

# ANALYSIS OF HUMAN RIGHTS VIOLATIONS COMMITTED BY MYNMAR AGAINST THE ROHINGYA ETHNICITY IS VIEWED FROM THE PERSPECTIVE OF INTERNATIONAL CRIMINAL LAW

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## ABSTRACT

*Human rights violations are extraordinary crimes that cause or injure many victims, and then these actions are carried out intentionally or unintentionally with the intention to injure or deprive a person of their human rights. In the case committed by Mynmar on his Rohingya ethnicity, including human rights violations, in which there are many crimes of human rights violations such as the holding differences in status, rape, murder, not being recognized as citizenship by the Mynmar government and cultural discrimination that made the Rohingya ethnicity expelled by Mynmar. Then in 2017 Myanmar carried out an attempt to ethnically cleanse its Rohingya in the event that Mynmar carried out actions in the event that Mynmar carried out actions Kasar, namely by forcibly expelling the Rohingya ethnic in Rakhine Province. The Rohingya community has also experienced various forms of rights violations since 1928. That can be lifted from this journal is the actions taken by the Mynmar government to the Rohingya ethnicity are a form of human rights violations Because many of the Rohingya ethnicity do not feel the freedom and there are differences in caste and religion and there are many economic crisis actions that make The Rohingya ethnicity is getting harder. Journal writing of this article uses normative methods, namely by using literature, legislative arrangements, theoretical foundations or from the opinions of several experts. Efforts to get this case resolved are first by stopping the existence of violence, whether it is physical violence or others that harm human rights.*

**Keywords:** Violations, Human Rights, Discrimination, Rohingya community

## INTRODUCTION

Every human being has Human Rights (HAM) that has existed since birth and here there are still many cases of human rights violations occurring as committed by the State of Myanmar against its Rohingya Ethnicity. The term Human Rights Violation is a form of crime committed by a person or group of people with such as rape, murder, war intentionally or unintentionally that causes mental injury, physical and deep trauma to the victims of the human rights violations. Law Number 39 of 1999 also explains human rights, namely rights inherent in humans from birth which are grace. There are various kinds of human rights such as economic rights, political rights, cultural rights and others (Budhi, 2007).

International criminal law is a set of rules and principles governing international crimes committed by its legal subjects to achieve a certain goal. According to Muhammad Mochtar Kusumaatmadja, international criminal law is all the rules and principles that govern

the relationship between several countries<sup>1</sup> with countries 2 with subject law. The subjects of international criminal law are states, international organizations or individuals.

Actually, the cases that occurred against the Rohingya ethnicity can be categorized as human rights violations and genocide crimes where the Myanmar government committed violence and was discriminated against the Rohingya ethnicity. From here the discriminatory treatment carried out by Myanmar has forced him to manus his boat and leave his Rohingya in search of another country. Myanmar Government's Response to the Crisis against Rohingya the Myanmar government is also concerned about the conflict that occurred in Myanmar. For this reason, Myanmar also received pressure and criticism from the international community, including from the US, is protecting civilians.

The solution carried out by the Myanmar government against the Rohingya is first by stopping violence and discrimination in the form of a because here the Rohingya ethnicity, Myanmar background is not Accepting the Rohingya ethnicity because the Rohingya ethnic population has a different status from other countries so that the Myanmar government rejects the existence of the Rohingya ethnicity in Myanmar.

And the Rohingya ethnicity is also considered as a dark population therefore the Myanmar government rejects the Rohingya ethnicity so as to expel the existence of the Rohingya ethnicity in their country. Violence against the Rohingya ethnicity committed by Myanmar traumatized many Rohingya ethnic groups such as when Islamic militant groups also attacked several guard posts on the border Bangladesh claimed the lives of nine officials. So since that incident occurred many more than a hundred Rohingya ethnic people have died as a result of attacks from Myanmar (Han, 2020). About 150 thousand victims did not get a decent life starting from children, even adults and the elderly and hundreds more are detained by Myanmar's military forces. About 150,000 citizens are denied medicine and many women are raped and more than 1,200 homes were destroyed by Myanmar's military forces.

The Myanmar military also forbade volunteers who wanted to help from participating or not interfering. Humanitarian aid was indirectly delayed by the Myanmar government and military aid was directed to Maungdaw, Buthidaung, and Rathadaeung regions in Rakhine state. Also depends on UN humanitarian aid. As a result of the actions of the Myanmar military forces, many Rohingya ethnic residents have been unhappy. From this it can be concluded that the state of Myanmar has committed the crime of genocide and acts violating human rights.

From this incident, many Rohingya ethnicities left and moved from the Myanmar government due to much discrimination to violence that violated human rights. His spirit is carried out such as helping the Rohingya ethnic problem which continues to take many Rohingya victims due to the actions of the Myanmar state due to the outline of Indonesia's foreign policy is also based on the 1945 State Constitution, namely by maintaining world peace and lasting peace based on social justice.

## **Problem Formulation**

That can be lifted from this journal is The actions taken by the Myanmar government to the Rohingya ethnicity are a form of human rights violations Because many of the Rohingya ethnicity do not feel the freedom and there are differences in caste and religion and there are many economic crisis actions that make The Rohingya ethnicity is getting harder.

## RESEARCH METHODOLOGY

The Research Methodology in this writing is normative research supported by empirical research where a procedure in research to find freedom Based on scientific logic from the normative side, then from the normative side this is not from the law alone it can even be from the legal theory of expert opinions. Empirical law is legal research on legal identification and legal effectiveness. As for Soejano, Seokanto said the normative approach is a law carried out by researching library or secondary materials as a basis for research by conducting literature related to the problem under study. In addition, this research method also uses descriptive analysis, namely by developing, describing and presenting then analyzed and developed into a sentence that raw.

## RESULT AND DISCUSSION

### **Acts Committed by Mynmar against Rohingya is A Form of Crime Violating Human Rights (Human Rights)**

Differences related to ethnicity, religion are sensitive issues and consume many conflicts, such as many casualties, many cases of discrimination to violence that does not stop such as this is what happened to his Rohingya ethnicity who had become victims of discrimination from the Mynmar state. The form of egosism action of the Mynmar government against his Rohingya ethnicity made many Rohingya people who feel the pain and impact of human rights violations, As a result of the actions of the Mynmar Government some Rohingya ethnic moved to other countries, In the country of Mynmar, the Rohingya ethnicity has difficulty living to get many cases of discrimination, racism and even economic difficulties to torture that continues to be carried out by the Mynmar government with The purpose of making a deterrent effect to the Rohingya ethnicity. The conflict that caused these two countries is the Rohingya ethnicity as a minoritas and the Rakhine ethnicity as the majority. From this it can be concluded that the Mynmar government discriminates a lot so that many victims are involved in the selfishness of the Mynmar government (Hesti, 2008).

Causes of conflicts that occur in Rakhine Province involving Rohingya and Rakhine ethnicities such as:

#### **Discrimination by the Mynmar government against Rohingya**

Mynmar's people have never wanted to recognize the Bengali Rohingya who are part of their ethnicity. Here they also consider Arakan Muslims or Burmese Muslims is a name that is pinned Rohingya as a mockery. Here not only the Burmese government that intimidates them, the Mynmar government also participates in muddying the atmosphere and becomes part of the provocateur so that some part of the campaign is hostile to the Rohingya ethnicity (Ahmed et al., 2021).

#### **Ethnic Rohingya Bengalis who are not recognized as indigenous people of Mynmar**

In the form of this 1982 law which made the Bengali Rohingya ethnicity not recognized citizenship made their fate become impossible to live in their country even

partially of them traveled to other countries. Myanmar's acts such as torture, discrimination, torture, murder make them disappointed and deprived of proper human rights.

From this the author can conclude that the actions committed by Myanmar to the Rohingya ethnicity are a form of violating human rights, many negative actions even Cruel and inhumane deeds to the Rohingya ethnicity. The role of the Indonesian government is to participate in helping the Rohingya ethnicity. Forms of human rights violations include murder or crimes of genocide, crimes against humanity, and war. It was found that there were ethnic cleansing efforts; clashes between police officers and the Rohingya ethnic border were a form of resentment due to acts of discrimination that were not accepted by ethnicities his spirit.

These forms of discrimination include: The prohibition of travel without permission from the competent authority, the scope of movement is limited and the existence of systematic acts of discrimination and constantly. This access closure caused a lot of hardship experienced by about 30 rubu Rohingya ethnic children who lost their parents. After a massive massacre in August 2017 made the Rohingya want to flee to another country and seek a decent life.

Indonesia's role is the Rohingya ethnicity here Indonesia also has a role that is quite helpful to Indonesia because of the great garus of Indonesian politics based on laws to maintain peace and justice between Indonesia country. Indonesia also accepted the arrival of Rohingya because it was to uphold human rights and as a form of care. There are several alternative solutions offered by the Indonesian state to these Rohingya ethnic refugees, namely: helping their departure, providing them with decent living facilities and shelter, no discrimination between others and other violence. Finally, Urge the Myanmar government to resolve the conflict or bloody problems that make the ethnic minoritas leave the country (Hamzah, 2008).

### **Alternative Settlement of Disputes between the Myanmar Government and its Rohingya from the Perspective of International Criminal Law**

International dispute settlement is an important stage carried out by the method used by reconciling the countries in dispute. Settlement of this dispute can also be done in two ways, namely by means of Litigation and non-litigation. Litigation is a dispute resolution process carried out by means of court while non-litigation is the completion of events carried out outside the court or called alternatives dispute resolution.

This international dispute resolution effort is an event that is often used to resolve cases of countries that are disputed or affected by conflicts as well as the case of the State of Myanmar to its Rohingya ethnicity. Some ways that can be done to resolve disputes outside the court are:

#### **Negotiation**

It is a way of resolving international disputes that are carried out by negotiating and involving third parties. Here there are also some disputes that are resolved for each day in this way the reason that the settlement of Snegketa can also be disputed and carried out based on the agreement of both parties. The UN Charter Law states that article 2 paragraph 3 of the UN Charter is: The UN Charter must be settled peacefully this peaceful settlement in accordance with Article 33 of the UN charter can be divided into two parts: Settlements made

outside the court and in court.

So broadly speaking, the resolution of this dispute can be classified into two ways, namely by force or violence. In the peaceful settlement of disputes this is a positive settlement (binding determination that must be enforced) in which the users of violence within the state must have been abolished and also banned. Dispute resolution of this negotiation can also be done by providing consultation where this consultation is an activity to exchange ideas and ideas so that they can find solutions or ways in the middle that can be taken (Van Schaack, 2019). And if the parties agree, it will be stated in a bilateral agreement between the disputing parties. Another disadvantage of negotiating dispute resolution also has a weakness, namely: If the disputing party is not balanced, the strong party will pressure the party that is weak, the second process is also very slow and takes a long time to wait, and the third if the disputing party remains hard on the stance then the settlement is difficult. It will continue to drag on.

### **Mediation**

Mediation is a way of solving disputes that can be done and usually involves third parties involved, namely can be countries, the United Nations (International Organizations), or individuals (politicians, scientists and jurists) who actively participate in the negotiations. If the proposal is not accepted, the mediator can use the proposal. So from this it can be implied that the mediator's task is to facilitate dialogue between parties, provide solutions for disputing parties and indicate and explore the information needed (Lawson-Te & Liu, 2010). The legal basis for dispute resolution is contained in Articles 3 and 4 of The Hague Convention on the Settlement of International Disputes of 1907, Chapter 6 Articles 33-38 of the United Nations.

### **Conciliation**

Conciliation is a form or area of dispute resolution that is more formal than mediation. This conciliation is a way of resolving disputes carried out by third parties or a commission formed by the parties, this commission is called conciliation. The commission can also settle disputes to bind both parties. So it can be concluded from several solutions that are suitable for use, namely by means of mediation because this mediation is a form of proper settlement of disputes and cheap so that they can make the best decisions so that parties can feel the existence of justice.

### **Indonesia's Role to the Rohingya from the Perspective of International Criminal Law**

The Indonesian government is trying to overcome the problems suffered by the Myanmar government, namely in the form of meeting the basic needs of Rohingya refugees and diplomatic efforts. Action Activities please help by meeting the basic needs of Rohingya. Here the Indonesian government also prepares what is needed to deal with refugees such as fulfillment medicine, food, clothing and so on. The Indonesian government has contributed a lot and assistance to the Rohingya country and is looking for a decent place to live in them.

Furthermore, the Indonesian government also reduced the number of conflicts, according to Oersano, saying that the root of the problem of Rohingya Muslims is the conflict between their ethnicity and Buddhist ethnicity. The conflict claimed many lives and peaked

in 2012 with 192 deaths, 265 people and 8,614 buildings were destroyed. 100,000 people displaced. The role of the government to participate in helping the Rohingya ethnicity is by communicating with the Myanmar government to control security in Rakhine so that there are not many casualties and the State must not be separated in resolving the issue of the Rohingya case. However Myanmar and Bangladesh must participate in helping each other and reduce discrimination between countries. Said Retno Minister of Marine Affairs.

Finally, the Minister of Marine Affairs Retno Marsudi thesized the alliance of institutions in the community engaged in the humanitarian sector with the aim of helping the humanitarian crisis against the Rohingya ethnicity and Residents civilians affected in Rukhaine, Mynmar. Here this program also helps many in need, especially the Rohingya ethnicity. The assistance is by:

### **Stablished a hospital**

This is done by the Indonesian government, observing that the Rohingya ethnicity is in dire need of this assistance, this development is carried out as a form of Indonesia's commitment to continue to encourage constructive development and maintaining recovery efforts for communities affected by conflict in Rukhaine.

### **Curbing violence**

Some Rohingya ethnicities feel a lot of trauma due to actions or actions by the Myanmar military such as acts of violence, rape, discrimination and others that cost many lives. Therefore, the Indonesian government wants to reduce this violence by creating proper facilities and providing counseling about violence.

## **CONCLUSION**

This action by the Myanmar state to the Rohingya ethnicity is an act of discrimination because of many violence and other religious status differences. This act committed by Myanmar against its Rohingya ethnicity is a gross violation of human rights which is an extraordinary crime that results in or harms others in generally. Victims of these human rights violations can also result in serious injuries such as physical, mental, emsocional suffering and other losses.

In general, in this Human Right, humans also have inherent rights in human beings, therefore Human Rights can be exercised at any time. Human rights can also be exercised inalienable principles. The crime of Genocide can also be regulated in articles 400 and 401 which regulate the crime of genocide. The process of settling sengekata can also be done in three ways, namely through negotiation, consialization, and mediation. The method that is often used is negotiation because it is easier and simpler and ends a sense of justice in solving the sengekata.

The role of the government to participate in helping the Rohingya ethnicity is by communicating with the Myanmar government to control security in Rakhine so that there are not many continuous casualties. However, Myanmar and Bangladesh must participate in helping each other and reduce discrimination between countries.

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