

Protecting children from forced deportation in international law

حماية الأطفال من الترحيل القسري في القانون الدولي

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Abstract :

Children, as a vulnerable demographic, consistently bear the brunt of the detrimental consequences arising from international conflicts and wars. Parties involved in these conflicts actively employ non-military tactics to manipulate the opposing party, often resorting to forced expulsion or displacement in an attempt to engineer a demographic shift in their controlled territories. Despite the explicit prohibition of such acts under international law, the world continues to witness tragic events resulting from the violation of these legal principles by warring factions.

Keywords: Forced Deportation, Children, Expulsion of Children, International Law.

ملخص:

الأطفال هم الفئة الضعيفة التي تتعرض دائماً للآثار السلبية للصراعات والحروب الدولية. وتتعمد أطراف النزاع استخدام أساليب غير عسكرية للتأثير على الطرف الآخر، بما في ذلك محاولة إحداث تحول ديمغرافي في المناطق التي تسيطر عليها من خلال الطرد القسري إما إلى تلك المناطق أو إجبار سكانها على المغادرة. ورغم أن القانون الدولي يحظر كافة أعمال الطرد والترحيل القسري، إلا أن العالم يشهد مآسي بسبب انتهاك قواعد القانون الدولي في هذا المجال من قبل أطراف النزاع.

الكلمات المفتاحية: الترحيل القسري، الأطفال، طرد الأطفال، القانون الدولي.

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Introduction:

Expelling and forcibly deporting civilians have long been recurring practices in international conflicts, with their roots traceable back to ancient times and civilizations. As the principles of international law began to take shape, parties involved in international agreements recognized the significance of this issue and accorded it due importance, acknowledging the grave consequences of forcibly displacing and deporting civilians, particularly children.

The aftermath of the two world wars and the tragedies they brought had a profound impact on the international community. Diplomatic conferences convened under the auspices of the United Nations, and prior to that, the International Red Cross organization, led to the formulation of stringent regulations that unequivocally prohibit all acts of expulsion and deportation targeting civilians, with children being recognized as the most vulnerable and crucial group.

These international legal norms, which categorically forbid all forms of forced expulsion and deportation of civilians, are considered peremptory rules in the international legal framework. They apply to all states, whether they are party to agreements and treaties or not, as they are binding on every member of the international community. Violations of these rules entail both civil and criminal international responsibility.

Significance of the Study:

This study aims to shed light on the crime of forced deportation, particularly concerning children, and its far-reaching effects.

Objectives:

1. Defining the concept of forced deportation and presenting the various violations inflicted upon civilians.
2. Examining how international law addresses the crime of forced deportation of civilians.

Methodology:

The study will employ an analytical approach to analyze legal materials and a descriptive approach to present cases of forced deportation.

Research Plan:

The research will be divided into two sections, each with its respective chapters:

1. **Section I:** The Concept of Forced Deportation and Expulsion of Civilians
2. **Section II:** The Effects of Forced Deportation and Expulsion on Children

Section I: The concept of forced deportation and expulsion of civilians

International law has addressed the crime of forced deportation, and international jurisprudence and agreements have provided several definitions of deportation and forced expulsion concerning both children and civilians in general.

International law has taken significant steps to address the crime of forced deportation. Through the development of international jurisprudence and the establishment of various agreements, clear definitions of deportation and forced expulsion have been provided to ensure a comprehensive understanding of these acts when perpetrated against children and civilians as a whole.

A) The concept of child and forced deportation

The concept of child and forced deportation is a deeply concerning issue that has significant psychological, social, and economic impacts on children, families, and communities.

1- Definition of the child in international law

A child is commonly defined as an individual who has not reached the age of majority, which is typically recognized as 18 years old. The United Nations Convention on the Rights of the Child (UNCRC) places significant emphasis on the distinct and protected nature of childhood, emphasizing the importance of providing children with a secure environment in which they can develop, learn, and thrive. The UNCRC aims to safeguard the rights of children, ensure their well-being, and encourage their active participation in society. These rights are firmly established within the framework of the UNCRC, which stands as one of the most widely ratified human rights treaties worldwide. It is worth noting that out of all United Nations member states, the United States is the only country that has not ratified the UNCRC.¹

1.1- The child in the Convention of refugees 1951

In the Convention relating to the Status of Refugees, a child is defined as any individual who, owing to a well-founded fear of being persecuted for reasons such as religion, nationality, membership in a particular social group, or political opinion, is outside their country of origin and is unable or unwilling to avail themselves of the protection of that country. This definition also includes stateless individuals who are outside their habitual residence due to the same fear. The Convention places a strong emphasis on non-discrimination and requires that refugees abide by the laws and regulations of the country they are residing in. Furthermore, the Convention sets forth specific rights and obligations for refugees, ensuring that they are treated fairly and provided with certain protections.

1.2- The principle of the best interest of the child

The principle of the best interest of the child holds paramount importance in child welfare and family law. It is explicitly stated in Article 1 of the United Nations Convention on the Rights of the Child, emphasizing that in all actions concerning children, their best interests should be the primary consideration. This principle mandates decision-makers to prioritize various factors when making determinations regarding custody, visitation, and other family-related matters. These factors include the child's physical safety, emotional well-being, parental suitability, continuity and stability, relationships with others, and more. The best interest standard aims to ensure that children are protected, provided with a nurturing environment, and given the opportunity to flourish as they grow.

This principle also extends special protection to children, shielding them from any violations that may expose them to harm. The risk of deportation and forced expulsion, particularly in the context of international and non-international armed conflicts, exemplifies one of the most significant dangers that children face.²

1.3- The child in the Universal Declaration of Human Rights 1948

The Universal Declaration of Human Rights, adopted by the United Nations in 1948, places a strong emphasis on principles of equality, freedom, and protection. The Declaration affirms the inherent right to life, liberty, and security of all individuals, as well as the right to fair treatment under the law, legal protection, freedom of movement, marriage, property ownership, religious freedom, freedom of expression, peaceful assembly, political participation, work, education, healthcare, and more. It unequivocally condemns practices such as slavery, torture, unfair

imprisonment, and discrimination, while emphasizing the significance of human dignity and respect.

With regard to the protection of children, the Universal Declaration of Human Rights underscores the importance of safeguarding their rights and well-being, without any form of discrimination based on factors such as race, color, sex, religion, or any other grounds. It ensures that children are shielded from harmful practices and have access to social security benefits, healthcare, and opportunities for healthy growth and development. The Declaration highlights the need to provide children with a protective environment that nurtures their physical and mental development, asserting their right to a name, nationality, social security benefits, and a nurturing upbringing.

2- Define forced deportation and expulsion

The existence of multiple terms has influenced the definition of forced deportation and expulsion, leading to disagreements among jurists, especially those who write in Arabic. This topic addresses the agreed-upon definition of forced deportation and expulsion, along with the judicial and jurisprudential definitions..

2.1- The agreed definition

The definition of forced expulsion and deportation is provided in Article 7(2) of the Statute of the International Criminal Court, which states: "Deportation or forcible transfer of the population or individuals shall be prohibited, unless justified by reasons permitted under international law."³

2.2-The judicial definition

In addition to Article 7(2) of the Statute of the International Criminal Court, the judicial definition of forced expulsion has been further clarified by the International Criminal Tribunal for the former Yugoslavia (ICTY). Through its jurisprudence, the ICTY has provided a comprehensive understanding of forced expulsion and added important nuances to its interpretation.

According to the ICTY, forced expulsion encompasses the act of deporting or transferring protected persons from areas where they are lawfully present through various means, including expulsion or other coercive acts. This definition aligns with the one outlined in the Statute of the International Criminal Court, emphasizing the necessity of lawful presence and the prohibition of forced displacement without lawful justifications.

The judicial definition of forced expulsion, as established by the International Criminal Tribunal for the former Yugoslavia, aligns with the provisions of the Statute of the International Criminal Court. It encompasses various coercive acts, including the use of physical force, threats, violence, persecution, and abuse of power, as means of compelling protected persons to leave their lawfully occupied areas. The definition emphasizes the requirement of lawful justifications under international law for any orders of expulsion, ensuring the protection of individuals' rights and preventing arbitrary or unlawful acts of forced expulsion.⁴

A distinction has been made between deportation and forced displacement, whereby deportation, according to the court, involves the removal of individuals beyond the borders of a state, whereas forced displacement encompasses internal displacement operations within the borders of a single state for internally displaced persons.

The court has clarified that this distinction is not related to the condemnation of practices in the field of international humanitarian law. Various articles, including Article 2 of the Statute of the International Criminal Tribunal for the Former Yugoslavia, Articles 49 and 147 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949, Article 85

of the First Additional Protocol of 1977, and Article 7 of the Statute of the International Criminal Court, prohibit the forced deportation of civilian populations, including children, while Article 17 of the Second Additional Protocol to the Geneva Conventions condemns forced displacement.

In summary, while deportation involves removal beyond state borders, forced displacement refers to internal displacement within a state's borders. It is important to note that the condemnation of these practices is addressed by several articles that prohibit forced deportation of civilian populations and explicitly condemn forced displacement, with a particular focus on protecting the rights and well-being of children.⁵

Based on the definitions mentioned above, particularly the definition provided by the Statute of the International Criminal Tribunal for the Former Yugoslavia, it is evident that they are limited and non-comprehensive. These definitions do not explicitly address the actions of an occupying state in transferring its population or a part of it to occupied territories, which is commonly referred to as settlement. It is important to note that such settlements are expressly prohibited by Article 49 of the Fourth Geneva Convention.

2.3-Jurisprudential Definition

In traditional legal practice, the concepts of deportation and forced displacement were not commonly recognized. It was only during the Nuremberg trials at the outset of World War II that these terms emerged. This was due to the extensive operations conducted by German forces, which involved forcibly displacing civilians.⁶

According to Mohamed Sharif Basyouni, deportation can be defined as the act of forcibly moving civilians from one country to another. On the other hand, transferring populations refers to the relocation of people within the same country, but to a different area. Dr. Omar Saad Allah adds that deportation involves the movement of civilian populations to and from places other than their original locations. It can also refer to the forced displacement of civilians from an occupied area to another region. When the displaced persons are moved within the same country, it is referred to as internal deportation.⁷

As Dr. Rashad Aref Al-Sayed explains, forced deportation refers to a deliberate policy implemented by a government or authority to forcibly remove its civilian population from their homeland. This can be done individually or collectively, and may involve the resettlement of settlers in order to create a new demographic structure or impose a new political reality.

In the words of Dr. Abdulwahid Mohammed Al-Far, forced displacement is defined as the deportation of protected civilians, according to the Fourth Geneva Convention, from their lands to distant locations away from their homeland and original dwellings.

Overall, these definitions converge on the understanding that forced displacement and forced deportation are operations conducted by occupying forces. Their objective is to transfer or deport the inhabitants of an occupied territory outside of their country, or to relocate them from one area to another within the same country.⁸

The definitions mentioned earlier have overlooked a significant aspect, which pertains to the transfer of citizens or a portion thereof from the occupying power to the lands of the occupied state. This practice is referred to as settlement operations in international law. Additionally, these definitions do not encompass the operations conducted by occupying forces to relocate civilians

from one area to another for the purpose of protecting them from hostile acts, such as removing them from battles and military operations.⁹

Children are considered the most vulnerable group, encompassing individuals from birth to 18 years of age according to international law. They represent more than two-thirds of the total number of displaced and forcibly relocated individuals. They are entitled to the same protection afforded to civilians in general and enjoy greater protection in international texts and conventions specifically designed for them.¹⁰

The Geneva Conventions and other international instruments employ multiple terms, including 'deportation,' 'transfer,' and 'forced displacement,' to protect civilians from acts prohibited by international humanitarian law. Deportation involves the displacement and relocation of civilians and children from their places of residence, initiated by occupying forces for various reasons. Article 7(2) of the Rome Statute of the International Criminal Court provides a definition for both deportation and forced displacement, indicating that these terms have the same meaning within the context of international law.¹¹

It is important to highlight that the transfer of civilians from one location to another can be permitted under two exceptional circumstances:

- The first case is when there is a threat to the security of civilians in their places of residence. In such situations, temporary relocation may be necessary until the danger subsides. Once the threat and its causes cease, the civilians should be allowed to return to their homes.
- The second case is when military necessity requires it. However, it is important to note that civilians should not be deported outside their country except in cases of extreme necessity. This principle is stated in Article 49 of the Fourth Geneva Convention for the Protection of Civilians. The article emphasizes that the evacuation of protected persons should not result in the displacement of the population, unless it is ordered for their own safety or if imperative military reasons and the security of the population require it. Moreover, any displacement within the occupied state's territory should be an integral and temporary measure.¹²

B) Historical evolution of forced deportation and expulsion

Since the existence of humanity, conflicts, disputes, and wars have led to the phenomenon of forced deportation and displacement. Civilians, including children, women, and the elderly, have become victims of deliberate deportation operations carried out by warring parties and particularly by occupying forces, with no regard for the minimum rules and humanitarian norms.¹³

1- Pre-Fourth Geneva Conventions era 1949

Throughout history, there have been instances of forced displacement and evacuations, observed in various ancient civilizations ranging from Mesopotamia to the Pharaonic civilization. These actions impacted entire residential groups, showcasing the persistent resort to forced displacement by humans.

However, it was during the early 19th century that some customary laws of war began to take shape. In 1863, the U.S. Department of Defense issued the first declaration concerning forced displacement, aiming to regulate the conduct of its armies in the field. Article 23 of this declaration explicitly stated that no civilian should be killed, enslaved, or deported. This marked the establishment of a written international norm during that era.

Indeed, the Hague Convention of 1907 played a significant role in emphasizing the minimum standards of civilization during times of war. One of the key provisions of the convention was the prohibition of civilian deportation, along with limitations on the exercise of military authority over occupied territories of an enemy state. Articles 42 to 56 of the Hague Convention outline these provisions, which have since become recognized as customary international law. These provisions reflect the ongoing commitment to upholding humanitarian principles and protecting civilian populations during armed conflicts¹⁴.

The Martens Clause, which was included in the preamble of the Fourth Hague Convention of 1907, is a significant aspect of the convention. It reinforces the principle that both the inhabitants and the belligerents are bound by the principles of the law of nations. These principles are derived from the established practices among civilized peoples, the laws of humanity, and the dictates of public conscience. The Martens Clause serves as a reminder that even in times of war, there are fundamental principles and standards that must be upheld to ensure the protection and well-being of all individuals involved.¹⁵

Indeed, following World War I, the Allies took significant steps to hold those responsible for war crimes accountable. In January 1919, an international investigation committee was established to examine the responsibility of the initiators of the war. This committee identified a range of actions that were considered violations of the laws of war and humanitarian principles, thereby subject to international sanctions.

One of the thirty crimes listed by the committee was the forced displacement of civilians from their places of residence. This recognition highlighted the gravity of such actions and emphasized the importance of protecting the rights and well-being of civilian populations during times of conflict. The inclusion of forced displacement as a war crime further underscored the commitment to upholding humanitarian principles and ensuring the accountability of those responsible for such atrocities¹⁶.

In 1934, the International Committee of the Red Cross attempted to codify the rules protecting civilians in a project called "The International Agreement on the Protection of Civilians in Enemy Territory or Occupied Territory." This project was adopted by the Fifteenth International Conference of the Red Cross in Tokyo in 1934¹⁷.

The project consisted of four main axes:

- Definition of enemy civilians.
- Enemy civilians present in a belligerent state's territory.
- Enemy civilians present in a territory occupied by a belligerent party.
- Implementation of the agreement.

A conference was held in Switzerland in 1940 to discuss the content and adopt the provisions of this project. However, it failed due to World War II. Meanwhile, the International Committee of the Red Cross proposed implementing the provisions of the Tokyo project to the parties involved in World War II, but these parties refused to put it into effect. Article 19(b) of this project prohibited high contracting parties from forcibly displacing civilian populations outside the occupied territory, except when military operations were necessary to ensure their security¹⁸.

After the end of World War II in 1945, the Nuremberg Trials were established to prosecute war criminals. Under the London Charter of August 8, 1945, these trials addressed various criminal acts, including crimes against peace, crimes against humanity, and war crimes. Article 6 of the charter specifically identified deportation for forced labor and the forced deportation of civilian populations as war crimes. This recognition highlighted the gravity of such actions and demonstrated the commitment to ensuring accountability for those responsible for these atrocities. Despite the temporal jurisdiction of the Nuremberg Court, it established rules that prohibited the forced displacement of civilians for the purpose of extermination or demographic changes. Moreover, the court criminalized all actions related to human rights violations resulting from the forced deportation of populations. These measures aimed to safeguard the rights and well-being of individuals affected by forced displacement and to prevent further abuses in the future.¹⁹

2- Post-Geneva Conventions era 1949

The four Geneva Conventions were adopted on August 8, 1949, during the diplomatic conference held in the Swiss city of Geneva. These conventions consist of the following:

- The First Convention, which relates to the Protection of the Wounded and Sick in Armed Forces on Land.
- The Second Convention, which relates to the Protection of the Wounded, Sick, and Shipwrecked at Sea.
- The Third Convention, which relates to the Treatment of Prisoners of War.
- The Fourth Convention, which relates to the Protection of Civilian Persons in Time of War.

Of particular importance is the fourth convention, which specifically addresses the protection of civilians during times of war. It explicitly prohibits the transfer of protected persons under the convention to a country that is not a party to the agreement. Article 49 of the fourth convention further prohibits individual or mass deportation and forcible transfer of civilian populations, except under exceptional circumstances. Additionally, it stipulates that if such deportation or transfer takes place, the affected individuals must be returned to their places of residence as soon as the reasons for the ban cease to exist. This aligns with the approach taken by Article 147 of the same convention, which deems deportation and forcible transfer as physical violations of the four Geneva Conventions and, consequently, a violation of international humanitarian law. These provisions highlight the commitment to protecting the rights and well-being of civilian populations during armed conflicts.²⁰

General Assembly resolution 2675, issued on December 9, 1970, was a significant development as it established the basic principles for the protection of civilian populations in armed conflicts. This resolution explicitly stated that the forced displacement of civilian populations by parties to a conflict during military operations or in occupied territories constitutes a crime. It highlighted the importance of safeguarding the rights and well-being of civilians during times of conflict.

Another noteworthy resolution is General Assembly resolution 3318, dated May 16, 1974, which focused on the protection of infants and children in emergencies and armed conflicts. This resolution declared that the coercion of forced displacement committed by parties to a conflict, in the context of military operations or in occupied territories, is considered a crime. This further emphasized the need to protect vulnerable populations, such as children, from the detrimental effects of forced displacement.

In addition to these resolutions, a diplomatic conference held in February 1974 resulted in the adoption of two additional protocols to the Geneva Conventions in 1977. The first protocol addressed international armed conflicts, while the second protocol addressed non-international

armed conflicts. Article 85 of the First Protocol explicitly prohibited an occupying power from deporting or transferring all or part of the population of the occupied territories without respecting the conditions set out in Article 49 of the Fourth Geneva Convention. This classification of such acts as war crimes in Article 85 emphasized the gravity of forced displacement.

Furthermore, Article 17 of the Second Additional Protocol, which is annexed to the four Geneva Conventions, explicitly prohibited forcible displacement, with exceptions for cases where it provides protection for civilians from the effects of hostilities or for imperative military reasons. In such cases, the authorities carrying out the displacement are required to provide shelter, treatment, food, and potable water, ensuring the well-being of those affected. These provisions demonstrate the ongoing commitment to protecting civilians from the harmful impacts of forced displacement in armed conflicts²¹.

Section II: The effects of forced deportation and expulsion on children

Forced deportation and exile are indeed internationally recognized as grave crimes with significant consequences, particularly for children who are considered the most vulnerable among the civilians affected by these acts. These international crimes have far-reaching impacts, causing immense harm to the lives of children.²²

A) Violations suffered by children due to forced deportation

The effects on children in displacement centers and places of exile are numerous, as the new and unfamiliar situation poses a threat to this group that is entitled to legal care and protection.

1- Health Effects and Child Trafficking

1.1- Health Effects:

The Convention on the Rights of the Child, adopted in 1989, indeed affirms the fundamental rights of children. However, it is deeply concerning that children in refugee and deportation centers often endure harsh conditions that have severe physical health effects, compromising their overall well-being, growth, and even putting them at risk of death. Some of the challenges they face include:²³

- Insufficient access to vaccinations, leaving them vulnerable to preventable diseases.
- Outbreaks of epidemic diseases, which can quickly spread in crowded and unsanitary conditions.
- Increased risk of communicable diseases due to close proximity with others in the centers.
- Inadequate healthcare for newborns, which can have long-term consequences for their development and health.
- Higher prevalence of birth defects due to lack of appropriate medical care and support.
- Health issues stemming from malnutrition, which can have detrimental effects on their growth and overall health.
- Waterborne diseases due to limited access to clean and safe drinking water.

It is deeply troubling that occupying states may deliberately fail to provide necessary medical assistance to children in deportation centers, a violation of the Geneva Convention and its Additional Protocols. This not only infringes upon the rights of these children but also goes against the principles of humanitarian law, which aim to protect vulnerable populations, including children, during times of conflict and displacement.

Upholding the rights of children and ensuring their access to essential healthcare, vaccinations, nutrition, and clean water is vital. It is imperative that occupying states fulfill their obligations under international humanitarian law to protect the well-being and lives of children in deportation centers.

1.2- Child Trafficking:

Throughout history, human trafficking gangs have unfortunately been involved in the despicable act of trafficking children. It is true that the conditions faced by children and their families in deportation centers have provided an environment that facilitates the infiltration and lucrative profit of these criminal gangs. The security situation in such centers further enables illicit activities, including the abhorrent sexual exploitation of children.

These gangs employ various methods, such as kidnapping children, blackmailing their families, or selling them to unknown parties within organized international networks. Tragically, these networks engage in the trafficking of human organs, subjecting children in deportation centers to unimaginable horrors such as abduction, murder, and the chilling sale of vital organs.

In addition to child trafficking, families who find themselves driven by dire need and poverty may resort to sending their children into the illegal labor market. This exposes them to the control of criminal gangs that specialize in trafficking human organs. Regrettably, we witness examples of displaced Iraqi and Syrian families who, in their desperate struggle for survival, may push their children into labor instead of prioritizing their education. These children end up working in various sectors, including agriculture, trade, services, bakeries, and shoe shining, all in an attempt to secure financial returns that can sustain their livelihood within those centers.

The exploitation of children for labor and organ trafficking is an utterly abhorrent crime that demands immediate attention and decisive action. It is imperative to strengthen security measures, enhance the protection of children and their families in deportation centers, and vigorously combat the criminal networks involved in these heinous activities. Additionally, addressing the root causes of poverty and displacement is crucial to prevent families from being coerced into desperate situations where their children become vulnerable to exploitation.²⁴

2- Child Recruitment and Its implications Effects

One devastating consequence of international and non-international conflicts is the organized recruitment and exploitation of children by parties involved in these conflicts. These children are often targeted in displacement centers where the absence of law and the vulnerable position of their families make them easy prey for coercion and threats.

2.1- Child Recruitment²⁵

The impact of wars and armed conflicts on forcibly displaced children is devastating. These children often lose their caregivers, leaving them without family or support. This vulnerability makes them susceptible to material temptations, threats, and exploitation by armed groups.

According to the United Nations, the number of child soldiers reached an alarming 800,000 in 2018, with children being recruited into military and quasi-military organizations worldwide. This global issue sees children forced into roles such as suicide bombers or coerced into criminal gangs, sometimes at shockingly young ages.

Children who are recruited undergo brainwashing and manipulation, teaching them cruelty and transforming them into ruthless fighters. Disturbingly, some children are abducted from

detention centers or forcibly displaced shelters, further exposing them to danger and denying them the protection they desperately need.

Addressing child recruitment requires a comprehensive approach. It involves strengthening international frameworks and implementing stricter measures to prevent and combat the recruitment of children. Rehabilitation programs and support services are crucial to helping these children reintegrate into society and rebuild their lives.

Tackling the root causes of child recruitment, such as poverty, lack of education, and social instability, is essential. By addressing these underlying factors, we can create a safer environment for children and protect them from the horrors of recruitment and exploitation during times of conflict.

2.2- Implications Effects

There are effects experienced by children in forced displacement centers that impact their future. Despite international efforts through international organizations to provide assistance to civilians and children in these circumstances, the effects on children are always severe. Some of the main effects include:

-Malnutrition: Most forcibly displaced children, whether in camps, refugee centers, or the places they migrate to, suffer from malnutrition. UNICEF has warned of a high percentage of children facing the risk of death due to malnutrition.

-Increased numbers of street children and orphans: This is an unavoidable phenomenon. Children who have lost their parents find themselves homeless in the streets, which becomes their only refuge. They live there and beg for a living, often engaging in criminal activities.

B) The social and psychological dimensions of forced deportation

Forcibly displaced children suffer from the effects of forced deportation, which have social and psychological consequences. Due to the widespread political conflicts around the world, children are vulnerable to abduction, threats, sexual exploitation, recruitment into warring factions, and even terrorist organizations. All these conditions deprive children of their childhood and subject them to social and psychological suffering throughout their lives.

1- Social dimensions

Deportation operations create social and demographic imbalances in the areas where they are carried out, as well as in the areas from which people are displaced. Forced deportation also affects the customs and traditions of the receiving areas for the displaced. The process affects several aspects, including:²⁶

1.1- Pressure on services:

Human waves of displacement burden certain services and contribute to their deterioration, such as electricity services. The influx of displaced people also puts pressure on the cities, especially when there is systematic displacement targeting those cities.

1.2- Creation of chaotic settlements:

One prominent effect of forced displacement, especially internal displacement, is the refugees' resorting to building illegal settlements, which later become breeding grounds for diseases and deviance.

1.3- Deprivation of education:

Undoubtedly, one of the most significant social effects of forced deportation on children is their deprivation of education. Approximately 98% of displaced children are denied access to education, which affects their lives even after they return to the areas they were displaced from. In

the case of internal forced displacement, the impact is twofold. In addition to the effects on displaced children, it also affects the schools in the areas where they are displaced to, causing overcrowding that hinders educational performance and achievement. Families also face the problem of illegal residency, which prevents them from enrolling their children in schools.

1.4- Spread of the begging phenomenon:

One of the consequences of forced displacement is the unemployment of displaced parents, which pushes them to exploit their children in begging, as work requires legal residency. On the other hand, children lose their providers among their parents.

2- Psychological effects

Children experience all stages of armed conflicts, from the beginning of the disturbances to the displacement they undergo, along with all the accompanying conditions: terror, pressure, intimidation, and harsh conditions in detention or shelter places. All these events result in serious psychological effects on displaced children.

All the constraints and psychological pressures that displaced children face cause psychological traumas that can lead to madness, mental disorders, or even death due to depression. This often happens in the absence of psychological care for children, which can alleviate the impact.

The psychological effects on displaced children are caused by witnessing killings, destruction, and explosions, as well as their lives in displacement places characterized by deprivation, exploitation, and exclusion. Harsh living conditions, including food shortages, lack of healthcare, poverty, and deprivation of education and basic necessities, also contribute to these effects.

Forced displacement and armed conflicts have an impact on the psychology of displaced children, manifested in:

- Nightmares.
- Constant anxiety.
- Feelings of discomfort.
- Bedwetting.
- Stuttering.
- Eating disorders.
- Lying and fear of the dark.
- Nail-biting.
- Increased aggressive behavior.
- Isolation and withdrawal.

All these effects undermine the vitality of the child and make them mentally ill, which is difficult to heal, especially in the absence of psychological healthcare for such diseases. Studies have revealed the dangers of the psychological impact of forced displacement on children and how they can become aggressive individuals who pose a threat to their surroundings and their families.

Conclusion:

Forced deportation is a prohibited international crime that carries international responsibility. Its International law places significant importance on protecting children from forced deportation, recognizing their vulnerability and the need to safeguard their rights and well-being. Various legal

instruments and principles have been established to address this issue and ensure that children are not subject to arbitrary or unlawful acts of forced expulsion.

The prohibition of forced deportation of children is rooted in international human rights law, which upholds the inherent dignity and rights of every child. The United Nations Convention on the Rights of the Child (UNCRC) serves as a fundamental legal instrument that provides a comprehensive framework for protecting children's rights, including their right to be free from arbitrary displacement. Article 22 of the UNCRC specifically prohibits the expulsion of a child from their country of origin, except when it is in their best interests.

Therefore, a number of results and recommendations have been reached:

Key recommendations:

1. Strengthen legal frameworks to protect children from forced deportation by adopting comprehensive legislation that aligns with international standards.
2. Ensure that the best interests of the child are the primary consideration in all decisions and actions relating to forced deportation.
3. Guarantee access to legal assistance and representation for children at risk of forced deportation throughout the deportation process.
4. Uphold the principle of non-refoulement, which prohibits the return of children to territories where they may face persecution, harm, or human rights violations.
5. Develop child-sensitive deportation procedures that account for the specific needs, vulnerabilities, and rights of children.
6. Explore and prioritize alternative solutions that prioritize the well-being and protection of children, such as temporary or permanent residency options, family reunification, and community-based support.

¹Akehurst, Michael (Peter Malanczuk, ed.). *A Modern Introduction to International Law*. London: Routledge, 7th ed., 1997.p23.

²Aust, Anthony. *Handbook of International Law*. Cambridge, UK: Cambridge University Press, 2005.p17.

³Article 7/2 of the Rome Statute of the International Criminal Court, 1998.
4ICTY, Radislav KRSTIC, case N0, IT-98-33-T, Judgment, August 2001, P183, www.ivty.org/x/krstic/en/ksr-tj010802pdf, accessed on March 2, 2021, at 15:00.

⁵ICTY, Radislav KRSTIC, Op.cit, P187.

⁶Ibid, P183.

⁷Ibid, PP 184, 185.

⁸Refer to the Fourth Geneva Convention for the Protection of Civilians in 1949.

⁹Rashad El Sayed, *Deportation and Forced Expulsion in Contemporary International Law*, Egyptian Journal of Law, Volume 51, 1995, p. 239.

¹⁰Omar Saad Allah, *Dictionary of Contemporary International Law*, Diwan Al-Matbouaat Al-Jameia, Algeria, 2005, p. 06.

¹¹Rashad El Sayed, IBID, p. 240.

¹²Abdulwahid Mohammed Al-Far, *International Crimes and the Authority of Punishment*, Dar Al-Nahda Al-Arabiya, Cairo, 1996, p. 235.

¹³Yusuf Askar, *Implementing Humanitarian Law*, Routledge, London, p. 175

¹⁴Abdelfattah Bayoumi, *The International Criminal Court*, Dar Al-Fikr Al-Jamei, Alexandria, 2004, p. 541.

¹⁴Article 49 of the Fourth Geneva Convention, IBID.

¹⁶Rashad Aref El-Sayed, IBID, p. 247.

¹⁷Refer to Articles 42 to 56 of the Fourth Hague Convention of 1907.

¹⁸Fourth Hague Convention of 1907, IBID.

¹⁹Draft International Convention on the Protection of Civilian Persons in Time of War, www.icrc.org, accessed on March 20, 2021, at 11:00.

²⁰Abdulwahid Mohammed Al-Far, IBID, p. 233.

²¹Refer to the text of Article 49, IBID.

²²Refer to the text of Article 147, IBID.

²³Louis Doswald-Beck, Customary International Humanitarian Law, International Committee of the Red Cross, Cairo, 2007, p. 401.

²⁴Omar Saad Allah, The Codification of International Humanitarian Law, Dar Al-Gharb Al-Islami, Beirut, 1997, p. 182.

²⁵Mohammed Safi Youssef, International Protection of Internally Displaced Persons, Dar Al-Nahda Al-Arabiya, Cairo, 2004, p. 48.

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