

# Protection of Women and Children from War in Libya: Literature Review

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**Abstract**— Human being is the core of the life. It is necessity and one of his rights to get the peace, security, rights, and dignity in any time. So, the international agreements have emerged to ensure the public and private protection for the human being against any aggression international humanitarian law is a subset of international law that governs state-to-state relationships. Its purpose is to protect those who aren't or aren't taking part in hostilities, such as the sick and injured, prisoners, and civilians, as well as to explain conflict parties' rights and duties during hostilities. Using Literature review, this research provides an explanation of the International Humanitarian Law, and how to keep women and children safe during the conflict. Women must be protected from attacks on their honour or dignity. Children under the age of fifteen are entitled to preferential treatment in all situations, particularly in terms of food, medical care, and protection from the impacts of war.

**Keywords**— Protection; IHL; Women; Children; War; Libya.

## I. INTRODUCTION

Since the Arab Spring has taken its place in the region and surprised many regular observers in more ways than one. The events that started with the desperate act of a lonely Tunisian street vendor, and later spread to other Arab countries such as Libya, were as dramatic as they were unexpected (Ottaway, & Ottaway, 2019; Litsas, 2020). In Libya, Mothers, wives, and children of inmates slain at Abu Salim in 1996 gathered to the streets of Benghazi to demand the release of their lawyer, who had been detained by Libyan security forces (Rogers, 2016). Another factor that most non-Arab analysts found surprising was the prominence of women in the upheavals, whether as journalists, activists, bloggers, or simply showing up on the streets as one united front. In many aspects, female engagement during the Libyan civil war contrasts sharply with the West's recurring impression of Muslim women as "victims, oppressed, and having little power." (Joseph, 2012; Khosrokhavar, 2016).

Women's security and full involvement in the public arena without fear of retaliation are still lacking in Libya, thereby silencing their voices. Siham Serqyoa was kidnapped from her home in Benghazi's heavily fortified Bouhdima neighbourhood two years ago. Salwa Bougheguis, a former NTC member, human rights defender and activist was assassinated. Her death has had a significant impact on the safety and reassurance of women's activists and human rights advocates, resulting in increased immunity from crimes for women politicians and human rights defenders. Likewise, July 17, 2014 Derna Mp Fariha AlBarkawi February 2015 Human

Rights Activist Intisar AlExclusive May 29, 2014 Reporter Sabha Karnafeh An overview of the murders reinforces climate responsibility for violence against all dared voters and, many others withdrew from public life and flee (Idris, 2017).

Subsequent conflicts and rising violent extremism throughout the country had the greatest impact on Libyan women. The government's policy of "ethnic discrimination" is a major concern for the government and the government (Rothbart, 2019). On this day, The UN Support Mission in Libya reiterates its request for accountability for crimes against women, as well as more effective preventive and corrective measures by the authorities to guarantee that all victims are protected, have access to emergency aid, and may report without fear of retaliation. The mission is committed to developing Libyan women, strengthening their position in public life, and guaranteeing that they have equal access to opportunities (UNSMIL, 2020).

In accordance with Security Council Resolution 2331, The United Nations calls on governments to enact anti-trafficking laws that comply with international law and to address the relationship between sexual violence in conflict and human trafficking (2016) (Ghafoerkha, Scholte & de Volder 2019). The United Nations is ready to assist Libyan authorities in efforts to eliminate conflict-related sexual assault and encourages cooperation with the International Criminal Court and the African Court of Human Rights in investigations of such violence, as well as any other instrument that could help victims and survivors get justice (United Nations Support Mission in Libya, 2020).

Continuing conflict and violent extremist escalation across the country are affecting Libyan women the most. The government's policy of "ethnic discrimination" is a major concern for the government and the government (Rothbart, 2019). On this day, the UN support mission in Libya reiterates its call for accountability for crimes against women, as well as more effective preventive and remedial measures. All victims must be protected, have access to emergency relief, and be able to report their crimes without fear of retaliation. The mission is dedicated at empowering Libyan women, improving their status in public life, and ensuring that they are treated equally in peacebuilding and reconciliation processes (UNSMIL, 2020).

This research is devoted to providing the explanation of International Humanitarian Law (IHL) in general, and the special protection of (Women and children) groups under the provisions and rules of international humanitarian law

furthermore the Geneva Conventions (McCoubrey, 2019). In addition to some other international conventions that impose an obligation on States to apply the provisions of international law. The overall objective of this study is to consider the importance of implementing international humanitarian law to protect civilians from women and children during the wars and conflicts in Libya.

## II. LITERATURE REVIEW

Libya has teetered on the brink of a relapse into civil war on more than one occasion in these years until now. Many of Children and women faced a lot of risks during a fighting in Libya since 2011 until today (Sharma, 2016). Hence, it is noticed that different types of lethal weapons are using in those fighting that fall on the civilian's houses and have killed many families in Benghazi war, Sirt ISIS war and in Tripoli fighting now. Therefore, the protection of civilians has been the subject of international law and conventions of various kinds (Nance, 2016).

As its proponents fully recognized, the new name not only showed a change in vocabulary, but also a new approach to *velo ius*. It pointed out that expanded humanitarian law is a new field of law with a set of appropriate humanitarian standards (Alexander, 2016). These principles were enshrined in the 1977 Additional Protocols to the Geneva Conventions, which served as a depository for them. (Burkle, Kushner, Giannou, Paterson, Wren & Burnham, 2019).

According to the International Committee of the Red Cross (ICRC), international humanitarian law is a subset of international law that governs relations between nations (Cotter & Policonski, 2020). It protects persons who are not involved in or no further participation in hostilities, the sick or injured, prisoners of war and civilians, and in carrying out hostilities, clarifying the rights and obligations of the parties to the conflict. Strive to be (Kittichaisaree, 2017). Depending on the first two paragraphs of Article 27 are identical to Article 14 of the Third Geneva Convention (which effectively replicates Article 3 of the 1929 Convention), which states that "women shall be treated with all the regard due to their sex and shall in all cases benefit from treatment as favourable as that granted to men." Linton (2017)

On February 15, 2011, anti-government protests erupted in Benghazi, Libya. The Libyan revolution was sparked by significant armed conflicts between Muammar al-elite Gaddafi's and militant soldiers, as well as Libyan rebels who demanded a democratic administration and tried to depose him. (The Guardian, 2011). About 100 to 110 people were murdered when security forces opened fire on a gathering in Benghazi, while 59 to 64 individuals were killed in the city of Bayda to the east. (Cockburn, 2011). Despite the growing death toll, Gaddafi's regime's demonstrations grew quickly, and by February 20th, protests had spread to the capital, Tripoli (Black, 2011). Gaddafi's brutal lockdown, which included automatic firing on defenceless protestors, drew international attention and criticism from human rights organisations throughout the world. (Black, 2011). During media observations, stories of women being raped viciously

appeared because of the ongoing unrest and disarray. (Cockburn, 2011).

The United Nations Libyan Support Team continues to prioritize the full and effective participation of women in public life, including all political processes and peace building efforts (Mueller & Cornago, 2018). A public space that Libyan women can use to express their views and actively participate in political life and post-conflict reconstruction is a watershed in global gender equality action, the Beijing Declaration and Platform for Action 25 years later and as we celebrate our 20th anniversary are rapidly shrinking accordingly of historic Security Council Resolution 1325. (De Jonge Oudraat & Brown, (Eds.), 2020).

The full and effective participation of women in public life, including all political processes and peace building projects, is an important UNSMIL priority. 25 years later in the Beijing Declaration and Platform of Action, which has become a watershed on the world's gender equality agenda as the historic UN Security Council resolution celebrates its 20th anniversary, the public spaces of Libyan women who express themselves and actively participate in political life and post-conflict rehabilitation are being rapidly eroded. As Libya moves towards a more peaceful and democratic future, women, especially activists with political, human rights and civil society backgrounds, are all peaceful, including discussions on reconciliation and responsibility. It can play an important role in the process. Libyan women's amazing achievements in defending women's greater role in national and international peace processes, as well as their inspiring contributions to peacebuilding efforts, have been recognised around the world. Furthermore, by seizing online spaces, new media, and connecting through new technology, women have come together to provide creative means to generate momentum and unite peacebuilding projects. Libyan women lack the safety and support they need to participate fully in public life without fear of being punished, effectively silencing their voices.

## III. HUMAN RIGHTS LAW & HUMANITARIAN LAW

As Frédéric Maurice (1992), One of the representatives of the International Committee of the Red Cross, May 19, 1992, wrote the truth about the murder of relief supplies by people who did not want to be delivered to civilians under the orders of the Sarajevo International Humanitarian Organization. Law: Where War Occurs War is, above all, an institutional disaster, a collapse of the legal system, and a scenario in which rights are guaranteed by force. All those who have experienced war, especially modern-day warfare, understands that uncontrolled aggression entails the eradication of moral and legal boundaries. Humanitarian assistance in crisis situations is, above all, a legal approach that precedes the provision of substantive support. Providing victims with the conditions, products, and infrastructure they need and building a monitoring agency is part of the protection of all victims. In other words, the purpose is to persuade the warring states to accept a particular legal system in situations such as the law of war or humanitarian law. As a result, humanitarian action is

difficult without extensive and continuing communication with all parties involved in the conflict.

Of many other ideas and cultures, including Jean Pictet (1988), the most well-known practitioner and scholar of international humanitarian law, who attempted to explain the cultural universalism of this field of international humanitarian law. Traditional schools share humanitarian ideas and concepts in the Convention on Humanitarian Law: The modern world puts its trust in internationalism, and there is no doubt that this is the place to find its future. In today's globalized environment, human rights can be universally based only on ideals that can bind men of all races. Universality may be established solely based on similarity, because while men differ, human nature is universal. Because it applies to all men and governments, international humanitarian law has a global vocation. In developing and refining this legislation, the International Committee of the Red Cross specifically sought this common ground and proposed criteria that are acceptable to everybody since they are completely compatible with human nature. This is also what has maintained the rules' strength and durability. However, today, the universality of standards and the uniformity of human psychology, there is no longer any conviction in the supremacy of any single civilization: the diversity of civilizations, as well as the necessity to be interested in and study them in depth, is acknowledged." (Jean Pictet, 1988).

Unfortunately, unlike the corpus of human rights legislation, the universality of which has been severely questioned by anthropologists, among others, particularly since the 1980s, the topic of the universality of international humanitarian law has elicited little scholarly debate. The debate appears to have been caged in and achieved a deadlock at first glance. The proponents of universalism and relativism have successfully identified the flaws in the opposing camp's beliefs. The likelihood of victim protection deteriorating because of devotion to any culture is clear, as is the main texts of international humanitarian law and human rights law are of Western origin. It's evident that positivist lawyers and social scientists are having difficulty coming up with a consistent set of terminology. However, the great non-Western legal traditions pose difficulties.

Is international humanitarian law in its entirety universal? Because it is based on natural law, the foundations of that law are unquestionably sound. Murdering, torture, enslavement, and unfair judgement repel not only most intellectuals, but also most people, because the presence of fundamental legal principles are founded on an intuitive impulse and can even be regarded a need of the human condition There are sound statements about human nature, whether attributed to reason, universal harmony, or the divine genesis of people. As a result, international humanitarian law acquires a worldwide dimension by evoking universal human ideals. The Principle of Proportionality is another important principle in the IHL. When it is impossible to avoid inflicting incidental injury on civilians or civilian objects, The proportionality principle is used. It forbids "indiscriminate assaults" that fail or make it difficult to differentiate between military and civilian targets.

Humane treatment is an intrinsic right that extends not just to civilians but also to hors de combat(s) and, more widely, to individuals in enemy-controlled territory.

#### IV. PROTECTING THE CHILDREN

The security situation in Libya remains profoundly polarised, with two authorities vying for political legitimacy, among countries seeking political legitimacy, territorial, resource and infrastructure management, military violence and political unrest, including the Tripoli-based United Nations-backed National Consensus Government, affect approximately 5 million people (REDAELLI 2016), Prosecutor vs. Anto Furundzija IT9517/1T District International Criminal Court of Yugoslavia (ICTY) 10 December 1998 Article 5 to Hundreds of thousands of people have been killed or injured as a result of violations of the Fourth Geneva Convention, which have disrupted people's access to basic utilities such as gasoline, electricity, and water, in addition to severely restricting lifesaving protection and humanitarian aid, according to John Mark (2012), the Geneva Conventions of 12 August 1949 are the most important international instruments governing the protection of civilians in armed conflict. Of particular importance are the IV Geneva Convention on the Protection of Private Exhibitors and the two 197 Protocols added to the Geneva Convention of August 12, 1949, which are particularly additional Protocols. These norms are part of customary international law and bind all parties to armed conflict, whether international or non-international. The Rome Statute of the International Criminal Court (ICC) from 1998 is also pertinent here. Human Rights Watch (2012) said that After the 2011 civil war, a new system was implemented to try to construct a new Libya. Regrettably, the various parties in Libya were unable to strike an agreement that would bring them together to construct and lay the key foundations for a new Libya.

Most legal precedent has essentialized mass "atrocities," sometimes known as mass murders. In the past, the emphasis on fatalities has obscured other transgressions that may not always end in mass deaths. The use of kids in military conflict, for example, has just recently become a major global problem. Its origins can be traced back to a cautionary tradition. The legal system has paid little attention to child soldiering and its widespread nature. Since human rights organisations brought the issue to light, the spread of child soldiers has been equalled only by the explosion of treaties prohibiting the practise (Nyamutata, 2015).

To date, states have approved humanitarian and human rights legislation that protects children during warfare. Children, who account for over 40% of the Libyan population, have been disproportionately affected by conflict-related actions. The emotional impact on children has been disastrous, and loss of family members or relatives, as well as continual exposure to violence, have aggravated the problem. Human trafficking, Forced recruitment by armed organisations, kidnapping and torture by armed groups and in detention institutions, and collateral damage from airstrikes and other targeted actions, notably in the southern region have all claimed the lives of children (Oberschall, 2007). Militia

presence and control in communities where children dwell increases the danger of association. Also, the long-term cycle of adolescent/child recruitment into armed groups, which is explicitly fostered by their communities, family, and classmates in the name of 'community protection. In the neighbourhood and in schools, there is violence and animosity among children and teenagers, as well as criminal activity and drug abuse. Professional follow-up is limited when incidences of violence against children are reported. Within communities, there is a conspicuous shortage of supporting child protection and family welfare services, particularly more focused specialised care for vulnerable children affected by armed conflict. In Libya, there is a dearth of knowledge and awareness of children's rights, children's vulnerability to violence, and the developmental and emotional consequences of conflict and child abuse on males. The Paris pledge to prohibit the recruitment and exploitation of children in armed conflict was signed by 58 countries on February 6, 2007. Prior to that, there were other international treaties and protocols that protected children during armed conflict. Additional Protocol I (API) to the Geneva Conventions (Relating to International Armed Conflicts) Article 77(2); Additional Protocol II (APII) (relating to non-international armed conflicts) Article 4 (3) c; Convention on the Rights of the Child (CRC), Article 38. Additional Protocol I (API) to the Geneva Conventions (Relating to Non-International Armed Conflicts) Article 4 (3) c; Convention on the Rights of the Child (CRC). Rome Statute of the International Criminal Court (ICC) Article 8 (for war crimes), paragraph 2 b) (xxvi); Articles 4 (1) and (2) of the African Charter on the Rights and Welfare of the Child (ACRWC); African Charter on the Rights and Welfare of the Child (ACRWC). In Libya, the child-friendly environment of the strengthened Roman regulations ensures a long-lasting impact.

#### V. APPLICATION OF IHL TO WOMEN CHILDREN IN LIBYA

With women and men appearing on the streets and social networks to show their rejection of their ruler in early 2011 in Libya, the challenge facing the current regime became evident. Brahim (2011) declared that what effectively sealed the fate of the authoritarian leader, however, was when groups of women who could be said to be closer to embodying the ideals of women in the social context entered the masses. While the confirmed women took to the streets, they became strong testimony to the vacuum of the policies of the regime in Gaddafi's time.

El-katiri (2012), and Bassiouni (2013) argue in the Sahara Africa today, tribal has been lifted to dominate the national discourse, control how people think, oppose, or support a particular tribe and play an important role in exacerbating conflicting religious differences. Because tribal's religion is often intertwined, and the authors mentioned above claim it was inevitable Sub-Saharan Africa will face emerging conflicts religious clashes. By treating female demonstrators in the Arab Spring as drunk, States seek to "make it difficult for the devout, respectable lady who is a genuine protester against the police" by exposing them to gender-based violence. Ammar (2011)

#### VI. DISCUSSION

"Humanity" is the central idea of both Human Rights Law and International Humanitarian Law. Although international human rights law (*lex generalise*) applies at all levels, humanitarian law is ineffectual during times of peace. (*lex specialist*). Both international humanitarian law and human rights law apply in armed conflicts. The main difference in their application is that international human rights law permits a state to suspend many human rights in an emergency, but IHL does not (except as provided in Article 5 to the Fourth Geneva Convention). International humanitarian law is based on the Geneva and Hague Convention, and the Additional Protocol is based on a series of treaties governing the means and methods of war and a series of treaties governing the means and methods of war, such as the Geneva and Hague Convention and the Additional Protocol. I am. Wars like the Treaty of Geneva and The Hague, Additional Protocols and a set of treaties governing the means and methods of warfare, such as the Geneva Conventions and The Hague Conventions, the IHRL are primarily under the Universal Declaration of Human Rights (UDHR) and other human rights agreements. International Covenant on Civil and Political Rights (ICCPR/ICESCR) and regional treaties. Within the frames of IHL and IHRL, a uniform set of principles is acknowledged. It establishes a close link between these two legal domains. International Humanitarian Law and Human Rights Law go to great lengths to safeguard people during armed situations. Human rights and humanitarian law are therefore inextricably linked.

Libya's security situation is deeply polarised, with two governments fighting for political legitimacy, control of territory, resources, and infrastructure, including the UN-backed Government of National Accord in Tripoli. Across the country, armed conflict and political turmoil have touched almost five million people (REDAELLI, 2016), prosecutor's Office Anto Furundzija IT9517 / 1T International Criminal Court of Former Yugoslavia (ICTY) December 10, 1998 Article 5 of the Fourth Convention of Geneva, expelling hundreds of thousands of people, interfering with basic services such as gasoline, electricity, water, and life-saving protection and humanitarian Strictly limited support. As per John-Mark (2012), The Four Geneva Conventions of 12 August 1949, the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War and the two 197 Protocols Additional to the Geneva Conventions of 12 August 1949, particularly Additional Protocol I, are the main worldwide instruments controlling the assurance of regular citizens in furnished struggles. These standards form part of customary international law and bind all parties, international and non-international, to armed conflict. Rome Statute of the International Criminal Court (ICC) since 1998 is also pertinent here. Human Rights Watch (2012) stated that following the 2011 civil war and the establishment of a new system, Libya is attempting to rebuild itself. Regrettably, the various parties in Libya were unable to strike an agreement that would bring them together to construct and lay the key foundations for a new Libya.

Most of the legal precedent has essentialized mass "atrocities," sometimes referred to as mass murders. Historically, the focus on fatalities has overlooked other infractions that do not always result in mass fatalities. For example, the use of minors in military conflict has just recently become a significant global concern. Its origins are rooted in a tradition of caution. Child soldiering and its widespread nature have received little attention in the legal system. Since human rights organisations brought the issue to light, the proliferation of child soldiers has been equalled only by the explosion of child soldiers (Nyamatuta, 2015).

To date, governments have enacted humanitarian and human rights legislation to safeguard children during wartime. Children, who make up more than 40% of Libya's population, have been disproportionately affected by conflict-related activities. The mental impact on children has been catastrophic, and death of family members or relatives, as well as continual exposure to violence, have aggravated it. Human trafficking, particularly in the southern area, forced recruitment by armed organisations, kidnapping and torture by armed groups and in detention facilities, and collateral damage from airstrikes and other targeted activities have all claimed the lives of children (Oberschall, 2007). Militia presence and control in communities where children dwell increases the danger of association. Also, the long-term cycle of adolescent/child recruitment into armed groups, which is explicitly fostered by their communities, family, and classmates in the name of 'community protection.' In the neighbourhood and in schools, there is violence and animosity among children and teenagers, as well as criminal activity and drug abuse. Professional follow-up is limited when incidences of violence against children are reported. There is an unmistakable lack of steady youngster insurance and family government assistance administrations inside networks, particularly more designated specific consideration. The absence of data and understanding of youngsters' privileges, kids' weakness to brutality, and the formative and passionate impacts of kid struggle and viciousness on young men and young ladies are on the whole issues that should be tended to. On February 6, 2007, 58 states marked the Children ought not be enlisted or utilized in equipped clash, as per the Paris Commitments. Prior to that, there were other worldwide shows and conventions that ensured youngsters during outfitted clash: Geneva Convention, Additional Protocols and show on the Rights of the Child (CRC), Article 38; Rome Statute for an International Criminal Court (ICC), Article 8 (on atrocities), area 2 b) (xxvi); Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC), Article 4(1) and (2); African Charter on the Rights of the Child, Article 4(1) and (2); and African Charter on the Rights of the Rights and Welfare of the Child (ACRWC). in Libya, while likewise guaranteeing longer-term supported effects through a fortified defensive climate for youngsters.

#### Conclusion

International humanitarian law focuses on the previous illegal actions among children and women in Libya. This study served the literature to describe all the actions that

happened after 2011 against these group of people that are really needed to protect according to the articles of international treaties. The international agreements have emerged to ensure the public and private protection for the human being against any aggression in Libya since 2011 who are doing illegal actions like killing, demolishing, and executing out of laws. Also, using the civilian as human armours, targeting women, children, and others without any consideration to the Geneva Agreements which are punished by the international law. The government's policy of "ethnic discrimination" is a major concern for the government and the government. On this day, the UN Support Mission in Libya reiterates its request for accountability for crimes against women, as well as more effective preventive and corrective measures by the authorities to guarantee that all victims are protected, have access to emergency relief, and may report without fear of retaliation. The mission is dedicated to strengthening Libyan women, improving their status in public life, and ensuring that they are included in decision-making processes.

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