

LEGAL REPRESENTATION OF ETHNIC ROHINGYA REFUGEES IN ACEH REGION IN THE PERSPECTIVE OF INDONESIAN NATIONAL REGULATIONS

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LEGAL REPRESENTATION OF ETHNIC ROHINGYA REFUGEES IN ACEH REGION IN THE PERSPECTIVE OF INDONESIAN NATIONAL REGULATIONS

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ABSTRACT

Ethnic Conflict in Rohingya has long existed in Myanmar, causing thousands of Rohingya people to be displaced. Many remnants of Rohingya houses and villages that are currently in ruins are the target of discrimination by the Myanmar authorities, especially many who fled to neighboring countries, especially Indonesia who fled to Aceh Province, Indonesia. The research method used in this article is the description and explanation method. Descriptive research presents a complete picture of the problems that focus on the Legal Representation of Ethnic Rohingya Refugees in Aceh Region in the Perspective of Indonesian National Regulations. We will analyze related In the case of ethnic Rohingya, there has been a gross violation of human rights because it deprives a person of the right to life. Not only was the right to life violated, but the right to own property, the right to believe, and the right to live comfortably were also violated. during the last three months since November 2022, Indonesia has received the arrival of 5 ships carrying 644 Rohingya refugees in Aceh. The refugees are now being accommodated in three different locations in Aceh namely, Lhokseumawe, Pidie, and Aceh Besar, while a total of 67 of them have spontaneously continued their journey. Indonesia must ensure the protection of its Rohingya ethnicity as a form of human rights protection.

Keywords: Legal Protection, Ethnic Rohingya, Human Rights.

INTRODUCTION

The Rohingya became victims because they were considered unfaithful and wanted to leave Myanmar. The Rohingya were also seen as a risk under Ne Win's rule, which ended in a campaign to crush separatist movements and understand the multitudes of Rohingya in 1978. From the era of the Ne Win regime until the 2000s, the Rohingya faced a difficult situation, due to the great discrimination performed by the Burmese army rulers.¹ The clashes over the Rohingya ethnic conflict have been enough in the country of Myanmar (Burma). The Rohingya people have been expelled from the Arakan region since 1942. At that time, there was a massacre of Rohingya Muslims by pro-British forces.

At least 100,000 Rohingya Muslims were killed and thousands of villages were destroyed in the bloody tragedy. Since then, Rohingya Muslims have been living in fear. The Rohingyas face not only violence, but also burden, sadness, and isolation. The United Nations (UN) considers them a severely persecuted and stateless ethnic group. The religious tensions in Myanmar between Islam and Buddhism are known as Rohingya and Rakhine ethnic tensions. Although this conflict occurs in Myanmar, it has an impact on society in general, especially in countries close to Myanmar such as Indonesia, Malaysia, and Bangladesh.²

These refugees came to Indonesia in several stages from 2012 to 2015. They came using very simple fishing boats and with limited food supplies. Many of them failed on the way because of due to starvation or ship sinking due to old age and overloading. On arrival in Indonesia, these Rohingya refugees were stranded in several areas of Indonesia such as Aceh, Medan, Riau Islands, and Banyuwangi, East Java. Their dire condition due to starvation forced them to surrender to the security forces. Forced them to surrender themselves to the Indonesian security and immigration authority and immigration authority.³ Indonesia who are expected to provide them with proper food, drink, and water.³

Most of the Rohingya refugees in Indonesia are in the Aceh region, due to its proximity to Aceh, due to its position closest to Myanmar compared to other parts of Indonesia. Myanmar compared to other parts of Indonesia. Recorded in the month of June 2015 there were around 1,722 refugees, consisting of 1,239 men, 244 women, and 239 children. men, 244 women, and 239 children. The refugees were divided into four different regions in Aceh with 560 refugees, Langsa City with 682 people, Aceh Temiang with 47 people, and East Aceh with 433 people.⁴

Recently, two boats carrying 231 Rohingya people were stranded in Aceh Besar and Pidie regencies. The first group arrived at the shore of Ladong Village, Masjid Raya Subdistrict, Aceh Besar District, on a Sunday in December 2022. The boat carrying 57 Rohingya refugees was allegedly leaking and damaged and then carried by the wind to Aceh waters. The next day, in the same month and year, a boat carrying 174 people arrived at Ujung Pie Village, Muara Tiga Sub-district, Pidie Regency.⁵

¹ UNHCR, 2023, Recent Developments Concerning Rohingya Refugees in Aceh, Indonesia, <https://www.unhcr.org/id/en/16523-recent-developments-concerning-rohingya-refugees-in-aceh-indonesia.html>

² Dian Wahyu, 2018, Indonesia's Constitutional Immigration Policy: The Case Of Rohingya Ethnic Group Refugees' can be accessed at <https://jissh.journal.lipi.go.id/index.php/jissh/article/download/84/138>

³ Dewansyah, Bilal; Dramanda, Wicaksana; and Mulyana, Imam, 2017, "Asylum Seekers In A Nonimmigrant State And The Absence Of Regional Asylum Seekers Mechanism: A Case Study Of Rohingya Asylum Seekers In Aceh-Indonesia And Asean Response," Indonesia Law Review: Vol. 7: No. 3, Article 4. DOI: 10.15742/ilrev.v7n3.373 Available at: <https://scholarhub.ui.ac.id/ilrev/vol7/iss3/4>

⁴ Departmen of Population Ministry of Labour, Immigration and Population With technical assistance from UNFPA, 2016, can be accessed at https://lac.unfpa.org/sites/default/files/pub-pdf/Migration_insidepages_A4_preview_18May.pdf

⁵ This article was published in thejakartapost.com with the title "Rohingya refugee boat lands in Aceh after a month at sea". Click to read: <https://www.thejakartapost.com/indonesia/2022/12/26/rohingya-refugee-boat-lands-in-aceh-after-a-month-at-sea.html>.

The United Nations Refugee Agency (UNHCR) records that until September 2021, the number of refugees from Myanmar, the majority of whom are ethnic Rohingya, in Indonesia reached 707 people. The Indonesian government is currently discussing and coordinating with UNHCR and the IOM organization to place Rohingya refugees in special locations.

RESEARCH METHOD

The research method used in this article is the description and explanation method. Descriptive research presents a complete picture of the problems that focus on the Legal Representation of Ethnic Rohingya Refugees in Aceh Region in the Perspective of Indonesian National Regulations. We will analyze related In the case of ethnic Rohingya, there has been a gross violation of human rights because it deprives a person of the right to life. Not only was the right to life violated, but the right to own property, the right to believe, and the right to live comfortably were also violated.

RESULT AND DISCUSSION

The current state of the Rohingya Ethnicity

The territory of Myanmar is currently divided into 7 states called ethnic minorities. Myanmar has its capital in Yangon and is surrounded by many countries, such as China, India, Laos, Thailand, and Bangladesh. The largest ethnic group in Myanmar is the Burmese (Bamar). They come from Sino-Tibet and live in the central floodplains of Myanmar. The majority religion of the Burmese is Theravada Buddhism. They also recognize rulers and power and are of course the majority ethnicity in Myanmar. But it is different with Rakhine state which borders Bangladesh. In this area, there are ethnic Rakhine who are Muslims. The Rohingya make up an estimated four percent of the Rakhine population, but compared to the Buddhist population of Rakhine, the Rohingya are a natural minority in Myanmar when compared to the Burmese.⁶

Myanmar (Burma) is a multireligious country, but Buddhism has been officially formalized by the authorities as the ruling religion in Myanmar because it has a larger majority of the population. The Rohingya are indigenous people who are Muslims and are a minority. The Rohingya's existence is denied in Myanmar as a result of pa which makes them a basic stateless ethnic group or what can be considered a "nation without a nation". In 2012, the issue was mentioned as a hot topic because the Myanmar state forgot to handle the conflict in the country. The Rohingya case continues to this very moment and is an emergency situation due to the violent conflict that has left thousands of people dead, hundreds of thousands displaced, thousands of homes burned, and an infinite amount of destruction to the face of Burma. Not only that, some people of Rohingya ethnicity decided to leave Myanmar by emigration. Evacuation is a simple illustration of how the procession of people accompanying the country is difficult to control.

The Protection of Human Rights of Ethnic Rohingya

The conflict has occurred against the Rohingya ethnicity and The Myanmar government is considered to have violated human rights in handling the conflict, such as the omission of acts of violence, murders, deportations, and forced displacement that until now has not been resolved. According to the Declaration of Universal Declaration of Human Rights (UDHR) Article 2, states that every person is entitled to all the rights and freedoms listed in this Declaration without discrimination of any kind, such as race, color, sex, religion, language, political or other beliefs, national and social origin, property, birth and membership or other status.⁷

It is clear from what is stated in the UDHR, that the Myanmar government has violated human rights by committing many violations such as the right to freedom of movement and movement, the right to be free from torture and violence, the right to do business and trade, and the right to freedom of movement and movement trade, and the right to freedom of belief and worship.

Human rights violations committed by the Government of Myanmar against ethnic Rohingya are crimes against humanity with forced expulsion. Forced expulsion here by carrying out systematic actions. The Rohingya were subjected to ethnic cleansing with both structural, through legal products, to escalated to violence that was explicitly directed explicitly aimed at them Rohingya.⁸ The statelessness of Rohingya children has administrative implications in that they are stateless. administrative implications where they do not have documents that signify their identity. Undocumented Rohingya children become even more vulnerable when they are forced to leave Myanmar to seek refuge. Being without documents, Rohingya children do not have many options to be able to cross international borders, human smuggling by sea is one of the ways used by refugee children to get out of Myanmar.⁹

Several international instruments that provide legal protection for ethnic Rohingya people who experience discrimination from the Myanmar government are Convention Concerning the Prevention and Punishment of the Crime of Genocide Established by Resolution UN General Assembly Resolution 260 A (III) on December 9, 1948. The Convention entered into force on January 12, 1951. Convention on the Prevention and Punishment of the Crime of Genocide was the first human rights treaty passed by the

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⁶ Bhattacharjee, A. (Ed.). (2014). *Myanmar In Transition: Ethnic Conflicts, External Interests and Political Changes*. Institute of Peace and Conflict Studies. <http://www.jstor.org/stable/resrep09401>

⁷ Risky Novialdi, The Failure of Providing Human Security for Rohingya Refugees (Case Study: Escaping Rohingya Refugees from Shelter In SKB Bireuen, Aceh Province), *IJPSS: Indonesian Journal of Peace and Security Studies* Vol. 2 No.1. Page 49-62, January - June 2020

⁸ O'Brien, Melanie, and Gerhard Hoffstaedter. 2020. "There We Are Nothing, Here We Are Nothing!"—The Enduring Effects of the Rohingya Genocide" *Social Sciences* 9, no. 11: 205 <https://doi.org/10.3390/socsci9110209>

⁹ Sudheer N, Banerjee D. The Rohingya refugees: a conceptual framework of their psychosocial adversities, cultural idioms of distress and social suffering. *Glob Ment Health (Camb)*. 2021 Dec 17;8:e46. doi: 10.1017/gmh.2021.43. PMID: 35003755; PMCID: PMC8715339.

UN General Assembly. The Convention focuses attention on the protection of national, racial, ethnic, and religious minorities from threats to their existence.

Indonesia's Role in Responding to the Rohingya Case

UNHCR commends the Government of Indonesia, local government and local communities in Aceh for their generosity and support to the Rohingya refugees. Guided by Presidential Regulation No. 125 on the Care of Refugees, UNHCR works with and coordinates with authorities, partners, NGOs, and humanitarian actors on the ground to ensure refugees receive protection and their basic needs (including food, drinking water, clean water, medical services, and shelter).¹⁰ Indonesia has been one of the 17 observer countries in the board of the International Organization for Migration (IOM) since 1999. Indonesia, which is not a member state of IOM has made many contributions in handling Rohingya migration in Aceh. Rohingya migration in Aceh. One of them is building shelters and detention camps (detention centers and temporary camps to accommodate refugees. In addition, Indonesia also has a lot of volunteers from various regions who are tasked with helping and providing basic necessities for the refugees. Indonesia, which until now has not ratified the treaty on refugees by IOM, has not been able to fully provide agreement on refugees by IOM, has not been able to fully provide assistance and protection for Rohingya refugees.

Indonesia still does not have a firm legal regulation regarding handling and determining the status of refugees without clear documents. In addition, Indonesia has also not ratified the 1951 Vienna Convention and its 1967 Protocol which discuss refugee status. Therefore, Indonesia has neither the authority nor the obligation to take international action against refugees from across national borders such as Rohingya refugees. Refugees such as Rohingya refugees who enter Indonesian territory, especially those in Aceh. Indonesia, especially those in Aceh. As stated in the 1945 Constitution. A just and civilized humanity is one of the bases for Indonesia to participate in assisting the handling of refugees across national borders. Indonesia has an obligation to help the refugees on the basis of humanity and respect for international.

Based on Article 28 G Paragraph 2 of the 1945 Constitution which states that "Everyone has the right to be free from torture or degrading treatment, or degrading treatment and to obtain political asylum from another country". This is the basis of Indonesian law to protect refugees who have crossed state borders in Indonesia. The humanitarian assistance provided by the Indonesian government to Rohingya refugees in Aceh has participated in helping to overcome the humanitarian crisis. Funds intended to fulfill the temporary needs of the Rohingya refugees in Aceh have been received by the Government of Indonesia.

Furthermore, the Government of Indonesia has attempted to make policies and legal regulations regarding asylum seekers and refugees in Indonesia. In Indonesia, Indonesia needs a legal framework that clearly addresses foreign refugees. This legal framework can be derived from the national legal framework and as a supporting support, it also needs an international legal framework. The framework international legal framework can be derived from the 1951 Vienna Convention. Thus, Indonesia is expected to be able to handle cross-border refugees better.

Indonesia one of the countries hosting Rohingya refugees Rohingya refugees has a series of laws governing refugees. However, the existing laws in Indonesia have not fully been used to deal with refugee problems. Refugees. One of the regulations regarding refugees that Indonesia has Indonesia is contained in Law No. 39 of 1999 concerning Human Rights. Human Rights, the law reads: "Everyone has the right to seek asylum to obtain political protection from other countries".

Actions taken by the Government of Indonesia to deal with the Rohingya refugee problem in Aceh can be done internally and externally. The internal way is done by improving the policies and Indonesian laws regarding the settlement of refugee problems in the country. Refugees in the country. In this regard Indonesia has updated government regulations on immigration, to be precise to be precise, written in Articles 206, 221, and 223 of Government Regulation Number 31 of 2013. These articles contain the existing provisions of the presidential regulation, as well as in the presidential regulation, as well as regulating the detention of refugees (illegal immigrants) for up to 10 years. The Presidential Regulation stipulates that after a period of 10 years, the refugee suspension can be issued with an obligation to report every six months and an obligation to report to the immigration office as well as the obligation to report to the immigration office if there is a change in their status and occupation and their occupation.

As stated in the Minister of Law and Human Rights Regulation Republic Indonesia Year 2006 Article 1 Paragraph (1), the Immigration Detention Center (IDC) is a temporary shelter for foreigners. (Immigration Detention Center) is a temporary shelter for foreigners who violate laws and regulations or who are subject to immigration action and waiting to undergo the process of repatriation to their country. The Ministry is one of the new institutions in the ranks of the Directorate General of Immigration. Directorate General of Immigration which has the task of carrying out part of the main tasks of the Ministry of Law and Human Rights of the Republic of Indonesia in the field of detention of foreigners, detention of foreigners.

Indonesia is not a ratifying state of the Vienna Convention of 1951 and its Protocol of 1967. However, in practice, Indonesia has done some of the things in the Convention, namely in the form of sheltering Rohingya refugees in Indonesia. Indonesia is one of the countries that responded positively to Rohingya refugees. This can be seen from the permission and shelter of Rohingya refugees from Myanmar in detention centers that have been provided in several areas of Aceh. However, the presence of Rohingya refugees in this immigration detention center also has its own time limit. time limit. Indonesia, as a country with a state foundation of 'Just and civilized humanity', can only help the victims by accommodating them until they are able to continue their journey.¹¹

The process of resolving the refugee crisis (especially in Southeast Asia) that is happening to Rohingya refugees must be resolved immediately by involving all parties. Not only ASEAN countries but must also work together with other international communities that focus on the same issues, namely refugees (refugees) on the same issue, namely refugees (refugees). Myanmar

¹⁰ Charles Mballa, Josephine Ngebeh, Machtelt De Vriese, Katie Drew, Abigail Parr, Chi-Chi Undie. 2020. UNHCR and Partner Practices of Community-Based Protection across Sectors in the East and Horn of Africa and the Great Lakes Region. UNHCR and Population Council, <https://svri.org/sites/default/files/attachments/2020-11-05/Protection%20across%20sectors%20EHA%20GL%2011.pdf>

¹¹ WHO Eastern Mediterranean Region. 2018. Health of refugees and migrants, can be accessed at <https://www.who.int/docs/default-source/documents/publications/health-of-refugees-migrants-practices-emro-2018.pdf>

is an official member of the Southeast Asian Organization of Southeast Asian Nations (ASEAN), so the Rohingya issue is a problem for SEAN countries and must be addressed together. Indonesia has also implemented many ways to overcome this problem, and different ways have been tried by Indonesia. Starting from volunteering as a bridge to solve this problem, Indonesia also sent representatives to mediate between the two parties involved. Indonesia also sent representatives of Buddhist monks to Indonesia to exchange views with Buddhist experts and appeal to Buddhists not to commit similar acts again so that Buddhists can be safe and Buddhists in Indonesia do not feel vulnerable. because Buddhists in Indonesia are afraid of the response of Muslims in Indonesia. Indonesia is appealing to Myanmar authorities to accept Rohingya Muslims and provide protection similar to that given by Myanmar authorities to Buddhist ethnic groups in Myanmar.

CONCLUSION

Legal protection for ethnic Rohingya based on international law in general has been regulated in international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights 1966, International Covenant on Economic, Social and Cultural Rights, the Convention on Genocide, International Convention Against Torture, the International Convention on the Elimination of All Forms of Racial Discrimination 1965, Convention on the Elimination of All Forms of Discrimination Against Women, Convention on the Rights of the Child, and the Convention on the Status of Refugees

In dealing with the issue of refugees across national borders, Indonesia does not yet have clear legal regulations. Indonesia has also not ratified the 1951 Vienna Convention and its 1967 Protocol on Refugees. Refugees. This has resulted in the Indonesian government not having obligations and authority to take international action regarding Rohingya refugees entering Aceh further. Indonesia can only temporarily accommodate and provide facilities and basic needs needed by refugees while in Aceh, then the rest will be processed and followed up by the UNHCR. by the UNHCR. As one of the countries hosting Rohingya refugees, Indonesia has a series of laws governing refugees. However, the existing laws in Indonesia have not been fully used to deal with refugee issues. As a country that has the state foundation of 'Humanity and civilized', Indonesia only helps the victims on the basis of humanity by accommodating them until the burden of refugees becomes lighter.

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