CHAPTER 1

INTRODUCTION

A. BACKGROUND

"There is no food, there is no medicine, and every night, for six hours, NATO bombs all sorts of buildings," Sami Abderraman, (told the Spanish daily *El Pais* as he sought to leave Sirte. "Hundred: women and children have died like animals."[1]

The Libyan civil war also referred as the Libyan revolution armed conflict in the North African State of Libya, fought between loyal to Muammar Gaddafi and those seeking to oust his goven This civil war begun with the demonstrations in Benghazi on T February, 15, 2011 and there was happen a clash with security for fired on the crowd.

In February, one week after the revolution, overthr(government of Tunisia and Egypt, a rebellion against the govern Gaddafi appeared on eastern Libya. Begun with disappointment at in the building of housing units and also over the political con demonstrator in Bayda, Derna, Benghazi and other cities broke i occupied several housing that the government had been building on 16 January, 2011. The demonstrators also clashed with police in and attacked the government officers.

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[1] http://childvictimsofwar.org.uk/get-informed/libya-2/ accessed on July 29, 2013 at 8.14p

[2] http://www.guardian.co.uk/commentisfree/2011/mar/29/vision-democratic-libya-interim

These protest escalated into a rebellion that spread across the country, with the forces opposing Gaddafi establishing an interim governing body what so called as the National Transition Council (NTC). The legitimacy of this National Transition Council (NTC) comes from the decisions of local council set up by revolutionary people of Libyan. The goal of National Transition Council is to steer Libya during the interim period that would come after the destruction of Gaddafi's oppressive regime.

On the evening of 15th February, hundreds demonstrator protested on front of Benghazi's police headquarters. The similar things also happened in the Southern City of Zentan, 120 km south of Tripoli, hundreds of demonstrator marched through the street and fire to the police station and to security headquarters and then the demonstrator spread all over country as a wave of unrest.

There was happen a clash with security forces that fired on the crowd. The crowds by the demonstrator include some armed with rocks and petrol bombs and at least 38 people were injured in those clashes.[3] The armed protest continued in the next day in Benghazi, Derna, and Bayda and the demonstration itself progressively enlarged.

During the first time demonstrations in Benghazi was where 100 to 110 people were killed and most of them were the demonstrators though some may have obtained weapons.

[3] http://www.aljazeera.com/news/africa/2011/02/2011216705142244 html accessed on February

These kinds of demonstration were inspired by Tunisian and Egyptian revolution; consist of civilians of the Libya as the demonstrators. The demonstrators are often in conflict with the security forces and even hang the body of police who arrested until died. In the other hand, the respond given by government of Libya is half the battle.

Muammar Gaddafi blamed a revolt against his rule on Al Qaeda leader, Osama bin Laden on Thursday, and said the protesters or demonstrators were fueled by milk and Nescafe spiked with hallucinogenic drugs, in a rambling appeal for calm.[4]

Because the brutality action done by the demonstrators, the government of Libya recruited several armies from abroad to stop the demonstration by gunning down the unarmed demonstrators, torture the demonstrator who were caught alive and even shoot the mosque which have been a place to take shelter by the demonstrator.

And then by times goes on so many intervention from outside which comes as follows the intervention from France, the British Naval, USA, and most of the members of NATO deployed their forces in the military operation.

NATO countries have agreed to enforce a non-fly-zone in Libya in order to protect the civilians against Muammar Gaddafi's forces.[5] In May, June, July, August, and September intensive attack waged by the rebel

forces assisted by NATO with their air attack to the territory controlled by the loyalist.

The main target of the rebel is Muammar Gaddafi as the leader of Libya at that time. In October, Muammar Gaddafi was found and was shot in the head by the rebel forces. With the death of Muammar Gaddafi, 9 months Libyan conflict was declared over by the National Transition Council and followed by the decision of NATO to stop all of the military operation in Libya at the end of October 2011. These Libya's conflict caused thousands people died and the majority of the victims were civilians.

War is a way out for one man's most powerful instinct and for a long time, we could say that it was the important form of relationship among peoples. Indeed, statistic of the World War I resulted in 10 million deaths with ratio of 20 combatants to one civilian-not counting about 21 million deaths cause by epidemics. While World War II killed 40 million persons including many civilians as combatants.[6]

Based on the fact above we really need such kinds of regulation to humanize war, gives protection for the combatants and the civilians also. International Law has long contained rules designed to regulate the

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[6]Jean Pictet, 1985, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff Publishers, Dordrecht and Henry Dunant Institute, Geneva, p. 79

conduct of war and armed conflict.[7] International humanitarian law is a part of International Law and it only applies to armed conflict.

Universal codification of International Humanitarian Law began in the nineteenth century. The basic reason for the requirement of International Humanitarian Law is that if it is not possible to fully prevent war, then at least warfare should be made subject to certain humanitarian restrictions.[8] The sources of International Humanitarian Law are the Hague Convention 1899 and Geneva Convention 1949.

Hague Convention consent on the methods of war or the conduct of warfare include the weapons that may be used and the weapons that prohibited to use war, the way how to declare war, and so on, while Geneva Convention more consent on the protection of the combatants and civilians during the period of war.

The first Hague Conference of 1899 resulted in three conventions and three declarations. The second Hague Conference in 1907 resulted in a number of conventions as follows:[9]

1. Hague Convention I (1907) On the Peaceful Settlement of Dispute;

2. Hague Convention II (1907) On the Limitation of Force in Recovering Contract Debts;

3. Hague Convention III (1907) On the Opening of Hostilities;

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[7]John O'brien, 2011, *International Law*, Cavendish Publishing Limited, London, p. 769

[8] Abdul Ghafur Hamid, 2011, *Public International Law: A Practical Approach*, Thomson Reuters

4. Hague Convention IV (1907) Respecting the Laws and Customs of War on Land;

5. Hague Convention V (1907) On Neutrality in Land War;

6. Hague Convention VI (1907) On Enemy Merchant Ships;

7. Hague Convention VII (1907) On the Conversion of Merchant Ships into Warships;

8. Hague Convention VIII (1907) On Automatic Submarine Contact Mines;

9. Hague Convention IX (1907) On Naval Bombardment;

10. Hague Convention X (1907) On Maritime Warfare (Protection of Wounded, Sick, and Shipwrecked);

11. Hague Convention XI (1907) On Capture in Naval Warfare;

12. Hague Convention XII (1907) On International Prize Court;

13. Hague Convention XIII (1907) On the Rights and Duties of Neutral Powers in Naval War.

The Diplomatic Conference for the Establishment of International Convention for the Protection of Victims of War, convened by the Swiss Federal Council, as trustee of the Geneva Conventions was held in Geneva from April 21 to August 12, 1949. The conference following four conventions[10]:

1. Geneva Convention for the Amelioration of the Condition of the Wounded Sick in Armed Forces in the Field;

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2. Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea;

3. Geneva Convention relative to the Treatment of Prisoners of War;

4. Geneva Convention relative to the Protection of Civilian Person in Time of War.

There were two additional protocols to the Geneva Conventions such as[11]:

1. Additional Protocol I concerns on the Protection of Victims of International Armed Conflict,

2. Additional Protocol II concerns on the Protection of Victims of Non-International Armed Conflict,

Based on the fact above we know that International Humanitarian Law through Hague Conventions and Geneva Convention try to humanize the war itself by such regulation that prohibits the army to use weapons which can cause the unnecessary suffers.

It also prohibits the methods of warfare which is failure to discriminate between those who are participate in the war and those who are not participated in the war as like as civilians which is cause the unnecessary sufferings and causes a long term damage of the environment.

But as we know that even the Libya's Conflict was ended it caused thousand people died and the majority of the victim is civilians while

according to Fourth Geneva Convention, the civilians should be protected and treated well. These could be the research's background of Libya's Conflict in International Humanitarian Law: Protection to the Civilian in time of Conflict.

B. RESEARCH QUESTION

How does the implementation of International Humanitarian Law in case of Protection to the Civilian during Libya's Conflict?

C. OBJECTIVES OF RESEARCH

This research has aim to learn more about how Libya's Conflict in International Humanitarian Law includes the implementation of International Humanitarian Law during the Libya's Conflict in case of protection toward civilian. The researcher also wants to describe between International Humanitarian Law through Geneva Convention and its additional protocols and Hague Convention with Non-International Armed Conflict to define the case of Libya and wants to analyze any kinds of infringement during the Libya's Conflict.

D. THE BENEFITS OF THE RESEARCH

This research would give benefits as follows:

1. Theoretically

   This research will give benefits to know deeply about the protection toward civilians in Libya's Conflict and how the

implementation of International Humanitarian Law through related convention such as Hague Convention and Geneva Convention, include the additional protocols in Libya's Conflict.

2. Practically

This research will develop the understanding on how International Humanitarian Law regulates and uphold the law of war during Libya's Conflict. This research also will share and improve the knowledge regarding humanitarian law issues, such as the methods of war, the protection of civilians, the non- international armed conflict and any kinds of infringement in Libya's Conflict.

E. Systematic of Writing

This research consists of five chapters, namely: Chapter 1 Introduction, Chapter II Literature Review, Chapter III Research Methods, Chapter IV Result and Discussion, Chapter V Conclusion and Suggestion.

The aims of this research are to learn deeply on how the implementation of international humanitarian law regarding the protection of civilians in time of war and also analyze the problem of enforcement on protection toward civilians during Libya's conflict.

1. Chapter 1: The researcher tries to explain the definition of war, international humanitarian law, and also how important international humanitarian law in order to humanize war. In this

chapter the researcher also tries to explain a short history behind the Libya's conflict, include the very beginning protest in Benghazi, especially there were so many victims and the majority is civilian. Chapter I also discuss on the objective of the research and the benefit of the research.

2. Chapter II: In Chapter II will explain about the general theory and the regulations related to international humanitarian law, the conduct of hostilities, and the protection toward civilians in time of war;

3. Chapter III: In Chapter III will discuss about the research methods which used on the research;

4. Chapter IV: In Chapter IV will explain on how the conduct of hostilities, focuses on Libya's conflict and the analysis on how the implementation of international humanitarian law toward protection to the civilians in time of Libya's conflict;

5. Chapter V: Chapter V consists of conclusion regarding the implementation of international humanitarian law on protection toward civilians in time of Libya's conflict and the suggestion of the problem that faced by Libya in upholding the protection of civilians in time of war.