
AN EXAMINATION OF CHILD RIGHTS PROTECTION UNDER INTERNATIONAL LAW:
CHALLENGES AND PROSPECTS*

Abstract

The international legal protection of child rights represents one of the most significant normative achievements of the modern human rights era, embodied most comprehensively in the Convention on the Rights of the Child (CRC) — the most widely ratified human rights treaty in history. Employing doctrinal legal methodology, this article examines the architecture, scope, and implementation of child rights under international law, critically evaluating both the advances made and the persistent structural challenges that undermine the effective enjoyment of rights by children worldwide. The article analyses the foundational principles of the CRC, its Optional Protocols, and complementary instruments; interrogates key thematic challenges including child labour, children in armed conflict, child trafficking and sexual exploitation, the right to education, and children in migration; and evaluates the jurisprudential contributions of the Committee on the Rights of the Child, the European Court of Human Rights, the Inter-American Court of Human Rights, and the African Committee of Experts on the Rights and Welfare of the Child. The article further examines emerging challenges in the digital environment and in the context of climate change, and concludes by identifying structural prospects for strengthening international child rights protection through enhanced monitoring, corporate accountability, and intersectoral integration.

Keywords: Child's Rights, Convention on the Rights of the Child, Child Labour, Children in Armed Conflict, Child Trafficking, Right to Education

1. Introduction

With about one-third of the world's population, children are still among the most badly affected by poverty, violence, exploitation, and discrimination.¹ The international community recognized that children need special legal protection, since they are immature and vulnerable both physically and mentally, long before the advent of modern human rights. The definitive turning point for children's rights was on 20 November 1989, when the CRC was adopted, transforming child rights from an aspirational declaration into binding international legal obligation. With 196 States parties, the most widely ratified human rights treaty in history today, the CRC has become the most normative pillar for international child rights protection.² However, ratification did not convert into an easy attainment for all these rights. Millions of children remain in child labor, forced armed conflict, trafficked, not provided with education, or deprived of basic health care.³ The chasm between the promise of the CRC in terms of norms and the unfortunate circumstances that characterize life for the most vulnerable children on the planet reflect serious underlying failures of implementation, monitoring, and the political will, which so far have eluded respective legal frameworks.⁴

2. Historical Evolution of International Child Rights Law

The international community's involvement with child rights goes beyond the UN system. In 1924, the League of Nations adopted the Geneva Declaration on the Rights of the Child, which for the first time recognized the fact that children have rights which deserve protection. The Declaration set forth five principles (such as giving children what they need to grow and keeping them safe from exploitation) that provided a normative framework for a century of treaty making to come.⁵ The Universal Declaration of Human Rights (1948) affirmed children's rights to special care and assistance, and the Declaration of the Rights of the Child (1959) outlined ten principles to guide legislation and public policies on child welfare, with one of them stating that the best interests of the child shall be the primary consideration in the enactment of laws. But these instruments were not binding and declaratory, and it was left to the CRC to put treaty provisions into practice – to give child rights a concrete and enforceable protection.⁶ The CRC, as a result of a decade-long drafting process, involved the cooperation of State representatives, non-governmental organizations and United Nations agencies to create a transformative instrument. Adopted by the UN General Assembly on 20 November 1989, now observed on World Children's Day on 20 November each year, it came into force on 2 September 1990 and was ratified by almost everyone within 10 years.⁷

*By Helen Ekwutosi PARKINSON, PGDI, MSc, LLB, BL, LLM, PhD (Law), PhD (International Relations); Lecturer, Faculty of Law, Nigeria British University, Abia State. Tel: 08033399342; Email: parkinsonchambers09@gmail.com; parkinson.helen@nbu.edu.ng

¹ United Nations Children's Fund (UNICEF), *The State of the World's Children 2023: For Every Child, Vaccination* (UNICEF, 2023)

² Available at: <<https://www.unicef.org/reports/state-worlds-children>> accessed 1 June 2025.

³ Ibid.

⁴ Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).

⁵ Ibid.

⁶ Geneva Declaration on the Rights of the Child (26 September 1924).

⁷ Declaration of the Rights of the Child (adopted 20 November 1959) UNGA Res 1386(XIV).

⁸ Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff, 1995) 6–9.

The CRC has been elaborated in several ways since 1989, with the addition of three Optional Protocols: the Optional Protocol on the involvement of children in armed conflict (OPAC, 2000),⁸ the Optional Protocol on a communications procedure (OPIC, 2011)⁹ and the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC, 2000), the latter of which introduced a quasi-judicial body for individual child complaints to the Committee on the Rights of the Child.¹⁰ They complement ILO conventions Nos 138 and 182 on minimum age and the worst forms of child labour and form the backbone of the current international child rights framework.¹¹

3. The CRC's Foundational Principles and Normative Architecture

Definition of the Child

The definition of a child under the Convention on the Rights of the Child (CRC) is the starting point for the definition of children's rights. Article 1 of the CRC defines that a child is anyone who is under the age of eighteen years, or, 'under the law applicable to the child, majority is attained earlier'. The compromise is the result of a compromise during the drafting process between states that have different legal, cultural, religious and political understandings of the age of majority and the scope of childhood. The Convention sets 18 as the age limit for childhood, but also provides for a flexibility in defining the age of majority as 'unless, under the law applicable to the child, majority is attained earlier'.¹² The provision has sparked a great deal of academic discussion as it does not settle a highly controversial issue of child's age at which childhood commences. As a result of differing national views on abortion and fetal rights, states were not able to agree as to the scope of protection afforded the unborn child in the Convention during the negotiations prior to its adoption. To this end, the Convention was deliberately drafted so as to avoid giving explicit recognition or excluding prenatal rights.¹³ The drafting history thus reveals an intention to defer to domestic legal systems and not try to establish a universal standard on the legal status of the unborn. This ambiguity has also allowed for a wide degree of consent to the Convention and it has also sparked a constant debate in academia and law about the extent of childhood under international law.¹⁴

Another reason for this criticism from academics and child rights campaigners is that the 'unless' clause in Article 1 could potentially allow states to shorten childhood and thus diminish the length of time that people benefit from Convention provisions for special protection. Majority in some jurisdictions can be reached prior to age 18 for marriage, employment, military service, and/or criminal responsibility. Critics argue that these differences could have a negative impact on the universal nature of child rights by forcing young people into adult duties and legal implications prematurely.¹⁵ The Committee on the Rights of the Child has repeatedly affirmed that the object and purpose of the Convention is to safeguard and promote the best interests, development and welfare of children and that this must be the focus of interpreting Article 1.¹⁶ As such, there is a general definition in Article 1 which must be read in the context of the wider normative framework of the CRC, such as the principles of non-discrimination, the best interests of the child, survival and development, and respect for the views of the child.¹⁷ These principles also act as protections against the narrowest possible definitions of childhood, and are designed to provide the Convention's overall goal of protecting the rights of all children under the age of eighteen.¹⁸

The Four General Principles

There are four core principles of the Convention on the Rights of the Child (CRC) which are guiding the interpretation, implementation and enforcement of all Convention rights. These are the principles that are enshrined in these articles: non-discrimination (Article 2), the best interests of the child (Article 3), the right to

⁸ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (adopted 25 May 2000, entered into force 12 February 2002) 2173 UNTS 222 (OPAC).

⁹ Optional Protocol to the Convention on the Rights of the Child on a communications procedure (adopted 19 December 2011, entered into force 14 April 2014) UN Doc A/RES/66/138 (OPIC).

¹⁰ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (adopted 25 May 2000, entered into force 18 January 2002) 2171 UNTS 227 (OPSC).

¹¹ ILO Convention No 182 on the Worst Forms of Child Labour (adopted 17 June 1999, entered into force 19 November 2000) 2133 UNTS 161. See also; ILO Convention No 138 on Minimum Age for Admission to Employment (adopted 26 June 1973, entered into force 19 June 1976) 1015 UNTS 297.

¹² Rachel Hodgkin and Peter Newell, *Implementation Handbook for the Convention on the Rights of the Child* (3rd edn, UNICEF 2007) 1–16.

¹³ Ibid.

¹⁴ United Nations, Convention on the Rights of the Child, adopted 20 November 1989, 1577 UNTS 3, art 1.

¹⁵ Committee on the Rights of the Child, General Comment No. 20 (2016) on the Implementation of the Rights of the Child During Adolescence, UN Doc CRC/C/GC/20.

¹⁶ Article 1 CRC, 2003.

¹⁷ Sharon Detrick, *A Commentary on the United Nations Convention on the Rights of the Child* (Martinus Nijhoff Publishers 1999) 87–95.

¹⁸ Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff Publishers 1998) 35–42.

life, survival and development (Article 6) and the right of the child to be heard (Article 12). These provisions are not limited to the individual rights of children, but are general principles which should guide all legislative, administrative, judicial and policy actions taken in relation to children.¹⁹ They form the normative architecture of the CRC, and help ensure that children's rights are read together as a whole rather than separately. The Committee has noted that the principles of the Convention need to be reflected in all decision-making processes concerning children, including in the development of policies and programmes, in all laws, regulations and practices, in the provision of services and in the implementation of any development plan or model.²⁰

Of the above principles, the best interests of the child under Article 3 has been the most widely discussed principle in both the judicial and academic literature and among institutions. In all the actions taken by public authorities, courts, administration or private institutions in matters concerning the children, the best interests of the child shall be the determining factor (article 3(1) of the Convention). The Committee in its historic General Comment No. 14 described the principle as having a triple role in the CRC framework.²¹ Firstly, it is a substantive right; it gives every child the right to have his or her best interests considered and is a fundamental factor in determining and addressing all decisions that are made in relation to the child. Second, it is an interpretative principle: Where a law leaves room for more than one interpretation, the most beneficial for children should be adopted. Third, it serves as a procedural norm, that is, a requirement for decision makers to make a transparent evaluation of the impact of a decision on the child, and explain the results of this assessment. The principle of best interests has thus emerged as a major instrument for keeping children's rights in the forefront of legal and policy decision-making in the multiple roles it has taken.²²

The importance of the best interests principle goes beyond its explicit mention in Article 3, and has become a guiding principle in many scholars' view of the organization of international children's rights law. John Tobin espouses that the principle serves a systemic purpose in the CRC and is a 'meta-principle' that can resolve competing rights, interests and policy goals. Thus, the best interests principle can be used to balance various considerations, for instance, when there is conflict between the right to the child's welfare and immigration control; it can also be used when parents exercise their authority as a conflict is expected with respect to the child's autonomy; etc. Its flexibility has been a major part of CRC's ability to be adapted to various legal systems and cultures. Meanwhile, the open-ended definition could give discretion to decision makers and cause for inconsistent application, critics have pointed out. The Committee, however, has made a best effort to respond to these concerns by creating detailed guidance on best-interests assessments, which encourages consistency and accountability in decision-making processes that involve children.²³

The right of the child to be heard as enshrined in Article 12 is also transformative as it marks a fundamental change in perspective from children being passive recipients of protection to children as rights-holders who are able to participate in issues affecting their lives. Article 12 ensures the rights of children who are able to have their own opinions and to voice those opinions freely in matters affecting them, and for their views to be listened to and considered in accordance with their age and maturity.²⁴ The Committee, in General Comment No. 12, explained that this right extends beyond the judicial and administrative settings, and to other areas, including education policy, healthcare decisions, community development programmes and legislative processes. States are thus mandated to develop institutional means to enable meaningful participation of children and to listen to children's views rather than simply to ask what they think. Children's agency has been a hallmark of the CRC, as set out in Article 12, which has helped embed children's rights in a new perspective of respecting children's dignity, their growing capacities, and their active place in society today.²⁵

The Indivisibility of Rights

The principle of the indivisibility and interdependence of all human rights is a distinguishing feature of the CRC, which includes civil, political, economic, social and cultural rights in one instrument. The right to freedom of expression²⁶ freedom of thought, conscience and religion²⁷ and the right to be free from all forms of violence,²⁸

¹⁹ Convention on the Rights of the Child (CRC), Articles 2,3 6 and 12

²⁰ Committee on the Rights of the Child, General Comment No. 5 (2003), *General Measures of Implementation of the Convention on the Rights of the Child*, UN Doc CRC/GC/2003/5, paras 12–13.

²¹ Article 3(1) of the CRC, 2003

²² Committee on the Rights of the Child, General Comment No. 14 (2013), *The Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3(1))* UN Doc CRC/C/GC/14, paras 6–14.

²³ John Tobin, *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press 2019) 113–145.

²⁴ Article 12 of CRC, 2003.

²⁵ Committee on the Rights of the Child, General Comment No. 12 (2009), *The Right of the Child to Be Heard* UN Doc CRC/C/GC/12, paras 19–48.

²⁶ Article 13, of CRC, 2003.

²⁷ Ibid, Article 14

²⁸ Ibid, Article 19

co-exist with the right to survival and development,²⁹ the right to health,³⁰ the right to education (Article 28) and the right to an adequate standard of living.³¹ This comprehensive approach demonstrates a theoretical approach - validated by the Committee's general comments - towards the view of child development as an integrated process, with a deprivation of one right generally triggering a chain of violations of other rights.³² The child who does not receive an education is more susceptible to child labour; the child who receives violence has poorer developmental outcomes; the child living in poverty is more likely to miss out on health care. The 'indivisibility' of rights under the CRC, therefore, is a doctrinal claim but also a fact of life of the conditions of child flourishing.³³

4. Principal Thematic Challenges in International Child Rights Protection

Child Labour

Child labour remains one of the most pervasive violations of child rights globally. The ILO and UNICEF estimate that 160 million children - approximately one in ten worldwide - are engaged in child labour, 79 million of whom are in hazardous forms.³⁴ Progress against child labour stalled significantly during the COVID-19 pandemic, with the number of child labourers increasing for the first time in twenty years between 2016 and 2020.³⁵ The primary international instruments governing child labour are ILO Convention No 138 on Minimum Age (1973) and ILO Convention No 182 on the Worst Forms of Child Labour (1999), which achieved universal ratification in 2020 - making it the first ILO Convention to do so. Article 32 of the CRC obliges States to protect children from economic exploitation and from performing work likely to be hazardous or to harm their health or physical, mental, spiritual, moral, or social development. Systemic causes of child labour - poverty, inadequate social protection, weak enforcement of compulsory education laws, and discriminatory social norms - have proved resistant to legal intervention alone. The Committee on the Rights of the Child has emphasised that States' obligations extend to regulating the conduct of business enterprises operating in or from their territory, including through supply chain due diligence measures that prevent child labour in global production networks.³⁶

Children in Armed Conflict

Children are among the primary victims of armed conflict: they are killed and maimed, recruited as soldiers, sexually violated, abducted, and denied education and healthcare as a weapon of war. The UN Secretary-General's 2022 Annual Report on Children and Armed Conflict documented over 23,000 grave violations against children in conflict situations across the globe during the reporting period, a figure widely considered to represent significant undercounting.³⁷ The OPAC prohibits the direct participation of children under the age of eighteen in hostilities and obligates States parties to raise the minimum age for voluntary recruitment into national armed forces above fifteen years.³⁸ Non-State armed groups are prohibited from recruiting or using children under eighteen in any circumstances a prohibition that represents a significant extension of the legal framework. The UN Security Council has progressively strengthened the normative framework through resolutions establishing the Monitoring and Reporting Mechanism (MRM) and the 'list of shame' a practice of publicly naming parties to armed conflict that commit grave violations against children.³⁹ The Rome Statute of the International Criminal Court criminalizes the enlistment, conscription, and active use of children under fifteen as a war crime under both international and non-international armed conflict.⁴⁰ The ICC's landmark conviction of Thomas Lubanga Dyilo in 2012 for the war crime of enlisting and conscripting children confirmed the justiciability of this prohibition under international criminal law.⁴¹

²⁹ Ibid, (Article 6(2))

³⁰ Ibid, Article 24

³¹ Ibid, Article 27. See also; Art 6(2) of CRC; UN Committee on the Rights of the Child, *General Comment No 15 on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health*, UN Doc CRC/C/GC/15 (17 April 2013) para 2.

³² Geraldine Van Bueren, *The International Law on the Rights of the Child* (Martinus Nijhoff Publishers 1998).

³³ Ibid.

³⁴ International Labour Organization (ILO), *Child Labour: Global Estimates 2020, Trends and the Road Forward* (ILO and UNICEF, 2021) 5. Available at: <https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_797515.pdf> accessed 1 June 2025.

³⁵ Ibid 7.

³⁶ UN Committee on the Rights of the Child, *General Comment No 16 on State Obligations regarding the Impact of the Business Sector on Children's Rights*, UN Doc CRC/C/GC/16 (17 April 2013) para 3.

³⁷ UN Secretary-General, *Children and Armed Conflict: Report of the Secretary-General*, UN Doc A/76/871-S/2022/493 (23 June 2022) (Annual Report on Children and Armed Conflict 2022) 2-5.

³⁸ OPAC op., cit. art 4.

³⁹ UN Security Council Resolution 1261 (1999) UN Doc S/RES/1261 (25 August 1999); UN Security Council Resolution 1882 (2009) UN Doc S/RES/1882 (4 August 2009).

⁴⁰ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90 (Rome Statute), art 8(2)(b)(xxvi) and (e)(vii).

⁴¹ Prosecutor v Thomas Lubanga Dyilo (Judgment) ICC-01/04-01/06-2842 (ICC Trial Chamber I, 14 March 2012) para 617.

Child Trafficking and Sexual Exploitation

Children are disproportionately represented among victims of human trafficking and sexual exploitation. Article 34 of the CRC obliges States to protect children from all forms of sexual exploitation and sexual abuse, while the OPSC requires criminalization of the sale of children, child prostitution, and child pornography.⁴² The intersection of the CRC framework with the Palermo Protocol's definition of trafficking is particularly significant: the consent of a child is irrelevant to the establishment of trafficking, and exploitation of a child constitutes trafficking per se without need to establish the element of means.⁴³ Online sexual exploitation of children has emerged as a rapidly escalating concern. The Special Rapporteur on the Sale and Sexual Exploitation of Children has documented the explosion of child sexual abuse material online, facilitated by end-to-end encrypted communications, cryptocurrency payments, and dark web infrastructure.⁴⁴ The normative response has been characterised by fragmentation: while the Budapest Convention on Cybercrime (2001) obliges parties to criminalise child pornography, it lacks universal adherence, and its implementation varies substantially across jurisdictions. Child marriage - affecting approximately 650 million girls and women alive today who were married before the age of eighteen - constitutes a form of forced marriage and a violation of the rights of the child, particularly the right to health, education, and freedom from violence.⁴⁵ The CEDAW Committee and the Committee on the Rights of the Child, in their Joint General Recommendation and Comment on Harmful Practices, called on States to enact and enforce legislation setting eighteen as the minimum age of marriage without exception.⁴⁶

The Right to Education

Article 28 of the CRC guarantees children the right to education on the basis of equal opportunity, requiring States to make primary education compulsory and available free to all, to develop different forms of secondary education, and to make higher education accessible.⁴⁷ Notwithstanding significant global progress, UNESCO estimates that approximately 258 million children and youth remain out of school, with girls, children with disabilities, children in conflict-affected areas, and children in poverty facing the greatest barriers to educational access.⁴⁸ The right to education is not merely an entitlement to physical access to schooling. The Committee's General Comment No 1 articulates that education must be directed towards the holistic development of the child's personality, talents, mental and physical abilities, and must prepare the child for responsible life in a free society. Discriminatory educational practices - illustrated most clearly by the ECtHR's Grand Chamber judgment in *DH and Others v Czech Republic*, in which the Court found that the systemic placement of Roma children in special schools constituted discriminatory treatment contrary to Article 14 of the ECHR read with Article 2 of Protocol No 1⁴⁹ demonstrate that the formal right of access to education is insufficient without substantive equality of educational experience.

Children in Migration and Displacement

Article 22 of the CRC obligates States to ensure that refugee children and children seeking refugee status receive appropriate protection and humanitarian assistance.⁵⁰ Unaccompanied and separated children face acute vulnerabilities: they are at heightened risk of trafficking, exploitation, and detention, and often lack access to legal representation or guardianship.⁵¹ The UNHCR has affirmed that the best interests of the child principle must operate as an overarching norm in all decisions affecting child migrants, including decisions on detention, family separation, return, and refugee status determination. Domestic courts have given substantial normative weight to this principle: the UK Supreme Court in *ZH (Tanzania) v Secretary of State for the Home Department* held that the best interests of children must be a primary consideration in immigration decisions, an obligation derived from CRC Article 3 and recognized as an aspect of the common law.⁵²

⁴² CRC (n 2) art 34; OPSC (n 14) arts 1–3.

⁴³ OPSC (n 14) art 3; see also Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (adopted 15 November 2000, entered into force 25 December 2003) 2237 UNTS 319, art 3(c).

⁴⁴ UN Special Rapporteur on the Sale and Sexual Exploitation of Children, *Report: Online Child Sexual Exploitation and Abuse*, UN Doc A/HRC/43/40 (28 January 2020) para 7.

⁴⁵ UNICEF, *Child Marriage: Latest Trends and Future Prospects* (UNICEF, 2018) 2. Available at: <<https://data.unicef.org/resources/child-marriage-latest-trends-and-future-prospects/>> accessed 1 June 2025.

⁴⁶ UN Committee on the Elimination of Discrimination against Women (CEDAW Committee) and Committee on the Rights of the Child, *Joint General Recommendation No 31/General Comment No 18 on Harmful Practices*, UN Doc CEDAW/C/GC/31-CRC/C/GC/18 (14 November 2014) para 20.

⁴⁷ CRC (n 2) art 28; UN Committee on the Rights of the Child, *General Comment No 1: The Aims of Education*, UN Doc CRC/GC/2001/1 (17 April 2001) para 1.

⁴⁸ UNESCO Institute for Statistics and UNICEF, *Fixing the Broken Promise of Education for All: Findings from the Global Initiative on Out-of-School Children* (UIS, 2015) 7.

⁴⁹ *DH and Others v Czech Republic*, App No 57325/00 (ECtHR Grand Chamber, 13 November 2007) para 180.

⁵⁰ CRC (n 2) art 22; UN Committee on the Rights of the Child, *General Comment No 6: Treatment of Unaccompanied and Separated Children Outside their Country of Origin*, UN Doc CRC/GC/2005/6 (1 September 2005) para 1.

⁵¹ UNHCR, *UNHCR Guidelines on Determining the Best Interests of the Child* (UNHCR, 2008) 14.

⁵² *ZH (Tanzania) v Secretary of State for the Home Department* [2011] UKSC 4 [2011] 2 AC 166 (UK Supreme Court) para 17.

5. Regional Human Rights Jurisprudence on Child Rights

The European Human Rights System

The European Court of Human Rights has developed a substantial jurisprudence on child rights under Articles 3, 6, 8, and 14 of the ECHR and Article 2 of Protocol No 1.⁵³ In *Neulinger and Shuruk v Switzerland*, the Grand Chamber affirmed that the best interests of the child must be a primary consideration in all matters affecting children under Article 8,⁵⁴ while in *Marckx v Belgium*, the Court had earlier established positive obligations on States to ensure that domestic law provides adequate protection for family life, including for children born outside of marriage.⁵⁵ The Court's judgment in *DH and Others v Czech Republic* is of particular significance for its application of the indirect discrimination doctrine to the educational rights of Roma children.⁵⁶ The Grand Chamber held that the disproportionate placement of Roma children in special schools for children with learning disabilities, even in the absence of discriminatory intent, constituted a violation of the prohibition of discrimination, given the structurally different impact of ostensibly neutral educational policies on an already marginalized group. This reasoning has been widely cited in subsequent domestic and international child rights adjudication.

The Inter-American Human Rights System

The Inter-American Court of Human Rights has made foundational contributions to international child rights law through its Advisory Opinion OC-17/02 on the Juridical Condition and Human Rights of the Child, adopted in 2002.⁵⁷ The Court affirmed that the CRC standards constitute part of the corpus juris of international human rights law applicable to children in the inter-American system, and that the best interests principle operates as a general norm binding States in all measures affecting children. The Court further recognized the inherent vulnerability of children as rights-holders, requiring States to adopt positive measures of special protection proportionate to that vulnerability.

The African Human Rights System

Africa possesses a distinctive regional child rights instrument the African Charter on the Rights and Welfare of the Child (ACRWC, 1990) which supplements the CRC with African-specific provisions, including protections against harmful social and cultural practices and obligations regarding children in situations of apartheid and foreign domination.⁵⁸ The ACRWC defines a child as every human being below the age of eighteen without exception, removing the 'unless' clause of the CRC and providing more consistent protection.⁵⁹ The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) has developed a nascent but growing body of decisions. In *APPROACH v South Africa*, the Committee found that South Africa's system of corporal punishment in schools violated the ACRWC, reinforcing the principle that all forms of physical punishment of children are incompatible with international child rights standards.⁶⁰

6. Emerging Challenges: The Digital Environment and Climate Change

Children's Rights in the Digital Environment

The digital environment presents both extraordinary opportunities for the realization of child rights including access to information, education, and social connection and grave risks, including online sexual exploitation, cyberbullying, privacy violations, and exposure to harmful content.⁶¹ The Committee on the Rights of the Child, in its landmark General Comment No 25 on Children's Rights in Relation to the Digital Environment (2021), provided the first comprehensive authoritative interpretation of the CRC in the digital context.⁶² General Comment No 25 affirms that children's rights apply fully in the digital environment, and that States must take all necessary measures to ensure that digital technologies, services, and environments are safe, rights-respecting, and designed in the best interests of the child.⁶³ States are obliged to enact and enforce child-specific data protection legislation,

⁵³ *Marckx v Belgium*, App No 6833/74 (ECtHR, 13 June 1979) para 31.

⁵⁴ *Neulinger and Shuruk v Switzerland*, App No 41615/07 (ECtHR Grand Chamber, 6 July 2010) para 135.

⁵⁵ *Supra*

⁵⁶ *DH and Others v the Czech Republic* [2007] ECHR 57325/00

⁵⁷ Juridical Condition and Human Rights of the Child (Advisory Opinion OC-17/02) [2002] IACtHR Series A No 17, para 54.

⁵⁸ African Charter on the Rights and Welfare of the Child (adopted July 1990, entered into force 29 November 1999) OAU Doc CAB/LEG/24.9/49 (ACRWC), art 1.

⁵⁹ *Ibid.*

⁶⁰ Association for the Protection of the Rights of the Child (APPROACH) Ltd v Republic of South Africa, Comm No 1/2005 (African Committee of Experts on the Rights and Welfare of the Child, 12 October 2011).

⁶¹ UN Committee on the Rights of the Child, *General Comment No 25 on Children's Rights in relation to the Digital Environment*, UN Doc CRC/C/GC/25 (2 March 2021) (General Comment No 25) para 4.

⁶² Jane Fortin, *Children's Rights and the Developing Law*, Cambridge University Press, 3rd edn, 2009.

⁶³ General Comment No 25

to hold technology companies accountable for the design features of their platforms, and to ensure that children have access to effective remedies for digital rights violations.⁶⁴ Artificial intelligence applications in educational and child welfare contexts raise particular concerns. Algorithmic assessment tools, predictive child welfare models, and educational tracking systems involve the automated processing of children's personal data in ways that may affect their life chances in opaque and discriminatory ways.⁶⁵ The UN High Commissioner for Human Rights has specifically called for bans on AI systems that cannot be demonstrated to comply with international human rights standards a call with particular resonance in the context of children, who are entitled to enhanced protection.

Children's Rights and Climate Change

Climate change has emerged as one of the most serious threats to the rights of children globally. Children bear the heaviest burden of climate change impacts including malnutrition, disease, displacement, and educational disruption while having contributed least to its causes.⁶⁶ The Committee on the Rights of the Child, in General Comment No 26 on Children's Rights and the Environment with a Special Focus on Climate Change (2023), recognized for the first time that the CRC imposes obligations on States with respect to environmental protection and climate action.⁶⁷ General Comment No 26 affirms that children have the right to a clean, healthy, and sustainable environment as a component of the rights protected in the CRC, and that States' obligations of prevention, mitigation, and adaptation in respect of climate change are human rights obligations.⁶⁸ The petition filed by sixteen child activists from twelve countries - including Greta Thunberg - to the Committee on the Rights of the Child in 2019 under the OPIC against Argentina, Brazil, France, Germany, and Turkey, alleging violations of child rights through inadequate climate action, tested the jurisdictional reach of the OPIC framework.⁶⁹ While the Committee held the communications inadmissible on jurisdictional grounds, it recognized the seriousness of the climate crisis as a child rights emergency, and General Comment No 26 can be read partly as a doctrinal response to the issues raised.⁷⁰ The climate-child rights nexus is generating a new wave of domestic litigation in which children and young people invoke child rights norms to compel more ambitious State climate action.⁷¹ This development represents a significant frontier in the translation of international child rights law into concrete State obligations with meaningful judicial enforceability.

7. Structural Prospects for Strengthening International Child Rights Protection

Strengthening the Monitoring Mechanism

The Committee on the Rights of the Child the treaty body responsible for monitoring implementation of the CRC operates under significant structural constraints that limit its effectiveness. It examines periodic State reports, but the reporting cycle is lengthy, many States are in arrears, and follow-up mechanisms are weak.⁷² The OPIC individual communications procedure represents an important advance, but fewer than fifty States have ratified it, limiting its reach. Strengthening the monitoring framework requires increased resources for the Committee, shorter reporting cycles, systematic follow-up procedures, and universal ratification of the OPIC.

Corporate Accountability

Business enterprises are among the primary agents of child rights violations - as employers of child labour, operators of platforms facilitating exploitation, and contributors to environmental degradation. General Comment No 16 of the Committee affirms that States must require business enterprises to identify, prevent, mitigate, and account for the impact of their operations on children's rights, including through mandatory human rights due diligence legislation.⁷³ The adoption of binding supply chain due diligence laws in France, Germany, Norway,

⁶⁴ Ibid para 42.

⁶⁵ UN High Commissioner for Human Rights, *Artificial Intelligence and Human Rights*, UN Doc A/HRC/48/31 (3 September 2021) para 36.

⁶⁶ UN Committee on the Rights of the Child, *General Comment No 26 on Children's Rights and the Environment with a Special Focus on Climate Change*, UN Doc CRC/C/GC/26 (22 August 2023) (General Comment No 26) para 1.

⁶⁷ Eugeen Verhellen, *Convention on the Rights of the Child: Background, Motivation, Strategies, Main Themes*, Garant Publishers 2000.

⁶⁸ Ibid para 16.

⁶⁹ *Sacchi and Others v Argentina and Others*, Petition to the Committee on the Rights of the Child (23 September 2019); UN Committee on the Rights of the Child, Decision on admissibility, Comm Nos 104/2019 and others (22 September 2021).

⁷⁰ Michael Freeman, *A Commentary on the United Nations Convention on the Rights of the Child, Article 3: The Best Interests of the Child*, Martinus Nijhoff Publishers 2007.

⁷¹ General Comment No 26 (n 56) para 28.

⁷² UN Committee on the Rights of the Child, *General Comment No 5* (n 3) para 65.

⁷³ Ibid. para 28.

and the European Union represents a significant normative development, though enforcement remains nascent and the focus on procedural compliance rather than substantive outcomes limits their child rights impact.⁷⁴

Integration with the Sustainable Development Goals

The Sustainable Development Goals (SDGs), adopted by the UN General Assembly in 2015, provide an important framework for the operationalization of child rights obligations, with multiple targets directly addressing child rights including universal primary education (SDG 4.1), elimination of child labour (SDG 8.7), and ending violence against children (SDG 16.2).⁷⁵ The integration of child rights indicators into SDG monitoring processes offers the prospect of enhanced data collection, comparable cross-country measurement, and political accountability for child rights outcomes.

Participation and Child Agency

A fundamental prospect for strengthening child rights protection is the genuine mainstreaming of child participation in law and policy processes. The right to be heard under Article 12 of the CRC remains the most systematically under implemented of the Convention's provisions.⁷⁶ Meaningful child participation requires not merely the creation of consultative mechanisms but a structural commitment to taking children's views seriously as inputs into governance a commitment that requires changes in institutional culture as much as in formal legal structure.

8. Conclusion and Recommendations

The specific legal instrument protecting children's rights, namely the CRC and its Optional Protocols, the complementary instruments, general comments of the CRC treaty bodies and an emerging body of jurisprudence of the regional human rights bodies, is one of the well elaborated normative systems in international human rights law. The CRC's holistic approach to incorporating civil, political, economic, social and cultural rights into a single child-centred approach, with the guiding principles of 'The best interests of a child' and 'Non-discrimination, survival and development and the right to be heard' is an exceptional normative achievement. But this 'normative success' and the reality of millions of child victims across the globe – exploited in labour, exposed to armed violence, exposed to trafficking, denied access to education, exposed to pollution and environmental degradation – is inexplicable. The analysis carried out in this article shows that the key challenges to the effective protection of children's rights are not so much normative as structural: the lack of monitoring and enforcement mechanisms, lack of resources, the voluntary nature of business accountability frameworks, the prevalence of poverty, and the lack of political will of States whose treaty obligations are often sacrificed for economic and security reasons.

From the analysis, three structural imperatives and recommendations come to light. First, the monitoring framework of the CRC needs to be significantly strengthened, by universal ratification of the OPIC, adding more resources to the Committee, and introducing more binding follow-up mechanisms that bring accountability to the States' compliance. Second, the role of business enterprises in child rights should be raised from voluntary guidance to legal obligation, and there should be effective sanctions for failing to comply. Third, the CRC needs to be interpreted dynamically to address the challenges of the 21st century – namely the digital environment, climate change and AI on the basis of the thinking of General Comments Nos 25 and 26 and in order to ensure the Convention's protections continue to be relevant and enforceable in the context of transformative change in technology and environment.

The Committee on the Rights of the Child has noted that the CRC 'is alive and will continue to grow. This is reflected in the evolution of international child rights law: the norms are developing, the jurisprudence is growing, and there are new prospects in child rights protection that are being discovered and formulated. Implementing the promise of the international child rights norm bringing the remarkable promise of norms into reality for children – is the challenge of the coming decades: to make the vision of the international child rights framework a reality for every child, in which their best interests are at the centre of human governance.

⁷⁴ Martin D Ruck, Michele Peterson-Badali and Michael Freeman (eds), *Handbook of Children's Rights: Global and Multidisciplinary Perspectives* (Routledge 2017).

⁷⁵ Sustainable Development Goals, Goal 4 (Quality Education), Target 4.1; Goal 16 (Peace, Justice and Strong Institutions), Target 16.2; Goal 8 (Decent Work and Economic Growth), Target 8.7.

⁷⁶ Van Bueren op. cit 397.