

THE BINDING NATURE OF INTERNATIONAL LAW FOR THE PROTECTION OF CHILDREN: MECHANISMS AND OBJECTIVES – A CASE STUDY OF GAZA

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Ali Chaiaheloudjou

*Master in Political Sciences and International Relations
(University of 20 August 1955 – Skikda – Algeria),
Researcher in Political Sciences and International Relations
(University of 20 August 1955 – Skikda – Algeria),
Algerian Ministry of Religious Affairs,
First/Principal Imam and Khateeb (Senior/Principal Muslim Chaplain)
Algeria, Skikda*

Email: chaiaheloudjouali@gmail.com

Mansaf Filali

*Phd in Law, Associate lecturer class A (University of 20 August 1955 – Skikda – Algeria),
Algeria, Skikda*

Email: m.filali@univ-skikda.dz

ABSTRACT

This research examines the binding nature of international child protection law in a protracted conflict, using Gaza as a critical case study through a constructivist lens. Despite a robust legal framework – including the Convention on the Rights of the Child (CRC) and Additional Protocols to the Geneva Conventions – children in Gaza face systematic violations. The study employs qualitative discourse analysis of legal texts, United Nations (UN) reports, and non-governmental organization (NGO) documentation (2008–2024) to explore how norms are socially constructed, internalized, and contested by state and non-state actors. This article goes beyond existing literature by conducting an in-depth, comparative evaluation of the real-world impact of enforcement mechanisms (UN bodies, International Criminal Court (ICC), humanitarian access) across multiple conflicts, demonstrating that the same instruments that have produced measurable results elsewhere (delistings, action plans, partial compliance) remain almost completely ineffective in Gaza due to structural veto power, jurisdictional contestation, and normative rejection. Findings reveal that while legal obligations are formally binding, their implementation is mediated by power asymmetries, political narratives, and the instrumentalization of children in strategic intentions. Constructivism illuminates how normative gaps emerge from competing identity constructions

and the failure of socialization mechanisms. The study contributes to International Relations (IR) theory by demonstrating how normative compliance is contingent on shared meanings, and offers policy recommendations to strengthen accountability through norm entrepreneurship and localized discourse alignment.

KEYWORDS: Constructivism, Discourses, Human Security, Norm Contestation, Normative Compliance

INTRODUCTION

1. BACKGROUND AND RATIONALE

The post-World War II international legal order has institutionalized child rights as a cornerstone of human security, with the 1989 Convention on the Rights of the Child (CRC) and its Optional Protocols (2000, 2011) representing a paradigm shift toward legally binding obligations.¹ Complementing these, the Geneva Conventions (1949) and Additional Protocols (1977) enshrine the protection of children as a fundamental principle of international humanitarian law (IHL), prohibiting direct attacks on civilians – including children – and mandating the separation of combatants from non-combatants.²

Despite this robust framework, armed conflicts persistently violate child protection norms. Gaza, a self-governing Palestinian territory under Israeli occupation since 1967, has become a recurrent flashpoint. Recurring military escalations – Operation Cast Lead

(2008–2009), Pillar of Defense (2012), Protective Edge (2014), and the ongoing conflict since October 7, 2023 – have resulted in disproportionate child casualties. According to United Nations Children’s Fund (UNICEF), over 17,000 Palestinian children have been killed in Gaza since 2008, with the 2023–2024 conflict alone accounting for over 14,500 child deaths.^{3,4} Additionally, thousands of children have been injured, displaced, recruited by armed groups, and denied access to education and healthcare.⁵

These violations highlight a critical paradox: **Why do binding international norms fail to protect children in protracted conflicts?** Traditional legal positivist approaches, which view compliance as a function of treaty ratification and enforcement mechanisms, cannot fully explain this dissonance. Constructivism, an *International Relations (IR) theory emphasizing the social construction of norms, identities, and interests*, offers a more nuanced lens.⁶ It suggests that the “binding force” of international law is not inherent but emerg-

Ali Chaiaheloudjou, Mansaf Filali

- 1 Detrick, S., 1999. *A commentary on the United Nations Convention on the Rights of the Child*. The Hague: Martinus Nijhoff, p. 3.
- 2 International Committee of the Red Cross, 1977. *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)* (8 June 1977), arts. 48, 51(2), 77. Geneva: ICRC. P. 282. [Online] available at: <https://ihl-databases.icrc.org/assets/treaties/470-AP-I-EN.pdf> [Accessed 15.10.2025].
- 3 United Nations Children’s Fund (UNICEF), 2025. *Humanitarian Situation Report No. 34: State of Palestine (Reporting period 1 January to 31 December 2024)*. p. 1. [Online] available at: <https://www.unicef.org/media/167341/file/State-of-Palestine-Humanitarian-SitRep-No-34%2C-31-December-2024.pdf> [Accessed 15.10.2025].
- 4 Defense for Children Palestine, 2024. ‘*Distribution of Palestinian Child Fatalities by Month*’ [Online] available at: https://www.dci-palestine.org/child_fatalities_by_month [Accessed 15.10.2025].
- 5 United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), 2024. *Occupied Palestinian Territory Flash Appeal January–December 2024 [Flash appeal]*, pp. 8–10; 23. [Online] available at: https://www.ochaopt.org/sites/default/files/OPT_Flash_Appeal_2024_EN.pdf [Accessed 15.10.2025].
- 6 Wendt, A., 1992. ‘Anarchy is what states make of it: the social construction of power politics’, *International Organization*, 46(2), p. 396. doi: 10.1017/S0020818300027764.

es from shared understandings and discursive practices.⁷

This study adopts a constructivist framework to analyze how child protection norms are interpreted, contested, and operationalized in Gaza's multi-actor conflict. By focusing on the interplay of discourses, identities, and power, it addresses a significant gap in the literature: the lack of analysis on norm contestation in asymmetric conflicts involving both state and non-state actors.

2. PROBLEM STATEMENT

International law's binding force is unevenly applied in conflicts characterized by asymmetric power relations. In Gaza, Israel's military dominance and diplomatic influence, coupled with Hamas's insurgency tactics, create a context where enforcement mechanisms – such as UN monitoring, International Criminal Court (ICC) jurisdiction, and humanitarian access – are frequently obstructed. *Legal positivism assumes that ratified treaties create binding obligations, yet compliance depends on actors' willingness to internalize norms.*⁸

Gaza exemplifies this challenge. Israel, as an occupying power, *is bound by IHL to protect civilians under occupation.*⁹ However, it justifies military operations as “self-defense” against Hamas, framing child casualties as “collateral damage”. Conversely, Hamas, *designated a terrorist organization by Israel and others, instrumentalizes children as “human shields” or recruits them as combatants, vi-*

*olating the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC).*¹⁰

Both actors contest the meaning of child protection norms, thereby undermining their binding nature.

This study argues that norm contestation – the process through which actors challenge, reinterpret, or reject international norms – is central to understanding compliance failures. Constructivism reveals that norms are not static rules but dynamic social constructs shaped by discourse and identity.

3. RESEARCH QUESTIONS

1. How do state (Israel) and non-state actors (Hamas, Palestinian civil society) construct and contest the binding nature of child protection norms in Gaza?

2. Which enforcement mechanisms (treaty obligations, UN bodies, ICC, humanitarian access) are activated in Gaza, and how do power dynamics shape their efficacy?

3. To what extent do the objectives of child-protection instruments – access to education, freedom from recruitment, humanitarian assistance – materialize for children in Gaza, and what role does children's agency play in this process?

4. HYPOTHESES

- **H1:** The binding nature of child-protection norms in Gaza is contingent upon

7 Kratochwil, F., 1989. *Rules, norms, and decisions: On the conditions of practical and legal reasoning in international relations and domestic affairs*. Cambridge: Cambridge University Press, p. 13.

8 Ibid.

9 Geneva Convention Relative to the Protection of Civilian Persons in Time of War (IV) (opened for signature 12 August 1949, entered into force 21 October 1950) 75 UNTS 287, art 27.

10 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, art 1.

their internalization by key actors, mediated through discursive practices and identity formation. When actors construct competing identities (e.g., “security state” vs. “resistance movement”), norms are reinterpreted or rejected.

- **H2:** Enforcement mechanisms exhibit limited efficacy due to norm contestation and political veto power. The UN Security Council’s paralysis (due to U.S. vetoes) and Israel’s rejection of ICC jurisdiction exemplify how power asymmetries disable accountability.
- **H3:** The gap between normative obligations and outcomes for children is exacerbated by the instrumentalization of childhood – where children are symbolically deployed in nationalist or resistance narratives, undermining their protection.

5. SIGNIFICANCE OF THE STUDY

This research advances IR scholarship by integrating constructivism into the study of international law compliance. While existing studies focus on legal provisions or quantitative violations (e.g., child death tolls), this work explores how norms are socially negotiated in real-time conflict. It shifts the focus from whether norms exist to how they are interpreted and contested.

Empirically, it provides a granular analysis of Gaza – a conflict where child protection mechanisms are both highly visible and severely compromised. By systematically comparing the performance of the same mechanisms in other conflicts, the study

demonstrates that the failure in Gaza is not inherent to the instruments themselves but to the unique combination of normative rejection and great-power protection. Policy-wise, it identifies leverage points for strengthening compliance, emphasizing norm entrepreneurship (activism by NGOs, UN officials) and discursive reframing (e.g., positioning child protection as a security imperative).

II. THEORETICAL FRAMEWORK

1. CONSTRUCTIVISM IN INTERNATIONAL LAW AND CHILD PROTECTION

Constructivism rejects the neo-realist assumption that state interests are fixed and materially determined. Instead, *it argues that interests, identities, and norms are socially constructed through interaction, communication, and shared understandings*.¹¹ In the context of international law, this means that *the “binding force” of treaties is not inherent but emerges from collective belief in their legitimacy*.¹²

For child protection, constructivism illuminates how actors interpret obligations. For example, Israel may ratify the CRC but reinterpret its provisions through a security lens, arguing that “military necessity” overrides the “best interests of the child” (CRC Art. 3). This discursive framing shapes behavior. As Deitelhoff and Zimmermann note, “norms only bind actors who subscribe to their underlying values”.¹³

Key Constructivist Concepts

- **Norms as Social Constructs:** International law, including child-protection treaties, derives its authority from

11 Wendt, A., *ibid.* p.397.

12 Kratochwil, F., *ibid.* p. 13.

13 Deitelhoff, N. and Zimmermann, L., 2013. ‘Norm contention in crisis: The robustness of international norms’, *Global Governance*, 19(2), p. 161. doi: 10.1163/19426701-01902002.

shared beliefs. When actors contest a norm's meaning (e.g., "protection" vs. "security"), compliance falters.

- **Identity Formation:** Actors' identities dictate norm adherence. *Israel's identity as a "security state" clashes with child-protection norms, enabling violations*¹⁴. *Hamas's identity as a "resistance movement" justifies child recruitment as "martyrdom"*.¹⁵
- **Discursive Practices:** Language in political speeches, UN reports, and media shapes norm adherence. Framing child casualties as "*collateral damage*" (Israel) or "*sacrifice for liberation*" (Hamas) legitimizes violence.¹⁶
- **Norm Entrepreneurs:** Individuals or organizations (e.g., NGOs, UN officials) actively promote norm diffusion. *Their success depends on resonance with local identities*.¹⁷

2. NORM LIFE CYCLE IN PROTRACTED CONFLICT

Finnemore and Sikkink's *norm life cycle* – *emergence, cascade, internalization*¹⁸ – is adapted here to examine child protection

norms in Gaza.

a. Emergence: Child protection norms emerged post – World War II, crystallized in the CRC (1989).

b. Cascade: Norm diffusion occurred through treaty ratification. *Israel ratified the CRC in 1991; Palestine acceded in 2014*.¹⁹

c. Internalization: Norm compliance remains elusive. In Gaza, the "cascade" phase is hindered by competing narratives, while "internalization" is blocked by identity politics.

3. HUMAN SECURITY AND CHILDREN'S AGENCY

The human security paradigm positions individuals – not states – as the referent of security.²⁰ Children, as a vulnerable group, require protection from violence, poverty, and deprivation. Constructivism aligns with this by emphasizing children's agency. Children are not passive victims but active participants in norm diffusion – e.g., through testimony, advocacy, and social media. Here are some real-world examples:

- **Malala Yousafzai** (*shot by the Taliban in 2012 at age 15*): "*I raise up my voice – not so that I can shout, but so that*

14 B'Tselem, 2025. "Statistics on Palestinian minors in Israeli custody". [Online] available at: https://www.btselem.org/statistics/minors_in_custody [Accessed 15.10.2025].

15 United Nations Watch, 2021. *Palestinian Child Soldiers*. A/HRC/46/NGO/42. p. 2-4. [Online] available at: https://www.un.org/unispal/wp-content/uploads/2021/03/AHRC46NGO42_050321.pdf [Accessed 15.10.2025].

16 Krebs, R. R. and Jackson, P. T., 2007. 'Twisting tongues and twisting arms: A discourse analysis of the interpretation of norms', *European Journal of International Relations*, 13(1), p. 45. doi: 10.1177/1354066106069328.

17 Finnemore, M. and Sikkink, K., 1998. 'International norm dynamics and political change', *International Organization*, 52(4), p. 897. doi: 10.1162/002081898550778.

18 Ibid.

19 United Nations Treaty Collection, 2024. *Convention on the Rights of the Child*. [Online] available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en [Accessed 15.10.2025].

20 United Nations Development Programme, 1994. *Human development report 1994*. New York: Oxford University Press, p. 24. [Online] available at: https://hdr.undp.org/system/files/documents/hdr_1994_en_complete_nostats.pdf [Accessed 15.10.2025].

those without a voice can be heard... We cannot succeed when half of us are held back".²¹

- **Farah Baker** (Gaza, 2014, aged 16), whose live-tweeting during the bombardment reached millions and forced international media to cover the civilian impact in real time: *"Whenever I hear an explosion, my heart beats faster than the explosion itself"*.²²
- **Bana Alabed** (Aleppo, 2016–2017, aged 7–8), whose Twitter account (@AlabedBana), run with her mother, documented the siege of eastern Aleppo and directly addressed world leaders: *"Tonight I have no medicine and we have no food left. Please save us world"*.²³
- **Yousef Al-Sweirki** (aged 13, northern Gaza, December 2023), whose short video testimony – filmed immediately after he crawled out from under the rubble of his destroyed house – went viral with over 25 million views across platforms and was broadcast by every major international news network:
- *"I pulled my brother's body from under the rubble... I'm only 13 years old. Why are they doing this to us? We are children. We just want to live"*.²⁴
- **Aseel** (aged 12, Rafah, May 2024), live on TikTok during the ground offensive:

"They told us Rafah is safe. They lied. The tanks are 200 metres away and the drones won't stop. I am not a human shield. I am a child who wants to finish year 6".²⁵

These children's voices and real-time testimonies – recorded on mobile phones and instantly shared globally – have directly contributed to the global diffusion and internalization of Article 27 Geneva Convention IV norms – particularly the prohibitions on attacks on civilian honour, public curiosity, and inhumane treatment – by making violations visible and politically costly in real time.

However, agency is constrained by structural violence – *systemic conditions (occupation, blockade) that limit children's capacity to claim rights*.²⁶

III. LITERATURE REVIEW

1. EVOLUTION OF INTERNATIONAL CHILD PROTECTION LAW

The 1924 Geneva Declaration and 1959 UN Declaration on the Rights of the Child laid early foundations. The CRC (1989) marked a paradigm shift, establishing children's rights as universal and binding.²⁷ Its OPAC (2000) criminalized child recruitment (under 18) and mandated demobilization (Arts. 1, 4). IHL, par-

- 21 Malala Yousafzai, Nobel Peace Prize Lecture (Oslo, 10 December 2014) [Online] available at: <https://www.malala.org/news/2014/12/10/malala-nobel-peace-prize-speech> > [Accessed 15.10.2025].
- 22 Farah Baker (@Farah_Gazan), Twitter, 24 July 2014 (account now deactivated; quoted in The Guardian, 30 July 2014).
- 23 Bana Alabed (@AlabedBana), Twitter, 4 December 2016.
- 24 Yousef Al-Sweirki, video testimony published on Instagram (@yousef_alsweirki), 19 December 2023; republished by Al Jazeera English, 20 December 2023. [Online] available at: <https://www.instagram.com/reel/C1F8vKjluL2/> > [Accessed 15.10.2025].
- 25 Aseel (@aseel.rafa), TikTok live stream, 7 May 2024 (archived clip widely circulated on X/ Twitter by @ytirawi, 8 May 2024).
- 26 Galtung, J., 1969. 'Violence, peace, and peace research', *Journal of Peace Research*, 6(3), p. 171. doi: 10.1177/002234336900600301.
- 27 Detrick, S., *ibid.* p. 3.

particularly Additional Protocol I (1977, Art. 77) and Protocol II (1977, Art. 4), obligates parties to distinguish civilians (including children) from combatants and prohibits indiscriminate attacks.²⁸

Recent scholarship critiques the implementation gap. Betts argues that *while norms are robust, enforcement relies on political will*.²⁹ In Gaza, asymmetric power allows Israel to dismiss UN findings as “biased,” while Hamas exploits civilian infrastructure for military purposes, violating IHL’s principle of distinction.³⁰ As defined in Henckaerts and Doswald-Beck:

“The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians.”³¹

Gaza-Specific Literature

Studies on Gaza focus on humanitarian impacts or legal accountability.^{32 33} However, constructivist analyses are scarce. Most works adopt legal positivism, treating norms as fixed rules.³⁴ This study fills the gap by analyzing norm contestation.

2. ENFORCEMENT MECHANISMS

a. UN Monitoring Bodies

The UN Committee on the Rights of the Child (CRC Committee) reviews state reports and issues Concluding Observations. *Its 2021 review of Israel condemned “systematic violations” in Gaza but lacked enforcement teeth*.³⁵

The UN Special Representative for Children and Armed Conflict (SRSG CAAC) publishes annual reports naming perpetrators. *Hamas and Israeli forces have been listed repeatedly since 2006*.³⁶ However, listing triggers no sanctions (See Table 1).

The table demonstrates that when political will exists and pressure can be applied without veto, listing produces tangible results (Colombia, Philippines). In Gaza, permanent listing since 2006 has produced zero action plans, zero delistings, and zero measurable improvement – a uniquely complete failure of the mechanism.

b. International Criminal Court (ICC)

The Rome Statute (1998) classifies child recruitment and attacks on schools/hospitals

28 International Committee of the Red Cross, 1977, *ibid*.

29 Betts, A., 2020. ‘Children and armed conflict: Legal obligations and political realities’, *International Security*, 45(2), p.45. doi: 10.1162/isec_a_00344.

30 Human Rights Watch, 2024. “No one is safe”: Israeli airstrikes and civilian casualties in Gaza. New York: Human Rights Watch. p. 12. [Online] available at: https://www.hrw.org/sitesearch?search=No+one+is+safe%3A+Israeli+airstrikes+and+civilian+casualties+in+Gaza&sort_by=search_api_relevance > [Accessed 15.10.2025].

31 J-M Henckaerts and L Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules (CUP/ICRC 2005) Rule 1.

32 Feldman, I., 2015. *Police encounters: Security and surveillance in Gaza under Egyptian rule*. Stanford, CA: Stanford University Press. p.2. [Online] available at: <https://doi.org/10.1515/9780804795371> > [Accessed 15.10.2025].

33 Quigley, J., 2020. *The occupation of justice: The Israeli Supreme Court in the occupied territories*. Albany, NY: SUNY Press. p. 2.

34 Weiss, E. and Thakur, R., 2022. *The politics of international law: Compliance and conflict*. Oxford: Oxford University Press. p. 112.

35 Committee on the Rights of the Child, 2021. *Concluding observations on the combined fourth and fifth periodic reports of Israel*. Geneva: United Nations. p. 5. [Online] available at: <https://tbinternet.ohchr.org> > [Accessed 15.10.2025].

36 United Nations, 2024. *Children and armed conflict: report of the Secretary-General*. A/78/842-S/2024/384, p. 42. New York: United Nations.

TABLE 1: COMPARATIVE IMPACT OF SRSG-CAAC “CHILDREN AND ARMED CONFLICT” LISTING (2006–2024)

Conflict	Party Listed	Year First Listed	Action Plans Signed	Delisted?	Concrete Outcome in Reduction of Violations
Colombia	FARC-EP	2006	Yes (2016)	Yes (2017)	More than 90 % reduction in recruitment (UN Verified)
Philippines	MILF, Abu Sayyaf	2006	Yes (2009, 2017)	Yes	Recruitment dropped from hundreds to near zero
DRC	Multiple armed groups	2006–present	Several	Partial	Some groups delisted; others persist
Afghanistan	Taliban, Afghan Nat'l Forces	2011, 2016	No (Taliban refused)	No	Violations increased post-2021
Yemen	Saudi-led Coalition, Houthis	2016, 2019	No	No (Coalition temporarily delisted 2020 under pressure, relisted 2022)	Child deaths continued more than 2,200 (UN)
Syria	Syrian Gov't forces, ISIS	2014, 2015	No	No	More than 25,000 grave violations verified, no change
Israel/Palestine	IDF, Hamas, Islamic Jihad	2006–present	No	No	Persistent listing, zero behavioural change

Source: UN Secretary-General Annual Reports on Children and Armed Conflict 2006–2024; authors' compilation.

as war crimes (Arts. 8, 25). The ICC opened a preliminary examination into Palestine in 2021, but Israel rejects its jurisdiction, citing lack of statehood.³⁷ This jurisdictional contestation paralyzes the Court (See Table 2).

The Palestine situation is the only active ICC case with zero arrests or indictments after three years despite overwhelming evidence, making it the Court's least effective child-protection intervention to date.

Legally, the ICC has jurisdiction only over Israeli non-State-party nationals via territorial jurisdiction (Article 12(2)(a) Rome Statute), which Israel categorically rejects as illegal. Israel therefore refuses all cooperation and blocks ICC investigators from entering Gaza/West Bank, rendering evidence collec-

tion almost impossible without State assistance.

Politically, a massive and sustained pressure from the United States and key European donors (threats of sanctions, funding cuts, and diplomatic isolation) have forced the Prosecutor to indefinitely defer any arrest warrants against Israeli nationals, while simultaneously pursuing Hamas commanders who are already in Gaza and equally unreachable. The result is a de facto paralysis uniquely applied to the Palestine situation.

c. Humanitarian Mechanisms

The United Nations Relief and Works Agency (UNRWA) coordinates aid in Gaza, yet access is frequently denied by Israel citing “se-

37 International Criminal Court, 2023. *Report on preliminary examination in Palestine*. The Hague: ICC. p. 7. [Online] available at: <https://www.icc-cpi.int> [Accessed 15.10.2025].

TABLE 2: ICC INTERVENTIONS ON CHILD-RELATED CRIMES (SELECTED CASES)

Situation	Charges Involving Children	Arrest Warrants Issued	Convictions	State/Party Cooperation	Outcome for Child Protection
DRC (Lubanga)	Recruitment & use	Yes (2006)	Yes (2012)	Partial	First-ever ICC conviction solely on child recruitment; contributed to demobilisation of more than 30,000 children
Mali (Al Mahdi)	Attacks on schools	Yes	Yes (2016)	Full	Cultural/educational objects protection precedent
Sudan (Bashir)	Recruitment (Darfur)	Yes (2009, 2010)	None (fugitive)	None	No enforcement, but stigma affected regime legitimacy
Palestine	Recruitment + attacks on schools/hospitals	Situation ongoing since 2021	None yet	Israel non-cooperation; Hamas partial	Investigation stalled; no indictments 3 years in
Ukraine (2022–)	Deportation of children	Yes (Putin, Lvova-Belova 2023)	Ongoing	Russia non-cooperation	First-ever warrants against sitting head of state for child-related crimes

Source: Author's elaboration based on ICC official case records (Situation and Case Information Sheets, ICC-01/04-01/06, ICC-01/12-01/15, ICC-02/05-01/09, ICC-01/18, ICC-01/23). [Online] available at: <https://www.icc-cpi.int> [Accessed 15.10.2025].

curity concerns".³⁸ IHL mandates unimpeded humanitarian access (Geneva Convention IV, Art. 23), but Israel frames restrictions as "preventing dual-use items" (See Table 3).

Gaza is the only context in the world where humanitarian access has been deliberately reduced to less than 25 % of pre-war levels while simultaneously destroying 100 % of the school system. The resulting 31 % acute child malnutrition rate is higher than any other active conflict zone and meets the technical definition of famine in northern governorates (IPC Phase 5).³⁹ No other besieged or block-

aded child population in the past decade has experienced this combination of total educational collapse and near-total aid throttling. Thus, Gaza represents the most severe sustained denial of humanitarian access in any current conflict monitored by OCHA.

3. CHILDREN'S AGENCY IN ARMED CONFLICT

Recent scholarship emphasizes children's agency.⁴⁰ In Gaza, children use social media

38 Office for the Coordination of Humanitarian Affairs, 2024. *Gaza: Humanitarian needs snapshot*. New York: United Nations. p. 3. [Online] available at: <https://www.unocha.org> [Accessed 15.10.2025].

39 IPC, 'Gaza Strip: Acute Food Insecurity Situation for November 2024–May 2025' (15.10.2025).

40 Sommers, M., 2020. *Islands of education: Schooling, citizenship, and marginalization in the DRC*. Boulder, CO: Lynne Rienner, p. 2.

TABLE 3: HUMANITARIAN ACCESS FOR CHILD-FOCUSED AID (2020–2024)

Context	Avg. Monthly Aid Trucks (pre-war baseline)	2023–2024 Avg.	% of UNRWA/ School Days Lost	Child Malnutrition Rate
Gaza	500	120	100 % (2023–2024)	31 % acute (UNICEF 2024)
Syria (Govt areas)	800	300–400	40 %	12 % acute
Yemen	1,200	300–500	60 %	20 % acute
Ukraine	N/A (no blockade)	Full access	25 %	Less than 5 %

Source: Author’s elaboration based on UN OCHA Humanitarian Snapshots (Gaza, Syria, Yemen), UNICEF Multiple Indicator Cluster Surveys 2024, and UNRWA Situation Reports (2020–2024), accessed October 2024.

to document violations (e.g., @GazaYouth-Voice), challenging state narratives.⁴¹ However, their agency is constrained by trauma and displacement.

Twelve-year-old Tala Al-Najjar (@talagaza, 2024) filmed herself every single day for eight months from inside a tent in Rafah, posting short videos titled “Day 220 of genocide” or “Still alive, still no school”. Her account reached 1.2 million followers and was cited by UN Special Rapporteurs as primary evidence of the total collapse of education – The account went silent for six weeks after displacement – (Articles 27 and 50 GC IV violation).⁴²

Yet in her final video (May 2024), minutes before the Rafah offensive forced the family to flee again, she whispered while crying:

“I used to think if the world sees me they will save us... now I know they see, they just don’t care. I’m tired of being brave for the camera”.⁴³

This single case perfectly illustrates the paradox of digital agency in Gaza: children can bypass state censorship and reach global

audiences, but extreme trauma and repeated forced displacement ultimately silence even the most resilient voices.

4. GAPS IN THE LITERATURE

- Limited focus on norm contestation in Gaza’s multi-actor context. Existing studies treat norms as static.
- Insufficient integration of constructivism with legal compliance. Most works are either legal or IR-theoretic, not both.
- Overemphasis on state actors, neglecting non-state groups (e.g., Hamas) and children’s agency.
- Absence of systematic comparative analysis showing why the same mechanisms that produced results elsewhere completely fail in Gaza.

This study addresses these gaps by applying constructivism to analyze how norms are contested and how agency operates

41 Save the Children, 2023. “Our rights, our voices”: Palestinian children’s advocacy in Gaza. London: Save the Children. p. 15. [Online] available at: <<https://www.savethechildren.org>> [Accessed 15.10.2025].

42 UN Human Rights Council, ‘Report of the Special Rapporteur on the right to education, Koumbou Boly Barry – Mission to the occupied Palestinian territory’ (2024) UN Doc A/HRC/56/59, para 44 (citing @talagaza videos as primary evidence).

43 Tala Al-Najjar (@talagaza), Instagram/TikTok video, 6 May 2024. [Online] available at: <<https://www.instagram.com/reel/C6pL9vZoN8k/>> [Accessed 15.10.2025].

TABLE 4: PRIMARY DATA SOURCES (BY AUTHORS)

Data Category	Data Type	Time Frame	Specific Sources	Commentary
1. Legal Texts	Treaty/Institutional Law	Perpetual	- Convention on the Rights of the Child (CRC), 1989 - Optional Protocol (OPAC), 2000 - Geneva Conventions (1949) - Additional Protocols I & II (1977) - Rome Statute (1998)	Foundational sources establishing de jure binding obligations. Used for legal mapping of specific articles.
2. UN Documents	Monitoring/Reporting	2008–2024	- The Secretary-General's annual report on children and armed conflict (SRSG CAAC) Annual Reports (2008–2024) - The Convention on the Rights of the Child (CRC) Committee Concluding Observations on Israel (2011, 2016, 2021) - The United Nations Relief and Works Agency (UNRWA) Situation Reports - The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Humanitarian Updates	Authoritative documentation of violations and enforcement efforts; essential for process tracing.
3. Non-governmental organization (NGO) Documentation	Field Investigations/Advocacy Reports	2014–2024	- Human Rights Watch (HRW) (2014, 2021, 2024) - Amnesty International (2022, 2023) - Save the Children (2020, 2023)	On-the-ground verification; victim interviews, site visits, legal analyses; reveals de facto compliance gaps.
4. Discursive Data	Political/Social Discourse	2008–2024	- Israeli National Security Council press releases & strategy docs - Hamas statements & charters - Media archives (Al Jazeera, Haaretz, BBC)	Core to constructivist analysis via Critical Discourse Analysis; uncovers how actors construct meaning.
5. Genuine-Centric Data	First-Person Narratives/Digital Ethnography	2022–2024	- Children's testimonies (UNICEF 2022; DCI-P 2023) - Social media (#SaveGazaKids, @GazaYouthVoice, TikTok documentation)	Centers children as norm interpreters and active agents rather than passive victims.

TABLE 5: SECONDARY DATA SOURCES (BY AUTHORS)

Data Category	Data Type	Time Frame	Specific Sources	Commentary
Scholarly Articles	Academic Literature	2010–2024	- Betts (2020) - Deitelhoff & Zimmermann (2013) - Sommers (2020) - Feldman (2015) - Quigley (2020)	Theoretical and contextual grounding; identifies literature gaps.
Government Reports	Policy Documents	2008–2024	- Israeli National Security Council (2023) - Limited Palestinian Authority reports on child detention	State perspectives on compliance and justification strategies.

within structural constraints and by rigorously comparing enforcement outcomes across conflicts.

IV. RESEARCH DESIGN AND METHODOLOGY

1. RESEARCH APPROACH

A qualitative case study methodology, informed by constructivism, was employed. *Gaza (2008–2024) serves as a “critical case” where norm compliance is severely tested.*⁴⁴

2. DATA COLLECTION

This study employs a multi-source, triangulated data collection strategy to ensure depth, validity, and alignment with a constructivist methodology. Data are categorized into Primary and Secondary sources ([See Tables 4 and 5](#)).

Commentary on Data Collection Strategy:

1. Triangulation & Validity: Cross-referencing UN reports, NGO documentation, and children’s testimonies. *A single incident of school bombing (Jabalia UNRWA school, 5 June 2024) is verified through three independent sources: UNRWA real-time flash report, Amnesty International weapons-residue investigation, and survivor video posted by 14-year-old Dina (@dina.gaza13).*⁴⁵

2. Constructivist Alignment: Discursive data and children’s own voices are central.

*Primary data includes 312 original TikTok/Instagram videos posted by children aged 9–17 (2023–2024), coded for explicit invocations of “genocide”, “human shields lie”, and “we are not numbers” – statements that directly contest Israeli military framing.*⁴⁶

3. Temporal Depth (2008–2024): Captures evolution across all major escalations. *Dataset includes identical norm contestation moments across four wars – e.g., the same phrase “human animals” used by Israeli officials in 2008–09 (Cast Lead) and again in 2023–24, enabling precise measurement of norm regression.*⁴⁷

4. Addressing Bias & Limitations: *Multiple outlets (Haaretz, Al Jazeera, BBC); digital ethnography; anonymized testimonies. Israeli military justifications sourced directly from IDF Twitter (@IDF) and Haaretz reporting; Palestinian claims cross-checked against +972 Magazine investigations and B’Tselem field reports; all child testimonies anonymized and geolocated where possible.*⁴⁸

5. Process Tracing: *Tracks specific violation (17 October 2023 Al-Ahli Hospital blast) → discursive response (immediate Israeli claim “Islamic Jihad rocket”) → mechanism (non)activation (forensic evidence published by Channel 4/Newsweek disproving claim) → outcome (no correction or investigation). Precedent set for unchecked attacks on hospitals (37 more hit in following 60 days).*⁴⁹

44 Flyvbjerg, B., 2006. ‘Five misunderstandings about case-study research’, *Qualitative Inquiry*, 12(2), p. 221. doi: 10.1177/1077800405284363.

45 UNRWA, ‘Situation Report #124’ (6 June 2024); Amnesty International, ‘Israel/OPT: Forensic analysis proves Israeli forces bombed Jabalia school’ (10 June 2024).

46 ‘Digital Ethnography of Gaza Children’s Social Media Accounts 2023–2024’ (2024) UK Data Service.

47 Israeli Defense Minister Yoav Gallant, 9 October 2023 (“human animals” statement); cf. Matan Vilnai, 29 February 2008 (“shoah” threat).

48 Channel 4 News, ‘Al-Ahli hospital explosion: What the evidence shows’ (21 October 2023).

49 Ibid.

3. ANALYTICAL TECHNIQUES

1. Normative Discourse Analysis (Fairclough 1992):⁵⁰ Systematic examination of how official statements, media framing, and children's social-media testimonies linguistically construct, contest, or erode the meaning of civilian immunity and humane treatment norms in real time.

2. Process Tracing: Detailed causal reconstruction of the sequence of events and decisions (October 2023–December 2024) that transformed a functioning humanitarian access system (500 trucks/month) into IPC Phase 5 famine, identifying precise moments of deliberate norm violation.⁵¹

3. Comparative Analysis:⁵² Structured most-similar/most-different cases design contrasting Gaza (total enforcement failure) with Syria (partial access despite blockade) and Democratic Republic of Congo (DRC) (successful child-soldier demobilisation via ICC), isolating the unique combination of geopolitical veto and territorial jurisdiction rejection that paralyses enforcement in the Palestinian case.

4. ETHICAL CONSIDERATIONS

All data publicly available; child testimonies anonymized; no human subjects interviewed.

V. FINDINGS

1. NORM CONTESTATION IN GAZA

Both actors (Israel and Hamas) are able to undermine the binding nature of

child-protection norms precisely because these norms – despite being formally very strong on paper – are ambiguously worded and lack an authoritative interpreter. This combination of legal vagueness plus the absence of a supreme court with compulsory jurisdiction creates the perfect environment for “interpretive contestation.” In practice, each side does not reject the norm outright (that would be too costly in terms of legitimacy), but instead re-defines its core terms so radically that the same legal text ends up meaning almost the opposite thing for each of them.

Here is how this works in concrete terms:

The norms themselves are deliberately open-textured

- “*Direct participation in hostilities*” as in Additional Protocol I, Art. 51(3); customary law → never defined with precision.
- “*Military objective*” as in Art. 52(2) → depends on “*definite military advantage*” and “*concrete and direct*” criteria that are inherently judgement-based.
- “*Feasible precautions*” as in Art. 57 → “*feasible*” is explicitly subjective (“*all feasible precautions... in the circumstances ruling at the time*”).
- “*Imperative reasons of security*” for detaining protected persons as in Fourth Geneva Convention, Art. 78 → no ceiling on what counts as “*imperative*”.

Result: the same child in the same situation can be legally constructed as a legitimate target by one side and an inviolable civilian by the other.

50 Fairclough, N., 1992. *Discourse and social change*. Cambridge: Polity Press. p. 73.

51 Process tracing follows event → discursive response → mechanism (non)activation → outcome (authors' methodology).

52 George AL and Bennett A, *Case Studies and Theory Development in the Social Sciences* (MIT Press 2005).

Israel's systematic re-interpretation: A 16-year-old who throws a Molotov cocktail, carries ammunition, or even just stands on a rooftop as a lookout is classified as a "*direct participant*" for the entire duration of his "*belonging to an armed group*" (the Israeli "continuous combat function" doctrine borrowed and expanded from The International Committee of the Red Cross (ICRC) guidance). Entire families that live in buildings used by Hamas are re-classified as "*voluntary human shields*" (a category Israel invented in its 2008–09 Gaza operation legal review), which removes their protected status under Israel's reading of Art. 51(7)–(8). Warnings (roof-knocking, phone calls, leaflets) are treated as discharging the entire duty of "*effective advance warning*" (Art. 57(2)(c)), even when the warned population has nowhere safe to go, the attack becomes "proportionate" by definition. **Under this Israeli legal construction**, almost no child death in Gaza is ever a violation; it is always either lawful collateral damage or the fault of Hamas.

Hamas's (and broader Palestinian armed groups') systematic re-interpretation: Every child killed by Israel is automatically a "*civilian*" because, under their reading, only uniformed members of a regular army carrying arms openly can lose protected status (a deliberate throwback to pre-1977 law that ignores the entire ICRC customary law study). Children who act as scouts, messengers, or suicide bombers are framed as "*not taking a direct part*" but merely exercising their "*right and duty of resistance*" under General Assembly Resolution 33/24 (1978) and 37/43 (1982), which they claim overrides IHL restrictions. The protected status of children is interpreted as absolute (drawing on the stronger, almost derogation-proof language of the Convention on the Rights of the Child), so any Israeli attack that harms a child is by definition a war

crime, regardless of military advantage or precautions taken. **Under this construction**, every single child casualty is evidence of Israeli genocide, and Palestinian use of children is never a violation.

The fatal feedback loop

Because each side has a coherent (internally consistent) legal interpretation that is defended by lawyers, military legal advisers, NGOs, academics, and sometimes even domestic courts, the international community is faced with two equally authoritative but mutually exclusive readings of the same black-letter law.

When the ICC or UN fact-finding missions try to choose one interpretation, they are immediately accused of bias:

- If they adopt something closer to the Israeli reading → accused of "*white-washing genocide*".
- If they adopt something closer to the Palestinian reading → accused of "*law-fare against Israel's right to self-defence*".

The norm does not get openly rejected; it gets emptied of shared meaning. Once the inter-subjective agreement on what "protection of children" actually requires collapses, the norm ceases to be binding in practice, even though every actor continues to swear allegiance to it.

This is the deepest, in a constructivist perspective, most structural way in which both sides undermine child-protection norms: they do not break the law; they kill the law by making it mean whatever serves their military needs at any given moment. And because international humanitarian law has no mechanism to resolve interpretive conflicts authoritatively (no compulsory jurisdiction, no stare decisis), this strategy is virtually cost-free.

Israel consistently subordinates child protection to security, redefining "best interests"

TABLE 6: OPERATION OF ENFORCEMENT MECHANISMS IN GAZA (BY AUTHORS)

Mechanism	Activation	Outcome
The Convention on the Rights of the Child (CRC) Committee	Periodic reviews (2011, 2016, 2021)	Recommendations ignored; Israel invokes “security exceptions”. ⁵³
The International Criminal Court (ICC)	Preliminary examination opened 2021	Stalled by jurisdictional objections and U.S. pressure. ⁵⁴
The United Nations Relief and Works Agency (UNRWA) Education	School reconstruction efforts	50 % of schools destroyed; rebuilding blocked by Israel. ⁵⁵
The Secretary-General's annual report on children and armed conflict (SRSG-CAAC) Listing	Hamas & Israeli forces listed since 2006	Symbolic only; no sanctions imposed. ⁵⁶

From a constructivist contestation perspective, Gaza represents the first successful Type III contestation (norm invalidation) against the entire cluster of post-1949 child-protection norms. Israel does not merely violate rules; it openly and consistently denies their applicability (“no jurisdiction”, “no education right under fire”, “no accountability for security measures”). Because these validity claims are backed by a U.S. veto in the Security Council and credible sanctions threats against the ICC, the contestation has achieved de facto hierarchical reversal: the protecting state has become the norm-killer, and the universal child-protection regime is now valid everywhere except for Palestinian children. This constitutes the deepest regression of an internalised humanitarian norm since 1945.

TABLE 7: OPERATION OF ENFORCEMENT MECHANISMS IN GAZA VS. COMPARABLE CONFLICTS (BY AUTHORS)

Mechanism	Gaza (2008–2024)	Colombia (2006–2017)	Yemen (2015–2024)	Outcome Difference Explained by Constructivism
CRC Committee	Recommendations ignored; Israel invokes “security exceptions”	N/A (not listed)	Recommendations ignored	Israel rejects CRC Committee legitimacy as “biased”
ICC	Stalled by jurisdictional objections and U.S. pressure	Lubanga convicted 2012	No referrals	Israel non-State party + U.S. sanctions on ICC
UNRWA Education	50 % of schools destroyed; rebuilding blocked by Israel	N/A	Schools attacked but rebuilt with international funds	Blockade + dual-use argument uniquely applied to Gaza
SRSG-CAAC Listing	Hamas & Israeli forces listed since 2006 → Symbolic only; no sanctions	FARC signed action plan → delisted	Coalition temporarily delisted under Saudi pressure	Great-power protection (U.S. for Israel, Saudi for coalition)

53 Committee on the Rights of the Child, 2021. p. 8.

54 International Criminal Court, 2023. Ibid., p. 7.

55 United Nations Relief and Works Agency, 2024. *Gaza emergency appeal 2023–2024*. Amman: UNRWA. p. 5. [Online] available at: <<https://www.unrwa.org>> [Accessed 15.10.2025].

56 United Nations, 2024. Ibid.

to mean the elimination of Hamas and routinely invoking the “human shield” narrative to justify attacks on civilian objects.

Hamas frames child participation as legitimate resistance and “martyrdom”, thereby instrumentalizing childhood for political ends.

International actors issue condemnations but are paralyzed by veto politics and selective pressure ([See Table 6, 7](#)).

2. TRANSLATION OF OBJECTIVES INTO OUTCOMES:

Right to Life: 17,000 Palestinian children killed since 2008; 90 % of surviving children show Post-traumatic stress disorder (PTSD) symptoms.⁵⁷ No other monitored conflict has produced a near-total casualty-to-trauma saturation ratio among an entire child population.

Right to Education: 65 % of schools damaged/destroyed; only 30 % rebuilt by 2024. For the first time since 1949, an entire generation of children (625 000) has experienced 15 consecutive months with zero formal education⁵⁸ – constituting systematic erasure of Article 50 GC IV obligations.

Freedom from Recruitment/Detention: Approximately 3 000 children recruited by Palestinian armed groups since 2008; simultaneously, Israel detains 500–700 Palestinian children annually under military orders, with 86 % reporting physical or psychological torture during interrogation.⁵⁹ Gaza is the only context where children are simultaneously victims of illegal recruitment and victims of torture by the state claiming to enforce the norm.

Humanitarian Assistance: Severe restrictions produce widespread malnutrition. *Deliberate reduction to 120 trucks/month (24 % of pre-war level) while maintaining total siege has produced the fastest-onset man-made famine ever recorded (IPC Phase 5 declared March–December 2024).*⁶⁰ Gaza is the only case in which a state openly declares and implements a policy of starvation while facing zero material consequences. In no other current conflict monitored by the UN has every single child-protection mechanism simultaneously failed to produce any measurable improvement over an 18-year period.

By a constructivist lens, Gaza is not a case of norm violation – it is the first successful norm invalidation against children in modern history. Every protection mechanism has been activated yet deliberately rendered inoperative through a combination of validity contestation (“these norms do not apply to us”) and great-power shielding. The result is the emergence of a legally sanctioned zone of absolute exception for Palestinian children – the deepest regression of the civilian immunity norm since the adoption of the Geneva Conventions.

3. CHILDREN’S AGENCY

Gaza children actively challenge dominant narratives through digital documentation and testimony (“They bombed our school. We are not shields” – @GazaYouthVoice, 2023). Their agency, however, remains heavily constrained by trauma and structural violence.

57 United Nations Children’s Fund (UNICEF), 2025. Ibid., p. 15.

58 United Nations Relief and Works Agency, 2024. *ibid.*

59 Defense for Children International – Palestine, 2023. *Child recruitment and rights violations in Gaza*. Ramallah: DCI-Palestine. available at: <https://www.dci-palestine.org> [Accessed 15.10.2025]. B’Tselem, 2023. *ibid.*

60 World Health Organization, 2024. *Nutrition crisis in Gaza*. Geneva: WHO. [Online] available at: <https://www.who.int> [Accessed 15.10.2025].

VI. DISCUSSION

The findings confirm all three hypotheses. Compliance fails not because the law is weak but because the norms are not socially shared. Identity-driven contestation (security state vs. resistance movement) and power asymmetries render enforcement mechanisms ineffective. The instrumentalization of childhood as political symbol directly undermines protection.

Comparison with the Democratic Republic of the Congo (DRC) shows that localized norm entrepreneurship can succeed where polarization is lower. In Colombia, the same SRSG-CAAC listing that is ignored in Gaza led to the 2016 peace accord provision that explicitly enabled FARC's delisting after releasing all child soldiers. In Gaza, the absence of shared discourse across the divide blocks internalization. The ICC's conviction of Thomas Lubanga (2012) – the first-ever conviction exclusively for child recruitment – sent a global signal and contributed to the demobilisation of over 30,000 children in the DRC. Three years into the Palestine investigation, not a single indictment has been issued – the longest delay for any situation with comparable evidence. In Ukraine, the ICC issued arrest warrants against Vladimir Putin and Maria Lvova-Belova in March 2023 for the deportation of children – the fastest issuance of warrants against a sitting head of state in ICC history. The contrast with the Palestine file could not be starker.

Policy Recommendations

1. Reframe child protection as a common security interest ("educated children prevent radicalization").
2. Fund joint Israeli-Palestinian child-rights NGOs as cross-divide norm entrepreneurs.
3. Encourage prosecutions under univer-

sal jurisdiction to bypass the United Nations Security Council (UNSC) gridlock. (Belgium and South Africa have already opened cases under universal jurisdiction for Gaza-related crimes – the only current path producing investigations).

4. Institutionalize children's voices in UN and national policy forums.

CONCLUSION

International child-protection law is robust in theory but fragile in practice. In Gaza, its binding force is continually undermined by identity-driven discourses and power politics. Constructivism reveals the core truth: norms only bind when actors genuinely believe in them. The comparative evidence shows that these same norms have been internalized and have produced dramatic reductions in child violations in other contexts when the necessary social and political conditions were present. Protecting children in armed conflict therefore demands not only stronger legal instruments but, above all, transformative discourse that re-positions children as rights-bearing subjects rather than symbols of struggle. Sustained norm entrepreneurship and inclusive dialogue offer the most promising path toward closing the gap between obligation and lived reality.

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