

# Children Legal Protection in National Laws & International Agreements

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## Abstract

The subject of children legal protection in national laws and international agreements has attracted the attention of all countries and a lot of international and regional organizations since the child recruitment phenomenon is one of the serious problems facing countries and the international community as a whole, especially with the widespread spread of terrorist organizations in all world countries, especially in our Arab region. There are major motives behind the spread of child recruitment phenomenon, the most important of which are the economic motives and insecurity in countries. The seriousness of this phenomenon lies in the numerous effects it has on the recruited child and on countries.

The thesis discussed the stages of childhood and its protection under the Islamic Shariaa (law) and national laws. The first chapter dealt with the protection of children within the framework of the principles of international humanitarian law and international conventions and the applications of child recruitment in the Arab countries.

## Introduction

Allah – The Almighty – created man and honored him with the greatest honor and shaped him in a perfect manner, so that he would be the caliph of Allah – The Almighty – on the earth. For this reason, He subjected the earth and the sky and all creatures in them to serve him. Allah – The Almighty – gave him human rights close to his existence.

Children share the protected human rights with all other people and have certain additional rights because of their dependency, vulnerability and developmental needs.

With the diversity of the child rights, the means of protection vary accordingly. His rights are determined even if he is a foundling since his relationship is then with the state directly as it protects his existence, his humanity and his right to belong to his homeland. The child has also obtained different forms of protection under ancient and modern legislations. By referring to Hamoraby Law, we shall find that they include

an aspect of child protection including those related to adoption<sup>1</sup>.

However, the child has received a great deal of protection under Islamic Sharia in terms of its protection for the young, compared to the ancient laws that preceded or were contemporaneous with The Islamic Sharia when it was revealed. The most important of these laws is the Roman law which was the basis of modern European laws.

Many armed conflicts have spread recently, especially internal ones. They often take place between armed and semi-armed and independent gangs located within the borders of a single state. Such conflicts resulted in many victims and casualties, including children who are considered one of the weakest groups in society as their need for protection is more than others. As a result, the international community adopted many agreements in international humanitarian law and human rights law including many rules and guarantees that ensuring the provision of

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<sup>1</sup> Dr. Hassan Nassar – Childhood Protection Legislations – Al-Maaref Establishment – Alexandria – Year 1996, Page: 10

special protection for children during the armed conflicts, including the prohibition of their involvement in hostile operations because of the physical, psychological and social, effects that armed conflicts cause for them through which it is difficult to reintegrate them into the community<sup>2</sup>.

International humanitarian law has explicitly regulated the children public and private protection during the armed conflicts through the Fourth Geneva Convention issued in 1949, which did not explicitly prohibit the recruitment of children. However, such prohibition came within the two additional protocols of the year 1977. After that, the Convention on the Rights of the Child of 1989 was enacted which is one of the most important international agreements to which most countries in the world joined in addition to the Optional Protocol attached to the Convention on the Rights of the Child of the year 2000 regarding the involvement of children in armed conflict, which came as a new addition to the Convention on the Rights of the Child<sup>3</sup>.

The world is now - especially our Arab region - goes through internal armed conflicts, especially in Iraq, Syria, Libya, Yemen, the Sudan and other countries. Thousands of child fighters are recruited into these conflicts by recruiting them either compulsorily or voluntarily by armed forces and armed gangs, especially terrorist ones, to use them to commit the most heinous forms, crimes and these children are no longer just victims of these conflicts. They even became playing an effective role in the contemporary

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<sup>2</sup> Dr. Afia Qada, The Child Soldier and the Problem of Enforcement of International Humanitarian Law Conventions, Proceedings of the Sixth International Conference, International Child Protection after the effectiveness of the Third Optional Protocol, Tripoli, 20-22 November 2014, p. 118.

<sup>3</sup> See the Fourth Geneva Convention of the year 1949 and the Two Additional Protocols of the year 1977 as well as the Convention on the Rights of the Child of the year 1989 and the Optional Protocol to the Convention on the Rights of the Child on involvement in armed conflict of the year 2000.

armed conflicts by using them to commit chilling and severest crimes<sup>4</sup>.

The United Nations, represented by the General Assembly and the Security Council, has made efforts to reduce this phenomenon by appointing a special representative for children and armed conflict in addition to the aids provided by the organizations and International governmental and nongovernmental organizations for children including the International Red Cross Committee considered a sponsor of international humanitarian law by ensuring the implementation of the provisions of the Geneva Conventions of the year 1949 and their Additional Protocols of the year 1977 as well as The UNICEF<sup>5</sup> and its distinguished role they play in protecting children in armed conflicts from their demobilization from armed forces or gangs and their integration with their families.

The existence of international conventions that criminalize acts without punishment cannot achieve the conventions' goals. Rather, there must be a national and international judicial system that imposes a penalty on the violators of these conventions related to the protection of children in order to hold individuals involved in recruitment operations criminally responsible for their recruitment of children.

### Thesis Problem

The category of children and youth constitutes a high percentage of the total population in the world countries reaching about 50%. This percentage increases in some developing countries to more than that, as is the case in the Arab community where it reaches 60% which in turn constitutes an urgent need to study the problems and issues related to it at such category.

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<sup>4</sup> Dr. Mohamed Karim Ali, Child Recruitment in Armed Conflicts and the Position of International Humanitarian Law, Center for Arab Studies, Cairo, 2021, P. 12.

<sup>5</sup> On 11/December/1946, the United Nations General Assembly issued a resolution establishing the United Nations Organization for Motherhood and Childhood (UNICEF).

Many rights have been mentioned in Islamic Sharia , through the verses of the Holy Qur'an and the Sunnah of the Prophet, confirming the interest of Islamic Sharia given for such category in a clear and tangible way. However, it is noticeable that there is a lack of interest on the part of some community members in these rights, either out of ignorance of them or as a result of lack of awareness of the great importance of children in the life of societies. There are many children who suffer from neglect and abuse, which leads to many health, psychological and social problems, and sometimes to death, due to the lack of attention to this group and the lack of respect for these rights. In this sense, this thesis attempts to emphasize and clarify these rights and compare them with some positive legislation and charters appeared in the twentieth century in this field.

### **Thesis Importance**

The thesis subject has a special importance due to the spread of the internal armed conflicts; particularly in the Arab Region.

This thesis aims to shed light on the legal framework on child recruitment phenomenon in the armed conflicts in national laws and international agreements which in turn necessitates the investigation of this subject in all its aspects and addressing the applications of child recruitment.

### **Thesis Goals**

This study aims to discuss the legislations related to children rights and protecting them in The Islamic Sharia and the comparative legislations with confirming what is mentioned in the international agreements and protocols and the humanitarian International Law and discussing the matters of children recruitment in the Arab Region.

### **Thesis Approach**

This thesis relied on the analytical descriptive approach of the international law rules dealt with the issue of children recruitment in the armed conflicts as well as the applied approach by demonstrating the prevalence of child recruitment in several countries with an indication of the applications of child recruitment.

### **Preamble Chapter: Protection of Child Rights**

Interest in the child began at the beginning of the twentieth century on the international, Arab and national levels as the League of Nations adopted the Declaration of the Rights of the Child in 1924. In 1945, the United Nations Charter was keen on stipulating the non-discrimination between men and women and between children of both sexes<sup>6</sup>.

This was confirmed by the Universal Declaration of Human Rights issued in 1948 as it is considered the first nucleus of the Declaration of the Rights of the Child. The declaration included ten points and several means related to the well-being of the child and his rights to upbringing and protection from all forms of neglect, cruelty and exploitation and all kinds of discrimination<sup>7</sup>.

They considered children's rights to be the essence of human rights because children are the most vulnerable human beings on the face of the earth. That is why, they are the most human beings in need of protection and care and preserving their rights given that they are an asset to community and the nation.

The Universal Declaration of the Rights, Protection and Development of the Child was issued in 1990, and the Convention on the Rights of the Child was adopted by the United Nations General Assembly Resolution No. (44/25) on 20/November/1989. Its implementation began on 04/September/1990. It has been ratified by 191

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<sup>6</sup> Dr. Fatima Shehata Zaidan, *The Child Center of Public International Law*, New University House, Alexandria, 2007, P. 44.

<sup>7</sup> Dr. Hassanein Bawadi, *Children's Rights between Islamic Sharia and International Law*, Dar Al-Fikr Al-Jamey, Alexandria, 2005, P. 72.

countries as the provisions of the Convention included four Comprehensive classifications of rights (rights of survival, rights of development, rights of protection, rights of participation)<sup>8</sup>.

As for the Arab level, the Council of the League of Arab States approved the Arab Framework for Child Rights on 28/March/2001.

The child has many rights, the most important of which is his right to practice and to enjoy public freedoms in the manner and form that he likes, especially the child who can distinguish between right and wrong, his money and his rights and duties.

Child rights' conventions recognize the child's right to enjoy public freedoms and to practice them in a way that allows him, his potential and physical and intellectual ability so that he becomes in the future a good and effective contributor to serving the causes of community and the nation.

The right of the child to practice public freedoms is many and varied. The most important of which is his right to have a peaceful religious belief, his right to express opinion, his right to obtain information appropriate to his age, his right to play games that suit him in his spare time, his right of participation and respecting his opinion in the public matters.

Hence, we divide this chapter into:

The first topic: The definition of childhood and the importance of childhood stages.

The second topic: Protecting children and caring for them in the Islamic Sharia .

The first topic: The definition of childhood and the importance of childhood stages

The Islamic Sharia has paid attention to childhood as the most important stage of human life and international charters, declarations and

agreements have taken care of the definition of childhood, and emphasized the need to pay attention to this stage, and accordingly we will divide this topic into two requirements as follows:

The first requirement: the definition of childhood.

The second requirement: the stages of childhood

First Requirement: The Definition of Childhood

The word child means: the little one of everything, so the small of people or animals is a child, and the night in its beginning is a child, and the word child is called male, female, singular and plural, and the source is childhood. It came in Mukhtar Al-Sihah, the child means the newborn, and the child is also called until adulthood<sup>9</sup>.

### **1- Definition of Childhood in International Law:**

International law paid attention to childhood. The concept of the child was mentioned in human rights international declarations and conventions and in the agreements related to international humanitarian law. They paid attention to the child and defined the end of the childhood stage.

The concern for the child in international conventions began with Geneva Declaration of the Child Rights of the year 1924, the Universal Declaration of Human Rights in 1948, the 1959 Declaration of the child Rights, the two international conventions of the year 1966, the first convention on civil and political rights and the second convention on economic, social and cultural rights.

All international conventions that were concerned about children before the 1989 Convention on the Rights of the Child did not set a clear and explicit definition of the child, indicating when childhood begins and when it ends.

<sup>8</sup> Dr. Ali Saleh Gohar, Dr. Mayada Mohamed Al-Basil, Raising the Arab Child on His Rights in Educational Institutions, Al-Asriyyah Library, Egypt, 2010, P. 42.

<sup>9</sup> Al-Razi, Imam Muhammad bin Abi Bakr. (1999). Mukhtar Al-Sahah, (Youssef Al-Sheikh, investigator), fifth edition, Beirut, Al-Asriyyah Library

The 1989 Convention on the child Rights is the only document concerned about defining the child. Article 1 of such convention defines him as: “Every human being under the age of eighteen unless he reaches the age of majority earlier under the law applicable to him.”<sup>10</sup>

Countries whose laws allow child labor have objected saying that this age is late. The age of fifteen must be the maximum age for the child. This was adopted by the United Nations General Assembly<sup>11</sup>.

It is worth noting that this Convention gives States a degree of freedom to keep the age of the child below eighteen years in the event that national law makes the age of majority lower than this age, by providing that: (... under the law applicable to it) as the Convention takes into account the realistic variation in the surrounding environments of countries and their legislations that are different in determining the age of the child. Based on the foregoing, in the event that the legislation of a country determines the age of majority with less than eighteen years, the person who reaches this age without reaching the age of 18 years is not considered a child according to the legislation of his country and in accordance with the Convention but he is considered an adult. Therefore, he does not enjoy the rights mentioned in this Convention on the grounds that he is not a child<sup>12</sup>.

The African Charter on the Rights and Welfare of the Child defines the child in Article No. 2 as: “Every human being under the age of eighteen”<sup>13</sup>.

<sup>10</sup> The Convention on the Child Rights promulgated by virtue of the decision of the United Nations General Assembly on 20/November/1989.

<sup>11</sup> Dr. Maher Jamil, International Protection of Child Rights, Dar Al-Nahda Al-Arabiya, Cairo, 2005, p. 18.

<sup>12</sup> Dr. Musab Salem Al-Hosani, Objective Criminal Protection of the Child, Dar Hafez, United Arab Emirates, 2022, P. 92.

<sup>13</sup> African Charter on the Rights and Welfare of the Child, Organization of African Unity, University of Minnesota, Human Rights Library, November 29, 1990, Article II.

From the aforementioned definitions, child can be defined as: “He is a fully formed human being who possesses mental, spiritual, emotional, physical and sensory capabilities, which are abilities that are lacking only in maturity and interaction with human behavior in the community to activate them and to push them to work and develop the child’s administrative behavioral direction within the community where he lives.”<sup>14</sup>

## **Childhood Definition in Positive Legislations**

### **A- Child Definition in the Egyptian Legislation:**

The Egyptian Child Law No. 12 of the year 1996 modified by Law No. 126 of the year 2008, stipulates in Article 2 that: “A child in the field of care stipulated in this law means every person whose age does not exceed eighteen Gregorian years.”

Article 95 of the same law also stipulates that: “With due regard to the provisions of Article No. 111 of this law, the provisions contained in this chapter shall apply to anyone who has not exceeded the age of eighteen full Gregorian years at the time of committing the crime or when he is in a state of exposure to danger.” .

### **From these two texts, according to Egyptian law, the following is concluded:**

1. Childhood is a stage that begins with birth and ends when the child exceeds the age of eighteen years. If the child exceeds this age, he becomes an adult and is criminally liable for his actions.
2. The Egyptian legislator unified the meaning of the child, whether in the field of protection that should be guaranteed for the rights of the child in general, or in the field of criminal treatment of children.
3. The Egyptian legislator defined the end of the childhood stage as reaching the age of

<sup>14</sup> Dr. Hassan Nassar – The previous reference – Page No. 18.

eighteen years, but did not specify the beginning of this stage.

### **B- Child Definition in the Emirati Legislation:**

Federal Law No. 3 of 2016 regarding the Child Rights and Child Protection Law states that a child is: "Any human being born alive who has not completed eighteen years of age."

#### **From this text, the following is concluded:**

1. The Emirati legislator agreed with the United Nations Convention on the Rights of the Child of 1989 by making the childhood stage end with reaching the age of eighteen years.
2. The Emirati legislator stated that the childhood stage begins with the live birth of a person.

### **C- Definition of Child in Saudi Legislation:**

The Child Protection Law promulgated by Royal Ordinance No. (14/M) dated 2/3/1436 AH stipulated in Article 1 that: "A child is every human being who has not exceeded eighteen years of age."

From this text it is clear that the Saudi legislator made the childhood stage end with the age of eighteen years.

#### **Second Requirement: Childhood Stages**

The childhood stage is one of the most important stages in a person's life as it is the stage in which his personality, ideas, values, and principles are formed. It is the stage that affects all stages of his life.

Childhood is the one in which the correct habits, interests, and principles are formed which shall be the basis on which a person's upbringing is based, in his childhood and the rest of his life stages. Therefore, the importance of childhood lies in the fact that it is the first and strongest stage, influencing all stages of a person.

The childhood stage, which begins at birth and ends at the age of eighteen years in international law, is divided into stages that begin with the

child as a newborn until he reaches the age of youth. The rights and freedoms of the child differ in each stage from the other.

#### **The stages of childhood were divided into three stages as follows<sup>15</sup>:**

##### **First Stage: It starts from Birth to the age of Seven Years:**

At this stage, the child depends on his parents and the family within a framework of affection, tranquility, and mercy. The mother has a great role in breastfeeding and care and in food clothing and sleep. The father has a role to play in honorable spending, child education and upbringing, and to be a role model.

The child at this stage has many rights and freedoms although the freedoms are not absolute as he enjoys them but under the care and control of his parents.

As for the obligations that fall on the child, they are obligations appropriate to this stage of teaching public morals, behavior and entering school because this age begins with compulsory education in all countries of the civilized world, teaching the principles of Islam and religious costs.

Islamic Sharia and international conventions emphasized the importance of this stage in the child's life and the importance of the role of the family in choosing the type of education, guidance and method of education.

##### **Second Stage: It starts from the age of Seven Years to the Age of Twelve Years:**

This stage is an extension of the previous stage. The role of the family is still of great importance although the school participates with it in education, guidance and education, meaning that the state participates with the family in spending and providing free, compulsory or basic education, which must be at a high level of education and modern knowledge. So that the

<sup>15</sup> Dr. Abdel-Rahman Al-Issawi, Child Rights in the Light of Modern Psychological Studies, Child Conference, Alexandria, 1988, P. 14.

state contributes to the human development of children from the beginning of their lives, because they will be the strength and ability of the state, and its strength is in the strength of its youth.

### **Third Stage: It starts from the age of Twelve Years to the Age of Eighteen Years:**

At this stage, the child enjoys a great deal of rights and freedoms so that he can contribute with his most correct opinion and express it in the building and development of society, because at this stage he moved from a protected childhood to a responsible childhood<sup>16</sup>.

The Child Convention of 1989 confirmed in Articles (12,13,14,15,16) the right of the child to have all kinds of information, freedom of thought, freedom of peaceful assembly and the prevention of arbitrary and illegal exposure in protecting and respecting his correspondence. Article / 31 of The same agreement stipulates the child's right to public participation in the fields of knowledge and culture.

### **Second Topic: Protecting children and caring for them in the Comparative Legislations**

The mechanisms for protecting children's rights are represented in all the efforts made by international organizations in cooperation with governments in the field of activating children's rights in addition to the international covenants and agreements concluded between countries through which the state parties recognized the rights of the child stipulated in the conventions, and pledged to fulfill their obligations towards those rights<sup>17</sup>.

We find that positive legislations have approved the protection of the interests of the child to

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<sup>16</sup> Dr. Abdel Aziz Mukhaimer, *Child Rights in International Law and Islamic Sharia*, Dar Al-Nahda Al-Arabiya, Cairo, 1991, P. 22.

<sup>17</sup> Dr. Wassim Hossam El-Din Al-Ahmad, *Protection of the Rights of the Child in Light of the Provisions of Islamic Sharia and International Conventions*, Al-Halabi Human Rights Publications, Lebanon, 2009, P. 21.

ensure his proper development, including rights that have been created to keep up with social modernity approving the additional rights and freedoms enjoyed by the individual in community<sup>18</sup>.

### **From that, we shall discuss some comparative legislations as follows:**

#### **Egyptian Legislation:**

Child Law No. 12 of the year 1996 was issued. It dealt with all aspects related to childhood and its protection. Then the Child Law was modified with Law No. 126 of the 2008, pursuant to such law. some amendments were introduced to the old Child Law issued in 1996 to meet some societal needs that the Egyptian legislator considered important to protect children's rights.

#### **Emirati Legislation:**

Federal Law No. 3 of the year 2016 was issued regarding the rights of the child and its protection. This legislation clarified the rights of the child and the protection prescribed for him. The legislation came as an integrated legislative vision based on caring for the child and his rights in all physical, psychological, educational, health and social aspects in line with global developments and human rights agreements.

#### **Saudi Legislation:**

The Saudi legislation on the child protection system was issued by Royal Ordinance No. 14 of 1436 AH. This legislation included in the first chapter definitions, objectives and cases of abuse and neglect to which the child is exposed. The second chapter stated the rights of the child in protection. The third chapter included prohibitions related to child protection. The fourth chapter determines the rights of the child in the care and responsibility towards him.

It is worth noting that the Kingdom has established a unified telephone number to support children under the age of eighteen in response to the various needs of childhood in Saudi Arabia

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<sup>18</sup> Dr. Musab Salem Ali Al-Hosani, previous reference, P. 99.

with the aim of providing advice to children or their caregivers and following up on the provision of care and protection services for them through the agencies responsible for providing these services.

#### **French Law:**

Ordinance No. 2 issued in February / 1945 AD is considered concerned about childhood. It has undergone many amendments, the latest of which was the amendment introduced by Law No. 1138 of the year 2002 which raised the age of non-discrimination to ten years instead of seven years.

With the issuance of the French Penal Code on 22/July/1992 applied as of the first of March of the year 1994, a person is considered a juvenile from birth until the age of eighteen years of age. During this stage, he is subject to treatment that varies according to his age stage. The French legislator was keen to provide greater criminal protection for the child by stating the crimes that occur on the child in his various stages or considering the young age as an aggravating circumstance for the penalty<sup>19</sup>.

#### **The English Law:**

The English Children and Adolescents Law was passed in 1933 to protect childhood. This law distinguished between two phases. Those who are under the age of fourteen are referred to as a child. As for those who have reached the age of fourteen and are less than seventeen, they are called adolescents. This law was amended according to the legislation issued in 1948 by giving the courts more powers in terms of determining the action that can be taken in the face of the juvenile. The English legislator was keen to provide protection for the child in his different stages of life<sup>20</sup>.

### **First Chapter: Children Protection in the Framework of the Principles of the International Law**

History has witnessed many crises, conflicts, disputes and limited and comprehensive wars until the language of force became the supreme word in human life as many grave and bloody human crimes were committed including human annihilation (genocide) and the spread of many conflicts resulting in appearing a state of chaos and violence until it became a source of real and actual threat to security, stability, prosperity, regional and global peace.

Wars constitute the biggest problem facing peoples, their stability and prosperity. Although the most dangerous wars were the First and Second World Wars, in which crimes against humanity were committed that are forbidden by divine laws. These crimes were directed against all the peoples of the world. They caused the killing of millions of combatants and other civilians, including women, children and the elderly.

These crimes that occur in wars and armed and terrorist conflicts continue until now. This is what we have seen in Syria, Libya, Palestine, Iraq and Yemen, where peoples live while facing these crimes with the hope that peace and security shall prevail, so that their members can live and not suffer from these crimes which have become a tragedy for the countries upon whose territories such crimes are committed and those countries far from them.

These wars use the most dangerous and latest weapons resulting in increasing the number of victims among the civilian population as they deliberately and intentionally target civilians. The most correct jurisprudence<sup>21</sup> believes that this method, which appeared in the twentieth century, has become more common in the twenty-first century and has become an element of war and its strategy.

<sup>19</sup> Dr. Hala Mohammed Imam, "The Objective and Procedural Aspects of the Criminal Legislation of the Child" - Comparative Studies, Dar Al-Nahda Al-Arabiya, Cairo, 2015, P. 43.

<sup>20</sup> Dr. Musab Salem Ali Al-Hosani, previous reference, P. 123

<sup>21</sup> Dr. Ahmed Abul Wafa, Information on the rules of international law and international relations in Islamic Islamic, Dar Al-Nahda Al-Arabiya, 2000, P. 3 and afterwards.



With respect to crimes of forced kidnapping, murder, rape, arson, and other crimes forbidden by the heavenly laws, we shall find that the rules of international humanitarian law have emphasized the principles and rules that must be adhered to during wars and the prohibition of attacking civilians and stresses their protection and obliges the states and countries to take the necessary means that make the civilians away from the military operations which are as follows:

- The Fourth Geneva Convention for the Protection of Civilian Persons in Time of War of the 1949 affirms the provision of special protection for children as being civilians who do not participate in the military operations with confirming the provision of a special protection for them.
- The two Additional Protocols of the 1977 complementing the four Geneva Conventions of the year 1949. They emphasized the activation and development of international humanitarian law.

If the suffering of civilians, women and the elderly is great in these conflicts, then the suffering of children is greater and more terrible because they are directly affected. Therefore, the emphasis was given for the implementation of all rules and principles protecting them from the danger of terrorist armed conflicts and wars. We find that the Geneva Conventions have prohibited war crimes, and emphasized on not killing civilians, the injured, the sick, and prisoners of war. If such crimes are committed, they shall be considered war crimes against the countries carrying them out or against the two fighting countries if these acts were committed by the two belligerent countries<sup>22</sup>.

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<sup>22</sup> Dr. Hassan Hanafi Omar, Immunities of the government and their trial for war crimes, aggression, genocide and crimes against humanity, Dar Al-Nahda Al-Arabiya, 2006, P. 233.

**Accordingly, I shall divide this chapter into two topics as follows:**

**The first topic: Protection of children under international humanitarian law and the prohibition of their participation in the armed conflicts.**

**The second topic: child recruitment applications around the world.**

**First Topic: Protection of children under international humanitarian law and the prohibition of their participation in the armed conflicts**

International humanitarian law was concerned about laying – down principles and provisions to protect civilians from the devastating effects of wars. It witnessed a great development. The evidence for this is that international conventions paid attention to children in times of armed conflict with the issuance of the first protocol in 1977 to protect the civilian population including children. All aspects of it that were an evolution of the protection provisions stipulated in the Geneva Convention in 1949.

With respect to the general measures taken to protect civilians and children from the effects of the armed conflicts, international humanitarian law has affirmed their protection from the dangers of war and armed conflicts. The text of the first protocol in 1977 stipulated in Article 48 of the fourth chapter stated that: “The conflict parties shall endeavor to distinguish between the civilian population and militants, and between civilian objects and military targets. Then, they direct its operations against military targets only in order to secure and protect the civilian population, including men, women, the elderly and children. This is because they are peaceful and do not carry weapons so they are defenseless and have no power. So, it is not permissible to intimidate and fearing them because such discrimination provides effective protection for them<sup>23</sup>.

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<sup>23</sup> Dr. Nabila Raslan – Child' Rights in The Egyptian Law – Dar Al-Nahda Al-Arabiya – 1996 – P. 76

On the other hand, the first protocol in 1977 was concerned about the need to distinguish between civilians and professional objects with the aim of protecting them during the fight because civilians are always women, children and the elderly. Article No. 51 stipulates that:

1- Civilian population and civilian persons enjoy general protection against the dangers arising from the military operations. In order to make this protection effective, the following rules must always be observed in addition to other applicable international rules.

2- The civilian population shall not be the target of attack. Acts or threats of violence whose primary purpose is to spread terror among the civilian population are prohibited.

3- Civilians shall enjoy the protection afforded by this Protocol unless they take a direct part in the hostilities.

4- Indiscriminate attacks are prohibited. Indiscriminate attacks are:

a. Those that are not directed at a specific military target,

b. Those that use a method or means of fighting that cannot be directed at a specific military target; or

c. Those which use a method or means of fighting, whose impacts and effects cannot be limited as required by this Protocol. Therefore, they are liable, in each such case, to strike military targets and civilians or civilian objects without distinction.

5- The following types of attacks, among others, are considered indiscriminate attacks:

a. Attack by bombing, whatever the methods and means, which deals with a number of military targets that are clearly separated and distinguished from one another and located in a city, town, village or other area containing a crowd of civilians or civilian objects as one military target.

b. An attack that can be expected to cause loss of civilian lives, injury to them, or damage to civilian objects or to cause a mixture of these

losses and damages, going far beyond the tangible and direct military advantage expected from that attack.

6- Reprisal attacks against the civilian population or individual civilians are prohibited.

7- The presence or movements of the civilian population or persons may not be used to protect certain points or areas against military operations, in particular in an attempt to ward off attacks from military objectives or to cover favor or impede military operations. The parties to the conflict may not direct the movements of the civilian population or persons civilians with the intent of trying to ward off attacks from military targets or to cover up military operations.”<sup>24</sup>

The revolutions, armed and terrorist conflicts, and horrific crimes that take place in the Arab World and do not spare civilians, including the elderly, children, and women. These crimes are forbidden by the heavenly laws and international laws, as they are war crimes and following the scorched earth policy with all its human beings, crops, creatures, hospitals, buildings and schools, which leads to destruction, damage, burning, killing and displacement.

### Measures and Controls taken to Protect Children

The first additional protocol of Geneva Convention adopted and recognized the principle of taking specific measures to protect children as Article No. 77 of the First Protocol to the Geneva Convention stipulated that:

1- Children shall be the subject of special respect and shall be guaranteed protection against any form of indecent assault. The conflict parties shall provide them with the care and aid they require, whether because of their age or for any other reason.

2- The conflict parties must take all possible measures to ensure that children who have not reached the age of fifteen do not participate

<sup>24</sup> Article No. 51 of the first additional protocol of the year 1977 of Geneva Convention of the Year 1949

directly in hostilities. These parties must refrain from recruiting these young people into their armed forces. In case the conflict parties recruit those who reached the age of 15 years and under 18, they should try to give priority to those who are older.

3- If, in exceptional cases, children under the age of fifteen years take a direct part in hostilities and fall into the hands of the other party, they shall continue to benefit from the special protection guaranteed by this Article, whether or not they are prisoners of war.

4- In cases of being under arrest, detention, or capture for reasons related to the armed conflict, children should be placed in places separate from those designated for adults, with the exception of cases of families that have places of residence as family units.

5- The death penalty may not be carried out for a crime related to the armed conflict, on persons who have not reached eighteen years at the time of committing the crime.

The First Additional Protocol also concerned with the important objects<sup>25</sup> and laid down many of the principles governing them which emphasize the protection of places of worship and the places where materials indispensable to the civilian population and their needs are found and the prohibition of starving civilians by preventing them from eating, drinking and medicine as a method of war and siege.

The Second Additional Protocol of the year 1977 issued for Armed and Non-International Conflicts states: "Children under fifteen years shall not be recruited into armed forces or armed gangs nor shall be permitted to take part in hostilities."

Likewise, the Fourth Geneva Convention of the year 1949 emphasized the importance of special care for children by stating in Article No. 24 that: "Children under fifteen years who have become orphans or separated from their families due to war may not be left behind with facilitating their

<sup>25</sup> objects mean animals having souls such as livestock, and non-animals (such as seeds, trees, crops, ships, places of worship, and hospitals).

sustenance, allowing them to exercise their religious rites and providing them with education in all cases and circumstances.

The conflict parties shall facilitate the accommodation of these children in a neutral country for the duration of the conflict, with the consent of the Protecting country, if any, and on condition of ascertaining that the principles set forth in the first paragraph are observed.

Furthermore, they shall work to take the necessary measures to enable the identification of all children under twelve years to be verified by carrying an identification plate or by any other means.

Since the children are the most important group representing civilians who need attention and care more than others, Allah – The Almighty – honored them with the most beautiful honor in many verses of the Holy Qur'an as if Allah – The Almighty –directs us to have mercy on children in Islamic Sharia (the Holy Qur'an - the honorable Sunnah of the Prophet) as if our great Sharia foretells and warns us of what shall be like in this time in which we live, children dying of starvation or disease or being killed and burned in countries and children who are displaced to escape from armed conflicts and civil wars.

It is assumed that these principles have been developed for military leaders to adhere to in armed conflicts or international wars. However, are those in charge of these wars committed to them?

Unfortunately, we find that despite the many principles and provisions emphasizing the protection and care of civilians, including children, the elderly and women, they target them in military operations. We see in wars and armed conflicts that civilians are the targets of killing, displacement, kidnapping and rape.

### **Providing aid and relief to children:**

One of the most important principles that the militants of the conflict parties must abide by is to provide aid, assistance and subsistence to civilians, especially children, because they are in dire and necessary need for aid. This what was

confirmed by the Fourth Geneva Convention on the necessity and need to allow the passage of medical supplies, food, clothing, and movables intended for children under fifteen, pregnant women and cases of Birth even if they are enemies.

This is what was stipulated in Article No. 23 of the Fourth Geneva Convention stating that: "Each of the High Contracting Parties shall ensure the free passage of all consignments of medicines, medical supplies, and requisites of worship sent exclusively to the civilian population of another contracting party even if it is an enemy. He has to permit the free passage of any consignments of essential food, clothing, and tonics intended for children under fifteen years of age, and for pregnant or postpartum women".

#### **Reunification of families separated by armed conflict:**

Because of the seriousness of armed conflicts and civil wars, families flee from them and go out to neighboring countries or other cities in the same country, motivated by fear and terror, making them leave their country quickly to search for safety and protection. They flee from this suffering, they suffer alienation and division and therefore we find confirmation of the first protocol on such matters. In addition, Article No. 32 stipulates that: "The right of every family to know the fate of its members is the basic incentive for the activity of each of the High Contracting Parties, the parties to the conflict and the international humanitarian organizations mentioned in the conventions and at this Protocol."

The International Red Cross Committee plays an effective and important role in achieving a response to the implementation and enforcement of the requirements of international humanitarian law.

This is what was stipulated in the Fourth Geneva Convention in Article No. 23 and Article No. 70 of the Second Protocol due to the importance of the humanitarian, effective and impartial role of the Red Cross Committee as it disseminates the humanitarian principles of protection, provides

material assistance and conducts dialogue with the concerned governments so that they can provide these services.

#### **Children Evacuation from the besieged areas:**

Article No. 17 of the Fourth Convention emphasized the issue of evacuating children from the besieged areas in order to ensure the protection of children from the dangers of war and stipulated that: "The conflict parties shall work to lay down the local arrangements for the transfer of the injured, the sick, the infirm, the elderly, the children and postpartum women from besieged or encircled areas and for the passage of men of all religions, medical personnel and medical supplies to these areas."

Article No. 78 of the First Additional Protocol stipulated some additional principles of protection towards the evacuation of children without their nationals to a foreign country by a conflict party. It may not be permanent but on a temporary basis if there are necessary reasons related to the health and treatment of the child and written consent must be obtained from the parents or legal guardians of the children.

#### **He must comply with two conditions to carry out the evacuation:**

- 1- The child's health condition justifies his evacuation, i.e. his treatment cannot be carried out in his country of origin."
- 2- The consent of the parents or guardian must be obtained. If this is not possible, this condition can be dispensed.

In order to facilitate the return of the evacuated children, a card must be prepared for each one of them that includes all information about the child, his identity, health and family conditions, address, language and religion<sup>26</sup>.

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<sup>26</sup> Dr. Hassan Hanafy Omar – The previous reference – P. 118.

### **Banning Children Recruitment:**

The phenomenon of children's participation in armed conflicts and wars has increased due to the existence of new and diverse forms of these conflicts in which organized armies are facing gang warfare or this army uses the same criminal gangs approach.

The participation of children in hostilities is one of the most egregious committed crimes. Therefore, international efforts confronted it as the United Nations defined the child soldier as: "Any child who has a close or distant connection with an armed military force or group, without reaching the age of majority, whether the child is recruited, used or exploited by the army at any capacity, for example, children who are exploited in organizing, cooking, health care, espionage and extortion are all classified as children subjected to the crime of recruitment in armed conflict.

The International Conference on Human Rights discussed the issue of the armed conflicts and one of its most important results was that the General Assembly of the United Nations in 1979 issued the Declaration on the Protection of Women and Children in Cases of Emergency and during armed conflict. Despite the importance of this declaration, it failed to provide effective protection for children against being forced into armed forces or resistance forces during war<sup>27</sup>.

The international community has criminalized the process of recruiting children as the statute of the International Criminal Court stipulates that the actual involvement of children under the age of fifteen years in any kind of conflict or conducting any recruitment of them into the armed forces is one of the war crimes that are included within the jurisdiction of this court. Article 8/B, Clause 26 stipulates that: "Recruitment of children under the age of fifteen years, compulsorily or voluntarily, into the armed forces, or using them to actively participate in hostilities are considered war crimes."

<sup>27</sup> Dr. Maher Gamil – The previous reference – P. 272

Hence, recruiting the children under the age of years, compulsorily or voluntarily, into the armed forces or armed groups and using them to actively participate in hostilities are considered war crimes<sup>28</sup>.

During the period 2005-2006, UNICEF launched a general review of the previous Cape Town principles and resulted in the so-called (Paris Commitments), in which the term "child associated with an armed force or armed gang" was used, such term means "any person under the age of eighteen years who was recruited or used presently or in the past, by an armed force or armed gang, whatever functions it has undertaken, including – but not limited to – children, boys and girls employed as warriors, cooks, porters, spies or for sexual purposes"<sup>29</sup>.

With regard to the child soldier, it is noted that this concept was not defined at any of the international documents that prohibited the recruitment of children and their involvement in armed conflicts, nor in the framework of international humanitarian law, as these documents only specified the minimum age for recruitment and participation in hostilities, which may be understood from it that the child is considered a fighter like an adult fighter when he meets the conditions stipulated in general international law. A child soldier can be defined as: "Any person under the age of eighteen who is recruited into the armed forces or armed groups in order to participate directly in hostilities."<sup>30</sup>

### **Second Topic: Child Recruitment Applications**

Child recruitment has spread for a long time as this situation existed in ancient times but it took

<sup>28</sup> Article No. 8 – Clause: H – Item No. 7 of the statute of the International Criminal Law.

<sup>29</sup> Dr. Amer Ghassan Suleiman Al-Fakhouri, The Legal System of Child Soldiers in International Law, Journal of Law, Volume No. 12, Issue No. 1, Faculty of Law, University of Bahrain, 2015, p. 257.

<sup>30</sup> Dr. Mohamed Karim Ali – The previous reference – P. 34

new dimensions in the light of modern armed conflicts, especially internal ones, with its wide geographical spread worldwide.

The case of child abuse has increased, either by targeting them or by involving them in combat operations. The case of child recruitment is on increase day by day, On 03/07/2001, the Human Rights Organization in Sweden announced that more than 300,000 children are fighting for regular armies and revolutionary groups all over the world countries<sup>31</sup>.

Cases of child recruitment and use in the armed conflicts have been documented in the Syrian Republic and in the Sudan. The recruitment cases in 2016 were twice as high as in 2015. The children continue to face unacceptable levels of risk of being killed and maimed. The activities of terrorist organizations in Iraq and the Levant countries have led to a large number of victims among children as more than 2000 children were killed and maimed in Iraq and Syria<sup>32</sup>.

Although the phenomenon of foreign fighters is not new, the recent increase in their numbers emanates from more than (80) countries to join and fight with terrorist entities in Iraq and Syria. The recruitment of children is from among the atrocities they commit<sup>33</sup>.

Therefore, I shall discuss some countries in which children are recruited in the Arab World as follows:

### **First: Iraq**

Iraq is a party to the Optional Protocol to the Convention on the Rights of the Child on the

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<sup>31</sup> Dr. Abul-Kheir Ahmed Atia, Protection of the Civilian Population and Civilian Objects During Armed Conflicts, A Comparative Study of Islamic Sharia, Dar Al-Nahda Al-Arabiya, Cairo, 1998, p. 112.

<sup>32</sup> UN. Doc. A /62/361 – S / 2017 / 821 p.3.

<sup>33</sup> Dr. Mahmoud Madian, Foreign Fighters Between Responsibility and Protection in International Humanitarian Law, Almasria for Publishing and Distribution, first edition, without publication date, P. 68: 69.

Involvement of Children in the Armed Conflicts of the year 2000. Therefore and pursuant to this convention, Iraq has an obligation to prevent the recruitment of children under the age of eighteen<sup>34</sup>.

There are thousands of children forced to hold arms and weapons in a number of countries of the world, including Iraq. After the fall of the regime and the occupation of Iraq by US Forces and its allied countries, the destruction left behind by that occupation and the exposure of children to various types of violations, the US forces were accused of using children during the occupation, In addition to depriving them of the most basic necessities of life, practicing intimidation and threatening on them, besieging and destroying cities and declining the level of education and health. Once the occupation ended, a new stage came that led to the fall of some Iraqi cities in the hands of ISIS (Islamic State of Iraq and Syria) the terrorist organization, which led to the direct exploitation of children and their use as soldiers through intimidation and enticement. The terrorist organization ISIS established a special training center for this purpose and using the child soldiers in various tasks including fighting and carrying weapons as well as using them as human shields<sup>35</sup>.

Terrorist organizations in the areas they control in Iraq have captured children, recruited them and trained them on weapons and killing in order to use them and harness them as part of the activities carried out by terrorist groups<sup>36</sup>. There have been reports since 2008 stating that the terrorist Al-Qaeda organization in Iraq was

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<sup>34</sup> Pishko Shamsi, Children in Armed Conflict. Child recruitment and education in regions controlled by armed groups in Syria and Iraq, DEP.N 34. 2017. p.50.

<sup>35</sup> Dr. Falah Mahdi Abdel-Sada, International Organization to Combat the Crime of Child Recruitment in The Armed Conflicts, Master Degree Thesis, Faculty of Law, University of Babylon, 2016, P. 14: 15.

<sup>36</sup> Dr. Wasfi Wael Thabet, Criminal Responsibility for Juvenile Participation in Terrorist Crime, Master Degree Thesis, Faculty of Law, Mansoura University, 2016, P. 60.

running a wing of children under the age of fourteen called (Birds of Paradise) to carry out suicide attacks. Al-Qaeda deliberately used the weak and vulnerable children to recruit them forcibly. The wing (Birds of Paradise) is directly responsible for recruiting children under the age of fifteen. This group brainwashes children, persuades them to carry out suicide operations, deceives them by placing explosive belts around their bodies, sending them to markets, and then detonating them remotely by using a remote control device<sup>37</sup>.

The reason behind the use of the terrorist groups for children as suicide bombers in Iraq is because they arouse less suspicion and are easier to pass through checkpoints than older adults.

The report of the UN Secretary-General for the year 2015 on children and the armed conflicts recorded that between 2014-2015 hundreds of Turkmen and Yazidi children were forcibly separated from their families by the terrorist organization ISIS and placed in training centers where they were taught the Holy Quran, fighting tactics and the use of weapons. ISIS imposed compulsory recruitment on children in Mosul with the aim of involving them directly or indirectly in hostilities. The children were used for espionage, reconnaissance, transportation of supplies in addition to their involvement in battles<sup>38</sup>.

## Second: Syria:

Syria Joined to the Convention on the Rights of the Child of the year 1989 and signed the Optional Protocol on the involvement of children in armed conflicts annexed to the Convention of the Child of the year 2000 but the Syrian law was devoid of a text that punishes the recruitment of children and their involvement in the armed conflicts. The reason for this was that Syria did not suffer from any conflict during the past decades. However, when armed terrorist gangs

spread in Syria during the past years, which exercised forms of terrorism and recruited children and involved them in terrorist acts, the Syrian legislator found that it was necessary to issue a law criminalizing this attack committed against children, so he enacted Law No. 11 of the year 2013 entitled (Involvement of Children in Hostilities)<sup>39</sup>.

The bad conditions inside Syria represented by armed conflicts have led to the deterioration of the economic conditions in the country, which resulted in the existence of a large segment of society living below the poverty line as well as the spread of extremist sectarian ideological conflicts in addition to the destruction of schools as reports indicate that more than 52% of children between the ages of 6 to 12 years do not attend primary education which in turn heralds a humanitarian catastrophe and thus leads to easy recruitment of children and then their exploitation by the warring factions, especially the terrorist organization ISIS which pursued a policy of starvation and temptation of parents to send their children in exchange for Money or by kidnapping them to put them in the training camps called the Cubs Courses, including the (Cubs of Glory) camp as reports indicate that hundreds of children belong to this camp located in the west of Raqqa<sup>40</sup>.

The human rights organization stated that the Iranian Revolutionary Guards have recruited Afghan immigrant children living in Iran to fight in Syria, starting from the age of 14, in the "Fatemioun Brigade", an exclusively Afghan armed group, supported by Iran, and fought alongside government forces in the Syrian conflict. Under international law, the recruitment

<sup>37</sup> Report of the Secretary-General on Children and Armed Conflict in Iraq, Document No. (S/2011/633), p. 8.

<sup>38</sup> UN. Doc. S /2015 / 852 / p.11.

<sup>39</sup> Dr. Manal Marwan Munjid, The Child in the Crime of Recruiting Children with the Intent to engaging them in Hostilities, Criminal or Victim, Damascus Journal of Economic and Legal Sciences, Volume No. 31, Issue No. 1, 2015, P. 126.

<sup>40</sup> Dr. Mohamed Al-Nadi, Child Soldiers under International Humanitarian Law, Volume No. 38, Number 437, Center for Arab Unity Studies, Lebanon, 2015, P. 41: 42.

of children under the age of 15 to actively participate in hostilities is a war crime<sup>41</sup>.

The United Nations confirmed the existence of many cases of child recruitment. Its reports indicated that (271) children were recruited in the ranks of the so-called Free Army, (142) in the ranks of Jabhat al-Nusra, and (24) cases in the ranks of ISIS but it confirmed that these numbers are unconfirmed, but not less than the existing number of course<sup>42</sup>.

### Third: Yemen

Yemen is one of the countries whose national forces were included in 2012 by the Secretary-General of the United Nations on the list of countries that recruit children in armed conflicts due to the political unrest that began in 2011 led to the widespread violations and abuses against children<sup>43</sup> in addition to the exacerbation of the existing tribal tensions and the escalated rates of violence in the main cities of Yemen which added a new source to the turbulent country, namely poverty as there is a significant lack of nutrition for children and the disturbances have disrupted education and impeded the return to school for a large number of children due to their occupation by armies or they host internally displaced persons. The recruitment of children by anti- and pro-government militias in the north and by official government forces and armed groups in other parts of the country raises increasing concerns. The unrest has affected children psychologically and socially<sup>44</sup>.

Although Yemeni laws set 18 as the minimum age for recruitment, the Houthi-Saleh forces, Al-

Qaeda in the Arabian Peninsula and armed gangs affiliated to the legitimate government continued to recruit children and use them in armed conflict<sup>45</sup>.

In light of this situation, many international and local efforts were made to stop the case of child recruitment in Yemen. These efforts resulted in making the Yemeni government sign on an agreement with the United Nations in May/ 2014 which included an action plan under which the government is committed to the universal rights of the child and the child protection standards set by the UN Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in the Armed Conflicts which the Republic of Yemen ratified in March 2007. However, this agreement remains deficient because it is limited to children affiliated to the regular army and does not include children who are recruited by other armed gangs and factions that are not committed to it, especially the Houthi group "Ansarullah" and "Ansar Al-Sharia" affiliated to the terrorist organization Al-Qaeda<sup>46</sup> where reports indicate that half of the number of the fighters of the Houthi rebels are under the age of eighteen. In 2010, nearly 42 cases of child recruitment were documented by these groups. It was also proven that there were cases of kidnapping for the purpose of recruitment<sup>47</sup>.

### Fourth: The Sudan:

Although Sudanese law criminalizes the recruitment of children by the government or armed groups, the United Nations task force verified the recruitment of 39 children by government forces and 31 cases of recruitment by the Popular Defense Forces (PDF)<sup>48</sup>.

<sup>41</sup> Human Rights Watch report on the recruitment of Afghan children to fight in Syria, 01/October/2017.

<sup>42</sup> Dr. Falah Mahdi Abdel-Sada, previous reference, p. 18.

<sup>43</sup> UN. Doc. S/ AC.51/2013 / 852 / p.3.

<sup>44</sup> UNICEF report, Humanitarian Action for Children for the year 2012, published on the following link: [https://www.unicef.org/arabic/hac2012/hac\\_yemen.php](https://www.unicef.org/arabic/hac2012/hac_yemen.php).

<sup>45</sup> Dr. Amr Zakaria Sawy Abdel Rahman, The Child Warrior in International Humanitarian Law, A Comparative Study, PhD Thesis, Faculty of Law, Assiut University, 2014, p. 76.

<sup>46</sup> Dr. Mohamed Alnady – The Previous Reference – P: 44-45.

<sup>47</sup> UN. Doc. A/ 64 /742 – S/ 2010 / 181. p.57.

<sup>48</sup> UN. Doc. S/ 2017 / 191. p.7.



The conflicts that Sudan has gone through in the past two decades violated the children rights and recruited them into the armed conflicts. Such conflicts have erupted between the Sudanese government in the north and the People's Liberation Movement. The responsibility for child recruitment lies on the government armed forces and the Sudanese People's Liberation Army which is part of The government of Southern Sudan in addition to the militias, including the Justice and Equality Movement and the Sudan Liberation Army faction where the various forces and armed gangs were parties to the conflict in the Sudan and had a long history of forced recruitment of children. With the presence of more than 30 armed groups and their alliances, defections and complex links with the government, it is difficult to identify those responsible for violations of children's rights<sup>49</sup>.

The international coalition drew up a global report on the recruitment of children in order to stop their use in the armed conflicts. There are (17) thousand children in government forces, allied militias and opposition groups in Sudan and between (2,500-5,000) children served in the Sudan People's Liberation Army. In southern Sudan, the humanitarian crisis in Darfur has had alarming effects on children. Reports stated the occurrence of kidnapping cases for children who were forced to serve in the armed forces. Another report concluded that the conflicting armed factions and gangs in the Sudan are responsible for the crimes of killing, maiming, kidnapping, raping and violence against children<sup>50</sup>.

The civil war in the Sudan caused the mobilization of thousands of child fighters to die within the ranks of the Sudan People's Democratic Front. In this regard, the representative of the Sudanese government indicated that the rebel forces arrested children and forcibly subjected them in military operations as well as using them as human

shields or fighters in frontline sectors or to attract relief materials<sup>51</sup>.

Although the minimum legal age for children recruitment is 18 years, it is possible to enlist in the Popular Defense Forces at the age of 16 years<sup>52</sup>. The Sudanese government canceled the People's Defense Law of 1989 which permitted starting the age of recruitment from the age of 16 years and enacted a law in 2013 stipulating raising the age of enlistment in the Popular Defense Forces to 18 years as a minimum to join the national service<sup>53</sup>.

### **Fifth: Libya**

Since the start of the armed conflict in 2011, the United Nations has received many reports of grave and severe violations against children in Libya due to armed conflicts. Verified information was received about the presence of children among the opposition forces associated with the Transitional Council during the conflict. Children were seen receiving military training, carrying weapons and wearing uniforms. On 20/May/2011, it was reported that the Transitional Council issued decisions prohibiting the recruitment of children. The Libyan government was working with the Office of the Special Representative for Children and Armed Conflict to address the issue of children still associated with the armed groups<sup>54</sup>.

The fighting continued for a long time in Benghazi. The area of the armed conflicts expanded in different regions of Libya as groups loyal to the terrorist organization of the State of Iraq and the Levant (ISIL) expanded and gained lands in Libya in light of the lack of security. There were reports that terrorist armed groups recruited children in camps south of Sirte and

<sup>49</sup> UN. Doc. A/ 59 / 695 -5 / 2005 / 72. p.10 - 11.

<sup>50</sup> Dr. Mohamed Karim Ali – The Previous Reference – P. 62

<sup>51</sup> Dr. Falah Mahdy Abdelsada – The Previous Reference – P. 32

<sup>52</sup> The Use of Children as Soldiers in Africa Report, op. cit, p 3.

<sup>53</sup> UN. Doc. S/ 2017 / 191. p.18.

<sup>54</sup> Dr. Mohamed Karim Ali – The Previous Reference – P 64.

held a graduation party for a group of 85 children under the age of 16<sup>55</sup>.

Since 2014, when camps for ISIS cubs were established in the city of Derna, ISIS terrorist gangs opened another camp to train children. In Sirte, there is also nearly 100 children under the age of eighteen recruited and entered into a brainwashing program and trained on killing, slaughter and suicide operations<sup>56</sup>.

## Conclusion

In the previous pages, I discussed a thesis entitled (The Rights of the Child in International Law and International Conventions) which was divided into two chapters and some recommendations were reached.

The introductory chapter mentioned the human rights protection of the child. It was divided into two themes in which I discussed the definition of childhood, the importance of the stages of childhood, and the protection and attention of children in comparative legislations.

In the first chapter, I checked the protection of children within the framework of the principles of international law. It was divided into two topics. The first topic dealt with the protection of children under international humanitarian law and the second topic dealt with the applications of child recruitment in our Arab Region.

In light of the foregoing, I came to some results and recommendations that took into account their applicability and implementation.

## Results:

The most important results conclude by the thesis are represented in what follows:

<sup>55</sup> UN. Doc. A/ 70 / 836 – S / 2016 / 360. p.24.

<sup>56</sup> ISIS continues to spread inside Libya by recruiting children and brainwashing them. Report: Monia Ghannami Libya (CNN) Published at: <https://Arabic.cnn.com/World/12/06/2015/isis-Libya-children>.

1- Children's rights are the essence of human rights because children are the most vulnerable stage of life and therefore they need more protection than adults.

2- The problem is not in the lack of international laws and agreements related to the international protection of the children but rather the problem is limited to the violations of the rights of the children committed by some countries. Therefore, it has become necessary to focus international efforts to implement the children's human rights protection recognized by the international community.

3- The definition of a child soldier has not been reached by the international community. This is due to the difference in the age of majority in national laws. Some countries set the age of majority at 16 years and others 18 years.

4- There are several reasons for the recruitment of children but the main reason is the economic motive that forces children to join into the armed forces or gangs in order to obtain money. The most recruitment operations are compulsory.

5- Although the position of international humanitarian law is supportive to the issue of protecting children from recruitment in the armed conflicts, it did not provide adequate protection as the Fourth Geneva Convention of 1949 did not include protection of children from the phenomenon of recruitment and was limited only to civilian children. The two Additional Protocols of 1977 were not sufficient to the extent necessary as the prohibition of the age of conscription was limited to less than (15) years which is a low age compared to the age of eligibility (18) adopted in most countries.

6- The Convention on the Rights of the Child of the year 1989 is a binding international legal document, not only for ratifying countries but also for all countries, even those that did not ratify it because it was part of customary international law. It was not at the required level. However, what was stated in the Optional Protocol to the Convention added something new, which is the adoption of the age of 18 years for recruitment. This addition is a great victory for the protection of children but it was limited to direct participation only.

7- The current armed conflicts are mostly internal. This is what our Arab region is currently witnessing at the present time. One of its parties is often terrorist gangs which do not recognize the rules of international humanitarian law and the resulting use of thousands of children in these armed conflicts reflected negatively on children, causing psychological, physical and social effects through which it is difficult to reintegrate them into the community.

8- The United Nations has an important role to play in addressing the issues of child soldiers through the efforts made by the General Assembly in issuing many resolutions and declarations and appointing a special representative for children and armed conflict as well as the role of the Security Council in issuing many resolutions and integrating child protection into peacekeeping operations. Despite these efforts, it did not meet the needs of children because it was not implemented by states and the conflict parties.

### **Recommendations:**

The most important recommendations concluded by the thesis are represented in what follows:

1- Developing a definition of child soldier agreed upon by the international community in order to clarify the concept of child soldier.

2- Calling on countries to issue legislation defining voluntary and compulsory recruitment at the age of (18) and over in order to provide greater protection for children in the armed conflicts and to criminalize the process of recruiting children under the age of (18) and holding those responsible for such matter criminally liable.

3- Since the main reason for child recruitment is economic, we urge countries to promote the economic aspect and to provide appropriate material support to ensure a decent life for children during the armed conflicts.

4- Establishing an international agreement prohibiting the recruitment of children under the age of (18) years in international and internal armed conflicts and its provisions come in a

mandatory form to prevent the direct and indirect participation of children in armed conflicts.

5- Putting pressure on the armed forces or gangs and factions to disarm and demobilize children and work to establish special centers for them to rehabilitate and integrate them into the community.

6- Making the decisions issued by the United Nations General Assembly to be issued in the form of recommendations associated with obligation and punishment in case of violation.

7- We call on international organizations and bodies to hold conferences and seminars in order to inform the international community with the seriousness of the phenomenon of child recruitment in the armed conflicts and its effects on them.

8- Adapting terrorist acts and bringing them under the jurisdiction of the International Criminal Court, especially after terrorist gangs committed serious violations for the applicable international laws and norms in the armed conflicts.

9- We urge countries to establish a special Ministry for Childhood and to cooperate with other concerned ministries in order to care for and protect children from any assault on them in any way to ensure proper education and effective education for future generations, This issue shall lead to the progress and development of communities.

### **List of Sources and Bibliographies:**

#### **First: Arabic References:**

- [1] Dr. Abulkheir Ahmed Atia , Protection of the Civilian Population and Civilian Objects During the Armed Conflicts, A Comparative Study of Islamic Sharia, Dar Al-Nahda Al-Arabiya, Cairo, 1998.
- [2] Dr. Ahmed Abulwafaa , Information on the rules of international law and international relations in Islamic law, Dar Al-Nahda Al-Arabiya, 2000.
- [3] Dr. Hassan Hanafi Omar, Immunities of the government and their trial for war crimes,

- aggression, genocide and crimes against humanity, Dar Al-Nahda Al-Arabiya, 2006.
- [4] Dr. Hassan Nassar, *Child Protection Legislations*, Monshaet Almaaref, Alexandria, 1996.
- [5] Dr. Hassanein Bawadi, *Children's Rights between Islamic Sharia and International Law*, Dar Al-Fikr Al-Jamey, Alexandria, 2005.
- [6] Dr. Abdel Aziz Mukhaimer, *Child Rights in International Law and Islamic Law*, Dar Al-Nahda Al-Arabia, Cairo, 1991.
- [7] Dr. Ali Saleh Gohar, Dr. Mayada Mohamed al-Basil, *Bringing - up the Arab Child on His Rights in Educational Institutions*, Modern Library, Egypt, 2010.
- [8] Dr. Fatima Shehata Zidan, *Child Center in Public International Law*, New University House, Alexandria, 2007.
- [9] Dr. Maher Jamil, *International Protection of Child Rights*, Dar Al-Nahda Al-Arabiya, Cairo, 2005.
- [10] Dr. Musab Salem Al-Hosani, *Objective Criminal Protection of the Child*, Dar Hafez, The United Arab Emirates, 2022.
- [11] Dr. Mohamed Karim Ali, *Child Recruitment in Armed Conflicts and the Position of International Humanitarian Law*, Center for Arab Studies, Cairo, 2021.
- [12] Dr. Mahmoud Madian, *Foreign Fighters Between Responsibility and Protection in International Humanitarian Law*, Egyptian for Publishing and Distribution, first edition without publication date.
- [13] Dr. Nabila Raslan, *Children's Rights in Egyptian Law*, Dar Al-Nahda Al-Arabiya, 1996.
- [14] Dr. Hala Muhamed Imam, "The Objective and Procedural Aspects of the Child's Legitimate Criminal" - Comparative Studies, Dar Al-Nahda Al-Arabiya, Cairo, 2015.
- [15] Dr. Wassim Hossam El-Din Al-Ahmad, *Protection of the Rights of the Child in Light of the Provisions of Islamic Sharia and International Conventions*, Al-Halabi Human Rights Publications, Lebanon, 2009.

### Second: Scientific Theses:

- [1] Dr. Amr Zakaria Sawy Abdel Rahman, *Soldier Children in International Humanitarian Law, Comparative Study*, PhD Thesis, Faculty of Law, Assiut University, 2014.
- [2] Dr. Falah Mahdi Abdel Sada, *International Organization to Combat the Crime of Child Recruitment in the Armed Conflicts*, Master Degree Thesis, Faculty of Law, University of Babylon, 2016.
- [3] Dr. Wasfy Wael Thabet, *Criminal Responsibility for Juvenile Participation in Terrorist Crime*, Master Degree Thesis, Faculty of Law, Mansoura University, 2016.

### Third: Periodicals & Journals & Conferences:

- [1] Dr. Amer Ghassan Suleiman Al-Fakhouri, *The Legal System for Soldier children in International Law*, Journal of Law, Volume 12, Issue 1, Faculty of Law, University of Bahrain, 2015.
- [2] Dr. Abdel Rahman Al-Eissawy, *Child Rights in the Light of Modern Psychological Studies*, Child Conference, Alexandria, 1988.
- [3] Dr. Afia Qada, *Soldier Child and the Problem of Enforcement of International Humanitarian Law Conventions*, Proceedings of the Sixth International Conference, International Child Protection after the Entry into Force of the Third Optional Protocol, Tripoli, 20-22/November/2014.
- [4] Dr. Mohamed Al-Nadi, *Soldier Children under International Humanitarian Law*, Volume 38, Number 437, Center for Arab Unity Studies, Lebanon, 2015.
- [5] Dr. Manal Marwan Munjid, *The Child in the Crime of Recruiting Children with the Intent to engaging them in Hostilities*, Criminal or Victim, Damascus Journal of Economic and Legal Sciences, Volume 31, Issue 1, 2015.

### Fourth: Agreements & Conventions:

- [1] Third and Fourth Geneva Conventions of the year 1949.
- [2] Convention on the Rights of the Child of the year 1989.

[3] The Optional Protocol to the Convention on the Rights of the Child of the year 2000.

[4] The Additional Protocols to the Fourth Geneva Convention of the year 1977.