

INTERNATIONAL FRAMEWORK FOR THE PROTECTION OF CHILDREN'S SOCIAL RIGHTS

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Abstract

After the Second World War, significant progress was made in the international recognition and protection of children's rights. It should be noted that the international system for the protection of children as an integral part of the protection of human rights was created only within the United Nations after the Second World War. One of the main principles of this system is the declaration of respect and observance of human rights and freedoms without any discrimination. The main international legal mechanism for the protection of children's rights is the 1989 Convention on the Rights of the Child. This document is a universal international agreement defining the obligations of states to protect and ensure the rights of children. Under the Convention, in States parties, children enjoy equal rights with adults in the exercise of their rights. However, it is important to recognize that a child is a person who needs special care. Features of the legal status of children as a separate category in international human rights law determine the specifics of the subject of these rights. In most national laws, children belong to a separate social group. Up to a certain age, a child needs special care, care and special protection. Children are more susceptible to the negative consequences of the world around them, because children cannot independently provide their safety and protection for objective reasons.

Key words: *child rights, social rights, maintenance, state obligations, armed conflicts, age limits.*

The 1924 Geneva Declaration, considered the first international legal instrument to protect the rights of children in the modern sense, does not oblige the state because of its advisory nature. The 1948 Universal Declaration of Human Rights was an important step in the development of the human rights system as a whole. Although the 1948 Declaration does not establish a separate rule on the protection of children, it declares the need for special care and assistance for motherhood and infancy, proclaims the right of all children born in or out of wedlock to enjoy the same social protection (Article 25.2) [5, 70].

Note that the contribution of the Universal Declaration of Human Rights is so great that its norms can be applied to various categories of people, including children. Therefore, the Declaration addresses issues of human life, health, safety, education, social security and so on. These provisions apply to children. It should be noted that while in the Declaration of the Rights of the Child in 1924, children were considered as a special object of protection, then after the adoption of the Universal Declaration of Human Rights, there was already a tendency for children to be recognized as subjects of human rights.

In the 1950s and 1970s, the problems of protecting the rights of children, especially in the field of social security, began to escalate. The problem of paying child maintenance in different countries was of particular importance due to the growing

number of marriages with foreigners and stateless people at that time. In general, cross-border maintenance relations are governed by international conventions and legal assistance treaties, and secondly, by conflict of laws rules of national law. Among the most important international regulations governing cross-border maintenance relations are The New York Convention on the Recovery Abroad of Maintenance (1956), The Hague Convention concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations towards Children (1958), The Hague Convention on the Law Applicable to maintenance obligations (1973), The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007).

The New York Convention on the Recovery Abroad of Maintenance provides for the establishment by the countries that have acceded to the Convention of transmitting and receiving agencies. In accordance with the Convention, the sending and receiving agencies should not require any fees for the services provided [10]. The Convention also sets out procedural rules for litigation of maintenance disputes. Unlike the 1956 Convention, the conflict of laws provisions of the 1973 Convention apply to both maintenance obligations for children and maintenance obligations for adult family members. By virtue of Art. 3 the right defined by the Convention applies regardless of any requirements of reciprocity and whether it is a right of a state party [7, 224].

The Convention envisages some collateral provisions regarding the scope of maintenance, the right to sue, the amount of maintenance, the duration of the maintenance and compensation. After the adoption of the Universal Declaration of Human Rights, it took a long time to develop, sign and enforce an international legal act specifically designed to protect the rights of children. Such an act was the Declaration on the Rights of the Child, adopted by the UN General Assembly in 1959. This document sets out ten principles that relate to the most important aspects of children's lives. The preamble of this document refers to the UN Charter and the Universal Declaration of Human Rights, it states that "the child, due to his physical and mental immaturity, needs special protection and care, including appropriate legal protection, both before and after birth" [8, 112].

The 1959 Declaration improved the provisions of the 1924 Geneva Declaration. The Declaration states that children should be provided with special protection in accordance with the law and other means, as well as by creating favorable conditions for their physical, mental, spiritual and moral development. In addition, the Declaration also contains provisions regarding persons responsible for adopting laws and for raising and educating children, and above all, for ensuring a higher level of interest for children. The most important point of the 1959 Declaration was that the phrase "have the right" was included in its text. For example, the Declaration states that a child receives the right to a name and citizenship from birth (p. 3), the child must have the right to healthy growth and development, the right to adequate food, housing, recreation and medical care (p. 4) and the right on education (p. 7) and etc. [3, 310].

In general, the 1989 Convention on the Rights of the Child is the main international legal mechanism for protecting the rights of children. This document is a universal international agreement defining the obligations of states to protect the rights of children and ensure their rights. The authors of the Convention emphasized the phased development of children and the need to provide them with the necessary physical, material, moral and psychological support. The development of the convention was based on the idea that raising a child as a normal, socially significant citizen and as the

future of every society and state is a priority not only of parents, but also of the state.

Under the Convention, in States parties, children enjoy equal rights with adults in the exercise of their rights. However, it is important to recognize that a child is a person who needs special care. The participating States undertake to adhere to the principle that the realization of the rights of the child does not depend on physical or mental health, national or social origin. According to Convention the term of "child" means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier [4, 184]. However, there are different approaches to understanding adulthood. Different countries have different approaches to this issue.

It should be noted that all countries of the world, except the USA, have ratified this Convention. Although the United States signed the Convention on February 16, 1995, they have not yet ratified it. There are many reasons for this step. There is an opinion in US society that this document limits the rights of parents to raise their children, especially authors who comment on articles 13-16 of the Convention. Another reason is that the Convention contains provisions that are contrary to US criminal law. For example, in the United States there is no rule that sets a minimum age limit for capital punishment at 18. Even in 18 states, the age limit is 15 years.

The 1989 Convention enshrines children's rights in various fields. The text of the Convention lays down such important rules as the obligation of the state to take care of children (Article 3.3; 4; 5), the right to life (Article 6), the right to a name and citizenship (Article 7). were made. The Convention provides for the rights of children, including the right to health (24), social security (article 26), the right to an adequate standard of living (article 27), education (article 28) and cultural law (article 30) social rights such as the right to rest and leisure (Article 31) and the right to protection from economic exploitation (Article 32).

One of the main points of the Convention is the determination of the age of involvement of children to armed conflicts. The age limit of 18 years could not be determined as a result of negotiations held on the eve of the adoption of the Convention. Only article 38, paragraph 3, states that States parties should refrain from conscripting any person under the age of fifteen into their armed forces. States Parties shall endeavor to give high priority to the recruitment of persons who have reached the age of 15 but have not yet reached the age of 18.

However, over time, the problems of increasing the participation of children in armed conflict became more relevant, and this problem began to attract the attention of the wider international community. Thus, at the 3rd session of the Committee on the Rights of the Child, the development of an optional protocol on this issue began. The main innovation of this document, adopted in 2000, was an increase in the age of participation in armed conflicts from 15 to 18 years. Articles 1 and 2 of the Protocol state that States parties shall take all possible measures to ensure that their armed forces under the age of 18 are not directly involved in hostilities. States Parties shall ensure that persons under the age of 18 are not required to be recruited into the armed forces of these States [1, 118].

Currently, 166 countries have ratified the Optional Protocol, while Iran, the Central African Republic, Fiji, Haiti, The Gambia, Lebanon, Liberia, Myanmar, Nauru, Somalia, Suriname, Zambia and the Solomon Islands have not yet ratified [9].

Along with the conventions that have brought legal force and the obligation of states to protect the rights of children, declarations of recommendation and other relevant documents have been adopted. One such legal act is the Universal Declaration and Plan of

Action adopted by UN General Assembly resolution S-27/2 in 2002. This document states that world leaders strive to provide a better future for every child. The Declaration sets out recommendations for identifying particular cases of international legal protection of children [2, 214].

As mentioned in the previous paragraphs, one of the main problems of children in the social sphere is the payment of maintenance. One of the main international legal acts recently adopted in this area is the The Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The adoption of the Convention is necessitated by the existence of procedures to ensure the prompt, effective, economical collection of maintenance in cases where the recipient and payer of maintenance reside in different countries. The Convention applies to the maintenance obligations of parents in relation to children under the age of 21. In addition to the maintenance obligations of parents in relation to children, the Convention also applies to maintenance obligations of spouses, as well as with the relevant reservation of a contracting state and an agreement, and in other cases where it is possible to recover maintenance. A state party to the Convention is entitled to make a reservation on the collection of maintenance only for children under 18.

The fifth chapter of the Convention is devoted to the recognition and enforcement of decisions of judicial, administrative authorities or alimony agreements. Enforcement of decisions is made in accordance with the domestic law of the debtor state [6, 302].

One of the main elements of the 2007 Hague Convention is the determination of the age limit for the collection of alimony at the age of 21 years. The scientific literature has repeatedly stated that the definition of 18 years of age as the basis for suspension of child support obligations is incompatible with existing realities. Currently, an 18-year-old can rarely support himself. High technology requires special knowledge and education from employees. The opportunity to receive free higher and secondary vocational education is no longer publicly available. In the absence of a desire to provide assistance from a separately living parent, the entire burden of the material content of an adult student, the costs of his education are borne by the parent with whom he lives. Obvious is the need to allow the collection of alimony for the maintenance of a child studying full-time in an educational institution of higher and secondary vocational education for the period of study, but not later than 23 years or, as provided for in the Convention, up to 21 years.

Recently, stagnation has been observed in the process of adopting international legal documents to protect the rights of children. The most recent change in this area is the adoption of the Optional Protocol to Convention on the Rights of the Child. On November 19th 2011.

The Optional Protocol allows the Committee on the Rights of the Child to receive complaints of violations of children's rights. The term "information" is used in the protocol to refer to such complaints. The protocol does not include any new rights, but the Committee on the Rights of the Child is authorized to consider cases related to violations of the rights of the child in accordance with the following documents: Convention on the Rights of the Child; The Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. This protocol, which entered into force on April 14, 2014, is currently ratified by 32 countries and 25 countries have signed but not ratified [9]. People under the age of 18 make up about thirty percent of the world's population. In most

cases, they cannot exercise their rights on their own, much less ensure their protection. Decisions for the child are made by parents or guardians, and the well-being of the child depends on them. There are even more vulnerable children in situations of armed conflict, refugee children, children of migrant workers, stateless children, children with disabilities, and so on.

The 1989 Convention on the Rights of the Child can be regarded as the largest regulatory mechanism for protecting the rights of children both in peacetime and in armed conflicts, at least in terms of the number of countries that it has ratified. First Optional Protocol to the 1989 Convention sets the age limit for 18 years old, which is one of the most important rule in armed conflict. The ratification of this protocol by most countries of the world already indicates that the international community has a tendency to reduce the number of children involved in armed conflicts.

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