



Jurisdictional Challenges and Humanitarian Law in Enforcing Children's Human Rights in the Israel-Palestine Conflict

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<http://dx.doi.org/10.47814/ijssrr.v7i1.1922>

Abstract

The research is refuted by looking at why the state of Israel in war involves civil society especially children and women who have had many children killed and denied the right so that international law can shed light on Israeli political disputes with Palestinians in order to stop civilians from being killed especially children and women in an attempt to create a safe, peaceful state. Based on the above writing the writer is interested in writing the article regarding the jurisdictional challenge in the establishment of human rights so that the author will address the matter. The method of research used in this study is to use the normative approach law research. Studies have found that in the face of these challenges requires international diplomacy, increased awareness and public pressure, and cooperation between international organizations, countries, and non-governmental organizations to ensure more effective protection for children in this conflict.

Keywords: *Jurisdictional Challenges; Humanitarian Law; Human Rights; Israel-Palestine Conflict*

Introduction

The Israel-Palestine conflict is a military and political feud that began in the 19th century and continues today, making it one of the longest in the world. Initiatives and negotiations have been sought to achieve peaceful solutions in this conflict, which is an integral part of the Israel-Palestinian peace effort to find peace points that can bring comfort, security, and happiness to Palestinian and Israeli communities. In reality the conflict still leaves many of the population feeling especially threatened by children. In Palestine so many children have been killed, threatened, and even lost their families because of the territorial fighting factors between Israel-Palestine. In these conflicts, children are often the victims either directly or indirectly of the violence and political tensions of war. They face various forms of violations of rights, including physical, psychological violence, educational waiver, and expulsion.

In 1989, governments worldwide promised the same rights to all children by adopting the UN convention on the rights of children. It regulates what countries must do so that each child will be able to grow up to the fullest health, attend school, be protected, be heard from, and be treated fairly. In chapter 38, it reads "no child under the age of 15 should be obliged to join the armed forces or participate in armed conflict. Children in a war zone must receive special protection ". But there are actually a lot of child victims in the conflict. Israel's war crimes against Palestine are strongly condemned by the international community, and even Israel has violated the principle of distinction that should be civilians and combatants and between military and civilian objects that should not be subjected to military attacks. Most of the dead were civilians numbering 960. In addition, Israel has destroyed civilian objects, homes of civilians, hospitals, schools, United Nations buildings, electrical and water installations, even places of worship.

The jurisdiction of the international criminal court (ICC) in the handling of war crimes on armed conflicts between Palestine and Israel is based on the Roman statute. Although Israel is not a member of the Roman statute, Palestine, who is a Roman statute, has received ICC jurisdiction to handle these alleged war crimes. ICC jurisdiction in war crimes carried out by Israeli military forces against Palestinian society in international armed conflict between Palestine and Israel is included in chapter 8 and article 12 verses (2)(a) Roman statute. War crimes committed on Israel theoretically fall under the jurisdiction of the international criminal court (ICC), which has been operating effectively since 2002 as a permanent court. However, ICC jurisdiction applies only to the Roman statutes of 1998, and Israel is among those who have not ratified the statute. The attack by Israel on Palestine has been called a violation of the international humanitarians' law, which sets the rule on how to fight and protect civilians during armed conflict. Attacks carried out by Israel, against humanitarian principles, the principles of restriction and distinction, can be argued that Israel committed war crimes. The principles of humanitarianism, as embodied in the Geneva convention, are often difficult to apply in this conflict, especially in protecting the rights of children.

As a result, if there are no points of light between Israel and Palestine, children's rights in the conflict are struggling to implement such as access to education and basic health services because of the breach in security and infrastructure. Even in 2023 the minister of education of gaza officially announced that the year 2023/2024 lesson had ended because all the students had been killed. Children on both sides are often subjected to violence and trauma, both as witnesses and as direct victims because they are also involved in wars, which should be the right of the child to play, learn, and receive proper protection, which cannot be obtained by children in the war between Israel and Palestine. Legal protection for children is often limited by the lack of jurisdiction and the lack of the existing legal institutions for handling cases of human rights abuses in Palestine and Israel.

The urgency of this study is to examine why the state of Israel in war involves civil society especially children and women who have so many children killed and denied the right so that international law can shed light on Israeli political disputes with Palestinians in order to stop civilians from being killed, especially children and women, in order to create a safe, peaceful existence. Based on the above writing the writer is interested in writing the article regarding the jurisdictional challenge in the establishment of ham so that the writer will address the matter under the title "Tantangan Yuridiksi dan Hukum Humaniter Dalam Penegakan Hak Asasi Anak Pada Konflik Israel-Palestina"

Formulation of the Problem

- 1)What is the jurisdictional challenge faced in the application of humanitarianism regarding the protection of children's rights in the israel-palestine conflict?
- 2)How is UNICEF's share of responsibility in guaranteeing the fulfillment and protection of children's rights in the israel-palestine conflict?

Research Methods

The method of research used in this study is to use the normative approach law research. Legal science has a typical sui generis way of working (Marzuki, 2010). Since this study is based solely on written regulations, it is closely related to libraries because it would require secondary data on the library. The research specifications are done in analytical descriptive terms, which are how to express the subject state, the current laws and implementation. Based on current facts and data data.

The study used several data-sources both primary and secondary data as well as tertiary data. Primary data is data obtained from subject research. A secondary data is data obtained from the study of literature of the three judicial materials: first, the primary ingredient: the Geneva convention and particularly the fourth of the Geneva convention on civilian protection in times of war, which includes the protection of children in the conflict zone. The UN convention on the rights of the child (CRC), this document is crucial because it focuses specifically on the child's rights, including the context of armed conflict. Roman statute of international criminal court: it is important to discuss criminal responsibility for human rights violations, including children in conflict. Documents and reports from the UN child rights committee: these include comments on CRC implementation by countries, including Israel and Palestine. Second, a secondary legal ingredient that is legal material derived from books-books, literature and journals that deal with the systems and functions of correctional facilities. Third, a tarsier legal material that provides guidance or explanation for primary and secondary legal materials such as a large dictionary of English, legal and Internet

Discussion

1.The Jurisdictional Challenge Faced in the Application of Humanitarianism Regarding the Protection of Children's Rights in the Israeli-Palestinian Conflict

The jurisdictional terminology is closely related to the concept of sovereignty and authority that belongs to every internationally recognized state. Sovereign states have the right to impose their dignity, both on their own citizens and in an international context. Universally recognized that each country has the authority to manage actions within its own territory and other actions that can harm the interests it must protect. As to the first principle of sovereignty, every sovereign state has the authority to manage internal and external affairs in its realm. It provides the basis for a state to have the right, authority, or authority to govern various aspects of state life. It is from sovereignty that state's jurisdiction comes. Through this jurisdiction, countries can establish more specific and detailed policies and regulations to address issues facing them, achieving the country's goals.

Jurisdiction is the power or competence of state law against people, objects or events (laws). State jurisdiction Cannot be separated from principle state sovereignty, the logical consequences of the principle of sovereignty of the state, for the state has the highest sovereignty or power within territorial sovereignty. The state's jurisdictional sense is much broader than the state's sovereignty, for it is not only restricted to what is called territorial jurisdiction as a consequence of territorial sovereignty, but also includes the jurisdiction of states that are not territorial (extra-territorial or extra territorial jurisdictions) that its existence is derived from international law, such as state jurisdiction on the additional lines, ZEE, continental takeoff, free sea, Space and stuff. State jurisdiction of international law may be born due to action:

- a) Legislative power to make or set up rules or decisions;
- b) Executive power to impose that people (objects or events) obey the rules (laws) in effect;
- c) Judicial, that is, the power to judge people, based on an event.

International humanitarian law, as a part of international law, is one of the tools and methods that can be used by any country, including by a state of peace or a neutral state, to participate in alleviating the suffering that society experiences as a result of wars in various countries. In this case, international humanitarians are an instrument of policy as well as a technical guide that all international actors can use to address international issues related to the cost and victims of war. One of the principles that underlie international humanitarian law is the principle of distinction, the creed principle is the principle that distinguishes combatants (combatants) from noncombatants (noncombatants). In an international instrument of humanitarianism, the principle of distinction is governed in article 48 additional protocols of the Geneva convention that states that those on the issue must distinguish between civilians and combatants, and it is reiterated in article 51 of this protocol that civilians should not be the object of attack.

According to international humanitarians, children should not be involved in armed conflict. Children were not to be subjected to torture by contenders. As listed in the background is the protocol for the convention on the rights of the child in armed conflict. Paragraph 4 opening the optional convention of child rights protocol containing the background of the protocol states that: "Countries on the side of the protocol condemn the targeting of children in situations of armed conflict and direct attacks on objects protected by international law, including places with significant Numbers of children in general, such as schools and hospitals."

The phenomenon of children being prisoners of war is common in middle eastern countries, one of which is in the war between Israel and Palestine. The United Nations agency, which focuses on child problems, UNICEF, in its 2015 report, said that some 440 children were in Israeli prisons, among which up to 116 12-15 - year - old children were accounted, 12 of whom were daughters. The challenge of jurisdiction in the application of humanitarianism regarding the protection of children's rights in the Israeli-Palestinian conflict is quite complex. Here are a few main points:

- 1) Legal status recognition: one of the major challenges is Palestinian legal status recognition. Israel does not recognize Palestine as sovereign state, which makes it difficult to implement effectively the norms of international law.
- 2) Complexity of international and national law: the conflict with israel-palestine involves the overlap of international law, including humanite-and human rights, and the national law of Israel and internal Palestinian law. Coordination between these various legal systems is often difficult.
- 3) Access and implementation: another challenge is access to conflict affected areas to ensure protection and application of the law. Restrictions on the part of conflicts often prevent international and nongovernmental organizations from providing assistance and monitoring.
- 4) Law enforcement: enforcing laws against violations of children's rights in this conflict is difficult, since there is often a reluctance or inability on the part of conflict parties to investigate and punish offenses on their own.
- 5) International politics: international political dynamics and the positions of major countries toward conflict also influence the application of humanitarian laws. Often, political and strategic decisions take priority over a consideration of humanitarianism.
- 6) The issue of testimony and evidence: collecting testimony and evidence of offenses against children in conflict areas is often difficult. Fear of reprisals and security instability often impedes collection of evidence.
- 7) Difference in legal interpretation: there are different interpretations of international law between Israel and Palestine, as well as between them and the international community, particularly relate to "occupied territory," "ACTS of terrorism," and "self-defense."

Facing these challenges requires international diplomacy, increased awareness and public pressure, and cooperation between international organizations, countries, and non-governmental organizations to ensure more effective protection for children in this conflict.

2.The Part of UNICEF's Responsibility in Guaranteeing the Fulfillment and Protection of Children's Rights in the Israel-Palestine Conflict

The HAC is one of the UNICEF programs set up to help implement the rights of children to the most vulnerable children, children of natural disasters, war victims, refugees, victims of outbreaks of disease. Children categorized in vulnerable children have difficulty access to clean water, proper sanitation, nutrition, education, health care and protection. The hac program consists of seven fields of which:

- a) Nutrition that has been established to develop nutrition policies, strategies, and programs to address hunger problems and all forms of undernourishment suffered by children the world over (UNICEF, t.t);
- b) Health to help all the children of the world get their rights in life and progress worthily (UNICEF, t.t). In addition, the hac program on health care strives to provide children with health care, including adequate healthcare, medical treatment, and other health care;
- c) Water, hygiene, and hygiene (WASH), were established to educate about good hand washing, to provide adequate water and sanitation services, and to provide hygiene facilities, as well as suitable toilet hygiene for children around the world (UNICEF, t.t.);
- d) Child protection, established to prevent violence, harassment of any kind, and to prevent the exploitation of children (UNICEF, t.t.) Child protection also provides mental and psychosocial health services, strengthens children's protection systems, provides thorough access to children's social services, and supports survivors;
- e) Education, strives to give all children exclusive access to education (UNICEF, t.t.) Furthermore, the HAC in the field of education includes qualified teaching children in the sense that learning comes with a supportive environment, is safe from any threat, good educators, and the learning language that all students can readily understand. For children living in emergencies such as conflict areas, education is either online or offline;
- f) Social protection community was established to help children avoid poverty and exclusion (UNICEF, t.t);
- g) Cross-sectoral includes cooperation between partners, planning, monitoring, evaluation, and communication, as well as focusing on gender and equality issues (UNICEF, t.t)

The conflict between Israel and Palestine in which Palestinians are killed, especially children, includes three threats, physical threats that kill and hurt children, economic threats that destroy many homes and public facilities, and threats to the rights of Palestinian children. In addition, the escalation of the israel-palestine conflict concerns the UNDP five points of security, namely economic security, food, health, the environment, and individual safety. The UNDP (1994) concept of security begins with an explanation; The concept of economic security that is defined as a human right to provide for life, escape from poverty, and obtain a steady salary; The second food security has been defined as a human right to obtain proper food; The third health safety: human rights to access facilities and health services; The fourth act of environmental security has been defined as a human right to live free from environmental contamination, including access to water and clean sanitation; The fifth individual security means that every human has the right to live free from threats, such as the threat of war or conflict; The sixth community security means that every human being can follow a community that matches their aptitude; The seventh political security, free from political threats (UNDP, 1994).

UNICEF helped Palestinian children to reduce the threat of food shortages. The statement harmonizes with the undp's explanation of food security, that each human is entitled to a basic meal to pay for his or her daily calories (UNDP, 1994). In addition, food needs are a vital need to be met for human survival, including children. That is reinforced by chapter 24 in the convention on the rights of the child (1989), every child has the right to a nutritious, balanced diet to support a child's growth (UNICEF,

t.t). Thus, UNICEF, an actor of an international organization, played a role in helping to address the food threat, helping to address the malnourished problem suffered by Palestinian children. According to the UNICEF report (2021), 6,427 Palestinian children of poor nutrition have been well cared for and given sufficient food intake (UNICEF, 2021).

The collective art mechanism by helping Palestinian children acquire a good living standard and the necessities of life. The role in the mechanism of collective action is further maximized by the involvement of others in helping fulfill the rights of Palestinian children. This agrees with Kate's writing (2019), that the international organization in its efforts to help the victims is also doing multinational cooperation with the corresponding actors (Pease, 2019). The UNICEF application is to become the leader of the wash action, aided by save the children to accommodate the needs of water and sanitation for Palestinian children who have benefited 920,000 Palestinian communities, including children (UNICEF, 2021).

UNICEF's help in providing water and adequate sanitation is an application of the rights of the child in chapter 24 to access water and clean sanitation. Clean, edible water and sanitation are vital aspects of human survival, including children. When water and sanitation used are unworthy or have been contaminated by viruses and bacteria, health is unquestionably hazardous. In addition, UNICEF gives electronic sanitary vouchers that benefit 97,618 citizens, including children. UNICEF also provided helpful relief to 4,000 Palestinian children and 687 families affected by the covid-19 pandemic (UNICEF, 2021). Some of the UNICEF's help agreed with the writer's statement that UNICEF in the hac program had reduced the economic threat to Palestinian children by 2021.

Later, as a builder to assist Palestinian children in increasing understanding of universally applicable norms and values. The statement agrees with Kate's (2019), that international organizations can be instrumental in booing global values and norms (Pease, 2019). The global values and norms referred to are democratic values, values in human rights, as well as the rights of the child promoted by UNICEF because every child is entitled to his rights without exception. Child protection in the hac program benefits more than 15,000 children, including psychosocial services, counseling, to legal assistance for children arrested on conflict escalation (UNICEF, 2021).

UNICEF also helps children and parents to increase the interaction between children and parents. This activity helps UNICEF in implementing the right of the child to speak. The children's opinions heard by parents will create a safe and harmonious family and help the child grow. Child protection is the implementation of the rights of children under article 34 of the convention on the rights of the child (1989) to be free from exploitation, violence, harassment, or abuse. UNICEF also endeavored to increase teaching activities online, giving 3,019 tablets to the most vulnerable children and writing equipment. UNICEF's involvement in accommodating writing devices and tablets has been particularly helpful to Palestinian children in accessing pandemic education. The child's right to an education has been written in chapter 28 of the convention on the rights of the child. Teaching learning activities for children are necessary to assist them in increasing their interest, talents, character, and understanding of a phenomenon occurring in society.

The role of aid providers is implemented in foreign aid ACTS, to help Palestinian children overcome economic, social, and political issues. UNICEF's role as an aid provider for Palestinian children has been implemented with expert assistance to address health, social, educational, and other problems, within the hac program. The statement agrees with UNICEF's help of health personnel and medical facilities to help children get proper health access. UNICEF provides nutrition and nutrition fishing for undernourished children in the Gaza strip. According to a UNICEF 2021 report, an estimated 6,427 children, including acute undernourished toddlers, are receiving medical assistance and health services (UNICEF, 2021). In addition, UNICEF provided a recreation facility for 55,000 Palestinian children

during the summer period, beginning in July to August 2021 (UNICEF, 2021). The activity has represented the right of the child in article 31 of the 1989 child rights convention, regarding the child's right to play.

Conclusion

Based on the above research, it can be concluded that the jurisdictional challenge faced in the application of child rights in the Israel-Palestinian conflict is the following points of the challenge of legal recognition, international and national law enforcement: access and implementation, law enforcement, international politics, testimony and evidence issues, and the difference in legal interpretation. In the face of these challenges requires international diplomacy, increased awareness and public pressure, and cooperation between international organizations, countries, and non-governmental organizations to ensure more effective protection for children in this conflict.

The part of UNICEF's responsibility in ensuring the fulfillment and protection of children's rights in the israel-palestine conflict with hac is one of the UNICEF programs designed to help implement the rights of children for the most vulnerable children, children of natural disasters, war victims, refugees, victims of outbreaks of disease. The hac program consists of seven fields of nutrition, health, water, hygiene, and hygiene (WASH), set up to educate about child protection, education, social protection coverage and cross-sectoral.

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