

CHAPTER IV

FINDING AND ANALYSIS

A. The Brief History of Boko Haram in Nigeria

Boko Haram is an extremist Islamic in Nigeria, which has another name called the group of Jama'atu Ahlus-Sunnah Lidda'awati Wal Jihad. Its violent attacks on government offices, the United Nations, and churches threaten to destabilize the country.²¹ Boko Haram was founded in 2002 by Mohammed Yusuf. Jama'atu Ahlis Sunna Lidda'awati wal-Jihad means "People Committed to the Propagation of the Prophet's Teachings and Jihad". Boko Haram has focused on opposing western education. Boko Haram launched military operations in 2009 to create an Islamic state.

In 2009, Boko Haram attacked the police stations and other government buildings in Maiduguri, capital of Borno state. The armed conflict has occurred on Maiduguri's streets. The victims from Boko Haram side were killed and thousands of civilian were displaced on that city. Nigeria's security forces have been succeeding to terminate the member of Boko Haram and also killing Mohammed Yusuf as the leader of Boko Haram. His body was officially shown on state television and the security forces declared Boko

²¹ United State Institute Peace, 2017, "What is Boko Haram?", available at <https://www.usip.org/publications/2012/05/what-boko-haram>, accessed on March 13th, 2017 at 8.10pm.

Haram was finished. But the fighter from Boko Haram has regrouped under a new leader, Abubakar Shekau. In August 2010, Abu Bakar Shekau declared a caliphate under Boko Haram's control, with the town of Gwoza as seat of power.²² Boko Haram not only hated the western system and has aim to terminate the western effects like western education, but also western culture and modern science. The belief of Boko Haram is that Islam with Qur'an and As-Sunnah is the main law in the world. Boko Haram rejected all of western education or the culture even the science.²³ Abu Bakar Shekau a.k.a Darul Tawheed representing Boko Haram declared that Boko Haram would not enter into any agreement with non-believers or the Nigeria Government. Al-Qur'an teaching must shun democracy, western education, and the constitution of secular system.²⁴

The National Police Headquarters was bombed by Boko Haram. The bombing had killed some police officer and destroying dozens of car. Two months later, Boko Haram attacked the United Nations (UN) office in Abuja on 2011. In 25 December 2011, the 'Christmas Bombings' was launched by the group of Boko Haram in a church service at Madalla in Abuja. The church

²² BBC News, 2017, "Who are Nigeria's Boko Haram Islamist Group?", available at <http://www.bbc.com/news/world-africa-13809501>, accessed on March 13th, 2017 at 8.40pm.

²³ Samuel Asuquo Ekanem, Jacob Abiodun Dada, Bassey James Ejue, 2012, "Boko Haram and Amnesty: A Philo-Legal Appraisal", *International Journal of Humanities and Social Science*, Vol. 2 No. 4, 2012, Centre for Promoting Ideas Publisher, p. 233.

²⁴ Adebisi S, R. Oyedeji, O. Azeez, "Boko Haram Insurgency in Nigeria: Defining, Addressing and Understanding its Impact on Telecommunication Industry", *Economics and Management Research Projects: An International Journal*, ISSN: 2184-0309, Open Access International Journals Publisher, Lagos, p. 1.

of St. Theresa's Catholic Church had been attacked by Boko Haram, leading to the death of some civilians. Between January and December 2012, Boko Haram's attacks occurred in Plateau and Abuja, the Federal Capital. The armed forces were attacked by Boko Haram, leading to the death over 900 people in 2012.

The attacks of Boko Haram were launched in the daylight nearly in the camp of people displaced. The attack was carried out by a 10-year-old girl through suicide bombing. Some civilians were killed in that place of internally displaced people. 2 people died including the attacker in another act of terror on targeted people who performed morning prayers inside a mosque in Dalori.²⁵

Boko Haram attacked a prison in Bauchi, freeing some 700 inmates, including around 100 followers of Boko Haram. Boko Haram has never hidden its targets. Its aim is to destroy the presently constituted Nigerian state. The group maintains its hostility against the police, soldiers, politicians and other symbols of state authority. More than 15 Boko Haram members were killed in northeastern Nigeria, two days after the Air Force accidentally killed

²⁵ PressTv, 2017, "Two Bomb Attacks Hit Nigeria as Officials Blame Boko Haram", available at <http://www.presstv.ir/Detail/2017/01/31/508581/Boko-Haram-Nigeria-Borno>, accessed on March 14th, 2017 at 11.09am.

dozens of people at there on January 21th, 2017.²⁶ On February 20th, 2017 Boko Haram raids on a village in Borno and kills 3 civilians. Boko Haram also attacks in the southern of Borno on Sunday afternoon. Many villagers became victims because of the armed conflict. Some houses were looted by Boko Haram.²⁷

Boko Haram created bad impact towards the fishing industry of the country causing a supply shortage and tosses the fish prices. The city of Maiduguri was the one that affected the neighboring countries when the Government of Niger held a number of delivery fish into Maiduguri with security reasons. For more than a week, more than 200 vehicles full of fish that would be heading to Maiduguri halted at Diffa. Maiduguri and a larger area around it now faced the threat of a shortage of supply of fish. A box of fish in Maiduguri now appreciated 15.000 Naira (approximately Rp.970.000) had been seizure by Boko Haram. The entire vehicle was carrying the fish with a value of about \$5.6 million or Rp.73.000.000.000.²⁸

President of Nigeria Goodluck Jonathan announced that Boko Haram has compromised the political and military in Nigeria. President Jonathan

²⁶ VOA Africa, 2017, "Boko Haram Attack on Ran in Nigeria" available at <http://www.voanews.com/a/boko-haram-attack-on-rann-nigeria/3686346.html>, accessed on March 14th, 2017 at 11.32am.

²⁷ UPI.com, 2017, "Three Killed in Boko Haram Attack on Nigerian Village", available at http://www.upi.com/Top_News/World-News/2017/02/20/Three-killed-in-Boko-Haram-attack-on-Nigerian-village/4121487596256/, accessed on March 14th, 2017 at 11.04am.

²⁸ Kompas, 2017, "Pemberontakan Boko Haram Hancurkan Industri Perikanan Nigeria", available at <http://internasional.kompas.com/read/2015/02/23/1758022/Pemberontakan.Boko.Haram.Hancurkan.Industri.Perikanan.Nigeria>, accessed on March 14th, 2017 at 4.06pm.

accused that a senator has relationships with Boko Haram or in the other name as the spy for Nigeria Government. President Jonathan holds those senators, although this raises a lot of disapproval in some political parties in Nigeria. The ability of the Nigerian security services in investigating the case is also rated weak, which became an advantage and opportunity for criminals, and the corrupt politicians in running its negative actions.

Boko Haram is being a threat to the stability of state in the northern part of Nigeria. Intelligent of United States parties announced that, if the circumstances are not conducive, it is believed that these problems do not just occurred in the region of Nigeria but also can spread to surrounding states. It is can create a regional crisis in the Northwest region of the African continent. This insurgency group may harm the safety of foreign residents.²⁹

B. The Legal Protection of Civilian Population in Nigeria

Based on article 3 common to the Geneva Convention 1949 and article 1 verse 1 of Additional Protocol II 1977, persons no taking or no longer taking part in the armed conflict should be treated humanely.³⁰ Article 3 common to the Geneva Convention of 1949 related to the armed conflict in non-international armed conflict (NIAC) explained that one of the High

²⁹ Ibkar Mahi, 2017, “Kerjasama Internasional dalam Penanganan Gerakan Insurgensi Boko Haram di Nigeria”, available at <http://www.ilmu-hi.com/kerjasama-internasional-dalam-penanganan-gerakan-insurgensi-boko-haram-di-nigeria/#>, accessed on March 14th, at 4.49pm.

³⁰ Mohd Akram, *op. cit*, p. 11.

Contracting Parties, each party to the conflict shall be bound to apply, the parties should following provisions of persons taking no active part in the hostilities, shall in all conditions be treated humanely, prohibition of violence to life and person, and the passing of sentences and also the carrying out of executions without previous judgment. The article contained the protection of civilian population.³¹

The rule of the civilian protection is contained in The Geneva Convention 1949 and Additional Protocol II 1977. The Convention consists of the Convention I, II, III and IV of Geneva Conventions. The Geneva Conventions 1949 did not mention the issue of combatants or non-combatants, but rather a problem determination for wounded and sick victims are contained in the chapter 2 article 13 to the Geneva conventions I and II. The Geneva Convention involves the treatment of prisoners of war if they fall in to the hands of enemies. The protection of civilian population in non-international armed conflict (NIAC) which happened in Nigeria can be found on the Geneva Convention IV of 1949 and Additional Protocol II 1977. In the Fourth of Geneva Convention of 1949, there was a common arrangement regarding the protection of civilians, namely in article 27-39, and article 47,

³¹ Rolland Otto, *op. cit.*, p. 413.

48, 50, 55, and 58. These substances are set out in article 7, 13, 14, and 17 of Additional Protocol II 1977.³²

1) Article 27 of Geneva Convention 1949

“Protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war”.³³

2) Article 28 of Geneva Convention 1949

“The presence of a protected person may not be used to render certain points or areas immune from military operations”.³⁴

3) Article 29 of Geneva Convention 1949

“The Party to the conflict in whose hands protected persons may be is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred”.³⁵

³² Pande Putu Swarsih Wulandari, Ni Ketut Supasti Darmawan, 2013, “Perlindungan Hukum Terhadap Warga Sipil dalam Konflik Bersenjata (Non-Internasional) Libya Ditinjau dari Perspektif Hukum Humaniter Internasional”, Vol. 1 No. 3, 2013, Universitas Udayana, p. 3.

³³ Article 27 of Geneva Convention 1949.

³⁴ Article 28 of Geneva Convention 1949.

³⁵ Article 29 of Geneva Convention 1949.

4) Article 30 of Geneva Convention 1949

“Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them. These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations. Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate as much as possible visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons”.³⁶

5) Article 31 of Geneva Convention 1949

“No physical or moral coercion shall be exercised against protected person, in particular to obtain information from them or from third parties”.³⁷

6) Article 32 of Geneva Convention 1949

“The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents”.³⁸

³⁶ Article 30 of Geneva Convention 1949.

³⁷ Article 31 of Geneva Convention 1949.

³⁸ Article 32 of Geneva Convention 1949.

7) Article 33 of Geneva Convention 1949

“No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited”.³⁹

8) Article 34 of Geneva Convention 1949

“The taking of hostages is prohibited”.⁴⁰

9) Article 35 of Geneva Convention 1949

“All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use. If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the person’s concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave”.⁴¹

10) Article 36 of Geneva Convention 1949

“Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation

³⁹ Article 33 of Geneva Convention 1949.

⁴⁰ Article 34 of Geneva Convention 1949.

⁴¹ Article 35 of Geneva Convention 1949.

and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned. The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands”.⁴²

11) Article 37 of Geneva Convention 1949

“Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty, shall during their confinement be humanely treated. As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles”.⁴³

12) Article 38 of Geneva Convention 1949

“With the exception of special measures authorized by the present Convention, in particular by Articles 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace”. In any case, the following rights shall be granted to them:⁴⁴

1. They shall be enabled to receive the individual or collective relief that may be sent to them;
2. They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned;
3. They shall be allowed to practice their religion and to receive spiritual assistance from ministers of their faith:

⁴² Article 36 of Geneva Convention 1949.

⁴³ Article 37 of Geneva Convention 1949.

⁴⁴ Article 38 of Geneva Convention 1949.

4. If they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned;
5. Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

13) Article 39 of Geneva Convention 1949

“Protected persons, who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are. Where a Party to the conflict applies to protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents. Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30”.⁴⁵

14) Article 47 of Geneva Convention 1949

“Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory”.⁴⁶

⁴⁵ Article 39 of Geneva Convention 1949.

⁴⁶ Article 47 of Geneva Convention 1949.

15) Article 48 of Geneva Convention 1949

“Protected persons who are not nationals of the Power, whose territory is occupied, may avail themselves of the right to leave the territory subject to the provisions of Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article”⁴⁷.

16) Article 50 of Geneva Convention 1949

“The Occupying Power shall, with the co-operation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children. The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it. Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend. A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available. The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favor of children under fifteen years, expectant mothers, and mothers of children under seven years”⁴⁸.

17) Article 55 of Geneva Convention 1949

“To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary

⁴⁷ Article 48 of Geneva Convention 1949.

⁴⁸ Article 50 of Geneva Convention 1949.

foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods. The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements”.⁴⁹

18) Article 58 of Geneva Convention 1949

“The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities. The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory”.⁵⁰

19) Article 7 of Additional Protocol II of 1949 on Protection and Care

“All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones”.⁵¹

⁴⁹ Article 55 of Geneva Convention 1949.

⁵⁰ Article 58 of Geneva Convention 1949.

⁵¹ Article 7 of Additional Protocol II 1977.

20) Article 13 of Additional Protocol II 1949 on Protection of the Civilian Population

“The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities”.⁵²

21) Article 14 of Additional Protocol II 1949 on Protection of Objects Indispensable to the Survival of the Civilian Population

“Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works”.⁵³

22) Article 17 of Additional Protocol II 1949 on prohibition of Forced Movement of Civilian

“The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict”.⁵⁴

⁵² Article 13 of Additional Protocol II 1977.

⁵³ Article 14 of Additional Protocol II 1977.

⁵⁴ Article 17 of Additional Protocol II 1977.

Basically the purpose of the Geneva Convention of 1949 is to protect the civilians of war as governed in The Fourth Geneva Convention of 1949. It means that Parties to the dispute have a positive obligation to give immunity against civilians. For example is the immunity and act of humanizing the war included in article 31, 32, and 33 of Geneva Convention of 1949. Article 31 of Geneva Convention 1949 states that the parties in hostilities are not allowed doing physical or moral coercion that can be committed against civilians to obtain information. The parties to the dispute have to protect the civilian population from torture and physical destruction which is stated in article 32 of Geneva Convention 1949.⁵⁵ The regulations which control protection of victim of war and regulate the conflict in non-international armed conflicts are regulated in article 3 common to the Geneva Conventions 1949 and article 1 verse 1 of Additional Protocol II 1977. International Humanitarian Law only is applied on war time, not in a peace time. But it does not mean that the International Humanitarian law will be applied on particular situations, like riot, insurrection, and constraint. Like what happened on Indonesia in 1998, the riots happened because of monetary crisis, and then there was an insurrection conflict in Ambon by SARA (tribe, religion, and race) issues.⁵⁶

⁵⁵ Danial, 2016, "Efektifitas Konsep Prinsip Pembedaan Hukum Humaniter Internasional Sebagai Upaya Perlindungan Korban dalam Konflik Bersenjata Modern", *Jurnal Media Hukum*, Vol. 23 No. 2, 2016, Universitas Sultan Ageng Tirtayasa, Banten, p. 203.

⁵⁶ Andrey Sujatmoko, 2015, *Hukum HAM dan Hukum Humaniter*, Jakarta, PT Grafindo Persada, pp. 173-174.

Related to the legal protection, article 27 of Geneva Convention 1949 has been regulated to protect the civilians in the conflict area. Nigeria is the party which ratified the Geneva Conventions 1949 and Additional Protocol II 1977. Later, Boko Haram insurgency in Nigeria has reached in NIAC categories, as follows:⁵⁷

1. The hostilities involved between Government Army and Non-Government Army. Nigeria created JTF (Joint Task Force) as the special unit to terminate the Boko Haram Movement;
2. The confrontation has reached minimum level. Boko Haram was indicated as the minimum organization;
3. The weapons which are used by Boko Haram are world professional standard;
4. Boko Haram can also defend their military operation;
5. International Criminal Court officially categorizes Boko Haram as Non-International Armed Conflicts.

⁵⁷ Punia Nathania S, F.X Adji Samekto, Soekotjo Hardiwinoto, 2016, "Kajian Yuridis Peran ICRC Terhadap Bantuan Kemanusiaan Dalam Perspektif Hukum Humaniter International: Studi Kasus Boko Haram", *Diponegoro Law Review*, Vol. 5, No. 2, 2016, Semarang, pp. 6-7.

NIAC (Non-International Armed Conflicts) are regulated on article 3 common to the Geneva Convention and AP II (Additional Protocol II).⁵⁸ All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel. The armed forces of a party to the conflict consist of all organized armed forces, groups and units, which are under a command responsible to that party for the conduct of its subordinates. Civilians are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians.⁵⁹

The concept of human security is about the protection of the vital core of all human being lives in ways which concern on enhanced human freedom and human fulfillment.⁶⁰ The concept of human security could be used as a conceptual framework for international action. The aim from this section is to define more specific how this may work, especially in the context of international law, for examples: humanitarian intervention, protection of IDP (internally Displaced Persons), and control of small arms and lights weapons.⁶¹

The prohibition in armed conflict is more difficult in non-international armed conflict than in international armed conflicts. However, this detracts

⁵⁸ Elizabeth Wilmhurst, Susan Breau, 2007, *Perspective on The ICRC Study on Customary International Humanitarian Law*, New York, Cambridge University Press, p. 77.

⁵⁹ *Ibid*, p. 108.

⁶⁰ Ustinia Dalgopol, Judith Gardam, 2006, *The Challenge of Conflict: International Law Responds*, Boston, Martinus Nijhoff Publisher, p. 60.

⁶¹ *Ibid*, p. 608.

from the value of the prohibition as a basic rule of conduct. The abuse of the Red Cross sign is considered as a war crime. These rules are normally regarded as having a humanitarian character and as being imposed by general standards of civilization. The area of the law of Geneva, the basic principles concerning treatment of the wounded and sick and humane treatment of the adversary who has laid down his arms belong to the code of conduct for non-international armed conflicts.

Article 3, however, the “mini-convention” for NIAC does not address the definition of such a conflict. It can be found in part of the case of non-international armed conflict character happened in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, following provisions of persons taking no active part in the hostilities, shall in all conditions be treated humanely, prohibition of violence to life and person, and the passing of sentences and also the carrying out of executions without previous judgment. The article is concerned on the protection of life which has already been explained before. It makes clear that those minimum standards are as good as what international Humanitarian Law rules have regulated.⁶²

⁶² Rolland Otto, 2010, *Targeted Killings and International Law*, Gottingen, Springer Language of Science, pp. 413-414.

Attacks may only be directed against combatants. Attacks must not be directed against civilians. The civilian population as well as individual civilian shall not be the object of attack.⁶³ Combatants are persons who have the right to participate to the armed conflict or hostilities.⁶⁴ The attacks must be targeted to the military objective.⁶⁵ The articles 7, 13, 14, and 17 of Additional Protocol II 1977 have explained about the distinction principle. Those articles concluded that there is no distinction between civilian population and individual civilian. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition.⁶⁶

It is clear that the International Humanitarian Law in categories of non-international armed conflict focuses on the protection of the civilians. The risk who is able can take by the non-participant in the non-international armed conflicts are greater. The basic principle of distinction between the combatant and non-combatant, those attacks should be directed to the military objectives and not to the civilian population. For example, terror attack is equally gross things to the public conscience in non-international armed conflicts.⁶⁷ A state

⁶³ Elizabeth Wilmhurst, Susan Breau, *op. cit.*, p. 136.

⁶⁴ Michael N. Schmitt, Jelena Pejic, 2007, *International Law and Armed Conflict: Exploring the Faultlines*, Boston, Martinus Nijhof Publisher, p. 336.

⁶⁵ Liber Amicorum Ove Bring, 2009, *Law at War: The Law as it was and The Law it should be*, Boston, Martinus Najhoff Publisher, p. 210.

⁶⁶ Pande Putu Swarsih Wulandari, Ni Ketut Supasti Darmawan, *op. cit.*, p.4

⁶⁷ Frits Kalshoven, 2007, *Reflection on The Law of War*, Boston, Martinus Nijhoff Publisher, p. 142.

must not accept brutal crimes which affect the life of person and integrity of the civilian population.⁶⁸

Based on the explanation in previous pages, it is concluded that the International Humanitarian Law in categories of non-international armed conflict focuses on the protection of the civilians. The International Humanitarian Law only applies to war time and not in a time of peace. It means that the International Humanitarian law will not be applied in situations such as riots, insurrections, and constraints.

Nigeria is the party which ratified the Geneva Conventions 1949 and Additional Protocol II 1977. With this, the legal protections of civilian population in Nigeria are protected under the Fourth Geneva Convention 1949 and Additional Protocol II 1977. Combatants are persons who have the right to participate in armed conflicts or hostilities. Meanwhile, civilians are persons who are not members of the armed forces. Persons taking no active part in the hostilities shall in all conditions be treated humanely, prohibited to be subjected to violence to life and person, the passing of sentences and also the carrying out of executions without previous judgment.

Moreover, International Criminal Court (ICC) officially determined Boko Haram in the category of non-international armed conflicts. Non-

⁶⁸ Pablo Antonio Fernandez Sanchez, 2009, *International Legal Dimension of Terrorism*, Boston, Martinus Nijhoff Publisher, p. 13.

international armed conflicts are regulated under article 3 common to the Geneva Convention 1949 and Additional Protocol II 1977. Based on the regulation above the attacks must be targeted to military objectives and not to civilian objectives. The legal protections of the civilian population are regulated under article 27-39, 47, 48, 50, 55, and 58 of Geneva Convention 1949 and also regulated under article 7, 13, 14, and 17 of Additional Protocol II 1977.

C. The Application of International Humanitarian Law in Nigeria

The humanitarian law was not fully applied in the conduct of hostilities between the Nigerian Government against Boko Haram. Many of civilians became victim as a result of the hostilities between them.⁶⁹ moreover, what the rebel desires through violence is totally unacceptable. This will indeed be the world's subject of scorn and disdain, especially with suffering and losses it causes to innocent people.⁷⁰ In fact, the armed conflict between Nigerian Government against Boko Haram during 2009-2017 had caused

⁶⁹ Adwani, 2012, "Perlindungan Terhadap Orang-Orang dalam Daerah Konflik Bersenjata Menurut Hukum Humaniter International", Vol. 12, No. 1, 2012, *Jurnal Dinamika Hukum*, Aceh, p. 104.

⁷⁰ I Wayan Parthiana, 2003, *Pengantar Hukum International*, Bandung, Mandar Maju, p. 421.

more than 20.000 victims.⁷¹ According to the study Vision of Humanity more than 77% of the victims are civilians.⁷²

Since Mohammad Yusuf, leader of Boko Haram, died in 2009, the movement of Boko Haram was continued under the leadership of Abu Bakar Shekau.⁷³ Boko Haram carried out its attacks in armed conflicts with so many victimized civilians.⁷⁴ Boko Haram returned to Maiduguri in 2010 and started its campaign, attacked police checkpoints in Borno and Yobe. Boko Haram succeeded in seizing the authorities' weapons and proceeded to exterminate them. On December at the same year, Boko Haram bombed a church and market in two districts of Jos, killing some civilians. More than 20 civilians were killed after Boko Haram committed a suicide attack in Abuja. Since August 2012, there have been almost weekly attacks by bombing in churches in Nigeria's northeast.⁷⁵

On June 2011, a church in Maiduguri, Northeast Nigeria town was subjected to an attack. According to news from Christian Today, at least five civilians became victims and two civilians were killed by explosion of a bomb

⁷¹ Anonymus, 2017, "Konflik Boko Haram, UNICEF: Pelaku Bunuh Diri Anak Meningkat", available at <https://sketsanews.com/605430/konflik-boko-haram-unicef-pelaku-bunuh-diri-anak-meningkat/>, accessed on June 3rd, 2017 at 1.19pm.

⁷² Anonymous, 2016, "Kekerasan Agama dan Ironi Islam Extremis", available at <http://www.dw.com/id/kekerasan-agama-dan-ironi-islam-ekstrim/a-36207028>, accessed on June 8th, 2016 at 11.55pm.

⁷³ Jan Michalko, 2014, *Insecurity in Context: The rise of Boko Haram in Nigeria*, Belgium, Directorate-General for External Policies of the Union Policy Department, p. 7.

⁷⁴ Fred Femi Akinfala, Gabriel Aunde Akinbode, Ibi-Agiobu Kemmer, *op. cit.*, pp. 128-133.

⁷⁵ Andrew Walker, 2012, "What is Boko Haram?", Washington D.C, United States Institutes of Peace, pp. 5-6.

that missed when thrown in the direction of the Church of St. Patrick.⁷⁶ On 2012, a series of bombings and shootings swept Kano after Friday prayers, killed more than 150 civilians including 38 police officers. Those attacks claimed by Boko Haram which aimed at the police headquarters and the offices of other policemen, a police building and the offices of immigration at Maiduguri.⁷⁷

Boko Haram opened fire on a number of students at a College in the rural state of Yobe State, Gujba, Northeast Nigeria, while they are asleep and killed more than 50 students. Boko Haram claimed dozens of attacks in Nigeria, including suicide bombings in August at United Nations Headquarters in Abuja that killed at least 24 people. The group had carried out attacks estimated to have killed more than 3.600 people since 2009-2013.⁷⁸

On December 28th 2010, Boko Haram attacked a church in Maiduguri leading to the death of 38 civilians and 4 of the church's pastors. Christians were not Boko Haram's only target, 5 moslem civilians were died on March 12th 2011, the victims are Moslem who did not support what Boko Haram did to establish the Islamic State using violence. On December 25th

⁷⁶ Anonymous, 2011, "Umat Kristen Nigeria, Target Pembunuhan", available at <http://www.cakka.web.id>, accessed on June 3rd, 2017 at 3.00pm.

⁷⁷ Anonymous, 2013, "40 Orang Tewas Dalam Serangan Boko Haram ke Sekolah" available at <http://www.antaraneews.com/berita/398088/40-orang-tewas-dalam-serangan-boko-haram-ke-sekolah>, accessed on June 3rd, 2017 at 3.00pm.

⁷⁸ Vincent Asido Panggabean, 2013, "Serangan Terhadap Kampus di Nigeria Tewaskan 50 Mahasiswa", available at <https://www.merdeka.com/dunia/serangan-terhadap-kampus-di-nigeria-tewaskan-50-mahasiswa.html>, accessed on June 3rd, 2017 at 2.45pm.

2011, the “Christmas Bombing” was launched by a group of Boko Haram in a church that resulted to the death of 65 civilians in Abuja. On December 31th 2010, Boko Haram was responsible for killing at least 168 and injuring 210 civilians in Abuja Market. On Mei 31th 2011, Boko Haram assaulted civilians in Yola by forcing them to join Boko Haram.⁷⁹

Before the middle of 2013, over 550 civilians have been killed in Boko Haram attacks. In August 2013, 35 civilians died, including 2 soldiers and a policeman in Borno, Yobe and Adamawa. Boko Haram launched a similar attack in Bama on 2013, killing 55 people, including 22 policemen and 14 prison officials. In July 2013, 29 students and a teacher were murdered in Yobe. In the previous month, June 2013, 9 students were killed in a private school in Maiduguri. In the same month, 13 people and teachers were killed when Boko Haram attacked a boarding school in Damaturu. In April, more than 16 people were killed in attacks on two Sunday services at Bayero University in Kano.⁸⁰

Boko Haram attacked a military base in Northeast Nigeria and caused 5 soldiers to die in that attack. Its attack on the army facility in the town of Buni Yadi fell into the hands of Boko Haram in February 2014. More than 40

⁷⁹ Fred Femi Akinfala, Gabriel Aunde Akinbode, Ibi-Agiobu Kemmer, *op. cit.*, pp. 128-133.

⁸⁰ Ebere R Adigbuo, 2014, “Boko Haram: A Race between Amnesty and Criminal Tribunal”, *Historical Research Letter*, Vol. 13, 2014, ISSN 2224-3178, Department of History and International Studies, Abraka, pp. 33-34.

students were killed in the boy's boarding school.⁸¹ Boko Haram also killed 28 civilians during attacks on farming and fishing villages in northeast Nigeria. Boko Haram has also caused the death of 24 people in Marfunudi.⁸²

According to UNICEF, the use of children as suicide bombers by Boko Haram militias surged in 2017. In the area of Lake Chad at least 27 children have been used in suicide attacks in the first three months of this year. In 2014, Boko Haram has abducted more than 200 girl student in Chibok, Northeast Nigeria. According to UNICEF, Boko Haram is responsible for kidnapping thousands of girls, often raping them, forcing them to become suicide bombers, and forcing them to help the militants in a conflict by marrying them.⁸³

Based on that insurgency, Jonathan Goodluck as the President of Nigeria declared that the state is in an emergency caused by the conduct of violence by Boko Haram.⁸⁴ On February 2016, 58 civilians were killed after 2

⁸¹ News24, 2017, "Boko Haram Attacks Nigeria Military Base", available at <http://www.news24.com/Africa/News/boko-haram-attacks-nigeria-military-base-20170109>, accessed on March 14th, 2017 at 11.17am.

⁸² VOA Africa, 2017, "Twenty Eight Killed Boko Haram North-Eastern Nigeria", available at http://www.voanews.com/a/twenty-eight-killed-boko-haram-northeastern-nigeria/2936507.html?trk1&utm_campaign=boko-haram&utm_medium=paid-ads&utm_source=google-adwords, accessed on March 14th, 2017 at 11.27am.

⁸³ Kompas, 2017, "Dalam Konflik Boko Haram, Jumlah Anak Pelaku Bom Bunuh Diri Meningkat", available at <http://nasional.kompas.com/read/2017/04/12/21310981/dalam.konflik.boko.haram.jumlah.anak.pelaku.bom.bunuh.diri.meningkat>, accessed on June 3rd, 2017 at 1.00pm.

⁸⁴ Anonymous, 2012, "Nigeria Dinyatakan Keadaan Darurat", available at <http://www.beritasatu.com/dunia/23988-nigeria-dinyatakan-keadaan-darurat.html>, accessed on June 9th, 2017 at 1.45am.

women committed suicide bombings. Boko Haram killed both Christians and Moslem, and stopped some schools from teaching what is considered the ‘western culture’.⁸⁵

On March 2012, Nigeria government has negotiated with Boko Haram in a cease-fire. The government gave back the mosque in Maiduguri and Bauchi, government allowed them to worship in peace and the group would give up its arms, but the negotiation has failed. Boko Haram demands are Jonathan Goodluck should convert to the Islam and whole of Nigeria should come under sharia law. The group also demanded the senior members who have been arrested by the government should be released, all of Boko Haram’s property should be restored and the government responsible for the execution of Mohammed Yusuf should be punished. These demands can never be met. The government’s efforts in eradicating of Boko Haram uprising have been consistently brutal and counterproductive. The civilians in Maiduguri and Kano more scared of the police and the army than Boko Haram itself. The civilians would not go to the police office to report suspicious activities in their neighborhoods.⁸⁶

The application of International Humanitarian Law that was not fully implemented in Nigeria can be viewed when Goodluck Jonathan deployed

⁸⁵ CNN Library, *op. cit.*

⁸⁶ Andrew Walker, *op. cit.*, pp. 11-12.

more than 30.000 armies, state security personnel and police to ensure peace, order and stability in Nigeria.⁸⁷ In fact, the state security personnel often arbitrarily execute civilians who were suspected as a member of Boko Haram without previous judgment pronounced by a regularly constituted court. They captured civilians without any clear charges. The death penalty without previous judgment pronounced to the civilians who were suspected as a member of Boko Haram member also often occurred.⁸⁸

For example is on 2017 when a Nigerian Soldier killed a militant suspect of Boko Haram in Damboa without previous judgment pronounced.⁸⁹ Nigerian military has also committed crimes under the International Humanitarian Law, like deaths in custody. It was reported that more than 145 civilians have died in the camp of Giwa, 12 of them are children.⁹⁰ More than 500 prisoners also became the target of torture from security officers with

⁸⁷ Omede J. Apeh, 2011, "Nigeria: Analysing the Security Challenges of the Goodluck Jonathan Administration", *Canadian Social Science*, Vol. 7, No. 5, 2011, Canadian Research & Development Center of Sciences and Cultures, p. 98.

⁸⁸ Philipp Sandner, 2012, "Nigeria Gagal Hadapi Boko Haram", available at <http://www.dw.com/id/nigeria-gagal-hadapi-boko-haram/a-16352129>, accessed on June 11th, 2017 at 11.22pm.

⁸⁹ Rita Uli Hutapea, 2017, "Bunuh Tersangka Militan Boko Haram, Tentara Nigeria Divonis Mati", available at <https://news.detik.com/internasional/d-3526581/bunuh-tersangka-militan-boko-haram-tentara-nigeria-divonis-mati>, accessed on June 12th, 2017 at 1.45am.

⁹⁰ Kompas, 2016, "Amnesty International, "Jika Melihatnya, Anda Akan Menangis", available at <http://internasional.kompas.com/read/2016/05/11/11510261/Amnesty.International.Jika.Anda.Melihat.nya.Anda.Akan.Menangis>, accessed on June 14th, 2017 at 11.35pm.

various methods of torture, including whips, blow gun barrel and stick gum, or forcing prisoners to walk over broken glass and sitting on a nailing chair.⁹¹

The Government or the State is obligated to uphold the law to its full potential in order to protect people who became the victim of the offence the humanitarian law.⁹² But in reality, the corruption also spread in social, political, life, and economic life in Nigeria. In their raids, the army and police often squeeze out the civilians. They also often treat people roughly, causing fear and injury to many civilians.⁹³

Corruption in the Nigeria is rampant. Corruption has also become endemic within the Nigerian armed forces, when soldier mutinied against their commanding officers in 2014. While Nigeria's armed forces allocated US\$6 billion to the annual budget, the Nigerian Armed Forces' monthly pay were suddenly halved to N20.000 (approximately \$130) on July 2014.⁹⁴ The corruption in the military has weakened the effort of Nigeria against Boko Haram, according to the Agency Transparency International. In 2016, the Vice President of Nigeria said around 15 billion U.S. dollars of people's

⁹¹ Stefanie Duckstein, 2014, "Amnesty: Nigeria Terapkan Penyiksaan Secara Sistematis", available at <http://www.dw.com/id/amnesty-nigeria-terapkan-penyiksaan-secara-sistematis/a-17932437>, accessed on June 14th, 2017 at 11.45pm.

⁹² Sophia Listriani, 2007, "Tanggung Jawab komandan Atas Pelanggaran Hukum Humaniter Dalam Suatu Sengketa Bersenjata Internasional" *Jurnal Ilmiah Mondial Ilmu-Ilmu Sosial dan Kemasyarakatan*, Vol. 9, No. 16, 2007, UNISYIAH Aceh, p. 121.

⁹³ Murtada Ahmad, 2013, *Boko Haram in Nigeria: Its Beginning, Principle, and Activities in Nigeria*, Bayero University, Kano, p. 15.

⁹⁴ Hussein Solomon, 2015, "*Terrorism and Counter- Terrorism in Africa Fighting Insurgency from Al Shabaab, Ansar Dine and Boko Haram*", London, Palgrave Macmillan, p. 91.

money has been stolen under the previous Government through fake weapons procurement deal.

The Agency Transparency International has reported this condition had weakened the military of Nigerian Army Force. The factors of less trained, low morale and a shortage of resources had weakened the efforts to eradicate Boko Haram. The Agency Transparency International also said that Nigeria should make budgetary and procurement systems defense devices more transparently, to anticipate a misuse of the funds.⁹⁵ One of the factors that led to the violence in internal conflicts is the structure. Concentration of domestic security was split, thus triggering security's dilemma. A weak state causes a weak political intuition. It also weakens the country's ability to regulate its society.⁹⁶

The evidence collected by Amnesty International indicates that Boko Haram has committed crimes under international law including the killing of civilians, abduction, forced marriages, recruitment and use of child soldiers, and targeting civilian objects. In its response to Boko Haram, the Nigerian military has also committed crimes under international law, which may include war crimes and crimes against humanity like deaths in custody,

⁹⁵ Ani Nursalikhah, 2017, "Korupsi Militer Lemahkan Upaya Nigeria Lawan Boko Haram", available at <http://internasional.republika.co.id/berita/internasional/global/17/05/18/oq5c3o366-korupsi-militer-lemahkan-upaya-nigeria-lawan-boko-haram>, accessed on June 3rd, 2017 at 1.08pm.

⁹⁶ Michael E Brown, 1996, *The International Dimension of Internal Conflict*, MIT press, Cambridge, pp. 13-14.

extrajudicial executions, torture and other cruel, inhuman or degrading treatment.⁹⁷

Relating to the Boko Haram insurgency in Nigeria, an impartial humanitarian body, such as the International Committee of the Red Cross (ICRC) may offer its services to the parties. In the common article 3 to Geneva Convention of 1949, in that article ICRC has an authority to give humanitarian assistance on every party who are involved in the hostilities or armed conflicts. This is the legal basic of ICRC to announce their obligation of duty and ready to carry out the duty under humanitarian law.⁹⁸ ICRC is a neutral and independent organization which has a special mission humanitarian to protect the life and dignity of victims of war and other situations of armed violence and also to assist them.⁹⁹

ICRC has published about general regulations related to the conflict in NIAC (Non-International Armed Conflict), such as:¹⁰⁰

⁹⁷ Amnesty International, 2015, *Nigeria: Boko Haram and Nigerian Military Committing Crimes under International Law in North East Nigeria*, London, pp. 1-3.

⁹⁸ Anonymous, 2014, "Hukum Humaniter Internasional", available at <http://www.bahankuliyah.com/2014/05/hukum-humaniter-internasional.html>, accessed on June 9th, 2017 at 11.25pm.

⁹⁹ Punia Nathania S, F.X Adji Samekto, Soekotjo Hardiwinoto, 2016, "Kajian Yuridis Peran Ierc Terhadap Bantuan Kemanusiaan Dalam Persepektif Hukum Humaniter Internasional (Studi Kasus Boko Haram)", taken from <http://ejournal-s1.undip.ac.id/index.php/dlr/article/view/10845>, downloaded on June 9th 2017 at 11.37pm.

¹⁰⁰ Malcolm N.Shaw QC, 2008, *International Law*, New York, Cambridge University Press, p.1205.

1. The obligation to distinguish between combatant and non-combatant. This section regulated about prohibition of brutality attacks;
2. It is not allowed to intimidation the civilians;
3. The unnecessary suffering is not allowed;
4. It is not allowed to murder, torture, or to catch to the enemy with used planning on traits the trust by the enemy;
5. The obligation to respect and protect medical personnel and religious also medical transportation units in carried on military operations;
6. It is not allowed to attack the civilians including the facilities which is used by the civilian population;
7. It is not allowed to destruct the general facilities which used by the survival of civilian population.

ICRC has given a lot of assisting on the human assistance such as food, water, and intensive care on medical for to the civilians, internally displaced person and other regions that had suffer cause of impact in hostilities, such as:

1. Human Assistance on Food and Water

ICRC in cooperation with NRC (Nigeria Red Cross) assists on the distribution of food assistance to the civilian population who suffered in the Boko Haram conflict. ICRC and NRC observed the situation in the conflict area before launching its emergency assistance. Around 325.000 internally displaced persons (IDPs) have received food and essential household items and more than 100.000 people have benefited from the ICRC's water, sanitation and hygiene operations in north-east Nigeria.¹⁰¹

More than 892.040 people received food ration for up to three months and improved access to water and sanitation for 130.000 people. 325.000 IDPs received food and essential household items from the ICRC, working in cooperation with the Nigeria Red Cross in Adamawa, Borno, Edo, Gombe and Yobe states. More than 8.700 families who had fled the violence and have now returned to their communities received food, maize seed and fertilizer to help them restart their lives in Mubi, Plateau and

¹⁰¹ ICRC, 2015, "Nigeria: Facts and Figures, September 2015", available at <https://www.icrc.org/en/document/nigeria-facts-figures-september-2015>, accessed on May 7th, 2017 at 1.00pm.

Kaduna states.¹⁰² More than 25,000 people in Rann received food during a three-day distribution by the International Committee of the Red Cross (ICRC) that ended on Monday.

The recipients received rice, beans, oil, salt and Corn Soya Blend in quantities that should last for five weeks. The distribution was carried out by the ICRC and community volunteers.¹⁰³ The ICRC continues working with the Nigerian Red Cross (NRS) and community volunteers towards ensuring that the most basic needs are met. In the past few months of 2017, ICRC has been providing food, health care and improved access to clean water to people affected by armed conflict. ICRC was provided food for 286,000 people in the north-east and Middle Belt regions. More than 89,000 displaced persons got access to clean water by the assistance of ICRC.¹⁰⁴

¹⁰² ICRC, 2016, “Nigeria: Hundreds of Thousands Received Emergency Relief Assistance”, available at <https://www.icrc.org/en/document/nigeria-hundreds-thousands-received-emergency-relief-assistance>, accessed on May 7th, 2016 at 1.05pm.

¹⁰³ ICRC, 2017, “Nigeria: ICRC Delivers Food to 25,000 People in Rann”, available at <https://www.icrc.org/en/document/nigeria-icrc-delivers-food-25000-people-rann>, accessed on May 4th, 2017 at 4.49pm.

¹⁰⁴ ICRC, 2017, “Nigeria: Nigeria Responding Needs People Affected Armed Conflicts”, available at <https://www.icrc.org/en/document/nigeria-responding-needs-people-affected-armed-conflict-2017>, accessed on May 7th, 2017 at 12.35pm.

2. Human Assistance on Medical Centre

Civilians who ran away from armed conflict would have caught some form of illness. ICRC has been collaborated with the Ministry of Health in Nigeria, to upgrade the medical center in the Maiduguri and to train a number of medical staff in several hospitals in Nigeria. On 2016, the ICRC continued to significantly scale up its humanitarian response in North East Nigeria. ICRC provided food and essential household items to the people most in need of assistance. ICRC also restored contact between members of families separated by armed violence. Assisted over 350.000 people to gain access to water and improved their sanitation and hygiene. ICRC has treated over 12.000 children under the age of five suffering from severe acute malnutrition.

More than 130.000 patients attended 23 ICRC-supported primary health care centers and 3 mobile clinics. 1,880 children suffering from severe acute malnutrition received treatment. 89.000 displaced persons gained access to clean water. They also built 4.000 emergency shelters serving almost 24.000 displaced persons. ICRC and NRC gave out first-aid trainings to more than 1.850 persons. ICRC cared for 70 injured people causes of explosive bombs in Jos and Kaduna. Besides that, ICRC also

taught more than 1.000 persons, most of them are from Military Nigeria Army Force and NRC on handling to the corps. More than 300.000 patients were treated at 14 ICRC-supported centers and 6 mobile clinics.¹⁰⁵

3. Human Assistance on IDP and Mission Person

There are so many displaced persons who cannot go home anymore because of lack of security. The displaced person leaves their homes, jobs, and separated to their family. Reunited with their family is one of the main concerns of ICRC for human assistance. Mostly displaced person who arrived in Maiduguri live in the government hall or school hall.

Meanwhile, other displaced persons leave in informal camps. ICRC has provided some official camps to the displaced persons. Central Training Agency of ICRC carried the duty to heal the relationship of family in whole conflict situation. Every year there are more than a thousand hundreds case of the missing persons, like internally displaced person (IDP), refugee, and missing person. ICRC builds 4.000 emergency shelters serving almost 24.000 displaced persons. The child who has named Luka

¹⁰⁵ ICRC, 2016, "Nigeria: Hundreds of Thousands Received Food and Assistance in 2016", available at <https://www.icrc.org/en/document/nigeria-hundreds-thousands-received-food-and-assistance-2016>, accessed on May 7th, 2017 at 1.28pm.

has been returned to his family. Luka's story has a happy ending, but many more families have been separated by the armed conflict.¹⁰⁶

ICRC succeeded to return 3 children reunited with family.¹⁰⁷ More than 5.000 refugees are reunited with their family.¹⁰⁸ At least 6 children have been reunited with their family. The ICRC works to reunite children divided and displaced by conflict back with their families.¹⁰⁹

4. Human Assistance on Conflict Area

ICRC was built a tower which contains of 4.000 liter of water and installed water supply of solar power. ICRC has participated in campaign of vaccine. More than 150.000 cows and 50.000 of goats were given vaccine. ICRC was provided 2.000 of corn seeds to the family who needs assistance, so they can come back to the field of farming. More than 1.500 free phone calls

¹⁰⁶ ICRC, 2016, "Nigeria: Luka Sees Mother after Two-Year Separation; Thousands Remain Separated", available at <https://www.icrc.org/en/document/nigeria-lake-chad-family-fighting-conflict-separation>, accessed on May 7th, 2017 at 1.40pm.

¹⁰⁷ ICRC, 2016, "Nigeria: Three Children Forced to Run from War Reunited with Family", available at <https://www.icrc.org/en/document/nigeria-three-children-forced-run-war-reunited-family>, accessed on May 7th, 2017 at 1.44pm.

¹⁰⁸ ICRC, 2016, "Nigeria: Reuniting Refugee Children with Their Families", available at <https://www.icrc.org/en/document/nigeria-refugees-children-chad>, accessed on May 7th, 2017 at 1.50pm.

¹⁰⁹ ICRC, 2016, "Nigeria: Tears of Joy as Families are Reunited with Missing Relatives", available at <https://www.icrc.org/en/document/nigeria-families-reunited-missing-relatives>, accessed on May 7th, 2017 at 1.53pm.

were made by people who had become separated from their families. 1.500 widows were affected by the armed conflict received assistance from the ICRC. More than 7.600 IDPs in Yola and Maiduguri received tents, shelters or roofing materials of 130 latrines were built in camps for displaced people in Maiduguri.

More than 248.000 civilians received agricultural inputs to start farming again. ICRC on their duties of humanity mission was visited more than 20 facilities of jail, provided some blankets, mosquito net, and cleaning tools to upgrade the condition of cleanliness and assisted on providing of hygienic water to drinks.¹¹⁰

Based on the explanation in the previous pages, it can be concluded that the application of International Humanitarian Law is not fully implemented in Nigeria, especially the distinction principle. The distinction principle is the principle for the parties in armed conflict to distinguish between combatant and non-combatant. The armed conflict between Nigerian Government against Boko Haram during 2009-2017 had caused more than 20.000 victims. According to the study Vision of Humanity more than 77% of the victims came from the civilian population.

¹¹⁰ Punia Nathania S, F.X Adji Samekto, Soekotjo Hardiwinoto, *op. cit*, pp.8-13.

Boko Haram did not distinguish between combatant and non-combatant. Boko Haram attacks combatant such as: police, army, JTF (joint task force) but also attacks to the civilians, such as: men, women, children, student, etc. Based on article 13 of Additional Protocol II 1977, these attacks shall direct to the military object but they do not. It violates the article 13 of Additional Protocol II 1977.

Based on article 27 of Geneva Convention 1949, those attacks should be directed to the military objectives and not to the civilian objectives because civilians are protected person in all circumstances. But in fact, Boko Haram often attacks the civilians. A series of bombings and shootings swept Kano after Friday prayers on 2012, killing 185 people, in attacks claimed by Boko Haram which aimed at the police headquarters and the offices of other policemen, a police building and the offices of immigration. Boko Haram opened fire on a number of students at a College in the rural state of Yobe State, Gujba, Northeast Nigeria, while they were asleep and killed more than 50 students.

Based on article 34 of Geneva Convention 1949, there is regulation of prohibition to take hostages, but in fact Boko Haram has abducted more than 200 student girl in Chibok, Northeast Nigeria. According to UNICEF (United Nations International Children's Emergency Fund), Boko Haram was responsible for kidnapping thousands of girls, often raping them, forcing them

to become suicide bombers, and forcing them to help the militants in a conflict or married to them. More than 27 children have been used in suicide attacks in the first three months in 2014. It is clearly, that Boko Haram has violated the article. It violates the article 50 of Geneva Convention 1949 related to protection of children.

In its response to the Boko Haram movement, the Nigerian military has also committed crimes under international law, which may include war crimes and crimes against humanity like deaths in custody, extrajudicial executions, torture, and inhuman or degrading treatment. Nigeria military has killed a militant suspect of Boko Haram in Damboa without previous judgment pronounced. It violated article 3 common to the Geneva Convention 1949 and also article 7 and 13 of Additional Protocol II 1949.

It was reported that, more than 145 civilians have died in the camp of Giwa, since the beginning of Giwa, 12 of them are children. More than 500 prisoners also became the target of torture from security officer with the method of torture using assortment like whips, blow gun barrel and stick gum, or forcing prisoners to walk over broken glass and sitting on a nailing chair. Nigerian Government was violated article 31, 32, 50 of Geneva Convention 1949 and article 7 of Additional Protocol II 1977. The corruption in the military has weakened the effort of Nigeria to fight against Boko Haram, according to the Agency Transparency International. The factors of less

trained, low morale and a shortage of resources had weakened the efforts of Nigeria Government to eradicate Boko Haram movement in Nigeria.

In carrying out the duty, International Committee of the Red Cross (ICRC) has given a lot of assistances on the human assistance in Nigeria territory, such as food, water, and intensive care on medical for to the civilian population, internally displaced person (IDP) and other regions that had suffered due to impacts of hostilities in Nigeria. In the article 3 common to the Geneva Convention of 1949 states that, International Committee of the Red Cross (ICRC) has an authority to give humanity assistance on every party who has involved in the hostilities or armed conflicts. This is the legal basic of ICRC to announce their obligation of duty and ready to carry out the duty under humanitarian law.

ICRC and NRC (Nigeria Red Cross) cooperated on distribution of food assistance to the civilian population who were suffered from the Boko Haram conflict. ICRC has been collaborating with the Ministry of Health in Nigeria. Additionally, has been upgrading the medical center in the Maiduguri and then ICRC training a number staff of medical in several hospitals in Nigeria. ICRC carried the duty to heal the relationship of family in whole conflict situation.