

PREVENTION OF BREACHES AND RESPONSIBILITY TO PROTECT: CASE STUDY OF LIBYA AND SYRIA CRISES 2011 -2016

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Abstract: Despite that International Humanitarian law (IHL) is meant to protect vulnerable people such as non-combatants, children and women, elderly and able people, and even combatant at times in accordance with relevant conventions and protocols of IHL, numerous crises occur at present have immensely been violated the set rules. While the fundamental Human rights of these categories of people are been infringed, international organizations at various levels are struggling to minimize the negative effect on the victims. There are circumstances when the IHL is also breached by states or parties involve in the crises. This study focuses at investigating numerous violations to child abuses in Libya and Syria during the 2011-2016 crises. The role of humanitarian organization and other agencies involve were equally examined. The roles of the two governments are equally examined. The paper adopted descriptive and analytical methods, as a result, relevant materials such as book, reports from NGOs, and other humanitarian agencies were utilized to analyse this issue. The findings revealed that atrocities are widely committed by both governments as also done by various

warring factions that took part in the conflicts. The role of international organization managed to minimize it to some extent. It recommended that UN and other international organization can pay more roles in the future.

Keywords: *Prevention, Breaches, Responsibility, Vulnerable People, Libya and Syria*

Introduction

The crises in Libya and Syria have set a new record in the overall conflicts of the so-called Arab awakening, and most importantly to International humanitarian law. Beside general concern on human rights, the responsibility to protect lies heavily with all parties to the conflict. After a successful overthrow the Tunisian and Egyptian dictators, the wave of change navigates to Libya and it took Libyan several months to get rid of Gadhafi. On 20th October 2011, he was captured and killed in Sirte. During and the aftermath of the war, atrocities occurred, and all sides have violated the international humanitarian law. Since the end of the war, Libya remained one of the major dangerous places in the world to live. A much greater issue has been the role of militias which fought in the civil war and their role in the new Libya. Some have refused to disarm and cooperate leading to demonstrations against militias and government action to disband such groups or integrate them into the Libyan military. These unresolved issues led directly to a second civil war in Libya. During and in the aftermath of the war (2009 and 2011), the Freedom of the Press Index rated Libya the most-censored state in the Middle East and North Africa. In contrast, a January 2011 report of the United Nations Human Rights Council, on which the Libyan Arab Jamahiriya sat prior to the uprising, released a month before protests began, praised certain aspects of the country's human rights record, including its treatment of women and improvements in other areas (Report of the Working Group, 2011). Syria, another crucial devastated Arab state ruin by civil war, it was all started from a peaceful protest erupted after 15 boys were detained and tortured for having written graffiti in support of the Arab Spring. One of the boys, 13-year-old Hamza al-Khateeb, was killed after having brutally tortured. The Syrian government, led by President Bashar al-Assad, responded to the protests by killing hundreds of demonstrators and imprisoning many more. In July 2011, defectors from the military announced the formation of the Free Syrian Army, a rebel group aiming to overthrow the government, and Syria began to slide into civil war. The UN Security Council attempts to pass several Western-backed resolutions on Syria but, Russia and China vetoed all. As such, no tangible solution has been found to resolve the civil war. With various factions claimed legitimate authority, Asad remains in power and Syrian remains devastated. The major concern in both Arab nations is the position of various protected person under humanitarian law, most importantly, the children. Before, digging deeply into subject matter, it is worth to commence with investigation on the root causes of the crises in Libya and Syria.

Background: Situation in Libya and Syria

Libya is a country in the Maghreb region of North Africa, a mostly desert and oil-rich country which has been ruled by an absolute dictator, Colonial Muammar Gaddafi for almost 42 years from 1969 until he was toppled in 2011. Colonial Muammar Gaddafi led the Libyan Revolutionary Command Council (RCC) and seized power on 1 September 1969 from the King Idris I and then abolished the monarchy system in Libya. He officially declared the new Libyan African Republic and took control of all petroleum companies operating in Libya. The revenues from the oil sector were used to provide education, housing and health care for all. (BBC News. *Libya Country Profile*, 2017)

In 2011, the Arab Spring began, it started in Tunisia and spread to five other countries, including Libya, Syria, Egypt, Yemen and Iraq. The uprising led to Civil Wars in Libya, started on February 15, 2011 in Benghazi. It began when the anti- Gaddafi forces formed a committee by the name of National Transitional Council (NTC) and started the rebels. In combating those problems, both government and NTC committed a number of atrocities which violated the International Humanitarian Law.

The situation goes beyond control, and it draws the attention of International Committee. As a result, United Nations Security Council (UNSC) authorized North Atlantic Treaty Organization (NATO) to maintain no fly zone to save innocent people from being injured or killed. NATO intervened on 22 March 2011, by enforcing an arms embargo, maintaining a no-fly zone and protecting the innocent people from Gaddafi's atrocities under Operation Unified Protector (OUP) (Paul R. Williams & Colleen, 2011).

Shortly after the intervention, on June 27, 2011, the International Criminal Court (ICC) issued a warrant arrest to Colonel Muammar Gaddafi under the charges of two counts of crimes against humanity including; murder and persecution committed in Libya in 2011 (Byman, D. L., 2005). He was ousted from power as the President of Libya when the rebels took over the capital city of Tripoli and captured Gaddafi's headquarters in August 2011. Finally, on October 20, Colonel Gaddafi was killed by the rebel fighters after the air strike assistance by NATO (Salhani, J. (2016). *The Forgotten Conflict in Libya*). As a result, thousands of casualties have occurred, and it affected Libya economy especially the crucial oil industry collapsed, and the facilities were destroyed by the rebels group. These events involving various armed groups who fought against Gaddafi and caused the instability across the country where it was estimated that 434, 869 people were internally displaced. Furthermore, the Second Libyan Civil war occurred on May 16, 2014. In the aftermath of First Civil War, there were various armed groups proliferated in Libya that fighting between each other to seek control of various territories of Libya. Specifically, between the Libyan Government also known as the Tobruk Government and the rival Islamist Government of the General National Congress (GNC). They were fighting to fill the power vacuum left by the fall of Gaddafi. The Tobruk Government was the strongest power in the eastern Libya and had been supported by the Libyan National Army which had been headed by the General Khalifa Haftar, an anti-Islamist. On the other hand, the western part of the Libya was controlled by the GNC supported by the Libya Dawn, a group of pro-Islamist militias that attacked Tripoli (Your Middle East, 2015).

In Libyan Civil War, we can see the involvement of NATO, whereas in Syrian Civil War, it involves various powerful countries. It is claimed that foreign ministers from Russia, the United States, Turkey and Saudi Arabia had discussed in a meeting in Vienna regarding the Syria's war and each of them came with different objectives on their involvement. Russia, a key ally of President Bashar al-Assad's government had interfere in the conflict since its beginning in 2011, providing unconditional diplomatic support, direct military backed up and had carried out at least 500 air strikes in Syria between 2011-2016 targeting the so-called Islamic State (IS) and all terrorist. On the other hand, the United States also involved in this civil war but not in the side of President Bashar al-Assad. US believed the President Assad already committed the atrocities and could not be part of Syrian new government in the future. The United States supported the Syria's main opposition alliance known as National Coalition, it provided limited military assistance to the groups (Your Middle East, 2015).

In addition, Turkey provided financial and logistical support to the rebel groups from the start of the crisis. In criticizing President Assad, Turkey's President claimed that it was impossible

for the Syrians to accept Assad as the leader after all the violence that had been done. (El-Gamaty, 2016)

The ongoing conflict had resulted to the killing of the civilians, destroying the infrastructure and the economic market. According to the report made by the International Rescue Committee, there were 1.7 million Syrian children who had left school since the attacked towards their homes, schools and hospitals had arisen day by day. This civil war also caused over 6.3 million people that had been displaced and 13.5 million people in the need of the emergency assistance. Besides, women and children were vulnerable to sexual abuse, child labor, physical and mental trauma (BBC News. *Libya Country Profile*, 2017)

As a result, it is clear that these two civil wars have gone far, violating the International Humanitarian Law. Thousands of people were affected especially the non-combatants, women, children and the elder people. There is urgent need for interference of International Humanitarian Organizations in providing the emergency assistance to protect their human rights.

Prevention of Breaches and Responsibility to Protect Under International Law

Public International Law can be described as a law that consist two layers of law. First layer consisting the law regulating coexistence and cooperation between members of the international society essentially the states and second layer is about regulating of law between individual. The implementation of International Humanitarian Law may therefore be understood as part under regulating of law between member of state and also sometimes could be part of law regulating an individual. In short, International Humanitarian Law is a set of rules which seek for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are no longer participating in the hostilities and restricts the means and methods of warfare. Main focus of the law is to protect non-combatants or protected people such as women, children, old people and persons hors de combat and to minimize the effects of the war. States party to IHL treaties are legally bound to comply with the rules and must do everything in their power to respect and ensure respect for IHL. Nevertheless, many of the provisions under IHL are considered as Customary International Law, in which all states must abide to it, regardless of whether they are party to the treaty or not (International Committee of the Red Cross, Rule 136).

Prevention of breaches under International Law becomes priority to each member of the states. Breaches or violation of International Law involved an action commits either by individual or state parties. Violations of International Humanitarian Law may include attacks against an ill-treatment of civilians, destruction of property, sexual violence and restricted access to health care and other essential services. Breach of the law also can be categorized in many numbers. It could be a grave breaches or simple breaches. A state which violates International Humanitarian Law may be imposed sanctions by the United Nations or third-party states. However, grave breaches of International Humanitarian Law will amount to war crimes and can be prosecuted in International Criminal Court, like the crime of genocide and crime against humanity. In a legal system violation, once they occurred, it must also have legal consequences. Although International Humanitarian Law has increasingly been implemented against and for the benefit of individuals, it is also being implemented between States. In other words, violations are attributed to States and measures to stop, repress and redress them must therefore fall against State responsibility for the violations. There are several provisions under Geneva Conventions and Additional Protocols which described the violations that may amount to the grave breaches. One of them is the First Geneva Convention under Article 50 (Article

50, First Geneva Convention 1949). In addition, Rules 156 under IHL also stated that the nature of war crimes if they endanger protected persons or objects, such as death, injury, destruction or unlawful taking of property, or if they breach important values, even without physically endangering persons or objects directly. These include, abusing dead bodies, subjecting persons to humiliating treatment, violation of the right to fair trial, and recruiting children below 15 years of age into the armed forces (International Committee of the Red Cross. Rule 156).

Therefore, the violating of the obligation under International Law will be focusing on how to prevent such actions. Under International Humanitarian law, the party who work for implementing the mechanism in order to prevent the violation act is International Committee of the Red Cross (ICRC). ICRC will become a neutral party and also act as a representative to the victim. However, its duty will focus more on the humanitarian aids rather than the punishment. Thus, prevention of breach of the International Humanitarian Law also become responsibility to all states. It is up to the state to prosecute and punish such violations if it happens under its jurisdiction. Third-party states also can prosecute such violations if they constitute grave violations of the Geneva Conventions, as grave violations of IHL is serious and can be amounted to war crime. A state which has violated IHL may make reparation through restitution, compensation or satisfaction.

The responsibility to protect refer to the doctrine of the prevention that applied to member of states which may constitute genocide, war crimes, crime against humanity and any other actions that may be fall under categories of violation the International Law. Responsibility here can be defined according to two meaning. First, responsibility to protect its own state from any violation act against the law. Second is responsibility for the state party to make reparation in the situation when the state itself had already broken the law. Looking at the events that happened around the global world today, there are large number of peoples repeatedly violating International Humanitarian Law obligations. Thus, like other international law, International Humanitarian Law also provided the legal consequences for when the law is broken, and these consequences applied to them without any exception.

Under Conventional and Customary International Law, states have obligations to prevent and punished those who commit wrongful action. The duty to protect is a well-known concept in International Humanitarian Law that provides generally states with a positive obligation in certain circumstances to prevent peoples from infringing on the rights of individuals. In short, it requires the states to prevent, punish, investigate and redress human rights violations. The basic principle for state responsibility in International Law provides that any state that violates its international obligations must be held accountable for its own acts. Its mean the states that do not respect their international duties are obliged to immediately stop their illegal actions and make reparations to injured parties. When the responsibility to protect on its peoples lies on the state itself, if a state violates International Law, the state is responsible to immediately cease the unlawful conduct and offer an appropriate guarantee that it will not repeat such illegal actions in the future. The state also has responsibility to make full reparations for the injury causes including both material and moral damages.

In September 2005 at the United Nations World Summit, all member states formally accepted the responsibility that each State should protect its own population from genocide, war crimes, ethnic cleansing and crimes against humanity. At the Summit, world leaders also agreed that when any State fails to comply with its own responsibility to protect its population, all States including international community are responsible for helping to protect people threatened

with such crimes. In other words, if the diplomatic and humanitarian intervention become inadequate and national authorities fails to protect their populations, the international community should act collectively in a timely and decisive manner through the UN Security Council, in accordance with the UN Charter. In performing the responsibility to protect, member states are bound by three pillars First is the State carries the primary responsibility in protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement. Second is the international community has a responsibility to encourage and assist States in fulfilling this responsibility. Third is the international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the UN Charter (Bannon, A., 2006).

In the course of implementing the doctrine of responsibility to protect, there are some situation that need to involve military intervention in order to stop such unlawful act done by the party. However, the permission to use force is specific only to certain cases. The use of force is actually prohibited in International Law especially during the armed conflict by the reason that it will cause harm to civilians. According to Article 2(4) of UN Charter, Member of the States are prohibited to use force during the humanitarian intervention (UN Charter, Article 2(4)). But there are two exceptions to this general rule of prohibition use of force. Article 51 permits force used in self-defense under certain conditions, and most significantly for the doctrine of responsibility to protect (UN Charter, Article 51). While Chapter VII allows the UNSC to authorize force in response to a threat to the peace (UN Charter, Chapter VII).

Finally, humanitarian intervention and the responsibility to protect share the consequence that sovereignty is not absolute. However, the responsibility to protect shifts away from state-centred motivations to the interests of victims by focusing not on the right of states to intervene but on a responsibility to protect populations at risk. In addition, it introduces a new way of looking at the essence of sovereignty, moving away from issues of control and emphasizing responsibility to one's own citizens and the wider international community. Responsibility to protect is an attempt to ensure that the international community never again fails to prevent the continuing of the wrongful act. However, this doctrine is being impeded by continuing debate and concern over its legal status, and most significantly its effect on international law regarding the use of force. This is especially important following the controversies in the Libya intervention, and the lack of Syrian intervention. This doctrine needs to react and learn from the failures of these situations to ensure that it realizes its potential, not by stretching international law to provide the ability to use force outside of the UNSC framework, but by incorporating the criteria for the use of force to help and guide UNSC decision makers.

Child Abuse in Libya

Since the outbreak of the revolution in 2011, Libya has been badly affected in its human rights record. Children are among the most vulnerable persons in the midst of the conflict. In fact, the rate of child abuse had increased since 2011, and it has gained the attention of international organizations followed by discussions and criticisms on the level of child abuse in Libya. According to a report by The Guardian, as the conflict in the country worsened, the children in Libya as young as eight years old had suffered sexual assaults including rape. Basing the news on the report by Save the Children, the claims of the assaults were made by from 200 children and 40 adults who have fled from Misrata, Ajdabiya and Ras Lanuf and are now in temporary camps in the rebel stronghold of Benghazi (Batty, D. (2011)).

Save the Children, an international non-governmental organization (INGO) which focuses on children's rights, had come out with many reports regarding the situation of children in the war-torn state. In one reported case, reported case mothers of the victims told of a group of girls being abducted, held hostage for four days and raped. Some had also witnessed their fathers being murdered and their mothers being raped before they themselves were violently beaten. Save the Children's Child Protection Advisor, Michael Mahrt who was responsible for the assessment stated that:

The reports of sexual violence against children are unconfirmed but they are consistent and were repeated across the four camps we visited. They described things happening to other children, but they may have actually happened to them and they are just too upset to talk about it - it's a typical coping mechanism used by children who have suffered such abuse. What is most worrying is that we have only been able to speak to a limited number of children - what else is happening to those who are trapped in Misurata and other parts of the country who do not have a voice? (Save the Children, 2011)

Mr Mahrt also added that some children are showing signs of physical and emotional distress; they are withdrawn, refuse to play and wake up crying in the night. In the city of Benghazi, children involved in the conflict were also used as baits to prevent their family from living the country. Benghazi is the second most populous city in Libya and the largest in Cyrenaica, the eastern coastal region of Libya. The town has been besieged by the Libyan National Army forces under the retired Gen. Khalifa Haftar since July 2014 and had been under continuous air and ground attack for more than a year and a half. Yahya Ashraf, a Euro-Med researcher for North African affairs had stated that Libyan National Army forces had unreasonably treated children and women as militants and prevented them from leaving the country (Stephen M. W., 2011).

A report by Physicians for Human Rights (PHR) also revealed that they received corroborated testimonies from four eyewitnesses about Libyan soldiers using civilians as human shields, including children. In accordance to the testimonies, Qaddafi troops had forcibly detained 107 civilians to be used human shields by physically shielding them from active fire from NATO attacks in south of Misrata in April and May 2011. One father told PHR how Qaddafi soldiers forced his two young children to sit on a military tank and threatened, "You'll stay here, and if NATO attacks us, you'll die too (Sollom, R., & Close, K. (2011)

In addition, under international law, there are several provisions in various treaties and statutes which forbid the recruitment of children under 15 years old as soldiers such as Additional Protocol I and II of Geneva Convention, Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the Convention on the Worst Forms of Child Labour. In fact, in the Statute of International Criminal Court, the act of recruiting child soldiers is considered as a war crime in both international and non-international armed conflicts (Carrie McDougall, 2013).

However, the recruitment of children below 15 years old as soldier in Libya has happened since the start of the revolution in 2011. In Misrata, children as young as 7 years old were trained to help rebel fighters to fight against Qaddafi army (Daily Mail Reporter, 2011). Although they did not appear to be fighting on the front line, they were clearly trained how to operate, strip and clean the weapons, and some of them could be seen carrying around weapons such as AK-47. The child abuse issue in Libya does not only involve Libyan children. Despite its location

in the northern part of Africa continent, Libya has been both a destination and a transit country for refugees and migrants from sub-Saharan Africa and the Middle East for years on their route to Europe. However, the rise of the conflicts in the country had increased the lawlessness and threats in the country. The situation became worse, leading even established communities of migrants who have been living and working in Libya for years to flee to Europe by boat. In 2015, more than 2,880 drowned while attempting the journey from northern Africa to Italy (Philip Luther, 2015).

Abuses also occurred in immigration detention centres where thousands of migrants and refugee, including children were located. Many are tortured, exploited and sexually abused along the smuggling route in and out of Libya. Others have been detained indefinitely, while some were forced to become slave. Besides, some including unaccompanied children have been abducted for ransom along the smuggling routes running towards the Libyan coast (Philip Luther, 2015, 2015). During their captivity, they are subjected to torture and other ill-treatment to coerce them and their family members to pay a ransom. Those who are unable to pay are exploited and often held effectively as slaves - forced to work without pay, physically assaulted and robbed. Therefore, child abuse in Libya has worsened since the start of the revolution in 2011. As one of the most vulnerable group during a conflict, actions needed to be taken to protect this group from been continue victimized.

Child Abuse in Syria

The legal definition of war is important as it triggers the response of international systems in a place to protect civilians including children and women against any violations that might fall within the categories of violating the International Humanitarian Law. Similar to the latest global issue in the Syrian Crisis that happened in 2011. In order to determine whether the country is bound by all provisions under International Humanitarian Law, the country must be a member of that convention. Syria had ratified the Geneva Conventions on International Humanitarian Law without any reservation since 1953. It means that the Syrian Government has an obligation to maintain the public order. As a result, the government will bear responsibility for protecting its civilians including those participating in public assemblies and exercising their right to freedom of expression (Carol A. Plummer, 1997)

The Syrian conflicts has caused the death and injury to civilians especially children and it should be considered as child abuse in Syria. Syrian girls and boys of all ages suffer immensely both physically and physiologically. Children have been wounded and killed by sniper fire, rockets and missiles. They have experienced first-hand conflict, destruction and violence. The psychological effects of such horrific and terrible experiences can be far-reaching, affecting their wellbeing, sleep, speech and social skills. Over 1.1 million Syrian children have registered as refugees with UNHCR worldwide up till 2016. From this number, some 75 per cent are under the age of 12, while the majority live in Syria's neighbouring countries. Jordan and Lebanon combined hosting more than 60 per cent of all Syrian refugee, children represent 52 per cent of the total Syrian refugee population, which now exceeds 2.2 million (Shelly Culbertson, Louay 2015).

When the crisis began, children are often deliberately become target and not adequately protected by its government. The action taken by the Syrian Government itself is consider as breach of the International Humanitarian Law as they failed to protect their population. The lives of the Syrian children have been greatly affected by the conflict. Every day and every hour their right as children had been taken away such as, right to education, right to health, and right to protection from the armed forces. Apart from that, Syrian children are regularly

exposed to escalate violation and explosive weapons attack. Some are forced to become soldiers, and some are forced to work for their family. In short, they did not enjoy the normal childhood life. Several thousand have lost their family members and had been forced to flee their homes (Shelly Culbertson, Louay, 2015).

As children, there are certain rights that must be protected. The UN Human Rights Council recently reported that children have suffered serious violations and State forces have shown little or no recognition of the rights of children in the actions taken. Children in Syria have been systematically denied access to education and by the use of their schools as military detention facilities or as vantage points by snipers indiscriminately targeting civilians and rebels. For example, when protests armed forces were told to “shoot without distinction” resulting in the deaths of three young girls and on another occasion, five children were killed in a secondary school during demonstrations witnessed by a former member of the Syrian security forces. Prior to the conflict, Syria is one of the countries that have strong and standard education before the civil war. It is almost 100% primary school enrolment and 70% of children attending secondary school as the government had made education for children to be compulsory. As a result, the conflict has caused a deliberate destruction of education facilities, including attacks on students, teachers, and buildings, targeted killings, and abductions. At the beginning of the conflict up to December 2016, over a quarter of Syrian schools have been damaged, destroyed, or are being used as shelters by Internally Displaced People. Such targeted attacks have a profound impact on children and education. Even a single attack may result in forced closures of schools and displacement of populations. Moreover, even when schools remain open, children may be afraid to travel to school, fearing attacks, kidnappings, or other threats.

Second effect on the Syria Crisis towards children is about poverty. UNICEF report that around 7 million of children live in poverty after the crisis happen. The reason is because the war brings significant impact towards Syria as the destruction happen. Apart from that, the war had caused the international community to impose sanction that made life difficult on socio-economy of the civilian population (UNSC Report, 2012). The sanctions have limited the state’s revenue which has automatically limits the resources available to pay salaries in public sector and cause significant income reduction to several families who have many children. These sanctions also responsible for the increased price level of commodities and perhaps greatly increased the pressure on families who spend largest proportion of their income on daily commodities.

Furthermore, abusing of children during Syria Crisis also occurs when many children are force to work as children labour. According to the Syrian Domestic Law, it is illegal to employ minor before they either complete their education or reach the age of 15 years old. During the crisis, children are forced to work on their own in conditions that are mentally, physically, and socially dangerous. These children play an active part in the fighting and can be used to kill and sometimes had been assigned with a task that endangers their lives. UN reported that many children were recruited as soldiers, used as human shelter and being tortured by armies. Hence, the responsibility to protect the protected person like children basically lies in the hand of Syrian Government. It is not surprise that the crisis itself happened because of an attack committed by Syrian Government. As a result, the responsibility lies on the third party either by other states party or the United Nation itself. Article 50 of Geneva Convention applied in this situation as the act of killing and tortured the protected person by the Syrian Government towards it people is consider as grave violations against International Humanitarian Law (Article 50, Geneva Convention 1949). The Syrian troops were largely responsible for grave

violations against children. Then, as the conflict intensified, and armed opposition became more organized, the crime against child abuse increased during the crisis (UNSC. (2014).

The Role of International Humanitarian Organizations in Libya and Syria

In the context of international humanitarian organizations, humanitarian intervention will be conducted with the objective to prevent or stop the atrocities in a state where such state is either incapable or unwilling to protect its own people or is actively persecuting them. It means the outside powers have the rights and duties to intervene in order to protect the civilians of other countries who are being victimized. The example of International Humanitarian Organizations will include United Nations High Commissioner for Refugees (UNHCR), International Committee of the Red Cross (ICRC) and also White Helmets or officially known as Syria Civil Defence (UNSC. 2014).

In Libya, there are many international humanitarian organizations that involve in providing humanitarian aids to the victims. This will include International Committee of the Red Cross (ICRC) and also International Medical Corps. First and foremost, we would like to give a clear explanation on the ICRC and its roles in Libya. The ICRC is an independent and neutral humanitarian organization that comes with the mission to give humanitarian protection and assistance for victims of the armed conflict and other situations of violence in accordance to the Geneva Conventions of 1949.

The ICRC made its permanent presence in Libya in 2011, in the aftermath of the beginning of the war. The roles of the ICRC in Libya involve in protecting the civilian population which can be divided into two categories of persons. First category is those who have been arrested and detained either in the armed conflict or another situation of violence and second one is the civilians who are not or who are no longer participating in hostilities. Special attention is given to groups which are vulnerable to any violation such as children, women, elderly, handicapped and displaced persons (ICRC. (2010).

The result of the war led the civilian population in Libya to face difficulties in the breakdown of the basic services; the increasing of the basic food items prices, power cuts, fuel and water shortage and their health conditions also been affected. Thus, the ICRC together with its partner, the Libyan Red Crescent Society (LRCS) are working hand in hand in easing the suffering of the victims. According to the ICRC official website, it is stated that more than 100 Libyan staff working around the country and they have built their operational offices in Tripoli, Benghazi, Misrata and Sabha which making the ICRC as the largest international humanitarian organization on the ground (ICRC. 2015).

It is reported that between November 2014 and March 2015, the ICRC has carried out several humanitarian activities to help the affected population including distributing foods and essential household items such as blankets, mattress and kitchen sets together with the LRCS for some 11,300 internally displaced people. Besides, they also distribute emergency medical supplies to 10 hospitals in the affected areas which will benefit 12,250 patients. Furthermore, the ICRC helps the LRCS in dealing with the bodies of people killed in violence and migrants who have drowned in the sea by providing them with dead body management kits and body bags. Second international humanitarian organization that also contributed in Libya is the International Medical Corps. This international humanitarian organization has been established in 1984 by volunteer doctors and nurses with the objective to improve the quality of life through health intervention. This non-profit organization registered its presence in the moment of the

conflict in 2011 and starts to provide emergency medical service, train health workers and distributing vital medicines and supplies (International Medical Corps, undated).

The International Medical Corps (IMC) was able to manage two community development centres in Tripoli, in order to ensure that the affected groups receive the medical assistance and outreach support. It also serves the medical staff and outreach teams at detention centres in several places including in Khoms, Kufra, Sabha, Tripoli and Zawyah. Besides, IMC also collaborates with Libyan Coast Guard in providing the medical and non-food items for the victims in the Mediterranean (International Medical Corps, undated).

Furthermore, it also organizes a training program for the Ministry of Health in Tripoli. In the training program, the medical staffs were trained for the reproductive health, mental health and also psychosocial support. Thus, which enable the trainee to provide the best services to the affected people in Libya. Despite several challenges, they were able to provide 31,000 health consultations to the refugees, migrants and IDPs in Libya in addition with 4,269 refugees, asylum seekers and migrants who are received the hygiene kits. Whereas, in Syria, we can see the United Nations High Commissioner for Refugees (UNHCR) as the international humanitarian organization providing assistance to the Syrians people who are seriously affected by the civil war, mainly the refugees and IDPs. The UNHCR provides life-saving humanitarian aid in the form of the cash for medicine and food, stoves and fuel for heating, tents for sheltering and the blankets and winter clothing for the refugees to cover their bodies since the temperature is so cold. Besides providing all the basic needs, the UNHCR also helps the Syrians who live in the Aleppo to rebuild their houses and start new lives. As it was reported in the UNHCR official website, over 300,000 Syrians people have return to their houses in east Aleppo and hoping to live their normal life. In fulfilling the needs, the UNHCR has hired experience workers to do woodwork in repairing and fixing their houses (Tou'meh, V. (2017). For instance, the UNHCR sent five convoys to the northeast Syria, to deliver vital assistance including 5,400 tents, 6,000 mattresses, 4,000 high-thermal blankets, 8,000 sleeping mats, 7,000 solar lamps, 5,000 water jerry-cans and 3,000 plastic sheets and through this effort they able to help tens of thousands of people there (Shekfeh, S., 2017).

Save The Children has been working inside Syria since 2013 by delivering life-saving activities to the affected communities there. With the objectives to save lives, reduce suffering and promote the wellbeing of vulnerable children and their families in Syria, they are having variety of approaches in providing the humanitarian aids. Moreover, it is claimed that since the beginning of the civil war until today, the houses, health facilities and health personnel are continued to be attacked. The schools also have been destroyed. As a result, the Syrians people have no place to take shelter, and almost three million Syrian children are now out of school. Hence, in order to alleviate the suffering, this humanitarian organization provides immediate assistance through their staff on the ground. They distribute the food parcels, emergency aid items and also providing the access to clean water. In ensuring the Syrian children with adequate care, Save the Children also focusing on the education aspect by providing teachers to teach the children in the camps where they are sheltering. It is reported that these humanitarian activities have been carried out in more than 50 locations including 12 camps. Despite all the challenges that they are facing in the conflicting areas, the Save the Children's work has reached over 850,000 children and their families (Save the Children, undated).

Finally, it can be sum up that international humanitarian organizations have played their roles in providing the humanitarian aids towards the affected groups in Libya and Syria. The

humanitarian intervention is compulsory in alleviating the suffering of the victims and helping them to start new lives through provisions of aids and moral support.

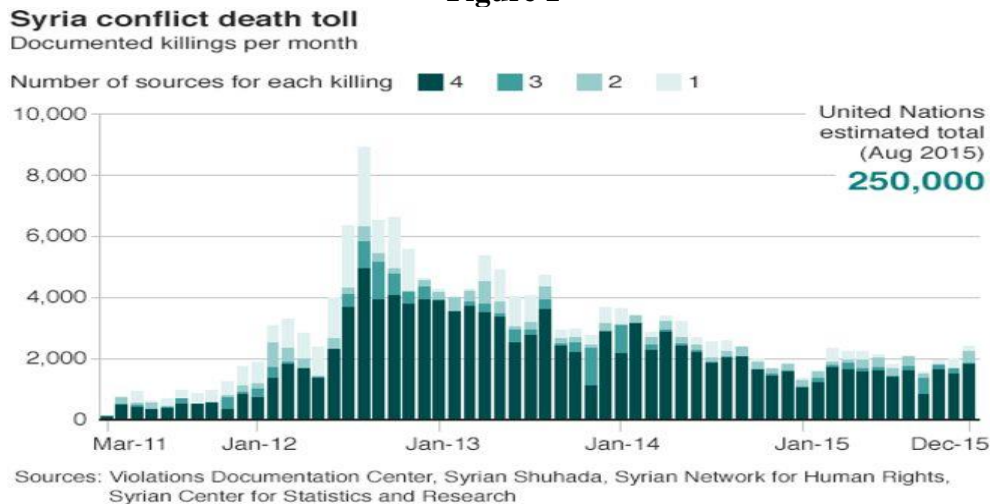
The Role of Syrian Government in The Internal Crisis

The Responsibility to Protect (R2P) stood firmly on two principles. The first one is State sovereignty comes with responsibility and the main responsibility for the protection of its people lies with the state itself. Second, the principle of non-intervention yields to the international responsibility to protect when civilian population become the victim like suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it. When discussing about state sovereignty, it is clearly about the supreme and absolute power of a state to do everything necessary to govern itself, such as making, executing, and applying laws; imposing and collecting taxes; making war and peace; and forming treaties or engaging in commerce with foreign nations without foreign interference. However, it is also a part of responsibility which comes together with the sovereignty for the state to protect its people and fulfil their vital rights (State sovereignty, 2008).

In the issue of prevention of breach and responsibility to protect, the government of the state itself must play their role to ensure the protection of the people. In the case of Libya, In February 2011, civilians began to undertake political protests demanding an end to Libyan leader Muammar Gaddafi's 41-year reign, wherein protestors found themselves the target of mass atrocities at the hands of government armed forces. In witnessing such violence by the Libyan government, the international community, regional and sub-regional bodies had taken the initiative to protect the populations through a range of economic, political, and military measures (Ahmad A. A., 2016).

The Syrian government atrocities began from the root of the crisis, by shooting on the pro-democracy protests in March 2011 in the southern city of Deraa after the arrest and torture of some teenagers who painted revolutionary slogans on a school wall. After security forces opened fire on demonstrators, killing several, more took to the streets (BBC, 2011). An unnamed human rights activist in Deraa, who was contacted by AFP news agency, said security forces had fired live bullets at the protesters and "hundreds" of protesters had also been wounded. He told AFP that "many" of the wounded had been "snatched by security forces" from hospital and moved to unknown locations. In late 2013, it was alleged that the Assad government used chemical weapons on August 21, 2013 in a Damascus suburb killing up to 1,400 civilians. Since Russia intervened in the Syrian Civil War, government forces have fought back from their lowest point in May 2015 and begun a series of successful offensive operations around the rebel stronghold of Aleppo. The current offensive, which began in October 2015, has been highly successful for the government due in large part to Russian air strikes. 2016 peace talks failed when the Assad government announced they would wait. Many fears Russian intervention has bolstered the Syrian's governments capabilities and willingness to fight on for years rather than submit to peace talks.

Figure 1



It was alleged that the civil war in Syria between the government and armed opposition forces has escalated into a multidimensional crisis in which over 500,000 people have been killed. According to the UN Office for the Coordination of Humanitarian Affairs, as of April 2017 there were 5 million Syrian refugees and at least 6.3 million internally displaced persons, and over 13.5 million Syrians remain in dire need of humanitarian assistance, with 4.53 million people in inaccessible areas, including 540,000 trapped in 11 besieged areas. Humanitarian access has deteriorated since the start of 2017 as government forces routinely obstruct the delivery of cross-border aid (Rick G. & Somini S., 2016).

The Role of Libyan Government in The Internal Crisis

At the beginning, the Libyan government had failed in its responsibility as a sovereign state to protect its citizen by manifesting its power in a harsh manner upon its civilians. Supposedly, it was the responsibility of Libyan government, but in four days of the protest, Human Rights Watch stated that the death toll was at least 233 and that government troops were indiscriminately targeting civilians (Lynch, M. 2016).

According to Amnesty International, the claim on the allegations against Gaddafi and the Libyan state turned out to either be false or lack any credible evidence, noting that rebels at times appeared to have knowingly made false claims or manufactured evidence. Amnesty investigation argued that the number of casualties was heavily exaggerated, some of the protesters may have been armed, and there is no proof of mass killing of civilians on the scale of Syria or Yemen. It further contended that there is no evidence of aircraft or heavy anti-aircraft machine guns been used against crowds. It also doubted claims from the Western media that the protest movement was "entirely peaceful" and "presented no security challenge (Paton, Callum; Seraj, Essul, 2014)

However, in a later report from Amnesty International it was found that "al-Gaddafi forces committed serious violations of international humanitarian law (IHL), including war crimes, and gross human rights violations, which point to the commission of crimes against humanity. They deliberately killed and injured scores of unarmed protesters; subjected perceived opponents and critics to enforced disappearance and torture and other ill- treatment; and arbitrarily detained scores of civilians. They launched indiscriminate attacks and attacks targeting civilians in their efforts to regain control of Misratah and territory in the east. They launched artillery, mortar and rocket attacks against residential areas. They used inherently

indiscriminate weapons such as anti-personnel land mines and cluster bombs, including in residential areas (*Al-Gattani, Ali, 2014*).

The post Gadafi period has been continuous tragic situation, due to the fact that authority of Libya has been segregated into several warring factions, while majority are not even honour human rights laws. It is likely to take several years to come before Libya can witness a clean human right record especially on women and children. After fostering regime change in Libya, the rebellion against Gaddafi's regime received wide international support from Western powers., though, the latter did not want to engage in any nation-building, leaving the task to the Libyans and the UN in the aftermath of 2012 elections.

The major challenges to the government in the post Gadafi regime is the fragmental of authorities in the hand of several militant organizations that jointly contributed to the downfall of Gadafi (*Aliboni R., Ben Salem H., 2017*).

The first unity government reached decision to place militias on the state payroll, placing service of different factions under their own commanders rather than integrating them into the ranks of a new national army or disband them and open for a new recruitment as it was done in Iraq after invasion. As a result, political leaders more and more dependent on military commanders, setting the conditions for an impervious post-revolutionary. These show weaknesses on the side of the unity government to have effective control of Libya (*Lynch, M., 2016*).

Conclusion

The Responsibility to Protect does not only belong to foreign power or international organization, but it starts from the government of the country where such crisis occurred. Even though, it can be argued that due to the escalation of the war, various governments are not in full control of their boarder territories. The various investigations show that the atrocities to child began at the early stage of the crisis, when governments exercised full control over her subjects and the territories and refused to protect children from various violations committed. In fact, some argued that treatment against children and women are part of the contributing factors that later allowed the crisis to be escalated to larger amount.

Looking at the role played by the two countries' government in the crises, in accordance with the principles of Responsibilities to Protect, the governments of both countries are expected to play crucial roles to guarantee the protection of the civilians. First, during the crises, warring parties should declare a daily ceasefire or temporary truce to allow independent and unimpeded access for international humanitarian agencies to reach the most affected areas and to provide escape routes for civilians. Second, to create safe areas or safe zone, which all civilians and innocent people who are not involving in the fighting to be in safe locations. Furthermore, the belligerents should also cooperate fully with the Office of the High Commissioner for Human Rights in this regard to ensure the safety of the people (*Thakur, Ramesh, 2013*).

Nevertheless, although both states were facing similar nature of conflict; civil war in specific, but there were differences in the circumstances. For example, in Libya, the United Nations Security Council had come up with Resolution 1973 to implement R2P upon Libya. 10 out 15 members voted for approval while the remaining 5 abstained, and none disagreed. The resolution mandated NATO to create 'No Fly Zone'. Therefore, NATO legally sent their armies for intervention in the conflict to restrict the government army from targeting civilian.

As a result, the involvement of international community led by NATO falls under responsibility to protect (Paul R. Williams & Colleen, 2011).

However, in the Syrian case, UN could not come up with a resolution as the proposals were always veto by Russia and China whom are permanent members of Security Council with power to veto resolution. Therefore, UN do not have legal status to intervene, it become harder to open the door for intervention, it was also hard for humanitarian organizations to carry their role effectively too, even to distribute humanitarian supplies is done at their own risk. In this case, as a sovereign government, Syrian government must uphold its primary responsibility to halt and avert the commission of atrocities in Syria, that is obligation that is currently failing to fulfil. As a result, the government should ensure that security forces stop targeting unarmed civilians and act in accordance with their obligations under international law, particularly human rights and humanitarian law (Thakur, Ramesh, 2013).

The fact that there are conflicts of interest among major powers greatly contribute to the crises and mistreat against unprotected people. In the case of Syria, several warry factions operating in different location of the country, while support is received from outside such as; Iran, Turkey, Russia, Isbullah of Lebanon and the US. It is time for the concerned parties in Libya and Syria to take actions, or at least cooperate with other organizations to reduce the casualties and atrocities caused to innocent people. United Nations Security Council with other major powers need to unite and work out solution to stop these conflicts. The international body must desist from playing politics in the expenses of human life, instead, they should work together toward common goals and achieving everlasting peace among all factions in both Libya and Syria. Children had suffered beyond any imagination in the 21st century and adequate solution should be found to amicably resolve various threat to children. Besides, the law has to take its course; those who break the law have to face the consequences of the law. This will be difficult to achieve if the United Nations Security Council fails to lift up to its expectations.

References

- Ahmad A. A., 2018. ASEAN Attitudes Toward Implementation of Human Rights Protection Law at the National Level *Quest Journals Journal of Research in Humanities and Social Science* Volume 6 ~ Issue 12 (2018)
- Al-Gattani, A., (2014). *Shahat slams GNC*. Magharebia. Retrieved 20 August 2014
- Aliboni R., Ben Salem H., El Sagezli M., Dias A. and Nabli B., (2017). *Conflict in Libya: A Multidimensional Crisis State of Play and Paths Towards a Sustainable Peace* the European Institute of the Mediterranean and the Med Think 5+5 Network
- Article 50, first Geneva Convention 1949
- Bannon, A. L., (2006). The Responsibility to Protect: The U.N World Summit and the Question of Unilateralism *Yale Law Journal Vol 115 Issue 5/6*
- Batty, D. (2011). Libyan children suffering rape, aid agency reports. *The Guardian* Retrieved from: <https://www.theguardian.com/world/2011/apr/23/libyan-children-suffering-rape>
- BBC News. (2019). Libya Country Profile. Retrieved from: <https://www.bbc.com/news/world-africa-13754897>
- Byman, D. L. (2005). "The Implications of Leadership Change in the Arab World". *Political Science Quarterly*. 120 (1): 59–83
- Carol A. P., (1997). Preventing Sexual Abuse: Activities and Strategies for Those Working with Children and Adolescents Learning Publications Second edition.
- Carrie McDougall, (2013). The Crime of Aggression Under the Rome Statute of the International Criminal Court 2013 (US: Cambridge University Press)

- Daily Mail Reporter, (2011). Rebels-in-waiting: The children as young as seven being trained to fight on the front lines against Gaddafi. *Daily Mail*. Retrieved from <http://www.dailymail.co.uk/news/article-2014236/Libya-Children-young-7-trained-fight-Gaddafi.html>
- El-Gamaty G., (2016). Al-Jazeera: Libya: The Story of the Conflict Explained *The conflict in Libya is a scramble for power and wealth*. Retrieved from <http://www.aljazeera.com/news/2016/04/libya-story-conflict-explained-160426105007488.html>
- Lynch, M. (2016). *The New Arab Wars. Uprisings and Anarchy in the Middle East*. New York: Public Affairs-Perseus Books Group
- ICRC. (2010). *Protection of the Civilian Population* Retrieved from <https://www.icrc.org/eng/what-we-do/protecting-civilians/overview-protection-civilian-population.htm>
- International Committee of the Red Cross, Rule 136. Recruitment of Child Soldiers.
- International Committee of the Red Cross. Rule 156. Definition of War Crimes.
- International Medical Corps. (n.d). Mission of International Medical Corps. Retrieved from <https://internationalmedicalcorps.org/who-we-are/our-mission/>
- Paul R. W. & Colleen P. (2011). Security Council Resolution 1973 On Libya: A Moment of Legal & Moral Clarity, *Case Western Reserve Journal of International Law* 44 Case W. Res. J. Int'l L. 225, 228
- Paton, C., Seraj,E., (2014). ELECTIONS 2014: Final results for House of Representative elections announced". *Libya Herald*. Archived from the original on 9 May 2019. Retrieved 9 May 2019.
- Philip L, (2015). Libya: Horrific abuse driving migrants to risk lives in Mediterranean crossings *Amnesty International* Retrieved from: <https://www.amnesty.org/en/latest/news/2015/05/libya-horrific-abuse-driving-migrants-to-risk-lives-in-mediterranean-crossings/>
- Report of the Working Group on the Universal Periodic Review: Libyan Arab Jamahiriya" A/HRC/16/15). *Universal Periodic Review*. United Nations. 4 January 2011. Retrieved 26 October 2011
- Rick G. & Somini S., (2016). Unrelenting Assault on Aleppo Is Called Worst Yet in Syria's Civil War, *New York Times*
- Salhani, J. (2016). *The Forgotten Conflict in Libya* Explained Retrieved from: <https://thinkprogress.org/the-forgotten-conflict-in-libya-explained-4ffc134b0a9a/>
- Save the Children. (2011) Save the Children receives reports of child rape in Libya. Retrieved from <http://www.savethechildren.org.uk/2011-04/save-children-receives-reports-child-rape-libya>
- Shekfeh, S. (2017). UNHCR Convoys in Northeast Syria. Retrieved from: <http://www.unhcr.org/sy/10762-unhcr-convoys-northeast-syria-help-tens-thousands-displaced-ongoing-raqqa-fighting.html>
- Shelly C., Louay, (2015). *Constant Education of Syrian Refugee Children Managing the Crisis in Turkey, Lebanon and Jordan* California: Rand Corporation
- Sollom, R., & Close, K. (2011). *Witness to War Crimes: Evidence from Misrata, Libya. Sovereignty: Responsibility to Protect Report*. Retrieved from <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&u>
- State sovereignty. (n.d.) *West's Encyclopedia of American Law, edition 2*. (2008).

- Stephen M. W., (2011) That 'massacre' in Benghazi: A response to David Bosco Retrieved from: <https://foreignpolicy.com/2011/04/08/that-massacre-in-benghazi-a-response-to-david-bosco/>
- Thakur, Ramesh. (2013) R2P after Libya and Syria: Engaging Emerging Powers." *The Washington Quarterly*, 36:2. 6176. 2013.
- Tou'meh, V. (2017). UNHCR helps returnees rebuild their lives in East-Aleppo. Retrieved
 UNHCR. (2013). The Future of Syria: Refugee Children in Crisis Retrieved from
<http://www.refworld.org/pdfid/529c3b4d4.pdf>
- UN Charter, Article 2(4).
- UN Charter, Article 51.
- UN Charter, Chapter VII.
- UNSC Report. (2012). UN Security Council on Children During Armed Conflict
- UNSC. (2014). First UN Report on Child Abuse in Syria's Civil War paints picture of
 unspeakable' horrors Office of the Special Representative of the Secretary-General for
 Children and Armed Conflict
- Your Middle East. (2015). Facts: Foreign Involvement in Syria's War. Retrieved from
http://www.yourmiddleeast.com/news/facts-foreign-involvement-in-syrias-war_36044