

CHAPTER I

INTRODUCTION

A. Research Background

Human rights was first born in 1689 by an English philosopher name John Locke he define the human rights by “life,liberty and property”. the first human right law product is called bill of rights which is adopted in England. On December 10 1948 United Nations has Proclaimed the human rights and it’s freedown with Universal Declaration of Human Rights also known by International Magna Carta. Nowadays almost all the countries already proclaimed the UDHR although some may not ratified all the article in UDHR to their country Law. Black Law dictionary define Human Rights as “The freedoms, immunities and benefit that’s, all human beings should able to claim as a matter of rights in the society in which they live”¹.

Each independent and sovereign state has the right to self-determination. The right to self-determination that includes independence set rule. The right to self-determination, in the sense of freedom to determine the status and political policies, develop the economy, sociology and culture. The right to self-determination for the country means that foreign party are not allowed to intervence. Foreign party in question is a different country.

¹ Black Law Dictionary 8th edition, page 2167

On March 20 2003 President Bush of America announced the start of a war against Iraq. The reason behind their attacking was President Bush claimed that Iraq Government which command by their president Saddam Hussein has secretly created a War technology known as Weapon Massal Destruction. On June 28 2004 America formally transfer the government power back to Iraq Authorities after Saddam Hussein has been caught, but the former issue about secret weapon has never been found. According to huffington Post the invasion of United States has bringing total death 461.000 casualties. And according to Iraq body count Project 174.000 Civillians and combatant death which 123,284 civillians died from violence. This report has shown that The US authorities has failed to fulfill their obligation to protect the people rights to life and causing a devastating result on people death in Iraq. Every country in the international community has the responsibility to protect human rights; however, there is a balance to not impede on the jurisdiction of other countries. Most of the time the line is blurry between the state's political interests and humanitarian responsibilities. As we may know the invasion of Iraq did not acquired any permit from the United nations security council. In an International armed conflict situation the most important problem is how far the states can protect an unarmed civilians in the times of war.

Various reports have described grave violations of international human rights and humanitarian law by occupying forces in Iraq. It has

been reported that coalition forces employed inhuman, indiscriminate or toxic weapons such as depleted uranium weapons, cluster bombs and white phosphorous munitions in civilian urban areas without any protective measures to minimize harm to civilians. It has been also reported that use of these weapons caused significant numbers of civilian deaths, it is well established that the US military committed abusive treatment against Iraq detainees at Abu Ghraib and other prisons, such as physical abuses and humiliation, which constitute torture and inhuman treatment. The War has caused so many casualties and yet US still cannot prove that Iraq has the massal weapon destruction.

When several leading international law Professors were asked by a British newspaper, "was the 2003 Iraq War Legal?" their responses were illustrative. Professor Malcolm Shaw replied: "on the basis of the intelligence we had at the time and the publicly available knowledge, there was a credible and reasonable argument in favor of the legality of the war." Professor Christine Chinkin answered "no" because she believed United Nations Security Council Resolution 1441 preserved for the Security Council the decision on enforcement action. Professor Sir Adam Roberts replied "There was in principle as a possible case for the lawfulness of resort to war by the US and its small coalition." Professor James Crawford answered simply "it comes down to a political judgement". General Wesley Clark ever stated that 2003 invasion was legal, but illegitimate. Compare to international commission on Kosovo decision state that Kosovo

campaign is illegal, but legitimate. So in this research the author will examine the legality of the force in Iraq.

B. Research Questions.

Based on what as mentioned above at the research background about, “Study of International Law (case study of the Invasion in Iraq)”, therefore the writer stated the issues that writer want to research and write about, as follows:

1. What were the grounds adopted by US to attack Iraq in 2003 ?
2. Was the intervention of US to Iraq in 2003 accepted under international law ?
3. Was the invasion of US to Iraq in 2003 Accepted as humanitarian intervention ?

C. Research Purposes and Benefits

1) Research Purposes.

In general, this research is to research about the questions, that the writer mentioned above. In particular, the purpose of this paper can be formulated as follows:

1. To know about what legal base does US have to Invade Iraq.
2. To know does US Invasion accepted under International Law.
3. To evaluate is invasion on Iraq consider as Humanitarian Intervention.

2) Research Benefits.

There are 2 kinds of benefits in this essay, that writer hope will help someday whether for the government or the family that will be through all this;

a) Theoretical benefits;

Theoretically say with this essay the writer hope that it hope that it will enrich society knowledge about this topic, which is International Law. The writer want to find out more about International Law.

So in this research the writer hope that it'll help or contribute some thoughts about these matters so that it will actually help society that probably confronted about the matter.

Last the writer also hopes that this essay can be added and complement the treasury and collection of scientific papers and make a contribution of thoughts about the very matter as mentioned above.

b) Practical Benefits.

Practically, the writer hope that this can be a reference to the next writer or researcher that somehow can assist them for the research. The writer also hope that if the International Humanitarian Law can still be improved, the UN will amendment it, so that citizens will have a law certainty.