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Protected as Civilians, Abandoned as Nationals: Statelessness at Birth

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Abstract

This paper examines whether International Humanitarian Law (IHL), through its deliberate doctrinal minimalism, functions as a structural enabler of statelessness among children born in armed conflict. While IHL affords children heightened protection as civilians, prioritising life, humane treatment, and survival, it remains silent on legal identity, nationality, and political belonging. In contemporary, protracted conflicts, this silence produces a persistent legal condition in which children are protected as biological lives but excluded from legal personhood. Drawing on Giorgio Agamben' s concept of "bare life" as a diagnostic lens, the paper theorises how IHL creates zones of protection without recognition. Using Gaza as a case study, it demonstrates how regime hierarchy and enforcement asymmetry between IHL and International Human Rights Law prevent identity-based rights from being realised in practice, resulting in intergenerational legal precarity. The paper argues that IHL's protection of children as civilians, combined with its silence on legal identity, produces a condition of effective rightlessness for children born in armed conflict.

Introduction

International Law establishes that no child should be born stateless. Article 15 of the Universal Declaration of Human Rights proclaims the right to a nationality, that every individual preserves the right to a national belonging. Article 7 of the Convention on the Rights of Children requires immediate birth registration and recognition of the right to acquire a nationality. Article 24(3) of the International Covenant on Civil and Political Rights similarly reiterates that every child has this right. The 1961 Convention on the Reduction of Statelessness attempts to address the structural gaps mandating nationality where a child would otherwise be stateless. On paper, the normative consensus appears comprehensive, but the lived reality is very different.

International Humanitarian Law occupies a morally compelling position within the international legal order. It promises restraint amid violence and humanity amid destruction. was designed for interruption. Its normative architecture reflects a world in which war was conceived as an episodic rupture between sovereign entities whose administrative institutions persisted beneath the violence. The Geneva Conventions regulate conduct during hostilities; they do not reorganise political membership. Civilian protection is constructed around status and

vulnerability, not nationality. Under this framework, the *child* occupies a privileged position. The Fourth Geneva Convention mandates that children be the object of respect and protection. Additionally, Protocol I imposes affirmative duties and obligations concerning care, education, and family unity. The status of the *child* is thus rendered highly visible within the IHL's protective spectrum.

Yet that visibility is confined to mere survival. IHL secures the *child* as a biological being exposed to violence, but it does not address the juridical conditions that anchor him/her within a political community. Birth registrations, nationality acquisition, civil documentation, and continuous legal identity lie outside its doctrinal centre. This silence has long been interpreted as *principled restraint*. The problem arises when war ceases to be an interruption and becomes the environment, or rather, the norm. Contemporary conflicts are frequently protracted, cyclical and territorially fragmented. Occupations may extend over decades. Infrastructure is repeatedly destroyed and partially restored. Government institutions function under strain rather than complete collapse. And in such contexts, the temporal assumption underlying IHL that civilian life will resume normal institutional continuity once hostilities subside no longer holds true. Statelessness at birth in armed conflict is not merely an administrative failure. It is the product of a doctrinal architecture that continues to tether nationality exclusively to territorial sovereignty, even when territorial sovereignty is fragmented, constrained, or strategically exercised to exclude.

The central argument of this paper is that in protracted armed conflicts, IHL's doctrinal minimalism regarding nationality and legal identity operates as a structural enabler of identity precarity and de facto statelessness among children born during hostilities. Its silence acquires structural significance when conflict becomes long-term. Humanitarian protection prioritises survival and civic continuity becomes administratively contingent. Over time, this prioritisation generates vulnerability. Unless international law reconceptualises nationality at birth as a non-derogable obligation that transforms with effective control in situations of armed conflict, children will continue to be born into legally recognised yet practically unprotected statelessness.

To that end, this paper proceeds in five parts. *First*, it situates nationality and legal identity within international law's architecture and examines the fragility of identity rights in conflict. *Second*, it analyses the interaction between IHL and IHRL, demonstrating that while each regime recognises aspects of protection, neither coherently allocates accountability in situations of fragmented sovereignty. *Third*, it examines Gaza as a structural case study to show how prolonged effective control, occupation law, and administrative dependency produce risks of functional statelessness at birth. *Fourth*, it integrates comparative regional jurisprudence and the South Asian institutional gap, including India's constitutional position to illustrate that the sovereignty-nationality nexus remains deeply entrenched. And *finally*, it advances a normative recalibration of humanitarian protection that incorporates identity preservation into civilian safeguards, rather than formal sovereignty.

Nationality and Sovereignty

Nationality has long been attributed as an essential component of sovereignty. Classical international law theorists conceived of *citizenship* as an internal matter, one that is an expression of political community formation immune from external interference. The Permanent Court of International Justice in the Nationality Decrees Advisory Opinion affirmed early in the twentieth century that, in principle, nationality falls within domestic jurisdiction. Even as international law developed rules to prevent arbitrary deprivation or discrimination, the foundational premise of sovereign competence and superiority remained intact. Yet nationality has never been merely internal. It functions as the legal bridge between the individual and the international

order. International human rights law, while formally universal, continues to rely on states as primary duty-bearers. Thus, the individual's relationship to a state, embodied in nationality, remains central to the operationalisation of rights.

This dual character produces a structural asymmetry. The right to nationality is framed as universal, but its recognition is mediated by sovereign discretion. Hannah Arendt's formulation of nationality as the "right to have rights" captures this dynamic. A child without nationality may possess abstract human rights but lacks a state institution with a primary legal duty to operationalise them. Statelessness is therefore not merely the absence of citizenship; it is dislocation from the state-based enforcement architecture of international law.

In stable sovereign environments, this tension remains largely invisible. Nationality law functions through predictable administrative processes tied to territory and descent. However, armed conflict destabilises the territorial anchor of sovereignty. Effective control may shift without formal annexation. An occupying power may administer territory without conferring nationality. A local authority may claim governance without recognition. The original sovereign may assert legal continuity without practical capacity. Each actor may rely on the traditional doctrine that nationality is a domestic matter beyond external imposition.

A child born in such a space becomes the embodiment of this doctrinal fragmentation. International Human Rights Law declares that he has a right to acquire a nationality. International Humanitarian Law obliges occupying institutional powers to maintain civil life and protect civilians. Yet neither regime clearly compels a specific authority to confer or guarantee nationality where domestic nationality law fails or is inaccessible. The structural presumption that sovereignty and responsibility coincide, collapses in practice. This collapse reveals a deeper conceptual problem. Nationality has historically served not only as a membership device but also as a demographic instrument. States regulate citizenship to shape political identity, demographic balance, and national narrative. In times of conflict, particularly issues concerning occupation, displacement, or contested statehood, nationality law becomes intensely politicised. Conferral or denial of citizenship can influence territorial claims, electoral majorities, and international recognition. Thus, statelessness at birth may not simply result from institutional breakdown, but it may also emerge from deliberate structural incentives to restrict membership.

The concept of structural violence can be used to understand this issue better. Structural violence refers to the harm produced not by direct physical force but by institutional mechanisms that systematically disadvantage certain populations. When international law places the duty to ensure nationality at birth exclusively upon a sovereign that lacks effective control, and when no secondary allocation mechanism exists, the resulting statelessness is not accidental. It is structurally generated by the legal order's insistence on territorial primacy. Importantly, this does not negate the centrality of state sovereignty in international law. Rather, it contends that sovereignty has always been accompanied by responsibility. The modern evolution of human rights law reflects a gradual rebalancing of sovereignty and obligation. Yet in the domain of nationality, particularly at birth, that recalibration remains incomplete. The right to nationality is proclaimed, but its institutional guarantor remains presumptively territorial even in circumstances where territorial governance has fractured.

Armed conflict therefore exposes a doctrinal default. It intensifies this structural tension by destabilising sovereignty itself. International law has moved toward recognising children as independent rights-holders, yet it has not fully adapted nationality allocation rules to the realities of occupation, prolonged conflict, and contested authority. In occupation, the occupying entity exercises effective control without acquiring sovereign title. In civil war, territorial authority may fragment among competing actors. In prolonged conflicts,

external powers may regulate borders, registries, and population movement without formally annexing territory. If the structural flaw lies in the allocation of responsibility, we must analyse how existing treaties and legal regimes distribute, or rather fail to distribute, duties regarding nationality at birth.

International law possesses conceptual tools for dealing with effective control in other domains. Human rights treaties have been interpreted to apply extraterritorially where a state exercises effective control over territories or individuals. Occupation law under IHL is triggered by factual control rather than formal annexation. The State responsibility doctrine attributes conduct to direction and control. Yet nationality remains tethered primarily into formal sovereignty. The reluctance to extend effective control logic into nationality allocation reflects the deep political sensitivity of citizenship as an instrument of demographic and territorial identity. In times of conflict, this reluctance can generate structural exclusion. Where effective control and sovereign title diverge, responsibility for nationality at birth becomes blurred. The child born under the effective control of one authority but the formal sovereignty of another may find himself dependent on cooperation between actors with conflicting political incentives. The absence of a clear secondary rule reallocating responsibility produces what might be termed juridical liminality – a space in which rights are recognised but no actor bears uncontested duty.

The Doctrinal Architecture: Recognition without Allocation

At first glance, international law appears normatively dense on the question of childhood nationality. The Convention on the Rights of the Child (CRC) is nearly universally ratified and places the right to nationality at the centre of child's identity framework. Article 7(1) provides that the child shall be registered immediately after birth and shall have the right to acquire a nationality. Article 8 further obliges states to respect and preserve the child's identity, including nationality. The textual formulation suggests both immediacy and priority: registration "immediately," nationality "as far as possible." However, a closer analysis reveals an embedded limitation. The CRC does not create an autonomous international mechanism of nationality attribution. The phrase "as far as possible" signals accommodation to state capacity and domestic law. The Committee on the Rights of the Child has interpreted Article 7 as imposing positive obligations to prevent statelessness, especially where the child would otherwise be stateless. Yet these interpretations remain entrenched within a reporting and recommendation structure. The CRC's enforcement mechanism depends on state compliance rather than substitutionary allocation of responsibility when states fail or are unable to act.

The ICCPR, in its General Comment No. 17, reinforces this normative commitment in Article 24(3), which recognises the right of every child to acquire a nationality. The Human Rights Committee has read this provision as requiring states to adopt appropriate measures to ensure nationality acquisition, particularly to prevent statelessness. Importantly, ICCPR obligations continue to apply in situations of occupation and armed conflict, as affirmed by the International Court of Justice in its Wall Advisory Opinion. This doctrinal recognition is significant because it establishes that human rights law does not evaporate in times of conflict. Yet the Court did not clarify how nationality obligations should be operationalised where effective control is exercised by an occupying power rather than the territorial sovereign.

The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness provide more specific guidance. The 1961 Convention, in particular, addresses nationality at birth directly. Article 1 obliges contracting states to grant nationality to persons born in their territory who would otherwise be stateless. This provision represents a shift from pure sovereign discretion toward conditional obligation. However, its architecture remains territorially

anchored: the state in whose territory the child is born bear responsibility. The Convention does not anticipate complex situations where territorial sovereignty is disputed, divided, or functionally administered by another power. Nor does it create secondary allocation rules where the territorial state is unable to discharge its obligation.

Moreover, significant states experiencing or exercising control in conflict are not parties to the 1961 Convention. The normative ambition of the Convention therefore exceeds its practical reach. Even when ratified, implementation often relies on domestic procedures that may be suspended or inaccessible in conflict zones. The Convention presumes bureaucratic continuity; armed conflict disrupts precisely that continuity. International Humanitarian Law further complicates the picture. The Fourth Geneva Convention requires the occupying power to ensure public order and civil life in occupied territory. Article 50 specifically addresses the protection of children, obliging the occupying power to facilitate the proper working of institutions devoted to their care and education. Customary IHL recognises obligations to maintain civil documentation systems. Yet IHL has historically avoided imposing nationality conferral duties on occupying powers. Indeed, occupation law is premised on the temporary nature of occupation and the prohibition of annexation. To require an occupying power to confer nationality might be seen as altering the demographic and political character of the territory, potentially violating the prohibition on acquisition of territory by force.

Here lies a structural tension. Human rights law insists that every child has the right to acquire a nationality. Statelessness conventions impose territorial conferral duties. Humanitarian law regulates occupation without transferring sovereign title. But none of these regimes clearly resolve what happens when the territorial sovereign cannot or does not ensure nationality at birth, and the occupying or controlling authority disclaims competence to do so. The gap is thus not merely textual silence. Each regime speaks in its own vocabulary, yet none integrates its obligations into a coherent responsibility-allocation model for conflict settings. The result is a legal mosaic in which the right is recognised, but the duty-bearer remains presumptively the territorial state, even when the presumption no longer reflects factual control.

This fragmentation becomes particularly acute in protracted conflicts where effective control becomes permanent. International law's temporary occupation paradigm strains under the weight of prolonged administrative governance. If an occupying power administers civil registries, border control, and population databases for an extended period, can it continue to rely on the formal distinction between sovereignty and effective control to avoid nationality-related obligations? Or does prolonged effective control generate derivative responsibility for ensuring that no child is rendered stateless. The doctrinal framework does not answer this question. The prevailing interpretation preserves formal sovereignty as the primary anchor of nationality. Yet from the perspective of the child, formal sovereignty is irrelevant if inaccessible. A right that cannot be operationalised through any available authority is normatively hollow.

Thus, the doctrinal architecture reveals a structural misalignment where nationality at birth is framed as a right of the child but remains institutionally dependent on sovereign discretion. In peacetime, this dependence may be masked by administrative functionality, but in armed conflict, it is exposed.

The latest Annual Report of the Secretary-General on Children and Armed Conflict offers stark empirical evidence that contemporary armed conflict has escalated to levels unprecedented since systematic monitoring began. According to the Summary of the Annual Report, the United Nations verified 41,370 grave violations against children worldwide, comprising hostilities that include killing, maiming, recruitment, sexual violence, abduction, attacks on schools and hospitals, and denial of humanitarian access. These statistics represents a dramatic escalation in

the scale and severity of violations, signalling not only acute physical harm but also chronic disruption of the institutional conditions that underpin legal personhood and civic inclusion.

The data also illustrates that the geographical concentration of grave violations overlaps with areas where civil institutional infrastructure is most vulnerable. Among the five situations with the highest number of verified violations were the State of Palestine (including Gaza and the West Bank), the Democratic Republic of Congo, Somalia, Nigeria, and Haiti, all of which feature protracted conflict, displacement flows, and fractured governance. The dismantling of educational, health and administrative systems, all documented in the report, means that even where nationality law formally exists, the practical pathways to acquire or prove nationality in conflict-impacted territories become severely compromised.

From an analytical standpoint, these empirical data reinforce that the international humanitarian law, despite its robust protections against physical harm, does not command a regulatory framework robust enough to prevent the erosion of civil structures that facilitate legal identity. The apparatus of IHL mobilises urgent attention and accountability mechanisms for killing and maiming, yet leaves the more mundane yet foundational processes such as birth registrations, civil documentation, and nationality conferral, unprotected in the face of chronic disruption.

Gaza as a Structural Case Study

Gaza provides a particularly illuminating case study not because it is exceptional, but because it intensifies the structural tensions already identified in the doctrinal framework. The territory exists within a prolonged condition of contested sovereignty, external control, and internal administrative fragmentation. While the State of Palestine is recognised by a significant number of states and has acceded to various international treaties, effective control over borders, population registry systems, and movement remains heavily constrained by external authority. The International Court of Justice, in its 2004 Advisory Opinion on the Legal Consequences of the Construction of a Wall, affirmed that human rights treaties, including the ICCPR and the CRC, continue to apply in occupied territories alongside international humanitarian law. This affirmation is doctrinally significant because it confirms that rights and obligations do not dissolve in conditions of occupation. Yet it does not resolve how nationality at birth is to be operationalised, where civil administration is functionally dependent on external approval.

The Palestinian population registry system illustrates this complex dynamic. The registry, originally established under Israeli administration, continues to require coordination for recognition of birth and issuance of identity numbers. While Palestinian authorities record births internally, changes to official population status, issuance of identification numbers, and recognition for purposes of movement often depend upon external administrative processes. In time periods of heightened conflict, destruction of civil infrastructure, displacement of families, and interruption of hospital services further complicate immediate birth registration. The child born in such circumstances may be recorded locally but lack internationally recognised documentation capable on enabling travel, family reunification, or access to external institutions.

Essentially, this does not mean that children born in Gaza are formally stateless in every instance. Many are considered nationals under Palestinian law. However, the distinction between de jure nationality and effective nationality becomes crucial. International law defines statelessness narrowly as the condition of a person not considered a national by any state under the operation of its law. Yet in times of conflict, a child may possess formal nationality but lack the documentation, recognition, or administrative capacity necessary to exercise associated rights. This produces what may be termed functional or de facto statelessness, a condition not always captured by treaty definitions but equally debilitating in practice.

The structural issue here is not simply administrative inefficiency; it is the interaction between prolonged occupation, restricted sovereignty, and the absence of a clear secondary obligation under international law. If the territorial authority lacks full administrative autonomy, and the occupying or controlling authority disclaims nationality-conferral responsibility on the grounds of temporary occupation, responsibility becomes diffused. The 1961 Convention's territorial rule presumes a sovereign with uncontested control. The Fourth Geneva Convention obliges maintenance of civil life but does not explicitly require nationality attribution. Human rights law insists on the child's right but does not specify substitutionary enforcement when the territorial state's capacity is constrained by external control.

Gaza thus demonstrates how prolonged conflict erodes the assumption that sovereignty and capacity coincide. Decades-long effective control without annexation destabilises the occupation paradigm's temporariness. If an authority exercises decisive control over population registry systems, border entry, and recognition of civil status for extended periods, the claim that nationality remains exclusively a matter for the territorial sovereign becomes increasingly strained. Yet international law hesitates to impose nationality-related duties on an occupying power precisely because doing so risks normalising occupation or altering demographic structures. This hesitation produces a paradox. The legal system seeks to avoid legitimising occupation by withholding nationality obligations from the occupying authority. At the same time, it preserves formal sovereignty in the territorial authority even when effective control is compromised. The child born into this environment is caught between doctrinal caution and political sensitivity. The right to nationality remains intact in theory, but the institutional pathway for guaranteeing it becomes uncertain.

Moreso, Gaza illustrates how armed conflict exacerbates intergenerational vulnerability. Repeated cycles of hostilities damage hospitals, municipal buildings, and record-keeping systems. Displacement disrupts family documentation chains. In contexts where nationality transmission depends on documentation of parental identity, the loss or destruction of papers can create cascading risks. Even where nationality law is formally inclusive, bureaucratic prerequisites may become insurmountable in practice. Gaza substantiates that statelessness risk in conflict is not reducible to failure of civil registration alone. It arises from layered sovereignty, prolonged effective control without formal transfer of responsibility, and the absence of a clear rule reallocating nationality-at-birth obligations when the territorial state cannot independently guarantee them. The international legal framework recognises rights, regulates occupation, and seeks to reduce statelessness, but it does not integrate these commitments into a coherent mechanism capable of cooperating under prolonged, fragmented governance.

Gaza functions as a doctrinal stress test. It reveals that the existing legal architecture assumes conditions of stable sovereignty that armed conflict disrupts. The same structural vulnerability can be observed in other protracted conflicts, whether in Syria, parts of Myanmar, or territories under international administration. Gaza, however, makes the tension particularly visible because the duration of effective control challenges the notion that occupation remains a short-term anomaly. If international law aims to secure that no child shall be born stateless, it must confront this structural misalignment.

Regional Practice

The structural vulnerability exposed in Gaza is not merely confined to territories under prolonged occupation. It reflects a broader reluctance within international law to detach nationality from exclusive sovereign discretion. Nowhere is this more evident than in South Asia, where questions of citizenship, documentation, and belonging have increasingly intersected with conflict, displacement, and demographic politics. Examining India's position within this

regional landscape reveals both the resilience of sovereign control over nationality and the limitations of the current international architecture.

India is neither a party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. This non-ratification is often justified on the basis that nationality remains a core attribute of sovereignty and that domestic law already provides sufficient safeguards. The Citizenship Act 1955, as amended, governs acquisition and loss of citizenship through birth, descent, registration, and naturalisation. Historically, India followed a broad jus soli approach, granting citizenship to those born within its territory. However, amendments introduced in 1986 and 2003 have significantly narrowed down this principle by conditioning citizenship at birth upon the status of parents, particularly in relation to "illegal migrants." The 2003 amendment linked citizenship by birth to parental citizenship status and introduced documentation-intensive processes.

From a formal perspective, India's legal framework does not directly generate statelessness for children born within its territory who meet statutory criteria. Yet the evolution from inclusive jus soli to conditional birthright citizenship demonstrates how nationality remains tightly controlled as a matter of demographic governance. In contexts involving cross-border displacement, most notably the Rohingya population fleeing Myanmar or earlier flows of refugee from Sri Lanka, documentation gaps and restrictive citizenship criteria have produced long-term vulnerability. While not all such cases constitute de jure statelessness under the 1954 Convention's definition, they frequently approximate functional statelessness through denial of legal status, work rights, and formal recognition.

Coming back to armed conflicts, the implications become sharper. If the states that are stable and constitutionally robust hesitate to internationalise nationality obligations, conflict-affected territories face even greater obstacles. The Gaza case illustrated how prolonged effective control without formal sovereignty generates responsibility diffusion. The South Asian regional experience demonstrates that even outside occupation, states maintain tight control over nationality attribution, often conditioning it upon documentation that conflict or displacement undermines.

If the diagnosis is correct, the normative response cannot be limited to encouraging ratification of the 1961 Convention or strengthening civil registration systems alone. Those measures are necessary but insufficient. What is required is a principled reallocation of responsibility for ensuring nationality at birth in situations of armed conflict, grounded in effective control rather than formal sovereignty. A principled reallocation model would operate on three axes: (1) effective control over territory or population registry systems; (2) duration of control; and (3) capacity to ensure documentation and nationality transmission. Where these factors converge, international law should recognise a derivative obligation to guarantee that children born under such control are not rendered stateless at least functionally.

Sovereignty Anxiety and Objections

Any proposal to recalibrate nationality obligations beyond formal sovereignty immediately encounters a foundational objection: nationality lies at the heart of sovereign self-determination. To shift responsibility based on effective control, critics may argue, risks eroding the prohibition on acquisition of territory by force, normalising occupation, or compelling demographic engineering by an occupying power. If an occupying authority is required to assume nationality-related obligations, does this not implicitly recognise or legitimise its authority over the territory? Would such a doctrine not destabilise the careful balance that occupation law seeks to preserve between temporary administration and permanent sovereignty?

This objection must be taken seriously. International Humanitarian Law is structured around the premise that occupation does

not transfer sovereign title. The occupying power is an administrator and usufructuary, not a sovereign legislator of political identity. Requiring nationality conferral might be perceived as contradicting that premise. Furthermore, states may fear that extending nationality obligations extraterritorially could create open-ended responsibilities in peacekeeping missions, coalition interventions, or contested border zones.

However, this objection rests on a conflation between sovereignty and responsibility. The effective-control doctrine already operates extensively within international law without dissolving sovereign boundaries. Human rights treaties apply extraterritorially when a state exercises effective control over territory or individuals, yet this has not been interpreted as transferring sovereignty. State responsibility attaches to conduct directed or controlled abroad without implying annexation. Even occupation law imposes extensive administrative and welfare duties on occupying powers such as education, health services, public order, without recognising them as sovereigns.

Nationality at birth, when framed narrowly as formal political membership, appears inseparable from sovereignty. But the proposal advanced in this paper does not require automatic conferral of full political citizenship. Rather, it requires that where an authority exercises prolonged and decisive control over population registry systems, borders, and civil documentation, it must ensure that children born under such control are not rendered stateless, either de jure or functionally. This obligation can be operationalised through facilitation, recognition, and cooperation mechanisms without altering sovereign title.

A second objection concerns demographic manipulation. One of the core prohibitions of occupation law is the transfer of the occupier's civilian population into occupied territory. Critics may argue that imposing nationality obligations could incentivise demographic engineering or be manipulated to consolidate political claims. Yet the risk of manipulation arises precisely because nationality remains discretionary and politically instrumentalised. Clarifying derivative obligations tied to effective control would reduce ambiguity and constrain opportunistic denial or obstruction of nationality transmission.

A third objection relates to practicality. Armed conflict environments are unstable. Authorities may lack capacity, and imposing additional nationality obligations could overwhelm already strained administrative systems. Yet this argument mirrors earlier resistance to recognising extraterritorial human rights obligations. The answer is not to deny the obligation but to calibrate it accordingly to capacity and duration of control. The longer and more comprehensive the effective control, the stronger the derivative responsibility.

Finally, some may also argue that expanding nationality obligations risks judicial overreach and politicisation. Courts and treaty bodies, they argue, should avoid entering sensitive nationality disputes. Yet international adjudicatory bodies have long engaged with nationality in contexts of discrimination, arbitrary deprivation, and statelessness. The deeper anxiety underlying these objections is that nationality remains symbolically central to state identity. To internationalise its allocation appears threatening. However, the right to nationality at birth is already internationalised normatively. The question is whether international law is prepared to make that commitment operational when sovereignty fragments.

Conclusion

I began this paper with a paradox: international law insists that no child shall be born stateless, yet contemporary armed conflict continues to produce precisely that condition. Through doctrinal analysis, empirical evidence, and a structural case study, it has been illustrated that this contradiction is not accidental. It is structural. International law has universalised the right to nationality, but it has not universalised responsibility for guaranteeing it when sovereignty fragments.

The doctrinal architecture reveals a pattern of partial recognition. The Convention on the Rights of the Child affirms immediate birth registration and the right to acquire a nationality. The ICCPR reinforces this obligation. The 1961 Convention seeks to close gaps in domestic nationality law. International humanitarian law protects children as civilians and demands humane treatment. Yet these regimes operate in parallel rather than in integration. None clearly allocate nationality responsibility when territorial sovereignty is disrupted but effective control persists. The result is not the absence of norms, but the absence of a coordinating principle.

Empirical data from the UN's monitoring framework confirms that contemporary conflict is characterised not merely by episodic violence but by systemic institutional erosion. Tens of thousands of verified grave violations against children occur annually in environments where schools, hospitals, civil registries, and administrative infrastructures are repeatedly destroyed or rendered inaccessible. In such situations, nationality is not a formal abstraction; it depends on functioning institutions capable of registering births, issuing documentation, and transmitting legal status. When those institutions collapse or operate under fragmented authority, the right to nationality becomes precarious in practice.

The case of Gaza illustrates this structural gap. Prolonged effective control over borders, population registries, and civil life coexists with the doctrinal insistence that sovereignty has not transferred. Occupation law emphasises temporality; human rights law affirms continuing obligation; nationality law remains tethered to sovereign competence. Between these frameworks, responsibility diffuses. Children are protected from direct violence under IHL yet remain vulnerable to judicial precarity when the administrative pathways necessary for nationality become obstructed or politically mediated. The phenomenon is not always formal statelessness, but it is often functional rightlessness.

Ultimately, nationality is not merely a technical status. It is the legal expression of belonging. When armed conflict fractures sovereignty but international law declines to reallocate responsibility, children risk being reduced to protected bodies without secure membership. To prevent this outcome, international law must confront its own structural silences and shortcomings and align authority with accountability. Only then can the promise of universal nationality move from aspiration to enforceable reality.

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