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SYRIA: AN ANAMOLY TO INTERNATIONAL HUMANITARIAN LAW

SUBMITTED BY: ANSHUMAN BISARYA

INTRODUCTION

Syria, under President Bashar al-Assad who came into power after his father died in 2000 had the country under his grip plagued by corruption, high unemployment and lack of political and civil rights and freedom.

In the 2010s, with the advent of Arab Spring and above issues plaguing Syria, the wave of Arab Spring also came into Syria where citizens came out on streets and a pro-democratic will and desire was shown, first started in the city of Deraa in March 2011.

The Syrian government promptly went on to use deadly force to crush this pro-democracy movement and protests that spread nationwide. However, instead of it dying down, it went to intensity with hues and cries for President's resignation being echoed across Syria. The Syrian government deemed this as "foreign backed terrorism" and soon military forces was deployed, in retaliation, opposition groups also picked up arms which later went on to become a complex web of conflicts and later being blown into a full-on civil war with Syrian government being at war with non-state actors and also other nations.¹

The Syrian conflict is also controversial because of intervention of many State and non-State actors. Saudi Arabia, Iran, United States and Russia being pitted against each other and terrorist groups such as ISIS and Al-Qaeda have further made the Syrian conflict multi-layered in relation to categorisation of the conflict as both International and Non-International Armed conflict. Although some countries that were hit by Arab Spring such as Tunisia and Egypt but Syria has gone into the path of civil war.²

¹ Al Jazeera correspondent, *Syria's War explained from the beginning*, Al-Jazeera <https://www.aljazeera.com/news/2018/4/14/syrias-war-explained-from-the-beginning> (last visited on 2/03)

² Reuters, *Why has the Syrian War lasted 11 years?*, BBC, <https://www.bbc.com/news/world-middle-east-35806229> (last visited on 2/03)

By February 2022, 14.6 million people as per UN need humanitarian assistance and 12 million people struggling for food security and 500,000 children are malnourished.

I. RESEARCH QUESTIONS-

1. HAS SYRIA DESPITE RATIFYING TO GENEVA CONVENTION, HAS IT ADHERED TO IT?
2. HAS IHL AND GENEVA CONVENTION PROVIDE ANY DETERRANT EFFECT ON SYRIA?

II. INTERNATIONAL HUMANITARIAN LAW: WHAT IS IT?

IHL is one of the many strands of international law. Its existence is made necessary by the preponderance of conflict in the international system, where states battle to achieve strategic interests. IHL is necessary in the dramatic situations of war which involve widespread destruction of human lives and properties.

International Humanitarian Law (hereinafter to be referred to as IHL) is one of the facets of International Law whose existence is necessary in the international system where it is needed in event of War. Despite devastation after the WWI and WWII, war and conflict have been found in many corners of the world. This is where IHL steps in, IHL does not concern itself with legality of war but concerns itself with the conduct of the parties to the war and ensure basic rights and treatment for the combatants, civilians and other ancillaries involved in the theatre of war.³

IHL tries to limit the human loss catastrophe factor that is an inevitable part of war. IHL focuses on rights and duties of parties to war towards combatants and civilians and ancillaries and are aimed to solve humanitarian problems and crisis that come whenever there is war or conflict involved.

IHL is based on fundamental principles that are widely recognised such as principles based on humane treatment, proportionality, distinction between civilians and combatants, civilian infrastructure and military infrastructure and objects. All these are embodied with the aim to limit unnecessary loss of human life and rights that affect the involved parties such as civilians and

³ Oluwaseyi Emmanuel Ogunnowo & Felix Chidozie, *International Law and Humanitarian Intervention in the Syrian Civil War: The Role of the United States*, SAGE, pg. 1-11 (2020)

even combatant and other categories (such as spies, mercenaries). IHL also focuses to limit and prohibit inhumane ways to fight a war.

IHL has fundamental principles that are universally accepted that is guided on humane treatment and includes distinction between citizens and combatants, military necessity. (Read about them) IHL also puts forth that military and religious buildings and objects should not be targeted and affected by military operations. IHL specially focuses on limiting the loss of human life and catastrophe. IHL focuses on rights of prisoners of war and also spies and mercenaries who often get grinded between States in theatre of war. IHL also focuses on citizens and their rights and protection. IHL covers a number of scenario which are relevant in this day and age such as citizens spontaneously taking up arms to fight off invading forces. IHL protects PoW's from arbitrary proceedings against them and looks to restrain the occupying power to ward off inhumane treatment that they can be subjected to. IHL categorically says that status of PoW has to be shared with ICRC who will verify the status of PoW and also that PoW can be disciplined in event they try to escape but they cannot be tried under domestic laws of occupying force. (look up Articles) IHL and its principles has been incorporated and followed by Geneva convention, most notably the most important authority of IHL that looks over the conduct, rights and duties of parties involved in the war.

This paper will discuss Geneva convention that is relevant to Syrian crisis which is the focus point of the paper.

3.1 Geneva Convention- I

Geneva Convention-I talks is the 4th updated version of Geneva convention on wounded and sick from 1964, 1906 and 1929. It has 64 articles. Geneva convention's subject matter of protection if wounded and sick on the field of war on ground. Notably, Geneva convention-I also provided protection of religious personnel (chaplain) and medical personnel and units and medical transportations. Geneva convention has 2 annexes that includes a draft agreement on hospital zones and a uniform identity card for medical and religious personnel involved in theatre of war and conflict.⁴

⁴ ICRC correspondent, *The Geneva Conventions of 1949 and their Additional Protocols*, International Committee of the Red Cross, <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols> (last visited on 2/03)

3.2 Geneva convention IV

Geneva convention IV is very important as it focuses on the most impacted party involved in the war i.e. the citizens that are stuck and affected by the war and conflict.

Incidentally, in the 1949 version of convention, it primarily concerned itself with combatants, however, it had a short section which talked about population and the ill-effects suffered by them during a war. However, the hostilities that they face was covered in Additional Protocols in 1977. The convention primarily deals with treatment of civilians and their protection even in occupied territory. This convention even lays down the obligations of the occupying power towards the civilians and contains “detailed provisions” on humanitarian rights and duties towards the civilian population.⁵

Notably, common Articles of Geneva convention lay the primer for the 4 Geneva conventions. Article 3 of Geneva convention is considered nothing short of a breakthrough as for the 1st time, situation of international and non-international armed conflicts was covered.

Common Article 3 talks about humane treatment for all persons and prohibits murder, torture, derogatory treatment, unfair trial and talks about the wounded, sick and lost at sea to be taken care of and also paves way for ICRC to have access to those that may require its assistance. Civil War, internal armed conflict which spreads to another State or internal conflicts where other States or multi-State group join in the conflict alongside the government.⁶

Syria ratified Geneva Convention IV and Additional Protocol I on 2/11/53 and 14th Nov 1983 respectively.⁷

Syria	Ratification	02/11/1953
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)		14 Nov 1983 Ratif./Acc.

⁵ Ibid

⁶ Ibid

⁷ UN Treaty Status- Syria, United Nations <https://treaties.un.org/pages/showdetails.aspx?objid=08000002800f3586> (last visited on 2/03)

III. ATTACK ON CITIZENS

In what can be considered as barbaric and dastardly attack, Syrian government and non-State attacks alike have resorted to attacks on its own citizens to instil a sense fear and to detract them. Notably, Syrian and Russian attacks have both been condemned on global stage.

One notable use is barrel bombs, there have been frequent and constant bombing of civilian areas which are prohibited by Geneva Convention- IV which talks about civilian infrastructure with presence of civilians should not be executed under any circumstances. This indiscriminate bombing including shelling that has resulted in numerous civilian deaths and injured thousands including children. Such is the indiscriminate bombing that Syrian government has bombed markets, schools, medical facilities and public spaces such as squares. Furthermore, in more dastardly acts, when assistance is being given to the injured, there is a second round of bombing. This indiscriminate bombing is meant to completely kill the mental spirit of the citizens and medical personnel alike.

Use of cluster munitions

Furthermore, in addition to bombing, cluster ammunition has been deployed in form of airstrikes by Syrian and Russian fighter jets on civilian areas of Iblib, Douma, Dayr-az-Zawr and Aleppo Governorate and in Aleppo. Notably, the cluster ammunition used is from atleast 13 banned international cluster munition that have been used in 400 attacks on areas that oppose the government. There have been instances where camps which largely had women and children was also subjected to attacks and there were no fighter or armed resistance present in that camps. This can be understood as akin to *Rajic* case where despite no armed resistance, civilians were killed.⁸

Targeting of schools –

Geneva Convention- IV talks about that civilian infrastructure cannot be attacked. In an instance during the Gulf War, a fighter jet was strategically placed near a religious place so that no attack would be taken on the fighter jet, this was however deemed improper as this tactical move jeopardises the citizens.

Between 2011 and 2015, the attacks on the school in Syria have been such that almost half of

⁸ Lenoard S. Spector and Egle Murauskaite, *Dealing with Syria's Dangerous Arsenals*, ARMS CONTROL TODAY, 42, pg-8-13 (2012)

worldwide attacks on school executed so far has been done in Syria. This shows how much indiscriminate and frequent attacks on Schools have been conducted. In fact, there has been State sponsored attacks on educational institutions such as government bombing in Haas, Idleb that resulted in death of 35 civilians which included 22 children and 6 teachers. The school was located in opposition held areas. Notably, in all these attacks, no military or armed presence was ascertained there still indiscriminate attacks were continued and executed.⁹

Targeting of medical facilities

Geneva Convention specifically prohibits and condemns attacks on medical personnel and infrastructure. Hospitals, medical centres and clinic areas have been subjected to constant attacks that have been deliberately targeted by Syrian and Russian forces. Government forces have been targeted and accused time and again for carrying attacks on medical facilities and 768 deaths. In Aleppo area, airstrikes were conducted which led to severe damage to hospital areas which forced the hospital to be shut down permanently.¹⁰

Targeting of water sources

In another instance which shows sheer barbarism of Syrian civil war and the mentality of Syrian government is the attack on water sources and utilities which affected atleast 5 million civilians which hindered their access to potable water for over a month. Syrian Air force deliberately attacked the water sources and utilities, notably the Al- Feijeh spring at Wadi Barad near Damascus.¹¹

Use of chemical weapons –

Syria government has been known to use chlorine munitions in 2014, '15 and '16. Both air dropped and rocket assisted munitions were dropped to target civilian areas. Chlorine bombs were dropped and deployed as a weapon. Barrel bombs containing chlorine gas has been dropped in residential areas that killed 80 people and left people with reactions akin to nerve gas affected.¹² Chemical weapons are prohibited and strictly go against the tenets of International Humanitarian Law. Although, Syria has not ratified to the 1993 convention that prohibits Chemical warfare but

⁹ Assaf Orion, *The United States, Syria and Chemical Weapons: An unfinished Symphony*, Insitute for National Security Studies, JSTOR, <http://www.jstor.com/stable/resrep08852>

¹⁰ Ibid

¹¹ Supra Note 6 at pg. 9

¹² Supra Note 8 at pg. 8

still, chemical weapons being used in this day and age is barbaric.¹³

But Geneva Convention also talks about limit of proportionality of attacks and this is where Syria also falls afoul of it.

Targeting of humanitarian aid workers and humanitarian objects –

Humanitarian aid workers, a group that is specially protected have been subject to attacks by both Syrian and Russian government. Attacks have been executed on humanitarian aid workers and supplies aimed to give aid. In addition to killing civilians, attacks deprive civilian people and cut them off from humanitarian aid and assistance. Russian and Syrian aircraft have bombed a UN/Syrian Arab Red Crescent aid convoy that was going to Aleppo. This attack is incomprehensible as only before in Namibia, attack had been made on a UN affiliated convoy. This shows the mindset and lack of adherence towards International Humanitarian Law.¹⁴

Geneva Convention also makes it a point that UN convoys cannot be fired at that is coming with supplies and aid but this was done by government and opposition forces alike despite UN getting their prior permission.

Armed groups stemming from Syria such as Da'esh, Hay'at Tahrir Al- Sham and Kurdish People's Protection Units have launched indiscriminate attacks that resulted in civilian deaths using mortars and rockets and ammunitions.¹⁵

Pro-government forces have executed sieges in the conflict. Although sieges are not categorically prohibited under IHL but siege has to be done in consonance with IHL rules. (Find rules) However, sieges laid down have been cited with numerous violations that included denial of humanitarian aid, food, water and freedom of movement.

Furthermore, there have been damning allegations of hospitals and allegations that have been used as shields by armed fighters by the pro-government forces.

¹³ Supra Note 9 at pg. 4

¹⁴ Supra Note 1 at pg.5

¹⁵ Iffat Idris, *International Humanitarian Law and Human Rights violation in Syra*, GSDRC, University of Birmingham, <https://gsdrc.org/wp-content/uploads/2017/07/127-IHL-and-HR-violations-in-Syria.pdf> (last visited on 2/03)

The indiscriminate attacks by Government and non-State actors alike have significantly destroyed Syria's heritage, once that it boasted rich cultural heritage. All 6 of country's UNESCO World Heritage sites have been damaged significantly with deliberate bombing in ancient city of Palmyra.¹⁶

IV. CONCLUSION

The conflict in Syria, what started as a pro-democratic movement has turned into an ugly prolonged war.

Every actor involved in the conflict in Syria including the non-state groups and State actors have alike turned to rip every convention of Geneva Convention, Convention IV particularly by turning to dastardly acts on its own citizens. The use of cluster ammunition and barrel bombs and chemical weapons to affect public facilities. Basic necessities such as water have been affected and rendered useless. This can be akin to British poisoning Ganga river with Cholera but that was against a foreign entity, in the case of Syria, the government turned into its own citizens and to mock and kill the spirit of democracy, the State, non-State actors alike have tried to kill and dampen the citizens. This civil war has become a war of attrition with citizens taking the brunt of it. The attack on hospitals and medical personnel is another issue. International Humanitarian Law has long made it a point that medical personnel are off the limits but Syria has crossed the same and has not adhered to even basic fabric of International Humanitarian Law. It is especially sad that despite being in 21st century, the Syrian Civil War can be seen as a war theatre from previous centuries when the King or occupying power used to turn on its own people.

Syria despite ratifying to Geneva conventions has not adhered to it and also poses questions on what deterrence effect IHL has on member states. It is crucial that something critical is done to reinstate the posture and confidence of IHL among member states and global citizens so that every State does not descend into anarchy due to domestic and external factors.

¹⁶Carsten Stahn, *Between Law- Breaking and Law-making*, Oxford University Press, Journal of Conflict and Security LaW, 19, pg. 25-48 (2014)