

## PROTECTION OF CHILDREN IN CONFLICT: AN INTERNATIONAL PERSPECTIVE

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### Introduction

Hitler safeguarded children and teachers in the best possible way, why? Because the future of a country is always dependent on children of that country which are consequentially taught by good teachers and today undoubtedly, Germany has become one the highest rated education providers in world. This is a short example to show the importance of the children in a community.

Children are one of the important aspects of any society and are also considered as a vulnerable group that is to be safeguarded and taken care of. They are inherited with several rights by birth and because living with an adequate childhood is the beautiful world that a human being can be gifted, unlikely it becomes a question whether it is gifted and made accessible to every child in the same manner or not? No, here is where we realize a bitter truth of the world that everyone is not gifted/having same life. Thus, if adequate childhood is derived from a person's life, that person will remember this in whole life. He/she will always feel a sense of deprivation and a deficient childhood that he/she has endured. Some of the children are suffering violation of rights as an outcome of plenty of reasons which can be economical drowning, illiteracy, religious aspects, and conflicts in a state country. Therefore, if there is security and peace in a country, government can measure other elements and methods for the prospects of a peacekeeping, but if any conflict is going on, especially armed conflict which may be national or international, everything gets blocked as a reason of insecurity. So, here non-international armed conflict which is prevalent in Afghanistan and how it deprives child rights can be considered as a stirring and world-shaking question, which should be resolved.

### Worst war zones and effects on Children

*"My first wish is to see this plague of mankind, war, banished from the earth", George Washington<sup>2</sup>*

One can easily decipher that the progress of international law started as the adverse aftermaths of war. Wars bring destruction, disasters, killings and several other arbitrariness. War never ends, it has had both less, as well as a considerable effect on infrastructures and physical existence of common property of a country, progress of women, men and children. Whole human race eventually got fed up with the war, and thereby the different powers of the world got mobilized together and started working on an international arena to formulate laws, regulations and guidelines

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<sup>2</sup> War Quotes, available at <https://www.brainyquote.com/topics/war-quotes>, (visited on December 24, 2019)

which would be implemented in the future course and the countries would be bound by it. Hence, I would like to give two examples of worst war zones, Syria and Afghanistan, which are ranked 1 and 3 respectively with Iraq ranked at number 2<sup>3</sup>. First, I would like to discuss status of children in Syria and then in Afghanistan and finally how International law is applicable to the situation of children.

### **Syria: -**

It would be possibly inevitable to have a short glance into Syria situation before 2011, where it can be divided into two important dimensions. One is before 2006, and another is a civil war from 2006 to 2011, also it links with a huge drought as well<sup>4</sup>. Before 2006, there is not much to discuss about Syria because it got internationally renowned after 2006 when a huge drought hit Syria. Before 2006, Syria was economically stable as by changing economic system to liberalization, privatization through neoliberal market, means provoking informal sectors by charging less tax on them. Where more than 45% of Syrian people from remote areas were employed by informal sectors and more than half of them were less than 30 years old, this increased till 2006<sup>5</sup>. From 2006 to 2011, a huge drought downed the economy of Syria. Some people argue that it was the reason of war in Syria<sup>6</sup>. Present scenario of Syria is very critic. The war and conflict which is going on in Syria that started in 2011 brought disasters, catastrophes and escalation of violence. It is caused of years displacement of people where 2.5 million of them are children living as refugees, millions displaced, half a million of children were left stranded in places where humanitarian assistance access was very difficult and they are still lacking it, wherein 5 million of Syrian children are still in need of humanitarian aid. There is another report of UN which says until now, more than 170,000 grave violations have been recorded and verified by UN, of Syria, that means about 45 violations occur and are thus committed on daily basis. Syrian children as in the current situation, are hugely and vastly deprived of their fundamental rights that all children of the world ought to possess. Syria, according to reports, is the world's worst war zone, thus the people of Syria are deprived more than any other states physically, mentally. Children have been abducted, sexually abused, recruited in armed groups, killed, maimed, drowned in oceans by sailing through boats and ships while fleeing to other countries.

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<sup>3</sup>Christian Stormmar, THE WORLD'S 15 WORST WAR ZONES, available at <https://www.businessinsider.com/the-worlds-worst-war-zones-2015-3>, (visited on December 24, 2019)

<sup>4</sup>William R. Polk, UNDERSTANDING SYRIA: FROM PRE-CIVIL WAR TO POST-ASSAD available at <https://www.theatlantic.com/international/archive/2013/12/understanding-syria-from-pre-civil-war-to-post-assad/281989/>, (visited on December 24, 2019)

<sup>5</sup> JOSEPH DAHER, The Political Economic context of Syria's reconstruction: a prospective in light of a legacy of unequal development, available at <https://cadmus.eui.eu/handle/1814/60112>, (visited on December 24, 2019)

<sup>6</sup> Brad Plumer, DROUGHT HELPED CAUSE SYRIA'S WAR. WILL CLIMATE CHANGE BRING MORE LIKE IT? available at <https://www.washingtonpost.com/news/wonk/wp/2013/09/10/drought-helped-caused-syrias-war-will-climate-change-bring-more-like-it/>, (visited on December 24, 2019)

So typically, as it is worst war zone and adding to their misery, they don't have access to schools, hospitals, parks or any other facilities which a child should have, like basically a comfortable home with family. In Syria, either both of their parents have died or one of them, or in some cases they lost each other while sailing or crossing through oceans via illegal routes for immigration purposes. They leave their home countries simply because it is not a safe place anymore. There are such other basic human rights like having good childhood, but sadly, Syrian children are damaged mentally along with the physical harm and destruction that they suffer. Hearing gun sound itself is a huge damage to mental health of a child whatsoever and in addition to this, they witness most of the killings by guns, bomb, chemical weapons, air strikes and moreover watching infiltration of troops, militants from different countries makes people more worried.

Then in a report of Anadolu Agency said, around 29,000 of children have been killed since war started in Syria in 2011. Furthermore, the Syrian Network for Human Rights has said in on elf their reports that the regime of Bashar Al Assad along with the Iranian backed terror groups have been responsible for over 22,000 deaths of the children in Syria and that is a cause of very serious concern. Those children have died mainly because of:

- Medicine shortages
- Malnutrition
- Regime's chemical attacks and etc.

And different groups and tribes such as:

- Daesh
- US-led international coalitions
- Syrian opposition
- SOF - YPG/PKK
- Russian forces

If that was not enough, they are also put in detentions by different groups. Therefore, we can contemplate how these poor children have been torturing excruciatingly and suffering painful life.

#### **Afghanistan: -**

At the onset, Afghanistan with plethora of dynastic coups always violated means and principles of democracy where people's choice should have been playing an important role unlikely it's not been like that. Before USSR invasion in 1979, it was coups which were dominant and overpowering by military power. So, there was never a referendum or voting choice of people. There was no democracy. These systems were forcibly made applicable on people. So, here we can say violating democracy with military superior strength and also compulsory acceptance of ideology of King,

itself indicates people being in compulsion and under pressure of new government. Thus, typically and in a very clear manner, children, women, and all other vulnerable groups have always been the targets of inhuman behavior. After, 1979 when USSR invaded Afghanistan they kidnapped around 50,000 children to brainstorm their ideologies into them and also to use them for military purposes. Additionally, they dropped and planted mines over areas especially "toy mines" because of which large number of children got killed and maimed. Since USSR entered Afghanistan, 10 years of anti-communism war started and that resulted in destruction of Kabul, people also fled to different countries out of coercion and started living as refugees and a lot of the population got internally displaced as well. Also, most of the people were killed, maimed, disabled which included great number of children and even schools got closed as well. As I am one of those children who was born in Tajikistan and then lived far from my own country where I didn't see my relatives. Especially my grandmother, she lived with my picture and I always wanted to live alongside my grandmother and to know my relatives who they are. Apart from that, I didn't know my culture, I could never see my own country and had to live unto 13 years in a different country. There were a lot of children like me, who were curious about their homeland, but due to war they had to flee and live those lives they never wanted to live and to work those jobs they didn't want to do. Like, some people were working as Governors of Provinces, as judges, pilots and on many more high posts but as a result of forced migration, they ended up working as shopkeepers, and different other jobs to which they were not used to. Additionally, they had to learn new languages to live in new cultures. Then after than Taliban ruled Afghanistan for 5 years from 1996 till 2001<sup>7</sup>. They were ruling Afghanistan with Islamic fundamentalism. People had to pray "Namaz" forcibly, schools for girls were closed, women and girls stayed at home that resulted in increase of underage marriages, then education quality got low<sup>8</sup>. After a huge explosion in USA in 9/11, 2001<sup>9</sup>. US and 52 NATO troops fought and defeated Taliban. Where in this war around 100,000 of people died and thousands got disabled<sup>10</sup>. Present scenario is that there were many cease-fires and peace talk that started from 2018 till date<sup>11</sup>. Everyone hopes and wishes for the Peace to make Afghanistan safe and stable because the country has been fed up of the war which has been there for last 4 decades now. In my

<sup>7</sup> Aljazeera, TIMELINE: TALIBAN IN AFGHANISTAN, available at <https://www.aljazeera.com/news/asia/2009/03/2009389217640837.html>, (visited on December 26, 2019)

<sup>8</sup> Amos Chapple, AFGHANISTAN UNDER THE TALIBAN, available at <https://www.rferl.org/a/afghanistan-under-the-taliban-in-photos/29763626.html>, (visited on December 26, 2019)

<sup>9</sup> History.com, ATTACK ON AMERICA, available at <https://www.history.com/this-day-in-history/attack-on-america>, (visited on December 26, 2019)

<sup>10</sup> M. Siddieq Noorzoy, AFGHANISTANS CHILDREN: THE TRAGIC VICTIMS OF 30 YEARS OF WAR, available at <https://www.mei.edu/publications/afghanistans-children-tragic-victims-30-years-war>, (visited on December 26, 2019)

<sup>11</sup> Pamela Constable, CONFLICTING REPORTS OVER A TALIBAN TRUCE OFFER AFGHANS THE FIRST CHANCE FOR A GLIMPSE OF PEACE SINCE A 2018 CEASE-FIRE, available at [https://www.washingtonpost.com/world/asia\\_pacific/conflicting-reports-over-a-taliban-truce-offer-afghans-the-first-chance-for-a-glimpse-of-peace-since-a-2018-cess-fire/2020/01/01/826af6d8-2bea-11ea-bffe-020c88b3f120\\_story.html](https://www.washingtonpost.com/world/asia_pacific/conflicting-reports-over-a-taliban-truce-offer-afghans-the-first-chance-for-a-glimpse-of-peace-since-a-2018-cess-fire/2020/01/01/826af6d8-2bea-11ea-bffe-020c88b3f120_story.html), (visited on December 26, 2019)

perspective and also as per the reports of UN, Save the Children, UNICEF and many other international organizations actively working in Afghanistan say that children are the most affected in the country where any stand should take for the sake of their welfare.

According to a report of the United Nations, it portrays the worst situation of children in Afghanistan as well as lays down that more than 12 thousand of the children have been killed or physically disabled/maimed from 1 January of 2015 till 31st December of 2018 and the cause of these deaths are probably ground strikes/attacks, improvised explosive devices (IEDs), explosive remnants of war (ERW) and suicide attacks.<sup>12</sup> Additionally 43 percent casualties are counted. These are unpleasant and disagreeable amounts to be seen. It also mentions that recruitment of 274 children in armed conflicts seen as they have been recruited by Afghan Security Forces. As well as 231 children were abducted.<sup>13</sup> There is a term of "Bacha bazi" which is unlawful and disrespectful act towards boys that men make boys dance with "zangola" in their legs and then sexually abusing them.<sup>14</sup> Most of the boys were assassinated and used for this purpose. Afghanistan established "Child Protection Units in Afghan National Police recruitment centers"<sup>15</sup> in all of its provinces to fight against this action. In this assembly with the request to end this violations against children of Afghanistan in conflict have been made that Special Representative suggested the government to adopt and design such policies and laws which should address grave violations against children also demanded kindly all the international community to support employees of child protection actors who are working under rough danger. Here is full report of Grave Violations:

#### A) "Grave Violations

- 1) Killing and Maiming: 927 children killed and 2,135 children injured, including 831 girls.
- 2) Child Recruitment and Use: 46 verified cases of boys.
- 3) Sexual Violence against Children: 4 verified cases of sexual violence.

B) **Attacks on Schools and Education:** 192 verified incidents of attacks on schools and education personnel.

C) **Attacks on Hospitals:** A total of 62 incidents of attacks on hospitals and protected personnel were verified.

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<sup>12</sup>UN Security Council, Report on Children and armed conflict in Afghanistan, UN Secretary-General, UN Official DOC, resolution 1612 (2005), (December 26, 2019)

<sup>13</sup> UN Security Council, Report on Children and armed conflict in Afghanistan, UN Secretary-General, UN Official DOC, A/73/907-S/2019/509resolution 1612 (2005), (December 26, 2019)

<sup>14</sup> Jesutofunmi E. Somade "Bacha Bazi – Afghanistan's Darkest Secret", Human Rights Commission, August 18, 2017, (November, 17 2019)

<sup>15</sup> UN Security Council, Report on Children and armed conflict in Afghanistan, UN Secretary-General, UN Official DOC, A/73/907-S/2019/509resolution 1612 (2005), (December 26, 2019)

D) **Abduction:** 19 verified incidents of abduction affecting 41 boys and 2 girls".<sup>16</sup>

Here is the brief list of Parties to the Conflict according to a UN Security Council report:

### **Section A**

**Non-State actors** such as organization of Haqqani, Gulbuddin Hekmatyar's Hizb-i Islami, ISILs presence in Province of Khorasan and other Taliban forces plus their affiliated groups

### **Section B**

**State actors:** - The national police of Afghanistan which includes the Afghan Local Police and the parties which have been mentioned in the above-mentioned Section A, have never put up any adequate measures which would thereby aid in increasing the protection of the children population during that period of reporting. However, the parties mentioned in Section B have taken up some initiatives to improve the appalling situation of the protection of rights of children.

a) Party that use children for recruitment purposes, b) Parties that are responsible for the deaths of children c) Party which commits sexual offences and abuses on children. d) Party which attacks the schools or medical establishments. e) Party which abducts and kidnaps children. f) Party which has signed and concluded the action plan along with the United Nations with regard to United Nations Security Council Resolutions 1539 and 1612.<sup>17</sup>

### **International law perspective**

It is the children who are mostly vulnerable during armed conflicts. Despite the fact that they are given special protection by laws, they are often recruited by the armed forces or groups. They as a result of this, get separated from their families and are thus driven from their homes. This vulnerability of being away from home results in them getting killed, maimed, sexually abused or exploited in other ways. When it comes to the children in wars, they benefit from the general protection that is provided to them under the International Humanitarian Laws, both as civilians as well as combatants. But along with this protection, there are several other special laws and provisions which understand their vulnerability and therefore recognizes their needs in the armed conflicts. Children are still, as of now, taken up by the armed forces in order to recruit them. Over the past years, this recruitment especially in African countries has become worrisome and has also turned out to be a very serious problem under International Humanitarian Laws. In a lot of situations, the children who are recruited, become active participants in the fighting. They are also taken up in supporting roles such as to carry weapons, ammunition or providing intel. This puts

<sup>16</sup> UN Security Council, Report on Children and armed conflict in Afghanistan, UN Secretary-General, UN Official DOC, A/73/907-S/2019/509resolution 1612 (2005), (December 26, 2019)

<sup>17</sup> UN Security Council, Report on Children and armed conflict in Afghanistan, UN Secretary-General, UN Official DOC, A/73/907-S/2019/509resolution 1612 (2005), (December 26, 2019)

their lives in utmost danger.<sup>18</sup> The protection of the children during the armed conflicts has always been taken up with high regard and caution in the international arena.

Even the United Nations Security Council has established a special working group that focuses its attention on the most grave and serious child right violations during the armed conflicts, which includes but is not limited to, killing and maiming, sexual abuse, kidnapping and abduction, attacks on educational institutions and medical establishments, etc.<sup>19</sup>

Some of the important instruments/laws which are particularly related to the protection of children in armed conflicts are herein below mentioned: -

- i. Convention on the Rights of the Child (CRC), adopted in 1989
- ii. Geneva Convention regarding the Protection of Civilian Persons during the Time of War (Geneva Convention IV), 1949
- iii. Rome Statute of the International Criminal Court (Rome Statute), adopted in 1998
- iv. Additional Protocol relating to the protection of victims of international armed conflicts (Protocol I), adopted in 1977
- v. Additional Protocol relating to the protection of victims of non-international armed conflicts (Protocol II), adopted in 1977
- vi. OPAC, 2000, (also known as Optional Protocol to the Convention on the Rights of the Child dealing with the involvement of children in armed conflicts)
- vii. Paris Principles, 2007 (Principles and Guidelines on Children Associated with Armed Forces or Armed Groups)
- viii. ILO Convention 182 also known as Convention pertaining to the Prohibition and Instant Action for the sake of eliminating the Worst Forms of Child Labour, 1999
- ix. African Charter on the Rights and Welfare of the Child (ACRWC), adopted in 1990

Some of the above-mentioned instruments are herein below briefly discussed: -

- a) **Geneva Convention IV along with the Additional Protocol I & II:** - It lays down two types of protection, General and Specific.
  - General Protection: - Under general protection, it lays down that the children in the International Armed Conflict, which are not taking part in the hostilities are provided protection by the Geneva Convention IV and the additional protocol I. The basic rights such as the right to life, the prohibition on force and coercion, torture and collective punishments are covered under this Convention and the additional protocol I. it further lays down that, principle of distinction

<sup>18</sup> ICRC, Children protected under international humanitarian law, available at <https://www.icrc.org/en/doc/war-and-law/protected-persons/children/overview-protected-children.htm> (visited on January 07, 2020)

<sup>19</sup> Security Council, *Resolution 1988 (2011)*, UN document S/RES/1988 (2011), July 12, 2011

must be adhered to so that children are not made targets during armed conflicts. In event of the Non-International Armed Conflict, the children again have a right to not take part in the hostilities which makes it clear that they cannot be recruited against their will. It is also laid down that, children along with civilians shall not be made the direct objects of attack.<sup>20</sup>

- Special Protection: - Under Special Protection, the GC IV provides for the guarantee of the special care for children. It lays down the principle of special protection towards children.<sup>21</sup>
- b) **Convention on the Rights of the Child (CRC), adopted in 1989:** - This treaty has been almost ratified by every single country and covers nearly all of the basic and fundamental rights of the children. It Urges state parties to take up all necessary measure and steps in order to ensure that children aged less than 15 are not made to take part in hostilities.<sup>22</sup>
- c) **Statute of the International Criminal Court:** - It lays down that children under the age of 15 Years, if made to take part in hostilities will amount to a war crime. According to the principle of Complementarity, the court is allowed jurisdiction in those cases where in the state is not willing to prosecute any such criminals.<sup>23</sup>

## Conclusion

To sum up, I would like to enunciate that war only brings disasters, destruction to one and all, and these kinds conflicts most probably hurts vulnerable groups with intense violence. One of the vulnerable groups which are badly endangered are children. In this research I brought two examples of Afghanistan and Syria, where children as a result of the ongoing conflict have been the biggest victims of the atrocities and human rights violations.

As we know Syria suffered from 5 years of drought that many argue, was the reason which brought up the war and further weakened Syria economically and then in 2011, a civil war started that tore down and razed Syria in every possible dimension be it economic, social, physical or mental. Then moving to Afghanistan, for 4 decades, the conflict soured people's lives, brought disasters, first dynastic coups, then USSR invasion, Mujahidin, Taliban and finally in 2001, the US war in Afghanistan where Taliban faced defeat. These wars resulted in killing, disabling, maiming, and several other escalated violations. To prevent violations, along with domestic laws, several international laws as discussed in the paper, are binding on states for benefit of the children in conflict. Thus, to conclude, I must add that children are the undoubtedly most pure and innocent part of any society. They are the main and important aspect of the future of a county. It has been

<sup>20</sup> The Geneva Convention IV, *Articles 3, 27-34*, Add. Protocol I, *Articles 48, 51 & 75*, Add. Protocol II, *4 & 13*.

<sup>21</sup> The Geneva Convention IV, *Articles 77*

<sup>22</sup> Convention on the Rights of the Child (CRC), 1989, *Article 38*

<sup>23</sup> Statute of the International Criminal Court, *Art. 8, para. 2b [xxvi]*

rightly said that strong society always includes educated children. Conflicts and political shortages down the economy which brings poverty that indirectly as well as directly results in child labour, underage marriages, child trafficking, and other child abuses.

Children are the building blocks of every nation and when it comes to war torn countries, the safety of the children must always be of prime concern. No matter what, the lives and the future of the children ought to be protected at every cost. Their rights are to be secured and they are not to be deprived of their basic human and fundamental rights. It is them, the children, who will be the leaders tomorrow so it casts a duty upon every responsible individual of a country to safeguard their rights. Persecution of vulnerable groups is common but persecution of children is a menace to whole world. It is us who will be responsible for every child who is abuse and it is us who have to take up this responsibility to give them safe heavens where they will strive and thrive for their future. Their proper upbringing will always be fruitful for any society and their abuse will only be detrimental to any society. Thus, it is all up to us, in fact it is us who are to give the children the direction they need. Our actions of today will determine the future of children tomorrow. How we want to see the world tomorrow depends upon the fact how we will bring up the children of today. Children must be loved and cared not abused and orphaned. Above everything, if nothing else, it is humanity that should guide us towards the upliftment of the children and their lives respectively. They deserve it without a doubt.