

Women In Syrian Armed Conflict– A Bastion Or Blemish

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Abstract

Modern day conflicts have brought to fore stories of suffering and hardship of human beings along with the destruction and devastation of the state, which takes a long time to recoup. The conflict underway in Syria is in its ninth year which rose from a mere uprising to a full-fledged armed conflict with varied parties including both state and non-state actors. In the prime of the ongoing conflicts, women are forced to take up new roles and responsibilities as a result of the gendered impact of war. A fatwa on female slaves¹ discovered by US forces in Syria list 15 rulings for ISIS fighters owning female slaves. One such ruling reads as such “If the owner of a female captive, who has a daughter suitable for intercourse, has sexual relations with the latter, he is not permitted to have intercourse with her mother and she is permanently off limits to him.” This paper attempts to understand the type of conflict progressing in Syria and its neighboring countries in the light of international humanitarian law (IHL). It also considers the plight of women and young girls who are left to fend for themselves in a male dominating state with increased targeted harassment, sexual violence, rape, torture and other abuses. Women and children would remain victim of such innumerable violence in spite of international humanitarian and human right laws being in force without a proper mechanism for enforcing the same. A question would always linger “Are women at the receiving end of such atrocities in situations of armed conflicts?”

1.1 Introduction

Incidence of armed conflicts has seen a sharp rise in the twenty first century and more significantly in the past decade, without any possibility of respite in the near future. These conflicts have garnered moment with the passage of time, specifically in the middle-eastern region, with the ongoing conflicts getting more and more intense with each passing day. Armed conflicts are clashes that normally arise between two or more parties, in which government is a party, in dispute over power or government². Conflicts within states are mostly driven for the achievement of certain goals like fighting for internal change by a minority group within the state or for seizing governmental power by a select group of people. These groups are motivated to do such act because of the money involved. Armed conflicts not only cause destabilization of the government but also plunder the state, its assets and results in complete breakdown of the

¹Lizzie Dearden, *ISIS ‘fatwa’ on female sex slaves tells militants how and when that can rape capture women and girls*, available at <http://www.independent.co.uk/news/world/middle-east/isis-fatwa-on-female-sex-slaves-tells-militants-how-and-when-they-can-rape-captured-women-and-girls-a6789036.html> (last visited on Jan 25, 2017).

²Dan Smith, *Trends and Causes of Armed Conflict*, available at http://edoc.vifapol.de/opus/volltexte/2011/2576/pdf/smith_handbook.pdf (last visited on Feb 14, 2017).

government functionaries thus leaving aside a battered and destroyed state with cries for help. This paper traces the origin of the on-going conflict in Syria for a better understanding of the conflict and highlights the plight of women and young girls who are left to fend for themselves during and after the conflict.

1.2. Understanding the Syrian Conflict: An introspection

The Syrian conflict started off in March 2011³, as a peaceful protest by 15 boys who were in support of the 'Arab Spring' which had toppled the Egyptian President. This support turned detrimental for the boys as they were tortured and one succumbed to his injuries. This incident paved the way for an uprising against the Assad Government demanding freedom and seeking political and economic reforms. The Syrian government instead of heeding to the demand for reforms, responded by killing hundreds of demonstrators and imprisoning several others so as to suppress the upheaval.⁴ Such an act had to have an adverse effect on the protest which led to a sectarian split among the regional players. The minority religious group was boosted by the involvement of several neighboring states like Iran, Lebanon, Afghan and Russia, who favoured the Syrian government which formed the Shia group. While the majority of the Sunni Muslim states supported the rebels like Turkey, Saudi Arabia and Qatar⁵. The involvement of sectarian groups turned the protest into a full-fledged armed conflict. Syrian conflict is presently between the government forces, the pro-government militia and the armed groups which comprises of Islamic State of Iraq and Syria (ISIS) and Free Syrian Army (FSA). The mainstream Islamist opposition is loosely organized into what is known as the Islamic Front.⁶ There are several other jihadist armed groups like Al Qaida and Al Nusrat Front and its allies who are also involved in the conflict⁷. With each passing year, new groups make up the Islamic Front which either enter into new alliance with a group or severs ties. Hence, it is not possible to get an exact picture of who all are involved in the conflict and what their objective is, other than a general objective of overthrowing the Assad government in Syria.

ISIS is an affiliate of Al Qaida which originated in Iraq which played a tremendous role against the anti-Iraq regime. In the initial stages of the Syrian conflict in 2013, ISIS was supporting Al Nusra front but a proposal for merger of the two groups was not accepted and hence led to the establishment of ISIS in Syria. Presently they hold a vast area of the territory of Syria and have their base at Rakka. Their objective as of now is the establishment of an ultra-radical Salafist Islamic State⁸.

1.3 Classifying the conflict in Syria

³Syria's civil war explained, *Al Jazeera*, available at <http://www.aljazeera.com/news/2016/05/syria-civil-war-explained-160505084119966.html&grqid=Su4ATd1Z&hl=en-IN> (last visited on Feb 6, 2017)

⁴*Id*

⁵*Id*

⁶ Leading Syrian Rebel Groups Form New Islamic Front, *BBC.*, available at <http://www.bbc.com/news/world-middle-east-25053525> (last visited on Feb. 10, 2013)

⁷Terry D Gill, *Classifying the conflict in Syria*, 92 Int'l L. Stud. 353, 357-358 (2016)

⁸ Carla E Humud, Christopher M. Blanchard & Mary Beth D Nikitin, *Armed Conflict in Syria: Overview and US Response*, CRS Report. Available at <https://fas.org/sgp/crs/mideast/RL33487.pdf> (last visited on Jan 6, 2017)

International Humanitarian Law (IHL) applies to armed conflicts and situations of occupation but does not comprise internal disturbances, riots, tensions and isolated acts of violence. IHL distinguishes conflicts into two categories namely international and non-international. An armed conflict of an international character involves two or more parties wherein a war need not have been declared and neither the parties have recognized it as a state of war. A non-international armed conflict (NIAC) normally takes place within the territory of a single state involving the armed forces of the state and or armed groups⁹. For an armed conflict to be recognized as a NIAC, there must be a group which is organized having occupied a territory in the state and must be led by a commander who hold control over the group. Such groups are called belligerents and irrespective of the fact whether that group is recognized by the state where the conflict occurs, they will be recognized by the international community and thereby the conflict attains the character of a NIAC.

As such the conflict progressing in Syria is an overlapping non-international armed conflict with several groups involved like the Free Syrian Army, the Islamic State group, and the Kurdish militia. Over and above the conflict going on in Syria, the United States initiated airstrikes against Islamic State group and Al Qaida as a spill-over from the conflict in Iraq¹⁰. In an instance where a third state uses force against the armed forces of a state it would constitute an international character to the conflict. A third country can interfere in the conflict only if the state in which the conflict is undergoing consents to do so. In Syria, United States had intervened into the territory of Syria without its consent and this amount to International Armed Conflict (IAC). This intervention by the US was not against the Syrian government but against the armed group ISIS which had started targeting the US forces from the state of Syria. Further, this intervention by the US was targeted only are the armed groups and was not aimed at occupying the territory of Syria. Also, there is no conflict which is being pursued between the armed forces of Syria and the intervening forces hence; this intervention by the US is not to be considered as an IAC but only as a NIAC.

Turkey has also initiated conflict against the Kurdish militia as a preventive measure to curb the conflict within Syria and not to have a spill over beyond the boundaries of Syria and on to Turkey. Turkey in a bid to prevent the Kurds has intensified its attacks which has initiated a third NIAC. However, there has been no attack on the Syrian forces by the Turks. This has resulted in a number of conflicts being fought in Syria.

A question arises as to why there is a need to identify the type of conflict that is on-going in the Syrian territory. It is for ascertaining as to which IHL will apply pertaining to the conflict, as on the basis of the conflict the law applicable can be spelled out. In short it is more or less clear that the conflict that is taking place is a non-international armed conflict which has different parties involved in it.

⁹ICRC, The domestic implementation of international humanitarian law – A manual. Available at <http://www.icrc.org/ihl-nat> (last visited on Feb 15, 2017)

¹⁰RULAC, Geneva Academy, Non-international Armed Conflicts in Syria. Available at <http://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-syria#collapse2accord>, (last visited on Feb 3, 2017).

1.4 Blatant violation of human rights in the guise of Syrian armed conflict

With the escalation of the protest in 2011, violence also increased with the state plunging into a civil war. There has been a complete disregard for the lives of civilians who have been increasingly affected by the civil war. Reports indicate that more than 511,000 people have been killed; 6.6 million people internally displaced inside Syria; and over 480,000 people living in besieged areas. Over 5.6 million people have fled the country as refugees¹¹. An estimated 11.7 million people inside Syria, more than half the population, were in need of humanitarian and protection assistance, including 2.1 million children¹². As per the estimates of November 2019, 9 million people in Syria were food insecure¹³ and 13.2 million people were in need of health assistance¹⁴. Both the government and non-state actors have equally been involved in committing atrocities in Syria. Some of the major violation of human rights in the context of arrest and detention are torture, ill-treatment and deaths in custody as well as enforced disappearances carried out by the government forces¹⁵. Civilian protection concerns include mass executions, systematic rape and sexual violence, torture, and appalling treatment of those in detention. Lack of access, food insecurity, health concerns (injuries, disease outbreaks, serious medical conditions and disabilities), inadequate shelter, and an economic recession coupled with growing poverty contribute to the vulnerability of millions of civilians¹⁶.

Women and girls have suffered abuse during this period, including gender issues like detention, sexual violence in the conflicts, forced marriages and being sex slaves¹⁷. Women are also left to head their household in the absence of the males who are involved in the war or have been killed in the war.

1.5 Women in Syria: An untold story

The chilling stories of women who have suffered during the conflict show a different face of the war that is going on in Syria. Some of the women were involved in smuggling medications between neighbourhoods, some tortured or harassed and other had to head their households following their husband's detention or death. One such story is of *Layal*, a 21-year-old who was arrested by pro-government militia members for assisting the internally displaced. She was forced to confess to being a part of organizing bombings in al-Kazzaz. The brutalities she had to suffer include being molested, hit with a thick electric cable on her feet, an being hung from the ceiling in a stress position and many more. She was released as a part of a swap for Iranian

¹¹Human Rights Watch, World Report 2019 – Syria, available at <https://www.hrw.org/world-report/2019/country-chapters/syria>, (last visited on Dec 7, 2019),

¹²UNOCHA, Syrian Arab Republic, Key Figures, available at <https://www.unocha.org/syria> (last visited on Dec 7, 2019)

¹³*Ibid*

¹⁴Acaps, Crisis Updates – Syria, available at <https://www.acaps.org/country/syria/crisis/conflict> (last visited on Dec 7, 2019)

¹⁵*Ibid*

¹⁶*Id*

¹⁷Human Rights Watch, *supra* note 11

detainees. The sufferings she had to bear is evident in her words, “I don’t have any feelings at all – no happiness, no sadness, nothing”¹⁸

Syrian women active in demonstrations and civilian assistance are targets for abuse, harassment, and detention by government forces and, sometimes, non-state armed groups opposed to the government. In the absence of men in the household, the women are left vulnerable to abuse during household raids and search operations of the armed groups. Incidences of abduction and taking of hostages of women and girls for political mileage is rampant. Women are forced to lead search operations for disappeared or detained relatives and also have to take great responsibility of the family in supporting them and also leading non-violent demonstrations. They play the role of a de facto head of the family, which happens not only during the conflict but also while trying to flee the territory.

Women are faced with restrictions too at this crucial time of the conflict. The mobility of women and girls are restricted outside their homes in Syria for fear of sexual violence and indiscriminate attacks. The restrictions imposed also extend to the dress code and limitation on women’s engagement in public life. Another restriction is with regard to access to education and employment. Such constraints put on the women force them to be passive and be bound by the rules and regulations which are merely serving to make them even more passive rather than active, which is the need of the hour for the women as she is forced to head the family in times of crises. In the face of loss, still the women of Syria seem to be holding strong and together in spite of the sufferings and restrictions imposed on them to persist in providing for the family and also speaking out for the freedom and human rights of women.

The role of women is rightly stated in the quote of an activist from Aleppo

“On the news (about Syria) you only see blood and destruction. You don’t see that behind it, there are civilian groups doing things peacefully. We are still here.”¹⁹

The atrocities against women took a different turn when the pamphlets of the ISIS were recovered by the US forces in which 15 fatwas relating to female slaves were issued. This details a ruling on when owners of women enslaved by the extremist group can have sex with them, which was a bid to curb what they called violations in the treatment of captured females. This fatwa has the force of the land and tries to reinterpret the age-old teachings to justify sexual slavery of women in the swaths of Syria and Iraq under its control.²⁰

To know the extent of the audacity of the fatwa, a few rulings are being listed below which will give a clear idea as to the plight of women in the times of war in Syria. “The owner of two sisters is not allowed to have intercourse with both of them, rather he may only have intercourse with just one. The other sister is to be had by him, if he were to relinquish ownership of the first sister by selling her, giving her away or releasing her.” Another one reads as follows: “If a father has intercourse with his female captive then gave her away or sold her to his son he is no longer

¹⁸Human Rights Watch, We are still here – Women on the front lines of Syria’s conflict. <https://www.hrw.org/report/2014/07/02/we-are-still-here/women-front-lines-syrias-conflict> (last visited on July 2, 2014).

¹⁹Id

²⁰Dearden, *supra* note 1

permitted to have intercourse with her.”²¹ This shows the level to which a slave women’s life is in the time of war in Syria. The life of a woman in Syria is too grave and grim and she is considered just as a commodity for satisfaction.

1.6 Protection Women in Syria

Violence against women is a matter of great concern in the world irrespective of the fact whether there is an armed conflict progressing or not. The several armed conflicts that have taken place in the last two decades are witness to the fact that women and girl child have been at the mercy of the forces or armed groups who take all forms of sufferings and hardship that they are to face. The pent-up emotions of one and all involved in the conflict gets showered on women who are at the mercy of the males who dictate the course of the war.

The IHL clearly states that woman and children must be protected and not subjected to torture, suffering and harassment. But in spite of these provisions seeking to protect the civilians, yet, the plight of women is grave with the passage of time. Syrian women who are the bastion of the family for their livelihood are also the forerunner for the freedom and upliftment of the rights of humans in Syria. Still, they remain to be considered as a commodity to sustain the pains of humiliation, torture and harassment.

Women have been at the receiving end in facing food insecurity, lack of education, no health service and also no drinking water. They are the basic rights which every human being is bestowed with but still it remains a dream for them. The women are forced to stay in refugee camps in Turkey and Lebanon where they have to fetch for themselves. It is over here that the women have learnt skills for providing for themselves and their children. For furthering the rights of Syrian Women, the Syrian Women Advisory Board consisting of 12 representatives was established. This board has come together for promoting peace and for helping women from diverse backgrounds and for unifying for peace²².

Women have come together for raising their voices and for promoting their rights as they have understood the crucial role women can play in the upliftment of women. But the question will always remain, whether women’s plight would continue to be the same in all such armed conflicts or will there be any change?

1.7 Conclusion

A change is possible only and only if the forerunners of the armed conflicts treat women with dignity and not as a commodity. The crimes as stated under the Rome Statutes, involving war

²¹ India Times, Disgusting ISIS fatwa on sex slaves shows just how bad the condition of women is under ISIS occupation. <http://www.indiatimes.com/news/world/disgusting-isis-fatwa-on-sex-slaves-shows-just-how-bad-the-condition-of-women-is-under-isis-occupation-248883.html>(last visited on Dec 29, 2015).

²² UN Women, Crisis update: Women of Syria, eight years into the crisis, available at <https://www.unwomen.org/en/news/stories/2018/8/feature-syria-humanitarian-update> (last visited on Dec 7, 2019)

crimes, crimes against humanity, genocide and crimes of aggression should be made a serious offence. Presently, rape and sexual offences fall under the category of war crimes alone. As of now, it is only the Security Council who can help in providing any relief for the women who are suffering in Syria. Mere statements condemning the acts from the authorities will not suffice to make a change for the women and young girls. The agencies of the UN have to work in consonance with each other and take all necessary steps for the eradication of the problem faced by women.

The challenge for women's and human rights advocates is how to articulate sexual autonomy and free and informed sexual expression as necessary and integrated rights on a par with others, and proactively strategize to secure and promote these rights during armed conflict. There needs to be a more concerted and effective international action for enforcing the international law banning the violence against women. All possible measures are to be taken for the safety and security of women thereby protecting them from the vulnerabilities and sufferings during the phase of an armed conflict and beyond.