

**Protecting children under The IHL****القانون الدولي الإنساني وحماية الأطفال****Salama Abdelaziz Hassan**

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[lawyersalama@gmail.com](mailto:lawyersalama@gmail.com)*Received: 12/05/2022**Accepted: 23/07/2022**Published: 01./06/2024***Abstract:**

Children in areas of armed conflict suffer from the effects of the scourge of war, and although international humanitarian law has established the foundations and principles for the protection of civilians in general, and children in particular, these principles are not applied on the ground, as many violations are committed against children such as killing ,Rape, forced recruitment and detention in unsafe places, in addition to the inability of injured children to go to hospitals for treatment. Perhaps one of the most heinous crimes is forcing thousands of children to be recruited and placing them at the forefront of fighters, in addition to the crimes of sexual abus. Therefore, the research aims to shed light on crimes against children in areas of armed conflict , and providing the necessary recommendations for their protection

**Keywords:** Children, Armed conflict, Law of war**ملخص**

يعاني الأطفال في مناطق النزاع المسلح من آثار ويلات الحروب ، وعلى الرغم من أن القانون الدولي الإنساني قد أرسى الأسس والمبادئ لحماية المدنيين بصفة عامة ، والأطفال بصفة خاصة ، إلا أن هذه المبادئ لا تطبق على أرض الواقع ، حيث تُرتكب العديد من الانتهاكات بحق الأطفال من قتل واغتصاب وتجنيد قسري واحتجاز في أماكن غير آمنة ، بالإضافة إلى الحيلولة دون نقل الأطفال المصابين على للمستشفيات لتلقي العلاج ، ولعل من أبعث الجرائم إجبار آلاف الأطفال على التجنيد ووضعهم في طليعة المقاتلين ، إضافة إلى الاعتداء عليهم جنسيا ، ومن ثم فإن البحث يهدف إلى تسليط الضوء على الجرائم المرتكبة ضد هؤلاء الأطفال في مناطق النزاع المسلح ، واهم التوصيات اللازمة لحمايتهم

**كلمات مفتاحية:** الأطفال، النزاع المسلح، قانون الحرب

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## 1. INTRODUCTION

**Study Problems:** The research will address many problems as follows

A) The problem of study is that the number of child soldiers is constantly increasing, and therefore the international community has become unable to control it.

B) Another problem also that according to Article 3 of the three Geneva Conventions, international law does not recognize armed groups, especially since those groups do not have a legal entity like states, so it is impossible for relief and inspection organizations to access conflict places, whatever the motives, whether to provide Relief for sick and wounded children, or to search for detained or forcibly conscripted children.

C) International humanitarian law and the Geneva Convention obligated states to prevent the forced recruitment of children, but it did not address the causes of the problem and the motives behind the recruitment of children, and did not specify the relationship between forced recruitment and other problems such as family disintegration, poverty, ignorance and disease.

D) The problem is that children soldiers are doing very dangerous work, such as planting mines and explosives, espionage work and transporting light weapons, and therefore their lives are at risk, It is difficult to document these violations or to prosecute their perpetrators, because most of them are terrorist groups and not countries.

E) The presence of children in terrorist camps for a long time and their saturation with their extremist culture may make their rehabilitation almost impossible.

F ) Although the involvement of children in military operations and forcing them to join fighters is a war crime according to the Statute of the International Criminal Court, the international community is unable to prosecute these children before the International Criminal Court for not reaching the age of 18, and therefore a child who has not reached The legal age can commit any crime he wants with impunity.

G) The problem is that the child may be forced to commit the most heinous crimes, and he does not have the freedom to choose, and therefore this child is both a criminal and a victim at the same time.

**Research objectives :** The research aims to shed light on some ambiguities in the law of war regarding the child and his protection, and Shedding light on the failure of the international community in combating terrorist groups, in addition to the lack of integrated international cooperation to prevent children from joining these groups , It also aims to show defects in some articles of the Rome Statute, such as Article 8, which allowed children to join the recruitment provided that they do not participate in combat directly, it allowed children to be among the ranks of fighters facing killing., The research aims to shed light on some ambiguities in the law of war with regard to children and their protection, and shed light on the failure of the international community to combat terrorist groups, in addition to the lack of integrated international cooperation to prevent children recruitment , and it also aims to show defects in some articles of the Rome Statute, such as Article 8, which allowed the recruitment of children on the condition that they did not take a direct part in hostilities, therefore children will be between victims of murder.

**Research methodology:** I will rely in the research on addressing the provisions of the Fourth Geneva Convention and the two protocols annexed to it, and explaining the aspects of protection included in it for civilian children, as well as the elements involved in protecting children who are arrested or detained, and how to provide humanitarian aid to children in areas of armed conflict, as well as how to rescue children The dead and the wounded, as well as the provisions that clarify the legal status of children directly or indirectly participating in military actions, with a focus on clarifying the aspects of protection for the captured child and exempting children from the death penalty if they are involved in the fighting, and By studying these provisions, I will seek to clarify the adequacy of these international efforts to provide integrated protection for children, and I will not stop there, but I will touch on the provisions of the Statute of the International Criminal Court, which indicate the inability of the

international community to initiate international criminal proceedings against children, I will give my recommendations to solve this problem

## **2.- The Crimes against children in areas of armed conflict and international protection methods**

### **2.1-The crime of kidnapping and detaining children**

Some scholars defined kidnapping as detaining a person against his will for political, economic or religious reasons<sup>(1)</sup>.

The International Convention for the Protection of All Persons from Enforced Disappearance stipulated that : No one shall be subjected to enforced disappearance , and no exceptional circumstances whatsoever, whether a state of war or a threat of war , internal political instability or any other public emergency , may be invoked as justification for enforced disappearance <sup>(2)</sup>

So according to this article, international law forbids the detention or kidnapping of any person or endangering his life.

To clarify what is meant by enforced disappearance, Article 2 of the International Convention for the Protection of Persons from Enforced Disappearance clarifies that: "enforced disappearance" is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.<sup>(3)</sup>

However, if the detention of children is unavoidable, international humanitarian law guarantees the protection of children in detention.

I believe that international humanitarian law played an important role in protecting children in detention through Articles 76/5, 82, 85/2, 89, 94, 119/2 and 132 of the Fourth as preparing places of detention and providing children Food, clothing, medicine and health care , that is beside Geneva Convention, which included some provisions related to detention, In addition, Article 76 of the Fourth Geneva Convention states that “the special regime relating to young children shall be observed,” and Article 94

of the Geneva Convention itself states that “special places shall be reserved for the games of children and young people. (4)

## **2.2- The crime of Forcible Recruitment of Children:**

The child recruitment crime is : Involving a person who has not reached the legal age in the ranks of armed groups, whatever their purposes and objectives (5)

The international community has been keen to prevent children from joining the armies and has explicitly stipulated this, the Article 3 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict provides that: “ States parties shall raise the minimum age for the voluntary recruitment of persons into their national armed forces (6)

So the convention on the right of the child requires states to ensure respect to the rules of international humanitarian law applicable to them in armed conflicts , which are relevant to the child and take all feasible measures to ensure protection of children in the armed conflict areas (7)

To clarify the misunderstanding, the recruitment of children under the age of 18 is not prohibited in all cases, meaning that according to the text of Article 3, if the states parties wish to recruit children under the age of 18, the recruitment should be voluntary and not compulsory, and with the consent of the person's parents or legal guardians On the condition that the person is fully aware of the duties involved in this military service (8)

### **2.2.1- Recruiting Children as a war crime:**

According to the text of Article (8) of the Statute of the International Criminal Court, the recruitment of children is a war crime, whether the conflict is of an international or local character, because the article expressly provides for the criminalization of the participation of children in military operations.

Hence, the Statute of the International Criminal Court prohibits the recruitment of children With the aim of preserving their lives and preventing their endangerment, this prohibition was not limited to

international armed conflicts, but also included non-international conflicts in accordance with international humanitarian law <sup>(9)</sup>

According to the protocol of the Geneva Convention” The parties to the conflict shall take all feasible measures in order that , children who have not attained the age of fifteen years do not take direct part in hostilities. <sup>(10)</sup>

So The prohibition of under-age recruitment includes both compulsory and voluntary recruitment , Hence, according to the Statute of the International Criminal Court and in accordance with international humanitarian law, no country may recruit children, and if it violates this, it will have committed a war crime

### **2.2.2- Legal Defects That Prevented the Abolition of Child Recruitment:**

I think that international efforts to combat the forced recruitment of children have not achieved the desired results, and have not succeeded in reducing the number of child soldiers, for many reasons, including the following :

Article No. (8) of the Statute of the International Criminal Court prohibits the recruitment of children under the age of 18 and their direct involvement in military operations.

This article is shrouded in ambiguity, because it gives states and armed groups the right to recruit children to cook, clean camps, and sometimes transfer supplies and weapons, on the pretext that these actions are not direct.

This article also allows extremist groups to keep and train children without involving them in the fighting and instill their culture in the minds and hearts of children.

This article also explicitly permitted the presence of children in the ranks of the fighters, under the fire of bombs and planes, waiting for death at every moment on the pretext that they did not directly participate in the fighting.

The Article (8) of the Statute of the International Criminal Court is flexible and loose, as it did not specify a clear criterion for differentiating between direct and indirect hostilities, This flexibility allows the fighting groups to use children in espionage, the transfer of weapons and all acts of fighting, and then claim that their actions are indirect.

The Geneva Convention and its protocol prohibit the participation of children under the age of 18 in hostilities, meaning that these children are allowed to be under the line of fire as long as they are not engaged in hostilities.

### **.2.2.3- Reasons for recruiting children:**

These groups resort to recruiting children because it is easy at this age to direct them to crime and control their thoughts. These groups also prefer to recruit children to ensure their loyalty, in addition to the fact that the cost of child soldiers is less than the cost of adults, and these children can accomplish what adults cannot achieve, and most importantly, these children do not apply to them the statute of the International Criminal Court, because of their age They will not be brought to trial despite having committed war crimes.

Recruited children are often used by armed groups in food production and other forms of forced labour. For example, during the armed conflict in Sierra Leone, armed groups trafficked a large number of children into forced labor in diamond mines. Between the ages of 10 and 17, they were exploited in dangerous and unsanitary conditions, with little or no access to medical care.<sup>(11)</sup>

I believe there are other reasons for children to become recruited, including poverty, marginalization, discrimination, family disintegration, and these include street children, poor children, refugees and homeless children.

### **2.2.4- The dangers of children recruitment:**

There is no doubt that international efforts to prevent the recruitment of children do not aim only to prevent children from joining the regular army of their country, Because if the child joins the army of the state, he will remain under its control , But the danger lies in the fact that the majority of children recruited in areas of military conflict are joining extremist terrorist groups.

This fact was confirmed by the United Nations High Commissioner for Human Rights, where he pointed out that, Terrorist groups in Nigeria have succeeded in recruiting thousands of children since 2009, He also added that these groups forced the girls into forced marriage, to transfer weapons

and equipment, to cook and to clean the camps <sup>(12)</sup> These terrorist groups have also used children as human shields and in carrying out suicide bombings <sup>(13)</sup> .

The danger is that children joining terrorist militias undermine international efforts and threaten the stability of countries, especially with the increasing number of child soldiers.

Also, children staying with these groups for a long time gives them the characteristics of violence, cruelty and a tendency to crime, and it is difficult to reform them in the future.

The danger also lies in the fact that extremist groups are exploiting these children to commit crimes against humanity, because they realize that the International Criminal Court is unable to prosecute them for not reaching the age of appearance before it, and therefore states are keen to try them internally in accordance with national law.

### **2.3- The Crime of Sexual Violence Against Children in Conflict Areas:**

#### **2.3.1-The sexual Violence concept:**

Sexual violence is any act of a sexual nature committed against a person under duress<sup>(14)</sup>

The Statute of the International Criminal Court emphasized the criminalization of sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any form of sexual violence.<sup>3-The International protection for children <sup>(15)</sup></sup>

#### **2.3.2- The concept of rape:**

Rape is physical assault of a sexual nature against a coerced person <sup>(16)</sup> , It seems that the International Criminal Court differentiates between sexual violence and rape on the grounds that the latter requires the penetration of a sexual organ into another member of the victim's body , This is in contrast to sexual assault, which is carried out by simply harassing the victim, even if it was slight

#### **2.3.3-The crime of sexual violence against children:**

Referring to the international conventions that prevent sexual abuse of children, we note that they did not explicitly address sexual violence and



rape, but they expressed them in terms of an assault on human honor and dignity.

According to the Lahia Convention relating to respect for the laws and customs of war, it obligated belligerents to respect family honor and human dignity. <sup>(17)</sup>

If we turn to the treaties of international humanitarian law, we will notice that he was keen to prevent and criminalize all forms of sexual violence in areas of armed conflict, which are often committed against children.

The Additional Protocol to the Geneva Convention of 1977 states that violations of human dignity, degrading treatment, insults to human dignity, enforced prostitution and outrages upon modesty are prohibited, now and in the future and at all times and places, whether committed by civilians or military personnel. <sup>(18)</sup>

Although the Geneva Conventions did not explicitly address sexual violence against civilian children, they did refer to it implicitly when they stipulated in Common Article (3) the prohibition of outrages upon their dignity and physical integrity.

I believe that According to the Statute of the International Criminal Court, not every sexual abuse of children is a war crime, but the abuse must coincide with armed conflicts and be directly linked to them, For example, when a soldier rapes a prisoner in prison, this crime is a violation of international humanitarian law and at the same time it is a war crime that requires referral to the International Criminal Court because the offender is a military and the victim is a captive and the reason for committing the crime is related to an armed conflict.

I think that The 1989 Convention on the Rights of the Child is the only one that explicitly addressed the prohibition of sexual abuse of children, and stated that: “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child”<sup>(19)</sup>

The importance of the Convention on the Rights of the Child is evident in that it did not stop at warning of sexual abuse of children. Rather, it called in the second paragraph of the same article for the need to provide support and assistance to child care officials, and the need to take the necessary measures to receive and investigate reports and refer them to specialist.

So the Article stated that “ Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement” (20)

The 1989 Convention on the Rights of the Child paid great attention to children, and this is what distinguishes it from other international conventions, as it not only prohibited sexual abuse of children, but explicitly stipulated the closure of all means of using them for sex.

So The Article (34) stipulated that :

“States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity ; (b) The exploitative use of children in prostitution or other unlawful sexual practices; (c) The exploitative use of children in pornographic performances and materials”(21).

I think that the importance of the Convention on the Rights of the Child lies in the fact that it fights addiction, because Article 34 prohibits states from coercing children to use sexual stimulants, and also forbids states from exploiting children as intermediaries in sexual promotion.

The sexual violence as an international crime, although the Geneva Conventions of 1949 and Additional Protocol I of 1977 did not explicitly provide for it, but it stipulated that the High Contracting Parties undertake

to take any necessary legislative action to impose effective penal sanctions and to prosecute the accuseds, regardless of their nationality

Although the grave violations contained in the Geneva 1949 Conventions and the 1977 Annex did not include rape or sexual assault, the general trend in international legal jurisprudence confirms that these assaults fall within international crimes.

I believe that The consequences of child sexual coercion are devastating and often make girls more likely to die in childbirth, to die before their first birthday, to contract AIDS, and to become a victim of domestic violence.

In addition to the above, girls who are sexually abused and who give birth to a child before their bodies are fully developed are at greater risk of death or terrible death.<sup>(22)</sup>

#### **2.4- The crime of child trafficking and slavery:**

Slavery is one of the worst forms of human exploitation, and therefore international humanitarian law recommends eliminating it in all its forms.

According to 1929 convention slavery is “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” <sup>(23)</sup>

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002) defines the sale of children as “any act or transaction by any person or group of persons to another for remuneration or any other consideration”<sup>(24)</sup>

In the context of conflict, the many situations in which people have fallen into the hands of armed or terrorist groups may amount to slavery, including forms of sexual slavery.

Another type of slavery is slavery marriage, which usually occurs If there is a promise to marry or to actually consummate the marriage, while canceling the woman’s right to refuse, the husband shall pay material or in-kind consideration to her parents, guardian, family or any other person.

Forced marriage may occur in conflict situations, serving as a negative coping mechanism employed by the victim’s family members, who receive money in exchange for marriage with the victim. Women who are forced to marry members of armed or terrorist groups may be transferred between

individuals or harboured in situations that may amount to trafficking in persons

In conflict settings, children may be recruited into armed groups for sexual slavery, and may also be exploited in supportive roles as domestic labourers, cooks, porters, messengers and lookouts. In addition to being exploited for sex or forced labour, children may also be exploited in combat roles, including for planting explosives, carrying out armed attacks and suicide bombings or as human shields <sup>(25)</sup>

#### **2.4.1- The Reasons for increasing children Trafficking:**

The most important causes of slavery and child trafficking is poverty, because human traffickers prey on the poor, in addition to the fact that poor families push their children to areas of armed conflict, and sometimes voluntarily send them to extremist groups, hoping to secure food and shelter. Sometimes Disasters, wars and political and military conflicts have led to the displacement of thousands from their countries to other countries, and they fall prey to human traffickers.

One of the most important causes of child trafficking is family disintegration, and the absence of a provider for the child, which leads him to fall into the hands of human traffickers.<sup>(26)</sup>

Another reason for the increase in child trafficking is modern technology that enables human traffickers to evade law enforcement guards, delinquents are using portable and easy-to-use devices such as laptops, smartphones and laptops to defeat anti-trafficking agencies. I can say that most of the current smartphones have GPS capabilities and GPS apps that help smugglers check the location of their victims if they escape. Another point I would like to stress is that technology helps human traffickers pay human traffickers using a prepaid and rechargeable card, and this card helps human traffickers reduce the risk of loss and helps them transfer money easily. <sup>(27)</sup>

I believe that one of the most important reasons for the high rates of crimes of human and child trafficking is the weak domestic legislation of most countries, especially countries experiencing armed conflicts, in addition to

the inability of these countries to enforce laws criminalizing child trafficking.

Another very important reason is the weakness of international cooperation in combating this crime, especially since the crime of child trafficking is a cross-border crime, which requires cooperation between states in the field of border protection against human traffickers, in addition to the lack of coordination between state in the field of security cooperation, exchange of experiences, joint training and technology exchange

The United Nations stated that “Most of the detected victims of human trafficking are foreigners . Most of them are international migrants who have moved from one country to another. most of them have decided to migrate in order to dream of a better life with better jobs, better schools, and political stability, or simply for a new life in a new environment away from conflicts, natural disasters, lack of decent work, high crime levels, and unfortunately They fall prey to human traffickers” (28)

The main reason for trafficking may be the recruitment of children into the ranks of extremist terrorist groups with the aim of carrying out suicide operations against the regular armies of countries, espionage, transporting weapons and light equipment from one place to another, cooking, etc.

### **3.-The International protection of children during war:**

#### **3.1- Protecting children in bombardment areas:**

The Article 51 of the first protocol of 1977 stipulates the protection of the civilian population from the dangers resulting from military operations, and also stipulates the obligation of belligerents not to expose civilians to bombardment, violence or threats, and not to launch military attacks. against unspecified targets.(29)

Perhaps one of the most prominent international efforts to protect children in areas of armed conflict is Security Council Resolution No. 1612 of 2005, which obligates states to provide protection for children in areas of armed conflict, The decision also criminalizes the following:

a) Killing or maiming children. (B) Recruitment and use of children as soldiers and Rape and other serious sexual abuse of children. (c) Child abduction. c. Attacking schools or hospitals (d) Cut off humanitarian aid to children.

Article 3 of the 1990 Cairo Declaration on Human Rights in Islam provides: “In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as ... children

In paragraph 26 of the United Nations Millennium Declaration, the heads of State and Government declared We will spare no effort to ensure that children and all civilian populations that suffer disproportionately the consequences of natural disasters, genocide, armed conflicts and other humanitarian emergencies are given every assistance and protection so that they can resume normal life as soon as possible.

The 2000 EU Charter of Fundamental Rights provides “Children shall have the right to such protection and care as is necessary for their wellbeing”<sup>(30)</sup> In June 2010, Cameroon, the Central African Republic, Chad, Nigeria, Niger and Sudan adopted the N’Djamena Declaration. In its preamble, the participating States, “reiterating [their] concern regarding the precarious situation of children affected by conflict and the consistent presence of children within armed forces and groups in [their] region”, recognized that “States have the primary responsibility of ensuring, without discrimination, the security and protection of all children living on their national territory, and that no territory should be used in any form for recruitment of children by armed forces or groups.

### **3.2-Relief for children in conflict areas:**

Geneva Convention (IV) 1949 relative to the Protection of Civilian Persons in Time of War stipulated that « The parties to the conflict shall work to conclude local agreements for the removal of the wounded, sick, the infirm, the elderly, children and maternity from besieged or besieged areas, and for the passage of ministers of all religions, medical personnel and paramedics. Equipment is on its way to these areas”«<sup>(31)</sup>

Hence, the Fourth Geneva Convention obligated states to cooperate and conclude agreements to facilitate the transfer of sick and wounded women, children and the disabled away from areas of armed conflict.

The UN1974 Declaration on the Protection of Women and Children in Emergency and Armed Conflict at Paragraph 4 and 5 of the 1974 stated that All the necessary steps shall be taken to ensure the prohibition of all measures such as persecution, torture, punitive measures, degrading

treatment and violence, particularly against that part of the civilian population that consists of children, and prohibition all forms of repression and cruel and inhuman treatment of children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal.

The Fourth Geneva Convention attaches special importance to the cases of children who are orphaned or separated from their families, and The parties to the conflict have the duty to take the necessary measures to ensure the maintenance and education of children under fifteen who are orphaned or separated from their families as a result of the war, and to see that they are not left to their own resources <sup>(32)</sup>.

Provision is made for the reception of such children in a neutral country. The authors of the Convention chose fifteen as the age limit because they considered that, after that age, the development of the faculties no longer required special measures to such an extent. Likewise, the Occupying Power should make arrangements for the maintenance and education of children who are orphaned or separated from their parents <sup>(33)</sup>

### **3.3- National legislation and children Relief:**

The Convention on the Rights of the Child obligates states to take legal measures and enact the necessary internal legislation to prevent ill-treatment of children or endangering their lives, so Article 19 stipulates the following:

“States parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. <sup>(34)</sup>

#### **4. CONCLUSION**

Finally the results and recommendations can be summarized as follows :

1- Most of the international conventions ignored the formulation of a specific definition of the child, and left it up to each state to determine it, and this neglect appears to have been deliberate on the part of the contracting states, so I recommend removing this ambiguity and correcting this error in future amendments

2- The law enforcement agents, such as the police as well as other agencies meant for anti-human trafficking shall also intensify surveillance on the fight against kidnapping. and They should get special trainings on how to identify victims of kidnapping and be able to return them from the kidnappers without them being hurt.

3- I believe that child recruitment is a direct result of the international community's inability to confront terrorism and violence, and the inability of every country to protect its children. Therefore, I recommend every country to take the necessary measures to combat terrorism and eliminate its sources of financing. I also recommend the state to take the necessary measures and develop plans and programs to prevent children from joining these extremist groups

4-There is no criminal responsibility for crimes committed by children in areas of armed conflict according to the statute of the International Criminal Court, because the child has not reached the age of eighteen. However, based on the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, every country must prosecute children for these crimes with national legislation.

5- I believe that the crime of recruiting children and endangering their lives is among the crimes mentioned in the statute of the International Criminal Court, and therefore it is a war crime against humanity, But the problem is that the accused who has not reached the age of 18 cannot be trialed before the International Criminal Court

6- The Article (8) of the Statute of the International Criminal Court is flawed, because it allowed to children to join the recruitment provided that they do not participate in the fighting directly , Therefore, it allowed to children to be present among the ranks of the fighters facing killing ,



Therefore, I think that this article needs to be amended to include the ban on participation, directly or indirectly, and also prevent being in the camps.

7- Despite the protection provided by the Convention on the Rights of the Child, it was contradictory, as its first article stated that a child is a being who has not reached the age of 18 years, and at the same time this Convention obligated states not to recruit those under the age of 15 years, and this means that it is allowed For children between the ages of 15 and 18 by enlistment.

8- Although the Geneva Conventions did not explicitly address sexual violence against civilian children, they did refer to it implicitly when they stipulated in Common Article (3) the prohibition of outrages upon their dignity and physical integrity , Therefore, I recommend that the Geneva Convention be amended to explicitly address sexual violence, rape and all forms of abuse of civilian children

9- It is not only the Geneva Convention that ignores sexual violence, but Most of the human rights treaties did not include a direct prohibition of sexual violence, although they referred only to the violation of human dignity, and the assault on one's honor. Therefore, those agreements are tainted by shortcomings and defects, especially after the increasing cases of harassment and violence in areas of armed conflict, which were not limited to women but included children, and evidence of this is the presence of many cases before the International Criminal Court.

10- I recommend tightening the security of state borders, monitoring beaches and fishing boats, prosecuting human traffickers on the high seas, bringing them to trial, releasing detained children and returning them to their homes.

11- I recommend the necessity of international cooperation in order to provide a minimum income for the citizens of areas of armed conflict, or at least provide food and drink in those areas, because the fight against hunger helps in combating child trafficking in areas of armed conflict, there is no doubt that hunger and poverty have a major role in making children Victims of human trafficking, because it pushes people to migrate, makes education and legal work difficult, and thus makes recovery and safety from war and disaster impossible.

12- The international community should use media campaigns to make potential migrants aware of the risks migration-related, and their potential to become victims of human traffickers, exploitation and sexual violence.

12-European countries bear the greatest role in combating child trafficking, because most of the victims of crime are migrants and refugees stranded at European borders and waiting years for their asylum applications to be accepted. European countries must abandon the complicated routine procedures and expedite the acceptance of asylum applications

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<sup>7</sup> ) 1989 Convention on the Rights of Child , Article No (38) paragraph (1)

<sup>8</sup> ) Children Recruitment and use in Hostilities ,September 2017 United Nations , Human Rights office of the High commissioner ([https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ohchr\\_syria\\_-\\_child\\_recruitment\\_-\\_legal\\_note\\_en.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ohchr_syria_-_child_recruitment_-_legal_note_en.pdf))

<sup>9</sup> ) Christine Bakker ( 2010), Prosecuting International crimes against children , IWP 2010- 13 Page (8), [https://www.unicef-irc.org/publications/pdf/iwp\\_2010\\_13.pdf](https://www.unicef-irc.org/publications/pdf/iwp_2010_13.pdf) , Research Fellow at the

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<sup>10</sup> ) The first additional protocol of Geneva Convention Article (72)

<sup>11</sup> ) International Human Rights Clinic at Harvard Law School, 2009, Digging in the Dirt: Child Miners in Sierra Leone's Diamond Industry, pp. 21-30.

<sup>12</sup> ) Report of the General Security , Children and Armed Conflict in Nigeria (304/2017/S), paras. 29-30.

<sup>13</sup> ) Report of the United Nations High Commissioner for Human Rights on violations and abuses committed, by Boko Haram and their impact on human rights in affected countries (67/30/HRC/A), para. 44.

<sup>14</sup> ) International Criminal Tribunal for Rwanda, Prosecutor v. Jean-Paul Akassio, Case No. ICTR-96-4, September 2, 1998

<sup>15</sup> ) The 1998 Rome Statute of the International Criminal Court, United Nations Doc , A/ conf 183/9 , articles No (7 , 8)

<sup>16</sup> ) International Criminal Tribunal for Rwanda, Prosecutor v. Mikateli Muhimana, Case No. ICTR-95-1B, April 28, 2005, para. 547 (<https://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=48b5677a2>)

<sup>17</sup> ) Second Hague Convention on Respect for the Laws and Customs of War 1899 and its annex Article 46 - Third Hague Convention on the commencement of hostilities 1907 Article 46

<sup>18</sup> ) The Additional Protocol to the Geneva Convention of 1977 , The Article No (75) paragraph (2) (b)

<sup>19</sup> ) The 1989 Convention on the Rights of the Child, Article (19) paragraph (1)

<sup>20</sup> ) The sam convention, Article No, (19) paragraph (2)

<sup>21</sup> The sam convention, Article No, Article (34)

<sup>22</sup> ) UNICEF. 2007. The State of the World's Children 2007: Women and Children, the Double Dividend of Gender Equality. UNICEF: New York, NY. See , <http://www.unicef.org/sowc07/docs/sowc07.pdf>

<sup>23</sup> ) United nations , Office on Drugs and Crime , Countering and Trafficking in Persons in conflict situations page 13

- <sup>24</sup> ) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, Article 2 (a)
- <sup>25</sup> ) “Annual report of the Special Representative of the Secretary-General for Children and Armed Conflict” (A/HRC/34/44); Healy, Targeting Vulnerabilities, pp. 186–191
- <sup>26</sup> ) Dr.: Muhammad Jamil,(2014), Human Trafficking as a Transnational Crime, Journal of Police and Law Studies, University of Jordan, Jordan, Volume (41), 2014, p. 1146
- <sup>27</sup> ) Kwame Aduhene-Kwarteng, The influence of globalization on Human trafficking , Thesis for: Graduate Studies Advisor: Professor Ahmed Sayeed , <https://www.researchgate.net/publication/320753277...>
- <sup>28</sup> ) The United Nations (ST/ESA/STAS/SER.M/58/Rev.1, United Nations Department of Economic and Social Affairs, Population Division, United Nations Recommendations on Statistics of International Migration, Revision 1, 1998) has defined an international migrant as “any person who changes his or her country of usual residence” (para. 32, p. 9). ([https://unstats.un.org/unsd/publication/seriesm/seriesm\\_58rev1e.pdf](https://unstats.un.org/unsd/publication/seriesm/seriesm_58rev1e.pdf))
- <sup>29</sup> ) The first Optional protocol , 1977 , Article No (51)
- <sup>30</sup> ) The 2000 EU Charter of Fundamental Rights, Article No (24)
- <sup>31</sup> ) The Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 , Article No (17)
- <sup>32</sup> ) The Fourth Geneva Convention , Article No (24)
- <sup>33</sup> ) The same convention Article No (50)
- <sup>34</sup> ) The convention on The Rights of children , Article No (19)