations Convention on the Rights of the Child, 1989). The Resolution of the Verkhovna Rada No. 789-XII ratified the document in Ukraine on February 27, 1991. Hrushko M.V. rightfully notes that this document is the global constitution for children. It reveals their social, cultural, economic, political, and rights until the age of 18 (United Nations Convention on the Rights of the Child, 1989) and declares the creation of necessary conditions for the protection of the child (Hrushko 2019). Article 3 of the adopted Convention on the Rights of the Child states that participating states must provide, as a priority, care and protection for the child's well-being (United Nations Convention on the Rights of the Child, 1989).

According to the Optional Protocol to the Convention relating to armed conflicts, ratified with the declaration by Law No. 1845-IV (1845-15) dated June 23, 2004, VRU, 2004, No. 38, Art. 476, the paramount consideration is to secure the interests of the child. It specifies that the twenty-sixth International Red Cross and Red Crescent Conference held in December 1995 advised parties in conflicts to take measures in all circumstances to prevent the participation of children under 18 years of age in hostilities (Optional Protocol to the Convention on the Rights of the Child concerning children in armed conflicts, 2000).

O. Skrypniuk (2020), N. M. Onishchenko (2020), L. Tokarchuk (2020), V. Denysov (2020), Shemshuchenko, Yu. S. (2020), O. Kochemyrovska (2013), V. Lutkovska (2014), and O. Mykoliuk (2014) have studied the protection of children's rights during the war in Ukraine. O. Skrypniuk and L. Tokarchuk emphasize that the rights of children, such as dignity, life, education, health, etc., are violated in Ukrainian uncontrolled territory. This is an essential issue that the state authorities should address. Ukraine does not have ideal legislation for the protection of children's rights during an armed conflict. It is right to note that legislative acts are directed towards peacetime, and their effectiveness cannot be assessed at the moment (Skrypniuk 2020).

Ukraine should adopt international standards for the protection of children's rights in times of war. The country should also implement the Optional Protocol to the Convention on the life of children during armed conflicts. It is necessary to amend Article 124 of the Constitution and ratify the Statute of the International Criminal Court. Ukrainian legislation must be brought in line with international standards (Tokarchuk 2020). It is also essential to amend Ukraine's Law "On the Protection of Childhood" to correspond to international norms (Skrypniuk 2020). The European Convention on Human Rights of 1950 is also in force (Myrnyi 2020).

V.V. Gutnik, in his article, notes (Geneva Declaration of the Rights of the Child, 1924) that Lauterpacht H., one of the most renowned international lawyers (Koskenniemi 1997), published the "International Bill of Human Rights" in June 1945 (Lauterpacht 1950), coinciding with the adoption of the UN Charter around the same period (Gutnyk 2023). After adopting the Universal Declaration of Human Rights and the UN Charter, H. Lauterpacht developed and explored the theory of human rights protection at the international level. In 1950, the scholar released a book on this topic (Lauterpacht 2010). This book served as an extension of his theory (Gutnyk 2023).

Hrushko M.V. emphasizes that the International Bill of Human Rights components include the Declaration and the United Nations Convention on the Rights of the Child. It is worth noting that the Convention monitors explicitly the observance of fundamental provisions at the legislative level. According to Article 43, the main body is the Committee on the Rights of the Child, composed of experts from participating countries, namely, citizens. This body operates under the UN, holding sessions once every five years. It oversees countries' reports on the implementation of the Convention's rights and freedoms in their states. Participating countries adhere to transparency in their reports. National and non-governmental organizations also play a role in supplementing states' presentations. After reviewing reports, they disseminate recommendations and conclusions made by the Committee and take specific measures to implement the provisions in practice (Hrushko 2019).

We think that an opinion expressed by Hodgkin R. and Newell P. is appropriate. They rightly note that in juvenile justice, children's rights are often violated (Newell 2007) when they find themselves behind bars illegally with adult prisoners, without education, medical assistance, and even without legal representation (Hodgkin 2007).

N. Onishchenko and S. Sunehin emphasize that the realization of the freedoms and rights of the child is based not only on normative instruments but also on general social principles (Onishchenko 2013).

Hnatiuk T. gives an example of the decision in the case of Kautzor versus Germany by the European Court of Human Rights (European Court of Human Rights, 2012). In particular, the child's interests should be considered when meeting with the biological father (Hnatiuk 2020), as children's rights should always be a priority.

Governments entrust the Committee on the Rights of the Child responsible for combatting discrimination (Van Buren 2006) through rule-making (Hnatiuk 2020). These are essential measures for each country, taking into account its national characteristics and the effectiveness of developing the rule of law since the rights of the child, despite these components, should always come first.

Nadybska O., Fedotova H., Shcherbyna S., Chornous, and Basysta I. note that the relevance of international child protection is associated with issues in the social sphere in most countries. For example, many children require assistance at the state level. Currently, many children from Ukraine have emigrated abroad. In the field of child rights protection, the ombudsman plays a crucial role as the official responsible for the implementation and enforcement of legislation. In countries like Norway, Finland, and Croatia, ombudsmen fulfill a vital mission in protecting children and providing assistance (Nadybska 2020; Chabanenko et al. 2020).

When analyzing international legislation, it is worth mentioning that complaints of an individual nature about violations of rights established by the Convention can be submitted. It is important to emphasize that adults and minors can appeal to international bodies for protection (Hrushko 2019). These are crucial norms that should be known in all countries, and there is a need to improve the legal awareness of citizens, especially children.

On December 11, 1946, the United Nations General Assembly established the United Nations International Children's Emergency Fund (UNICEF). This was after the end of World War II, intending to provide aid to children in post-war, devastated European settlements. The mission was successfully accomplished, leading to the continuation of the organization's activities by the General Assembly in October 1953. UNICEF's primary goal was to provide assistance to governments in improving the living conditions of children in countries. The name was changed to the United Nations Children's Fund (Hrushko 2019).

It is important to note that the Executive Board oversees UNICEF's activities. The structure includes representatives of countries designated by the Social and Economic Council for a three-year term. Today, UNICEF implements programs to improve children's lives worldwide, focusing significantly on developing countries. Collaboration exists with UN institutions, non-governmental, and governmental organizations. UNICEF supports programs related to improving sanitary conditions, water purification, timely support for primary medical care, combating gender inequality, construction activities, and assistance in case of emergencies. Additionally, UNICEF monitors the nutrition (Hrushko 2019).

The Ombudsman's institution is vital in the system of measures to protect the rights and freedoms of children. It emerged not long ago, but its role is enormous. Of course, the Convention on the Rights of the Child in 1989 indicated the mandatory establishment of bodies ensuring the observance of the rights and freedoms of the child. Ombudsmen are independent representatives who monitor compliance with the rights of the child in each state. In international law, there are

four main models of ombudsmen dealing with children's rights. They are established by a legislative document, an act of parliament, and operate within independent state bodies and government organizations (Hrushko 2019).

Analyzing scientific literature, it is worth noting that one of the current problems is the counterfeiting of medicines, which is very frightening when children consume them. It is necessary to develop an international program to counteract the forgery of drugs worldwide. Intergovernmental associations such as the European Union, the Eurasian Economic Union, etc., should participate in developing and implementing this program. The Ministry of Health should carry out this work at the national level by creating the appropriate structure under its jurisdiction. There should also be a global database of certified medicines (Ilkov 2020).

Ombudsmen can influence legislation, court practices, and state policies. They must take immediate action in case of violations of the freedoms and rights of the child. They can analyze scientific literature in the field of ensuring the interests and rights of children. Information about international standards for the protection of children's rights can be obtained from the ombudsman. Regarding his work in foreign countries, the national peculiarities of people should be taken into account. In the course of research, we familiarized ourselves with specialized UN agencies in the field of protecting children's rights, namely:

- The UN Organization for Education, Science and Culture,
- The World Health Organization,
- The International Labor Organization, etc.

The most effective system for protecting children's rights is the European one. It takes into account judicial decisions, namely the practice of the European Court of Human Rights. Articles 5 and 6 of the European Convention on Human Rights mention the status of minors (Hrushko 2019), which is special and must be taken into account (European Convention on Human Rights, 1950).

It is appropriate to note that the document's provisions apply to all people, regardless of age. For the European Court, the Convention is a fundamental document serving as the foundation for protecting children's rights in international law. Additionally, there are Council of Europe Conventions, such as Convention (ETS No. 192), Convention (ETS No. 201), and Convention (ETS No. 105). All states must adhere to mandatory standards for children's rights. These can be found in resolutions and recommendations of the Parliamentary Assembly and documents of the Committee of Ministers of the Council of Europe. For example, there are normative documents such as Recommendations CM/Rec (2003)20 and (2008), Parliamentary Assembly Recommendation 1596 (2003), as well as Parliamentary Assembly Recommendation 1778 (2007), and Parliamentary Assembly Recommendation 1460 (2000) (Hrushko 2019).

Through research, it has been concluded that a compelling state program for protecting the rights and fundamental freedoms of children must take into account national and regional development specifics. It should analyze the needs of society and make provisions for implementing all necessary measures to improve the situation and lives of children so they can grow up safely and have a happy childhood.

## 6. Conclusions

The authors of this study carried out a theoretical analysis and proposed ways to solve the studied issue, which can be solved by analyzing the theoretical and legal framework for the protection of children's rights in international law. After analyzing the matter, we offer theoretical proposals, practical recommendations, and generalizations based on the opinions of scholars who have also studied the protection of children's rights and international legislation in this area.

The article focuses on international rule-making activities and analyzes the bodies that monitor the observance of children's rights at the global level. It is revealed that UNICEF implements programs to improve children's lives in our country and foreign countries. The paper also highlighted the importance of the Ombudsman in international child protection.

We considered the problematic issues of child protection at the national level and proposed an annual inspection and advanced training for persons working in the civil service in the field of child protection by competent persons from foreign countries. In our opinion, such a regulation program would be open and transparent. It also would improve both performance and knowledge through the exchange of positive experiences between countries. It is worth noting that the proposal is significant and relevant. Therefore, it requires further research.

Only clear planning of the strategy for the development and ensuring of children's rights by states, based on the national and social characteristics of each country, can be a significant leverage for the protection of children's freedoms and rights globally.

## Ethical considerations

Not applicable.

## Conflict of Interest

The authors declare no conflicts of interest.

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