Assessing The Protection of Internally Displaced Children in Afghanistan After 2021 Under International Human Rights Law

THESIS

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Abstract

Since the Taliban's return to power in August 2021, the protection of internally displaced children has become one of the most pressing human rights challenges facing Afghanistan. Afghanistan remains a party to the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. However, there is a significant gap between Afghanistan's binding international obligations and the protection of internally displaced children in practice. This thesis examines the changes in the situation of internally displaced children since 2021. It assesses the extent to which Afghanistan has complied with its obligations under international human rights law in protecting them.

The study uses a doctrinal and analytical methodology. It draws on international treaty law, the Guiding Principles on Internal Displacement, and reports produced by United Nations bodies and human rights organizations.

Displacement in Afghanistan has shifted considerably since 2021. It is no longer primarily caused by armed conflict, economic collapse, and natural disasters; instead, the mass forced return of refugees from Iran and Pakistan has become the main factor. Internally displaced children have experienced a measurable decline in their access to education, health care, documentation, and family unity. The analysis traces this protection gap to four interacting causes: the collapse of domestic institutions, the failure of the de facto authorities to implement binding international obligations, restrictions on humanitarian access, and the absence of effective accountability mechanisms.

This thesis argues that the problem does not lie in the law itself. Afghanistan's international obligations remain clear and binding. The real obstacle is that the de facto authorities exercising effective territorial control have failed to implement and enforce them. Closing this gap will require restoring functioning domestic institutions, secure unimpeded humanitarian access, and strengthening international accountability mechanisms capable of translating documented violations into effective protection for these children.

Keywords: internally displaced children; Afghanistan; international human rights law; de facto authorities; protection gap; accountability.

Chapter I

INTRODUCTION

A. Background of Study

Afghanistan has faced more than four decades of conflicts, political instability, and recurrent natural disasters (like floods, droughts, and earthquakes), which serve to restrict human rights under weak and institutional governance. These crises have created a persistent cycle of poverty and internal displacement that disproportionately affects children, who constitute a significant portion of the population. By December 2025, approximately 22.9 million people, almost half of Afghanistan's estimated population of around 44 million, will require humanitarian assistance, of whom 12.4 million are children. This level of need not only poses an immediate threat to survival but also reflects a structural, ongoing failure to protect children's fundamental rights to survival, development, and protection.[1]

Children are among the most vulnerable groups in this crisis. Many are growing up without access to basic healthcare, education, clean water, or adequate nutrition, conditions that directly hinder their physical and mental growth and constitute a fundamental violation of their human rights. Children displaced by forced displacement and the lack of a social protection system in their own countries are particularly vulnerable.

Internal displacement in Afghanistan remains a significant vulnerability factor for children. It is estimated that around 3.5 million people are internally displaced and have remained in this situation for years or even generations.[2] This is further challenged by the forced return of over 2.6 million Afghan refugees from Iran and Pakistan in 2025 alone, exposing these children to further

[1] United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Afghanistan Humanitarian Needs and Response Plan 2025* (2024), https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2025-december-2024; UNICEF, *Humanitarian Action for Children 2025 – Afghanistan* (2025), https://www.unicef.org/media/165986/file/2025-HAC-Afghanistan.pdf.

[2] United Nations High Commissioner for Refugees (UNHCR), *Afghanistan Situation* (n.d.), accessed December 20, 2025, https://data.unhcr.org/en/situations/afghanistan; "Afghanistan," IDMC - Internal Displacement Monitoring Centre, accessed December 20, 2025, https://www.internal-displacement.org/countries/afghanistan/.

trauma and abuse.[3] The conditions of displacement mean that these children often live in informal settlements or camps and temporary shelter areas lacking basic services. Access to education and health services is particularly difficult due to the administrative factor of children lacking birth certificates or identity cards. The denial of these rights means that children are at risk of abuse in the form of child labor, forced marriage, recruitment into armed forces, and trafficking. This directly violates the rights to non-discrimination under international law.

Poverty in Afghanistan is multidimensional. In fact, the lives of 64.9 percent of the population are characterized by intense deprivation, affecting 55.5 percent of the total population, according to UNESCO. For children, this means simultaneous deprivation in multiple areas, including health, education, nutrition, access to safe drinking water, sanitation, and housing. Acute malnutrition affects between 3.5 and 3.7 million children. In addition, the difficult situation of food insecurity means that 823,942 children with severe wasting need the urgent care of nutrition and health facilities, which amounts to 17 million in total.[4] From a human rights perspective, this situation of deprivation can be considered as the failure of the state to progressively implement the economic and social rights and the protection required for vulnerable children.

Afghanistan is the signatory to several international human rights instruments for the protection of children, the most important of which is the Convention on the Rights of the Child, ratified in 1994, which obliges states to guarantee the right of life, health and education of children and protect children from exploitation, especially internally displaced children, as clearly stated in article (2,6, 22, 24, 27, 28, and 32).[5] The International Covenant on Economic, Social, and Cultural Rights also recognizes the rights to food, health, education, and a decent standard of living for children, obliging states to implement them.[6] The UN Guiding Principles on Internal Displacement (1998), although not legally binding, provide a credible framework in which internally displaced

[3] United Nations High Commissioner for Refugees (UNHCR), *Afghanistan Situation*.

[4] Integrated Food Security Phase Classification (IPC), *Afghanistan: Acute Malnutrition Situation for June 2024 - May 2025* (n.d.), accessed December 22, 2025, https://www.ipcinfo.org/ipc-country-analysis/details; UNICEF Afghanistan, *Humanitarian Situation Report" (Various Months, 2025)* (n.d.), accessed December 22, 2025, https://www.unicef.org/afghanistan/reports.

[5] United Nations, "Convention on the Rights of the Child," United Nations Treaty Body Database, March 28, 1994, https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child.

[6] United Nations, "International Covenant on Economic, Social and Cultural Rights," United Nations, 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights.

persons, including children, enjoy equal rights with other citizens of a country without any discrimination and are entitled to protection measures.[7]

The large gap between the legal commitments of Afghanistan and the brutal reality on the ground continues to put internally displaced children in a state of continued poverty and vulnerability. This does not just affect their development and future, but also the country's. The issue is not just about humanitarian aid; human rights are actually seriously at stake.

This thesis examines the effectiveness of international human rights law in protecting internally displaced children in Afghanistan. It examines Afghanistan's adherence to the Convention on the Rights of the Child (CRC), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the UN Guiding Principles on Internal Displacement. The research determines the primary challenges facing the implementation of these laws, whether legal, institutional, or practical, and proposes evidence-based practical recommendations that can enhance the protection of IDP children. The thesis aims to bridge the gap between law and real life, thereby safeguarding one of the most vulnerable groups of children in the world.

B. Problem Formulation

1. How far has the situation of Internally Displaced Children in Afghanistan changed after 2021?
2. To what extent has Afghanistan complied with its obligations under international human rights law regarding the protection of internally displaced children?

C. Research Objectives

1. To examine the situation of Internally Displaced Children in Afghanistan after 2021.
2. To assess the extent to which Afghanistan has complied with its obligations under international human rights law and applicable international humanitarian law in protecting internally displaced children after August 2021.

[7] United Nations, *Guiding Principles on Internal Displacement*, E/CN.4/1998/53/Add.2 (United Nations, 1998), https://docs.un.org/en/e/cn.4/1998/53/add.2 (direct UN document link).

D. Originality of the Research

This section elucidates a range of findings derived from prior studies, forming the foundation for the present study. Additionally, the current study draws upon relevant prior studies concerning the themes under discussion, aiming to avert issues of plagiarism and redundancy regarding comparable topics covered in scholarly literature. Consequently, the author has curated a selection of previous studies to examine their disparities in conceptual frameworks and research perspectives, as expounded upon subsequently.

Barlas, Sadiq, and Haidari (2022), in their paper titled "Determinants of Poverty among Urban Households in Afghanistan," conducted quantitative research to identify the socio-economic determinants of poverty in terms of education, family size, and employment in Mazar-e-Sharif, contributing to understanding the trends in urban poverty. Though valuable for understanding poverty as the root cause of vulnerabilities in Afghanistan, the paper does not address any issues related to children or the protection frameworks for IDPs. In my thesis, I will discuss the issue from a human rights perspective.[8]

Azhari, S. M., & Kadir, M. Y. A. (2021) conducted a study titled "Protection of Child Refugees under International Law" that took a normative approach to analyze major treaties like the CRC and the 1951 Refugee Convention, explaining theoretical safeguards for IDP children. It is strong in legal theory, but it remains general and does not examine the application in specific countries, such as Afghanistan, or address national enforcement challenges. My thesis differs by grounding this theory in Afghanistan's context, assessing how these protections work or fail for IDP children on the ground.[9]

Ahmadi and Akbari (2024) conducted a research study, Social Harms of Child Labor in Afghanistan: A Case Study of Bamyan City, which focuses on the psychological, emotional, and educational effects of child labor. Qualitative methods are used in the research to shed light on how poverty drives children to work, disrupting their childhood and destroying their future.

[8] Ahmad Walid Barlas, Mohammad Ehsan Sadiq, and Ajmal Haidari, *Determinants of Poverty among Urban Households in Afghanistan: Case Study of Mazar-e-Sharif*, August 13, 2022, https://mpra.ub.uni-muenchen.de/114182/.

[9] Sri Muliana Azhari & M. Ya'kub Aiyub Kadir, "Protection of Child Refugees under International Law," in *Proceedings of the ASEAN Conference on Sexual Exploitation of Children (ACOSEC 2024)*, Advances in Social Science, Education and Humanities Research 2 (Paris: Faculty of Law, Universitas Syiah Kuala, Banda Aceh, 2021), 1:147–58, https://doi.org/10.2991/978-2-38476-325-2_34.

Though helpful in illustrating the lived experience of child workers, it is not focused on IDP children or the legal obligations of the Afghan state in preventing such harm. The present study is novel as it focuses on IDP children, an even more vulnerable group, and discusses how the non-application of international legal protection facilitates ongoing cycles of neglect and exploitation.[10]

Goli and Singh (2022) conducted a study titled "Armed conflicts and girl child marriages: Global evidence." This work presents the first large-scale quantitative assessment, showing that conflict events are linked to higher rates of girl child marriage as a survival strategy. The global findings of this study demonstrate that armed conflict is a form of gender-based violence against girls. However, the study is broad and statistical in nature and does not specifically focus on IDPs in Afghanistan.[11]

Cerimović (2023) conducted a work entitled "At risk and overlooked: Children with disabilities and armed conflict" that outlines the threats to disabled children during conflicts, such as abandonment, stigma, and denial of service (including Afghanistan as an example). It is particularly effective at conveying the neglected risks to displaced children, but it is humanitarian-focused without deep legal scrutiny of IHRL for IDP children. The present study will explore the international legal framework applicable to the protection of IDP children in Afghanistan.[12]

Krishnan (2023), in "Problems of Internally Displaced Persons - Protection through National & International Laws", discusses legal protection for IDPs in conflict and pandemic situations, with references to South Asia. The article advocates for improved coordination, although it only addresses internally displaced persons in general, rather than specifically focusing on children or law enforcement challenges in Afghanistan.[13] My dissertation is innovative in that it focuses on children and investigates how legal inadequacies in Afghanistan leave internally displaced children without care.

Mayar (2024-2025) presented a paper entitled "Child health and conflict in Afghanistan," which applies econometric methods using ACLED and MICS data to depict that conflict exposure

[10] Ramazan Ahmadi and Mohammad R. Akbari, *Social Harms of Child Labor in Afghanistan (Case Study of Bamyan City)*, 7, no. 2 (June 2024): 186–203, https://doi.org/10.31014/aior.1991.07.02.497.

[11] Risha Singh, Srinivas Goli, and Abhra Singh, "Armed Conflicts and Girl Child Marriages: A Global Evidence," *Children and Youth Services Review* 137 (June 2022): 106458, https://doi.org/10.1016/j.childyouth.2022.106458.

[12] Emina Ćerimović, "At Risk and Overlooked: Children with Disabilities and Armed Conflict," *International Review of the Red Cross* 105, no. 922 (April 2023): 192–216, https://doi.org/10.1017/S181638312200087X.

[13] Sridevi Krishna, "Problems of Internally Displaced Persons- Protection through National & International Laws," *IJRAR* 10, no. 2 (2023), https://papers.ssrn.com/abstract=4771678.

lowers the height-for-age z-scores of children, reflecting stunting and poor nutrition. The study provides great evidence on the long-term health consequences of conflict on children, but without a state or general focus, with a distinction of IDPs.[14] The present study complements this by linking health impact to rights failures for displaced children under IHRL.

Jalalzai and his colleagues (2023) conducted a study entitled "The crisis of maternal and child health in Afghanistan" that analyzes the nutritional and health status of poverty- and conflict-affected children. According to public health data and field reports, the study finds gaps in access to healthcare facilities and food in many regions of Afghanistan. While the research identifies the humanitarian impact of childhood poverty, it does not identify the specific case of IDP children or assess the issue from a legal or rights-oriented viewpoint.[15] The innovation of this research is in refocusing the interest on the legal commitments of the Afghan state and non-state actors, such as IDP children's right to health and nutrition under the CRC and the ICESCR.

The qualitative research study titled "Barriers to Health for IDPs in Kabul, Afghanistan: A Qualitative Study" was conducted by Parwak and colleagues in 2019. This study examines the structural barriers to health faced by Internally Displaced People in three camps in Kabul and illustrates access barriers to healthcare through focus group discussions with thirty-seven adult IDPs and interviews with two healthcare providers. The study found that the main human security issues affecting health include access to clean drinking water, poor housing, employment limitations, difficulty accessing hospitals, and limited availability of medication and vaccines for children.

Additionally, the study identified health issues related to these challenges and primarily focused on problems within the healthcare system that create barriers for IDPs, without exploring legal or rights-based approaches related to IDPs. The main focus was a humanitarian perspective on healthcare access in a post-conflict setting, while my research uniquely examines the legal obligations of the Afghan government to protect IDP children and assesses the extent to which the

[14] TARIQ MAYAR, "Child Health and Conflict in Afghanistan" (Palacký University Olomouc University of Clermont Auvergne University of Pavia, 2025), https://unitesi.unipv.it/handle/20.500.14239/31592.

[15] Nancy Glass et al., "The Crisis of Maternal and Child Health in Afghanistan," *Conflict and Health* 17, no. 1 (June 2023): 28, https://doi.org/10.1186/s13031-023-00522-z.

state provides health and nutritional protections under international human rights law, such as the Convention on the Rights of the Child and the Guiding Principles on Internal Displacement.[16]

Momand, Z., Monawari, Z., & Hayat, M. (2023) conducted technical research titled "A Machine Learning Approach to Detect Dehydration in Afghan Children," which proposes a new AI-based framework for identifying symptoms of dehydration from health data. While the research presents a future-oriented solution to children's health, it is purely scientific and does not touch upon the legal or policy sides of providing health care services. In addition, it does not distinguish between child populations at risk, including IDPs.[17] The originality of this thesis lies in the fact that, rather than being technology-focused, it turns its gaze to justice, asking whether Afghanistan's IDP children, the most vulnerable to preventable disease and malnourishment, are legally protected. It steps beyond health outcomes to examine why these children are often denied access to healthcare in the first place, and it reveals a significant gap in rights realization and legal enforcement.

No	Title	Problem Formulation	Similarities	Differences
1	Barlas et al. (2022). *Determinants of Poverty among Urban Households in Afghanistan.*	What are some socio-economic factors affecting urban poverty among sampled households in Mazar-e-Sharif?	This study addresses poverty in Afghanistan.	It does not focus on IDP children or analyze legal frameworks.

[16] Yagana Parwak, Madhavi Dandu, and Rohini Haar, "Barriers to Health among IDPs in Kabul, Afghanistan: A Qualitative Study," *Journal of Refugee & Global Health* 2, no. 2 (August 2019), https://doi.org/10.18297/rgh/vol2/iss2/8.

[17] Ziaullah Momand et al., "A Machine Learning Approach to Detect Dehydration in Afghan Children," arXiv:2305.13275, preprint, arXiv, May 22, 2023, https://doi.org/10.48550/arXiv.2305.13275.

2	Azhari & Kadir (2021). *Protection of Child IDPs under International Law.*	What are international conventions concerning child IDPs?	This study examines IDP child protection through the lens of legal theory.	It does not apply these laws to Afghanistan or assess national implementation.
3	*Ahmadi & Akbari* (2024). *Social Harms of Child Labor in Afghanistan.*	What are the social, psychological, and economic harms caused by child labor in Bamyan city, Afghanistan, and how do these harms reflect violations of children's rights in the workplace?	It focuses on child vulnerability in Afghanistan.	It does not address the needs of IDP children or their legal obligations.
4	Parwak et al. (2019). *Barriers to Health among IDPs in Kabul, Afghanistan: a qualitative study.*	What are the structural factors and specific barriers to healthcare access for IDPs in Kabul?	Qualitative study on health barriers and vulnerabilities of IDPs in Afghanistan (including issues that affect children)	Focuses on IDP population and health access; does not specifically analyze protection of children under international human rights law.

5	Singh et al. (2022). *Armed conflicts and girl child marriages: Global evidence.*	How do armed conflicts affect the girl child marriage rates globally?	Empirical link between conflict and child marriage as a protection risk and rights violation.	Global quantitative study, not focused on IDP children or Afghanistan, and specific legal compliance.
6	Jalalzai et al. (2023). *The crisis of maternal and child health in Afghanistan*	What are the effects of healthcare collapse on mothers and children?	It shows service gaps affecting Afghan children.	It does not study IDP children or legal violations.
7	Ćerimović, Emina (2023). *At risk and overlooked: Children with disabilities and armed conflict.*	How are children with disabilities affected and overlooked in armed conflict?	Document protection gaps and vulnerabilities for children in conflict (often displaced), including examples from Afghanistan.	It focuses on children with disabilities, humanitarian and rights-based, not a specific legal assessment of IDP children under IHRL in Afghanistan.

8	Vaghri et al. (2019). *IDP and Asylum-Seeking Children's Rights.*	How well do States Parties fulfill the rights of IDP children under Article 22 of the CRC?	It investigates the deprivation of rights to children who are IDPs.	Afghanistan's legal system and enforcement are not the main topics of discussion.
9	Krishna, Sridevi (2023). *Problems of Internally Displaced Persons, Protection through National and International Laws.*	How are IDPs protected under national and international laws in conflict and pandemic contexts?	Explores legal frameworks for IDP protection, including conflict-affected displacement in South Asia.	It discusses generally on IDPs generally, not specifically focusing on children or conducting a detailed examination of Afghanistan's enforcement challenges under child-oriented IHRL.
10	Mayar, Tariq (2025). *Child health and conflict in Afghanistan.*	What is the impact of armed conflict intensity on child health outcomes in Afghanistan?	Empirical evidence on how conflict exposure reduces child height-for-age z-scores (an indicator of	It is used quantitatively, health-focused (using ACLED and MICS data); it does not address internally displaced children specifically

			stunting and malnutrition).	or legal protection under IHRL.

Having reviewed the existing academic literature, it is evident that current research tends to address broader questions of IDP protection in general or humanitarian terms. Economic factors such as food insecurity, malnutrition, and child labour are examined by numerous researchers, while others have addressed the theoretical aspects of the protection of child IDPs in international law. However, most such studies fall short in offering a sustained legal assessment of Afghanistan's compliance with its international human rights obligations specifically toward internally displaced children.

In addition, while the humanitarian crisis and educational challenges in Afghanistan are mentioned in several studies, these do not necessarily address whether the de facto authorities exercising effective control in Afghanistan are fulfilling the state's obligations to internally displaced children under instruments such as the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

This study aims to fill this gap by conducting a legal assessment of the extent to which Afghanistan's protection of internally displaced children complies with its binding obligations under international human rights law, and by identifying the structural factors, institutional, humanitarian, and accountability-related, that explain the resulting protection gap. In doing so, the research identifies the primary legal and institutional obstacles to compliance and proposes recommendations to narrow the gap between the rights internally displaced children hold in law and the protection they receive in practice.

E. Theoretical Review

This section looks at the theoretical basis for examining the protection of internally displaced children under international human rights law. It focuses on three important topics from academic sources: (1) The concept of International Human Rights Law, (2) The basic rights of Children under the IHR Law, (3) The state's obligation to fulfill the basic rights of children.

1. The Concept of International Human Rights Law

International human rights law (IHRL) establishes universal standards to protect the human dignity of everyone, regardless of their country, skin color, religion, or the circumstances they face. IHRL consists of several treaties, customary laws, and core principles that obligate states to protect, respect, and ensure the enjoyment of human rights for everyone. A key aspect of IHRL is the recognition that certain rights cannot be taken from the people. Others, like Economic and Social Rights, will be progressively realized, taking into consideration existing resources.[18]

Antal Berks (2021) provides a critical look at the application of international human rights law in the context of territorially vulnerable states, arguing that the lack of effective institutions, the inability to exercise control within the territory, and governance failures create systemic problems with respect to these rights. It is suggested that the vulnerability of states to the respect of these rights does not necessarily mean freedom from the state, but rather challenges the enforceability of enforcement mechanisms, especially in the marginalized communities of displaced children.[19]

2. The Basic Rights of Children under IHRL

The primary treaty for promoting and protecting children's human rights in international law is the Convention on the Rights of the Child, adopted by the United Nations General Assembly in 1989 and entered into force in 1990.[20] The Convention on the Rights of the Child (CRC) reaffirms that children are entitled to the fundamental rights

[18] Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press, 2013); UN Committee on Economic, Social and Cultural Rights, "General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1)," United Nations, 1990, https://www.refworld.org/legal/general/cescr/1990/en/129827.

[19] Antal Berkes, "Compliance of Territorially Fragile States with International Human Rights Law," *Revue Québécoise de Droit International*, no. juin 2021 (July 2021): 11–37, https://doi.org/10.7202/1079421ar.

[20] United Nations, "Convention on the Rights of the Child."

articulated elsewhere in international human rights law, including the fundamental rights codified in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).[21] The Convention on the Rights of the Child is designed to protect children because they are physically and mentally immature and need special care and protection. This convention has established specific provisions for street children, which, in Article 22, ensure that children's rights are respected, especially in situations of conflict and among street children, where they are most at risk.

In addition to reaffirming basic human rights codified in other treaties, the Convention on the Rights of the Child specifies that children, due to their physical and mental immaturity, need special consideration for their care and welfare. To this end, the Convention identifies particular rights that are unique to the needs of children, including the right to know and be cared for by their parents, the right to maintain a relationship with both parents if they are separated, the right to a name, nationality, and identity, and the right to be protected from various forms of child abuse. The Convention also contains measures intended to meet the particular needs of vulnerable categories of children, including disabled children, adopted children, and refugee children.

Wagir and his colleagues (2019), in their study, "Interrupted Child Development," argue that conflict and displacement do not simply affect the child's growth, but also disrupt essential supports, such as family, school, and health, which children need most for emotional, physical, and cognitive development. Further expand on this point by using the concept of disrupted child development. They argue that conflict and forced displacement do more than delay the development of children; they disrupt the early support systems for children's physical and psychological development, which are essential during their lives.[22]

The impact can persist for generations, evolving from a short-term crisis into a lasting obstacle. This perspective explains why CRC's developmental orientation is so

[21] United Nations, "International Covenant on Economic, Social and Cultural Rights," 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights; United Nations, "International Covenant on Civil and Political Rights," 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights.

[22] Ziba Vaghri, Zoë Tessier, and Christian Whalen, "Refugee and Asylum-Seeking Children: Interrupted Child Development and Unfulfilled Child Rights," *Children* 6, no. 11 (November 2019): 120, https://doi.org/10.3390/children6110120.

important. Child rights are not just about survival, but about enabling every child to achieve their full potential, even in the most challenging situations.

3. The State's Obligation to Fulfill the Basic Rights of the Children

The states have the main responsibility for fulfilling and implementing children's rights under the International Human Rights Instruments. This is often categorized into three levels: the obligation to respect and refrain from violating children's rights, the obligation to protect children from violations by third parties, and the obligation to realize and fulfill their rights. Some of these obligations under International Human Rights Instruments are immediate, such as non-discrimination and protection under the law; other obligations, like education and health, are progressively implemented by states based on their available resources. In the case of IDP children, there is a special protection and assistance obligation under the CRC (Art 22) and the Guiding Principles on Internal Displacement.[23]

Despite the presence of a strong legal framework, states are facing numerous challenges in ensuring that these rights are effectively implemented. Research done by Aila M. Matanock (2020) illustrates how states with poor institutions, poor oversight capacity, and political will can undermine the implementation of human rights instruments. As a result, these children, displaced by conflict, usually experience a lack of access to services like shelter, education, health care facilities, and humanitarian protection. These challenges of implementation are not only due to resource constraints but also to weak government.[24]

In the context of Afghanistan, with its ongoing conflict and a weak system, this theory-practice gap remains even more acute. Naturally, the state is legally bound by its duty to protect children's rights, but capacity and disruption block the way for the full realization of this crucial protection. The impact on internally displaced children is dramatic; they need not only protection but rather a protective reconstruction of the protective environment through which displacement has caused a void in the first place.

[23] United Nations, "Convention on the Rights of the Child"; United Nations, "Guiding Principles on Internal Displacement," United Nations, 1998, https://docs.un.org/en/e/cn.4/1998/53/add.2 (direct UN document link).

[24] Aila M. Matanock, "How International Actors Help Enforce Domestic Deals," *Annual Review of Political Science* 23, no. Volume 23, 2020 (May 2020): 357–83, https://doi.org/10.1146/annurev-polisci-050718-033504.

4. Human Rights-Based Approach

This study uses a human rights-based approach to provide the primary analytical basis. According to HRBA, internally displaced children are recognized as rights holders not only as vulnerable groups, but also because their rights are clearly defined under international human rights law, including the Convention on the Rights of the Child and Guiding Principles on Internal Displacement. The human rights-based approach asks states and other authorities to act as protectors and guardians of children to protect their rights and well-being when they are displaced.[25]

In the context of Afghanistan, especially after 2021, this approach evaluates whether the essential obligation of IDP children, such as access to education, non-discrimination, basic health care, psychological support, and protection from all kinds of violence, are fulfilled by the de facto authorities.[26] Therefore, HRBA allows the research to systematically evaluate gaps between legal standards and the actual protection received by IDP children.[27]

5. State Responsibility Theory

State Responsibility Theory assumes that when and how the state can be considered responsible for the violation of the rights of IDP children, and by providing a legal basis, it is the complement of the HRBA. According to this theory, protect and remedy human rights violations committed within its territory or jurisdiction.[28] The state is responsible for the safeguarding and safety of the rights of populations, including children who are displaced due to natural disasters, conflict, persecution, or government acts.

In the context of Afghanistan, this theory will be applied after 2021 to study whether the de facto authorities controlling the state have failed to meet basic obligations like preventing displacement, providing humanitarian assistance, providing access to education, and cooperating

[25] Office of the High Commissioner for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation* (New York and Geneva, 2006), 451–58, https://doi.org/10.1163/9789004502758_044.

[26] UNICEF, *Human Rights-Based Approach to UNICEF Programming* (2014), https://www.unicef.org/media/60211/file.

[27] John Tobin, *The UN Convention on the Rights of the Child: A Commentary*, Oxford Commentaries on International Law Ser (Oxford: Oxford University Press USA - OSO, 2019).

[28] International Law Commission, *Articles on Responsibility of States for Internationally Wrongful Acts* (Geneva, 2001).

with international organizations.[29] Therefore, the state responsibility theory enables this study to identify specific legal violations and their potential consequences under international human rights law.[30]

F. Research Methods

Research is a systematic and scientific approach to discovering new information, resolving legal issues, and addressing research queries. This thesis employs a systematic approach to collecting, examining, and interpreting legal data to provide a valuable contribution towards bettering child protection policies for IDP children in Afghanistan.

1. Type of Research

   This study applies a normative legal research methodology, where legal norms and structures found in domestic legislation, international treaties, legal principles, and opinion literature are examined. Normative research views law as a prescriptive science, concerned with and seeking to inquire into the existing legal framework in the domestic and international fields.

   The focus of this normative legal research is to determine the extent to which Afghanistan's de facto authorities have complied with the international human rights obligations applicable to internally displaced children. This calls for a study of written legal texts and their authoritative interpretation by international bodies

2. Research Approach

   This thesis adopts two main legal approaches:

   a. Doctrinal (Statute) Approach: Scrutinizing the international legal instruments applicable to the protection of internally displaced children, the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Guiding Principles on Internal Displacement, and assessing the extent to which

[29] James Crawford, *State Responsibility: The General Part*, January 1, 2010, 1–825, https://doi.org/10.1017/CBO9781139033060.

[30] Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (2005): 9–26, https://www.jstor.org/stable/45053998.

Afghanistan's de facto authorities have implemented these binding international obligations in practice.

b. Conceptual Approach: Examining critical legal concepts under international human rights law, including internally displaced children, de facto authority exercising effective territorial control, positive obligations, and due diligence, and applying these concepts to the specific institutional conditions created by a non-recognized authority.

3. Sources and Types of Legal Material

The study relies on three major categories of legal materials:

a. Primary Legal Sources:
    1) The Convention on the Rights of the Child (CRC);
    2) The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR);
    3) The Guiding Principles on Internal Displacement;
    4) Official documents of relevant international bodies, including United Nations Human Rights Council resolutions, reports of the UN Special Rapporteur on Afghanistan, and decisions and warrants of the International Criminal Court.

b. Peer-reviewed journal articles, legal commentaries, and reports by United Nations agencies (including UNICEF and UNHCR), international organizations, and human rights bodies that explain or interpret the primary sources.

c. Tertiary Legal Materials: Background material such as country policy and information notes, news reporting, and online sources that assist in clarifying the factual context in which the primary and secondary sources apply.

4. Data Collection Techniques

Information is obtained through library-based research, drawing on both primary international legal instruments and secondary reporting available through academic databases, United Nations repositories, and the websites of international organizations and human rights bodies. This study relies primarily on secondary sources rather than on primary fieldwork involving internally displaced children themselves, an approach necessitated by the absence of independent monitoring access within Afghanistan.

5. Data Analysis Techniques

The collected legal materials are analyzed using qualitative doctrinal analysis. This involves the classification and description of data according to the international legal principles established in Chapter Two, followed by deductive reasoning from these overarching standards to the specific context of internally displaced children in Afghanistan. The study aims to identify the gap between the applicable international legal framework and its implementation, and to provide recommendations for narrowing that gap.

G. Systematic Writing

In structuring this thesis, the author separated the task into four main chapters. The chapters include several subchapters that discuss specific areas of the research, structuring the work logically and coherently. The structure is as follows:

1. Chapter I – Introduction

   This chapter discusses the issue of research by presenting the background and environment of the study. It formulates the problem, research objectives, and questions. The chapter also covers the originality of the research, discusses literature concerning it, describes the applied methodology, and gives the overall outline of the thesis.

2. Chapter II – The International Legal Framework for the Protection of Internally Displaced Children

   This chapter establishes the international legal framework applicable to the protection of internally displaced children. It examines the contested but increasingly inclusive concept of internal displacement, the soft-law architecture of the Guiding Principles on Internal Displacement, and the prohibition of arbitrary displacement under both international humanitarian law and international human rights law. It then analyses the substantive protections of the Convention on the Rights of the Child, read through a human rights-based approach, together with the doctrines of positive obligations and due diligence that give these protections practical content. The chapter is deliberately abstract: it establishes what the law requires, without yet addressing what has occurred in any particular country.

3. Chapter III – The Protection of Internally Displaced Children in Afghanistan After 2021: A Legal Assessment

   This chapter applies the framework established in Chapter Two to Afghanistan specifically. It examines the scale and drivers of internal displacement since the Taliban's return to power in August 2021, assesses the actual conditions experienced by internally displaced children across education, health, documentation, and family unity, and identifies the structural factors, institutional collapse, failure to implement international obligations, restrictions on humanitarian access, and the absence of effective accountability mechanisms, that explain the resulting protection gap. The chapter concludes by answering the thesis's two research questions directly.

4. Chapter IV – Conclusion and Recommendations

This chapter presents the conclusions drawn from the findings of Chapters Two and Three and sets out legal and institutional recommendations addressed to the principal actors capable of narrowing the protection gap identified in this study. It considers the thesis's contribution to the existing scholarship and its limitations.

Chapter II

THEORETICAL FRAMEWORK

A. The concept of Internal Displacement

1. The Development of the Legal Concept of Internal Displacement

International law did not always recognize "internally displaced persons" as a category. Millions of people displaced within their own countries remained outside any specific international protection framework until the late 1980s. If they existed at all, they were called "persons of concern," a term that was deliberately vague and focused more on institutional discomfort than protection. Internal displacement was not created by legal scrutiny. It was created by circumstances. Because of the tragedies of Sudan, Mozambique, and the former Yugoslavia, legal neglect of internally displaced persons was no longer acceptable.[31]

This origin matters, and not merely as historical background. The concept was shaped from the outset by political constraint as much as by legal reasoning. When Francis Deng took up his mandate in 1992, the boundaries of what he could do were defined not by what displaced peoples needed but by what the government would tolerate. Sovereignty was the ceiling. The result, a framework based on soft law rather than a binding treaty, was no accident during drafting. It reflected a compromise between the need to protect internally displaced persons and states' concerns regarding sovereignty. To evaluate this framework honestly, one must understand not only what it was designed to achieve, but also what it was designed to avoid.[32]

2. Defining Internal Displacement: Scope and Limitations

The definition of internally displaced persons in paragraph 2 of the Introduction to the 1998 Guiding Principles on Internal Displacement appears straightforward at first glance. It includes persons who have been forced to flee their homes as a result of war, violence, natural disasters, and human rights violations, provided that they have remained within their own country and have

[31] Simon Bagshaw, *Developing a Normative Framework for the Protection of Internally Displaced Persons*, International Studies in Human Rights (Leiden, The Netherlands; Boston, USA: BRILL, 2021); Cohen and Deng, *Masses in Flight*.

[32] Roberta Cohen, "The Guiding Principles on Internal Displacement: An Innovation in International Standard Setting," *Global Governance* 10, no. 4 (2004): 459–80, https://www.jstor.org/stable/27800542.

not crossed international borders. This is a broader definition than it might initially seem. The word "in particular" suggests that the reasons listed are descriptive rather than exhaustive. This flexibility was intentional: the drafters anticipated that displacement would take a form that no legal text could fully anticipate in advance.[33]

One of the greatest strengths of the definition of internally displaced persons is its inclusiveness or breadth. The 1951 Convention limits protection to those fleeing persecution on grounds of religion, race, political opinion, or membership of a particular social group. In contrast, the definition of internally displaced persons does not impose such a limitation. The definition covers displacement resulting from armed conflict, natural disasters, development projects, and similarly general violence[34].

This is particularly important for children. The protection needs of a child displaced by flooding are as serious as those of a child fleeing their house because of conflict. A child displaced by political persecution needs shelter, education, and safety just as urgently as a child fleeing armed conflict. The Guiding Principles recognize this fact. Protection needs do not change based on the legal classification of the event that caused displacement. There is no principled basis for making such a distinction, and the Guiding Principles, to their credit, avoid doing so.[35]

However, this inclusiveness conceals a fundamental weakness. The definition describes who IDPs are. It does not establish what legal status they hold. These are very different things. By identifying a category rather than constituting one, the definition creates no new rights and no new obligations. As Mooney has argued, the IDP label is purely descriptive. It leaves the person it describes exactly where they were before, holding only the rights they already have as a citizen or habitual resident of their country.[36]

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[33] Walter Kälin, *Guiding Principles on Internal Displacement Annotations*, Studies in Transnational Legal Policy 38 (Washington, DC: American Society of International Law, 2008).

[34] Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (2005): 9–26, https://www.jstor.org/stable/45053998; Kälin, *Guiding Principles on Internal Displacement Annotations*.

[35] Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," 2005.

[36] Erin Mooney, "The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern," *Refugee Survey Quarterly* 24, no. 3 (January 2005): 9–26, https://doi.org/10.1093/rsq/hdi049.

This is precisely the problem. Where a state has caused or condoned the displacement of its own citizens, the assurance that they retain their rights as citizens is not a protection. It is a cruel irony. A child displaced by state armed forces, or by a de facto authority exercising control over the state territory, is told that their rights remain intact. Yet the authority expected to protect those rights is the same authority that violated them.[37]

The definition, in other words, was built for a world in which states protect their citizens. It offers little protection to children living in countries where that assumption does not hold.

3. The IDP-Refugee Distinction and Its Consequences for Children

The distinction between internally displaced persons and refugees has significant legal consequences for displaced children. Two children fleeing the same conflict may find themselves under markedly different protection frameworks depending only on whether they cross an international border. The child who crosses may access the protection regime of the 1951 Refugee Convention, a convention that, despite its limitations, provides a recognized legal status. That institutional support through UNHCR, and a range of specific legal protections, including the principle of non-refoulement. The child who remains within their country does not receive any of these guarantees. They are classified as an IDP, dependent on the non-binding Guiding Principles and the general framework of international human rights and humanitarian law.[38]

One of the principal criticisms of this difference is that the legal status depends on border crossing rather than on the protection itself. Displaced children rarely influence the legal category into which they fall. A child displaced in a remote province of Afghanistan may face the same risks of violence, family separation, loss of education, and humanitarian deprivation as a child who succeeds in crossing the border in neighboring countries. Yet international law recognizes these children within significantly different protection frameworks, despite the similarity of their underlying vulnerabilities. This gap reflects the historical development of international refugee law rather than any principled difference in the needs of displaced children.[39]

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[37] David James Cantor, "'The IDP in International Law'? Developments, Debates, Prospects," *International Journal of Refugee Law* 30, no. 2 (October 2018): 191–217, https://doi.org/10.1093/ijrl/eey031.

[38] Guy S. Goodwin-Gill, Jane McAdam, and Emma Dunlop, *The Refugee in International Law*, 4th ed. (Oxford: Oxford University Press, 2021).

[39] Cohen and Deng, *Masses in Flight*.

Cohen and Deng identified this protection gap more than two decades ago. In practice, the situation in Afghanistan illustrates that this protection gap remains both real and significant. Despite having one of the largest populations of internally displaced children in the world, the vast majority of Afghan displaced children have no access to international protection law compared to that available to refugees. Subsequent developments, including the global trend toward border closure, have rendered this gap more acute. Whether Guiding Principles and applicable human rights law constitute an adequate response to the specific and extreme circumstances of post-2021 Afghanistan is the central question this thesis addresses.[40]

4. Children as a Particularly Vulnerable Group within the IDP Population

Internally displaced populations have a particular place for children. They are developing physically, mentally, and emotionally. This depends on circumstances that often jeopardize security, stability, family continuity, and access to education. This is not merely a humanitarian concern. It provides the legal principle for treating children as a distinct category of rights holders under the Convention on the Rights of the Child and for recognizing the need for enhanced protection measures in situations of displacement.[41]

Displacement doesn't only remove a child from their home. It disrupts the social and developmental milieu in which children are brought up. There is research to suggest that conflict displacement can have effects on children beyond developmental delay. It destroys basic support structures that development depends on. Long-term cognitive and emotional consequences for a child displaced at an early age can extend far beyond the period of displacement.[42]

Displacement makes children especially vulnerable to protection risks due to their age, dependency, and developmental needs. Adolescent boys are more vulnerable to recruitment by armed forces and groups, particularly in contexts where family structures have been disrupted, and

[40] UNICEF, *Humanitarian Action for Children 2025 – Afghanistan* (2025), https://www.unicef.org/media/165986/file/2025-HAC-Afghanistan.pdf; Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026*.

[41] Convention on the Rights of the Child, 1577 UNTS 3 United Nations Treaty Series (1989), https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child; UN. Committee on the Rights of the Child, ed., *General comment no. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1)* (Geneva: UN, 29), https://digitallibrary.un.org/record/778523.

[42] Ziba Vaghri, Zoë Tessier, and Christian Whalen, "Refugee and Asylum-Seeking Children: Interrupted Child Development and Unfulfilled Child Rights," *Children* 6, no. 11 (November 2019): 120, https://doi.org/10.3390/children6110120.

economic desperation increases children's vulnerability. Children who are separated from their families are at higher risk of exploitation, trafficking, and violence. Children with disabilities are twice as vulnerable when support systems that enable them to participate in the life of the community are destroyed. Young children face acute risks of malnutrition and preventable disease at rates significantly higher than in stable communities. The significance of these risks extends beyond humanitarian considerations, as they engage rights specifically protected under international human rights law and the Convention on the Rights of the Child, including the rights to development, education, health, and protection from exploitation. In Afghanistan, where nearly seven million persons were internally displaced at the end of 2025, a substantial proportion of them children, these vulnerabilities provide the practical context within which the adequacy of the legal framework must be assessed.[43]

B. The Guiding Principles on Internal Displacement

1. The Paradox at the Heart of the Guiding Principles

The 1998 Guiding Principles were framed as soft law. This was not a failure of ambition. It was a calculated political choice, and one whose consequences continue to define the limits of IDP protection today. The drafters understood the political reality: states would not accept binding obligations to protect populations that those same states had often displaced in the first place. Soft law was the price of comprehensiveness. By abandoning binding force, the drafters purchased the freedom to articulate norms that no treaty process would have produced. The result is an instrument that is normatively ambitious but institutionally constrained. It articulates rights without providing the means to enforce them.[44]

Soft law is not a lesser form of law. It is a different form. Soft law instruments are not formally binding, but they are not legally irrelevant either. They shape how states behave, inform

[43] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026*; UNICEF, *Humanitarian Action for Children 2025 – Afghanistan*.

[44] Jane McAdam, "The Guiding Principles on Internal Displacement: 20 Years On," *International Journal of Refugee Law* 30, no. 2 (October 2018): 187–90, https://doi.org/10.1093/ijrl/eey024; Phil Orchard, "Protection of Internally Displaced Persons: Soft Law as a Norm-Generating Mechanism," *Review of International Studies* 36, no. 2 (April 2010): 281–303, https://doi.org/10.1017/S0260210510000033; Walter Kälin, "Treaties, Laws, and Other Standards," in *Internal Displacement and the Law*, ed. Walter Kälin (Oxford University Press, 2023), 0, https://doi.org/10.1093/oso/9780192899316.003.0004.

how binding norms are interpreted, and reflect where international consensus is moving. The key question is therefore not whether a soft law instrument binds; by definition, it does not. The question is how much normative weight it carries, whether it restates existing customary law, and what follows legally when it is violated. For the Guiding Principles, none of these questions have simple answer.[45]

This paradox has been the central concern of the scholarly literature on the Guiding Principles since their adoption. One influential view holds that the principles derive their authority from the underlying norms they restate, norms drawn from international human rights law and humanitarian law. On this view, the instrument itself is secondary. What matters is the binding law behind it. Under this approach, violations of the principles may also constitute violations of binding international law, notwithstanding their non-binding character. While this approach provides a persuasive explanation for the authority of the principles, it does not fully resolve concerns about practical effectiveness. Where the underlying legal obligations are difficult to enforce, as in contexts of non-state actor control, the principles offer little more than the norms they restate.[46]

A more optimistic assessment suggests that the Guiding Principles have acquired increasing normative authority through their incorporation into domestic legislation, regional instruments, and the operational frameworks of international organizations. The 2009 Kampala Convention in Africa is frequently cited as evidence of this development. It transforms many of the principles into binding treaty obligations for African Union member states. But the African experience also highlights, by contrast, the absence of any equivalent regional instrument in Asia. No binding regional framework exists for internal displacement in Afghanistan or its neighbors. The protection of displaced children in that context depends entirely on the global soft-law framework of the Guiding Principles and general international human rights law. This regional gap is not a technical

[45] Thürer and Daniel, "Soft Law," Oxford Public International Law, Oxford: Oxford University Press, accessed June 13, 2026, https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e1469; Emily Crawford, "What Is 'Soft' Law? An Analysis of the Concept of Non-Binding Instruments and Provisions in International Law," in *Non-Binding Norms in International Humanitarian Law: Efficacy, Legitimacy, and Legality*, ed. Emily Crawford (Oxford University Press, 2021), 0, https://doi.org/10.1093/oso/9780198819851.003.0002.

[46] Thomas McGee, "Internal Displacement and the Law," *International Journal of Refugee Law* 37, no. 1 (March 2025): 147–49, https://doi.org/10.1093/ijrl/eeaf007; Francis M. Deng and Romola Adeola, "The Normative Influence of the UN Guiding Principles on the Kampala Convention in the Protection of Internally Displaced Persons in Africa," *Journal of African Law* 65, no. S1 (May 2021): 59–72, https://doi.org/10.1017/S0021855321000048.

oversight. It is a structural feature of the international protection architecture, and one with concrete consequences for the children this thesis concerns.[47]

This thesis argues that neither strong optimism regarding the normative evolution of the Guiding Principles nor straightforward soft law pessimism fully captures their legal significance. Their legal force varies according to the nature of individual provisions and the extent to which they reflect binding norms of international law. The analytical task pursued throughout this chapter is therefore to assess the principles not as a monolithic instrument but as a composite of norms with different degrees of legal force and different implications for accountability.

2. The Legal Foundations of the Guiding Principles

One of the most analytically significant features of the Guiding Principles is their explicit claim to derive from existing international law, from international human rights law, international humanitarian law, and international refugee law by analogy. This claim matters because it determines the legal force of the principles in contexts where they have not been incorporated into binding instruments. If the Principles merely restate existing binding norms, a state that violates them may be violating binding international law regardless of the principles' own non-binding status. If, on the other hand, the principles articulate norms not yet settled in customary international law, their violation may engage no binding obligation at all.[48]

The reality is more complex than either position suggests. Detailed legal analyses of the Guiding Principles reveal that the majority of their provisions can be directly traced to existing obligations under international human rights law and international humanitarian law. This relationship is shown in several articles. Article 10 prohibits attacks on internally displaced persons, which is in line with the prohibition on attacks on civilians under customary international humanitarian law. Similarly, Article 18 is based on Article 11 of the International Covenant on Economic, Social, and Cultural Rights. Principle 23 is very similar to the right to education protected by Article 28 of the Convention on the Rights of Children. For these Principles, the claim

[47] Adama Dieng, "Protecting Internally Displaced Persons: The Value of the Kampala Convention as a Regional Example," *International Review of the Red Cross* 99, no. 904 (April 2017): 263–82, https://doi.org/10.1017/S1816383117000613; Maame Efua Addadzi-Koom, "Breathing Life into the Kampala Convention: Towards Workable Enforcement Mechanisms," *Journal of African Law* 67, no. 3 (October 2023): 329–47, https://doi.org/10.1017/S0021855323000219.

[48] Bríd Ní Ghráinne, *Internally Displaced Persons and International Refugee Law* (Oxford University Press, 2022).

to restate existing law is well-founded. However, there are also Principles, particularly those addressing institutional responsibilities and durable solutions, that extend beyond what existing binding law clearly requires. Their violation may not engage the same level of legal obligation.[49]

This difference is especially important for this thesis. Many of the rights most relevant to displaced children, such as education, family unity, and protection from exploitation, already exist as binding obligations under the Convention on the Rights of the Child. Hence, the question is not whether these rights exist, but to what extent the Guiding Principles reinforce, clarify, or extend them. The answer to that question is central to an assessment of the legal protection available to internally displaced children in Afghanistan. The analytical task pursued throughout this chapter is therefore to distinguish between provisions that reflect existing binding law and those that represent broader normative aspirations, rather than treating the Guiding Principles as a monolithic instrument possessing uniform legal force.[50]

3. The Kampala Convention as a Comparative Model for IDP Protection

The most significant regional development in IDP protection law is the 2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, known as the Kampala Convention. By transforming the content of the Guiding Principles into binding treaty law for African states, it demonstrates that the normative framework of the Guiding Principles is capable of generating hard law obligations. The soft law compromise adopted in 1998 appears to have reflected political constraints rather than any inherent legal obstacle to the development of binding standards.[51]

The Convention's substantive provisions closely track the Guiding Principles. It imposes binding obligations on states parties to prevent arbitrary displacement, to protect and assist IDPs during displacement, and to facilitate durable solutions. It extends obligations to non-state armed groups, requiring them to refrain from causing displacement and from violating the rights of

[49] UNHCR and ICRC, *Manual on Internal Displacement* (Geneva: United Nations, 2022), https://www.onlinelibrary.iihl.org/wp-content/uploads/2023/03/2022-UNHCR-ICRC-Manual-on-Internal-Displacement.pdf.

[50] Romola Adeola, *The Internally Displaced Person in International Law* (Cheltenham: Edward Elgar Publishing, 2020), https://www.elgaronline.com/monobook/9781788975445.xml.

[51] Adeola, Romola, *The Impact of the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa*, 19 (January 2019), https://doi.org/10.17159/1996-2096/2019/v19n2a2; African Union, "African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)," October 23, 2009.

displaced persons. Article 9 imposes specific obligations regarding the special needs of internally displaced children. The inclusion of child-specific obligations is particularly noteworthy because it reflects an understanding that internally displaced children cannot be adequately protected through general displacement norms alone. More importantly, the Convention establishes monitoring mechanisms, including reporting to the African Union Commission, which are absent from the global Guiding Principles framework. This suggests that a significant weakness of the global regime lies not in the absence of normative standards, but in the absence of institutional mechanisms capable of promoting compliance.[52]

Unlike Africa, Asia has not developed a binding regional framework governing internal displacement. As a result, states in the region remain outside any regional regime specifically designed to protect internally displaced persons. The protection of IDPs, therefore, continues to depend primarily on the global framework provided by international human rights law and the Guiding Principles. This regional gap provides an important comparative perspective for assessing the adequacy of the protection framework applicable to internally displaced children in Afghanistan.[53]

3. Assessing the Child-Specific Provisions of the Guiding Principles

The child-specific provisions of the Guiding Principles warrant careful critical examination. They provide important protections for displaced children, yet significant gaps remain in their substantive content. Principle 4(2) identifies children, and particularly unaccompanied children, as among the categories of IDPs entitled to enhanced protection and assistance. As a normative statement, the provision is significant. It acknowledges that children are not simply a subset of the general IDP population; they are a distinct group with distinct needs. Yet the provision offers little guidance on what enhanced protection should actually look like. It identifies a category of heightened vulnerability without specifying what a rights-based response to that vulnerability

[52] Adeola, Romola, *The Impact of the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa*.

[53] Naziye Dirikgil, "Addressing the Prevention of Internal Displacement: The Right Not to Be Arbitrarily Displaced," *Journal of International Migration and Integration* 24, no. 1 (March 2023): 113–38, https://doi.org/10.1007/s12134-022-00935-4; UNHCR, *Asia and the Pacific Regional Trends: Forced Displacement and Statelessness 2023* (Geneva: UNHCR, 2024), https://www.unhcr.org/af/sites/af/files/2024-08/asia_the_pacific_regional_trends_-_forcibly_displaced_and_stateless_persons_2023_1.pdf.

requires in practice. For unaccompanied children living in displacement settings who face acute risks of trafficking, exploitation, and recruitment, this silence limits the practical guidance that Principle 4(2) can provide in responding to their specific vulnerabilities.[54]

Principle 13 is arguably the strongest of the child-specific provisions. It directly restates the prohibition on recruiting children under fifteen into armed forces and groups, a norm reflected in Rule 136 of the ICRC Study on Customary International Humanitarian Law and widely recognized as binding on all parties to armed conflict, irrespective of treaty ratification. For displaced children, who are particularly vulnerable to recruitment by reason of family separation and economic desperation, this prohibition addresses a real and acute protection need. What the Guiding Principles do not resolve, however, is the question of how this prohibition should be operationalized in displacement settings where state authority has broken down, and non-state armed groups operate with impunity. Reports of the United Nations Secretary-General on Children and Armed Conflict have consistently documented the recruitment of children by non-state armed groups in a range of conflict-affected settings, illustrating that Principle 13 identifies a real and persistent protection challenge without specifying how displaced children should be protected from it in practice.[55]

Principle 17 and Principle 23 address family unity and education, respectively, two of the most critical determinants of child well-being and protection during displacement. Both restate rights independently protected under binding instruments: Article 9 of the CRC on family unity, and Article 28 on education. This is their strength. Their limitation lies elsewhere. Neither principle provides detailed guidance on how family reunification should be pursued when displacement has scattered family members across multiple locations or when civil documentation has been destroyed. Nor do they provide detailed guidance on how education should be delivered to children living in informal settlements without access to schools, teachers, or documentation. The Guiding

[54] United Nations, "Guiding Principles on Internal Displacement," United Nations, 1998, https://docs.un.org/en/e/cn.4/1998/53/add.2 (direct UN document link); UNODC, *Global Report on TRAFFICKING IN PERSONS 2024*, Global Report (Geneva: United Nations Office on Drugs and Crime, 2024), https://www.unodc.org/unodc/en/data-and-analysis/glotip.html; Mara Sanfelici, Barry Wellman, and Silvana Mordeglia, "Unaccompanied Minors' Needs and the Child Welfare Response," *Journal of Social Work* 21, no. 6 (November 2021): 1533–52, https://doi.org/10.1177/1468017320958145.

[55] Jean-Marie Henckaerts and Louise Doswald-Beck, "Children (Rules 135–137)," in *Customary International Humanitarian Law, Vol. 1: Rules*, vol. 1 (Cambridge: Cambridge University Press/ICRC, 2005), https://ihl-databases.icrc.org/en/customary-ihl/v1/rule136; United Nations Secretary-General, *Children and Armed Conflict: Report of the Secretary-General*, A/79/883-S/2025/441 (New York: United Nations, 2025), https://documents.un.org.

Principles recognize that family separation and loss of education are among the gravest consequences of displacement for children. They provide only limited guidance on how these consequences should be addressed. These limitations do not negate the importance of the child-specific provisions. Rather, they illustrate the continuing gap between the recognition of children's vulnerabilities and the development of sufficiently detailed protection standards capable of addressing them.[56]

C. Protection from Arbitrary Displacement

1. The Prohibition of Arbitrary Displacement: Scope and Legal Consequences

Few norms in the international framework for IDP protection are more important than the prohibition of arbitrary displacement, and few are more difficult to apply in practice. The term arbitrary carries real legal weight, but its precise meaning remains contested, and that contest has consequences. A prohibition whose boundaries remain uncertain is difficult to enforce consistently in practice.[57]

The relationship between legality and arbitrariness is not straightforward. International practice has repeatedly demonstrated that compliance with domestic law does not, by itself, prevent a measure from being characterized as arbitrary under international law. The fact that a displacement order is authorized by national legislation does not remove it from international scrutiny. International law requires an additional assessment of purpose, of necessity, and of proportionality. A government that displaces a community to seize land, punish dissent, or alter the demographic character of a region may act entirely within its own legal framework. Under international law, it remains accountable. States may require the temporary evacuation of civilians

[56] Convention on the Rights of the Child; Christelle Cazabat, Heather Livingood, and Jasper Linke, "Displacement and Education: The Challenge of Accessibility for IDP Children Worldwide," Researching Internal Displacement, April 2025, https://researchinginternaldisplacement.org/short_pieces/displacement-and-education-the-challenge-of-accessibility-for-idp-children-worldwide/; Neil Boothby, "Legal Frameworks and Practical Challenges: A Review of the Enduring Failure to Prevent Family Separations in Armed Conflicts," *Frontiers in Psychology* 16 (November 2025): 1629843, https://doi.org/10.3389/fpsyg.2025.1629843.

[57] Naziye Dirikgil, "Addressing the Prevention of Internal Displacement: The Right Not to Be Arbitrarily Displaced," *Journal of International Migration and Integration* 24, no. 1 (March 2023): 113–38, https://doi.org/10.1007/s12134-022-00935-4; United Nations High Commissioner for Refugees (UNHCR) and Global Protection Cluster (GPC), *Making Arbitrary Displacement a Crime: Law and Practice* (Geneva: Global Protection Cluster, n.d.), accessed June 16, 2026, https://www.refworld.org/reference/factfinding/gpc/2022/en/147315.

when genuine military necessity demands it. What they may not do is use displacement as an instrument of control. That distinction is both legally critical and, in practice, routinely ignored.[58]

Once displacement is characterized as arbitrary, the analysis moves into the realm of state responsibility. The consequence is not merely political criticism but the engagement of the secondary rules of international law. Under the Articles on Responsibility of States for Internationally Wrongful Acts, adopted by the International Law Commission in 2001, the responsible state is obliged to cease the wrongful conduct, provide assurances of non-repetition, and make full reparation for the injury caused. These obligations arise automatically; they do not depend on the political will of the responsible state to acknowledge them. Lawful displacement, by contrast, gives rise to a different set of obligations: to ensure that displacement does not become permanent, that those displaced are treated humanely, and that conditions for return are actively created. It is submitted that the existing framework defines this distinction with considerably less precision than its importance demands.[59]

For children, the arbitrariness analysis cannot stop there. A displacement order that satisfies the general standard applicable to adults may nonetheless violate international law if it fails to account for the specific situation of children. General Comment No. 14 explains that the best interest principle operates simultaneously as a substantive right, a procedural rule, and a principle of interpretation. As a rule of procedure, it demands something concrete. Before measures affecting children are adopted, decision-makers must demonstrate that the best interests of the child have been actively considered and that this assessment has influenced the final decision. A state may order displacement in a manner that satisfies the general arbitrariness standard and yet still violate the CRC. This may occur where the decision fails to adequately consider the impact of displacement on children's access to education, psychological well-being, family unity, and health services. This intersection between IDP law and child rights law remains comparatively underdeveloped within much of the literature on internal displacement, which continues to focus primarily on displacement as a general protection problem while giving comparatively limited

[58] Dirikgil, "Addressing the Prevention of Internal Displacement," March 2023.

[59] International Law Commission, "Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries," Geneva: United Nations, 2001, https://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf; James Crawford and Freya Baetens, "The ILC Articles on State Responsibility: More than a 'Plank in a Shipwreck'?," *ICSID Review - Foreign Investment Law Journal* 37, nos. 1–2 (June 2022): 13–19, https://doi.org/10.1093/icsidreview/siab048.

attention to the distinct legal consequences that displacement produces for children. This imbalance is particularly significant because children often experience displacement differently from adults and may require additional forms of protection under international law.[60]

2. Internal Displacement Under International Humanitarian Law

Article 17(1) of Additional Protocol II contains the most explicit treaty prohibition of arbitrary displacement in non-international armed conflicts. It applies to non-international armed conflicts, the category that has defined most contemporary displacement crises, and its language is worth reading carefully: The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. This provision establishes a presumption against displacement. It can be rebutted only in the narrowest of circumstances, the security of the civilians themselves, or imperative military necessity. Such displacement cannot be justified on grounds of military necessity where the underlying purpose is ethnic, political, or demographic in nature.[61]

The customary status of this prohibition, reflected in Rule 129 of the ICRC Study on Customary International Humanitarian Law and complemented by Rule 131 concerning the treatment of displaced persons, means that it binds all parties to armed conflicts regardless of treaty ratification. This is particularly significant because non-state armed groups are bound by the prohibition regardless of whether they possess international legal personality or are party to the relevant treaties. Rule 131 is particularly significant for children: it requires that in any case of displacement, all possible measures must be taken to ensure that displaced civilians are received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition. For children, Rule 131 matters in ways that extend beyond mere survival. The protection offered by Rule 131 cannot be assessed solely in terms of physical survival. For children, displacement may generate long-term developmental, educational, and psychosocial harms even where immediate humanitarian

[60] Elena Fiddian-Qasmiyeh et al., "Children and Forced Migration," in *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford University Press, 2014); UN. Committee on the Rights of the Child, *General comment no. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1)*.

[61] "Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)," Treaty, United Nations Treaty Series, 1977, art. 171, https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-additional-geneva-conventions-12-august-1949-and-0.

needs are partially met. These are harms that humanitarian law addresses only indirectly and incompletely, and they therefore require engagement with a broader legal framework.[62]

Although IHL provides a robust framework for determining when displacement is unlawful and for regulating the treatment of displaced persons during armed conflict, it offers only limited guidance regarding the longer-term consequences of displacement, particularly for children. A child's right to education, to psychosocial recovery, to family reunification, to a durable solution: none of these are questions that IHL answers fully. It requires engagement with international human rights law, which addresses many of the child-specific consequences of displacement that fall beyond the immediate scope of IHL.[63]

3. The Human Rights Law Prohibition: Convergence and Complementarity

The prohibition on arbitrary displacement under international human rights law operates through a different mechanism than the IHL prohibition but reaches the same essential conclusion. Rather than a single provision directly addressing displacement, the IHRL prohibition is built from the convergence of multiple rights whose enjoyment displacement necessarily impairs. Several ICCPR provisions converge to support this prohibition. Article 12 protects freedom of movement and choice of residence. Article 17 protects privacy and the home. Article 6 protects life itself. None of these provisions mentions displacement by name, yet together they form the legal basis on which the prohibition rests. Two further provisions matter for children specifically. Article 7 prohibition of inhuman or degrading treatment is engaged when displacement exposes children to conditions that compromise their physical or psychological integrity. Article 23 protection of the family is engaged when displacement tears families apart, which it does routinely. Taken together,

[62] "Rule 129. The Act of Displacement," Customary IHL Database, accessed June 18, 2026, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule129; International Committee of the Red Cross, "Rule 131. Treatment and Protection of Displaced Persons," Customary IHL Database, accessed June 18, 2026, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule131; United Nations High Commissioner for Refugees (UNHCR) and Global Protection Cluster (GPC), *Making Arbitrary Displacement a Crime*.

[63] UN. Committee on the Rights of the Child, *General comment no. 14 (2013) on the right of the child to have his or her best interests taken as primary consideration (art. 3, para. 1)*, no. 14 2013; United Nations High Commissioner for Refugees (UNHCR) and Global Protection Cluster (GPC), *Global Report on Law and Policy on Internal Displacement: Implementing National Responsibility* (Geneva: UNHCR and GPC, 2025), 75–86, 105–12, https://www.unhcr.org/media/global-report-law-and-policy-internal-displacement-implementing-national-responsibility.

these provisions do two things. They tell states what not to do, not to cause arbitrary displacement. And they tell states what to do, to take action against foreseeable risks of it.[64]

The relationship between IHL and IHRL in displacement contexts has been the subject of sustained scholarly debate, with significant implications for the analysis of arbitrary displacement. The traditional view, associated with the lex specialist principle, holds that IHL takes precedence over IHRL in situations of armed conflict. More recent scholarship, however, has questioned whether IHL and IHRL should be viewed as competing frameworks at all. Milanovic has challenged the traditional position, arguing that lex specialis does not operate as a general rule of priority between the two bodies of law but only in relation to specific norms that are genuinely in conflict, and that in most situations, including most displacement situations, IHL and IHRL are complementary rather than conflicting, each reinforcing the obligations of the other. Sassòli has similarly argued for a model of complementarity, with IHL setting the floor in situations of active hostilities and IHRL providing broader and more flexible protection across the full spectrum of conflict and post-conflict conditions. This is not an abstract academic disagreement. The prevailing view determines how much protection a displaced child actually has.[65]

The practical consequence is that a displaced child is the simultaneous beneficiary of both IHL and IHRL protections. IHL establishes important safeguards against unlawful displacement and provides minimum standards of treatment during displacement. IHRL fills in where IHL leaves off. It is concerned with what happens to a child's education when school disappears, what happens to their health when clinics are destroyed, and what happens to family life when displacement

[64] UN Human Rights Committee, *CCPR General Comment No. 27: Article 12 (Freedom of Movement)*, CCPR/C/21/Rev.1/Add.9 (United Nations, 1999), https://www.refworld.org/legal/general/hrc/1999/46752; UN Human Rights Committee, *CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation* (Geneva: United Nations, 1988), https://www.refworld.org/legal/general/hrc/1988/27539; UN Human Rights Committee, *General Comment No. 6: Article 6 (Right to Life)* (United Nations, 1982), https://www.refworld.org/legal/general/hrc/1982/32185; UN Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)* (Geneva: United Nations, n.d.), art. 7, accessed June 19, 2026, https://www.refworld.org/legal/general/hrc/1992/11086; UN Human Rights Committee, *General Comment No. 19: Article 23 (The Family) Protection of the Family, the Right to Marriage and Equality of the Spouses* (Geneva: United Nations, 1990), https://www.refworld.org/legal/general/hrc/1990/38884; Kälin, *Guiding Priciples on Internal Displacement Annotations*.

[65] Office of the United Nations High Commissioner for Human Rights, *International legal protection of human rights in armed conflict* (New York; Geneva: United Nations, 2011), 13–22, https://digitallibrary.un.org/record/717182; United Nations High Commissioner for Refugees (UNHCR) and Global Protection Cluster (GPC), *Global Report on Law and Policy on Internal Displacement*.

scatters everyone in different directions. Put the two bodies of law side by side, and the protection they offer a displaced child is genuinely greater than either could provide on its own. This complementarity, however, has its limits. Where both bodies of law remain dependent on functioning state institutions for their implementation, their combined protective value diminishes precisely in the contexts where displaced children need it most.[66]

4. State Responsibility for Arbitrary Displacement

The prohibition of arbitrary displacement acquires practical significance only if violations generate legal consequences. Without such consequences, the prohibition risks becoming little more than a statement of principle. It is at this point that the law of state responsibility becomes relevant. The question is no longer whether arbitrary displacement is unlawful; that much is clear, but who bears responsibility for the violation and what consequences follow from it. Two conditions must be satisfied before responsibility attaches: the conduct must be attributable to a state, and that conduct must constitute a breach of an obligation binding upon it.[67]

Where both conditions are met, international law is reasonably clear about what follows. The responsible state must cease the wrongful conduct, provide credible assurances that it will not recur, and make full reparation for the harm caused. For internally displaced children, this matters more than it might first appear. Displacement rarely affects a single right in isolation. A child forced from their home may simultaneously lose access to education, healthcare, the family members who provided stability, and protection from violence. The legal consequences of one wrongful act,

[66] Nana Charles Nguindip, "The Right to Family Reunification of Displaced Children in Armed Conflict: Crossing Legal Borders in the Implementation of International Humanitarian and Human Right Law," *Journal of Family & Adoption Law* 1, no. 1 (2018): 38–47, https://www.academia.edu/download/61209252/96-73-747-1-10-20190302201911 13-59591-1f2frp3.pdf; Nikita Govender, "Through the Lens of the ICJ: Bridging the Gap between Human Rights and Humanitarian Norms in the Legal Protection for Child Soldiers," *Potchefstroom Electronic Law Journal (PELJ)* 27, no. 1 (2024): 1–31, https://www.scielo.org.za/scielo.php?pid=S1727-37812024000100023&script=sci_arttext.

[67] Romola Adeola, "The Right Not to Be Arbitrarily Displaced under the United Nations Guiding Principles on Internal Displacement," *African Human Rights Law Journal* 16, no. 1 (2016): 93, https://www.scielo.org.za/scielo.php?pid=S1996-20962016000100005&script=sci_arttext; Ngueumaga Kameni V. Gerard Tresor, "State Responsibility and Accountability Mechanisms in the Protection of Internally Displaced Persons under Contemporary International Law: The Case of Cameroon," *European Scientific Journal (ESJ)* 22 (2026): 34-47, https://www.academia.edu/download/131522865/2.pdf.

therefore, extend across an interconnected set of rights, not because the law constructs them that way, but because that is how displacement is actually experienced.[68]

There is, however, a complication that the framework does not resolve easily. State responsibility presupposes that the responsible state can be identified. That assumption becomes considerably less straightforward when effective authority is exercised by an entity other than an internationally recognized government. The ILC Articles attempt to address this by extending attribution to entities exercising elements of governmental authority. In practice, however, the application of this principle to situations of prolonged and contested control remains far less settled than the text of the Articles suggests.[69]

D. Basic Principles of Children's Protection during Displacement

1. The CRC as the Foundation: Strengths and Structural Limits

The Convention on the Rights of the Child commands near-universal acceptance: 196 states are party to it. Yet ratification and implementation are two different things, and nowhere is the distance between them more visible than in displacement settings. A state can accept every obligation the CRC imposes and still fail, systematically, to deliver on them once its own population is scattered by conflict or disaster. Understanding what the CRC actually requires for displaced children, and why so much of it goes unmet, is the task of this section.[70]

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[68] Marko Milanovic, "Special Rules of Attribution of Conduct in International Law," *International Law Studies* (Rochester, NY) 96 (June 2020): 303, https://papers.ssrn.com/abstract=3623309; Romola Adeola and Benyam D. Mezmur, "The Protection of Internally Displaced Children in Africa: A Doctrinal Analysis of Article 23(4) of the African Children's Charter," *Journal of African Law* 65, no. S1 (May 2021): 117, https://doi.org/10.1017/S002185532100005X.

[69] Vladyslav Lanovoy, "The Use of Force by Non-State Actors and the Limits of Attribution of Conduct," *European Journal of International Law* 28, no. 2 (May 2017): 566-574, https://doi.org/10.1093/ejil/chx025; Kristen Boon, "Are Control Tests Fit for the Future? The Slippage Problem in Attribution Doctrines," *Melbourne Journal of International Law* (Rochester, NY) 15, no. 2 (2014): 3,4,16, https://papers.ssrn.com/abstract=2495526.

[70] Ursula Kilkelly, "The UN Convention on the Rights of the Child: Incremental and Transformative Approaches to Legal Implementation," *The International Journal of Human Rights* 23, no. 3 (March 2019): 323–37, https://doi.org/10.1080/13642987.2018.1558974; Tara M. Collins, "The General Measures of Implementation: Opportunities for Progress with Children's Rights," *The International Journal of Human Rights* 23, no. 3 (March 2019): 338–56, https://doi.org/10.1080/13642987.2018.1558976; Jeanette A. Lawrence et al., "The Rights of Refugee Children and the UN Convention on the Rights of the Child," *Laws* 8, no. 3 (September 2019): 20, https://doi.org/10.3390/laws8030020.

The four general principles of the CRC, non-discrimination under Article 2, the best interests of the child under Article 3, the right to life and development under Article 6, and the right to be heard under Article 12, provide the interpretive foundation for the entire Convention and must inform the analysis of every other provision. For displaced children, these principles do not merely set aspirational standards; they impose specific legal obligations on duty bearers. The non-discrimination principle requires that displaced children have access to the same rights and services as non-displaced children, an obligation that states consistently violate by conditioning access to education, health, and documentation on proof of residence or registration that displaced children cannot provide. The best interest principle requires that displacement-related decisions be made with active consideration of children's specific interests and vulnerability, an obligation that is routinely ignored in the military and political decision-making processes that generate displacement.[71]

The right to life and development under Article 6 is perhaps the most demanding of the general principles in the displacement context. The Committee on the Rights of the Child has interpreted 'development' broadly, including cognitive, emotional, social, and physical. All of these are compromised by displacement, often simultaneously. A state does not discharge its Article 6 obligation merely by keeping displaced children alive. It must create conditions in which they can develop. In settings marked by insecurity, poverty, family disruption, and lack of access to education and health services, that is an extraordinarily demanding standard. It is also one that is rarely met.[72]

[71] Bill Van Esveld, "A Will and a Way: Making Displaced Children's Right to Education Enforceable," *Laws* 12, no. 1 (February 2023): 16, https://doi.org/10.3390/laws12010016; Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Iraq*, CRC/C/IRQ/CO/5-6 (Geneva: United Nations, 2025), 18; Lisa R. Fortuna and Michelle V. Porche, "Upholding the Human Rights and Well-Being of Refugee Children Through Effective Clinical Care," *Child and Adolescent Psychiatric Clinics of North America* 33, no. 2 (April 2024): 111–24, https://doi.org/10.1016/j.chc.2023.09.003.

[72] Deborah Casalin, *Durable Solutions for IDPs: Normative Anchors in International Human Rights Law Working Paper No. 37*, n.d.; Committee on the Rights of the Child, *General Comment No. 7 (2005): Implementing Child Rights in Early Childhood*, CRC/C/GC/7/Rev.1 (UN Committee on the Rights of the Child (CRC), 2006), https://www.ref world.org/legal/general/crc/2006/40994.

2. Specific Rights and Their Application to Displaced Children

Article 22 represents the CRC's most direct response to the vulnerabilities created by displacement. It requires states to ensure that displaced and refugee children receive appropriate protection and humanitarian assistance. Although framed in relatively general terms, the provision has been interpreted broadly by the Committee on the Rights of the Child. General Comment No. 6, though formally addressed to unaccompanied children outside their country of origin, has been read as applying by analogy to displaced children generally, including IDPs. The Committee's insistence on the best interests of the child as a primary consideration is not a vague aspiration. It is meant to govern the conditions of displacement itself, the services provided during it, and the planning of whatever comes after. Few other provisions of the CRC ask this much of a single principle.[73]

Education warrants separate consideration in this context, not because it has not already been discussed in this chapter, but because the CRC frames it differently than the Guiding Principles do. Articles 28 and 29 do not simply protect access to schooling. They tie education to a child's broader development, personality, talents, and mental and physical capacity.[74] What this framing makes visible is something easy to lose in lists of physical barriers: education is not just one right among many that displacement disrupts. It is one of the few mechanisms that can protect children from the other harms displacement creates: recruitment, exploitation, and despair. Its los

[73] Committee on the Rights of the Child, *General Comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside Their Country of Origin*, CRC/GC/2005/6 (United Nations Committee on the Rights of the Child, Geneva), 19–33, https://www.refworld.org/legal/general/crc/2005/38046; Christian Whalen, "Article 22: The Right to Protection for Refugee and Asylum-Seeking Children," in *Monitoring State Compliance with the UN Convention on the Rights of the Child*, ed. Ziba Vaghri et al. (Cham: Springer International Publishing, 2022), 360–364, https://doi.org/10.1007/978-3-030-84647-3_36; Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child, *Joint General Comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the General Principles Regarding the Human Rights of Children in the Context of International Migration*, CMW/C/GC/3-CRC/C/GC/22 (Geneva: UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), 2017),paras. 29–33 https://www.refworld.org/legal/general/cmw/2017/en/149169; Committee on the Rights of the Child, *General Comment No. 6 (2005)*.

[74] Whalen, "Article 22,"360-365.

is rarely a temporary inconvenience. For children who are out of school for years rather than months, the disruption compounds rather than resolves.[75]

The right to health under Article 24 and the right to an adequate standard of living under Article 27 work together to set a floor below which no displaced child should fall, yet they are routinely breached.[76] What makes this breach legally significant, rather than merely tragic, is that the harms in question are traceable. Stunting, cognitive impairment, preventable death: these outcomes correlate with specific, identifiable failures, failures to provide clean water, failures to maintain health services, failures to ensure adequate shelter. From a human rights perspective, such outcomes should not be viewed merely as unfortunate consequences of conflict or disaster, but as potential failures to fulfil legal obligations.[77] The HRBA framework insists on this distinction.

There is one further dimension of the CRC that the chapter has not yet addressed: the protections against violence, exploitation, and unlawful detention under Articles 19, 35, and 37. These provisions matter because they protect children from things that other actors, armed groups, traffickers, and sometimes the state itself, do to them deliberately. Article 37's prohibition on torture is absolute; it admits no exception, no justification, no balancing test.[78] And it requires something specific: that detention, if it happens at all, be a genuine last resort, for the shortest time the circumstances allow. For displaced children, including situations in which children come into contact with security actors during displacement, this is not a minor procedural safeguard. It is frequently the only thing standing between them and prolonged, unlawful confinement.[79]

3. The Human Rights-Based Approach: Transforming the Analysis

The HRBA, established in Chapter One, does more than supply a normative framework. It changes the question being asked. A humanitarian approach asks what displaced children need.

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[75] Hilly Moodrick-Even Khen, "Restoring Children's Right to Education during and after War: The Case of Ukraine," *The International Journal of Children's Rights* 31, no. 1 (April 2023): 225–67, https://doi.org/10.1163/15718182-31010005.

[76] Committee on the Rights of the Child, *General Comment No. 15 (2013) on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (Art. 24)*, CRC/C/GC/15 (Geneva: UN Committee on the Rights of the Child (CRC), 2013), art. 24, https://www.refworld.org/legal/general/crc/2013/96127.

[77] Katharina Bernhardt et al., "Young Children's Development after Forced Displacement: A Systematic Review," *Child and Adolescent Psychiatry and Mental Health* 18, no. 1 (February 2024): 14-16, https://doi.org/10.1186/s13034-024-00711-5.

[78] Committee on the Rights of the Child, *General Comment No. 24 (2019) on Children's Rights in the Child Justice System*, CRC/C/GC/24 (Geneva: United Nations Committee on the Rights of the Child, 2019), paras. 85–95.

[79] Govender, "Through the Lens of the ICJ,"18-25.

The HRBA asks something different: what are they entitled to, who is obligated to provide it, and what follows legally when that obligation is breached. The shift matters because it relocates the conversation from charity to accountability.[80]

In the context of displacement, the HRBA highlights two interconnected layers of responsibility. States and de facto authorities bear the primary obligations, obligations already examined throughout this chapter in relation to specific CRC provisions and IHL norms. What the HRBA adds is not a new list of duties but a way of organizing the ones already discussed: every right examined in the preceding section corresponds to an obligation that some identifiable actor has failed, or succeeded, in meeting.[81]

A second, less obvious layer exists above the state. Article 4 of the CRC and the broader UN Charter framework are often interpreted as requiring forms of international cooperation and assistance that extend beyond mere policy preference. A state with the capacity to assist a population whose children's rights are being systematically violated, and which withholds that assistance for political reasons, does not escape scrutiny simply because it is not the state causing the harm. This is the level of analysis that humanitarian framing tends to overlook entirely: it asks why governments fail their own people, but rarely inquires why the international community fails them as well.[82]

What the HRBA ultimately offers this thesis is not a normative addition but a diagnostic one. It refuses to let displacement be described in the passive voice, as something that happens to children, the way weather happens. Read through the HRBA; every gap identified in this chapter has a name attached to it: a duty bearer who did not respect, did not protect, or did not fulfil.

[80] United Nations Development Group, *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies* (New York: United Nations Development Group, 2003), https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un; Inga C. Storen, "Governance and Duty in Global Refugee Education: A Kantian Perspective," *Frontiers in Education* 9 (July 2024), https://doi.org/10.3389/feduc.2024.1384243.

[81] Anna Bruce and Johanna Sjöwall, *Human Rights-Based Approach for Local Governments – Why, what, and How* (Swedish International Centre for Local Democracy (ICLD),4-7.

[82] Deborah Casalin, "'Development-Oriented'durable Solutions:(Re-) Entry Point for a Human Rights-Based Approach?" *Researching Internal Displacement*, 2022, https://researchinginternaldisplacement.org/wp-content/uploads/2022/04/Casalin_Development-Approaches_250422.pdf.

Whether that duty bearer can actually be held to account is a different question, and one that remains a central challenge within the contemporary protection framework.[83]

4. The Accountability Gap and the Limits of the Legal Framework

This chapter's analysis yields a conclusion that is uncomfortable but unavoidable: the international legal framework for protecting displaced children is normatively sophisticated but institutionally inadequate. The preceding discussion has demonstrated that the rights of displaced children are comprehensively articulated across international human rights and humanitarian law. Taken together, these instruments create a dense normative framework governing the protection of displaced children. The obligations of duty bearers and the legal consequences of their breach are well established. Nevertheless, displaced children remain among the most systematically unprotected populations in the world.[84]

This is not a paradox that can be resolved by better norm articulation. Neither additional legal provisions nor increasingly detailed interpretative guidance can, by themselves, close the accountability gap that is the fundamental problem of IDP child protection. The gap is structural: it exists because the mechanisms for enforcing legal obligations against resistant or non-engaging duty bearers are manifestly insufficient. The CRC Committee can monitor implementation and issue recommendations, but it cannot compel compliance. The Human Rights Council can adopt resolutions and appoint Special Rapporteurs, but it cannot enforce. The Security Council can act, but only where sufficient political consensus exists among its members, particularly the permanent members, which in the most severe displacement crises frequently proves elusive.[85]

The accountability gap is most acute where protection needs are most severe. This does not render international law irrelevant; its normative relevance remains intact despite weak enforcement. But the existing institutional architecture remains ill-equipped to respond effectively

[83] Anna Bruce and Johanna Sjöwall, *Human Rights-Based Approach for Local Governments – Why, what, and how?*,4-8.

[84] Noam Schimmel, "TRAPPED BY SOVEREIGNTY: The Fate of Internally Displaced Persons and Their Lack of Equal Human Rights Protection under International Law," *World Affairs* 185, no. 3 (September 2022): 502–505, https://doi.org/10.1177/00438200221104498.

[85] Ann Skelton, "The Role of the Committee on the Rights of the Child in Strengthening Accountability for Attacks on Education in Armed Conflict," *Frontiers in Education* 10 (December 2025):7-10, https://doi.org/10.3389/feduc.2025.1720000; United Nations, *Children and Armed Conflict: Report of the Secretary-General*, A/80/723–S/2026/357 (United Nations Security Council, 2026), paras. 1, 3–4. https://reliefweb.int/report/world/children-and-armed-conflict-report-secretary-general-a80723-s2026357.

in situations of protracted displacement and fragmented governance, and any rigorous assessment of child protection during displacement must acknowledge that structural reality rather than obscuring it through reliance on aspirational norms that remain only weakly enforceable.[86]

The foregoing conclusion provides the analytical foundation for the next chapter, which examines whether the complementary application of international humanitarian law and international human rights law can offer more effective mechanisms for narrowing this accountability gap.

[86] Schimmel, "TRAPPED BY SOVEREIGNTY,"518-523.

Chapter III

ANALYSIS AND DISCUSSION

A. The Protection of Internally Displaced Children in Afghanistan After 2021

Chapter Two established the international legal framework applicable to the protection of internally displaced children: the contested but increasingly inclusive concept of internal displacement, the soft-law architecture of the Guiding Principles, the prohibition of arbitrary displacement under both international humanitarian law and international human rights law, and the substantive protections of the Convention on the Rights of the Child read through a human rights-based approach. That chapter was deliberately abstract. It asked what the law requires, not what has actually happened in any particular country. This chapter answers the second question for Afghanistan specifically.

The analysis proceeds in five stages. Section 3.2 examines the scale and drivers of internal displacement in Afghanistan since the Taliban's return to power in August 2021, establishing the empirical foundation for everything that follows. Section 3.3 assesses, area by area, the actual conditions experienced by internally displaced children, education, health, documentation, family unity, child labour, child marriage, and violence, measuring each against the legal standards identified in Chapter Two. Section 3.4 turns to the question of accountability by examining who is responsible for these conditions, and why existing mechanisms have failed to secure compliance. Section 3.5 synthesizes the preceding sections into a structured assessment of Afghanistanگs compliance with the CRC, the ICCPR, the ICESCR, and the Guiding Principles. Section 3.6 concludes by answering the two research questions that frame this thesis directly.

1. Background: Afghanistan After August 2021

The Taliban's takeover of Afghanistan on 15 August 2021 was not the beginning of displacement in Afghanistan; the country had already endured more than four decades of conflict-driven displacement by that point, but it was a sharp inflection point. The collapse of the Republic triggered an immediate wave of flight, both internal and across borders, driven by fear of reprisal among former government employees, security personnel, and civil society actors, and by the

broader uncertainty accompanying any abrupt change of government.[87] What distinguishes the post-2021 period from earlier displacement crises is not only its scale but its character: active combat between the Taliban and the previous government has largely ceased, yet displacement has continued and, in some periods, accelerated, driven by causes that have little to do with battlefield violence in the conventional sense.[88]

Displacement since 2021 has been driven by several interconnected factors rather than by a single dominant cause.[89] A sequence of severe natural disasters has struck repeatedly: the June 2022 earthquake in Paktika and Khost, the October 2023 earthquakes centered on Herat, and recurring drought and flooding affecting most provinces. The humanitarian consequences of these disasters have been severe. However, their overall impact has been overshadowed by Afghanistan's prolonged economic collapse. Following the freezing of central bank assets and the near-total withdrawal of international development financing, an estimated three-quarters of the population were pushed into subsistence insecurity by 2024, leaving internally displaced families with markedly reduced access to food, shelter, education, and healthcare for their children.[90] A third factor originates outside Afghanistan's borders altogether: the mass forced return of Afghans from Iran and Pakistan, which has generated a secondary cycle of internal displacement and is treated separately below. Localized insecurity and sporadic violence persist in several provinces; these three factors have become the principal drivers of new internal displacement since August 2021.[91]

[87] International Crisis Group, *Afghanistan Three Years after the Taliban Takeover*, Research Report (International Crisis Group, 2024),1-7, https://www.crisisgroup.org/qna/asia-pacific/afghanistan/afghanistan-three-years-after-taliban-takeover.

[88] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026,18-22*.

[89] Internal Displacement Monitoring Centre.

[90] United Nations Development Program (UNDP), *Afghanistan Socio-Economic Review: Mass Returns at a Time of Growing Insecurity 2024–2025* (Kabul: United Nations Development Program, 2026),21-22.

[91] *Afghanistan Humanitarian Needs and Response Plan 2024 (December 2023)* (United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2023), 2-5, https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2024-december-2023-endarips.

B. Patterns and Drivers of Internal Displacement in Afghanistan after August 2021

1. Scale and Statistics

Measuring internal displacement in Afghanistan with precision is difficult. This discrepancy is analytically significant because the figures reported by UNHCR, IOM's Displacement Tracking Matrix (DTM), and IDMC do not always align.[92] These differences reflect not only varying methodologies but also the fact that displacement in Afghanistan is rarely a single, datable event.

According to UNHCR statistics, there were about 3.2 million internally displaced persons in Afghanistan, a figure that has remained fairly static since the end of hostilities in 2021, decreasing in absolute numbers by just a little.[93] This is confirmed by the figures provided by the IOM DTM, which counted from 2.9 to 3.1 million IDPs in its assessments done between late 2024 and early 2025.[94]

This apparent stability conceals a more troubling reality: displacement statistics are not synonymous with displacement resolution. The 2026 Global Report on Internal Displacement notes that the global decrease in IDP numbers in 2025 did not reflect a structural improvement, as many recorded returns occurred under conditions of continuing insecurity and inadequate services.[95] In Afghanistan, a substantial proportion of those no longer counted as IDPs are not durably resettled. Instead, they are returnees who have either returned to their places of origin within Afghanistan or arrived from Iran and Pakistan, often facing renewed vulnerability and, not infrequently, renewed displacement. Consequently, the official IDP figures do not necessarily capture the full population of children requiring protection under international human rights law.[96]

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[92] International Organization for Migration, *Afghanistan Climate Vulnerability Assessment - Round 3: Population and Mobility* (2025), https://dtm.iom.int/; Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026*; Xiao Hui Tai, Shikhar Mehra, and Joshua E. Blumenstock, "Mobile Phone Data Reveal the Effects of Violence on Internal Displacement in Afghanistan," *Nature Human Behaviour* 6, no. 5 (May 2022): 625–628, https://doi.org/10.1038/s41562-022-01336-4; Figures at a Glance: Afghanistan, *Figures at a Glance: Afghanistan*.

[93] Figures at a Glance: Afghanistan, *Figures at a Glance: Afghanistan*.

[94] International Organization for Migration, *Afghanistan Climate Vulnerability Assessment - Round 3: Population and Mobility,21-23*.

[95] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026, pp.18-22*.

[96] Ali Wardak et al., "VOICES OF THE DISPLACED: IDENTIFYING LASTING SOLUTIONS THROUGH THE EXPERIENCES OF IDPS IN AFGHANISTAN," *The Boğaziçi Law Review* 3, no. 2 (December 2025): 212–37, https://doi.org/10.69800/blr.1818983.

Nearly half of Afghanistan's population is under the age of eighteen, and children consistently constitute close to half of all recorded IDPs.[97] This demographic reality reinforces the conclusion reached in Chapter Two that internally displaced children require heightened legal protection because of their particular vulnerability under international human rights law. Any assessment of Afghanistan's compliance must therefore place internally displaced children at the center of the analysis rather than treating them as one vulnerable group among many. Accordingly, compliance cannot be assessed solely by reference to officially recorded IDP figures.[98] Still, it must also take into account children living in situations of return that continue to exhibit characteristics of internal displacement, an issue examined further in Section 3.5.

2. Natural Disasters and Climate-Related Displacement

When an earthquake hits a community already in displacement, it does not just add another crisis. It destroys the infrastructure that made survival possible. In Afghanistan, this compounding effect has shaped the experience of disaster for internally displaced children since 2021. The 2022 earthquake in Paktika and Khost, the Herat earthquake sequence of October 2023, and recurring droughts and floods have not displaced families who were stable and resilient; they have displaced families whose ability to absorb further shocks was already exhausted.[99] The Herat sequence demonstrates this vividly. Three earthquakes between October 7 and 15, 2023, affected more than 275,000 people across 382 villages. At least 114,000 people needed immediate humanitarian aid. Children under five made up about twenty-three percent of those directly affected. In six districts, schools, health facilities, and water systems, key to displaced children's survival and development, suffered major damage.[100]

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[97] UNICEF Afghanistan, *UNICEF Afghanistan Humanitarian Situation Report No. 10, October 2025* (2025), https://reliefweb.int/report/afghanistan/unicef-afghanistan-humanitarian-situation-report-no-10-october-2025.

[98] Cecilia Acuti Martellucci et al., "(PDF) Afghan Women and Children's Health: Three Main Challenges under Taliban and COVID-19," *ResearchGate*, ahead of print, May 8, 2026, https://doi.org/10.7189/jogh.11.03126.

[99] Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2026*; International Organization for Migration, *Afghanistan Climate Vulnerability Assessment - Round 3: Population and Mobility*.

[100] United Nations Office for the Coordination of Humanitarian Affairs, *Afghanistan: Revised Herat Earthquake Response Plan October 2023 - March 2024* (Kabul: United Nations Office for the Coordination of Humanitarian Affairs, 2023), https://www.unocha.org/publications/report/afghanistan/afghanistan-revised-herat-earthquake-response-plan-october-2023-march-2024-issued-november-2023; United Nations Children's Fund, *Afghanistan Humanitarian Situation Report No. 10* (United Nations Children's Fund, 2023), no. 10, https://reliefweb.int/report/afghanistan/unicef-afghanistan-humanitarian-situation-report-no-10-october-2023.

This compounding effect of natural disasters on already displaced populations reveals a significant protection gap under international human rights law. While the Guiding Principles and the CRC require states to provide special protection and assistance to children in disaster situations (particularly under Articles 24 and 28 of the CRC), the de facto authorities' limited response has resulted in systematic failures to ensure displaced children's access to education, healthcare, and adequate living conditions. Such failures not only exacerbate vulnerability but also engage potential responsibility for retrogressive measures under the ICESCR, highlighting the practical weakness of the existing protection framework for internally displaced children in Afghanistan.

The Guiding Principles and the broader international human rights framework do apply to disaster-driven displacement. However, the specific details of state obligations are less developed compared to situations of armed conflict. The gap lies in the lack of practical guidance and standards for implementation, rather than in legal coverage.[101] In Afghanistan, this limited normative clarity affords both de facto authorities and humanitarian actors considerable leeway in determining how to deliver protection to children displaced by natural disasters. The primary legal challenge is not whether disaster-displaced children are protected under international law, but whether existing standards provide sufficient guidance to ensure those protections are effectively implemented. This lack of operational detail makes it harder to assess Afghanistan's compliance with its international responsibilities toward children displaced by natural disasters.[102]

3. Economic Collapse as an Independent Driver

Afghanistan's economy did not merely contract after August 2021- it collapsed. The freezing of approximately nine billion dollars in central bank reserves, combined with the near-total withdrawal of international development financing, removed the financial foundation on which public services depended. International development financing had previously accounted for approximately seventy-five per cent of public expenditure. Its sudden withdrawal produced one of the most severe economic contractions in Afghanistan's modern history.[103]

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[101] Megan Bradley and Roberta Cohen, "Disasters and Displacement: Gaps in Protection," *Journal of International Humanitarian Legal Studies* 1, no. 1 (January 2010): 118–126, https://doi.org/10.1163/187815210X12766020139884.

[102] Kälin, *Guiding Priciples on Internal Displacement Annotations,109*.

[103] *Afghanistan Development Update: Continuing the Recovery* (Washington, DC: World Bank, 2025).

The consequences of this economic collapse for children were immediate and disproportionate. By 2024, over fifty per cent of the population required humanitarian assistance, among them more than 12.3 million children. Malnutrition reached crisis levels. Approximately 3.2 million children under five were suffering from acute malnutrition. Access to healthcare deteriorated sharply in parallel. Ninety-one per cent of households faced barriers to health services by 2024, up from seventy-seven per cent the previous year. This deterioration falls most heavily on young children, whose survival depends on consistent access to preventive and curative care.[104]

Economic collapse contributes to internal displacement through two interrelated mechanisms. It may prompt some households to relocate to urban centers where humanitarian assistance and livelihood opportunities are more readily available.[105] It also erodes the capacity of households to remain in place when conflict or disaster strikes, effectively lowering the threshold at which families are forced to move.[106] The result is displacement that is diffuse, prolonged, and difficult to reverse.[107]

From a legal perspective, economic collapse differs fundamentally from conflict-induced displacement. It cannot readily be attributed to a single act of arbitrary displacement ordered by an identifiable actor. Yet it independently engages obligations under Articles 11 and 12 of the ICESCR, which protect the rights to an adequate standard of living and to health.[108] It also engages the obligation under Article 2(1) to take deliberate steps, to the maximum extent possible, towards the progressive realization of economic and social rights.[109] As the Committee on Economic,

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[104] United Nations Children's Fund, *Humanitarian Action for Children 2025: Afghanistan* (New York: United Nations Children's Fund (UNICEF), 2025), https://www.unicef.org/appeals/afghanistan; United Nations Children's Fund.

[105] Internal Displacement Monitoring Centre (IDMC), *2024 Global Report on Internal Displacement (GRID)* (Geneva: IDMC / Norwegian Refugee Council, 2024), https://www.internal-displacement.org/global-report/grid2024.

[106] United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Afghanistan Humanitarian Needs and Response Plan 2024* (Kabul: United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2023), https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2024-december-2023-endarips.

[107] International Organization for Migration (IOM), *Afghanistan and Neighbouring Countries Crisis Response Plan 2024* (Geneva: (IOM), 2024), https://crisisresponse.iom.int/response/afghanistan-and-neighbouring-countries-crisis-response-plan-2024.

[108] United Nations, "International Covenant on Economic, Social and Cultural Rights," United Nations, 1966, https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights.

[109] UN Committee on Economic, Social and Cultural Rights, "General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1)," United Nations, 1990, https://www.refworld.org/legal/general/cescr/1990/en/129827.

Social and Cultural Rights states in General Comment No. 3, progressive realization does not permit inaction.[110] States are required to move as expeditiously and effectively as possible towards the full realization of Covenant rights. Any deliberately retrogressive measure must be fully justified by reference to the totality of the rights provided for in the Covenant.[111]

In Afghanistan, the central legal question is whether the de facto authorities have adopted such measures. If not, the continuing deterioration of public services available to displaced children may reflect a failure to comply with these obligations. Economic collapse should therefore be understood not merely as a humanitarian crisis but also as an independent basis for assessing Afghanistan's compliance with its obligations under international human rights law.[112]

4. Mass Forced Return from Iran and Pakistan

Fourth, the massive influx of returnee Afghans from Iran and Pakistan is another important driver of internal displacement after 2021. In 2025 alone, some 2.8 million Afghans were repatriated from the two countries, with UNHCR classifying sixty-seven percent of these as forced returns. About sixty per cent of those returned were women and children. Children were among those most affected by these return policies. Not all returns were formally so described, but many were carried out under coercive conditions, including deportation, loss of legal status, and the use of compulsory return measures by neighboring States.[113]

The legality of these return policies must be evaluated in light of the principle of non-refoulement, which is part of customary international law and prohibits States from returning individuals to territories where they risk being subjected to persecution or other serious violations of their human rights. This obligation applies irrespective of whether the returning state is party to

[110] Sebghatullah Qazi Zada and Mohd Ziaolhaq Qazi Zada, "The Taliban and Women's Human Rights in Afghanistan: The Way Forward," *The International Journal of Human Rights* 28, no. 10 (November 2024): 1690–1698, https://doi.org/10.1080/13642987.2024.2369584.

[111] UN Committee on Economic, Social and Cultural Rights, "General Comment No. 3."

[112] United Nations Development Programme, *Afghanistan Socio-Economic Outlook 2023: A Survey of the Afghan People* (Kabul: UNDP, 2023), https://www.undp.org/afghanistan/publications/afghanistan-socio-economic-outlook-2023.

[113] Zeynep Sahin-Mencutek and Anna Triandafyllidou, "Coerced Return: Formal Policies, Informal Practices and Migrants' Navigation," *Journal of Ethnic and Migration Studies* 51, no. 2 (January 2025): 2–4, https://doi.org/10.1080/1369183X.2024.2371209; United Nations High Commissioner for Refugees (UNHCR), *2025 Afghan Returns - One Year Recap* (Geneva: UNHCR, 2026), https://data.unhcr.org/en/documents/details/121254.

the 1951 Refugee Convention.[114] United Nations reports have consistently documented that conditions in Afghanistan expose returnees, particularly women, girls, and children, to renewed displacement, deprivation, and serious human rights risks. Despite this evidence, neighboring states have continued to implement large-scale return policies, raising serious concerns regarding compliance with the principle of non-refoulement, particularly where children are affected.[115] Where returnees are children, these obligations must also be interpreted in light of Article 3 of the Convention on the Rights of the Child, which requires that the best interests of the child be a primary consideration in all actions concerning children, including decisions relating to return.[116]

Most returnees arrive in conditions of extreme vulnerability. Many return to provinces where they no longer have family support, housing, documentation, or sustainable livelihoods.[117] Humanitarian agencies have documented that forced return frequently results in secondary internal displacement because many families cannot remain in their place of return. Consequently, many children become internally displaced shortly after re-entering Afghanistan.[118] Deportation, return to strange surroundings, and secondary displacement create cumulative vulnerabilities for these children, disrupting education, restricting access to healthcare, and weakening family and community support networks.[119]

This pattern demonstrates that refugee return and internal displacement cannot always be treated as entirely separate legal categories. A child who is forcibly returned from Pakistan and shortly afterwards becomes internally displaced within Afghanistan cannot be adequately assessed

[114] Convention Relating to the Status of Refugees, 189 UNTS 137 United Nations Treaty Series (1951), art33, https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention.

[115] UN Assistance Mission in Afghanistan; Office of the UN High Commissioner for Human Rights, *Afghanistan: UN Report Documents Human Rights Violations of Forced Returnees* (United Nations Peace Operations, 2025), https://unama.unmissions.org/en/press-releases/afghanistan-un-report-documents-human-rights-violations-of-forced-returnees.

[116] Nikolett Takács, *The Threefold Concept of the Best Interests of the Child in the Immigration Case Law of the ECtHR*, Hungarian Journal of Legal Studies, February 14, 2022, 98–105, https://doi.org/10.1556/2052.2021.00317.

[117] Internal Displacement Monitoring Centre (IDMC), *Going "Home" to Displacement - Afghanistan's Returnee-IDPs*, The Invisible Majority (2017), https://www.internal-displacement.org/publications/going-home-to-displacement-afghanistans-returnee-idps.

[118] Joint Data Center on Forced Displacement (JDC), *A Different Kind of Pressure: The Cumulative Effects of Displacement and Return in Afghanistan* (2020), https://www.jointdatacenter.org/literature_review/a-different-kind-of-pressure-the-cumulative-effects-of-displacement-and-return-in-afghanistan/.

[119] Minhaj Ud Din, Hamad Khan, and Usman Ali, "The Socio-Economic Consequences of Forced Return: A Comprehensive Case Study of Afghan Returnees from Pakistan in District Dir Lower," *The Journal of Research Review* 3, no. 01 (April 2026): 248–252, https://thejrr.com/index.php/39/article/view/257.

through either framework in isolation. In practice, refugee return and internal displacement are functionally interconnected, producing a continuous cycle of displacement and protection needs.[120] This interconnected pattern also exposes an important protection gap. International refugee law primarily regulates the legality of return, whereas the Guiding Principles on Internal Displacement become applicable only after internal displacement has occurred.[121] Neither framework, when applied independently, fully addresses the situation of children who become internally displaced immediately following forced return.[122]

Consequently, assessing protection requires more than determining whether the return complied with the principle of non-refoulement.[123] It also requires examining whether children remained effectively protected after return. Where forced return results in renewed internal displacement and continuing deprivation, compliance with international protection obligations cannot be assessed solely by reference to the lawfulness of return itself. It must also be evaluated in light of the continuing obligation to protect children once they become internally displaced. The available evidence suggests that this continuity of protection has frequently been absent in Afghanistan, leaving many returnee children exposed to renewed displacement and persistent violations of their rights. This demonstrates that, although international human rights law establishes important safeguards governing return, these safeguards have not translated into effective protection for many children who become internally displaced after returning to Afghanistan.[124]

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[120] Sitarah Mohammadi and Maria O'Sullivan, "Rewriting Internal Relocation from a Refugee Perspective - The Lived Experience of Refugees in Afghanistan," *Refugee Survey Quarterly* 43, no. 2 (June 2024): 195, https://doi.org/10.1093/rsq/hdad024.

[121] Walter Kälin, *The Role of the Guiding Principles on Internal Displacement*, September 21, 2005, https://history-commons.net/artifacts/53312861/the-role-of-the-guiding-principles-on-internal-displacement/54211322/.

[122] Nafees Ahmad, "Internally Displaced Persons and International Refugee Law: Protection Gaps, Challenges and Implementation in Practice," SSRN Scholarly Paper no. 3087777 (Rochester, NY: Social Science Research Network, December 14, 2017), https://papers.ssrn.com/abstract=3087777,110.

[123] Convention Relating to the Status of Refugees, art 33.

[124] United Nations Assistance Mission in Afghanistan; Office of the United Nations High Commissioner for Human Rights, *No Safe Haven: Human Rights Risks Faced by Persons Involuntarily Returned to Afghanistan* (Kabul and Geneva: United Nations Assistance Mission in Afghanistan (UNAMA); Office of the United Nations High Commissioner for Human Rights (OHCHR), 2025), https://unama.unmissions.org/sites/default/files/unama_hrs_-_human_rights_risks_and_returns_-_english_-_24_july_2025.pdf.

C. Assessment of the Protection of Internally Displaced Children

1. Right to Education

Afghanistan's education system was already fragile before August 2021. What followed was not a gradual deterioration but a collapse. By 2025, an estimated 8.9 million children will require emergency educational support. More than 2.13 million primary school-aged children were out of school entirely, and many of those who attended failed to acquire even basic literacy and numeracy skills. With more than ninety per cent of ten-year-olds unable to read a simple text, Afghanistan has one of the highest rates of learning poverty in the world.[125]

The situation is even more difficult for internally displaced children. In 2024, only one in five of the approximately 182,000 school-aged displaced and returnee children accessed any education at all. Several factors contribute to this exclusion, including the absence of identity documents, financial hardship, language and cultural barriers, and a severe shortage of schools and teaching materials in areas of return. Displacement creates an additional layer of educational disadvantage that extends beyond these practical barriers. Many displaced children experience repeated interruptions to their education. When they eventually return to school, they often do so without documentation, without continuity of learning, and without adequate institutional support. At the same time, more than one thousand schools remained closed, while nearly half of the remaining schools lacked safe buildings.[126]

The applicable legal framework that governs the right to education is established through both treaty law and soft-law standards. Article 28 of the CRC requires free and compulsory primary education for all children. Article 29 requires that education serve the development of the child's full potential.[127] Article 13 of the ICESCR requires secondary education to become generally available and accessible.[128] Principle 23 of the Guiding Principles requires that displaced children receive education without discrimination. According to General Comment No. 13 of the Committee on Economic, Social and Cultural Rights, these obligations require education to be

[125] UNICEF Afghanistan, *Afghanistan Education Situation Report 2025* (Kabul, 2025), https://www.unicef.org/afghanistan/documents/afghanistan-education-situation-report-2025.

[126] Geneva Global Hub for Education in Emergencies, *Country Brief: Afghanistan's Education Crisis* (Geneva: Geneva Global Hub for Education in Emergencies, 2025), https://eiehub.org/country-briefs/country-brief-afghanistans-education-crisis.

[127] Convention on the Rights of the Child, art 28–29.

[128] United Nations, "International Covenant on Economic, Social and Cultural Rights," art 13.

available, accessible, acceptable, and adaptable, and they apply regardless of changes in political authority.[129]

For internally displaced girls, the consequences are particularly severe because this policy operates alongside the educational disruptions already caused by displacement, reinforcing multiple forms of exclusion.[130] It cannot be justified as either a temporary measure or a consequence of resource constraints. Rather, it constitutes the categorical exclusion of an entire group of children from education solely based on sex, a direct violation of Articles 2, 28, and 29 of the CRC and Article 13 of the ICESCR. The Committee on Economic, Social and Cultural Rights has made clear that retrogressive measures of this kind require the most compelling justification. None has been offered.[131]

Internally displaced children suffer a compounded exclusion. Displacement disrupts schooling, separates children from their educational records, and forces families into impossible trade-offs between survival and education. The community-based education programs that once served as the last resort for displaced children have been systematically dismantled since 2021. No effective alternative has replaced them. The result is cumulative exclusion: displaced children face multiple, mutually reinforcing barriers that substantially reduce their ability to enjoy education on an equal basis with other children.[132] This is not an accident of circumstance. Rather, it reflects policy choices that have systematically restricted the educational opportunities available to displaced children.[133]

Afghanistan has failed to meet its obligations under Articles 2, 28, and 29 of the CRC, Article 13 of the ICESCR, and Principle 23 of the Guiding Principles. The failure is not incidental; it is

[129] Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)* (Geneva: United Nations Committee on Economic, Social and Cultural Rights, 1999), https://www.ohchr.org/en/resources/educators/human-rights-education-training/d-general-comment-no-13-right-education-article-13-1999; United Nations, "Guiding Principles on Internal Displacement."

[130] Richard Bennett, *Situation of Human Rights in Afghanistan: Report of the Special Rapporteur on the Situation of Human Rights in Afghanistan*, UN Report A/HRC/55/80 (United Nations Human Rights Council, 2024), https://www.ohchr.org/en/documents/country-reports/ahrc5580-situation-human-rights-afghanistan-report-special-rapporteur.

[131] UN Economic and Social Council, *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, E/1991/23 (UN Committee on Economic, Social and Cultural Rights (CESCR), 1990), https://www.refworld.org/legal/general/cescr/1990/129827.

[132] Geneva Global Hub for Education in Emergencies, *Country Brief*.

[133] United Nations, "Guiding Principles on Internal Displacement."

structural and deliberate. For internally displaced children in particular, the effective enjoyment of the right to education has become increasingly unattainable. This assessment provides the analytical foundation for examining accountability in the subsequent sections.

2. Right to Health and Nutrition

In 2025, 3.5 million Afghan children under five suffered from wasting, of whom 1.4 million faced an immediate risk of death.[134] Nearly half of all children under five were stunted.[135] Ninety-one per cent of households reported significant barriers to accessing health services, up from seventy-seven per cent two years earlier. Among internally displaced and returnee populations, access to healthcare was further constrained by shortages of functioning facilities, qualified personnel, medicines, and documentation requirements.[136] Children under two accounted for approximately eighty-three per cent of severe acute malnutrition cases.[137]

Article 24 of the CRC requires states to ensure every child's right to the highest attainable standard of health, including through measures to combat disease and malnutrition.[138] Article 12 of the ICESCR obliges states to progressively realize the right to health, encompassing the reduction of infant mortality and the healthy development of children.[139] Principle 19 of the Guiding Principles requires that internally displaced persons receive access to essential medical care without discrimination.[140] General Comment No. 14 explains that health services must be available, accessible, acceptable, and of good quality, and these standards apply equally to internally displaced persons.[141]

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[134] UNICEF Afghanistan, *Child Food Poverty: Nutrition Crisis in Early Childhood in Afghanistan* (Kabul: UNICEF Afghanistan, 2025), https://www.unicef.org/afghanistan/documents/child-food-poverty.

[135] UNICEF Afghanistan, *Too Little, Too Late: The Diet Crisis Facing Young Children in Afghanistan* (UNICEF Afghanistan, 2026), https://reliefweb.int/report/afghanistan/too-little-too-late-diet-crisis-facing-young-children-afghanistan-june-2026.

[136] United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Afghanistan Humanitarian Needs and Response Plan 2025* (2024), https://www.unocha.org/publications/report/afghanistan/afghanistan-humanitarian-needs-and-response-plan-2025-december-2024.

[137] Integrated Food Security Phase Classification (IPC), *Afghanistan: Acute Malnutrition Situation for June 2024 - May 2025* (n.d.), accessed December 22, 2025, https://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1159436/.

[138] Convention on the Rights of the Child, art 24.

[139] United Nations, "International Covenant on Economic, Social and Cultural Rights," art 12.

[140] United Nations, "Guiding Principles on Internal Displacement," Principle 19.

[141] Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, E/C.12/2000/4 (Geneva: United Nations, 2000), art. 12, https://digitallibrary.un.org/record/425041.

What the evidence reveals is not simply a resource failure. Recent research indicates that restrictions on humanitarian assistance and inadequate medical care have directly worsened child malnutrition in Afghanistan.[142] For internally displaced children, who rely heavily on humanitarian health services because of limited access to public healthcare, these developments have had particularly severe consequences. The ban on women entering medical training is expected to further reduce the availability of female health professionals, with particularly serious consequences in communities where women and girls depend on female healthcare providers.[143] These developments demonstrate that health deprivation among internally displaced children cannot be explained by economic collapse alone. Policy decisions have further reduced access to healthcare for a population already facing exceptional vulnerability.[144]

The available evidence indicates that Afghanistan has not complied with Article 24 of the CRC, Article 12 of the ICESCR, and Principle 19 of the Guiding Principles. For internally displaced children, access to healthcare has become a matter of humanitarian contingency rather than legal entitlement, thereby preventing internally displaced children from effectively enjoying the right to health guaranteed under international human rights law.

3. Documentation and Birth Registration

Only forty-two per cent of births are registered in Afghanistan.[145] Although national birth registration remains low, internally displaced families experience substantially greater barriers to obtaining civil documentation. Women and internally displaced persons experience substantially greater barriers in obtaining legal identity documentation than the general population. Fifty-five percent of assessed households reported at least one family member without documentation.[146] Without a birth certificate or national identity card, a displaced child cannot enroll in school, register for healthcare, or claim any legal status. IDP and returnee children face an increased risk

[142] Zainab Syyeda Rahmat et al., "Child Malnutrition in Afghanistan amid a Deepening Humanitarian Crisis," *International Health* 15, no. 4 (July 2023): 353–56, https://doi.org/10.1093/inthealth/ihac055.

[143] Richard Bennett, *A/HRC/55/80*.

[144] Human Rights Watch, *Afghanistan: Taliban Tighten Grip 3 Years into Rule* (New York: Human Rights Watch, 2024), https://www.hrw.org/news/2024/08/11/afghanistan-taliban-tighten-grip-3-years-rule.

[145] UNICEF Afghanistan, *Afghanistan Multiple Indicator Cluster Survey (MICS) 2022–2023: Summary Findings Report* (Kabul: UNICEF Afghanistan, 2023), https://www.unicef.org/afghanistan/reports/afghanistan-multiple-indicator-cluster-survey-mics-2022-2023.

[146] Samuel Hall and International Labour Organization, *Documentation and Legal Identity in Afghanistan* (Kabul, Afghanistan: Samuel Hall, 2023), https://www.samuelhall.org/publications/ilo-documentation-and-legal-identity-in-afghanistan/33-45.

of exclusion from civil registration and legal identity systems, with potentially long-term consequences for their access to rights and services.[147]

Article 7 of the CRC requires that every child be registered immediately after birth and acquire a nationality. Article 8 obliges states to preserve the child's identity.[148] Principle 20 of the Guiding Principles requires authorities to issue documentation to internally displaced persons necessary for the enjoyment of their legal rights, without imposing unreasonable conditions.[149] The Human Rights Committee confirmed in General Comment No. 17 that the right to registration applies to all children without discrimination, regardless of their parents' status.[150]

The barriers to documentation are not incidental; they are structural and, in significant part, reinforced by policy. To obtain identity documents, displaced persons must return to their place of birth or produce a community leader willing to act as a witness. For families displaced across multiple generations, neither condition can readily be met. Available evidence suggests that existing administrative measures have been insufficient to remove these barriers.[151] Research has shown that host communities are frequently unwilling to serve as witnesses for IDP families, and that the financial cost of travelling to places of origin places formal registration effectively out of reach.[152] As a result, birth registration remains inaccessible for many internally displaced children, thereby limiting their access to education, healthcare, and other basic rights discussed in this chapter

Afghanistan has not met its obligations under Articles 7 and 8 of the CRC and Principle 20 of the Guiding Principles. For internally displaced children, the absence of documentation weakens

[147] United Nations High Commissioner for Refugees, *Legal Identity and Civil Documentation in Afghanistan* (Geneva: United Nations High Commissioner for Refugees, 2024), https://data.unhcr.org/en/documents/details/109242.

[148] Convention on the Rights of the Child, art 7-8.

[149] United Nations, "Guiding Principles on Internal Displacement, Principle 20."

[150] Human Rights Committee, *CCPR General Comment No. 17: Article 24 (Rights of the Child)*, CCPR General Comment No. 17 (UN Human Rights Committee (HRC), 1989), para. 7 https://www.refworld.org/legal/general/hrc/1989/37603.

[151] Samuel Hall and International Labour Organization, *IOM, UNICEF, WFP, UNHCR, NRC,46-56*.

[152] Kathryn Hampton, "Born in the Twilight Zone: Birth Registration in Insurgent Areas," *International Review of the Red Cross* 101, no. 911 (2019): 507–36, https://www.cambridge.org/core/journals/international-review-of-the-red-cross/article/born-in-the-twilight-zone-birth-registration-in-insurgent-areas/FDDECAE8982EBBBF74D71E04BB6D9FBF.

the legal relationship between the child and the state, thereby undermining the effective enjoyment of other rights protected under international human rights law.

4. Family Unity

Displacement in Afghanistan has resulted in widespread and persistent family separation among internally displaced and returnee children. Humanitarian organizations have consistently identified unaccompanied and separated children as one of the most vulnerable groups affected by displacement. Many cases are believed to remain undocumented because of limited humanitarian access and weakened child protection systems, suggesting that the actual scale of family separation is considerably greater than officially recorded. Children separated from their families face heightened risks of violence, abuse, exploitation, trafficking, and other serious protection concerns.[153]

Article 9 of the CRC requires States Parties to ensure that a child is not separated from parents against their will, except where separation is determined to be in the child's best interests. Article 10 likewise requires States Parties to facilitate family reunification in a positive, humane, and expeditious manner.[154] Principle 17 of the Guiding Principles requires that families separated during displacement be reunited as quickly as possible, and that authorities take all appropriate steps to trace and identify family members.[155]

Family separation among internally displaced children in Afghanistan is not simply an unavoidable consequence of displacement. The absence of any systematic state-maintained tracing or reunification mechanism compounds it. Although humanitarian organizations, particularly UNICEF and UNHCR, have sought to fill this gap, their capacity remains limited, and their access is not always guaranteed. Academic research has consistently demonstrated that children separated from their families during armed conflict face substantially elevated risks of exploitation, abuse, child labor, trafficking, and recruitment into armed groups. Reliance on humanitarian organizations cannot discharge the State's primary obligations under the CRC, because

[153] United Nations Children's Fund (UNICEF), *Child Protection Annual Report 2025* (Kabul: UNICEF Afghanistan, n.d.), accessed July 22, 2026, https://www.unicef.org/afghanistan/documents/unicef-afghanistan-annual-report-2025; Neil Boothby, "Legal Frameworks and Practical Challenges: A Review of the Enduring Failure to Prevent Family Separations in Armed Conflicts," *Frontiers in Psychology* 16 (2025): 1-4, https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2025.1629843/full.

[154] Convention on the Rights of the Child, article 9-10.

[155] United Nations, "Guiding Principles on Internal Displacement," Principle 17.

international human rights law places responsibility for family tracing and reunification on public authorities rather than humanitarian actors.[156] For internally displaced children in Afghanistan, this institutional gap demonstrates a continuing failure by the State to effectively implement the obligations imposed by Articles 9 and 10 of the CRC and Principle 17 of the Guiding Principles.

The available evidence indicates that Afghanistan has not fully complied with its obligations under Articles 9 and 10 of the CRC and Principle 17 of the Guiding Principles with respect to internally displaced children. The continuing absence of an effective state-led family tracing and reunification mechanism leaves displaced children exposed to prolonged protection risks and undermines one of the core guarantees of the CRC.

D. Structural Challenges to the Protection of Internally Displaced Children

1. Institutional Weaknesses in the Protection of Internally Displaced Children

Since August 2021, the collapse of state institutions responsible for child protection has significantly weakened Afghanistan's capacity to protect internally displaced children.[157] Before 2021, Afghanistan's child protection system was fragile but not absent. The Ministry of Labor and Social Affairs, in collaboration with the UNICEF-supported Child Protection Action Networks (CPAN), coordinated the identification, referral, and protection of children at risk nationwide.[158] The system relied on functioning public institutions, trained social workers, case management, and referral mechanisms to respond to child protection cases.[159]

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[156] Boothby, "Legal Frameworks and Practical Challenges," 2025.

[157] Amir Murtaza and Justin Rogers, "Forgotten Children: The Crisis of Child Welfare and Alternative Care in Afghanistan," *Institutionalised Children Explorations and Beyond* 12, no. 1 (March 2025): 66, https://doi.org/10.1177/23493003251313920; UNICEF Afghanistan, *Afghanistan Humanitarian Situation Report No. 12 - 01 January - 31 December 2024 | UNICEF*, Report No. 12 (Kabul, Afghanistan: United Nations Children's Fund (UNICEF), 2025), https://www.unicef.org/documents/afghanistan-humanitarian-situation-report-no-12-01-january-31-december-2024,2-3.

[158] UNICEF Afghanistan, "Child Protection," UNICEF Afghanistan, UNICEF, accessed July 23, 2026, https://www.unicef.org/afghanistan/child-protection.

[159] All Survivors Project, *Conflict-Related Sexual Violence: New Dangers Facing Men and Boys in Afghanistan* (London: All Survivors Project, 2022),5, https://allsurvivorsproject.org/wp-content/uploads/2022/01/ASP-Briefing-on-Afghanistan-January-2022.pdf.

All three institutions deteriorated simultaneously. The collapse of these institutions significantly changed how child protection services are provided across the country.[160] UNICEF's assessment shows that the ongoing humanitarian crisis has significantly increased protection risks for children and limited access to essential child protection services. UNICEF's response emphasizes the severity of the institutional gaps. As state institutions declined, humanitarian actors increasingly took on responsibilities that typically fall under the primary duty of the State.[161]

The institutional vacuum was not simply the result of administrative collapse. It was further reinforced by legal and governance decisions adopted after the Taliban assumed power. According to the U.S. Department of State's 2025 Trafficking in Persons Report, observers indicate that the Taliban have purported to revoke Afghanistan's constitution and criminal code, including the laws that previously governed child protection.[162] Enforcement has consequently varied by locality, with local leaders issuing their own edicts in the absence of specialized institutions capable of applying a uniform standard.[163] For internally displaced children, who often lack local support networks and familiarity with community structures, this localized system of enforcement is particularly harmful. The level of protection available increasingly depends on the locality in which the child resides rather than on a uniform system of legal protection guaranteed to every displaced child.

Specialized institutions fared no better. The Ministry of Interior's anti-trafficking offices, which before 2021 held responsibility for identifying and referring child trafficking victims, have remained inoperable since the takeover; the Taliban have reported that the case data and trained personnel that once supported these offices are no longer available. Without functioning referral mechanisms, identifying a vulnerable child rarely translates into effective protection.[164]

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[160] Murtaza and Rogers, "Forgotten Children"; UNICEF Afghanistan, *Humanitarian Situation Report: 01 January – 31 December 2024* (2024), https://www.unicef.org/afghanistan/documents/unicef-afghanistan-humanitarian-situation-report-01-january-31-december-2024.

[161] Richard Bennett, *A/HRC/55/80*.

[162] United States Department of State, Office to Monitor and Combat Trafficking in Persons, *2025 Trafficking in Persons Report: Afghanistan* (Washington, D.C.: U.S. Department of State, 2025), https://www.state.gov/reports/2025-trafficking-in-persons-report/afghanistan/.

[163] United Kingdom Home Office, *Country Policy and Information Note: Fear of the Taliban, Afghanistan* (2026), https://www.gov.uk/government/publications/afghanistan-country-policy-and-information-notes/country-policy-and-information-note-fear-of-the-taliban-afghanistan-february-2026-accessible.

[164] United States Department of Labor, Bureau of International Labor Affairs, *2022 Findings on the Worst Forms of Child Labor: Afghanistan* (Washington, D.C.: U.S. Department of Labor, 2023), //www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2022/Afghanistan.pdf.

The available evidence points not merely to institutional weakness, but to the effective absence of a functioning child protection system. There is no reliable inter-agency coordination, no consistent enforcement standard, and no case management infrastructure capable of operating at a national scale.

For internally displaced children, who depend on institutions functioning across administrative boundaries, whether for family tracing, case referral, or continuity of protection across provinces, access to protection now depends less on state institutions than on the limited reach of humanitarian actors.

The evidence demonstrates that the protection crisis affecting internally displaced children is not solely humanitarian in nature. It reflects the breakdown of the institutional framework through which Afghanistan is required to implement its obligations under international human rights law. Without functioning domestic institutions, Afghanistan's obligations under international human rights law remain largely theoretical, while effective protection continues to depend predominantly on humanitarian actors rather than on functioning state institutions.

2. Failure to Implement International Human Rights Obligations

Afghanistan remained legally bound by these treaties after August 2021. However, a significant gap exists between these legal obligations and their practical implementation.[165] The rights to education, health, documentation, family unity, and protection from violence, all formally guaranteed under instruments Afghanistan has ratified, have been systematically denied, restricted, or left without effective institutional protection.[166]

Three identifiable causes explain this implementation failure. First, the Taliban administration has adopted deliberate policies that directly contradict Afghanistan's treaty obligations, most visibly the prohibition on girls' education, but also the dismantling of civil registration systems and the elimination of child protection mechanisms that previously operated

[165] David Cingranelli, Skip Mark, and Almira Sadykova-DuMond, "Democracy, Capacity, and the Implementation of Laws Protecting Human Rights," *Laws* 12, no. 1 (February 2023): 7-10, https://doi.org/10.3390/laws12010006.

[166] *Human Rights Situation in Afghanistan: January–March 2026 Update* (Kabul / Geneva: United Nations Assistance Mission in Afghanistan, 2026), https://unama.unmissions.org/en/unama-human-rights-monitoring-and-reporting.

under the Republic.[167] Since August 2021, numerous decrees and directives have been adopted, producing what the UN High Commissioner for Human Rights described as a "cascade of edicts" with a "crushing impact" on the Afghan people.[168] Second, the institutional infrastructure required to implement these rights in practice has collapsed. Courts, civil registration offices, social protection agencies, and child welfare services no longer function in any meaningful sense for displaced populations.[169] Third, the Taliban has actively refused engagement with international human rights monitoring mechanisms. In August 2024, the de facto authorities barred the UN Special Rapporteur on the situation of human rights in Afghanistan from entering the country, describing his mandate as "propaganda."[170]

The available evidence demonstrates that the de facto authorities have failed to effectively implement Afghanistan's obligations under the CRC and other international human rights treaties. Consequently, many of the rights guaranteed to internally displaced children remain largely unrealized in practice.

3. Restrictions on Humanitarian Access

The implementation gap in Afghanistan's protection of internally displaced children has also been exacerbated by restrictions imposed on humanitarian operations. In December 2022, the de facto authorities banned Afghan women from working for national and international NGOs, a decision UNICEF described as a "blatant violation of obligations under international humanitarian law".[171] This ban was subsequently extended to UN staff in April 2023.[172] More importantly for

[167] Talitha Aqiella Marsanthy, "Exclusion and Discrimination in Access to Education against Afghanistan Women: An International Human Rights Study," *Research Horizon* 5, no. 6 (2025): 2717, http://www.journal.lifescifi.com/index.php/RH/article/view/918.

[168] United Nations Office of the High Commissioner for Human Rights, "High Commissioner Türk: Afghanistan Must End Persecution of Women and Girls," OHCHR, accessed July 27, 2026, https://www.ohchr.org/en/statements-and-speeches/2026/02/high-commissioner-turk-afghanistan-must-end-persecution-women-and.

[169] United States Department of Labor, Bureau of International Labor Affairs, *2022 Findings on the Worst Forms of Child Labor: Afghanistan*.

[170] Reuters, "Taliban Bars UN Human Rights Special Rapporteur from Afghanistan," *US News & World Report*, n.d., accessed July 27, 2026, //www.usnews.com/news/world/articles/2024-08-21/taliban-bars-un-human-rights-special-rapporteur-from-afghanistan-tolo-news.

[171] UNICEF (Statement by Executive Director Catherine Russell), "Restricting Female Humanitarians from Working and Female Students from Access to Education in Afghanistan Is a 'Blatant Violation of Fundamental Human Rights,'" New York, December 25, 2022, https://www.unicef.org/press-releases/restricting-female-humanitarians-working-and-female-students-access-education.

[172] "Top Officials Strongly Condemn Taliban Ban on Afghan Women Working for UN," UN News, April 5, 2023, https://news.un.org/en/story/2023/04/1135392.

the present study, these restrictions also prevented the practical realization of the rights guaranteed to internally displaced children under international human rights law, particularly the CRC.

The consequences for internally displaced children were direct and measurable: child protection and gender-based violence services, including case management for at-risk children, were among the areas most severely affected, and family tracing operations lost access to the communities they served.[173] Since humanitarian assistance for internally displaced children relied heavily on female teachers, health workers, social workers, and protection officers, the more than fifty decrees curtailing women's rights and work introduced since the takeover significantly reduced children's access to education, health care, psychosocial support, and family tracing.[174] These restrictions not only reduced humanitarian capacity but also weakened the practical implementation of rights guaranteed under the CRC. As a result, the implementation of the rights of internally displaced children became increasingly dependent upon humanitarian actors rather than state institutions.[175]

From a legal perspective, the de facto authorities, as the entity exercising effective control, are required under the Guiding Principles on Internal Displacement to facilitate rapid and unimpeded humanitarian access to internally displaced persons.[176] The ongoing restrictions on humanitarian access are difficult to reconcile with the obligations set out in Principle 25 of the Guiding Principles on Internal Displacement. Although humanitarian assistance depends on sustained access, protecting children's rights remains the legal responsibility of authorities who have effective control over the situation. Therefore, while humanitarian assistance can help reduce

[173] Protection Cluster Afghanistan, *Afghanistan Protection Analysis Update: Protection Risks After De Facto Authorities' Ban on Female Aid Workers* (Kabul, Afghanistan: Global Protection Cluster, 2023), https://globalprotectioncluster.org/publications/1487/reports/protection-analysis-update/afghanistan-protection-analysis-update.

[174] UN Women, *Gender Alert No. 4: Back to the 1990s? Women's Rights under the Taliban*, No. 4, Gender Alert (New York: UN Women, 2023), https://asiapacific.unwomen.org/en/digital-library/publications/2023/03/gender-alert-no-4.

[175] Murtaza and Rogers, "Forgotten Children",60; Marti Flacks, Lauren Burke Preputnik, and Nicolas Jude Larnerd, *The Taliban's Increasing Restrictions on Civil Society and Aid Organizations* (Washington, DC: Center for Strategic and International Studies, 2023), https://www.csis.org/analysis/talibans-increasing-restrictions-civil-society-and-aid-organizations.

[176] United Nations, "Guiding Principles on Internal Displacement", principle 25; Kälin, *Guiding Principles on Internal Displacement Annotations,*.110-118.

protection risks, it cannot replace the primary responsibility of authorities exercising effective control to respect, protect, and fulfill the rights of children under international human rights law.[177]

4. Limitations of UN and International Mechanisms

Accountability for violations against internally displaced children depends on mechanisms with the authority to compel change, not merely to observe it. The mechanisms available in the Afghan context fall short of this standard. Each can document, report, or investigate. None can enforce.

The Committee on the Rights of the Child, the treaty body responsible for monitoring Afghanistan's compliance with the CRC, reviews state reports and issues recommendations. It lacks the authority to compel implementation. [178] This is not a problem specific to Afghanistan. It is a structural feature of the treaty body system generally. But the limitation becomes acute where, as in Afghanistan, the duty bearer has no interest in cooperating with the process in the first place.

A more recent development shows the same pattern operating at a higher level. On 6 October 2025, the UN Human Rights Council established an independent investigative mechanism to collect, preserve, and analyze evidence of international crimes and other serious violations committed in Afghanistan.[179] Commentators who have examined the mechanism's mandate have been direct about its limits. It can build case files for future prosecutions, but it has no capacity to change what is happening on the ground now.[180] The International Criminal Court's arrest warrants against the Taliban's Supreme Leader and Chief Justice, issued on 8 July 2025, sit within the same limitation.[181] A warrant may ultimately result in a trial. It does nothing, for now, to help a displaced child whose school has closed.

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[177] Committee on the Rights of the Child, *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6)*, CRC/GC/2003/5 (Geneva: United Nations Committee on the Rights of the Child, 2003), para. 18-25, https://digitallibrary.un.org/record/513415; United Nations, "Guiding Principles on Internal Displacement."

[178] Committee on the Rights of the Child, *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6) paras. 1, 19, 24–27*.

[179] United Nations Human Rights Council, *Situation of Human Rights in Afghanistan*, A/HRC/60/L.9, Draft Resolution (Geneva: United Nations Human Rights Council, 2025), https://documents.un.org/doc/undoc/ltd/g25/160/94/pdf/g2516094.pdf.

[180] Ehsan Qaane, *A New Accountability Mechanism for Afghanistan: What the IIM-A Can (and Cannot) Do* (Afghanistan Analysts Network (AAN), 2025), Afghanistan, https://www.ecoi.net/en/document/2135141.html.

[181] International Criminal Court, Pre-Trial Chamber II, "Situation in the Islamic Republic of Afghanistan: Warrants of Arrest for Hibatullah Akhundzada and Abdul Hakim Haqqani," The Hague, n.d., accessed June 13, 2026, https://www.icc-cpi.int/afghanistan.

The accountability mechanisms available to internally displaced children in Afghanistan are therefore oriented toward the future, evidence gathered now, for prosecution that may happen later. Nine of them address what these children need now.

5. The Accountability Gap in Practice

Taken together, these findings demonstrate that the protection deficit affecting internally displaced children is structural rather than incidental. It results from the interaction of three mutually reinforcing factors: non-implementation of international obligations, restrictions on humanitarian protection, and the absence of effective accountability mechanisms. These factors reinforce one another, creating a protective environment in which each institutional failure further weakens the implementation of children's rights.

The de facto authorities exercising effective territorial control have consistently failed to implement Afghanistan's international human rights obligations, particularly those relating to the protection of internally displaced children. The mechanisms designed to secure compliance lack enforcement capacity, and the humanitarian actors that might otherwise partially substitute for state protection have been progressively excluded from the settings where internally displaced children most need assistance. The cumulative effect of these failures has been the systematic denial of effective protection to internally displaced children despite the continued existence of binding international human rights obligations.[182]

For internally displaced children, the accountability gap is not an abstraction. It is the space between the rights they hold under international law and the protection they actually receive, and that space, since August 2021, has only grown wider. Accordingly, the principal obstacle to the effective protection of internally displaced children is not the absence of binding international human rights obligations, but the absence of effective implementation and enforcement mechanisms capable of giving practical effect to those obligations for internally displaced children in Afghanistan.

[182] Committee on the Rights of the Child, *General Comment No. 5 (2003): General Measures of Implementation of the Convention on the Rights of the Child (Arts. 4, 42 and 44, para. 6)*, no. 5 2003; OHCHR and (UN Women, *CEDAW-Based Legal Review - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Legal Review of Measures Introduced by Afghanistan's de Facto Authorities That Impact Women and Girls* (Geneva: (OHCHR) and UN Women, 2026), https://www.ohchr.org/en/documents/research-papers/cedaw-based-legal-review-convention-elimination-all-forms-discrimination.

6. Chapter Summary

This chapter set out to answer, for Afghanistan specifically, the two research questions that frame this thesis.

In response to the first research question, the situation of internally displaced children in Afghanistan has changed substantially since August 2021, though not in the direction international attention has often assumed. Displacement is no longer driven primarily by armed conflict; it now results from economic collapse, recurrent natural disasters, and the mass forced return of Afghan refugees from Iran and Pakistan, drivers that have compounded rather than replaced one another. Across every area examined, education, health, documentation, and family unity, internally displaced children face conditions that fall measurably short of the standards identified in Chapter Two. The evidence presented in this chapter, therefore, demonstrates that, since August 2021, the protection of internally displaced children has deteriorated not only in scale but also in its structural character, with institutional collapse, restricted humanitarian access, and weak accountability fundamentally undermining the implementation of international human rights obligations.

In response to the second research question, Afghanistan's compliance with its obligations under international human rights law, principally the CRC, the ICCPR, the ICESCR, and the Guiding Principles on Internal Displacement, has been structurally deficient. The de facto authorities exercising effective territorial control remain bound by these obligations, notwithstanding the absence of international recognition. However, the analysis in Section 3.4 demonstrates that the existence of a comprehensive legal framework has not translated into effective compliance in practice. Measured against these standards, Afghanistan has not complied with its obligations to protect internally displaced children, not because the applicable legal framework is inadequate, but because the institutions responsible for implementing those obligations have collapsed, humanitarian access has been progressively restricted, and accountability mechanisms have remained ineffective.

Taken together, these findings indicate that the principal obstacle to the effective protection of internally displaced children in Afghanistan is not the absence of an adequate international human rights framework, but the persistent failure to implement and enforce that framework in practice.

The findings of this chapter also give rise to a further question that falls beyond its scope. Chapter Four builds upon the findings of Chapters Two and Three to evaluate what legal and institutional measures may realistically narrow the gap between the rights internally displaced children hold under international human rights law and the protection they receive in practice.

Chapter IV

CONCLUSION

A. Conclusion

In response to the first research question, this thesis has shown that the situation of internally displaced children in Afghanistan has changed fundamentally since August 2021. Displacement is no longer driven primarily by armed conflict, as it was for much of the preceding two decades, but by the interaction of economic collapse, recurrent natural disasters, and the mass forced return of Afghan refugees from Iran and Pakistan. Across the four areas examined in this study- education, health, documentation, and family unity- internally displaced children experience conditions that fall measurably short of the standards identified in Chapter Two. This deterioration is not merely one of scale; it reflects a shift from a conflict-related protection crisis to a structural one, rooted in institutional collapse, restricted humanitarian access, and the absence of effective accountability.

In response to the second research question, this thesis has shown that Afghanistan's compliance with its international human rights obligations toward internally displaced children has been structurally deficient. The relevant obligations, arising principally under the CRC, the ICCPR, the ICESCR, and the Guiding Principles on Internal Displacement, remain legally binding upon the de facto authorities exercising effective territorial control in Afghanistan, notwithstanding the absence of international recognition. What Chapter Three demonstrates, however, is that the existence of a comprehensive legal framework has not translated into effective compliance in practice. The gap is not one of legal coverage but of implementation: the institutions required to give these obligations effect have collapsed, the humanitarian actors attempting to compensate for that collapse have themselves been progressively restricted, and no domestic or international mechanism exists capable of compelling compliance by the authorities.

Taken together, these findings support the central argument of this thesis: that the principal obstacle to the effective protection of internally displaced children in Afghanistan is not the absence of an adequate international human rights framework, but the persistent failure, by the entity exercising effective control, to implement and enforce that framework in practice.

Ultimately, this study demonstrates that the protection crisis affecting internally displaced children in Afghanistan does not stem from deficiencies in international human rights law itself. Rather, it reflects the persistent inability or unwillingness of the authorities exercising effective control to implement the legal obligations that already exist. Consequently, the rights guaranteed to internally displaced children remain largely theoretical because the institutional conditions necessary for their effective realization are presently absent in Afghanistan.

B. Recommendations

The findings of this thesis highlight a structural protection gap, rather than an incidental one, and any recommendations must therefore address the institutional and implementation failures identified in Chapter Three, rather than the adequacy of the underlying legal framework. The following six recommendations are addressed to the principal actors whose conduct, as identified in this thesis, is central to addressing the protection gap.

1. Strengthening Domestic Implementation. The de facto authorities should restore a functioning, nationally coordinated child protection system, consistent with Afghanistan's obligations under the CRC and the Guiding Principles on Internal Displacement, including a national institution capable of performing the inter-agency referral function previously undertaken by the Child Protection Action Network (CPAN), and should apply a uniform standard of child protection enforcement rather than leaving this to local discretion. Without such a system, internally displaced children will continue to depend on the limited presence of humanitarian actors in the areas to which they have been displaced, rather than on the protection to which they are entitled under international human rights law.
2. Ensuring Humanitarian Access. The de facto authorities should lift the restrictions preventing Afghan women from working for national and international NGOs and UN agencies. Since female humanitarian personnel are essential to the delivery of education, healthcare, psychosocial support, and family tracing services for internally displaced children, reversing this restriction would directly and immediately expand children's access to protection, regardless of any broader institutional reform.
3. Restoring Equal Access to Education. Given the central role of education in the protection of internally displaced children, the de facto authorities should be called upon to lift restrictions on schooling, particularly for girls, and, pending such reform, international

donors and humanitarian actors should prioritize community-based and displacement-responsive learning arrangements capable of reaching children whose schooling has been interrupted by repeated movement.

4. Strengthening International Accountability. The Independent Investigative Mechanism for Afghanistan should ensure that violations specifically affecting internally displaced children are systematically documented, rather than subsumed within broader human rights reporting, and third States should continue to support international accountability mechanisms capable of addressing serious violations affecting internally displaced children.
5. Enhancing Coordination among Humanitarian Actors. In the continued absence of a functioning domestic referral system, UNICEF, UNHCR, and IOM should formalize a joint inter-agency case management mechanism specifically for internally displaced children, replicating, so far as humanitarian actors are able, the coordinating function the domestic system no longer performs. This would reduce the current fragmentation whereby a child's access to protection depends on the particular humanitarian agency operating in the area of displacement.
6. Applying IHRL and IHL Complementarily. Where displacement continues to intersect with the residual effects of armed conflict, international actors should interpret and apply international humanitarian law and international human rights law in a complementary manner, particularly when the implementation of the human rights framework has been obstructed. Such a complementary application cannot substitute for the de facto authorities' own human rights obligations, but it may provide an additional normative basis upon which international actors can advocate for the protection of internally displaced children pending the restoration of effective domestic protection mechanisms.

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