**HUMAN RIGHTS AND HUMANITARIAN COST OF THE SYRIAN WAR**

**Abstract**

This paper discusses the humanitarian and human rights cost of the Syrian war. The armed conflict in Syria erupted in March 2011 in the southern city of Deraa after the arrest and torture of some teenagers who painted revolutionary slogans on a school wall. Also, the unrest which grew out of discontent with the Assad government, escalated to an armed conflict after protests calling for his removal were violently suppressed. War crimes have been a consistent feature of the Syrian conflict since its inception. In addition to war crimes, the Syrian people have experienced other crimes under international criminal law, including crimes against humanity, summary execution, terrorism, and genocide against ethno-religious minorities. Thousands of Syrians have disappeared without a trace, many of them victims of enforced disappearances. The emergence of the ISIS on the scene introduced a new set of ruthless perpetrators who have brought the violence to an even more alarming level of brutality. This work seeks to determine the international humanitarian laws and human rights laws applicable to this conflict together with other laws that may be relevant for the prosecution of violations occurring in the Syrian war.

Keywords: Human Rights, Humanitarian Cost, War, Syria

**1. Introduction**

Since 2011, there has been an armed conflict in Syria. The Syrian armed conflict is a non-international armed conflict. It is being fought primarily by the Syrian Government and the forces opposing the government in Syria. The main belligerents in the armed conflict includes; the Syrian Arab Republic, the Syrian opposition, the Islamic State of Iraq and Syria\(^1\), with a number of countries in the region and beyond either directly involved, or rendering support to one or another faction.\(^2\) There have been serious breaches of international humanitarian law\(^3\) and international human rights law\(^4\) by parties to the armed conflict. War crimes have been a consistent feature of the Syrian conflict since its inception. In addition to war crimes, the Syrian people have experienced other crimes under international criminal law, including crimes against humanity, summary execution, terrorism, and genocide against ethno-religious minorities.\(^5\) Thousands of Syrians have disappeared without a trace, many of them victims of enforced disappearances.\(^6\) The emergence of the ISIS on the scene introduced a new set of ruthless perpetrators who have brought the violence to an even more alarming level of brutality. ISIS is also known as Levant/Daesh. It is a militant organization that has committed war crimes, crimes against humanity and crimes against foreign citizens in its pursuit of creating a caliphate. In the lands controlled by ISIS, the agents of ISIS have brutally murdered Christians and other religious minorities who have refused to

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\(^1\) Hereinafter referred to as the Islamic State of Iraq and Syria.


\(^3\) Hereinafter referred to as IHL.

\(^4\) Hereinafter referred to as IHRL.

\(^5\) ISIS have brutally targeted and attacked the Yazidis. A historically misunderstood group, the Yazidis are predominantly ethnically Kurdish, and have kept alive their syncretic religion for centuries, despite many years of oppression and threatened extermination. The Yazidis had been denounced as infidels by Al-Qaeda in Iraq, a predecessor of ISIS, which sanctioned their indiscriminate killing. Jalabi, R., ‘Who are the Yazidis and why is ISIS hunting them?’ https://www.theguardian.com/world/2014/aug/07/who-yazidi-isis-iraq-religion-ethnicity-mountains. (Accessed 4 April, 2019).

\(^6\) ibid
convert to ISIS’s belief.\(^7\) ISIS has brutally raped and trafficked hundreds of Iraqi and Syrian women and children and has targeted Syrian minorities because of the victims’ religious affiliations or ethnic backgrounds.\(^8\) These extreme levels of violence, coupled with the lack of any apparent progress until very recently towards finding a political resolution to the conflict have generated a massive refugee crises in the region and beyond.\(^9\) This work seeks to determine the international humanitarian laws and human rights laws applicable to this conflict together with other laws that may be relevant for the prosecution of violations occurring in the Syrian war.

2. Background of the Study

The Syrian civil war is an on-going multi-sided armed conflict in Syria fought primarily between the government of President Bashar al Assad, along with its allies, and various forces opposing the government.. The unrest in Syria grew out of discontent with the Assad government and escalated to an armed conflict after protests calling for his removal were violently suppressed Pro-democracy protests erupted in March 2011 in the southern city of Deraa after the arrest and torture of some teenagers who painted revolutionary slogans on a school wall.\(^10\) After security forces opened fire on demonstrators, killing several, more took to the streets. The unrest triggered nationwide protests demanding President Assad's resignation\(^11\). The government's use of force to crush the dissent merely hardened the protesters' resolve. By July 2011, hundreds of thousands were taking to the streets across the country. Opposition supporters eventually began to take up arms, first to defend themselves and later to expel security forces from their local areas.\(^12\) Violence escalated and the country descended into civil war as rebel brigades were formed to battle government forces for control of cities, towns and the countryside.\(^13\) Fighting reached the capital Damascus and second city of Aleppo in 2012. By June 2013, the United Nations’ said 90,000 people had been killed in the conflict. By August 2015, that figure had climbed to 250,000, according to activists and the UN.\(^14\) The Syrian Observatory for Human Rights (SOHR), a monitoring group based in the UK, in March, 2018 estimated the death toll since the start of the war to be as high as 511,000.\(^15\) United Nations High Commissioner for Refugees (UNHCR) further reported that years of relentless fighting left 6.6 million displaced internally and 5.6 million around the world.\(^16\) The on-going violence against civilians has been condemned by the Arab League, the European Union, the United States and other countries. As of March 2019, roughly 5.7 million Syrians have fled the country, according to the UN High Commissioner for Refugees, and more than 6.1 million people are displaced internally.\(^18\)

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\(^8\) ibid
\(^9\) ibid
\(^11\) Ibid.
\(^12\) Ibid.
\(^13\) Ibid.
\(^14\) Hereinafter referred to as the UN.
\(^15\) BBC, Supra note 10
The most serious crimes of concern to the international community as whole namely; war crimes, crimes against humanity and genocide have all featured in the non-international armed conflict in Syria. The emergence of ISIS has also increased the brutality in this conflict. This group has committed both war crimes, crimes against humanity and human rights violations. There is also a claim of genocide being committed by ISIS. On February 3, 2016, the European Union recognized the persecution of Christians by ISIS as genocide, the vote was unanimous, the United States followed suit on March 15, 2016 declaring these actions as genocide. ISIS has shown no respect for the laws of war. The horror of Syria war is in the millions of pictures that are too gruesome to circulate- charred limbs stacked outside hospital wards, bloated bodies rotting in sniper alleys, a toddler plucked from the rubble without a head. We hope that the international community will be able to device means to hold perpetrators of these crimes in the Syria war accountable.

3. History of Syria/ Armed Conflict in Syria
Syria is a country located on the east coast of the Mediterranean Sea in south-western Asia. The capital is Damascus. After Syria gained its independence in 1946, political life in the country was highly unstable, owing in large measure to intense friction between the country’s social religious and political groups.19 In 1970, Syria came under the authoritarian rule of President Hafiz al-Assad, whose foremost goals included achieving national security and domestic stability and recovering the Syrian territory lost to Israel in 1967.20 Assad committed his country to a massive arms build-up, which put severe strains on the national budget, leaving little for development.21 For years Syrians hoped that the Assads, the ruling, family would bring stability and freedom after the troubled 1950s and 1960s, during which a series of coup d’états pushed the country into uncertainty and military conflict.22 In 1973, just three years after Hafez al-Assad seized power, he joined with Egyptian President Anwar al-Sadat in a new major war against Israel.23 The Soviet Union supplied Egypt and Syria with arms, while the United States of America backed Israel. The disastrous war damaged relations throughout the Middle East and achieved little for Syria.24 Subsequently, the Assad regime maintained its hold on power through the usual measures employed by a dictatorship.25 The regime engaged in corruption, the regime silenced opponents and critics, prevented free speech and denied political expression. That created an atmosphere of fear and resentment for the regime.26

When Hafez al-Assad died in 2000, his second son, Bashar, an ophthalmologist living in London, inherited the presidency.27 The people hoped that a young President, who studied in the West and who married an intelligent Syrian-British woman, could change the situation which his father had created.28 Many people were optimistic and saw Bashar as a reformer. Indeed, Bashar al-Assad began to restore proper international trade and he started to reform the country, but everything quickly slipped back to the corrupt ways.29 Bashar ultimately continued his father’s authoritarian style of government, using Syria’s

20 ibid
21 ibid
23 Ibid. The Six-day war also known as the June war, 1967 Arab-Israeli war, or the third Arab-Israeli war, was fought between June 5 and June 10, 1967 by Israel and the neighbouring states of Egypt, Jordan and Syria.
24 ibid
25 ibid
26 ibid
27 ibid
28 ibid
29 ibid
powerful military and security services to quash political dissent. Long suppressed tensions led to the outbreak of the Syrian civil war. Starting in March 2011, the Syrian government began deploying deadly force against peaceful protesters demanding a range of reforms, including enhanced political freedoms, an end to custodial abuses, and the repeal of abusive emergency laws. The violence remained asymmetrical, however, until early summer when an organized armed opposition, made up of Syrian army defectors and rebels drawn from the civilian ranks, began to merge and engage government forces. The Free Syrian Army, which announced itself in July 2011, created a Supreme Joint Military Command of the Syrian Revolution in December 2012 in an effort to unify and coordinate the operations of the various insurgent armed groups on the ground and to improve communications with the emerging political opposition. The Free Syrian Army has also gained control of territories in Syria.

Given these developments, the International Committee of the Red Cross seemed to assume the existence of an armed conflict in May 2012, without identifying a start date, and publicly confirmed the conflict’s inception in an operational update in July 2012. The Independent International Commission of Inquiry on the Syrian Arab Republic, convened by the United Nations Human Rights Council, evaluated the situation in Syria. It noted in its first report in November 2011, that the violence “risked rising to the level of an ‘internal armed conflict,’” but it was unable to verify the level of intensity of combat or the level of organization of armed groups. By the time of its third report released in August 2012, the COI concluded that the intensity and duration of the conflict, combined with the increased organizational capabilities of anti-Government armed groups, had met the legal threshold for a non-international armed conflict. With this determination, the commission applied international humanitarian law in its assessment of the actions of the parties during hostilities. The COI went on to say that the IHL threshold was crossed, in its estimation, as early as February 2012.

The report by COI constitutes a valuable source of evidence as to the existence of an armed conflict.

4. War Crimes in Syria
In Syria, civilians have been targeted. There have been deliberate, indiscriminate, and disproportionate attacks on civilians by the parties to the armed conflict in the Syria war. As the Syrian civil war goes on, the list of war crimes committed by the combatants continues to grow, including the destruction of hospitals and the use of chemical weapons.

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30Irvine, Supra note 19.
31 ibid
33 ibid
35 ibid
36 Hereinafter referred to as ICRC.
38 Hereinafter referred to as COI
39 Supra note 22
Unconventional & Improvised Weapons & Weapons Systems
Some weapons and weapons systems in use in Syria are inherently unlawful and indiscriminate; others are being used in ways that cannot possibly discriminate between civilian and military objects and objectives; still others cause unnecessary suffering and superfluous injury. There is little precedent for the prosecution of weapons crimes, as such the conflict in Syria has the potential to develop jurisprudence in this area.

Barrel Bombs
The Assad regime has improvised containers filled with bulk explosives, incendiaries, and fragmentation media, and that they drop from helicopters and other aircraft.

Cluster Munitions
In Syria, hundreds of civilians have been killed by cluster munitions. Cluster munitions have been air-dropped and ground-launched by Syrian forces (since mid-2012) and by ISIS (since late 2014) in multiple opposition controlled locations around Syria. Cluster munitions are weapons that eject a payload of sub-munitions (bomb lets or other fragmentation elements) from a dispenser upon contact or at a pre-set altitude. Cluster munitions are intended for use in wide-area targeting, and may be deployed against moving “soft” targets (enemy personnel and civilians) or to destroy runways, scatter landmines, penetrate armour, start fires, or deliver chemical weapons. Because cluster bombs release many small bomb lets over a wide area, they pose risks to civilians both during attacks and afterwards. Unexploded bomb lets can kill or maim civilians long after a conflict has ended, and are costly to locate and remove.

Incendiary Weapons
The COI and human rights groups have also recorded the use of air-dropped Incendiary weapons, including so-called vacuum bombs or fuel-air explosives. The use of such weapons in Syria has been universally condemned. Incendiary weapons means any weapon or munitions which is primarily designed to set fire to objects or to cause burn to persons through the action of flame, heat or combination thereof, produced by chemical reaction of a substance delivered or targeted.

Chemical Weapons
The U.N. Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic, the World Health Organization, and the COI, plus investigative reporting and citizen journalism have confirmed the use of chemical weapon in the Syria armed conflict. In August 2016, a report by the United Nations and the Organisation for the Prohibition of Chemical Weapons explicitly blamed the Syrian Government for dropping chemical weapons (chlorine bombs) on the towns of

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44 Schaack, Supra note 32.
45 ibid
46 ibid
47 ibid
Talmenes in April 2014 and Sarmin in March 2015 and ISIS for using sulfur mustard on the town of Marea in August 2015. \(^49\) Civilians have died as a result of the use of chemical weapons in Syria. \(^50\)

The Legality of Siege Warfare

Brutal sieges have been another feature of the war in Syria. Report has it that the city of Madaya, for example, has been under siege for months, its inhabitants reduced to eating grass. \(^51\) The Syrian government has arbitrarily and discriminatorily barred or limited the delivery of humanitarian aid to these populations. \(^52\) Siege warfare thus remains lawful under contemporary law in the narrowest of circumstances; so long as it is directed only at combatants and those directly participating in hostilities, civilians are allowed to leave an encircled area, and other provisions of the law of war are adhered to. \(^53\) The various sieges in place around Syria do not adhere to any of these restrictions, so those responsible are in breach of IHL.

The Starvation of Civilians

Provisions of food have been arbitrarily barred and limited in the sieges in the Syrian war. Residents of a Syrian town (Madaya) are being forced to eat insects, plants and even cats due to the siege by the Assad regime. \(^54\) Also, the U.N. high commissioner for Human rights accused the Syrian government of denying food to hundreds of civilians besieged in Eastern Ghouta, on the outskirts of the Capital Damascus. \(^55\)

Sexual violence

Women in Syria are increasingly the targets of violent abuse and torture by government forces and armed groups. Evidence of the violence against women has been based on interviews with victims. \(^56\) In the Syrian civil war, rape has been used as a strategy throughout the conflict, by pro-government supporters, members of the Free Syrian Army and ISIS. \(^57\) There have been reports of rape and sexual assaults of women at detention facilities in Damascus, dating from 2012. The UN declared in 2012 that rape was being used as a weapon of war in Syria. \(^58\)

Violations of Children’s Rights

Children’s rights are being violated on a massive scale. Children have been killed, injured abducted, arrested, tortured and maimed, suffering the direct consequences of the indiscriminate violence of Government forces. \(^59\) They have also been affected by displacement, loss of relatives and the trauma of

\(^{49}\) ibid

\(^{50}\) Gladstone, Supra note 48

\(^{51}\) Schaack, Supra note 23

\(^{52}\) ibid

\(^{53}\) ibid


\(^{57}\) ibid

\(^{58}\) ibid

witnessing acts of violence and denied basic services and education on a daily basis. In Aleppo, Damascus and Dara’a, regular armed forces use schools for military purposes, depriving children of education and exposing educational facilities to attack. In Syria, the government forces and non-state actors have recruited and used children in the hostilities.

**Genocide**
The COI has determined that ISIS’s violence against the Yazidis constitutes a case of genocide, defined by the Genocide Convention as “acts committed with intent to destroy, in whole or in part, a national, ethncial, racial or religious group”. ISIS had openly proclaimed, in its English language magazine, *Dabiq*, its intent to destroy the “pagan” Yazidi minority through killing, enslavement, and forced conversion. ISIS forces have committed genocide and other war crimes in the continuing effort to exterminate the Yazidi religious minority in Syria. Dozens of mass graves have been uncovered in areas recaptured from ISIS. On the 4th of February 2016, the European parliament unanimously passed a resolution recognizing ISIS’s violence against Christians, Yazidis and other religious minorities to be genocide.

**5. Effects of Syrian War**
The war in Syria has resulted in extreme violence, much of it directly targeting civilians. Since the upheaval in Syria began, thousands of people have been killed and millions have fled their homes. Before the conflict began, Syria’s population was about 22 million. With so many people affected, the crisis is the world’s worst humanitarian emergency in decades. Today, Syria produces more internally displaced people and refugees than any other country in the world, according to the UN. A lot of families have suffered under the brutal conflict that has killed hundreds of thousands of people, torn the nation apart, and set back the standards of living. Today, about 13 million people in the country need humanitarian assistance. Healthcare centers and hospitals, schools, utilities, and water and sanitation systems are damaged or destroyed. More than 5.6 million Syrians have fled the country as refugees, and 6.1 million are displaced within Syria as internally displaced people. The Syrian civil war has stolen the childhood of millions of children and affected their long-term physical and mental health and prospects for the future. Many children caught up in the crisis lost their family members and friends to violence, suffered physical and psychological trauma, and had to leave school.

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60 ibid
64 ibid
65 ibid
66 ibid
68 ibid
69 ibid
70 ibid
71 ibid
72 ibid
6. Legal Framework Applicable to Syria Armed Conflict

International Legal Framework Applicable to Syria Armed Conflict

International law imposes limits on the behaviour of the actors in the civil war in Syria. Even without specific treaty obligations imposed upon it, the Syrian government and non-state actors are bound to respect customary international law. In terms of their treaty obligations, it is useful to examine whether Syria has ratified specific instruments imposing concrete obligations. Syria has ratified the Geneva Conventions of 1949 and has also ratified the Genocide Convention of 1948. Syria has not ratified Additional Protocol II which regulates non-international armed conflict. While the UDHR is binding on all States of the world being an authoritative interpretation of the UN Charter, customary international law and its jus cogens character. It is perhaps surprising to observe that the Syrian Arab Republic is a party to many international human rights treaties, including the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Elimination of all forms of Racial Discrimination, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. Sadly, it is clear that most of the human rights treaties ratified by Syria, in particular, have not been and are not being respected by the Syrian government, observing the human rights violations occasioned by the Syria armed conflict.

Geneva Conventions 1949

The Geneva Conventions and their additional protocols are at the core of IHL, the body of international law that regulates the conduct of armed conflict and seeks to limit its effects. The Geneva Conventions entered into force on 21 October 1950. The Geneva conventions comprise of four treaties, and three additional protocols. The 1949 Geneva Conventions protect certain vulnerable classes of person such as civilians and prisoners of war but they also apply for the most part to international armed conflicts. Only common Article 3 of those treaties, which does not designate its list of prohibitions as crimes per se, governs non-international armed conflicts. Common Article 3 provides that in the case of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

P ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without

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74 Ibid Syria ratified the 1949 Geneva Conventions in 1953.
76 Ibid
77 Hereinafter referred to as CEDAW.
78 Hereinafter referred to as CERD.
79 Hereinafter referred to as CAT.
80 Hereinafter referred to as ICCPR.
81 Hereinafter referred to as ICESCR.
82 Hereinafter referred to as CRC.
84 Ibid
85 Four Geneva Conventions 1949, Common Art. 3.
any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; Taking of hostages; Outrages upon personal dignity, in particular humiliating and degrading treatment; The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

**Convention on the Prevention and punishment of the crime of Genocide 1948**

Syria is a party to the Genocide Convention. The Genocide Convention strictly prohibits genocide. In Syria, members of the Islamic state of Iraq and Syria have committed genocide against the Yazidis and other religious minorities. “Genocide” means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group. Under the Genocide Convention, the following acts shall be punishable: Genocide; Conspiracy to commit genocide; Direct and public incitement to commit genocide; Attempt to commit genocide; Complicity in genocide.

**Customary International Law**

Customary international law now penalizes many breaches of IHL. Customary international law is binding on all states. In the Syrian armed conflict, the principle of distinction have been violated and disregarded. Civilians and civilian objects have been targeted and attacked. Customary IHL provides that the parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians. Customary IHL provides that acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited. Attacks may only be directed against military objectives. The aforementioned rules are applicable to both international armed conflict and non-international armed conflict. Customary IHL treats violations of these rules as war crimes. In *Prosecutor v. Milošević* the ICTY found Dragomir Milošević guilty of “acts or threats of violence the primary purpose of which is to spread terror among the civilian population” as prohibited by the laws and customs of war. Milošević was also charged with war crime of committing an unlawful attack against civilians. Unconventional weapons have been used by the warring parties in Syria. The use of weapons and other methods of warfare that cannot adhere to the principle of distinction or that are of a nature to cause superfluous injury or unnecessary suffering is prohibited by IHL. The ICRC includes the use of prohibited weapons

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86 Genocide Convention 1948, Art. 2.  
87 Genocide Convention 1948, Art. 3.  
88 ICRC CIL Study, Rule 1.  
89 ICRC CIL Study, Rule 2.  
90 ICRC CIL Study, Rule 156.  
92 ICRC CIL Study, Rule 71  
93 ICRC CIL Study, Rule 70.
as a Customary IHL war crime in both international armed conflicts and internal armed conflicts.\textsuperscript{94} The use of cluster munitions and barrel bombs in Syria can be prosecuted under general rules governing direct, indiscriminate, or disproportionate attacks. Cluster munitions are incapable of distinguishing between civilians and combatants, or between civilian objects and military objectives. The ICTY in \textit{Prosecutor v Martić}\textsuperscript{95} held that the defendant’s use of cluster munitions in a “densely populated” area of Zagreb was presumptively unlawful under general IHL principles, notwithstanding that there were military targets in the general vicinity of the attacks. The attack was also deemed a crime against humanity. Customary IHL contains only a qualified ban on incendiary weapons in all conflicts. Rule 84 of customary IHL provides “If incendiary weapons are used, particular care must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects”.\textsuperscript{96} Rule 156 is silent as to the use of incendiary weapons. In any case, while their direct use against civilians, as seen in Syria, is conclusively banned by customay IHL, a court would have to determine whether their use there would constitute a war crime, either per se or as a type of indiscriminate attack.\textsuperscript{97} Customary IHL bans the use of chemical weapons. Customary IHL provides that the use of chemical weapons is prohibited both in international and internal armed conflicts.\textsuperscript{98} The UN Security Council in its resolutions addressed to chemical weapon use in Syria, consistently calls for accountability, implying that the use of chemical weapons in a non-international armed conflict is a war crime.\textsuperscript{99} There has been the use of starvation of civilians as a method of combat in Syria. Customary IHL stipulates that the use of starvation of the civilian population as a method of warfare is prohibited regardless of the conflict classification.\textsuperscript{100} Customary IHL makes clear that in all armed conflicts, the parties must facilitate impartial humanitarian relief for civilians in need.\textsuperscript{101} Rule 156 of customary IHL treats starvation and impeding relief supplies as war crimes in all conflicts. There has been sexual violence in the Syrian war. Sexual violence in armed conflict is prohibited. Rape and other forms of sexual violence cannot be used as a means and method of warfare Rape is a prosecutable war crime and crime against humanity at the International Criminal Court. Rape and other forms of sexual violence are prohibited regardless of the conflict classification. The perpetrators of these atrocities in Syria must be brought to justice.\textsuperscript{102} In Syria, children’s rights are being violated on a massive scale. Rule 135 of customary IHL stipulates that children affected by armed conflict are entitled to special respect and protection. Children must not be recruited into armed forces or armed groups.\textsuperscript{103} Children must not be allowed to take part in hostilities.\textsuperscript{104} The actors in the Syrian war have disregarded these rules.

**Universal Declaration of Human Rights 1948**

The Universal Declaration of Human Rights\textsuperscript{105} is a milestone document in the history of human rights.\textsuperscript{106} The Declaration was proclaimed by the United Nations General Assembly in Paris on 10

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\textsuperscript{94} ICRC CIL Study, Rule 70-86.
\textsuperscript{95} (2007) Case No.IT-95-11-T.
\textsuperscript{96} ICRC CIL Study, Rule 84.
\textsuperscript{98} ICRC CIL Study, Rule 74
\textsuperscript{99} Schaack, \textit{Supra} note 97.
\textsuperscript{100} ICRC CIL Study, Rule 53.
\textsuperscript{101} ICRC CIL Study, Rule 55.
\textsuperscript{102} ICRC CIL Study, Rule 93.
\textsuperscript{103} ICRC CIL Study, Rule 136.
\textsuperscript{104} ICRC CIL Study, Rule 137.
\textsuperscript{105} Hereinafter referred to as UDHR
December 1948 as a common standard of achievements for all peoples and all nations. It sets out fundamental human rights to be protected. Many international lawyers and scholars believe that the Declaration forms part of customary international law. The Declaration has served as the foundation for two binding United Nations human rights covenant; ICCPR and ICESCR of which Syria is a party to. Warring parties have violated human right provisions; contained in the UDHR including; the right to life (Article 3), right to dignity of human person (Article 5), right to freedom of movement (Article 13), right to freedom from discrimination (Article 2) and so on.

7. Conclusion and Recommendations

It is indeed very sad that the Syrian war which started with peaceful protests of people demanding democratic reforms and fundamental rights has grown into a full blown war. The war has gone on for years and a lot of atrocities have been committed in the war, the Independent International Commission of Inquiry on the Syrian Arab Republic has been investigating the international crimes that have been committed in the war since the start of the conflict. There have been deliberate, indiscriminate and disproportionate attacks on civilians, thereby violating the fundamental IHL principle of distinction. There have been the use of unconventional weapons; Chemical weapons, barrel bombs, cluster munitions and incendiary weapons. Other methods of war employed in the Syrian war include the starvation of civilians. There is denial of humanitarian aid to civilians. Large scale of sexual violence and rape has been recorded. Massive violation of children’s rights have occurred and there have been genocide against the Yazidis by the ISIS. It is important to note that Syria is not a party to the Rome statute and therefore may not be subject to its jurisdiction thus, it may be necessary for the UN Security Council to set up an adhoc tribunal to try those responsible for breaches of IHL and Human rights in the Syrian war. In addition, it is hoped that the Syrian domestic courts will be well equipped to handle cases arising from breaches of IHL and human rights.

Based on the issues and problems raised in this research work the following recommendations are made:

All parties to the armed conflict must be reminded of their existing obligations. The Geneva conventions and their additional protocols impose obligations on actors in the Syrian war. The legal obligations include:

a. Parties to a conflict and members of their armed forces do not have an unlimited choice of methods and means of warfare. It is prohibited to employ weapons or methods of warfare of a nature to cause unnecessary losses or excessive sufferings.

b. Parties to a conflict must at all times distinguish between the civilian population and combatants in order to spare civilian population and property. Adequate precautions should be taken in this regard before launching any attack.

c. The Security Council of the United Nations must remind all parties taking part in the Syrian armed conflict of their existing international legal obligations.

d. Soldiers who surrender or who are hors de combat are entitled to respect for their lives and their moral and physical integrity. It is forbidden to kill or injure them.

e. The wounded and sick must be collected and cared for by the party to the conflict which has them in its power. Protection also covers medical personnel, establishments, transports and equipment. The emblem of the Red Cross, Red Crescent or Red Crystal is the sign of such

107 ibid
f. Captured combatants are entitled to respect for their lives, dignity, personal rights and convictions. They must be protected against all acts of violence and reprisals. They must have the right to correspond with their families and to receive relief.

g. Civilians under the authority of a party to the conflict are entitled to respect for their lives, dignity, personal rights and convictions.

h. Everyone must be entitled to benefit from fundamental judicial guarantee. No one must be sentenced without previous judgment pronounced by a regularly constituted court. No one must be held responsible for an act he or she has not committed. No one must be subjected to physical or mental torture, corporal punishment or cruel or degrading treatment.