

ASEAN's Contributions to Attain Peace on The Dynamic of Rohingya Ethnic Issue

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Abstract

Humanitarian violence have become a key issue in conflicts that occur, domestically and internationally. This research focuses on how crimes against humanity have occurred in Myanmar, especially in Rakhine-Rohingya. Furthermore, this study explains how ASEAN's contribution in urging to resolving the Rohingya ethnic dispute in Myanmar. Moreover, the role of ASEAN in protecting refugees relate to the lost citizenship rights. This study uses deductive explanations and qualitative methods, collecting information through secondary data and interviews with reliable parties.

Keywords: Myanmar, ASEAN, humanitarian, stateless person



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INTRODUCTION

Upholding human rights is a key point in society as well as a state, however this is also a difficult thing to realize. Egoism of certain parties aggravate the realization of human rights and common prosperity. This egoism is usually based on differences in identity such as belief, ethnicity, religion, even nationalism, and so on. The certain behaviour then refers to discriminatory from and to people who have different identities. This discriminatory behaviour has been and is still one of the reasons for social conflicts to emerge in various regions. Differentiate related to ethnicity and religion are sensitive issues so that it is easiest to trigger open conflicts. Else, it could intensify existing conflicts due to other things such as economic and political problems (Age UK, 2021; Chambers & De Dreu, 2014).

Despite the world has been "recognizing" one common identity, global norms which mind cored by human rights. However, in fact, humanitarian issues are still the main issue in almost every conflict that arises, both domestically or among countries (Reese et al., 2019; The New Humanitarian, 2021). Like the conflict that occurred in Myanmar, which "coincidentally" involved religions, Islam and Buddhism, and ethnicity, Rakhine-Rohingya.

Rohingya ethnic itself is an ethnic group of Muslims, live in Buthidaung and Maungdaw in western Arakan (Rakhine), Myanmar. The part of this country borders the NAF River as a barrier between Myanmar and Bangladesh, this section is also sometimes referred to as the Mayu area. The state of Arakan is the residence of the largest Muslim population in Myanmar, and ethnic Rohingya lives in constituent together with Buddhist religious people and with Myanmar people since the ninth century. Their work includes farmers, traders, fishermen, trees, craftsmen, marines, sailors and labor workers (Nemoto, 2005).

One of the most problematic in this conflict is the Rohingyas who do not get citizenship recognition from the ruling government, and this problem has been going on for years. By not having citizenship has a huge impact for a person in terms of states issues, as the difficulty of a person to gain access to health, education, job, housing, and almost others related to the needs of citizenship data. Furthermore, this matter causes other problems such as hunger, poverty, thus triggering other conflicts such as acts of violence (de`Chickera, 2018).

In its development, around 500,000 people from Rohingyas have left Myanmar to the countries around Myanmar, due to the actions of torture, rape, the murder of Myanmar security forces against ethnic Rohingya. As a minority without citizenship, this ethnicity has experienced prolonged discrimination since 1948 in Myanmar through restrictions on rights. These ethnicities are limited to ethnic groups participating in elections, freedom in acting, land ownership, freedom in religion, gets education, getting work and others (Saliternik, 2017).

This discrimination began to emerge in 1947, the Myanmar government and the ethnic group Shan, Chin and Kachin signed the Panglong agreement, which promised full autonomy in internal administration for the borderline/ frontier region, but in this agreement, ethnic Rohingya was not involved (LFS Org, 2021; The Diplomat, 2016).

M.C Ricklefs explained in his book *A New History of Southeast Asia*, that the Myanmar government's discriminatory behaviour towards the Rohingya had started since Ne Win's leadership in 1962. Ne Win succeeded in carrying out a coup against the then president of Myanmar and won the seat of government. Afterwards, Ne Win imposed an authoritarian system of government supported by the socialist party (Reyes et al., 2010).

The human rights violations continue to occur in many ways, resulting in tens of thousands of Rohingya tortured and ending up seeking the "pecefulness" from other countries, or as we call them asylum seekers and refugee. Unfortunately, this matters also certainly has an impact on the countries as host country, such Thailand dan Malaysia, or as transition country Indonesia (Das & Chowdhary, 2020; de`Chickera, 2018).

Many parties have tried to push the Myanmar government to resolve the long conflict that caused the crisis in their country. Of course, as a supra-government, the United Nations (UN) takes a role in efforts to resolve this humanitarian conflict. The United Nations emphasized that the actions of the Myanmar military junta were an act of eradicating ethnicity and certainly violated humanity. In December 2017, the United Nations even passed a resolution urging the Myanmar government to stop inciting hatred against the Rohingya's minority and other minority groups. Then, followed by 131 MPs from Southeast Asia who urged the UN Security Council to submit the Rohingya crisis to the International Criminal Court, in August 2018 (Albert, 2020).

As long Southeast Asian prestigious organization, The Association of Southeast Asian Nation (ASEAN) have been encouraging the resolution of humanitarian violations in Myanmar. On August 17, 2012, ASEAN and Affairs Minister of ASEAN countries made a joint statement, *first* encourage Myanmar's government to continue working with the UN in dealing with the humanitarian crisis in Arakan; *second* state the seriousness of the ASEAN regional organization to provide humanitarian assistance; *third* underlining those efforts to encourage national harmony in Myanmar are an integral part of the democratization process in the country (ASEAN Secretariat, 2021).

Through the times ASEAN in 2021 then give another statement which *first* ASEAN Member States have been closely following the current developments in the Republic of the Union of Myanmar; *second* recall the purposes and the principles enshrined in the ASEAN Charter, including, the adherence to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms; *third* reiterate that the political stability in ASEAN Member States is essential to achieving a peaceful, stable and prosperous ASEAN Community; *fourth* encourage the pursuance of dialogue, reconciliation and the return to normalcy in accordance with the will and interests of the people of Myanmar (ASEAN Secretariat, 2021).

This declaration, yet this conflict showing no signs of completion. ASEAN itself as if faced difficulties to act due to many dynamic. By those situations, we use non-qualitative methods in this article attempts to define what is the role of ASEAN in its reference for resolving the Rohingya ethnic dispute in Myanmar? Furthermore, this article finds what is the role of ASEAN in protecting refugees related to the loss of citizenship rights, as well.

LITERATURE REVIEW

Social Identity Theory

The concept of social identity was first proposed by Henri Tajfel and John Turner. According to them, the concept of social identity is very closely related to self-identity which is then formed due to conformity with other individuals, who then join or join in one social group. A person does not only have one identity but has several identities which then adjusts to his group membership. This concept is used to predict, explain how the behavioral relationship between certain groups based on differences in status, legitimacy, and stability are considered as a result of these status differences tersebut (Turner & Reynolds, 2010).

There are three important things in the social identity of a person, namely identification, categorization and also comparison. Then in the book Jan E. Stets and Peter J. Burke, entitled Identity Theory and Social Identity Theory said that individuals usually fall into several social categories. These social categories often encourage the formation of community-level groups and networks as individuals are unconsciously or consciously attracted to similar "others" especially if they are part of a minority or other belonging to a lower status group in society (Raffie, 2013). In social identity theory, there are three important interrelated elements, namely identification, categorization, and comparison (Jacobson, 2003).

Categorization is the grouping of a group based on things that are physical or can be seen. Rohingya and Rakhine are two different ethnicities who live in the Arakan region which is currently called Rakhine. The Rakhine ethnicity is a Buddhist majority, while the Rohingya are a Muslim ethnic minority. The majority of Myanmar's population views the Rohingya as unlike the Muslims who live in Yangon, Mandalay and other cities. Historically, the Rohingya were seen as not part of the Myanmar ethnic group, but as ethnic immigrants who came from Bangladesh and later settled in the Araka region (Thuzar, 2021). It can be seen from their physical characteristics, the Rohingya ethnicity refers to the physical characteristics of non-Tibetan-Myanmar descent who are closely related to the Bengalis. In terms of language, the Rohingya people in their daily lives use the Rohingya language or what is known as Rohingyalish which is also closely related to the dialect of the Chittagong Bengali region, which also has similarities with the Teknaf, Ukhia and Cox Bazar dialects which are also found in Chittagong (Mohajan, 2018).

Self-identification, which is a process where individuals or social groups begin to enter and adopt social identity, in this phase there is a sense of belongin, so that the feeling of *ingroup* is strengthened. In this case, the ethnic Rakhine has the same national identity and language as the ethnic majority in Myanmar who are mostly Buddhists. The Rakhine ethnic group then identified themselves as part of the *ingroup*, while the Rohingya ethnic group that was physically and ethnically different was categorized as *outgroup* and considered a threat. When it happens resistance by Myanmar and Japan, the Rohingya sided with the British. here the beginning of the segregation between the indigenous people of Myanmar and the Rohingya (Thuzar, 2021).

Furthermore, self-comparing (comparison) occurs because the individual already has the belief that he is and is part of a group so that there is a process of comparing with other groups. In 1962, General Ne Win took power and implemented nationalist and unitary policies that changed the political context, the government wanted to make Myanmar a country that had a unified character by not allowing the existence of autonomy rights for each region or state in it. On the basis of this policy, the Myanmar government at that time refused to recognize the ethnic identity of the Rohingya Muslims (Thuzar, 2021). This causes the majority of them to be stateless. Therefore, the Rohingyas lost the right to own property, the right to vote in elections public and prevent the Rohingya from taking part in the referendum Myanmar's constitution (Amnesty International, 2017).

Concept of International Organization

The concept of International Organization was born from liberalism which has the assumption that the state is not the only actor in international relations. After The Word War II, the level of analysis in international relations underwent a transformation from state actors to non-state actors, one of which is international institutions. In the view of liberalism, high institutionalization can significantly reduce

the situation of anarchy caused by the condition of multipolar world powers. This institution helps create a situation that supports peace stability (Jackson & Sorensen, 2009). Through international institutions, cooperation between state and non-state actors can be more efficient in resolving issues that exist in society. The formation of an international organization is expected to be able to solve conflicts that occur between countries. International Organization is a pattern of cooperation that crosses national boundaries, which is based on a clear and complete organizational structure.

International organizations aim to carry out their functions in an institutionalized and sustainable in order to achieve the goals that are needed and mutually agreed, both between governments as well as between non-governmental groups and different countries (Jackson & Sorensen, 2009). International organizations have basic instruments that explain their objectives, structure and operational methods. In addition, according to Sugito, international organizations are founded by treaties and usually protect state sovereignty, operating at the level of consent, recommendation, and cooperation rather than through coercion or pressure (Sugito, 2016).

ASEAN is an international organization in the Southeast Asia Region which has the aim of maintaining and enhancing peace, security and stability as well as further strengthening peace-oriented values in the Region as well as enhancing friendship and cooperation in the fields of economic growth, social progress and cultural development of the countries. As a regional organization, ASEAN certainly prioritizes cooperation to support the creation of peace stability. ASEAN asserts itself as an organization that respects and determined to uphold human rights (HAM) and democratic values in accordance with the contents of the Bangkok Declaration which was signed by five member countries on August 8, 1967 and also stated in the ASEAN Charter, especially in article 1 paragraph (4), the content of which is to ensure that both people and ASEAN Member States must live in conditions of peace, justice, democracy and harmony.

ASEAN works based on the principles in the ASEAN Charter which member countries must comply with. ASEAN's role in resolving the Rohingya ethnic conflict refers to three principles, including (1) ASEAN's shared commitment and collective responsibility in enhancing peace, security and prosperity in the region; (2) Reject aggression and the threat or use of violence or other actions in any form contrary to international law; (3) respect for fundamental freedoms, the promotion and protection of human rights, and the promotion of social justice; (4) uphold the Charter of the United Nations and international law, including international humanitarian law, approved by ASEAN Member States.

Based on that goals and principles, ASEAN has a role and responsibility to create a peaceful situation when the Southeast Asia Region or ASEAN member countries are in conflict. Myanmar is a member country that has been in crisis since the coup by the Military Junta on February 1, 2021. The situation is further complicated when the prolonged conflict regarding the Rohingya ethnicity has not yet been resolved. The conflict that befell the Rohingyas has become the focus of ASEAN's attention because it is contrary to the original purpose of establishing ASEAN. The Rohingya ethnicity is part of the ASEAN community that must be protected even though the Rohingya themselves do not receive recognition from Myanmar.

RESEARCH METHOD

Research entitled "*ASEAN's Contributions to Attain Peace on the Dynamic of Rohingya Ethnic Issue*" focuses on ASEAN's role in providing resolution to the Rohingya ethnic conflict and providing security guarantees for Rohingya refugees. The research was conducted using qualitative methods by collecting data through interviews and literature studies. The primary data are collected from three interviewees, including Moe Thuzar from the Yusof Ishak Institute, Dr. Priyambudi Sulistiyanto from Flinders University Australia, and Maung Zarni from Forces of Renewal Southeast Asia.

This approach is carried out with the aim of obtaining information from relevant sources. While the secondary data are used to enrich the article. For the collection of secondary data we have used both published and unpublished data sources. The data are collected from books of various authors, journal articles, and websites.

RESULTS AND DISCUSSION

ASEAN's Role in Pursuing Peace in Myanmar Against Rohingya Ethnicity

ASEAN as a regional organization in AsiaSoutheasthas played an important role in realizing the democratization processforits member countries. It canlooks at least inhandling cases in Myanmar. The military regime that has developed in Myanmar since 1988 has led to protestss and swallow the victim thousands of innocent lives. International world with hard condemn the Myanmar government by imposing a series of sanctions for pressure the Myanmar government. Principle *Non-Interference* which ASEAN up holds more emphasis on approach diplooff and kinship. Onthe meeting of the leaders of ASEAN countries in Indonesia in April 20211 confirmed that approach soft way more productive from on me impose sanctions on Myanmar. Approach this soft power more focuses on prosice convinces the government power Myanmar that ASEAN will continue to support steps strategic what is needed to reduce the number of violence that happened in Myanmar. ASEAN itself places itself more as aarena/forum to discuss the problems that occurand not as the main actor who has the right to take action to member countries.

Efforts that have been made by ASEANasregional organizations, among others, play a role indnature manages conflict, that is conflict communal and sectarian happening in the country part western Rakhine, Myanmar, become one of the focus of attention in order to Southeast Asian leader. Even some heads of government in ASEAN agreed to continue to pressure Myanmar so that resolve and end the riots between minorities Muslim Rohingya and Rakhine Buddhists. Principle *Non-Interference* that ASEAN has implemented so far has made Southeast Asia one of the regions that have the best level of stability and peace compared country area other flowers. ASEAN besides major driver of political growth in the region, too able create participation active and a sense of belonging. Indonesia ASEAN member sections voiced the importance of all ASEAN members to provide full assistance to resolving the Rohingya conflict without discriminating against SARA with carry out diplomacy Internasional.

The incident that befell the Rohingya ethnicity is actually closely related to the dynamics of democracy in Myanmar itself. As long as Myanmar is still stuck with its confusion about implementing the principles of democracy, then during that time Myanmar will also be struggling with the issue of its Rohingya ethnicity. Therefore, in addition to the efforts that have been made by ASEAN, there are baby how many scenarios can be appliedfor the sake of creating peace in Myanmar, namely: (a) diverge promote "controlled election" by removing the current NLD leadership this and General Min Aung Hlaing will take over USDP leadership as Presidential candidate, (b) PBB and ASEAN are working together to restore democracy, peace and effort conflict resolution in Myanmar.

Stateless Minority from the Perspective of ASEAN

Human rights problems in Southeast Asia, one of which happened to the Rohingya ethnicity, has not yet been resolved. in terms of handling human rights problems that occur in Southeast Asia can be done by AICHR as a body devoted to human rights in ASEAN, but in its implementation AICHR is often considered closed and excessive (Thamrin, 2018). About 500,000 people of Rohingya ethnicity have fled from Myanmar to neighboring countries due to torture, rape, and killing of Myanmar security forces against the Rohingya.

As a stateless minority, this ethnic group has experienced prolonged discrimination since 1948 in Myanmar through restrictions on rights (Saliternik, 2019). The massacres were systematically intensified in the aftermath of the military coup in 1962 (Martin, 2017). The Tatmadaw (Myanmar Armed Forces), led by General Ne Win seized power from the elected civilian government in 1962. General Ne Win seems to harbor strong animosity towards the Rohingya ethnic group. This can be seen from the military operations under General Ne Win's command that targeted the Rohingya ethnic group (Martin, 2017).

In accordance with Article 3 of Burma Citizenship Law 1982, stated that:

"Nationals such as the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine or Shan and ethnic groups as have settled in any of the territories included within the State as their permanent home from period anterior to 1185 B.C., 1823 A.D. are Burma citizens."

Based on this article, Rohingya ethnic groups should have Myanmar citizenship, because since the beginning, a group of Muslims have lived in the northern Rakhine region and call themselves Rohingya (Leider, 2019). However, Article 4 of the Burma Citizenship Law 1982 states that "the Council of State may decide whether any ethnic group is national or not". Myanmar insists that there is no such ethnic group as the Rohingya in Rakhine state, claiming instead that they are "illegal immigrants" from Bangladesh (Amnesty International, 2018). The Myanmar government refuses to recognize the Rohingya as citizens, effectively rendering the majority of them stateless.

However, this situation continued until the major crisis experienced by the Rohingya in 2017. More than 650,000 ethnic Rohingya have fled from violence and persecution in Rakhine. This brings the total number of Rohingya refugees in Bangladesh to over 900,000. The Bangladesh government in Cox's Bazar has difficulty handling the arriving Rohingya refugees, due to constraints on funding, poor coordination and planning due to the high increase in the number of refugees (Wake, 2018). The loss of Rohingya ethnic citizenship will certainly affect the condition of children born in this ethnicity. Myanmar must ensure the implementation of the above rights in accordance with the laws of the respective countries and their obligations under the relevant international instruments in this field, especially if the child is declared stateless. On the other hand, the Government of Myanmar has ratified the 1989 Convention on the Rights of the Child in 1991 (Global Justice Center, 2012) and is obliged to grant citizenship status to children born in Myanmar who are declared stateless in accordance with Article 7 of Convention on the Rights of the Child 1991.

Myanmar has ratified several international conventions related to human rights. Based on this action, Myanmar accepts an international legal obligation to comply with the convention's rules in good faith and cannot use its national law as an excuse to violate the obligations of international conventions that have been previously ratified, this is based on Article 27 of Vienna Convention on the Law of Treaties 1969. ("**VCLT 1969**"). The following are international conventions related to human rights (i.e., citizenship rights) that have been ratified by Myanmar, including:

- a. *International Covenant on Civil and Political Rights;*
- b. *International Covenant on Economic, Social and Cultural Rights;*
- c. *International Convention on the Elimination of All Forms of Racial Discrimination;*
- d. *Convention on the Elimination of All Forms of Discrimination against Women;*
- e. *Convention on the Rights of the Child;*
- f. *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.*

Based on Article 26 of VCLT 1969, a country that has ratified and committed to comply with an international convention reflects that the country is willing to implement the contents of the convention in good faith. If a country does not fulfilled the provisions in accordance with the relevant international convention, then that country is deemed to have violated its legal obligations under the convention (Bradley, 2016). Referring to Article 27 of the VCLT 1969, a state

cannot argue its internal legal provisions to justify its failure to carry out its obligations under international conventions. The violation of the rules of a convention also does not merely cause the country to end the agreement unilaterally. If a state violates its obligations under an international convention, that state has an obligation to remedy the consequences of its actions with reasonable effort, and this obligation is not required to be stated in the violated international convention (International Court of Justice, 1927). Based on these facts, we can argue that Myanmar has clearly violate international law due to its behavior towards the Rohingya ethnicity.

Myanmar's actions against the Rohingya people violate many fundamental rights of the Rohingya, including the rights provided under the ICCPR. The Myanmar authorities have engaged in a deliberate campaign to make it difficult for the Rohingya in a restricted form of self-identification (Amnesty International, 2017). The government has made it difficult for Rohingya people to register their newborn on the family card. Apart from

discrimination against newborns, in northern Rakhine State, Rohingya who are not at home at the time of the annual population census are at risk of being deleted from official records. One consequence of this campaign is that, it is nearly impossible for Rohingya who have left Myanmar to return to their homes. This has continued into 2017 which has driven more than 700,000 Rohingya to flee to Bangladesh, where they are living in refugee camps in dire conditions (Amnesty International, 2017).

Based on our interviews with Maung Zarni as a part of Forces of Renewal Southeast Asia, he stated that the situation concerning Rohingya is indeed a violation of human rights by the military, including the stateless situation on Rohingya. In regards with the solving mechanism by ASEAN, we would like to refer to Article 33 paragraph (1) *juncto* Article 36 of the United Nations Charter, which provides the provision on negotiation, mediation, facilitation and other methods as deemed necessary to solve a certain issue.

The principle and commitment of ASEAN member countries in defending their citizens' human rights is questionable, if viewed on the principle of noninterference it is clear that ASEAN leaders should ignore the actions of Myanmar to ethnic Rohingya. However, concerns arise when the enforcement and protection of human rights in Southeast Asia through AICHR is not effective as expected by the people, because of Article 2 paragraph (2) letter e and f of the ASEAN Charter (Thamrin, 2018). Professor. Dr. Rosalia Sclortino clearly stated that it would be hard for ASEAN to solve this issue due to non-interference principle. The absence of AICHR's visible role by the public in addressing conflict-related issues in Rohingya-Myanmar is due to the limitation of legal personality, the strengthening of the reduction of the effectiveness of legal personality and the low politics of human rights enforcement in Southeast Asia (Thamrin, 2018).

On the other hand, ASEAN as yet lacks a Human Rights Court to interpret and enforce the ASEAN Human Rights Declaration, a further factor that must be remedied if the region's refugees including Rohingya are to be protected (Shivakoti, 2017). However The Rohingya ethnic conflict in Myanmar has met the indicators of a situation that threatens international peace and security, including its stateless situation, hence, ASEAN shall have the rights to:

- a. Call all parties to use peaceful means if the situation jeopardizes international peace and security;
- b. Recommend dispute resolution mechanisms;
- c. Recommend appropriate procedures or methods for dispute resolution, and consider submitting legal disputes to the International Court of Justice ("ICJ").

The above provisions may be implemented in stages to decide the measures taken is considered as deemed as necessarily.

CONCLUSIONS AND RECOMMENDATIONS

Human rights problems in Southeast Asia still occur, one of which is the problem that occurs in the Rohingya ethnicity which has not been resolved until now. Ethnic Rohingya are not recognized as citizens (citizenship), meaning they are stateless. This will have an impact on the difficulty of individuals to get access to health, education, work, housing, and others related to the needs of population data. This can cause various problems such as hunger, poverty, and even lead to conflicts that lead to violence. The

situation regarding the Rohingya is indeed a violation of human rights by the military, including the stateless situation of the Rohingya.

ASEAN as a regional organization in Southeast Asia has an important role in contributing to solving these problems. The principle of Non-Interference upheld by ASEAN places more emphasis on diplomatic and familial approaches. However, this principle will make it difficult for ASEAN to resolve the problems that occur in Myanmar. In addition, the management of conflicts that occurred in Myanmar has also been carried out by ASEAN as a regional organization in this case the handling of human rights problems that occur in Southeast Asia can be carried out by AICHR as a body devoted to human rights in ASEAN. However, the existence of article 2 paragraph (2) letters e and f in the ASEAN Charter raises concerns related to the enforcement and protection of human rights in Southeast Asia through the AICHR which is not running as effectively as expected.

ASEAN as a regional organization in Southeast Asia, can use the soft way and soft power approach by convincing and supporting the Myanmar side to take strategic steps in solving problems that occur, especially those related to the Rohingya ethnicity. In addition, ASEAN can immediately establish a Human Rights Court to be able to interpret and enforce the ASEAN Human Rights Declaration and ASEAN can also review the principle of non-interference.

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