



Children's Rights from the International Perspective: Rohingya Refugee Children as an Example

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How Did Human Rights Become an International Agenda?

The modern concept of human rights sprouted in Europe after Renaissance humanism and developed with the ideas of the Enlightenment in the eighteenth century. Beyond the realm of scholarship and philosophy, human rights were embodied in the ideology of actual nations, as reflected in the American Declaration of Independence in 1776 and the Declaration of the Rights of Man of the French Revolution in 1789. Since then, the concept of human rights has become the basis for democratization around the world, contributing to the spread of democracy in the twentieth century. While democracy does not necessarily lead to the guarantee of human rights, the close correlation between the two is generally recognized. As human rights scholar Jack Donnelly notes, "Democracies have a significantly better average human rights record than non-democratic regimes... Democracy contributes to realizing human rights only if a sovereign people will respect for human rights, and thus constrains its own interests and actions."¹

Today, most countries worldwide, irrespective of their level of democratic development, assert their commitment to respecting human rights, turning them into a global, universal value. However, guided by the principles of sovereign equality and non-interference in domestic affairs, which have shaped international relations since the Treaty of Westphalia in the seventeenth century, the practices of democracy and respect for human rights within a state have traditionally been considered domestic matters. Even in nations that pioneered democratic principles, there existed a prevailing perception that the preservation of freedom and equality—the fundamental tenets of modern human rights—was an internal affair, not subject to scrutiny or involvement by other countries or the international community. This perspective is rooted in the historical context where issues such as recognizing equal rights for women and racial minorities in the United Kingdom and the United States were initially considered strictly domestic concerns.²

Furthermore, human rights are a social construct, deriving their meaning within the framework of human relationships. Instances of human rights violations and discrimination can occur in any domain of society, including domestic violence, bullying in schools, and sexual harassment in the workplace. However, the most severe human rights violations tend to be perpetrated by states; though entrusted with the obligation to safeguard the human rights of their citizens, states possess the capacity to engage in large-scale violations due to their monopoly on the legitimate use of force. Historical events such as the Holocaust of the Jews

1) Jack Donnelly, *Universal Human Rights in Theory and Practice*, Chapter 13, 2013

2) The United Kingdom and United States recognized women's right to vote in 1918 and 1920, respectively.



in Nazi Germany during the 1930s–40s and the genocide of civilians by the Khmer Rouge government in Cambodia during the 1970s serve as poignant reminders of the potential for states to commit egregious human rights abuses.

The ascent of human rights to the forefront of the international agenda is intricately connected to the Holocaust. In the aftermath of World War II in 1945, the global community established the United Nations (UN) with the primary objective of upholding global peace and security. The preamble to the UN Charter, collectively endorsed by the 51 founding member states in San Francisco in June of that pivotal year, commences with the declaration that "we the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind."³ A prevailing interpretation holds that the Charter encapsulates the three pillars of the United Nations: peace, development, and human rights. The inclusion of development and human rights as integral components of the United Nations, an organization conceived to safeguard international peace and security, stems from the profound lessons learned by the international community following its failures to avert the outbreak of World War I and later World War II. These catastrophic events underscored the realization that sustaining peace necessitates not only the prevention of armed conflicts but also the assurance of a fundamental quality of life through development and the establishment of a minimum level of human dignity through the protection of human rights.

Recognizing the paramount significance of human rights issues from its inception, the United Nations (UN) established the Commission on Human Rights as its first subsidiary body in 1946. This historic commission was chaired by Mrs. Eleanor Roosevelt, the widow of the late U.S. President Franklin D. Roosevelt, who played a pivotal role in the establishment of the United Nations. Tasked with the mandate to formulate the world's first human rights treaty, the Commission, cognizant of the complexity of negotiating a legally binding international agreement, deferred this task for the long term. Instead, in 1948, it adopted the Universal Declaration of Human Rights. Upon the declaration's adoption, Chairperson Roosevelt remarked, "This declaration is underpinned by humanity's desire for peace. The realization that the gross violations of human rights by totalitarian states such as Nazi Germany sowed the seeds of World War II provided the impetus for its adoption today." Notably, Article 1 of the Declaration asserts that "all human beings are born free and equal in dignity and rights." This concise yet powerful statement has evolved into one of the most significant sentences in the annals of human rights history.

"We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind" (Preamble of the Charter of the United Nations). Following the adoption of the Universal Declaration of Human Rights, member states of the United Nations engaged in prolonged negotiations, leading to the signing of two human rights covenants in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. The decision to create two separate conventions instead of a unified one arose mainly from the ideological divide between Western and Communist countries during that era. Communist

3) "We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind" (Preamble of the Charter of the United Nations).



countries, in line with socialist values, strongly advocated for economic, social, and cultural rights (commonly known as social rights), whereas Western countries prioritized civil and political rights, emphasizing the right to freedom. This division reflects the ongoing importance, even today, of a country's financial capacity in realizing economic and social rights and its democratic identity in achieving political and civil rights.

Collectively, the Universal Declaration of Human Rights and the two fundamental human rights covenants are often referred to as the International Bill of Human Rights. The international community has also adopted seven additional conventions in the realm of human rights, forming the basis of contemporary international human rights law.⁴ Many of these conventions focus on safeguarding the human rights of marginalized and vulnerable groups in society. From the evolution of international human rights law, it is evident that the United Nations' efforts to advance human rights predominantly revolve around two core areas: shielding citizens from human rights violations by states and safeguarding the human rights of vulnerable groups.

International Protection of Children's Rights

International efforts to protect the human rights of vulnerable groups began long before the United Nations was created. Awareness of the rights of women and children, in particular, grew with the spread of democracy and humanitarianism after the nineteenth century. When it comes to children's rights, the founding of Save the Children by British woman Eglantyne Jebb in 1919 was an important milestone. After seeing children starve during the military blockade of Germany and Austria during World War I (1914–18), Jebb became an advocate for children's rights, believing that all children should be protected regardless of nationality, race, or religion. After founding Save the Children, Eglantyne Jebb moved to Geneva to write the world's first Declaration of the Rights of the Child, which was adopted by the League of Nations in 1924 as the Geneva Declaration of the Rights of the Child.

The United Nations, which succeeded the League of Nations after World War II, established the International Children's Emergency Fund, later better known as UNICEF, in 1946, in urgent recognition of the sacrifices and suffering of many children during the war. The 1948 Universal Declaration of Human Rights also included two references to children's rights in its short 30-paragraph declaration, stating, in Article 25, that all children have the right to protection and, in Article 26, the right to education. In 1959, the United Nations adopted the 10-paragraph United Nations Declaration on the Rights of the Child, which expanded on the Geneva Declaration and became the basis for the later Convention on the Rights of the Child.

Adopted unanimously by the United Nations General Assembly on November 20, 1989, the International Convention on the Rights of the Child (CRC) holds the distinction of having the largest number of states

4) Convention on the Elimination of All Forms of Racial Discrimination (1965), Convention on the Elimination of All Forms of Discrimination against Women (1979), Convention Against Torture (1984), Convention on the Rights of the Child (1989), Convention on the Rights of Migrant Workers (1990), Convention on the Rights of Persons with Disabilities (2006), Convention on Enforced Disappearances (2006) (Source: Status of Major International Human Rights Conventions, Ministry of Foreign Affairs).



parties among the nine existing UN human rights treaties.⁵ This groundbreaking convention stands out by recognizing children not merely as subjects of protection but also as active agents entitled to their own rights. The CRC is founded on four key principles: non-discrimination (Article 2); the best interests of the child (Article 3); the child's right to life, survival, and development (Article 6); and the child's right to free expression of opinion and participation (Article 12). Across the preamble and 54 articles in total, children's specific rights are organized into four primary categories:

- ① The Right to Survival: Including the right to an adequate standard of living, access to healthcare, and other essentials.
- ② The Right to Protection: Encompassing the right to be shielded from exploitation and abuse, artificial separation from the family, criminalization, and related concerns.
- ③ The Right to Development: Enshrining the right to education, play, leisure, and information as well as the right to cultural activities, freedom of thought, conscience, and religion.
- ④ The Right to Participation: Involving the right to freedom of expression, the right to be heard in matters affecting their lives, and the right to participate in social activities appropriate to their abilities.

Since the Convention on the Rights of the Child came into effect, three additional Optional Protocols have been adopted. These protocols focus on crucial aspects such as the involvement of children in armed conflict (2000), the sale of children, child prostitution, and pornography (2000), and the right of the child to an individual petition (2011). These protocols represent a significant evolution in safeguarding children's rights under international law, marking a shift from mere declarations to legally binding conventions. This legal framework is characterized by a commitment to prioritizing children's interests in both the public and private spheres, ensuring their right to expression and self-determination. The international community's dedication to enshrining children's rights in binding agreements reflects a profound commitment to the well-being and protection of the world's children. Similar to other human rights conventions, the oversight and evaluation of the Convention's implementation by state parties are conducted by the Committee on the Rights of the Child. Comprising 18 experts, this committee periodically reviews and assesses reports submitted by states. Notably, Professor Yanghee Lee of South Korea served as a member and chairperson of the Committee from 2003 to 2013.

In its concluding observations on the fifth and sixth periodic reports on Korea in 2019, the Committee on the Rights of the Child commended the country for several positive steps, including the enactment of the Refugee Act (2012), the Child Abuse Punishment Act (2014), the establishment of a child policy impact assessment system (2019), and the reinforcement of penalties for sexual offenses against children. However, the Committee expressed apprehensions regarding the relatively low budget allocation for children in proportion to the GDP, the alarming rate of child suicide, and the intensely competitive educational environment. In its concluding remarks, the Committee recommended several measures, including enacting

5) As of 2023, state parties are 196; this number exceeds the 193 countries that are members of the United Nations. Non-U.N. states Cook Islands, Niue, Palestine, and the Holy See have joined, and the United States is the only state not to have joined.



anti-discrimination legislation, intensifying efforts to address the root causes of child suicide, clearly prohibiting all forms of corporal punishment, introducing universal birth registration, and maintaining the age of criminal responsibility under 14.⁶

Since the signing of the Convention on the Rights of the Child in 1989, the United Nations has sustained numerous international activities and initiatives to enhance the protection of children's human rights. Notable events include the World Summit on Children (New York) and the World Conference on Education for All (Thailand) in 1990. In 2002, the United Nations Special Session on Children made history by having over 400 children participate as delegates.⁷ Additionally, the World Conference against the Commercial and Sexual Exploitation of Children convened in Sweden in 1996 and Japan in 2001, respectively. Alongside UNICEF, other international organizations such as WHO, UNESCO, ILO, UNHCR, and UNDP undertake various projects and activities within the United Nations system to advance children's rights and welfare.

Nevertheless, children's rights are not only an issue of human rights but also one of development.⁸ For children to exercise their right to protection and education, the country and society in which they live must have the capacity to do so. In other words, it is challenging to realize the right to education and healthcare if the country is still at a low level of economic and social development and lacks sufficient educational or healthcare facilities. Therefore, development cooperation, centered on the United Nations and the OECD, provides significant support to developing countries in areas related to children. Considering that more than 80% of the world's children live in developing countries, this support is crucial for the universal realization of children's rights. The Sustainable Development Goals (SDGs) adopted in 2015 also emphasize the realization of children's rights as a cross-cutting issue throughout the SDGs, including Goal 4 (Ensure inclusive and equitable access to quality education for all).⁹

Rohingya Refugee Children as an Example

As an example of the international challenges in safeguarding the human rights of vulnerable children, consider the case of Rohingya refugee children. Currently, approximately 1 million Rohingya refugees reside in a camp in Cox's Bazar, Bangladesh.¹⁰ Originally a fishing village on the Bay of Bengal during British colonial rule, Cox's Bazar became part of Pakistan after India gained independence in 1947. Following the

6) Among the recommendations of the Committee on the Rights of the Child, the South Korean National Assembly enacted the prohibition of all corporal punishment and the introduction of a universal birth registration system in the 2021–23 period.

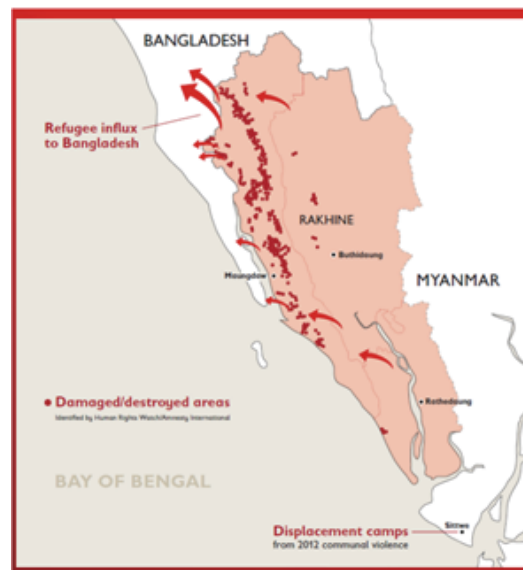
7) Following the participation of the South Korean children's delegation in the UNCRC, South Korea has hosted an annual children's congress organized by the Ministry of Health and Welfare and the Korean Council of Children's Organizations since 2003.

8) In other words, children's issues cut across two of the three pillars of the United Nations: peace, development, and human rights.

9) Of the 17 goals and 169 targets of the SDGs, 48 targets have child-related content. These include Goal 3, "Eliminate diseases among children under 5"; Goal 5, "Eliminate early marriage"; Goal 8, "Eliminate child labor"; and Goal 16, "Eliminate violence against children," among others.

10) In August 2023, I visited Save the Children's work in the Rohingya refugee camp in Cox's Bazar, Bangladesh. Before the refugee camp was established, Cox's Bazar was known for its beautiful beaches and was a popular honeymoon destination for Bangladeshis.

independence of Bangladesh in 1972, it became part of the new nation. In the 1990s, Rohingya refugees fleeing persecution in Myanmar started arriving in small numbers. However, after the 2017 Rohingya genocide in Myanmar, hundreds of thousands sought refuge, resulting in the establishment of a massive camp accommodating over 1 million people.



출처: Save the Children(2017). Horrors I will not forget

The influx of Myanmar's Rohingya population into Bangladesh

The Rohingya refugee crisis is intricately tied to historical events. In the nineteenth century, during the time of British colonial rule in both India and Burma (Myanmar), the British relocated the Rohingya, a Muslim minority, from the Bay of Bengal region to the Burmese state of Rakhine. This relocation served the colonial agenda by using the Rohingya for labor and administrative purposes. Following Burma's independence in 1948, resentment toward the Rohingya grew among Burmese, especially after the country was renamed Myanmar. The military government escalated repression, leading to the stripping of Rohingya citizenship. Even Myanmar's democratic leader, Aung San Suu Kyi, defended these actions, arguing that a historical understanding of Myanmar society is necessary to critique the Rohingya case.¹¹

The enduring hostility toward the Rohingya in Myanmar complicates the resolution of the refugee crisis, highlighting the deep-rooted nature of the issue. Needless to say, historical animosity does not justify violence and repression. International organizations—including the United Nations—have extensively documented Myanmar's military and civilian population's repression of the Rohingya, which includes crimes such as genocide and sexual violence.¹² The challenge is that over 70% of the approximately 1.4 million Rohingya in Myanmar have fled to Cox's Bazar, making their return to their original homes difficult. While

11) In 2019, in response to Aung San Suu Kyi's testimony at the International Criminal Court (ICC) hearing on the alleged genocide of the Rohingya, the New York Times reported, on December 19 of that year, that "Ms. Aung San Suu Kyi chided foreigners for not having an adequate understanding of Myanmar's complex ethnic and social history.

12) In 2019, the International Criminal Court (ICC) charged Myanmar with genocide against the Rohingya.



many refugee crises are typically resolved once the root causes, such as war or disaster, are addressed, the Rohingya situation stands apart due to Myanmar's reluctance to allow their return.

However, staying in Bangladesh permanently is not a viable option either as it is an overcrowded developing country with a population of 160 million in an area only 1.5 times the size of South Korea. Despite the ethnic and religious similarities between the Rohingya and Bangladeshis, the Bangladeshi government has made it clear that it cannot accommodate them permanently. It argues that given Bangladesh's compassionate act of opening its borders and saving the lives of numerous Rohingya refugees, it is imperative for the UN and the international community to persuade Myanmar to facilitate their swift return.¹³ Consequently, the Bangladeshi government has refrained from allowing the construction of durable buildings or roads in the camps, and electricity and communication facilities are lacking.

Of the 1 million Rohingya refugees, nearly half a million are children under the age of 18. The disproportionate number of women and children compared to that of men is a common trend among refugees, and this is particularly evident in Cox's Bazar. In the context of education, formal education in the Bangla language is not permitted for children, leading to the provision of ad hoc education by refugees themselves who serve as teachers. However, this makeshift education is limited to primary school levels, leaving adolescents without access to further education or employment opportunities. Consequently, this lack of educational and vocational avenues makes adolescents vulnerable to deviance and crime. These challenges severely undermine Rohingya refugee children in all four rights guaranteed by the Convention on the Rights of the Child: survival, protection, development, and participation. Survival is jeopardized due to harsh conditions, limited access to protection, and the inability to leave the camps. Access to education is restricted, and no institutional mechanisms ensure that the voices of these children are heard.

The humanitarian crisis faced by Rohingya refugees is being addressed by over 130 humanitarian aid organizations, including the United Nations and international NGOs. In the 33 refugee camps in Cox's Bazar, where humanitarian aid is a lifeline for survival, refugees are receiving essential support such as food, healthcare, and more. An annual budget of KRW 1 trillion is required to meet the extensive needs, but only approximately KRW 650 billion is currently being provided. Despite this funding gap, various children's aid organizations, including Save the Children, are actively engaged in numerous humanitarian projects.¹⁴ These initiatives encompass the operation of learning centers, health clinics, and multipurpose youth and children's centers that serve as alternatives to traditional schools. Additionally, efforts are directed toward building teacher capacity, providing vaccinations, managing cases for children in crisis, and ensuring water and sanitation facilities.

The fundamental solution to refugee problems, including the Rohingya crisis, lies in preventing such situations from arising in the first place. However, for those who have already become refugees, our imperative is to expedite the resolution of their plight. Herein lies the dilemma of the Rohingya refugee

13) In the keynote address to the United Nations General Assembly in 2020, Bangladeshi Prime Minister Sheikh Hasina emphasized that "The problem was created by Myanmar and its solution must be found in Myanmar."

14) Save the Children operates in 30 of the 33 refugee camps with an annual humanitarian budget of around \$15 million and has reached a total of 600,000 people since 2017.



problem. In recent years, international attention and support for the Rohingya refugees have waned as other global conflicts have taken center stage.¹⁵ Humanitarian aid organizations must persist in providing all possible assistance until the international community devises a political and diplomatic solution to the problem. We owe it to the future of humanity to ensure that the 1 million Rohingya refugees—particularly the 500,000 refugee children—do not become a "lost generation."

15) "Shifting global attention signals catastrophe for Rohingya refugees" (<https://www.arabnews.com/node/2403821>)
Azeem Ibrahim, Arab News, 5 November 2023



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