

## **International Humanitarian Law Perspective on Un-Targeting Attack**

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### **ABSTRACT**

**Keywords:**  
*Syria' Conflict;  
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*The Syrian conflict started on January 26th, 2011. At first, the conflict in Syria was an internal conflict between the government of Bashar Al Assad and the Rebel, the descent into war began with the violent and brutal repression of peaceful pro-reform protests, which later turned into an armed uprising against the regime of Bashar al-Assad, and has since become a regional conflict involving state and non-state actors. In the development of the conflict, some parties intervened to provide support for the Bashar al-Assad. One of the countries that intervene against Syria is Russia. In the armed conflict which happened in Syria on September 2015 and early October 2016, more than 9,000 people, including 4,000 Syrian civilians, were killed by the Russian airstrikes. The International Humanitarian Law hostilities regulate the protection of victims of conflict and restrictions on the means and methods of warfare. This study aims to identify the obstacles of legal enforcement of international humanitarian law toward un-targeting attack in Syria. In addition, this study tries to reveal the responsibility of these states, both Russia and Syria for the loss and injury caused by an un-targeting attack. The result shows that the obstacles of law enforcement in Syria case caused Syria is not a state party in several international conventions. Therefore, these conventions are not applicable formally in the armed conflict in Syria. Based on International Humanitarian Law, Syria Government is responsible for the un-targeting attack that occurred in Syria, and required to make full reparation for the loss or injury caused by such violations. They are required to make full reparation for the loss or injury caused by an un-targeting attack. Furthermore, Individuals belonging to an Organizations or State are held personally responsible before the law. Then, the United Nations Security Council (UNSC) must carry out UN Charter Articles 41 and 42 and UNSC as the main organ responsible for maintaining international peace and security.*

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### **1. INTRODUCTION**

In the International Humanitarian Law hostilities regulate the protection of victims of conflict and also restrictions on the means and methods of warfare. In this case, Russia has violated the means of warfare as it has been governed by conventions, namely

the Geneva Convention and The Hague Convention. The Syrian conflict started on January 26<sup>th</sup>, 2011. At first, the conflict in Syria is an internal conflict between the government of Bashar Al Assad, the son of President Al Assad and ruled before. The conflict follows from the many disputes in several countries in the Middle East known as the Arab Spring. Most citizens in the Middle East demonstrated to the ruling government to sue to stop the regime. They demanded the establishment of a more democratic government without the participation of the Ba'th party in Syria by the seat of governmental elections more democratic. Syrian citizens also demand a halt to enforcement of the emergency law that has been ratified since 1963 because it is considered to violate the human rights of Syrians. Because of Syrian government could not complete the internal conflict, the administration of President Assad invited Russia to help resolve the conflict by providing military and diplomatic aid. The descent into war began with the violent and brutal repression of peaceful pro-reform protests, which later turned into an armed uprising against the regime of Bashar al-Assad and has since become a regional conflict involving state and non-state actors. In the development of the conflict, some parties intervened to provide support for the Bashar al-Assad.

Russia intervened during the conflict between the Syrian government (Bashar al-Assad) and the rebels. The violence committed by parties Bashar al-Assad was increasingly large and resulted in widespread damage and casualties during the conflict. More Syrian civilians who became victims of military attacks carried out by Bashar al-Assad with the help of countries that provide military support to Bashar al-Assad.

Furthermore, Russia began airstrikes against Syria on September 30<sup>th</sup>, 2015, to support the Syrian government forces fight the rebels. The stark account of the war's toll came as warnings multiplied about Aleppo, Syria's largest city, in danger of being cut off by government advances aided by Russian Airstrikes. The Syrian opposition is demanding urgent action to relieve the suffering of tens of thousands of civilians.<sup>1</sup> Under International Humanitarian Law, medical facilities are accorded special protection while considering the general protections applied to civilians and their structures. They should never be attacked unless used for military purposes to commit acts harmful to a party to the conflict. Absent these conditions, deliberate attacks on medical facilities violate the laws of war and could be prosecuted as war crimes.<sup>2</sup>

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<sup>1</sup> Laurent Gisel, "The Principle of Proportionality in the Rules Governing the Conduct of Hostilities Under International Humanitarian Law," 2018; Team Guardian News, "Report on Syria Conflict Finds 11.5% of Population Killed or Injured" (The Guardian, 2016), <http://www.theguardian.com/world/2016/feb/11/report-on-syria-conflict-finds-115-of-population-killed-injured>.

<sup>2</sup> Curtis A. Bradley, "U.S.-Russian Agreements on Syria Break Down as the Syrian Conflict Continues," *American Journal of International Law* 111, no. 2 (2017): 170–81, <https://doi.org/10.1017/ajil.2016.5>; Helle Thorning Schmidt, "The War on Children," *New Statesmen*, 2018, [https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war\\_on\\_children-web.pdf](https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war_on_children-web.pdf).

Based on the data of Syrian Observatory for Human Right, Russian airstrikes killed 9,000 people, including 4,000 civilians, between September 2015 and early October 2016. Moreover, United Nations (UN) stated that 250,000 people were killed in the conflict that raged and emphasized by the UN Special Envoy for peace Syria. Staffan De Mistura also argued that within 48 hours (April 30<sup>th</sup> 2016 - May 2<sup>nd</sup>, 2016), one of the lives was lost every 25 minutes and one person injured every 13 minutes.

Based on the description above, this study aims to identify the international humanitarian law implementation in Syria case and its obstacles. For the additional purpose, this study tries to reveal the responsible state parties to the conflict.

## **2. RESEARCH METHODS**

The research uses normative legal research with a statutory approach and conceptual approach. The primary legal material in this study is international humanitarian law, United Nations (UN) Charter, Rome Statute, Customary International Humanitarian Law and Additional Protocol II / 1977. The secondary legal material was obtained from relevant journals, books and related articles. The data were analysed through descriptive qualitative.

## **3. RESULT AND DISCUSSION**

### **3.1. The Overview of International Armed Conflict and Non-International Armed Conflict according to International Humanitarian Law**

Armed conflict can be classified into (1) international armed conflict; (2) non-international armed conflict/armed conflict not of an international character. According to International Humanitarian Law, the difference between international armed conflict and non-international armed conflict lies in the nature and the number of countries that become parties to the armed conflict.<sup>3</sup> The international armed conflict is described as a war between two or more countries, while non-international armed conflicts are combat or war involving a country that is fighting a non-state armed group. However, non-international armed conflict could turn into an international armed conflict in certain situations, which is also called by the internationalized internal armed conflict.

#### **3.1.1. *International Armed Conflict (IAC)***

The definitions of the International Armed Conflict contained in the Commentary Geneva Convention II 1949, which stated: “Any difference arising between two states and leading to the intervention of members of the armed forces is an armed conflict within the meaning of Article 2, even if one of the Parties denies the existence of a state of war. It makes no difference how long the conflict lasts, or how much slaughter takes place” it

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<sup>3</sup> Ambarwati, Denny Ramdhany, and Rina Rusman, *Hukum Humaniter Internasional* (Yogyakarta: Rajawali Press, 2010); Schmidt, “The War on Children.”

can be regarded as international armed conflict and categorized as inter-state war.<sup>4</sup> Article 1 paragraph 3 of Protocol I of 1977, clearly support that the subject matter of Article 2 Common Articles Geneva Convention 1949 is the terminology of International Armed Conflict. Additional Protocol I of 1977 on reference to Article 2 of the Geneva Conventions of 1949.

### **3.1.2. *Non-International Armed Conflict (NIAC)***

Two main legal sources must be examined to determine what a NIAC under international humanitarian law is: (1) Common Article 3 to the Geneva Conventions of 1949; (2) Article 1 of Additional Protocol II. The criteria of non-international armed conflict are contained in Additional Protocol II / 1977 on the Protection of Non-International Armed Conflict Victims. Additional Protocol II / 1977 defined Non-International Armed Conflict as the armed conflict that occurred in the territory of a country between the armed forces and armed forces rebels or organized groups under responsible command to carry out control over territory and to enable the sustainable and unified military operation.

The rules in Additional Protocol II / 1977 binding state if the rebels have met certain criteria. In other words, to determine the application of the rules of Additional Protocol II / 1977, it should be seen that faced by a particular country's armed forces is the rebel forces which have an element or on the following criteria:

- a. Is an organized armed group;
- b. Are under responsible command;
- c. Exercise control over such parts of the territory;
- d. Able to conduct sustainable and united military operations;
- e. Able to apply the International Humanitarian Law rules contained in Additional Protocol II / 1977.

In its development, in particular, in the agreement contained in the Rome Statute of 1998, the enactment of the International Humanitarian Law for Non-International Armed Conflict rules no longer require that the rebel forces have controlled part of the territory and are under a command responsible. Provided that the ongoing conflict and the insurgents encountered are organized groups, the state and the rebel parties are bound to obey the International Humanitarian Law.

### **3.2. The Historical Background of Conflict in Syria**

Syria is officially named the Syrian Arab Republic, is a country located in the region of West Asia. Lebanon and the Mediterranean Sea border the west of Syria. To the north, Syria borders Turkey, while the east borders South Jordan, and Israel. The capital

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<sup>4</sup> Fadillah Agus, "Hukum Humaniter Suatu Perspektif," 1 (Jakarta, 1997).

of Syria is Damascus.<sup>5</sup> In late 2010 and early 2011, Syria is a more stable country, especially compared to Tunisia, Egypt, Yemen, Libya, and Bahrain. All of this country is an authoritarian system. It is this kind of government that has led to revolutions in North Africa and the Middle East. Like Tunisia and Egypt, Syria was ruled by a one-party regime with an iron fist for many years: from the time of Hafez al-Assad (through the "Korectionist Movement" in 1970, he launched a bloodless coup and on 12 March 1971 he was declared as President of the Syrian Arab Republic until he died in 2000) and was succeeded by his son Bashar al Assad.

Since the Arab Spring swept Syria on March 6<sup>th</sup> 2011 a wave of pro-rebel demonstrations spread all over Syria, especially in the city of Deraa. The armed conflict in Syria is a popular revolution that continues *the Arab Spring* revolution, which first Takes place in Tunisia, Continues to Egypt, Libya, Yemen, and Syria. The conflict in Syria originated from a protest against some students' arrest in the small city Deraa.<sup>6</sup> March 2011, 15 students aged between 9-15 years of writing slogans anti-government on the school walls. The slogans of the revolution that stated "*As-Shaab / Yoreed / Eskaat el nizam!*" Which means "People/want/overthrow the regime!".<sup>7</sup> The children's action made Mukhabarat (Mukhabarat was one of the intelligence services or security, controlling, supervising residents and tasked with defending the regime from emerging threats both internal and external) angry. Mukhabarat, led by General Atef Najib, catch the dam jailing these children for a month. During the period of detention, these children are subjected to torture, this is known when these children are released. As a result, there was a wave of demonstrations protesting against torture by the police. Security forces attempted to break up the demonstrations, but the demonstrators did not budge until the security forces opened fire on the demonstrators. The army's reaction to the protesting masses was overwhelming, they fired on the mob and left four dead. The reaction was not relieved Protests, on the contrary, the protests are widespread from Deraa to the suburbs of Latakia and Banyas on the Mediterranean Coast or the Mediterranean Sea, Homs, Ar Rasta, and Hama in Western Syria, and Deir es Zor in East Syria.<sup>8</sup>

### 3.3. The Factor of the Conflict in Syria

Several factors trigger the cause of the Syrian war, such as economic disparities and military policies whose government is too aligned to the military. Almost 50% of

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<sup>5</sup> Ibnu Manshur, "Sekilas Mengenal Negara Suriah (Syria) Dan Jumlah Penduduknya" (Muslim Media News, 2014), <http://www.muslimmedianews.com/2014/03/sekilas-mengenal-negara-suriah-syria.html>; Trias Kuncahyono, *Musim Semi Di Suriah: Anak-Anak Penyulut Revolusi* (Jakarta: Kompas, 2013).

<sup>6</sup> Stephen Starr, *Revolt in Syria: Eye-Witness to the Uprising* (London: C. Hurst & Co, 2012).

<sup>7</sup> A.Muchaddam Fahham and A.M. Kartaatmaja, "Konflik Suriah: Akar Masalah Dan Dampaknya," *Politica* 5, no. 1 (2014): 37–60.

<sup>8</sup> Miftahul Ghani Saputra, "Keterlibatan Rusia Dalam Perang Sipil Suriah Tahun 2011-2016," *Jurnal Analisis Hubungan Internasional* 7, no. 3 (2018): 268–85.

funds are allocated to the military field. Meanwhile, the issue of the Sunni-Shiite war continues to be echoed by some western media. Based on interviews conducted by the magazine *Hidayatullah* with Dr Daud Abdullah (Middle East Observer of the Middle East Monitor, London, UK) that experts in the West, such as Turkey and the Gulf states expect the fall of the government in Syria to go according to what happened in Tunisia (internal insurgency) or Libya (interference Outside), while Russian experts say that the case of Syria is different from the others. It is based on several factors, among which the non-heterogeneous population, fairly effective soldiers, and the ruling class are consolidated enough. The main factors of Syria's conflict, namely:

a. State Violence

Syria's powerful intelligence agency, the infamous mukhabarat, penetrated all spheres of society. The fear of the State made Syrians apathetic. State violence was always high, such as disappearances, arbitrary arrests, executions, and repression in general. However, the outrage over the brutal response of security forces to the outbreak of peaceful protests in spring 2011, which was documented on social media, helped generate the snowball effect as thousands across Syria joined in the uprising.

b. Economic Disparities

From year to year, Syria continues to experience a decline in the economic field and, coupled with overseas debt, continues to swell. Syria, in times of trouble, evidenced by oil production to 400,000 barrels per day, Syria has difficulty running public services because of the crisis, high birth rate and per-capita income decline. Cautious reform of the remnants of socialism opened the door to private investment, triggering consumerism among the urban upper-middle classes. However, privatization only favoured the wealthy, privileged families with ties to the regime. Meanwhile, provincial Syria, later to become the centre of the uprising, seethed with anger as living costs soared, jobs remained scarce, and inequality took its toll.

c. Military Policy

Hafez Al-Assad is a figure worth reckoning with in the political arena in the Middle East while still in power. Since the early 1980s, Hafez Al-Assad launched a policy of Syria in the Arab-Israeli conflict, namely military force Syria must continue to be built until able to compensate for Israel's military power even without the help of Arab countries another<sup>9</sup> and in 1985 he spent 3,5 billion USD or 35% of the state budget to build the defense sector. A year later, the defence sector budget was raised to 65% of the entire State Budget. In 1988 Hafez Al-Assad also purchased some medium-range missiles from China. It seemed like the Syrian Government only wanted to advance the military sector, for the budget to fund military forces is very high.

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<sup>9</sup> M.rizal Sihbudi, *Islam, Dunia Arab, Iran: Barat Timur Tengah* (Bandung: Mizan, 1991).

d. Population Surge

Syria's rapidly growing young population was a demographic time bomb waiting to explode. The country had one of the highest growing populations globally, and Syria was ranked ninth by the United Nations as one of the fastest-growing countries in the world between 2005-2010. Unable to balance the population growth with the sputtering economy and the lack of food, jobs and schools, the Syrian uprising took root.

e. Drought Disaster

Syria began suffering from its huge drought disaster in over nine decades in 2006, according to the United Nations. Between 2006 and 2011, the United Nations estimates that 75% of Syria's farms collapsed, and 86% of animals died. Around 1.5 million impoverished farmer households were forced to relocate Iraqi refugees into rapidly developing urban slums in Damascus and Homs. Water and food were scarce. With few to no resources available, societal upheaval, violence, and uprisings were unavoidable.

In this case, Russia has been cooperating with Syria for a long time since the father of the Bassar Al Assad era. The intervention conducted by Russia is not only based on the UN Resolution and the direct request of the Syrian government but because of the cooperation that has existed between Syria and Russia since the leadership of Hafez Al-Assad to date has been one of the causes of Russian involvement in the civil war in Syria. Russia also considers this battle to be a gamble of prestige between Russia and the United States. There are several reasons Russia engage in a civil war in Syria, such as:

a. Protecting investment and trading assets

Trade relations between Russia and Syria are very significant in the economy (field of armaments) led to Russia having an important role against Syria. A total of 90 infrastructure and industrial facilities in Syria is also a joint venture with Russia. In industry, Syria and Russia cooperation include developing petroleum and natural gas, power plant construction projects, military bases, and infrastructure improvements in some industries.<sup>10</sup>

b. Maintain Russia's influence in the Middle East

Russia's presence in the Syrian crisis is clearly visible from a strategic political point of view, making it very clear that Russian and Syrian economic relations are more on Russian effort to return to a calculated force. All Russia's actions are not intended to perpetuate the government That is still in power (Bashar Al-Assad). However, Russia is worried if Bashar Al-Assad is down, Then the influence it has will disappear.

c. Creating Regional Stability

Russia continues to try to strengthen its influence in the Middle East. Location Syrian geographies directly adjacent to Israel, Lebanon, Iraq, Turkey,

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<sup>10</sup> Dhvani Adyatmika Nandanaardi, "Kebijakan Luar Negeri Rusia Terhadap Suriah Dalam Konflik Suriah Tahun 2011-2012," *Jurnal Hukum Yuridika Universitas Airlangga* 3, no. 1 (2014): 140–51.

and Quite close to Saudi Arabia is a very strategic position against politics Russia in the Middle East. Coupled with the proximity of these countries with The United States, of course, Russia does not want to lose its hegemony in the East Central.

The causes of the conflict in Syria that the author explains above has divided several groups in the conflict in Syria, such as Government groups, pro-government groups, rebel groups, and pro-rebel groups. The sharing of conflict groups makes them fragmented in terms of their respective interests. Especially for outsiders who support groups in conflict.

### **3.4. The Obstacles of Legal Enforcement of International Humanitarian Law Toward Un-targeting Attack in Case of Syria and Its Sanctions**

The obstacle in international humanitarian law's legal enforcement in armed conflict is that Syria is not a state party to several international conventions. The substance includes the facts that occurred in the armed conflict in Syria. Thus, these conventions are not applicable formally in armed conflict. For example, in 2011 - October 2013, the use of weapons in armed conflict in Syria cannot be upheld by the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons. On their Destruction, because at the time, the weapon was used basically Syria was not state party. Although in the end, Syria ratified the Convention on October 14<sup>th</sup>, 2013.

Additional Protocol II/1977 as an instrument of humanitarian law, cannot be applied because Syria did not ratify it. However, the protection of humanitarian law in armed conflict of non-international as stated in Common Article 3 of the Geneva Convention in 1949 explained: "In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions:

- a. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ' hors de combat ' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever concerning the above-mentioned persons:
  - a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
  - b) Taking of hostages;
  - c) Outrages upon personal dignity, in particular humiliating and degrading treatment;



- d) The passing of sentences and the carrying out executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees recognized as indispensable by civilized peoples.
- b. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavor to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

Indeed, this provision would still be appropriate considering that Syria is a party to the convention is different from the Rome Statute which cannot prevail in Syria due to Syria did not ratify despite already being signed on April 29<sup>th</sup>, 2000. The other obstacle in the legal enforcement of international humanitarian law in the case of Syria’ conflict is the presence Veto Right of two United Nations (UN) Security Council permanent members, namely China and Russia. As one of the five permanent members of the UN Security Council, Russia has issued a veto to thwart the eight draft of UN Security Council resolution related to the sanctions that will be given to Syria and also pressuring Damascus to cooperate with investigators. In February 2017, Russia and China vetoed the sanctions against individuals and entities allegedly involved in the use of chemical weapons as determined by the jointly investigative team of the Organization for the Prohibition of Chemical Weapons and United Nations (OPCW-UN).

### **3.5. The Sanctions that can be granted to the disputing parties in the Syria’ Conflict**

United Nations (UN) Security Council resolution was the decision of the United Nations Security Council (UNSC) in the maintenance or restoration of international peace and security that have the binding force that is essentially a reflection of an international legitimacy required by the principles and goals of the United Nations in accordance with the UN Charter. There are countries that are in dispute that do not need the Security Council resolution, although the UN Charter already stated clearly the binding strength of the resolution for the countries involved in international disputes and sanctions for countries that do not comply with the resolution. Such sanctions could be an act that uses force without military power (non-military) and the actions which use military force.<sup>11</sup>

Penalties can be given to the dispute parties in the Syrian conflict, namely the non-military sanctions and military sanctions. In international law, non-military sanctions are set out under Article 41, Chapter VII of the UN Charter, and military sanctions are regulated under Article 42 Chapter VII of the UN Charter. Article 41 of Chapter VII of

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<sup>11</sup> James T Quinlivan, “Coup-Proofing: Its Practice and Consequences in the Middle East,” *International Security* 24, no. 2 (1999): 131–65, <https://www.foi.se/rest-api/report/FOI-R--4640--SE>.

the UN Charter providing for non-military sanctions which stated: “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. Reviews these may include complete or partial interruption of economic relations and rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.” Moreover, Article 42 Chapter VII of the UN Charter stated: “Should the Security Council Consider that measures Provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.” Article 42 of the UN Charter is the one that determines the authority of the UN Security Council to impose sanctions or land forces of Members of the United Nations.

### **3.6. The Responsibilities Against Un-Targeting Attack**

The categories of war crimes are set out in Geneva Convention I, II, III, IV and their supplementary protocols. The Geneva Conventions and Protocol I provide only a common legal framework. Furthermore, the signatory country should supplement those provisions at the national level. Serious offences, enrolled in the Geneva Conventions, but lists of all other acts contrary to the law are not drawn up. However, it is not necessarily unlawful and unregistered as a gross violation to be seen as a minor offense. It is necessary to consider also the provisions of the law of other Conventions as well as international customary rules. Acts that may be categorized as gross violations under Geneva Conventions I, II, III and IV and Additional Protocols include, Intentional Murder, Persecution and inhumane treatment, including biological experiments, Acts which cause great suffering or serious injury to the body or health.

Violations may also be non-compliance with the obligations granted by the Geneva Law. At the same time, the violations categorized as not severe are any violations that are not expressed as gross violations but caused by the non-fulfilment of obligations to act in accordance with International Humanitarian Law.

Customary Humanitarian Law in Part VI, Chapter 40 about Compliance with International Humanitarian Law, Rule 139 explains that the parties to the conflict, either non-international armed conflict and international armed conflict, must abide by and respect international humanitarian law. The Rule 140 of Customary Humanitarian Law stated that “The obligation to respect and ensure respect for international humanitarian law does not depend on reciprocity.” This rule also applies in non-international armed conflict as well as international armed conflict. Customary Humanitarian Law Part VI, Chapter 41 about Enforcement Humanitarian Law, Rule 144 also explained that “States may not encourage violations of international humanitarian law by parties to an armed

conflict. They must exert their influence, to the degree possible, to stop violations of international humanitarian law”.

#### 4. CONCLUSION

The obstacles of law enforcement in Syria case caused Syria is not a state party in several international conventions. Therefore, these conventions are not applicable formally in the armed conflict and international humanitarian law also a little bit hard to impose non-military sanctions or military sanction against Syria. The other obstacle in the legal enforcement of the International Humanitarian Law in the armed conflict in Syria is Russia and China's Veto Right. Russia and China have been issued a veto to thwart the eight draft of UN Security Council resolution related to the sanctions that will be given to Syria.

A-State is responsible for violations of international humanitarian law attributable to it and is required to make full reparation for the loss or injury caused by such violations. Furthermore, according to International Humanitarian Law State, The principle that commanders and other superiors should be held criminally responsible for failing to prevent or punish subordinates committing International Humanitarian Law violations has been developed through international criminal jurisprudence, codified in Additional Protocol I and is now arguably considered to form part of international customary law. From the types of crimes that have consequences of command responsibility above it is clear that two important points are emphasized namely the “distinction” between civilian and military targets which are then broken down into the protection of the non-combatant or powerless (including prisoners of war). In addition, based on the principle of proportionality and to protect civil objects, it also regulates the prohibition of the use of certain weapons and every criminal action in the international humanitarian law will be under the individual responsibility.

#### REFERENCES

- A. Bradley, Curtis. “U.S.-Russian Agreements on Syria Break Down as the Syrian Conflict Continues.” *American Journal of International Law* 111, no. 2 (2017): 170–81. <https://doi.org/10.1017/ajil.2016.5>.
- Adyatmika Nandanaardi, Dhvani. “Kebijakan Luar Negeri Rusia Terhadap Suriah Dalam Konflik Suriah Tahun 2011-2012.” *Jurnal Hukum Yuridika Universitas Airlangga* 3, no. 1 (2014): 140–51.
- Agus, Fadillah. “Hukum Humaniter Suatu Perspektif.” 1. Jakarta, 1997.
- Ambarwati, Denny Ramdhany, and Rina Rusman. *Hukum Humaniter Internasional*. Yogyakarta: Rajawali Press, 2010.
- Fahham, A.Muchaddam, and A.M. Kartaatmaja. “Konflik Suriah: Akar Masalah Dan Dampaknya.” *Politica* 5, no. 1 (2014): 37–60.
- Gisel, Laurent. “The Principle of Proportionality in the Rules Governing the Conduct of Hostilities Under International Humanitarian Law,” 2018.
- Kuncahyono, Trias. *Musim Semi Di Suriah: Anak-Anak Penyulut Revolusi*. Jakarta:

- Kompas, 2013.
- Manshur, Ibnu. "Sekilas Mengenal Negara Suriah (Syria) Dan Jumlah Penduduknya." Muslim Media News, 2014. <http://www.muslimmedianews.com/2014/03/sekilas-mengenal-negara-suriah-syria.html>.
- Quinlivan, James T. "Coup-Proofing: Its Practice and Consequences in the Middle East." *International Security* 24, no. 2 (1999): 131–65. <https://www.foi.se/rest-api/report/FOI-R--4640--SE>.
- Saputra, Miftahul Ghani. "Keterlibatan Rusia Dalam Perang Sipil Suriah Tahun 2011-2016." *Jurnal Analisis Hubungan Internasional* 7, no. 3 (2018): 268–85.
- Schmidt, Helle Thorning. "The War on Children." *New Statesmen*, 2018. [https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war\\_on\\_children-web.pdf](https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war_on_children-web.pdf).
- Sihbudi, M.rizal. *Islam, Dunia Arab, Iran: Barat Timur Tengah*. Bandung: Mizan, 1991.
- Starr, Stephen. *Revolt in Syria: Eye-Witness to the Uprising*. London: C. Hurst & Co, 2012.
- Team Guardian News. "Report on Syria Conflict Finds 11.5% of Population Killed or Injured." *The Guardian*, 2016. <http://www.theguardian.com/world/2016/feb/11/report-on-syria-conflict-finds-115-of-population-killed-injured>.



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