

The Response of Association of Southeast Asian Nations (ASEAN) towards the Issues of Rohingya Refugees from Myanmar

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Abstract: This research aims to know, to describe, and to analyze how the response of Association of Southeast Asian Nations (ASEAN) towards the issues of Rohingya refugees from Myanmar. The Rohingya ethnic has been suffering from violence, persecution, human rights abuse, and also discriminating treatments by Myanmar military government. Consequently, they were forced to flee to ASEAN countries, such as Thailand, Malaysia, and Indonesia. The approach used in this research was neoliberal institutionalism which takes institution as a media and tool of cooperation. Moreover, this research used qualitative research method. The sources of data were obtained from books, scientific journals, articles, online sources, and legal documents. In collecting data, writer used data collecting technique includes literature research. The result of the research indicates that ASEAN agrees to resolve the issues of Rohingya refugees by involving the origin country, transit country, and destination country. Then, ASEAN eventually considers these issues in Bali Process Forum, that is a mechanism to resolve problems relating to people smuggling and trafficking.

1 INTRODUCTION

International relations have undergone significant changes since the end of the Cold War. The Cold War tension was so visible in the competition between the United States and the Soviet Union, such as the arm race and other military upgrades (Crockatt, 2005).

The Cold War was a time when military and security issues were the core subjects of the countries. The other issues, such as economics, health, culture, or human rights, categorized as low politics issues, were lacking or not even getting a place in the hearts of political elites.

After the Cold War ended, the low politics issues crawled to the surface and were able to seize attention. The world is now focused on human rights matters for every human being. Racial discrimination leading to violence and persecution is a phenomenon that is contradictory with the spirit of democracy and human rights enforcement.

Rohingya is a minority ethnic group who inhabit the western region of Myanmar for centuries. They live in Rakhine state, but their physical and linguistic features are more similar to Bengal (Bangladesh). The Rohingyas live in Myanmar but have no citizenship status so the Myanmar authority refuses to recognize Rohingyas originating from

Myanmar (Kompas, 2010). Myanmar reasoned that Rohingya is simply a group of Bangladeshis who left their country to gain a better life, trying to win the sympathy of Western countries by claiming themselves as Rohingya from Myanmar (Jakarta newspaper, 2009).

The international community subsequently urges to address this issue immediately, especially to ASEAN. Based on information gathered by the Amnesty International Agency, there have been human rights violations due to unfair and inhuman treatments befalling to the Rohingyas (Surya, 2010). The United Nations and other human rights organizations have reported the existence of Rohingyas who have been discriminated for being Muslim since decades ago. They are forced to become slave workers. They have no rights over land and assets as property rights. They are also constantly subjected to atrocity by the police, getting sentenced to imprisonment, and other ruthless treatments (Angen, 2009).

As a result of various tortures received from Myanmar's military junta, the Rohingyas then run away and fled to neighboring countries. They also used boats and crossed the Indian Ocean, so that sometimes these refugees are referred to as "boat people". Some of them were stranded on the west

coast of Malaysia and some were up to Indonesia's waters.

The issue of Rohingya refugees is a regional problem in Southeast Asia, so it is the moral responsibility of the ASEAN to handle it. The refugee issue can lead to predicaments for transit and destination countries. ASEAN is expected to take a proper response or policy so that this issue would be over immediately.

2 LITERATURE REVIEW

2.1 Refugee

The United Nations High Commissioners for Refugees (UNHCR) defines prolonged refugee situation as a situation in which refugees find themselves abandoned or wasted, and this has been a long or protracted one (Loescher & Milner, 2005). This condition makes them unable to fulfill their needs for basic rights, economic and psychological needs. Even they are difficult to get help from outsiders, so most of them decided to flee.

Refugee is a status recognized by international laws (Havid, 2004). According to article 1 of the 1951 Geneva Convention Relating to the Status of Refugees, refugee is a person who is outside his or her home country or habitual residence, having a legitimate fear of being harassed as a result of their race, religion, membership in a particular social group or political opinion which they embrace, and is unable or unwilling to obtain protection from the home country, or to return there, for fear of persecution (UNHCR, 2010).

2.2 International Organization

Rapid development in the form and pattern of cooperation through international organization has increasingly highlighted the role of international organization. Nevertheless, the state remains the most dominant actor in the form of international cooperation.

The international organization should have a clear and complete organizational structure and carry out its functions on an ongoing basis. However, international organization can be manifested through a treaty or agreement only.

International organizations can play their role as a tool for the parties to negotiate. They can also be equated as a part of market where its inhabitants meet to discuss, trade, and resolve disputes in it (Archer, 2001). ASEAN itself is a regional-based international organization located in Southeast Asia.

2.3 Neoliberal Institutionalism

According to Peter M. Haas, Robert O. Keohane, and Marc A. Levy, as quoted by Lamy (2005), neoliberal institutionalism views an institution as a collection of interminable rules. Institution may take the form of organizations, bureaucratic agencies, treaties or agreements, and informal practices binding its members or parties. Neoliberal institutionalism focuses on economic and environmental issue, and also on the human rights issue recently. These issues are classified as low politics issues and neoliberal institutionalism assumptions are the most appropriate ones if used as an approach in this research.

Neoliberal institutionalism regards that the subject can be addressed through a form of cooperation, which can be achieved through the establishment of an institution (Burchill, 2005). International organizations are believed to help to address regional and global concerns, and to prioritize cooperation rather than triggering conflict (Keohane, 2004).

Neoliberal institutionalism views institution as a mediator and tool for achieving cooperation in the international system. This cooperation is expected to secure the national interests of each country. In this case, the countries in Southeast Asia use ASEAN as a platform to overcome Rohingya refugee problems among its members.

3 METHODS

The method used in this research is qualitative research method. According to Creswell (2004), qualitative research method is a research process for understanding human or social issues presented in words and reporting detailed views obtained from informed sources.

The used data sources derived from secondary data, such as books, scientific journals, articles, online sources, documents, and other data related to the topic of the research problem. Literature study has been conducted in several libraries and related institutions to obtain the secondary data.

4 RESULTS

Rohingya is a minority ethnic residing in the state of Arakan (now Rakhine). This ethnic has undergone through a profound history. At the beginning of the 7th century when Muslim traders from Arab came and settled in Arakan (Kyaw, 2008). Currently, there

are still about 800,000 Rohingyas living in Myanmar. The Rohingyas are physically, linguistically, and culturally closer to the people of South Asia (Rismayati, 2009).

The majority of them is not recognized as Myanmar citizens. They are forced to work at the government-owned or military infrastructure sites (Head, 2009). As a result, they end up lacking of time to earn income for daily life and to feed their own families.

They are prohibited from access to health and educational service. In 1994, the Myanmar government stopped issuing birth certificates for Rohingya's children. The mobility of Rohingya is also restricted. Even if they want to go to a neighboring village, they must enclose travel card and are required to pay it (Lewa, 2009).

Such arbitrary and discriminatory treatments have made the Rohingyas become mentally depressed, forcing them to leave Myanmar to seek better security and livelihood in other countries (Rismayati, 2009). The countries where they decided to transit or settle are Bangladesh, , Pakistan, Saudi Arabia, China, Australia, Malaysia, Thailand, and Indonesia.

5 DISCUSSION

ASEAN essentially supports the settlement of Rohingya refugees problems. ASEAN should be worried because the Rohingyas can be a burden for the countries where they transit or settle. ASEAN's concern towards the Rohingyas is proven by addressing this issue to the regional level. ASEAN then discussed the issues of Rohingya refugees through the Bali Process mechanism.

The Bali Process is a conference that addresses the mechanisms of resolution on the issue of illegal and human trafficking, people smuggling, and transnational crimes. In this forum, ASEAN agreed to resolve the Rohingya issue by involving the origin country, transit countries, and destination countries.

However, despite of agreeing to deliberate the Rohingya issue into a regional context, ASEAN is less able to act more firmly against Myanmar because it's obstructed by the existence of non-intervention principle within ASEAN itself. This principle is already often becoming a barrier for ASEAN to interfere in the domestic affairs of its member countries.

Moreover, the issue of Rohingya refugees is only considered as a part of people smuggling and trafficking, not a matter of a group of people who suffered human rights abuses and severe oppression by Myanmar's military junta (Jagan, 2009).

The ASEAN Secretary-General at that time Surin Pitsuwan stated that the Rohingya issue is not on the ASEAN's official agenda but it would still be discussed in an informal meeting among ASEAN countries (The Irrawady, 2009).

There are two international laws governing the issue of refugees, namely the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. ASEAN countries, especially those who directly impacted by the Rohingyas arrival—Indonesia, Malaysia, and Thailand—unfortunately have not ratified these two rules, thus assuming that UNHCR doesn't need to interfere on this matter. Only Cambodia and Philippines who have been the state parties to the convention and the protocol (UNTC, 2018). As a result, ASEAN coordination with UNHCR and International Organization for Migration (IOM) isn't well established. The issue of Rohingya is still unresolved until now.

In accordance to the neoliberal institutionalism assumptions, ASEAN is used as an instrument to resolve problems among its members. They met in a summit forum and made the Rohingya issue as one of the topics of the conference, although it was not really intense. It has been seen the efforts of ASEAN member countries to resolve the issue of refugees through ASEAN's intermediaries. The issue of refugees is included in the low politics level, but ASEAN countries continue to view that the low politics issues such as human rights violations can pose a threat to ASEAN, and particularly to the national interests of each member country.

Referring to the neoliberal institutionalism assumptions, ASEAN is being a facilitator in the policy-making process of Rohingya refugees by encouraging more solid cooperation at regional level.

6 CONCLUSIONS

ASEAN addressed the issues of Rohingya refugees from Myanmar by bringing up the issue to the regional level. ASEAN views that this issue is not in line with the spirit of human rights and democracy enforcement contained in the ASEAN Charter which was just agreed in December 2008.

In the settlement process, ASEAN agreed to involve the origin country, transit country, and destination country. However, this issue was not included in the official agenda of the ASEAN Summit. This issue would still be discussed in an informal meeting between ASEAN countries.

The displacement of Rohingya migrating from Myanmar is only considered as a phenomenon of

people smuggling. Almost all ASEAN countries don't ratify the convention and the protocol relating to refugees, so they are lack of understanding about the concept of refugee. They automatically consider the Rohingyas only as illegal or economic migrants who fled from their home country merely to pursue a better living. The issues of Rohingya refugees have not yet reached a definite solution. ASEAN member countries should need to ratify the international laws dealing with refugee issues so that they will understand more how to handle Rohingya refugees appropriately.

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