

## **CHAPTER FOUR**

### **FINDING AND ANALYSIS**

#### **A. The Condition of Syrian Children 2011 – Present**

Every child should spend their time playing and having fun. But this is not the case with children in Syria; they spent their childhood watching wars that takes away their families, homes, and their childhood and made them very vulnerable as victims of war. Without understanding what is happening or why it all happened to them, they are also forced to deal with acts of violence that are unimaginable every day and that is a very frightening threat to these children. Even though there are some of them who are not physically injured, but it cannot be ascertained if their mental or psychological condition is uninterrupted.

The conflict in Syria began with demonstration against the Bassar al Aassad regime which was very authoritarian and arbitrary towards his people in 2011-2012. Then, Syrian people carried out a peaceful action demanding justice, but the Bashar regime, instead, responded to the peaceful action with violence. The climax is when the teenagers who wrote anti-government slogans in school buildings in the town of Deraan, inspired by the uprising in Egypt and other Arab countries, were detained and tortured by security forces. Then they were taken by the Assad's army, and after being interrogated, they stripped of their skin, and then spilled liquid into the body which has peeled off, so the pain is inexplicable. Bashar's army kept doing that while shouting Bashar Al-Asad's name; torture after torture was carried out against prisoners accused of opposing Bashar Asad's regime, even though these

people are only villagers.<sup>1</sup> That incident sparked protests across Syria that immediately muted by the government, including by attacking civilians. Tensions are rising and many are taking to the streets demanding Assad to resign.

Not only that, during war the children victims of armed conflict in Syria were beaten up with iron cables, whips and wooden or metal clubs, electrocuted, also towards their vital organs, the nails of hands and feet were removed, sexual violence, including rape and the threat of rape, humiliation, cigarette burns, sleep deprivation, confinement in single cells, and shown scenes of their family's torture. These children are bound hands or body to the wall or ceiling, and then forced to enter head, neck or legs to a tire before being beaten; they are also tied to a board and beaten.<sup>2</sup>

In February, the Syrian government and their allies stepped up military attacks on areas under the control of rebels including East Ghouta, which was opposed by President Bashar al-Assad since 2012. This area was continuously attacked and reportedly killed more than 1,000 people in the past few weeks. The United Nations estimates 76% of residents' homes in East Ghouta are destroyed. The majority of 400,000 residents currently take refuge in underground protection. 76% of the population housing in East Ghouta was destroyed.<sup>3</sup>

Government forces are accused of using chemical weapons in the attack. At the end of February, a child and 13 people had respiratory problems, symptoms associated with chlorine gas. Government officials refute the allegations. This is not the first. In August

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<sup>1</sup> BBC News, "10 Pertanyaan untuk memahami konflik Suriah", taken from <https://www.bbc.com/indonesia/dunia-43403254>, accessed on 1 September 2018 at 10:21 pm

<sup>2</sup> Denny Armandhanu, "Jadi Tawanan Anak-anak Suriah Disiksa dan Diperkosa", taken from <http://dunia.news.viva.co.id/news/read/479120-jadi-tawanan--anak-anak-suriah-disiksa-dan-diperkosa>, accessed on 7 September 2018 at 3:21 am

<sup>3</sup> Cambridge University, 2002, "United Nations (U.N.) SECURITY COUNCIL: RESOLUTION 1379 (ON "CHILDREN AND ARMED CONFLICT")", *Cambridge University Press*, Vol. 41 No.2

2013, western intelligence accused Damascus of using sarin gas to attack Ghouta which allegedly killed "hundreds of people."

Assad denied the claim and blamed the rebels for being behind the attack. But Assad agreed to destroy Syria's chemical weapons. But amid the promise, the chemical weapons banning body, the Prohibition of Chemical Weapons (OPCW), reported chemical weapons incidents in Syria. East Ghouta faces a humanitarian crisis. Aid began arriving in the area on March 15 and the price of food including rice and bread increased sharply. Malnutrition in children reaches almost 12%, children under five.<sup>4</sup>

The following number is overall death tolls by time periods compiled by SOHR (Syrian Observatory for Human Rights)<sup>5</sup>:

#### **List of Overall Death Toll**

<b>Year</b>	<b>Civilians (including children)</b>
2011	
2012	46,266 <sup>6</sup>
2013	
2014	17,790

<sup>4</sup> The Straits Times, "1,100 children suffering malnutrition in Syria's Ghouta: Unicef" taken from <https://www.straitstimes.com/world/1100-children-suffering-malnutrition-in-syrias-ghouta-unicef>, accessed on 24 September 2018 at 5:40 pm

<sup>5</sup> McClatchydc, "Assad backers reportedly make up 43% of dead in Syria" taken from <https://www.mcclatchydc.com/news/nation-world/world/middle-east/article24749608.html>, accessed on 23 September 2018 at 8:53 pm

<sup>6</sup> The Times of Israel, "Over 130,000 dead in Syria conflict, group says" taken from <http://www.timesofisrael.com/over-130000-dead-in-syria-conflict-group-says/>, accessed on 22 September 2018 at 4:20 am

2015	13,249
2016	13,617
2017	10,507
January 2018	607
February 2018	1,391
March 2018	1,460
April 2018	395
May 2018	244
June 2018	398
July 2018	439
August 2018	253
September 2018	26
<b>Total</b>	<b>106,642 killed</b>

**Source: SOHR (Syrian Observatory for Human Rights)**

Those figures are only for recorded deaths, while SOHR estimates there are 145,000 unrecorded deaths. The death tolls above shows only the total number of civilians who were killed in the armed conflict, but the grand total is that 359,769 people were killed including pro-government and anti-government forces.

According to research conducted by UNICEF around 8.4 million children are estimated to be very affected by the conflict in Syria. Not only that, 5.6 million Syrian children under 18 years old also need humanitarian help, and more than 1.2 million children do not have access to be helped because they live under the siege or out of reach.<sup>7</sup> The children who suffer from being sieged in eastern Ghouta still become a major concern because their nutrition is getting worse.

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<sup>7</sup> UNICEF, “Humanitarian Action for Children” taken from <https://www.unicef.org/appeals/syria.html>, accessed on 26 September 2018

Not only that, but the situation worsened so that it could no longer be counted because serious violations of children continued. They were killed and injured as a result of explosive weapons in the civilian area, and the recruitment and use of children in armed conflict. As well as torture, detention, kidnapping, sexual violence, attacks against schools and hospitals and denial of humanitarian access, especially for children who live in areas declared by the United Nations.

## **B. The Factors that Create the Crisis of Child Protection in Syrian Armed Conflict**

The main factor that creates the crisis protection for children in Syria derived from the armed conflict and violation of International Law. Then, from these factors there are impacts show that there is ineffectiveness of the child protection in Syria.

### **1. Armed Conflict**

The armed conflict in Syria leads to:

#### **a. Educational Issue**

Education in Syria before the crisis began in March 2011 can be said to be a healthy record in basic education. It was estimated that 97% of primary school-age children attend school. Illiteracy rates in Syria are low, around 10% for men and

women. In fact, the Syrian literacy rate exceeds the regional average of 90% - equivalent to Turkey, Lebanon and Jordan, and higher than Iraq and Egypt.<sup>8</sup>

In 2014, there are so many walls in school buildings that were marred by bullet holes in the school in Hazema, North Raqqa, Syria. The Islamic State ultra-hardline insists to close this school since the building has been badly damaged and many others in northern Syria after it seized control of the region.<sup>9</sup> They close those schools because a lot of children and teachers have become victim of the attack. That is why it is hard for them to continue the teaching and learning process.

The remaining of Syrian education now after the war is still similar to pre-crisis conditions. But in some community there are schools that cannot adequately accommodate students who have been displaced from other parts of the country, besides classrooms that are full and crowded; insufficient supplies of books, tables and other sanitation facilities. In addition, in some areas there were not enough teachers because many of their communities were affected by conflict. Schools should be safe because school is one of the places where children can feel safe from conflicts around them. But during the crisis in Syria, many children were arrested or detained on their way to school, targeted by snipers, or caught in crossfire between the warring parties. Some have seen their schools turn into battlegrounds, reduced to rubble, or converted into shelters for refugees.<sup>10</sup>

## **b. Poverty**

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<sup>8</sup> UNICEF, 2013, "Syria Crisis: Education Interrupted", UNICEF, p.4

<sup>9</sup> Alan Taylor, The Atlantic, "Syria's Students: Going to School in a War Zone", 2017, taken from <https://www.theatlantic.com/photo/2017/11/syrias-students-going-to-school-in-a-war-zone/545474/>, accessed on 26 October 2018 at 12.25pm

<sup>10</sup> UNICEF, *Op.Cit*, p.6

Since the beginning of the crisis in 2011, poverty in Syria has dramatically increased due to violence and a collapsed economy. About 85% of all registered Syrian refugee children are living under the poverty line. 94% of under-fives living in host communities are “multidimensionality poor,” meaning they lost of a minimum of two out of the five basic needs, such as education, health, water and sanitation, child protection and child safety.<sup>11</sup>

In Lebanon, 76% of displaced Syrian families living under the poverty line parents who cannot afford the books, bus fares and uniforms needed to send their children to school. 66% of refugee children there were withdrawn from school as families struggled to survive.

Inside Syria, conditions are worse than ever, with 69% are languishing in extreme poverty. Nine in 10 families now spend more than half of their annual income on food, while food prices are eight times higher than pre-conflict levels. The mortality rate is rising due to the community being unable to fulfil their daily needs, causing starvation. Some 5.6 million people endure life-threatening conditions in terms of their security, basic rights or living standards, and require urgent humanitarian assistance.<sup>12</sup>

### **c. Sexual Violence**

Lack of reports about sexual violence is a very common issue in every context due to fear of retaliation and shame, limited availability or accessibility of trusted service providers, impunity for perpetrators, and lack of awareness of the benefits of

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<sup>11</sup> Borgen Project, 10 Facts About Poverty in Syria, <https://borgenproject.org/10-facts-about-poverty-in-syria/>, accessed on 5 January 2019 at 3:2 am

<sup>12</sup> Theirworld, Seven Years of Syria Conflict How it Affects Children Education Refugees School, <https://theirworld.org/news/seven-years-of-syria-conflict-how-it-affects-children-education-refugees-schools>, accessed on 5 January 2019 at 3:12 am

seeking care.<sup>13</sup> This makes it difficult to assess the extent to which girls and boys in Syria are affected by both conflict-related sexual violence, and sexual violence in other places.

Long-term psychosocial and health consequences including sexually transmitted infections, as well as experiencing complications during and after pregnancy will be experienced by children victim of sexual violence. Because they are ashamed of it, they risk social exclusion and even death through “honour” killings or usually called as suicide. Female refugees in neighbouring countries have cited fear of rape as a major factor that led to their decision to leave Syria. Since 2014, there has been an increase in the number of reported cases of sexual violence perpetuated by terrorist groups, in particular ISIS. In August 2014, ISIS abducted hundreds of Yazidi women and girls from Sinjar, in northern Iraq. Some of these women and girls were taken to Syria and sold into sexual slavery.

According to UNHCR, sexual violence and torture against boys in Syria under 10 years old committed by multiple parties to the conflict appears to be far more common than previously thought based on information from refugees.<sup>14</sup>

Their position as children to disclose their experiences of sexual violence is impacted by their age, sense of safety, available resources, and culture and social norms that might not encourage children to speak out or to have a voice. Children may be

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<sup>13</sup> IASC, 2015, Guidelines for Integrating Gender Based Violence Interventions in Humanitarian Action

<sup>14</sup> UNCHR, UNHCR Study Uncovers Shocking Sexual Violence Against Syrian refugee Boys and Men, <https://www.unhcr.org/news/press/2017/12/5a27a6594/unhcr-study-uncovers-shocking-sexual-violence-against-syrian-refugee-boys.html>, accessed on 5 January 2019 at 10:22 pm



afraid of the consequences of speaking out, especially when the perpetrator is known to them.<sup>15</sup>

#### **d. Child Labour**

Before the crisis, child labour was also a problem in Syria. However the current situation has greatly aggravated the humanitarian situation. As a result, in economic activities that are mentally, physically or socially dangerous always involves children and limitation of their basic rights, including to education. In its most extreme forms; such as child recruitment and use in the conflict, or sexual exploitation – it is a grave violation of children’s rights.<sup>16</sup>

Child who are known to be engaged in child labour are girls and boys of all ages, according to the results of the study, adolescents were the most affected groups - boys 15-17 years (81%), boys 12-14 years (77%) and girls 15-17 years (70%).<sup>17</sup> It has been reported, that children are engaged in some of the worst forms of child labour such as: working with parties to the conflict in combat and as supporting roles; operating heavy machinery in factories and workshops; smuggling; working as blacksmiths, in oil refineries and quarries; begging; scavenging through garbage for valuable waste. Preliminary findings from a UNICEF assessment on child labour in rural Damascus and Homs also identified that there are so many children who are working in chemical factories.<sup>18</sup> There are still more things that can obstruct the growth and development of

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<sup>15</sup> International Rescue Committee, 2012, Caring for Child Survivors of Sexual Abuse, IRC-UNICEF

<sup>16</sup> Syria: Armed Group Recruiting Children in Camps, 2018, taken from <https://www.hrw.org/news/2018/08/03/syria-armed-group-recruiting-children-camps> accessed on 2 November 2018 at 8:37 pm

<sup>17</sup> ILO and UNICEF, 2000, Investigating Child Labour

<sup>18</sup> UNICEF, 2017, UNICEF Annual Report 2017 of Syrian Arab Republic

the child itself, namely their involvement in labour activities that can be classified as "light work," but still, that can be bad for children in the future.

While both girls and boys are involved in child labour, boys are more likely to be involved in more dangerous forms of labour. Girls are more likely to be involved in domestic work (e.g. cooking, sewing, cleaning, and hairdressing), possibly owing to cultural and social norms around work outside of the home. For girls' work, they may be paid and unpaid. Both girls and boys are involved in agriculture work.

Repeated displacements can cause family separation and poverty have put immense pressure on families and pushed large numbers of children into the labour market. The International Monetary fund 37th estimates, over two-thirds of Syrians are now living in extreme poverty, unable to meet their basic needs. Survival options are significantly reduced for the estimated one million children living in hard-to-reach areas and the 172,000 children living in besieged locations.<sup>19</sup> A growing number of children, in particular boys, are the primary breadwinner for their household and/or their financial contribution makes a significant difference to the war-time survival of their family. Also for some children they reportedly forced to support their families against their will, for example they go out to beg.

Girls and boys of all ages are reportedly performing work beyond their capacities and working long hours. Besides, they are working in unsafe environments, both in terms of the nature of the work and the treatment by employers. Working children are also exposed to a wide range of protection risks, such as financial exploitation and verbal, physical and sexual violence (including fear of these forms of

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<sup>19</sup> IMF Working Paper: Syria's Conflict Economy, 2016, taken from [www.imf.org/en/Publications/WP/Issues/2016/12/31/Syrias-Conflict-Economy-44033](http://www.imf.org/en/Publications/WP/Issues/2016/12/31/Syrias-Conflict-Economy-44033), accessed on 5 November 2018 at 4:12 pm

violence) at the hands of employers, like high risk of harassment and rape for those girls who are working in the homes.

Mostly, children are unaware of the risks associated with their tasks at risk of death or serious injury when operating heavy and dangerous equipment if they are inadequately trained; working in agriculture fields and scavenging for valuable waste may expose children to explosive remnants of war and diseases; and factory work exposes children to dangerous chemicals/fumes. These risks are in addition to the negative psychosocial impacts children suffer from engaging in work that is beyond their capacities.

The link between education and the future emerged strongly as children – particularly those aged 12 and over – were acutely aware that their prospects of a better life are intrinsically tied to completing their education. 1.75 million Children in Syria are out of school and 1.35 million are at risk of dropping out. One in three schools cannot be used because it is destroyed, damaged, sheltering displaced families or being used for military purposes.<sup>20</sup> Children are killed or injured while at school or on their way to/from school. For girls and boys living in besieged locations, their access to even the most rudimentary education is even more compromised.<sup>21</sup>

The relation between lack of access to education and child labour is clear. Because so many children cannot access schools or report seeing no use in continuing their education, and they only see opportunities to work. There is no doubt that education is one of the keys to preventing child labour, but without access to quality education, children often have few alternatives to premature entry into the workforce.

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<sup>20</sup> United Nation, 2018, Humanitarian Needs Overview (HNO), UNOCHA

<sup>21</sup> Human Rights Council, 2017, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, UN

Where children do have opportunities to continue their education, they report that constant and immense stress from the conflict is impacting their ability to focus on learning.

**e. Children Recruitment and Used by Parties of Conflict**

A child who is associated with an armed force or armed group refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys, and girls used as fighters, cooks, porters, messengers, spies or for sexual purposes.<sup>22</sup> It does not only refer to a child who is taking or has taken a direct part in hostilities. Recruitment refers to compulsory, forced and voluntary conscription or enlistment of children into any kind of armed force or armed group.

According to the 2017 UN Secretary General's report on Children and Armed Conflict, recruitment and use of children in the Syrian conflict has increased sharply.<sup>23</sup> Children are known to be used by parties to the conflict in frontline combat roles, and receive military training. They also participated in supporting roles such as guarding checkpoints, as assistants and for sexual exploitation. Unfortunately, many children have been used to carry out suicide attacks and carry out executions.<sup>24</sup> Children have been killed and injured in hostilities, as well as arrested and detained for their alleged association with armed groups.<sup>25</sup>

The Commission of Inquiry (COI) on the Syrian Arab Republic continues to receive numerous presumptions of children being recruited, placed in training camps

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<sup>22</sup> The Paris Principles 2007

<sup>23</sup> General Assembly Security Council, 2017, Children and Armed Conflict, United Nations

<sup>24</sup> *Ibid*

<sup>25</sup> *Ibid*

and, in some cases, sent to active front lines.<sup>26</sup> Human Rights Watch also stated that the People's Protection Units (YPG), the largest member of the Syrian Democratic Forces in northeast Syria, has been recruiting children, including girls.<sup>27</sup> Moreover, United Nations mentioned a disturbingly high increase in child recruitment by the YPG in 2016. They required that the armed group should right away demobilize children and stop recruiting children, including from families in displacement camps under their control. It is because International law prohibits non-state armed groups recruiting anyone under 18, and enlisting children under 15 years old is a war crime.<sup>28</sup>

#### **f. Child Marriage**

According to 2018 Humanitarian Needs Overview (HNO) report data collection, the highest number of places where child marriages occur are in Ar-Raqqa (97 per cent), Quneitra (89 per cent) and Rural Damascus (87 per cent) governorates (girls and boys of all age groups). Child marriage continues to be one of the main problems of Gender-Based Violence that affects girls. The average marriage of these children occurs at the age of 13-year-old girls.<sup>29</sup> Strategy of marriage was also seen by communities as the way to protect girls from harm, including the threat of sexual violence.

Actually, even before the conflict, the rate of marriage of children under 18 years had almost reached 41% for young Syrian refugee women living in Lebanon now, but the marriage was not legally registered. And for girls who are displaced inside Syria

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<sup>26</sup> OHCHR (Office of United Nations High Commissioner for Human Rights), taken from <https://www.ohchr.org/en/hrbodies/hrc/icisyrria/pages/independentinternationalcommission.aspx>, accessed on 16 September 2018 at 4:03 pm

<sup>27</sup> Human Right Watch, taken from <https://www.hrw.org/topic/childrens-rights/child-soldiers>, accessed on 16 September 2018 at 4:44 pm

<sup>28</sup> Child Soldiers International, taken from <https://www.child-soldiers.org/international-laws-and-child-rights>, accessed on 16 September 2018 at 5:00 pm

<sup>29</sup> UNFPA, 2017, Voices from Syria 2018: Assessment Findings of Humanitarian Needs Overview, UNFPA

may face similar problems, even worse during the conflict. However, currently data is limited to the situation in the country.<sup>30</sup>

The impact of marriage on girls has been clearly documented. Young married Syrian refugee girls face the same consequences in general, like other child brides: complications during pregnancy and childbirth, violence, limited education and economic opportunities, and little freedom and opportunity to socialize with children of their own age. Even worse, many of these marriages are short-term and unregistered, leaving girls with little protection for themselves or their children. Divorce in refugee camps can endanger their mental health.

For displaced families, life becomes increasingly difficult and complicated. Every parent struggles to provide their children and is afraid of threatening their safety - especially sexual violence against their daughters. As a result, some people think that marriage can protect their daughter from danger and can give them a level of financial stability. In many communities, marriage is seen as a way to "protect" a girl's virginity and "honor" and family reputation.<sup>31</sup>

Gender inequality clearly contributes to role play because this concern rarely applies to boys and young men. According to Save the Children, some girls were also married to help the Syrian people enter Jordan, because the process was easier for married men. Girls who married Jordanian husbands were also able to get sponsors that allowed them and their families to leave the camp.<sup>32</sup>

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<sup>30</sup> Save the Children, 2014, Too Young to Wed: the Growing Problem of Child Marriage among Syrian Girls in Jordan, Save the Children

<sup>31</sup> United Nation Population Fund, 2014, "Child Marriage Takes Brutal Toll on Syrian Girls, taken from <https://www.unfpa.org/news/child-marriage-takes-brutal-toll-syrian-girls>, accessed on 3 December 2018 at 3:15 am

<sup>32</sup> Save the Children, 2014, *Op. Cit.*

Nearly 2 million children and adolescents drop out of school, while the other 1.3 million are at risk of dropping out of school caused by the Syrian conflict. This has limited their opportunities and, for girls, will increase their risk of marriage.<sup>33</sup> Therefore, education is the main way to protect girls from child marriages. When in school, they can build the knowledge and skills of girls, so that they are able to postpone marriage and can give ideas to their parents, that girls are still children and are not ready to marry whatever the conditions are.

A number of reports show that armed groups in Syria and Iraq use children and force marriages as well as sexual violence as weapons of war to panic, intimidate and move populations, and this is very worrying.<sup>34</sup> Sexual violence is considered very normal in the Syrian conflict and some families may see child marriages as a form of protection for risky girls. In fact, we know that girls will face new violence in the children's marriages.<sup>35</sup>

#### **g. Abduction of Children**

During the conflict, there are 6 grave violations identified by UN Security Council, and one of them is child abduction.<sup>36</sup> In times of war, children are too often abducted by parties to conflict and subjected to brutal treatment. In many cases, the

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<sup>33</sup> Save the Children, 2015, The Cost of War: Calculating the Impact of the Collapse of Syria's Education System on Syria's Future

<sup>34</sup> Care International, 2015, To Protect Her Honour: Child Marriage in Emergencies – The Fatal Confusion Between Protecting Girls and Sexual Violence

<sup>35</sup> Eleanor Goldberg, 2015, "Struggling Syrian Refugee Girls in Lebanon Often Resort To Marriage. Here's Who's Helping", taken from [https://www.huffingtonpost.com/entry/24-of-syrian-refugee-girls-in-lebanon-forced-to-marry-before-18-un\\_us\\_561eb44be4b0c5a1ce61c285](https://www.huffingtonpost.com/entry/24-of-syrian-refugee-girls-in-lebanon-forced-to-marry-before-18-un_us_561eb44be4b0c5a1ce61c285), accessed on 5 December 2018 at 2:43 pm

<sup>36</sup> Office of the Special Representative of Secretary-General for Children and Armed Conflict, taken from <https://childrenandarmedconflict.un.org/six-grave-violations/>, accessed on 06 December 2018 at 9:43 pm

abduction of children is the precursor to other grave violations. Children can be abducted to be killed or maimed, to become victims of sexual violence or to be recruited to the ranks of an army or armed groups. In some instances, abducted children are detained arbitrarily by Governments or armed groups. Parties to conflict also abduct children in systematic campaigns of violence and reprisal against civilian populations. From the age of babies up to 17 years old children continue to be victims of abduction in armed conflict. The numbers of kidnappings of girls and boys is reported to be almost the same. According to a 2017 report by the Secretary-General on Children in Armed Conflict, girls and boys are usually taken away with their families and deprived of their liberty in the context of suspected affiliation with parties to the conflict. The girls were kidnapped by extremist groups and Yezidi girls who were arrested in Iraq in 2014 were then trafficked into and inside Syria to be used as sex slaves.<sup>37</sup> The Commission of Inquiry into the Syrian Arab Republic has also documented the arrest and use of children - children as hostages by armed groups.<sup>38</sup>

Then those problems have led to the ineffectiveness of the child protection in Syria. Moreover, it also stimulates an impact on the child's well-being and development. This happens because of their experiences as victims of violence in their daily lives.

## **2. Violation of International Law: Regarding Protection of Children in Syrian Armed Conflict**

### **a. Infringement of the Geneva Convention**

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<sup>37</sup> United Nations Secretary-General, 2017, Children and Armed Conflict: Report of the Secretary General, UN

<sup>38</sup> United Nations Office of High Commissioner for Human Rights, 2017, Report of Independent International Commission of Inquiry on the Syrian Arab Republic, UN



According to Additional Protocols 1 of the 1977 of The Geneva Convention there are several basic provisions which cannot be violated in the Syrian armed conflict:<sup>39</sup>

- 1.) Conducting reprisal and indiscriminate attacks on civilians, objects that are very important for the survival of civilians, cultural objects and religious places, buildings and dangerous installations, and also the natural environment.
- 2.) Does not want to extend the protection that is previously stipulated in the Geneva Convention to all medical personnel, medical transportation units and equipment, both from civilian and military organizations.
- 3.) Does not give the obligation for the High Participants to search for Missing Persons
- 4.) Not being decisive in determining the supply of assistance intended for civilians.
- 5.) Not providing protection for the activities of civil defence organizations.
- 6.) Does not want to conduct special actions that must be taken by countries to facilitate the implementation of international humanitarian law.

Other protocol contains provisions regarding direct involvement of children in an armed conflict. Article 4 paragraph (3) Additional Protocol I, mentions "Children must get care and assistance they need especially:

- 1.) In the field of education, including religious and moral education, in accordance with the wishes of their parents, or in the absence of parents, wishes of those responsible for the care of the children.

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<sup>39</sup> Mochtar Kusumaadmadja, 2002, *Konvensi-Konvensi Palang Merah* 1949, p.105-106

- 2.) Steps should be taken to make it easier to unite back temporary separated family.
- 3.) There is a prohibition for children who have not reached the age of fifteen years to be recruited in the army or certain groups, and participate in hostilities.
- 4.) Provide special protection as stipulated in this Article for children who have not reached the age of fifteen, will still applies to them, if they participate directly in hostilities, even though it has been regulated in subparagraph (c) above, and they are taken prisoner.
- 5.) Take actions if necessary, if possible with permission from their parents or people who are by law or custom is responsible for their care, for moving children temporarily from areas where hostilities are going on to safer areas inside the country and guarantee that they are accompanied by people who is responsible for their security and welfare.”<sup>40</sup>

Article 77 also states about Protection for children:

- 1.) Children must receive special respect and must be protected against any forms of indecent attack. Internal disputes parties must give them that attention and assistance they need, both because of their age and for other reasons.
- 2.) The parties to the dispute must take all possible measures. So, those children who have not reached the age of fifteen years did not take part directly in the war and, in particular they must refrain from training those children to enter their army. If in the training, there are children who has reached the age of

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<sup>40</sup> Additional Protocols I of 1977 of Geneva Convention on International Armed Conflict art. 4 (3)

fifteen but has not reached age eighteen years, the parties to the dispute must try to give priority to those who are the oldest.

- 3.) If, in matters which are exceptions, even though they are the provisions in paragraph (2) above, children who have not reached the age of fifteen take part directly in hostility and fall into the power of an opposing party, then the children must still benefit from special protection provided by this Article, whether they are prisoners of war or not.
- 4.) If arrested, detained or exiled for reasons that are in connection with armed disputes, children must be placed at headquarters that are separated from adult headquarters, except if their families are placed as family units as they are stipulated in Article 75 paragraph (5).
- 5.) Death penalty for committing a related offense with armed disputes should not be carried out on people who had not reached age of eighteen at the time of the violation done.<sup>41</sup>

The rules governing actions, prohibited against children during armed conflict include: in the Optional Protocol to the Convention on the Rights of the Child concerning the Involvement of Children in Armed Conflict, states that cursing is used as a target child in various situations of armed conflict and direct attacks on various objects that are protected by international law, including places that are generally attended by significant numbers of children, such as schools and hospitals, condemn as hard as possible recruitment, training and use, both within and across national borders, children in warfare by armed groups who are not national armed forces, and recognize the responsibility of those who recruit, train

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<sup>41</sup> *Ibid*, Art. 77

and use children in this case, in that provision, it is clearly stated that the child must not be an object in an armed conflict they have to get protection wherever they are, including when they are in a refugee camp.

Article 48 Additional Protocol I describe the basic provisions of armed conflict where government forces or members of the Military are only permitted to conduct military operations and others. In article 48 it is stated that: In order to be guaranteed, respect and protection against civilians and civil objects, parties in a dispute at any time must distinguish civilians from combatants and between civilian objects and military targets and therefore must direct its operations only against military targets only. Thus the military or in this case, the Syrian government forces, actually are not allowed to make children as objects of violence both physically and psychologically.

From the above explanations, the author concludes that provisions in Additional Protocols 1 of the 1977 of the Geneva Convention were not carried out by the Syrian government forces accordingly. The Syrian government forces actually make children in an unsafe place, where they supposed to be able to avoid the danger and impact of the armed conflict. The Syrian Government has violated provisions in Additional Protocol 1 of 1977 by attacking the children and more than 4000 school buildings that has been destroyed or damaged. Syrian forces have hit schools with fuel-air bombs and napalm-like incendiary weapons.<sup>42</sup>

Furthermore, the political factor has its role in affecting why the crisis of child protection is still happening until now; so many interventions from multitude

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<sup>42</sup> Bill Van Esveld, "Syria's Kids Are Still Being Killed at School: Amid Ongoing Bombings, More Protection Needed for Education" taken from <https://www.hrw.org/news/2018/03/22/syrias-kids-are-still-being-killed-school>, accessed on 31 December 2018 at 4:04 pm

parties just make things worse. This is not ordinary interventions, but the third party involvement in armed conflict itself could be requested by state actor and usually it is called as “proxy war.”<sup>43</sup>

In 2011, anti-government appeared in southern city of Deera because of their protest about Assad government. After that, Assad raises the Emergency Law. Unfortunately, the few days later the crackdown against the protesters has increased, and Assad asked security forces to send tanks to combat "armed criminal gang" or opposition. But the tanks that were sent not only used to attack the armed forces but also against women and children, no matter who they are, because Assad considers them to be part of the opposition or who is considered as a “terrorist.” In January 2012, Assad stated that he will destroy everything that has relation with “terrorism.” But this action really contradicts the fundamental rules of International Humanitarian Law, in that one of the fundamental rules stated that “Persons *hors de combat* and those who do not take a direct part in hostilities are entitled to respect for their lives and their moral and physical integrity. They shall in all circumstances be protected and treated humanely without any adverse distinction.” It is clear the action that has been taken by Assad violates the International Humanitarian Law.<sup>44</sup>

The Russian military says its strikes only target "terrorists" but activists insist that they regularly kill mainstream rebels and civilians including children, school buildings, hospitals, and et cetera.<sup>45</sup> Russia, for its part, has taken a leading role at the United Nations in blocking meaningful action to stop the Syrian

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<sup>43</sup> Simon Shen, “The Syrian conflict: Textbook example of a proxy war” <http://www.ejinsight.com/20180524-the-syrian-conflict-textbook-example-of-a-proxy-war/>, accessed on 3 January 2019 at 12:27am

<sup>44</sup> International Humanitarian Law

<sup>45</sup> BBC Staff, 2018, “Why is there a war in Syria?” <https://www.bbc.com/news/world-middle-east-35806229>, accessed on 3 January 2019 at 12:27am

authorities' wanton killing of their own people. Moscow is also overwhelmingly responsible for arming the Syrian regime. A just-released report on global arms transferred by the Stockholm International Peace Research Institute details how Russia has provided 72% of the military supplies obtained by the Assad regime over the past five years.<sup>46</sup> But in fact, Russia also wants to show its influence to be stronger in the Middle East region. President of Russia, Vladimir Putin was the one who initiated a high-level meeting to complete the war in Syria by inviting Iran and Turkey, but Turkey refused. Erdogan, the President of Turkey openly supports anti-Assad rebel groups.<sup>47</sup> Russia is not the only one who helps Syria, but Iran also deploys hundreds of troops and spend billions dollars to help Assad. It can be seen that, Assad regime survives only because of political, economic and military support from Russia, Iran and Hezbollah.<sup>48</sup>

The author believes that there is nothing wrong with asking help to other countries. However, what is wrong is the way they tried to conquer the opposition but on the other hand also killed thousands of civilians, especially children whose human rights have been violated. While in Geneva Convention all of those protections have been written in Article 48 of Additional Protocol I and have also been signed by Syria itself. Then, it means Syria has violated that provision.

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<sup>46</sup> Freedom House, "Syria and authoritarian fraternity", <https://freedomhouse.org/blog/syria-and-authoritarian-fraternity>, accessed on 3 January 2019 at 5:43 am

<sup>47</sup> Maria Rita Hasugian, 2018, "Tujuan Rusia, Turki, dan Iran dalam Perang 7 Tahun di Suriah" <https://dunia.tempo.co/read/1076699/ini-tujuan-rusia-turki-dan-iran-dalam-perang-7-tahun-di-suriah/full&view=ok>, accessed on 3 January 2019 at 1:29 am

<sup>48</sup> Scott Lucas, "Bashar Al-Assad", <https://theconversation.com/syria-whos-involved-and-what-do-they-want-95002>, accessed on 3 January 2019 at 1:26 am

**b. Infringement of United Nation Convention on the Rights of the Child**

Based on the Convention on the Rights of the Child, there were six crimes against children in Syrian armed conflict, namely killing or injuring children, recruiting or using child soldiers, rape and other forms of sexual violence against children, kidnapping of children, attacks on school or hospital, and denial of humanitarian access for children.<sup>49</sup> Therefore, this protection is to emphasized on the protection of children from the effects of violence, including the basic needs of life and the right to education.

The actions taken by the Syrian government forces are an act that violates the provisions of the optional protocol to the Convention on the Rights of the Child concerning the Involvement of Children in Armed Conflict. The provisions of article 78 of Additional Protocol 1 state that each party to the dispute must bring children to a refugee camp and each party must ensure that in the evacuation place they will be safe and far from the threat of conflict, and they must receive the education they should get both religious education and moral education. In addition, every refugee camp must be protected from those who have the authority to protect.

The declaration on the protection of women and children in emergency was proclaimed by the UN General Assembly in 1974 which stated that all forms of oppression and cruel and inhumane treatment of women and children including imprisonment, murder, torture, shooting, mass arrests, rape, destruction of dwellings, and forced evictions, carried out in warfare as part of military operations or occupation of a territory are considered acts of war crimes. Violations of

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<sup>49</sup> Convention on the Rights of Child

Humanitarian Law or declarations and resolutions that have been issued by the United Nations must be fully accounted for in accordance with the provisions of International Law.<sup>50</sup>

And during the war, many children have witnessed horrific scenes of violence; some have seen classmates and teachers killed before their own eyes. The right to quality education, as defined under the Convention on the Rights of the Child, is violated every day and on a scale of scale 4.<sup>51</sup>

The legal provisions governing the involvement of children in armed conflict are only contained in one article, namely article 38 which contains various state obligations not to recruit children under the age of 15 years and provide protection for children affected by armed conflict. This article does not provide a new arrangement in terms of child involvement in armed conflict, but only constitute a repetition of article 77 paragraph (2) of Additional Protocol I of 1977. This Convention only prohibits the direct participation of children under 15 years of age in hostilities. This arrangement is looser when compared to humanitarian law which regulates non-international armed conflict, which expressly prohibits the participation of children both directly and indirectly in hostilities. However, paragraph 1 of article 38 refers to the relevant international humanitarian law concerning the protection of children. Therefore, if there are doubts about which

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<sup>50</sup> Lusy K.F.R. Gerungan, 2013, *Perlindungan Terhadap Perempuan Dan Anak Ketika Perang Dalam Hukum Humaniter Internasional*, Jurnal Hukum, Manado, *Universitas Sam Ratulangi*, Volume XXI, Nomor 3

<sup>51</sup> *Ibid*



law will be applied in a situation, then based on the principle of *lex specialis*, the law that applies is international humanitarian law.<sup>52</sup>

## **C. Solution on the Crisis Protection Case in Syrian Armed Conflict**

### **1. From United Nation's Point of View**

According to United Nation Office for the Coordination of Humanitarian Affairs' opinion there are several better ways to protect children in armed conflict. They believe that every people or civilians are not the main target of conflict. And here are the 5 better ways to protect civilians in the conflict zone:<sup>53</sup>

- a. The use of explosive weapons must be avoided by parties in populated area. In 2017, three of the four victims of explosive weapons were civilians. The use of air-dropped bombs, artillery, mortars, rockets, IEDs and other explosive weapons in cities has killed and wounded civilians, and then destroyed their homes, hospitals, schools, electricity and water networks and sanitation systems - their important infrastructure counts on being damaged. This has devastating long-term consequences for civilians. Every time the parties have used tactical alternatives, as has been done in Afghanistan and elsewhere, it can change the number of civilians who have been injured or killed so that they have dropped dramatically. The UN echoed the calls of the UN Secretary General on all parties to avoid using explosive weapons in populated area.

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<sup>52</sup> Enny Narwati and Lina Hastuti , *Op.Cit*

<sup>53</sup> OCHA, "5 Ways to Better Protect Civilians in Conflict Zones", taken from <https://www.unocha.org/story/5-ways-better-protect-civilians-conflict-zones>, accessed on 23 November 2018 at 7:20 pm

- b. The UN Security Council should not consider attacks on children as "normal" in armed conflict. Attacking children in armed conflicts have continued unabated in a long time and many long-running wars have seen new spikes in the killing and maiming of children in attacks, from the Central African Republic to South Sudan, and from Syria and Yemen to Afghanistan and so on. The parties who are involved in war have indiscriminately or attacked schools, hospitals and essential water infrastructure intentionally; used children as human shields; recruited children into armed groups and State forces; killed children with chemical weapons; raped and sexually exploited children; and forced them to be suicide bombers. And the People must not accept this as the "normal thing" of armed conflict. The UN does not tolerate any methods of warfare that indiscriminately or intentionally harms children. Parties to conflict should respect international humanitarian law, and their commitments on child protection, such as the Safe Schools Declaration. It is essential that the United Nations Security Council binds the parties to conflicts to get involved, and to prioritize actions which protect children, such as the July resolution related to children recruited into armed groups.
- c. Guarantees for civilians in conflict zones to be able to access medical care and humanitarian assistance must be provided by the state and they must enable humanitarian and health workers to work safely in the zone by States. In 2018 it was reported that 313 aid workers were attacked in 2017, resulting in 139 deaths. Later that same year, the World Health Organization recorded 322 attacks on medical workers, resulting in 242 deaths.<sup>54</sup> If there is an attack on medical aid workers, this can be called as violating international humanitarian law that outlines the obligations

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<sup>54</sup> Aid Worker Security Database (AWSD), 2018, Aid Worker Security Report, Aid Worker Security

of warring parties to ensure that humanitarian assistance reaches people in need; and medical care is provided for wounded and sick fighters and civilians. All parties involved in armed conflict and Member States must implement the Secretary-General's recommendations regarding the protection of medical care. Attacks on humanitarian assistance or medical care must be investigated, and the perpetrators of serious violations of the law must be prepared for acts of accountability.

- d. Guarantees of better protection and assistance from people who are forced to move in their countries and uphold their human rights by the State. 68.5 million people have been forced from their homes due to conflict, violence and persecution. Two-thirds of these people are now IDPs - people who internally displaced themselves in their own country. After being displaced, many of these IDPs will not return home for years - even decades. Therefore, the government must ensure that refugees have access to the protection and assistance they need. IDPs must also have the right to freedom of movement - including the right to return voluntarily and safely to their homes, to resettle in other parts of the country, or to seek asylum in other countries. In addition, the government must put in place a development plan to allow IDPs to access housing, jobs and schools.
- e. The condition of arms exports must be respected by every conflicting country so that there is no violation of international humanitarian law and human rights. Because the number of major international weapons transfers rates have continued to increase since the early 2000s,<sup>55</sup> countries should take legislative and other measures to condition arms exports by respecting international humanitarian law and human

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<sup>55</sup> SIPRI, SIPRI Arms Transfers Database, taken from <https://www.sipro.org/databases/armstransfers>, accessed on 24 November 2018 at 8:35 pm

rights, including pre-export assessments of the risks of unlawful use, whether in accordance with the Arms Trading Agreement and a number of regional agreements. Some Member States have adopted strong controls regarding the export of their weapons. Other people now have to follow in their footsteps.

## **2. From the Child Protection Working Group’s Point of View**

The Child Protection Working Group (CPWG) is the global level forum for coordination on child protection in humanitarian settings. The group brings together NGOs, UN agencies, academics and others under the shared objective of ensuring more predictable, accountable and effective child protection responses in emergencies. The group works to ensure that the efforts of national and international humanitarian actors to protect children are well coordinated, achieving maximum quality and impact.<sup>56</sup> There are 5 strategies that CPWG believe could make children in Syrian armed conflict live in better life:<sup>57</sup>

- a. Undertake strategic advocacy for the immediate cessation of violence against children perpetrated by armed forces and groups. Parties must ensure the immediate cessation of violence against children, including killing and maiming of children; recruitment and use of children; sexual violence against children; and the detention and torture of children.
- b. Integrate child protection considerations into all sectors of the response in Syria, such as engaging child protection staff into humanitarian programmes to maximise

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<sup>56</sup> Save the Children, “CPWG, The Child Protection Working Group”, taken from <https://resourcecentre.savethechildren.net/publishers/cpwg-child-protection-working-group>, accessed on 17 February 2019

<sup>57</sup> CPWG, 2016, Child Protection in Humanitarian Action Review: Dangers and injuries, Save the Children

child protection outcomes in other sectors. This includes work with education colleagues to ensure routes to school are safe, removing barriers to retain girls in school to delay marriage, training teachers to provide basic psychosocial support and rolling out education packages on physical safety in hostile environments and mine-risk education.

- c. Expand specialized child protection programming in Syria. Wherever possible build on and strengthen existing child protection systems, for example, to address causes of stress for children through activities that seek to restore normality (such as access to school and community-based psychosocial activities); and train personnel to detect and support children experiencing psychosocial distress.
- d. Ensure effective coordination of child protection responses inside Syria. This will help facilitate the most efficient collective response possible; allow for common advocacy; and allow for a coherent interface with other sectors of the response.
- e. Monitor and investigate further about the issue of child protection in Syria. This includes an understanding of important issues in the assessment must be deeper; and building a simple system to monitor the nature, volume and pattern of child protection problems.