

International Law Approaches and the Role of Regional Communities in Dealing with Regional Impacts and Conflict Resolution in Myanmar

By

Guslin

Affiliation: Faculty of National Security, Indonesia Defence University, Indonesia

Corresponding author: E-mail: guslinkamase@gmail.com

A.A. Banyu Parwita

Faculty of National Security, Indonesia Defence University, Indonesia

T.S.L. Toruan

Faculty of National Security, Indonesia Defence University, Indonesia

Suhirwan

Faculty of National Security, Indonesia Defence University, Indonesia

Arie Afriansyah

Faculty of National Security, Indonesia Defence University, Indonesia

Abstract

In the last thirteen years, the crisis that befell the Rohingya in Myanmar has increasingly attracted world attention. Not only from the regional community but even from the international community and the United Nations. The humanitarian crisis has occurred in such a massive manner and even based on the findings, there has been a practice of ethnic cleansing or genocide in Myanmar's Rakhine State which was carried out by the Myanmar military. Several recommendations have been submitted from envoys from ASEAN countries and UN envoys including reports from NGOs and UNCT in Myanmar and Bangladesh, but these have not been able to stop the conflict in Rakhine State, and the humanitarian crisis in Rakhine State is escalating. The purpose of this research is to encourage the role of the regional community in dealing with regional impacts and conflict resolution in Myanmar as an option to mitigate conflict resolution. This research was conducted using descriptive qualitative research methods, with data collection techniques through library research, interviews and observation. Through an international law and customary approach regarding the role and cooperation of regional organizations and views on humanitarian and human rights crises and by using the doctrine of responsibility to protect, this research will analyze ASEAN's opportunities to mediate the conflict in Myanmar. The results of this study conclude that to reduce the impact of the Rohingya crisis, ASEAN involvement can be an option for resolving the conflict in Myanmar.

Keywords: Humanitarian Conflict, Cooperation, ASEAN

Introduction

The conflict in Rakhine State still leaves problems to this day, resulting in an increasing humanitarian crisis in the Rohingya area, which has resulted in a large exodus of Rohingya people out of Myanmar. Based on the report of the Fact-Finding Team formed by the United Nations Human Rights Council in September 2018, it was announced that there had been an

Published/ publié in *Res Militaris* (resmilitaris.net), vol.12, n°5, December Issue 2022

ethnic massacre or what is known as genocide or ethnic cleansing - which was allegedly carried out by the Myanmar military against the Rohingya Ethnic, especially those who adhere to Islam and are domiciled in the state of Rakhine State.

Various efforts have been made to reduce the tension of the conflict in Myanmar. Including sending a UN special envoy to Myanmar and also efforts through the UN Human Rights Council Fact Finding Team which has sent a mission to Myanmar and has provided recommendations to encourage the Government of Myanmar to be more cooperative in ending this humanitarian crisis more quickly. On the other hand ASEAN has sent its Parliamentary Association for the same task and mission, and has also provided the same recommendations as the previous UN envoy. However, all the recommendations offered so far are still limited to discourse and have not had a significant effect on ending discriminatory treatment of Rohingya Ethnic Muslims in Rakhine State.

Taking into account the concerns over the humanitarian crisis in Myanmar including the possible impact of security stability in the Southeast Asian region and taking into account the recommendations of Chapter VIII of the UN Charter regarding the involvement of regional organizations in resolving conflicts in the region, the involvement of ASEAN in the conflict resolution process in Myanmar and in efforts to anticipate its impact on regional countries is something that cannot be postponed and is absolutely indispensable. This is because ASEAN is the closest regional organization and is most likely to penetrate where Myanmar is one of its member countries. This is in line with what was conveyed by Former UN Secretary General Kofi Annan as Head of the Advisory Commission Team, during a press conference after submitting a report on the results of a one year investigation in Rakhine Myanmar¹.

Based on the description of the situation above, despite the difficulties in approaching the Government of Myanmar, based on the beliefs and data mentioned above, the researcher considers it necessary to build optimism and new ideas in resolving the conflict in Myanmar by encouraging ASEAN as a regional organization to become the leading sector in carry out its best mission to cooperate with the Government of Myanmar under the supervision of the United Nations to resolve the conflict in Rakhine State Myanmar. Therefore, with the intention not to let this conflict drag on and to provide a solution to the problem, the researcher deems it necessary to conclude three things that form the formulation of the problem:

- a. How does this Rohingya Ethnic conflict have an impact on regional security instability and threats to humanity;
- b. What is the response and role of the community of ASEAN countries towards the humanitarian crisis in Rohingya;
- c. How ASEAN can play a more role, in providing solutions for conflict resolution in Myanmar.

Research Method

This study uses a descriptive qualitative research method (Bungin, 2020). With this method this research is combined with legal research methods which are also referred to as doctrinal legal research or library research. Data collection techniques were carried out by

¹ Annan Said ..” The international community should continue to play a strong, generous and impartial role in support of the national efforts needed to help Rakhine move forward. There are tensions between the Government and international community over Rakhine-related issues. These should not become a stand-off. It is possible to build a bridge to mutual trust and cooperation. There is no time to lose. The situation in Rakhine State is becoming more precarious.” http://www.rakhinecommission.org/app/uploads/2017/08/final_report_20170823-KA-remarks-Press-Conference.pdf, 25 December 2018

interviews and literature studies related to international legal principles, international doctrines, and documents (Soerjono Soekanto, 1986), and enriched by Focus Group Discussion (FGD). This study uses the Collaborative Governance model theory that was introduced by Ansel and Gash (2008). The results of this study are directed at strengthening the role of ASEAN as a regional organization to become an instrument in creating regional peace and security by mediating the conflict in Myanmar to support the stability of the security of the Southeast Asian region and its surroundings.

Result and Discussion

Development Of Internal Conflict In Myanmar And Its Impact On The Regional Area The History of the Existence of the Rohingya Ethnicity in the Rakhine Region of Myanmar

Overall, there are about 135 official ethnic groups in Myanmar. However, the Rohingya ethnic group is not recognized because of its existence and even gets discriminatory treatment. The peak of the suffering of the Rohingya people was when President Thein Sein, who came under pressure from the Burmese Buddhist Nationalist-Extremist Group (969), declared that the Rohingya identity card was not valid and considered the Rohingya as "Bengali" (Bangladesh). The Group Burma 969 is a peaceful, grassroots movement dedicated to "promoting and protecting religion." The underlying theme of their rhetoric was the view that Islam threatened to "beat" Burma, so Buddhists had to stand up and "save" their way of life (IPSC, 2018). The origin of the Rohingya, who are believed to have come from Bangladesh (Burmese Citizenship Law, 1982), was debated and used as an excuse by various nationalist militant groups, such as Buddhist religious groups (MaBaTha group), ethnic (Bamar and others), military (Tatmadaw), and political factions (Arakan Nationalist Party, United League of Arakan, Arakan Liberation Part), to delegitimize the Rohingya. Another reason is that the Rohingya are a dangerous ethnic group that could threaten the existence of Myanmar and Buddhists.

As a result of this delegitimization prompted the emergence of hardline resistance groups from the Rohingya ethnic group. Beginning with the emergence of the Rohingya Patriotic Front (RPF), which later developed in the early 1980s, there were more radical groups that broke away from and formed a group called the Rohingya Solidarity Organization (RSO) led by Muhammad Yunus, former Secretary General of the RPF. The RSO group was formed on religious grounds and became the main and most militant faction among the Rohingya ethnic groups on the Myanmar-Bangladesh border. As is well known, the birth of the jihadist RSO then encouraged the spirit of other jihadist resistance in Southeast Asia and the Middle East (Waluyo, 2018).

Subsequent developments, the Rohingya ethnic group, which was supported by militant groups, then carried out a struggle and resistance against the Myanmar government that has continued to this day, which has even escalated into a form of struggle for secession (separatist movement) from Myanmar.

Humanitarian Crisis over Ethnic Rohingya and Waves of Refugees

Violence after violence that took place in Myanmar has resulted in a humanitarian crisis that is getting more and more widespread and difficult to contain. There are thousands of lives that have been lost, hundreds of thousands have become refugees both within the country and abroad (Putri, 2017).

The death rate acknowledged by the government is that there are an average of nearly 200 deaths every day and hundreds of thousands of Rohingya have fled since 2018 until now

(Muhaimin, 2017). From these data, hundreds of them are children under the age of 5 years (toddlers). In a survey conducted in 2018, the year the Rohingya ethnic group experienced the most extreme crisis, it showed that at least 71.1 percent of these deaths were caused by violence. As many as 69 percent died from gunshot wounds, then burned to death (9 percent) and beaten to death (5 percent).

Since August 2017, more than 730,000 Rohingya, including 400,000 children, have fled violence in Myanmar and settled in Cox's Bazar District, Bangladesh (ReliefWeb, 2019). Currently as of April 2019, an estimated 911,359 Rohingya refugees are being hosted in Cox's Bazar, including 34,172 refugees from Myanmar who were registered before 31 August 2017 (WHO, 2019). The below Figure 1 shows the location of the Rohingya refugee camp (Goodman et al, 2019).

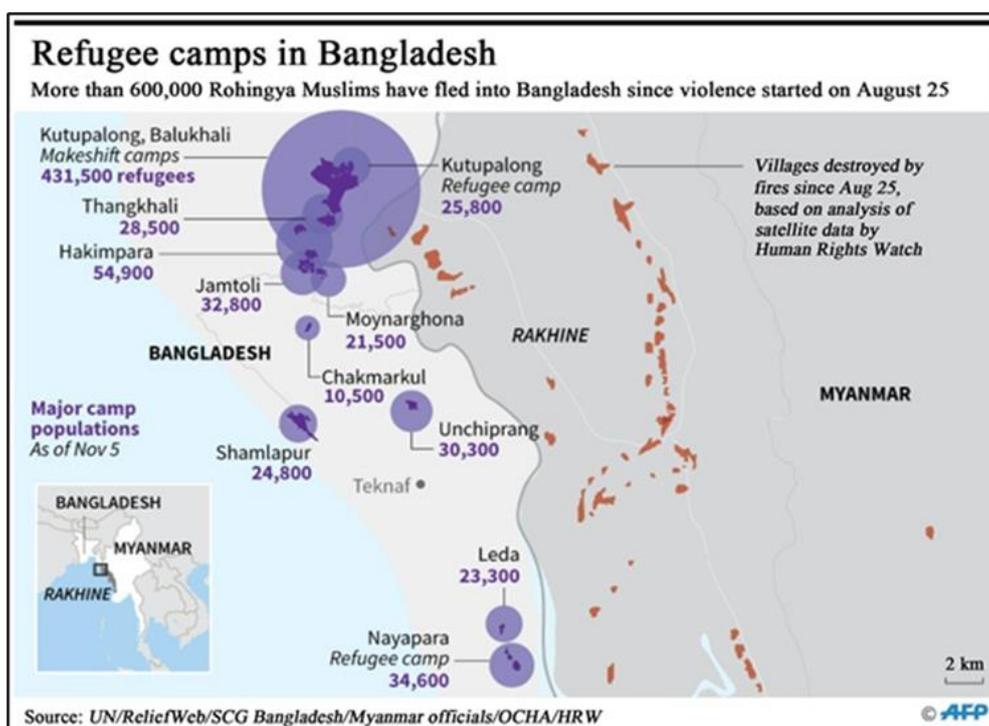


Figure 1 : The Location of Rohingya Refugee Camp
Source; Goodman, Annekathryn & Ifkher Mahmood. (2019)

Regional Impacts of the Myanmar Conflict

Broadly speaking, the regional impact caused by the existence of the Rohingya Ethnic conflict in Myanmar includes 2 (two) things, namely threats to peace and security in the region and secondly threats to humanity, especially for the Rohingya ethnic both within the country and abroad (refugee).

Regional Security Threats.

In its report, the International Crisis Group, waves of sympathy for fellow jihadist groups began to appear in several areas, such as the bombing of the Myanmar Embassy in Egypt on 30 September 2017, which was claimed by Hasim, a member of the Egyptian Militant Group. Likewise, the emergence of Al-Qaidah elements in Yemen where on September 13 2017 a senior Al-Qaeda expressed his support for ARSA (the Arakan Rohingya Salvation Army), by asserting that he would provide retribution to the Government of Myanmar for the crimes committed against the Moslem Rohingya Ethnicity (International Crisis Group, 2017).

The emergence of new radicalism that raises religious issues in Myanmar can raise concern for countries in the ASEAN and South Asia regions, especially where this concern is mainly about the possibility of a movement that is sympathetic to the struggle for defending religion. In several regions of Southeast Asia and South Asia there are still problems regarding this separatist movement such as the OPM separatist movement in Indonesia, the Abu Sayyaf movement in the South Philippines, the radical Islamic movement in southern Thailand, the Kashmir Crisis in India and Pakistan and the Taliban movement in South Afghanistan which has had an impact to Pakistan as well as religious-based movements in Mongolia and others. The condition of refugees who are very limited is very vulnerable to the possibility of exploitation by irresponsible parties into various actions and potential for Transnational Organized Crime such as human trafficking, drug trafficking couriers, sexual exploitation and people smuggling. This kind of exploitation can also lead to the emergence of new radical cadres in the region who can be used by international terrorist groups as new martyrs in jihad. If this is not resolved, it will pose a threat to regional peace and security stability, especially in the Southeast Asian Region and the South Asian Region.

The Threat of a Humanitarian Crisis.

Based on a report from Médecins Sans Frontières (MSF, 2019), an NGO working in the field of health and humanity released a report in August 2018, it has handled Rohingya refugees along the Myanmar border with Bangladesh, including: Carrying out treatment for tens and hundreds of thousands of patients from various kinds of disease disorders and injuries caused by violence and sexual violence, including treating more than 2,230 people with malnutrition, and 1,390 babies. This data shows that in Myanmar there has been a humanitarian tragedy, where based on the R2P (Responsibility to Protect) Doctrine, it is obligatory for every country or international organization to carry out humanitarian intervention to provide the necessary assistance to save the nation's next generation from a crisis caused by conflict. Based on a UNICEF report in May 2017, an estimated 150 children die every day before they reach the age of five. Nearly 30 per cent of all children under the age of five suffer from moderate or severe malnutrition (Ministry of Health and Sports, 2016) and one in five children are born unregistered (UNICEF, 2014).

Death rate according to MSF Report stated that until now the number of ethnic Rohingya refugees in Bangladesh is around 919,000, an extraordinary number. They were housed in an inadequate temporary shelter in Cox's Bazar Bangladesh. Quoting MSF's report in December 2017 that the death rate throughout 2017 from February to November 2017 (the last day of data collection), reached 260, meaning that there were an average of 260 lives lost every day and this took place over a period of about 8.5 months.

Violence and Murder. Information collected by the TPF of the UN Human Rights Council shows that it is estimated that the death toll has reached up to 10,000 people. These mass killings were carried out in Min Gyi (Tula Toli), Maung Nu, Chut Pyin and Gudar Pyin districts, and several villages within the Koe Tan Kauk Village area. Meanwhile MSF in its report also revealed data that is relatively the same where the intensity of gross human rights violations is a daily sight in the enclaves of the Rohingya Ethnic.

International Community Recommendations On The Conflict In Myanmar

To stop the conflict in Myanmar, several recommendations have been submitted to the Myanmar government to end the humanitarian crisis in Myanmar. The recommendation came from the Association of ASEAN Parliaments, the UN Special Envoy, as well as a report from the UN Human Rights Council where it was proven that there had been a practice of ethnic cleansing in Myanmar carried out by the Myanmar military.

The ASEAN Parliamentarian for Human Rights Report (APHR, 2018) recommended approaches to solving the Rohingya problem respectively to the Government of Myanmar, the Government of Bangladesh and ASEAN: Regarding ASEAN, the important point in the recommendation is the involvement of ASEAN as one of the community options in stopping the conflict in Burmese. In addition, ASEAN also conveyed several other options:

- a. Increase diplomatic pressure to encourage the government of Myanmar to adopt and implement the above recommendations;
- b. Raise questions about Rohingya refugees, as well as the root causes that cause them to flee Myanmar, at regional meetings, including future ASEAN summits;
- c. Open meaningful dialogue with the Myanmar government and military to push for the elimination of discriminatory policies and practices that impede resolution of the crisis, and to ensure that the Myanmar Government and military work to address the root causes of the crisis in a real and timely manner;
- d. Take concerted action to support the implementation of the Myanmar government recommendations from the Rakhine State Advisory Commission, including those relating to citizenship, freedom of movement, and guarantees of human rights; and For member states which have not done so, ratify the 1951 Refugee Convention and its 1967 Protocol.

On the other hand, the recommendation of the Advisory Commission Team led by Kofi Annan even gave a sharper statement, especially to the Myanmar government to open wider access for any efforts by groups of humanitarian workers to enter Myanmar, especially in Rakhien State. Likewise an important recommendation for the maximum involvement of regional organizations to help Myanmar get out of the crisis. The Advisory Commission team conveys findings and recommends the following (2017):

Regional Relations

“The challenges in Rakhine State have traditionally been treated by Myanmar as a domestic issue. However, Myanmar’s neighbouring countries have a close interest, given that many of them are hosting large numbers of people from Rakhine State. Irregular migration from Myanmar (as well as Bangladesh) has a destabilizing effect in the region, and it is imperative to find regional solutions to complement Myanmar’s domestic efforts. There are some recent positive examples of regional cooperation, most notably the ASEAN Foreign Ministers retreat initiated by Myanmar in December 2016. This initiative should be pursued by the Myanmar Government so that its policies and plans on Rakhine are better understood among ASEAN members.”

Other recommendations from the Advisory Commission Team provide the following input:

- a. The government of Myanmar should continue to take the initiative to provide continuous detailed explanations to ASEAN on a regular basis as well as the regional impact of the situation in Rakhine State.
- b. The government of Myanmar should continue to maintain the involvement of envoys, especially for neighboring countries regarding the Rohingya issue.
- c. The government of Myanmar must be aware of the interests of neighboring countries regarding the development of the situation in Rakhine State,

in Myanmar led by an Indonesian diplomat, Mr. Marzuki Darusman. The TPF was formed based on UN mandate number 34/22, with the task of carrying out investigations into allegations of gross human rights violations in Myanmar. In accordance with its mandate, the implementation of mission tasks is focused on the situation that has occurred in Kachin, Rakhine and Shan State since 2011.

At the end of the report as stated in the UN General Assembly Resolution Res A/HRC/39/6. In 2018, apart from emphatically declaring the existence of ethnic cleansing practices against the Muslim Rohingya ethnicity, the Fact Finding Team also included several recommendations to the Government of Myanmar, especially in:

- a. Paragraph 1 point 4 page 423 (recommendations) to cooperate and provide the widest possible access to the international community especially the United Nations- in this case including ASEAN - as a regional organization - to seek efforts in terms of upholding law and justice for victims of human rights based on international law (UNHRC, 2018).
- b. Para 1 (f) cooperate with the international community, in particular the United Nations, in the establishment of an international accountability mechanism to pursue justice for the victims of serious crimes under international law in Myanmar

Application Of The R2p Doctrine In Rohingya Cases And Restorative Justice Implementing the Responsibility To Protect (R2P) Doctrine

Discussion of the current humanitarian crisis is not spared from discussions related to humanitarian intervention, based on Article 42 of Chapter VII of the UN Charter, it is possible to be implemented by the international community through the UN security council. However, more than that, one must also look at the larger scope, namely that in fact the doctrine of humanitarian intervention can not only be carried out through authorization from the UN Security Council but can also be carried out by other authorities such as regional organizations as long as it can then be proven that the principle of legitimacy of such an intervention (ICISS, 2001). Responding to these challenges, it is necessary to have a new concept to align the principle of state sovereignty with upholding human rights in the international sphere. So that later all forms of intervention do not violate the sovereignty of a country. The new concept is the Doctrine of the Responsibility to Protect (R2P) or the responsibility to protect that is contained in state sovereignty (Saragih, 2011).

The Doctrine of Responsibility to Protect (hereinafter R2P) is a doctrine that has existed since 2001 and was later re-adopted by the United Nations through The United Nation World Summit Outcome in 2005 which was the result of the Summit of world leaders held in 14 to 16 September 2005.

The results of the 2005 World Summit conference related to this R2P, are contained in the UN General Assembly Resolution Number A/RES/60/1 dated 24 October 2005 regarding the 2005 World Summit Outcome where norms or provisions regarding R2P are contained in Paragraph 138 and Paragraph 139.

World Summit Outcome on Responsibility to Protect Populations from Genocide, War Crimes, Ethnic Cleansing and Crimes Against Humanity.

Para 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their intentions, through appropriate and necessary

means. We accept that responsibility and will act according to it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

Para 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to help States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assist those who are under stress before crises and conflicts break out.

Myanmar is not a failed state. A failed state is a state that has no government (a power vacuum) and can no longer maintain its sovereignty, both the legitimacy of its territory and its governance over its people.”

Restorative Court

According to Brian J Preston in his book entitled *The Use of Restorative Justice for environmental Crime*, quoting from the UNDOC (United Nation Office on Drugs and Crime), that restorative justice is a method used to resolve criminal behavior by maintaining a balance between victims, perpetrators and society. restorative justice is a way of responding to criminal behavior by balancing the needs of the community, the victims and the offenders (Rotberg, 2016).

The ASEAN Way principle that has been known among ASEAN countries is certainly in line with the theory of conflict resolution through non-judicial or restorative justice, where the principles of unification of commitments, deliberations, and mutual consultation are to complement each other's differences in understanding that occur between member countries. The ASEAN Way itself then becomes a norm formed as a work guide in overcoming conflicts that will be used by ASEAN. Of course not all kinds of crime cases can be resolved with restorative justice. Restorative Justice is only an option for resolving cases within Myanmar that need to be resolved. However, at the internal community level, the mechanism of restorative justice through the ASEAN way can be a solution to solving problems among the people of Rakhine state.

Therefore, looking at the conflict in Myanmar, researchers feel the need to raise the court mechanism outside the court (Non-Judicial) as one of the best ways that can be adopted by the ASEAN Humanitarian Mission in obtaining the best results for a permanent solution to the conflict (UNODC, 2006).

Analysis Of Possible Application Of Asean Regional Cooperation In Conflict Resolution In Myanmar

The Mandate of Regional Organizations and the Role of Regional Organizations in Regional Conflict Resolution.

The UN Charter has provided opportunities for regional organizations in international peacekeeping and security activities. This provision is contained in Chapter VIII of the UN Charter and becomes the legal basis for regional organizations to resolve disputes between their member countries by using peaceful means.

There are five reasons in the context of decentralizing the authority to carry out the maintenance of peace and security by the UN Security Council to regional organizations.

1. First, based on the UN Charter, countries that are members of regional organizations can carry out regional mechanisms to resolve their disputes through peaceful mechanisms.
2. Second. The decentralization of the powers of the Security Council to regional organizations is transferable under Article 53 of the UN Charter.
3. Third. Based on Article 106 of the UN Charter on transitional security provisions. This provision explains that in the context of realizing the objectives of maintaining international peace and security as stated in Article 43 of the UN Charter, Article 106 of the UN Charter reads as follows:

“Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasionally requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security”.

“The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state”.

4. Fourth. The fourth argument is an argument that is not contained in the UN Charter. The UN Security Council can give part of its authority to regional organizations based on the doctrine of implied power.
5. Fifth. The last argument is the argument put forward by Professor Koskenniemi (2005), namely the 'last resort' doctrine. Koskenniemi is of the opinion that in order to maintain international peace and security, countries can take action through regional organizations, especially if the UN Security Council cannot act due to a veto.

The role of Regional Organizations in conflict resolution (best practices)

In the past two decades, the UN has given a lot of authority to regional organizations in terms of handling conflicts. Apart from being a mandate from Chapter VIII of the UN Charter, the phenomenon of decentralization of authority to regional organizations is the impact of the limited UN budget. There are examples of the success of regional organizations in resolving regional conflicts as follows:

to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration and to defend their sovereignty, their territorial integrity, and their independence, Organization of African Unity (OAU) based on the Addis Abbaba Charter), May 23, 1963

European Union (EU) which since January 1st, 2007 has 27 member countries. The emergence of the spirit of regionalism is the frequent use of vetoes at the UN Security Council forum by the US and the Soviet Union, so that many countries are trying to find alternative solutions to their disputes by using territorial issues. , the Association of South East Asian Nations (ASEAN) which was founded on August 8, 1967 in Bangkok, the capital city of Thailand initiated by five countries in Southeast Asia through their foreign ministers, which has been involved in resolving conflicts in Cambodia.

Asean's Role and Establishing Humanitarian Mission

As a regional organization consisting of several countries in Southeast Asia including Myanmar, ASEAN plays an important role in the conflict resolution process in Myanmar. As is well known, its formation was marked by the signing of a Bangkok Declaration, with one of its important objectives being as follows:

- a. Promote regional peace and stability by respecting justice and law and order within the countries of the region. In addition, it also adheres to the principles of the UN Charter.
- b. Providing mutual assistance in the form of training and research facilities in the educational, professional, technical and administrative fields.
- c. Maintain closer cooperation and join forces with other international and regional organizations to explore possibilities for closer cooperation among themselves.

The establishment of the Humanitarian Mission for Overcoming the Myanmar crisis is of course in line with the R2P doctrine where the principles of R2P gave birth to the basic principles as explained in the previous chapter, namely: This mission is certainly more of a civil assistance mission in the context of recovering the humanitarian crisis or civic mission. That is a support-oriented mission based on humanitarian principles.

The first step in regional efforts to provide real assistance in resolving problems in Myanmar, of course, begins with negotiation and diplomacy activities that can be carried out by sending an envoy, both an individual expert who has credibility and capacity that is recognized both internationally and can be accepted by all parties. who are fighting. After diplomatic efforts have been carried out, the next process is to carry out a Memorandum of Understanding between the Myanmar government, and witnessed by the Militia. The points of agreement that are expected to be obtained from this meeting are as follows:

- a. Armistice and Disarmament Agreement between the warring factions.
- b. The Myanmar government's approval for ASEAN's involvement in humanitarian missions.

It is realized that this agreement is not easy to do considering the various challenges related to various factors such as the legality of involvement which has traditionally been influenced by the Non-Intervention principle, including the psychological condition of the Myanmar government itself in approaching problems in Rakhine State.

In simple terms the organizational units of the ASEAN Humanitarian Mission can be in the form of the following units:

- a. Political Affair, plays a role in helping the Government of Myanmar consolidate and restore the functions and administration of local government in Rakhine State so that they are able to carry out their functions again as public servants in Rakhine State. In addition, this section is an instrument to assist the Myanmar government to carry out constitutional reforms or constitutional amendments regarding Myanmar citizenship as recommended by the Advisory Commission Team led by Kofi Annan.
- b. Civil Affair, in line with the Political Affair, helps the Government of Myanmar to dynamize local governance in Rakhine State by encouraging the capacity of human resources as government administrators throughout the Rakhine state and assisting the main tasks of the mission in fully involving local civilians in mission activities.
- c. DDR Units. Playing a role in assisting the Mission in implementing the DDR (Demobilization, Disarmament and Reintegration) program which includes demobilization activities, namely data collection and cantonization of former militia members (Party to the conflict), data collection and collection of weapons owned, collecting and storing weapons, conducting reinsertion (as part of demobilization) namely initial training before integration activities are carried out escorting the process of reintegrating former militia back into Rakhine State society.
- d. Police Unit. Assisting the mission and government of Myanmar in safeguarding and maintaining public order through law enforcement efforts based on applicable national law and international law as well as agreed peace process instruments.
- e. Humanitarian Aid. Assisting missions both in carrying out all humanitarian projects (Community Projects) and distributing humanitarian aid originating from various humanitarian agencies including the United Nations and certain countries, NGOs and other humanitarian organizations and activists. This was carried out in the context of cooperation between the Government of Myanmar, the ASEAN Humanitarian Mission, UNDP (United Nation Development Programme) and UNCT (United Nation Country Team) operating in the ASEAN mission area in Rakhine State.
- f. Military Observers (MILOB). This unit is not an armed unit even though the personnel come from the military. But in carrying out their duties are not allowed to use weapons. Its role is to assist the mission in making observations

Conclusion

As previously discussed, it can be understood that the conflict that took place in Myanmar ultimately led to a humanitarian crisis that attracted the attention of the world and the international community. Starting from an ongoing conflict between the Rohingya Muslim ethnicity and the indigenous Buddhist Rakhine people, then it became:

- a. Conflict involving the Myanmar Government military and the Rohingya Ethnic Resistance group, finally encouraging the international community to participate in efforts to resolve the conflict in Myanmar's Rakhine State.
- b. The efforts that have been initiated by UN special envoys and organizations as mentioned in the previous paragraph have so far not been able to maximally help the Myanmar government to stop the humanitarian crisis in Rakhine State. The government of Myanmar on the one hand and the radical Rohingya group (read ARSA) each still have the same attitude towards maintaining the conflict and have not yet found an agreement to return to sit together to end the conflict.
- c. ASEAN as a regional organization in Southeast Asia has a huge opportunity to resolve the conflict in Rakhine State. Even though there are obstacles related to the principle of Non-Intervention in the ASEAN Charter, there are also several factors that are

beneficial for ASEAN to appear as an intermediary, as a mediator in resolving the conflict in Myanmar.

- d. As a result of the 2005 World Summit which resulted in UN General Assembly resolution No. 60/2005. As a regional organization, ASEAN's involvement in resolving the conflict in Myanmar is also contained in Chapter VIII of the UN Charter concerning granting authority to regional organizations in the process of resolving conflicts in their respective regions. Therefore the presence of the ASEAN humanitarian mission in Myanmar is certainly not only expected to reduce tension but is also expected to be able to stop the conflict as a whole in Myanmar in particular and in the region in general and to restore a peaceful, just and dignified life for the people of Myanmar.

Recommendation

From the study of this case, there are several considerations as well as recommendations to encourage the effectiveness of the implementation of the ASEAN Humanitarian Mission as follows.

- a. Related to legal aspects, in the future ASEAN needs to revise the ASEAN declaration by adding clauses regarding the issue of regional defense and security cooperation. Faced with the current conditions and developments in the dynamics of the global environment, an effort is needed to carry out legal reforms in the context of ASEAN regional cooperation relations, especially evaluating the points in the declaration of the formation of ASEAN. Likewise the ASEAN Charter requires strengthening with changes to the contents of the ASEAN Charter.
- b. In order to maximize ASEAN's role in overcoming the conflict in Myanmar, it is necessary to form an ASEAN Humanitarian Mission organization whose main task is to assist Myanmar, for example the ASEAN's Mission on Stability and Humanitarian Relief for Myanmar (AMISH FOR MYANMAR). This mission, of course, in carrying out its mission tasks still has to obtain recommendations and mandates from the United Nations through security council resolutions or UN General Assembly resolutions.
- c. In order to ensure that the technical implementation of the humanitarian mission in Myanmar runs well, it is necessary to carry out a training program (Pre-Deployment Training) with the aim that the ASEAN Humanitarian Mission officers can understand and recognize the main duties and functions of this ASEAN Humanitarian Mission. Apart from that, another training model is to carry out an induction course, which is a form of introduction to the mission area carried out with the aim that all supporters of this mission understand matters regarding culture, customs and customs in Myanmar, the root causes of conflict, how to build cooperation among supporters. mission and how to work with NGOs, UNCT and other humanitarian workers in Rakhine State.

References

Books

- Bungin, Burhan (2020). Poast-Qualitative.Social Research Methods, Kuantitative-kualitatif-mix mthode. Jakarta. Kencana.
- Goodman, Annekathryn & Iftkher Mahmood. (2019) The Rohingya Refugee Crisis of Bangladesh: Gender Based Violence and theHumanitarian Response. Journal of Political Science, Vol 9,p 490-501
- Martii Koskenniemi, The Place of Law in Collective Security, Michigan Journal of International Law, 1996, h. 486 dalam Ademola Abass, Regional Organisation and the

Development of Collective Security Beyond Chapter VIII of the UN Charter, Oregon USA, Hart Publishing, 2004.

Merrills J. G., International Dispute Settlement, New York, Cambridge University Press, 2005.

Mamuji, Sri, Metode Penelitian dan Penulisan Hukum, Jakarta, Badan Penerbit Fakultas Hukum Universitas Indoensia, 2005.

Soekanto, Soerjono, Pengantar Metode Penelitian, Jakarta, UI Press, 1986.

T. May Rudy, Administrasi Dan Organisasi Internasional, Refika Aditama, Bandung, 2005

United Nations Office on Drugs and Crime (UNODC), Handbook on Restorative Justice Programs, New York, United Nations, 2006).

Journals

Annisa Wuryandari. "Dilema ASEAN Way dalam Penanganan Pencari Suaka Rohingya di Asia Tenggara." Journal of International Relations. 3(2), (2017) hlm 68-74

Advisory Commission on Rakhine State, Towards A Peacefull, fair and prosperous future for the people of Rakhine Final Report. (2017)

APHR, The Rohingya Crisis: Past, Present and Future. Summary Report of Finding from Fact-finding Mission to Bangladesh. 21 -24 Januari 2018

ASEAN and The Principle of Non-Interference. <https://www.e-ir.info/2012/02/08/asean-and-the-principle-of-non-interference>.diunduh pada 30 desember 2018.

Asia Tenggara. "Jurnal Hukum Internasional (Indonesian Journal of International Law) Vol. 5, 3 April 2008, hal.557-558

International Crisis Group, A Major Threat to Myanmar Transition and Regional Stability. 27 Oktober 2017.

Imam Mulyana & Irawati Handayani Peran Organisasi Regional Dalam Pemeliharaan Perdamaian dan Keamanan International, Jurnal Cita Hukum. Vol. 3 No. 2 Desember 2015. ISSN: 2356-1440.

Inter-Sector Coordination Group (ISCG) Sector Specific Gender Tip Sheets for Rohingya Refugee Crisis Humanitarian Response in Bangladesh September, 2017

Putri, R. Diantina. 2017. Pembantaian Sistematis terhadap Muslim Rohingya <https://tirto.id/pembantaian-sistematis-terhadap-muslim-rohingya-cBZS>.

Preston, Brian, artikel The Use Of Restorative Justice For Environmental Crime. Melbourne 2011.

Robert L. Rotberg. Failed States, Collapsed States, Weak States: Causes and Indicators https://www.brookings.edu/wpcontent/uploads/2016/07/statefailureandstateweaknessinatimeofterror_chapter.pdf.

Marelda Saragih, Santa. 2011. Responsibility to Protect: Suatu Tanggung Jawab Dalam Kedaulatan Negara. Dipetik 10 Desember 2017 dari http://pustakahpi.kemlu.go.id/app/Volume%202,%20Mei-Agustus%202011_35_45.PDF. 28 December 2018

Tri Handoko, Laporan khusus Athan Indoensia di Myanmar. September 2017

Tri Joko Waluyo. Konflik Tak Seimbang Etnis Rohingya dan Etnis Rakhine di Myanmar. Jurnal Transnasional Vol. 4 No.2 Februari 2013

UNHCR. Report 2015. South-East Asia, Mixed- Maritime Movements. Dipetik 7 Juni 2018 <http://www.unhcr.org/53f1c5fc9.html>

War Initiatives, Rohingya Briefing Report, October 2015

World Summit Outcome on Responsibility to Protect Populations from Genocide, War Crimes, Ethnic Cleansing and Crimes Against Humanity

International Documents

ASEAN charter 2005

Bangkok Declaration 8 Agustus 1967
Burmese Citizenship Law tahun 1982
Constitution of Myanmar, The Constitution of The Socialist Republic of The Union Of Burma, 1974, Printed by Printing and Publishing Corporation Rangoon
Human Rights Council, Report of the independent international fact-finding mission on Myanmar. September 2018.
International Commission on Intervention and State Sovereignty (ICISS), The Responsibility to Protect (Report of the international Commission on Intervention and State Sovereignty). Ottawa: International development Research Center, 2001.
UN General Assembly Resolution, Report of The Independent International Fact-Finding Mission on Myanmar. Nomor Res A/HRC/39/6. 2018.
UN General Assembly Resolution No 60/2005, World Summit Outcome.

Websites

IPCS (Institute of Peace and Conflict Studies.
http://www.ipcs.org/comm_select.php?articleNo=4029. 15 Desember 2018

Marsetio S. Luhukay. 2008. Penerapansa Manajemen Krisis Di Indonesia : Memotret Krisis Dalam Kacamata Public Relations. Vol 2, No.1, hlm 18
https://Www.Researchgate.Net/Publication/43330739_Penerapan_ManajemeKrisis_Di_Indonesia_Memotret_Krisis_Dalam_Kacamata_Public_RelationS. 10 Desember 2018.

Médecins Sans Frontières. Report on Health Survey in Kutupalong and Balukhali Refugee Settlements, Cox's Bazar, Bangladesh, December 2017. p 20.
file:///C:/Users/Owner/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/Tempe/Dwnloads/health-survey-in-kutupalong-and-balukhali-refugee-settlements,-cox's-bazar,-bangladesh%20(1).pdf.

MSF, Crisis Update, 16 August 2018. www.msf.org. diunduh pada 12 Desember 2018.

Ministry of Health and Sports: Myanmar Demographic and Health Survey 2015-16 Key Indicators Report: <http://mohs.gov.mm/Main/content/publication/myanmar-demographic-and-healthsurvey-2015-16-key-indicators-report>.

Myanmar Population and Housing Census, Department of Population, Ministry of Labor, Immigration and Population, Myanmar. 2014
http://www.dop.gov.mm/moip/index.php?route=product/product&path=54_49_52&product_id=95. Diakses pada 1 januari 2019

Muhaimin. Korban Tewas Konflik Berdarah di Rakhine Hampir 400 Orang. 2017.
<https://international.sindonews.com/read/1235831/40/korban-tewas-konflik-berdarah-di-rakhine-hampir-400-orang-1504249040>

Report. UNHCR. South-East Asia, Mixed- Maritime Movements. Dipetik 7 Juni 2018
<http://www.unhcr.org/53f1c5fc9.html>. 2015

Secretary General Ban Ki-moon Report: Implementing the Responsibility to Protect PDF Print E-mail
<http://www.responsibilitytoprotect.org/files/SGRtoPEng.pdf>

UNICEF Analysis of townships controlled by armed ethnic groups, and Myanmar Population and Housing Census 2014 on the number of children living in those Townships.
<http://mmpeacemonitor.org/stakeholders/armed-ethnic-groups>.

Waluyo, Tri Joko. 2013. Latar Belakang Konflik Rohingya. 12 October 2018
<https://www.scribd.com/doc/177531935/Latar-Belakang-Konflik-Rohingya>