

Children's Rights, International Law and the Syrian Civil War

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ABSTRACT:- Situations of internal conflict in a country, or civil war situations, bring about situations of lawlessness and anarchy in countries where they take place. In this situation, the state, for all practical purposes, disappears, and whatever rights and safeguards its legal instruments guarantee are eradicated. The same thing happens to guarantees to citizens of states parties under international law. The Syrian Arab Republic has been engulfed in civil war since 2011. This reality has meant that all the rights and services that the Syrian state has promised its citizens under both its 1973 and 2012 Constitutions, such as the right to employment at a living wage, health care, education, freedom from arbitrary arrest and a fair trial if arrested are derogated. Such rights for all citizens also provide a stable, healthful environment for children, whose rights are explicitly and comprehensive delineated in the United Nations Convention on the Rights of the Child. This Convention enjoins states parties to it to ensure that its citizens who are under the age of eighteen enjoy a standard of living conducive to their growth and development; education; health care; protection from sexual exploitation, trafficking, separation from parents, and forced labor; and protection from recruitment into armed forces. All combatant parties to the Syrian civil war have ensured that citizens caught within their respective areas of control enjoy none of the rights that Syria's two Constitutions promised to safeguard. Likewise, all of these warring groups have violated, and indeed, eradicated, the rights of Syria's children as provided in the United Nations Convention on the Rights of the Child.

Keywords: Syria, children's rights, citizens' rights, constitutions, international law, civil war situations, derogation of rights

I. INTRODUCTION

The Syrian Civil War began in 2011, as an outgrowth of the Arab Spring developments that had taken place earlier in Tunisia and Egypt. The multi-sided conflict in Syria has involved the military forces of Syrian President Bashar al-Assad; Shi'a forces that are allied with his regime; breakaway troops from his army forming part of the opposition; Salafi Islamist groups that are also part of the opposition; and Kurdish nationalist factions. The Russia and Iran are external forces aiding President Assad, while the U.S., Saudi Arabia, Qatar and Turkey have sided with the armed opposition to his government. Israel began to target Iranian military infrastructure in Syria in 2018

By the beginning of 2020, President Assad had regained control of most of Syria, but the conflict had devastated the country. As of February, 2018, the United Nations High Commissioner on Refugees (UNHCR) registered 5.5 million persons as having been exiled from Syria (Al Jazeera, 2018). UNICEF's statistics for January, 2020, placed nearly 6.2 million persons in a state of internal displacement. About 11.7 million people in the whole of Syria had been registered as needing humanitarian assistance at that time, five million of whom were children (UNICEF, January, 2020, p.1). During 2018, most of the Syrian exiles fled to Jordan, Lebanon and Turkey, and many of these were attempting to reach Europe (Al Jazeera, 2018).

Syria's children have been the most vulnerable victims of the Syrian conflict, and the brutality of this victimization could be seen during the winter of 2019 in Idlib Province, in Syria's northwest. In order to regain control of this province, President Assad's troops had been battling opposition forces, such as Hayat Tahrir al Sham, a radical Islamist group, as well as Turkish troops. Since December 1, 2019, the fighting in Idlib had displaced more than 500,000 children, forcing them to live with their families in tents, or even in open air during winter months (UNICEF, February 18, 2020). The fact that fighting has continued in Idlib Province has thrown attempts at humanitarian assistance into chaos (Yee & Saad, 2020).

International Law and Children's Rights

The corpus of international law includes instruments that explicitly protect children during armed conflicts such as the Syrian one. Many of these statutes are binding upon non-state actors as well as on states. Customary human rights norms become binding upon non-state actors in wartime situations once non-state forces have gained *de facto* control of a given swath of territory during the conflict. This is true despite the fact that non-state actors may not become formal parties to international human rights treaties (Independent International Commission of Inquiry, 2020, p. 6).

Regarding specific provisions governing the protection of children caught in armed conflicts, Security Council Resolution 1261 (1999) cites two instruments that cover one glaring issue, namely, that of compulsory recruitment of children into combat. The first of these instruments is International Labour Organization (ILO) Convention No. 182, on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999). This Convention outlaws the imposition of any compulsory labor on persons under the age of eighteen, including forced recruitment into armed conflict. The second instrument is the Rome Statute of the International Criminal Court (1998), which makes the recruitment of children under the age of fifteen into armed conflicts a war crime (Independent International Commission of Inquiry, 2020, p.5). U.N. Security Council Resolution 1261 (1999, pp. 1-2, ¶ 2 and ¶ 10) also states that international law prohibits armed attacks on places with a significant presence of children, such as schools and hospitals. This Resolution further urges all parties to armed conflicts to protect female children from rape, other forms of sexual abuse and gender-based violence.

U.N. Security Council Resolution 1325 (2000 p.3, ¶ 8(a), 10, & 12) focuses exclusively upon the special needs of women and female children in armed combat situations. This Resolution recognizes the particular needs that women and female children have for successful post-conflict rehabilitation, repatriation and reintegration into their societies. Resolution 1325 also calls upon all parties to armed conflicts to take special measures which will protect women and girls from rape, other forms of sexual abuse and gender-based violence, and requires all states to ensure that perpetrators of such crimes face prosecution for committing them. Finally, this Resolution enjoins all parties to armed conflicts to recognize the civilian nature and humanitarian purpose of refugee camps and settlements. In designing and establishing these camps and settlements, parties to armed conflicts are to take into account the special needs of women and female children inhabiting them. (U.N. Security Council, 2000,).

The United Nations Convention on the Rights of the Child, adopted in 1989, provides a comprehensive outline standardizing all the rights that should, as a given, be accorded all persons under the age of eighteen. Many of the provisions of this Convention cover the basic rights to which children are entitled, presumably under peacetime conditions. However, the Convention also outlines specific protections addressing the particular vulnerabilities that children face during armed conflicts. Other provisions of the Convention speak to the contravention of children's rights that might occur under either peacetime or wartime conditions.

One exclusively wartime danger to children which the United Nations Convention on the Rights of the Child addresses is the above-discussed recruitment of children into combat forces. Specifically, Article 38 of the Convention enjoins states parties to refrain from recruiting persons fifteen years or younger into combat forces, and from allowing such persons to participate in armed conflicts. In situations entailing the possible recruitment of persons between the ages of fifteen and eighteen years, states parties are to prioritize the enlistment of the eldest individuals. Article 39 is another provision which addresses armed conflict situations, along with other contexts in which children might be victims of neglect, exploitation, abuse, torture, or other forms of degrading treatment. This Article requires states parties to take actions which will promote the physical and psychological recovery and re-integration into society of all children who have suffered such treatment (Office of the High Commissioner on Human Rights, 1989, pp. 10-11).

The Convention on the Rights of the Child contains many other injunctions for the protection of those children's rights that are vulnerable to derogation in war or peacetime situations. The most basic of these rights is the child's right to life itself, stated in Article 6. Relatedly, in Article 27, this Convention upholds every child's right to a standard of living adequate for his or her mental, physical, moral and social development. Where needed, states parties are to assist parents and others responsible for the child in the provision of nutrition, clothing and shelter. Where possible, states parties are to assist parents and others entrusted with the care of the child in ensuring that the child attains this standard of living (Office of the High Commissioner on Human Rights, 1989, pp. 3 & 8).

Article 7 provides another basic right that a civil war situation in a given country is likely to derogate, namely, a child's right to a name and a nationality, and to know and be reared by his or her parents. Article 7 further states that each child is to be registered immediately at birth, in order not to be rendered stateless, and, consequently, ineligible for many protections and benefits. Article 8 obliges states parties, where possible, to restore such elements of identity as a name, a nationality, or familial affiliation to children who lose them for

reasons other than court adjudications. One of the ugliest features of wartime situations within states is the separation of children from their parents. Article 9 obliges states parties to prevent such separations, outside of a judicial decision stipulating that such separation would be in the best interests of the child (Office of the High Commissioner on Human Rights, 1989, p.3).

War situations separate and fragment families and communities, and in these situations, states parties are likely to neglect, or be unable, to respect the rights of parents, extended family members, guardians, or a community to rear children in ways that are in line with children's developing capacities, as provided in Article 5 of this Convention. Relatedly, Article 18 recognizes that while both of a child's parents, or his or her guardian, bear the responsibility of rearing a given child, states parties are to support parents and other guardians in their child-rearing duties. This support entails the development of institutions, facilities and services dedicated to the care of children. In particular, working parents and guardians are to benefit from the child care services that the state party is to provide (Office of the High Commissioner on Human Rights, 1989, pp. 2 & 5).

Institutions charged with child care may provide poor services on account of being caught in a war-zone, or merely because of neglect of responsibilities or incompetence during peacetime. Article 3 requires states parties to ensure that institutions and facilities charged with the care of children provide services that meet the standards that competent authorities have set regarding health, safety, and adequate supervision. Internal armed conflict situations within given countries are likely to prevent state parties from abiding either by Article 3 or Article 24, under which states parties are generally to ensure each child access to health care services. Specifically, Article 24 enjoins states parties to take measures that will reduce infant and child mortality; emphasize the provision of primary health care to children; ensure children's access to nutritious food and clean drinking water for combatting malnutrition and disease; and provide adequate pre and post-natal care for mothers. Article 24 also calls upon states parties to ensure that parents and children alike have access to health education covering child health and nutrition, the advantages of breast-feeding, hygiene and sanitation, and the prevention of accidents. States parties are also to promote preventative health care, and to provide family planning education and services under this Article (Office of the High Commissioner on Human Rights, 1989, pp. 2 & 7).

Physically and mentally disabled children are particularly vulnerable when armed conflict situations prevent institutions and facilities charged with child care from meeting their obligations. Specifically, armed conflict is likely to lead to the derogation of Article 23, which requires these institutions to extend required special care, free of charge if necessary, to disabled children, as well as assistance to their parents or guardians. This Article defines special care for disabled children as standard health care, but also includes in the definition access to rehabilitation, education, preparation for employment, and recreation (Office of High Commissioner on Human rights, 1989, p. 7).

Education is another basic children's right that armed conflict within a country eradicates, although children can be deprived of that right in peacetime as well. Article 28 of the United Nations Convention on the Rights of the Child calls upon states parties to make primary education compulsory and free to every child, but also to make higher levels of education available on a progressive basis. This Article urges states parties to place both vocational and general secondary education within reach of every child through the introduction of free education at this level, and the extension of financial assistance toward such education to those who need it. States parties are further to take all appropriate measures to make higher education accessible to all who possess the capacity to undertake it. Equally vital to a child's intellectual and spiritual development is his or her access to rest, leisure, recreation, and participation in a society's cultural and artistic life, as guaranteed by Article 31. Although general poverty, and the absence of legal and governmental protection of this right can deprive children of this right in peacetime situations, it is one of the last rights that children are likely to enjoy if they are caught in armed conflicts. Article 31 also enjoins states parties to encourage the general development of children's access to leisure, recreational, artistic and cultural activities (Office of High Commissioner on Human rights, 1989, pp. 8 & 9).

Situations of armed conflict within a country generally foster an atmosphere of lawlessness, in which the most vulnerable members of a society suffer the most. Within civil war settings, children have suffered both economic and sexual exploitation. Article 32 of this Convention requires states parties to recognize a child's right to be protected from such exploitation, and from having to perform any sort of work that would be hazardous to, or disruptive of, his or her education, health, or spiritual, moral, physical, intellectual and social development. As concrete measures aimed at protecting children from such exploitation, Article 32 urges states parties to set minimal ages for employment eligibility; to formulate regulations governing hours and conditions of employment; and to enact penalties and sanctions against those who violate these standards (Office of High Commissioner on Human rights, 1989, pp. 9-10).

Regarding the sexual exploitation of children, Article 34 of the Convention requires states parties to take national, bilateral and multilateral measures to prevent the coercion or inducement of children into

engaging in unlawful sexual activity; the use of children in prostitution; and the use of children in pornographic performances or materials. Article 35 enjoins states parties to take national, bilateral and multilateral measures to prevent the abduction, sale or trafficking of children for any purpose (Office of the High Commissioner on Human Rights, 1989, p.10).

Internal wartime situations also create an atmosphere in which children are more likely than in peacetime to face arbitrary punishment or discrimination from authorities on account of their parents' or guardians' status, activities, or expressed opinions and beliefs. Article 2 of this Convention calls upon states parties to prevent children from facing such penalties. Similarly, the lawless atmosphere that internal armed conflict situations foster within a country increases dramatically the likelihood that children will be imprisoned arbitrarily and without access to counsel or familial contact, tortured or even executed. Article 37 of this Convention outlaws subjecting persons under eighteen years of age to capital punishment, torture, or to life imprisonment without the possibility of release. This Article also prohibits depriving children of their liberty unlawfully or arbitrarily, and stipulates that such incarceration must occur as a measure of last resort only. Article 37 further stipulates that if children are imprisoned, their incarceration must be for the shortest possible time- period. Juvenile prisoners must also be kept separate from adult prisoners, and must be allowed to retain contact their families through correspondence and visits. In addition, Article 37 upholds the right of an incarcerated child to counsel, and to contest his or her incarceration, either before a court or before another competent and impartial authority. (Office of the High Commissioner on Human Rights, 1989, pp. 2 & 10).

The Syrian Constitutions of 1973 and 2012.¹

Neither the 1973 nor the 2012 version of the Syrian Constitution contains many explicit provisions protecting children. Nonetheless, these Constitutions do provide certain individual and collective rights that affect children's well-being. For example, Article 44 of the 1973 version, and Article 20 of the 2012 version both stipulate that the state will encourage and protect marriage. Regarding children themselves, these articles both pledge that the state will protect mothers and maternity, and will extend care to children, adolescents and youth in order to enable them to develop their faculties.

More general and collective provisions appear in Article 47 of the 1973 Constitution, and in Article 25 of the 2012 version. In these articles, the earlier Constitution declares that the state guarantees cultural, social and health services to its citizens, with special emphasis on bringing these services to villages in order to raise rural standards of living. Article 25 of the 2012 Constitution asserts that education, health and social services are society's fundamental building blocks, and that the state will gear its efforts toward achieving balanced development of these services throughout the Syrian Arab Republic. Article 46 of the 1973 Constitution, and Article 22 of the Constitution for 2012 both guarantee Syrian citizens care during emergencies, orphan hood, disability, illness and old age, as well as protection from illness, preventative measures against it, treatment, and medication.

Under Article 37 of the 1973 Constitution, the state makes elementary education compulsory, and provides that all education is free. This Article also pledges the state's endeavors to make education compulsory at higher levels, and stipulates that the state will supervise education so that it meets the production needs of Syrian society. Under Article 24 of the 1973 version, the state pledges comprehensive support for science and scientific research and achievements, and protection of the rights of authors and inventors who serve the interests of the people. Article 23 of this Constitution guarantees that the state will foster the artistic talents of all citizens. This Article also pledges that the state will encourage physical education as vital for the formation of a physically, morally, and mentally strong generation of Syrian citizens.

Like Article 37 of the 1973 Constitution, Article 29 of the 2012 version makes basic education compulsory, and makes education in general free at all levels. The state pledges to continue its endeavors to make education compulsory at higher levels as well. Article 29 adds that the law of the state will regulate education provided at institutions charging tuition, such as universities, government institutions, and private schools. Article 29 also provides that the state is to oversee education so that it serves the needs of Syrian society and its development requirements. Article 31 of the 2012 Constitution reiterates the principle of state support for scientific research, and guarantees overall freedom of scientific, literary, artistic and cultural creativity. Under this Article, the state is also to assist the fostering of scientific, literary, artistic and cultural achievements and technical inventions. Article 30 of the 2012 Constitution reiterates the statements of Article 23, in the 1973 version, about the importance of physical education.

Both Article 36 of the 1973 Constitution and Article 40 of the 2012 document stipulate that work is a right and a duty of every Syrian citizen, and that the state endeavors to provide work for all citizens. In addition, Article 36 requires the state to ensure the right of a citizen to earn a wage according to the nature and yield of work performed, and provides that the state shall set working hours, guarantee social security, and regulate rest, leave rights, compensations and rewards for workers. Article 40 of the 2012 Constitution emphasizes that every worker is to be paid a fair wage according to the quality and output of work performed, and that this wage is to

be no lower than the minimum wage that the worker requires for living needs and changes in living conditions. Article 40 also requires the state to ensure the social and health security of workers.

Article 39 of the 1973 Constitution provides that Syrian citizens have the right to meet and demonstrate peacefully within the framework of that Constitution, and that the law regulates the exercise of this right. However, Articles 45 and 44 of the 2012 Constitution go farther. Article 45 upholds the right of Syrian citizens to join trade unions and to form other associations by peaceful means and for lawful purposes as prescribed by Syrian law. Article 44 grants Syrian citizens the right to assemble, peacefully demonstrate, or strike from work, but also states that Syrian law is to regulate the exercise of these rights.

In Article 25 of the 1973 Constitution, Syrian citizens are guaranteed general individual freedom and equal opportunity. The 2012 Constitution's corresponding article, Article 33, adds to these guarantees the provision that Syrian citizens are to enjoy freedom from discrimination on the basis of sex, origin, language, religion or creed. Both Article 26 in the 1973 Constitution and Article 34 of the 2012 version guarantee the right of every Syrian citizen to participate in the political, economic, social and cultural life of the country. Article 45 of the 1973 Constitution and Article 23 of the 2012 version alike emphasize the importance of the state's role in lifting of restrictions that women face in exercising this right.

Other specific individual freedoms that the two Syrian Constitutions uphold appear in Articles 38 and 35 in the 1973 Constitution, and in Articles 42 and 43 of the 2012 document. Article 38 provides that Syrian citizens have the right to express views via speech, writing, or some other mode of expression, openly and freely. This Article also guarantees freedom of the press and publication in accordance with Syrian law, and upholds a citizen's right to level constructive criticisms in a way that does not threaten Syria's domestic and nationalist structure, or socialist system. Article 35 adds freedom of faith to these guarantees, stating that a Syrian citizen may practice any religious rite, provided that such a rite does not disturb the public order. Article 42, in the 2012 Constitution, provides the protection of freedom of belief, and reiterates Article 38's stipulations concerning freedom of expression. The 2012 Constitution's Article 43 enjoins the state to guarantee freedom of the press and publication, and to uphold the independence of the media in accordance with Syrian law.

Finally, the two Syrian Constitutions contain certain provisions covering the rights of citizens in relation to law enforcement. Article 28 of the 1973 Constitution stipulates that every defendant is to be presumed innocent until proven guilty by a final, judicial decision. That Article also prohibits physical and mental torture, and states that Syrian law defines punishment for those committing such acts. In addition, Article 28 makes it unlawful to keep persons under surveillance, or to detain them except as Syrian law prescribes. This Article further upholds each citizen's right to litigate before the Judiciary, contest its decisions, and to defend himself or herself in court.

Article 51 of the 2012 Constitution affirms the principle stated in Article 28 of presumed innocence for a defendant, pending conviction by a final court ruling after a fair trial, and adds that no punishment for a crime may be inflicted except as prescribed by Syrian law. Article 51 also re-affirms a citizen's right to conduct litigation in court, to review a judicial decision, and to defend himself or herself before the judiciary. Article 51 adds that the state will guarantee legal aid to those who cannot provide it for themselves.

Article 53, also in the 2012 Constitution, reiterates Article 28's injunction against torture and humiliating treatment in the 1973 Constitution, as well as Article 28's prescription of punishment for those carrying out such practices. Article 53 adds to Article 28's safeguards the stipulation that no person, except one caught in an unlawful act, may be investigated or arrested except by order of a competent judicial authority. Article 53 further provides that one who is arrested must be informed of the reason for the arrest, and of his or her rights, and may not be incarcerated except by order of a competent judicial authority. In addition, this Article stipulates that one who is wrongfully sentenced, or who serves a wrongful sentence, has the right to ask the state for compensation for damage suffered.

In addition to freedom from torture and wrongful arrest, both Syrian Constitutions uphold citizens' rights to security in their homes. Both Article 31 of the 1973 Constitution, and Article 36 of the 2012 version, assert that the state is not to enter, inspect or search houses except under conditions specified by Syrian law. Article 36 adds that such inspections and searches must be ordered by a competent judicial authority.

The two Constitutions also prohibit government authorities from deporting Syrian citizens from their homeland, and limit authorities' ability to restrict a citizen's freedom to travel within Syria. Under Article 33, the 1973 Constitution states that no Syrian citizen may be deported from Syria, or limited regarding travels within the country except under the orders of a judicial sentence or of public health and safety laws. Article 38, in the 2012 document, adds that in addition to freedom from deportation, Syrian citizens may not be prevented from returning home, or extradited to foreign entities. Under this Article, Syrian citizens enjoy the right to travel within Syria, or to leave it, with no restrictions except those issued by a court decision, a public prosecution office, or those stemming from the enforcement of public health and safety laws. Article 54 of the 2012 Constitution generally outlaws and makes punishable by law any assault on individual freedom, the inviolability of private life, or any other Constitutionally guaranteed rights or public freedoms

It is true that most of the provisions outlined in the two Syrian Constitutions do not pertain directly to the rights of children. They do, however depict a set of rights that Syrian citizens are supposed to enjoy under stable, peacetime circumstances. These rights, when realized, foster a stable, predictable environment for children as well as adults. The wartime situation that has engulfed Syria for the last nine years has ensured the derogation of these rights, and children's rights, by all parties to the conflict. It is now appropriate to show the specific ways in which all of the combatants have ensured the disappearance of Syrian citizens' rights in general, with special emphasis on the derogation of children's rights as defined by international law, and implied within the two Syrian Constitutions.

The Syrian Conflict's Combatant Parties and the Derogation of Children's Rights

Between 2011 and November, 2019, the United Nations Human Rights Council conducted 5,000 interviews in Syria concerning the Syrian civil war situation's effects on children. The interviewees included eyewitnesses, survivors, relatives of survivors, medical professionals, defectors, members of armed groups, health care professionals, lawyers, and members of affected communities. Human Rights Council personnel also interviewed children, in person and after gaining permission from their parents to do so (Independent International Commission of Inquiry, 2020, pp. 5-6).

As previously stated, Article 6 of the Convention on the Rights of the Child affirms a child's basic right to life per se. Articles 3 and 24 guarantee a child's right to health care. All forces participating in the Syrian conflict have derogated these rights. However, Syrian Government forces played a particularly prominent role in the killing and maiming of children during the repression in 2011 of the initial protests for greater political freedom and against Government corruption. These protests began in the province of Dera'a, near the Jordanian border and spread throughout Syria during that year (Human Rights Watch, 2011). In that first year of the conflict, Government forces killed and injured children both as part of the repression of the protests in the streets and during home raids (Independent International Commission of Inquiry, 2020, p.8).

The first attack by Government forces on civilians occurred in March, 2011, when fifteen boys between the ages of ten and fifteen were arrested in Dera'a for painting anti-Government graffiti on walls in that city. The boys were arrested and then released, bruised and bloodied. It was their recounting of the torture that they had suffered while in custody that sparked further protests across Syria, following the initial demonstrations demanding the boys' release (Stewart & Van Esveld, 2020).

Government security forces did not hesitate to use teargas, water cannons, and live ammunition against the unarmed, and largely peaceful, protest demonstrators of Dera'a in 2011, some of whom were children. Government forces also targeted medical personnel and participants trying to retrieve bodies or to get the wounded to relative safety. According to what witnesses told Human Rights Watch interviewers, it was the troops of the *Mukhabarat*, or the intelligence services, along with elite Army units like the 4th Division, under the command of Maher al-Assad, the Syrian President's younger brother, who were responsible for most of the violence. Other Army units, though, sometimes allowed the demonstrators to pass through checkpoints. In two instances, soldiers actually refused to fire on the protesters, and even surrendered to them (Human Rights Watch, 2011).

In the period of late April through the first half of May, 2011, Syrian security forces placed the entire province of Dera'a under siege, and anyone, including children attempting to bring food to the besieged city risked capture, torture and death. By mid-April, 2011, the Syrian Army and *Mukhabarat* were suppressing protests all over the country, and in May, Government forces stormed the Baba Amr neighborhood in the city of Homs, killing children along with adults in so doing (Human Rights Watch, 2011).

By mid-2013, Government forces had recaptured many major cities from armed opposition groups (Human Rights Council, 2013, p. 5). In recaptured areas, Government forces frequently placed snipers on the roofs of residences, schools and hospitals. The sniper fire frequently killed children as young as the age of ten. In addition, Government forces often used cluster munitions, thermobaric bombs, improvised rockets, and chemical weapons against schools and hospitals, killing and maiming additional children in that way (Independent International Commission of Inquiry, 2020, p.8). The shelling and aerial bombardment of villages also caused many childhood deaths and injuries. The Government missile strike of June, 2013 against the village of Kafr Hamrah, in the province of Aleppo, for instance, killed ten children, along with fifty-three adults. There were no military targets near this village (Human Rights Council, 2013, p. 14)

Children who were wounded during attacks by Government forces usually opted out of seeking medical treatment from public hospitals for fear of being arrested, or being fired upon when they approached the hospitals, since Government authorities claimed that the wounds that these children had suffered indicated that they had participated in anti-Government activities. Furthermore, medical staff at Government hospitals often denied treatment to wounded children in order to avoid being arrested themselves by Government authorities. Children were also killed during the sieges that Government forces laid to towns and villages, both from shelling and from aerial bombardments, and from malnutrition and dehydration that the sieges brought

about through the stoppage of inflow of food and medicine (Independent International Commission of Inquiry, 2020, pp. 8-9).

During raids on certain areas, some pro-Government militias and paramilitary groups executed children along with adults. In one such raid of May, 2013 against Al-Bayda, in the province of Tartus, these forces killed boys between the ages of thirteen and fifteen as well as adults. A particularly gruesome instance of child execution took place in April of that year at Khirbet Al-Teen in the Homs province. Here, pro-Government armed groups attacked the Qadrou family, which was part of a Bedouin community that was not considered to be loyal to the Assad Regime. During the attack, the adults were shot, while the raiders slit the throats of four children (Human Rights Council, 2013, pp. 14 & 39).

Opposition forces attacking Government-held areas were also responsible for the deaths of children. In the provinces of Latakya and Idlib, as well as in the cities of Aleppo and Damascus, there were instances in which Islamist and other armed opposition groups targeted children on their way to school or assembled in schoolyards. ISIL often carried out public executions of children, or made them carry out the executions themselves. In addition, the land mines that ISIL laid when its fighters were retreating from areas that the Government had re-taken killed and maimed children (Independent International Commission of Inquiry, 2020, p.9). There were also instances in which the Kurdish Peoples' Protection Movement (YPG) shot children who protested against its rule in areas of northern Syria. In one such incident in the northeastern town of Al Hasakah in 2013, YPG forces shot and killed a twelve-year-old girl and a fifteen-year-old boy for participating in a protest in which rocks and bottles were thrown at the YPG troops. (Human Rights Council, 2013, p. 9).

In June of 2019, Hay'at Tahrir al-Shams, a Salafi Islamist group, aimed about twelve 120mm Grade rockets at the village of al-Wadihi near Aleppo, killing thirteen civilians celebrating a wedding, four of whom were children. The U.S.-led coalition, which has been supporting the opposition to the Assad Regime, made its own contribution to the killing and injuring of Syrian children by launching an all-night airstrike against the Al-Badiya school in the ISIL-held town of Mansurah, in the Raqqah province. In this attack, 150 displaced civilians living at the school, eleven of whom were children, were killed. All but one of the children were under the age of eleven. Eight of the total fatalities were women in the final stage of pregnancy (Independent International Commission of Inquiry, 2020, p. 9).

In launching their attacks on civilians, all the combatant factions in the Syrian conflict have denied children their right to health, health care, and, indeed, to life itself as upheld in the Convention on the Rights of the Child. These factions have also eliminated guarantees that both the 1973 and 2012 Constitutions grant to all Syrian citizens. Specifically, both Article 47 of the 1973 Constitution and Article 25 of the 2012 version pledge the state's provision of health and social services to its citizens and the balanced distribution of these services between urban and rural areas. Both Article 46 of the 1973 Constitution, and Article 22 of the Constitution for 2012, assert that the state must extend care to its citizens when they face emergencies, orphan hood, disability, illness and old age. The state must also provide its citizens with protection from illness, preventative measures against it, treatment, and medication.

The detention of children has been a practice common to all of Syria's warring parties, but this practice has been particularly pervasive in areas under Government control. Detention of children in Government-controlled areas has occurred despite the provisions of Article 28, and Article 53, respectively of the 1973 and 2012 Syrian Constitutions, prohibiting the detention of Syrian citizens except by order of competent legal authorities. As mentioned above, the treatment of the fifteen boys arrested in Dera'a in March, 2011 had been one of the factors igniting the Syrian civil war.

In April and May of 2011, Government forces repeatedly included children in their mass arrests. During the April-May siege of the of the entire province of Dera'a, Government security forces detained without charges massive numbers of people, including many children. The Government authorities released some of the detainees, but others disappeared entirely. During the siege, Government forces also arrested children simply on account of their being relatives of known opposition activists (Human Rights Watch, 2011). Instances of this practice occurred in other parts of Syria as well, once the protests had spread. In March, 2013, for example, Government forces arrested the wife and children of a wanted man in the town of Karnaz, in Hamah province (Human Rights Council, 2013, p. 9).

As of April 15, 2011, the Assad Regime's security forces had arrested hundreds of protesters from cities and towns across the country. Human Rights Watch personnel interviewed nineteen of them, three of whom were children. The child-detainees reported having been beaten, and other interviewees also affirmed that while in custody, they saw children being detained and beaten. In May, the Army and security forces surrounded the coastal town of Banyas, where still another Government sweep arrested hundreds of men and boys (Human Rights Watch, 2011).

Since 2011, both Government security forces and pro-Government militias have detained boys as young as the age of fifteen, and sometimes girls, during mass arrests, house and hospital searches, or at

Government checkpoints. The grounds for the detention of these children were their alleged support of opposition groups. While in detention, these children, some of them only seven years old, were denied food and health care, and faced torture, rape and beatings. A number of these children died in state custody (Independent International Commission of Inquiry, 2020, p. 14).

On other occasions, the child-prisoners have been forced to torture other detainees. Government authorities and pro-Government militias have often inflicted this treatment on these children in order to induce confessions from their parents. Government security personnel and pro-Government militia members have also denied health care and food to young children accompanying their detained mothers. Children born of detained, pregnant women have immediately been separated from their mothers, and never heard from again. In still other instances, detained children have been forced to cook for Government security personnel and detainees, and to clean the prisons (Independent International Commission of Inquiry, 2020, p. 14).

Enforced disappearance has been another form of arrest that Government forces have inflicted on children. For example, a man whom personnel from the Independent International Commission of Inquiry interviewed reported that, following a battle with opposition forces at Bab Amr in March, 2013, Government soldiers abducted his neighbors, including children. The interviewee never saw those families again. Government troops also accosted a family attempting to escape the fighting in the Al-Waar neighborhood of the city of Homs, depriving the children of a parent by arresting the father and taking him to an unknown location. (Human Rights Council, 2013, p.11).

However, it has not only been government and pro-Government forces that have detained children and committed atrocities against them in detention. Islamist armed groups have tortured captured children in order to extract information from them about the allegedly hostile activities of adult relatives. These forces have also held children hostage, often together with their mothers, for the collection of ransom or as bargaining chips for prisoner exchanges with Government forces or pro-Government militias (Independent International Commission of Inquiry, 2020, pp. 14-15). Islamic State (ISIL) forces attacking the Sinjar Mountain region of northern Iraq in 2014 captured Yazidi children from there. After defeating ISIL in northeastern Syria in 2019, fighters of the Syrian Democratic Forces (SDF), a Kurdish group, transferred the children, together with the ISIL-affiliated adoptive “parents” that some of them had, to compounds in northeastern Syria like the al-Hol camp, where they were living as of May, 2019. Some of these children been so young when ISIL forces abducted them that they had no memories of their actual parents (Sly, June 15, 2019a).

The al-Hol camp, one of the compounds to which Syrian Democratic Forces (SDF) transferred women and children caught in the fighting between its troops and the ISIL, housed over 70,000 people as of mid-June, 2019. While the camp population included some ISIL militants, most of the detainees were unaffiliated civilians. More than half of the camps inhabitants were children, most of whom were younger than the age of twelve. The camp lacked clean water, food and medicine, and as a result, the child-prisoners were suffering from diarrhea and malnutrition. They also had to contend with summer heat and winter cold (Sly, 2019b & 2019c).

As of early 2020, SDF camps have continued to hold women and children. The detainee population has included twelve-year-old boys accused of having ties to ISIL fighters, and among these boys have been Yazidi youth from the region of the Sinjar Mountains in northern Iraq, whom ISIL had forcibly transferred to eastern Syria in 2014. SDF cadres placed these detainees in special detention sites, where they had neither clear-cut legal status nor access to legal assistance, a situation that made them vulnerable to abuse (Independent International Commission of Inquiry, 2020, pp. 14-15).

In committing these atrocities against child-detainees, Government, pro-Government, and opposition groups, Islamists and otherwise, have all derogated Articles 28 and 53, respectively appearing in the 1973 and 2012 Syrian Constitutions. These articles, as noted above, outlaw the torture and wrongful arrest of Syrian citizens. These warring factions have also violated Articles 6,7,9 and 27 of the United Nations Convention on the Rights of the Child. These Articles respectively uphold the child’s overall right to life; a child’s right to know and be reared by his or her parents; a child’s right not to be separated from his or her parents; and a child’s right to a standard of living conducive to his or her mental, physical, moral and social development. All of the parties to the Syrian conflict have likewise contravened Articles 2 and 37 of this Convention. Article 2 enjoins states parties to prevent children from facing discrimination or punishment on the basis of the activities and beliefs of their parents or guardians. Article 37 criminalizes subjecting persons under eighteen years of age to capital punishment, torture, or life imprisonment; prohibits unlawfully or arbitrarily depriving children of their liberty; prohibits lengthy incarcerations for children; and stipulates that imprisoned children must have access to counsel, and be permitted contact with their families.

Recruitment of a child into a formal army or into a paramilitary force is a human rights violation that occurs particularly often in civil war situations. As discussed above, International Labour Organization (ILO) Convention No. 182 outlaws the forcible imposition of labor, including military service, on any person younger

than the age of eighteen. The Rome Statute of the International Criminal Court (1998) criminalizes the recruitment of persons under the age of fifteen into armed groups, and Article 38 of the United Nations Convention on the Rights of the Child enjoins states parties against the recruitment of persons under the age of fifteen into their armed forces.

Within the Syrian conflict, Government forces, such as the formal Syrian Army, pro-Government militias and opposition forces alike have been guilty of recruiting children into combat forces. This practice intensified between 2011, the beginning of the hostilities, and 2013, as young men of normal conscription age increasingly fled the country. Between those two years, President Assad's Government relied increasingly on such paramilitary organizations as the National Defense Forces and popular committees, which recruited boys between the ages of fourteen and seventeen, arming and training them and then deploying them to Government checkpoints. Popular committees also used children as young as six years of age as spies and informants, placing them in danger of imprisonment and punishment if they were captured by the opposition's armed groups (Independent International Commission of Inquiry, 2020, p.10).

Teenage boys crossing Government checkpoints were in particular danger of recruitment into formal or paramilitary pro-Government forces, so that their parents often found it necessary to send them to safety outside of Syria (Independent International Commission of Inquiry, 2020, pp. 10-11, & n.28). Interviewers from the International Independent Commission of Inquiry on the Syrian Arab Republic got reports that once these sixteen or seventeen-year-old boys were recruited into either the formal Syrian army or the National Defense Forces militia, older soldiers often mistreated them and pushed them toward the front lines (Human Rights Council, 2013, p. 14).

When the conflict began, the widely diverse array of anti-Government armed groups tended to attract defectors from President Assad's army, but subsequently, boys under eighteen years of age began to join. Among Islamist forces, twelve-year-old boys were staffing ISIL checkpoints, and those of other Islamist armed groups. These children were also being used to load ammunition. Both the FSA and Islamist forces also used children as young as thirteen as cooks, porters and informants. Their tasks also included the preparation of ammunition and carrying the wounded and medicine. (Independent International Commission of Inquiry, 2020, p. 11).

Some of the child-recruits, especially boys, had been bribed into joining both Islamist and non-Islamist paramilitary opposition groups through the prospects of steady salaries, a tempting proposition since so many families had lost their male breadwinners as casualties or as prisoners. Other children joined these forces after seeing their parents humiliated and harassed by them. Both the Syrian Democratic Forces and its Islamist enemies like ISIL frequently recruited children ten years of age or younger for combat duty. Sometimes this recruitment happened under the guise of promises of access to education. One of ISIL's practices was the forcible transfer of young boys from the territories it held to ISIL-established "cubs camps" The child-soldiers in these camps were trained for combat and suicide missions, and among them were Yazidi boys from the Sinjar Mountain area of northern Iraq who were sometimes as young as seven years old (Independent International Commission of Inquiry, 2020, pp. 11-12).

Other armed Islamist opposition groups, such as Liwa Al Tawhid and Jabhat Al-Nusra, also recruited youth between the ages of fourteen and eighteen. While these child-recruits did not carry heavy weaponry, they did undergo military training and participate in front-line action (Human Rights Council, 2013, p. 15). Like the young recruits who joined Government forces, those conscripted into armed opposition groups faced the danger of imprisonment and punishment by enemy forces if captured (Independent International Commission of Inquiry 2020, p. 12). The Kurdish Peoples' Protection (YPG) also recruited children, both male and female, as fighters, and some of these recruits were as young as the age of twelve. The YPG recruitment activity mainly took place in the areas of Afrin, near Aleppo, and Al Hasakah. At Al Hasakah, the YPG was fighting to keep the Islamist group Jabhat al Nusra from penetrating the Kurdish-held area from bases in Turkey (Human Rights Council, 2013, p. 15).

Aside from violating the above-discussed instruments of international law protecting children from recruitment into armed conflicts, all of the parties to the Syrian conflict have contravened the provisions in the Convention on the Rights of the Child enjoining states parties not to conscript persons younger than the age of fifteen for combat duty. These warring factions have also derogated Article 37 of that Convention, which protects children from being deprived of their liberty unlawfully and arbitrarily. Moreover, Article 28 of Syria's 1973 Constitution provides that no Syrian citizen may be detained except as prescribed by law.

Both Government forces and armed opposition groups have attacked and gutted Syrian children's education, a right that the above-discussed Article 28 of the United Nations Convention on the Rights of the Child calls upon states parties to extend, free of charge, and on a compulsory basis to all children at the primary level. This provision also enjoins states parties to extend the availability of free education to more advanced grades. Both Article 37 of the 1973 Syrian Constitution, and Article 29 of the 2012 one make education free at

all levels, and compulsory at the basic level., These Articles pledge to make education compulsory at higher levels as well.

Government forces played their role in the collapse of the Syrian educational system at the beginning of the conflict. During its massive arrests of April-May 2011 in the besieged Dera'a Province, the Assad Regimes security forces used two schools, along with many other public facilities in the Province, as detention centers (Human Rights Watch, 2011). Many schools elsewhere in Syria had been the sites of anti-Government protests during 2011 and, therefore, became the targets of Government forces. Early in 2012, for example, Government forces fired upon one such school, the Abdita School in the Idlib province. They then broke into classrooms, and destroyed school materials (Independent International Commission of Inquiry, 2020, p. 12).

On October 26, 2016, Government forces launched a series of air strikes against another school complex in the Idlib province. This one was located in the town of Haas, and served 2,000 students in all. The air strikes killed or maimed a total of eighty-two children between the ages of seven and seventeen, and put the school complex itself out of commission. Later, in 2018, pro-Government paramilitary forces launched mortar projectiles near the al-Khanzaa Primary School in the town of Jarjanaz. One of the projectiles exploded about fifty meters from the schoolyard, where 250 children were playing, killing at least six children between the ages of eight and eleven, and injuring many more. Attacks like these two resulted in the closure of schools throughout the country. By 2019, in Idlib Province alone, the fighting had destroyed or damaged about seventy schools in the province's demilitarized zone, depriving about 200,000 pupils of formal education. In addition, Government forces re-taking certain areas have abducted teachers on the grounds of their alleged involvement with opposition forces. Other teachers fled areas that Government forces were re-taking in order to avoid similar accusations and the resulting reprisals. (Independent International Commission of Inquiry, 2020, p. 12).

Armed opposition groups, Islamist and otherwise, have used schools as military barracks, depots, and launching sites. Schools in Aleppo, Damascus, and in the Idlib province have come under mortar and artillery fire from these groups, and as a result, some schools have had to hold their classes in basements and in other inconvenient places. Parents caught in areas under the control of opposition groups, but who wanted to continue their children's education in the Government schools that had formed the core of the Syrian educational system, have frequently opted to keep their children at home instead, or to enroll them in makeshift schools because of movement restrictions. In areas under the control of the Syrian Democratic Forces (SDF), many parents chose home schooling for their children out of fear that Government authorities would not accept certificates from public schools established in SDF-controlled areas. In these areas, members of the Kurdish People's Protection Movement (YPG) harassed parents who had enrolled their children in Government schools (Independent International Commission of Inquiry, 2020, p. 13). The al-Hol camp in northeastern Syria, which fell under the control of the SDF in March, 2019, had no schools at all as of June of that year. This situation left the camp children vulnerable to the teachings of adults who were ISIL holdouts (Sly, 2019b).

ISIL and other armed Islamist organizations set up educational systems of their own in areas that they controlled after 2014. ISIL's education system, for instance, was one of indoctrination in Salafi Islamist ideology. In the Raqqah and Aleppo provinces, girls who had reached the age of ten were deemed to have gotten enough religious education, and were removed from the ISIL schools. Boys, by contrast, were given weapons and military training. As part of their continuing Islamist education, they were shown beheadings and other executions. Kurdish Yazidi boys abducted by ISIL forces were punished for speaking the Kurdish language, as well as for trying to escape from ISIL encampments (United Nations Human Rights Council, 202, p. 13).

Instances of sexual violence against children, and particularly against female children, are rampant in civil war situations. In Syria, Government, pro-Government and opposition forces alike have been guilty of such atrocities. During the massive arrests of 2011-2012, Government forces detained children as well as adults, seizing them from their homes, from the streets, from schools and even from hospitals. Government forces also made arrests at checkpoints that they had set up in the provinces of Dera'a, Idlib, Homs, Aleppo, Deir es-Zor and Damascus, and then turned private homes, hospitals, schools, and checkpoints in those provinces into detention centers. Rape and the threat of rape were among the types of maltreatment that these children faced while in detention. The children, along with the adults, had been arrested on the alleged grounds of their relatives' involvement with opposition groups (United Nations Security Council, 2014, p. 6).

Members of both the Syrian Armed Forces and the intelligence services committed rape and other forms of sexual assault against children and adults alike (United Nations Security Council, 2014, p. 9). These assaults were particularly common in Government detention facilities administered by the General Security Directorate in Damascus. Security personnel running these facilities raped adolescent girls in order to extract confessions from them about their activities and those of their relatives, or to induce the surrender of family members. Government security forces also subjected boys to sexual violence, including rape before witnesses and the beating and electrocution of genitals. Because sexual violations are traditionally stigmatized in Syria, survivors of such attacks, once released from custody, have rarely sought or obtained medical or psychological

treatment for their sufferings. As a result, these survivors have often developed reproductive health problems. Some have actually become suicidal. (Independent International Commission of Inquiry, 2020, pp. 15-16).

Particularly since mid-2014, reports have emerged describing acts of sexual violence against both children and adults that armed Islamist groups like ISIL have committed. When ISIL forces attacked the Sinjar region in northern Iraq, for instance, ISIL fighters captured hundreds of Yazidi women and girls, some of whom were transported to Syria and sold in markets in the area of Al-Raqqah as sex slaves. In areas of Syria that ISIL controlled, its authorities forced other women and girls into marriages with ISIL fighters. Some families in refugee camps for the internally displaced have resorted to childhood marriages for their daughters, in order to protect them from rape and other sexual violence at the hands of Islamist fighters. Other such families have tried to protect their daughters by removing them from school or confining them to the “home” (United Nations Security Council, 2015, p. 18). ISIL has also been reported to have executed both women and girls for alleged adultery by stoning in parts of Syria under its control (Nebahay, 2018).

Forces committing these gender-based crimes against children have contravened Article 37 of the Convention on the Rights of the Child, and Articles 34, and 35 as well. Article 34 requires states parties to take action at all levels to prevent the coercion of children into unlawful sexual activity. Article 35, on its part, calls upon states parties to take similar, multi-level action to prevent the abduction or trafficking of children for any purpose. U.N. Security Council Resolution 1325 (2000), another instrument that parties to the Syrian conflict have derogated, enjoins all combatant parties in a conflict to make efforts to protect women and girls from rape and other forms of sexual abuse and gender-based violence. Resolution 1325 also calls for the mandatory prosecution of perpetrators of such crimes. Provisions within the two Syrian Constitutions which Government and anti-Government forces alike have violated in regard to rape and other sexual assaults have included Article 28 and Article 53, respectively of the 1973 and 2012 Constitutions. Article 28 prohibits physical and mental torture of those who are in custody, and states that Syrian law defines punishment for those committing such acts. Article 53 reiterates those provisions.

II. CONCLUSION

Civil war situations within countries eliminate the rule of law wherever they erupt. In such a situation, since the state no longer even exists in practice, it cannot guarantee any of the rights and protections that its constitution and statutes might provide. In additions, the citizens of that state lose whatever recourse they might have had regarding holding the state responsible for living up to its legal pledges. In Syria today, the civil war situation has eradicated all rights that the Constitutions of 1973 and 2012 promised the citizens of the Syrian Arab Republic, such as employment, health care, education, freedom of expression, publication and religion and freedom from arbitrary incarceration.

The Syrian conflict has also ended the practical existence in Syria of rights that the United Nations Convention on the Rights of the Child promises children. Syrian children enjoy no guarantees regarding education, family affiliation, a nationality, a decent standard of living, or an educational system that will provide them with skills and economic solvency. Syrian parents are totally unable to guide their children’s development, and cannot even be sure of not being separated from their children.

As a particularly dangerous development in Syria, the internal conflict has gone beyond demonstrations for more freedom and against government corruption. The state repression that took place in response to these demonstrations in 2011 and 2012 had been damaging enough, but the situation grew more dangerous because the conflict created enough of a vacuum to allow forces besides the Syrian Armed Forces, the Government-affiliated National Defense Forces, and the opposition’s Free Syrian Army to enter the fray. These new combatant groups now included Salafi Islamist forces like ISIL and many similar armed organizations.

These Islamist groups have not only added to the overall wartime devastation that the Syrian people, and particularly Syrian children, have suffered, but they have also eroded the rights of women in areas that they have controlled. In particular, female children have suffered from this development, for it has placed them in danger of rape and sexual enslavement, robbed them of the right to an education, and deprived them of the right to make their own decisions about their personal lives.

It remains unclear whether President Assad, once restored to power, can both be prepared extend more respect to the opinions and demands of his citizenry, end repressive responses to these demands in order to keep their expression lawful, and maintain Syria as a state that guarantees its people the social services that its two Constitutions promise. All of these measures will be necessary for Syria to rebuild itself after the conflict has ended, and safeguard the rights of its children according to the United Nations Convention on the Rights of the Child.

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