

CHAPTER III

ROHINGYA CONFLICT 2012

In Southeast Asia, the ethnic or religion conflict among countries frequently occur, for example, Malays ethnic in South Thailand, the conflict in Aceh, North Maluku, West Papua and the latest conflict is between ethnic Rohingya and Rakhine State in Myanmar.

The violence broke out in 2012, when a group of Rohingya men were accused of raping and killing a Buddhist woman. Groups of Buddhist nationalists burned Rohingya homes and killed more than 280 people, displacing tens of thousands of people. Human Rights Watch described the anti-Rohingya violence as a to crime against humanity carried out as part of a "campaign of ethnic raid." Since 2012, the displaced population of the region has been forced to take shelter in squalid refugee camps. More than 120,000 Muslims, predominantly Rohingya, are still housed in more than forty internment camps, according to regional rights organization Fortify Rights.

A. History of Rohingya

Burma or more commonly known as Myanmar is a multiethnic country. Various ethnics living in this country. However, there was a lot of conflict due to the variety of ethnicities in Myanmar. Myanmar's internal conflict involving several ethnic groups not only happen once or twice. Conflicts between ethnic groups in Myanmar occurred until fall fatalities. Especially one of the very popular ethnic lately due to the actions of the eradication of

this ethnic called Rohingya. This ethnicity exists in Myanmar. Majority of Rohingya people are converted to Islam. While the majority of Myanmar embraces Buddhism. One might say Rohingya is an ethnic minority in Myanmar.

The Rohingya are Muslims native to the northern Arakan region of Burma, which borders Bangladesh. The name of Rohingya is taken from "Rohang" or "Rohan," which was the name used for the Arakan region during the 9th and 10th centuries. According to Rohingya history, the group was descended from 7th century of Arab, Mughal, and Bengali merchants who settled in Arakan territory. The Rohingya live alongside the Rakhine, a people descended from Hindus and Mongols who make up the ethnic majority in the region. Rakhine state is one of the poorest areas in Myanmar with some of the worst development and social indicators internationally. The people of Rakhine have held a lot of resentment towards the national government of Myanmar for their lack of attention to the serious needs of the state. Rakhine state has one of the highest malnutrition rates in the country, poor infrastructure and over 1.5 times the national average of overall poverty. There has been little economic and structural development work or aid support in Rakhine, partially due to its incredibly remote and inaccessible nature, which has only further incensed the population when other parts of Myanmar are evolving quickly.

Rohingya is an Indo-Aryan ethnic group of Rakhine that also called as Arakan in Myanmar. Rohingya people use their own languages related to the Indo-Aryan languages in India and Bangladesh as it is different from majority of Burmese that use Sino-Tibetan. It is also known as Muslim

minority population living mainly in the state of Arakan, in Myanmar. Numbering around 1.3 million, they are concentrated in western Rakhine state, which neighbors Bangladesh (Singh, 2013).

During the British Raj, the Rakhine region was managed from Chittagong and Rohingya were able to move freely between these two regions. After independence of Myanmar from the British, the historical circumstances surrounding the status of the Rohingya allowed the Myanmar government to label them as 'illegal migrants' and forced them out on several occasions (Human Rights Watch, 2000).

In 1974, the Myanmar Emergency Immigration Act was signed into law, seeking for curtail immigration from Bangladesh, China, and India. All citizens were required to carry identity cards (National Registration Certificates) but Rohingya were downgraded to carry Foreign Registration Cards. In 1978, "Operation King Dragon" was put into force, "taking action against foreigners who have filtered into the country illegally". Eventually, this operation escalated into abusive attacks on the Rohingya by local army forces. During the period of military rule, there were no attempts to assimilate the Rohingya into the wider Myanmar population while they were often subjected to violence. Their lands were stripped, people were forced into labour and the 1982 revised Myanmar Citizenship Law excluded Rohingya from the list of national ethnic groups, effectively turning them into stateless persons while leaving the question of nationality unresolved.

After the disputed elections in 1991, the Myanmar military commenced a campaign called Pyi Thaya (Operation of Clean and Beautiful Nation),

designed to reduce the political fallout from a controversial election in which the military junta refused to accept Aung San Suu Kyi's National League for Democracy to win. Aware of the anti-Muslim sentiments among Rakhine Buddhist, the military junta sought to leverage the ill feelings created by brutal oppression of Myanmar in the region in a directed campaign against the Rohingya who were being used as scapegoats. This created an exodus of around 250,000 Rohingya refugees who fled to Bangladesh and Malaysia.

Since 1978, Bangladesh has represented the first destination of Rohingya asylum seekers, considering the proximity, the common religion, and-most importantly-because Bangladeshi authorities initially recognized the humanitarian needs of these undocumented Myanmar migrants. According to UNHCR, about 32,000 registered Rohingyas currently live in two government-run camps, near Cox's Bazar, in Kutupalong and Nayapara, while it is estimated that an additional 200,000 unregistered Rohingya refugees live nearby in unofficial camps. Although it might seem a relief that this contingent of asylum seekers settled in a safer country, life in these camps is dire, as many of them live without enough food, and have very limited access to education and work opportunities.

Although Bangladesh has proven to be open to this minority, it is clear that it is not, or maybe cannot be, totally committed to finding a durable solution to this issue. After all, Bangladesh ranks among the poorest and most populated country in the region. This leads to national authorities being more focused on internal questions (in particular with reference to a possible labor market unbalance, as Rohingya would accept unskilled jobs at lower wages). Furthermore, Bangladeshi politicians have always regarded

Rohingya acceptance and settlement as temporary. Paradoxically, Bangladesh itself has considered this Myanmar minority as illegal migrants, denying them the possibility to obtain citizenship. Moreover, following the spring 2015 migration emergency, Bangladesh has turned away new migrants, and has declared on several occasions the intention to start a repatriation program. Luckily, this plan was not accomplished; however it gave rise to a “ping-pong” strategy with the other destination countries, Malaysia, Thailand, and Indonesia that evidently shows their reluctance to take any international responsibility.

Basically, the Rohingya want the same rights as others in Myanmar, starting with citizenship. Soon after President Thein Sein came to power in 2011, he stated the Rohingya do not exist and advocated for their deportation. The government says they are "Bengali," a term that implies they are all illegal immigrants from Bangladesh. They are not eligible for citizenship under the country's military-drafted 1982 law, because they are not on an "official" list of ethnic groups that had permanently settled in Myanmar since at least 1823. The legislation does provide an alternative, "naturalized" citizenship for Rohingya, but only for those willing to identify themselves as "Bengali." They also have to be able to prove their families have been in the country for at least three generations. That's difficult for members of the religious minority who have little in the form of documentation and are frequently uprooted.

Even those who gain alternative citizenship would continue to be discriminated against. The status falls short of full citizenship and would continue to deny Rohingya the right to own land, to run for office, to form or

lead political parties and to enter professional fields like law, medicine and engineering.

B. The Response of Myanmar Government Towards Rohingya

Although Rohingya people live the region of Myanmar, but the government of Myanmar does not recognize them as the citizens. The starting point of Rohingya discrimination was in 1785, when Myanmar Buddhist from the south of the country conquered Arakan. They drove out or executed all of the Muslim Rohingya men they could find; some 35,000 of Arakan people likely fled into Bengal, then part of the British Raj in India. Since the 1970s and 1978, the military had a policy of discrimination on ethnic Rohingya. Political discrimination is further supported by the general public sentiment of Myanmar, in which it was said that the Rohingya were regarded as foreigners, not as people of Myanmar. The discrimination intensified in 1982, when the Citizenship Act was issued, so bad for Rohingya, having been revoked from their citizenship (stateless) (Saputra, 2012).

The international legal definition of a stateless nation is set out in Article 1 of the 1954 Convention relating to the Status of Stateless Persons, which defines a stateless nation as an ethnic group, religious group, linguistic group or other cohesive group which is not the majority population in any nation state. The term implies that the group "should have" such a state, and thus expresses irredentism. This is orthogonal to statelessness in the sense of an individual's complete lack of a legal nationality: members of stateless ethnic groups may be citizens/nationals of the country in which they live, or they

may be denied citizenship by that country. A stateless nation is an ethnic group or religious group who is not considered as a national by any state under the operation of its law. This means that a stateless nation is someone who does not have a nationality of any country. Some people are born stateless, while others become stateless over the course of their lives. The example of stateless nation in South East Asia region is Rohingya in Myanmar.

Another opinion says that, Rohingya people fled from their homes to neighboring countries, Bangladesh. There are about 300-400 thousand in Bangladesh. In that country, they are bred, but when returned to Myanmar they are difficult to be accepted as citizens of Myanmar. So is there on the Thai border. According to the Citizenship Act, which was amended in 1982 by Myanmar, Rohingya ethnic is not a part of Myanmar. They are also regarded as an illegal immigrant in his homeland. Along with the status of those who are not of any nationality, they began to experience a variety of difficulties, such as food shortages.

President Thein Sein said Myanmar would send the Rohingya away "if any third country was willing to accept them." He also said the same thing in front of United Nation High Commissioner for Refugees (UNHCR), responded the case which is happening in his country. The government also started discriminate them since 1948 by disarming, closing schools and burning mosques. Nowadays they do not give them the freedom to practice their religion as in performing Hajj for Rohingya because they were not given the identity from the government (Dawn, 2012).

Myanmar's response to the problem has generally revolved around the denial of citizenship to the Rohingya people. Such acts have often put it in violation of the ASEAN Charter, where issues such as well-being, equitable access to opportunities for human development, human rights and justice have not been given their due consideration when it comes to the Rohingya. The denial of the Rohingya as a problem also complicates and undermines any attempt for an effective regional solution in Southeast Asia.

Facing the discrimination, some Rohingya run away to Bangladesh and Thailand to look for a place of refuge. In this aspect, UNHCR as the international organization of United Nations tried to give aid to them in Bangladesh and Thailand. Unfortunately, in the border of Thailand they still get discrimination. Bangladesh also stopped receiving the aid from UNHCR because they do not want the number of Rohingya people who come to their country increases.

C. Countries Response to Rohingya

Responding to Rohingya case, numerous of international actors already took an action towards this problem and one of them is ASEAN, which in this case Myanmar is one of the members of this regional organization. ASEAN as the regional cooperation is trying to solve this problem by establishing an extended organization called ASEAN Intergovernmental Commission on Human Rights/AICHR), due to the Rohingya problem which is also aggravated by the lack of response from ASEAN Member States as well as the ASEAN Institution. This is ironic because since 2003, 10 ASEAN Member States have agreed to establish a political community in

the region by 2015 and since 2009 they have signed the ASEAN Charter (ACSC/APF, 2014). According to the Charter, ASEAN shall become a ‘people-oriented organization’ and there will be a Human Rights Body in ASEAN, which is later known as ASEAN Intergovernmental Commission on Human Rights/AICHR.

It is also clear to make ASEAN Intergovernmental Commission on Human Rights (AICHR) works in dealing with Rohingya problems. AICHR should be given further authorities to facilitate state in dealing with Human Rights issues as well as preventing the human rights violation. Since AICHR is filled by state representatives, they should be given adequate knowledge on basic Human Rights issue so that regional awareness on ASEAN can be built, at least among ASEAN officials.

The regional cooperation towards Rohingya problem should be done by ASEAN such as establishing Refugee institution. ASEAN has never been prioritizing refugee issue since this issue was not a dominant issue in the region. However, with the emergence of Rohingya problem, ASEAN Refugee institution should be established. This institution can coordinate with UNHCR to manage Rohingya refugee in many Southeast and South Asia states. Therefore, the internally displaced persons (IDPs) problem can be managed well in the region. These important decisions should be advocated in the upcoming ASEAN Summit (Umar, 2012).

In addition, in June 2013 ASEAN Parliamentarians for Human Rights (APHR) is a collective of lawmakers from Southeast Asia working to improve human rights responses and justice in the region. The organization

was established in June 2013 as a broadening of the ASEAN Inter-Parliamentary Myanmar Caucus and is part of wider efforts to advocate for an ASEAN regional human rights mechanism.

APHR will remain focused on the escalating crisis and determined to draw the attention and action of ASEAN's leaders (Umar, 2012). This report is more than a detailed listing of warning signs. It also represents a call to action to prevent the further escalation and perpetration of atrocity crimes that will affect Myanmar and the entire region. APHR calls upon ASEAN's leaders to take the following actions. First, they recognize the escalating crisis in Rakhine State and the plight of Rohingya as a serious danger to both Myanmar and ASEAN by prioritizing the issue in Summit meetings. Second, they also conduct an independent investigation of conditions and risks of increased violence and displacement in Myanmar, as well as associated risks to ASEAN, including greater refugee flows to countries like Malaysia and Thailand.

Third, they expand the mandate of the ASEAN Intergovernmental Commission on Human Rights (AICHR) to include country visits, inquiries, complaints, and emergency protection mechanisms, and ensure adequate independence and staffing support for its members. Fourth, they engage AICHR to conduct a follow-up investigation into the Rohingya crisis. Fifth, they deploy ASEAN monitors well ahead of the Myanmar elections to observe and report on the Rohingya crisis and broader anti-Muslim and ethnic minority dynamics.

Sixth, they utilize existing mechanisms in ASEAN, such as the ASEAN Troika, AICHR, the office of the ASEAN Secretary General, and the role of the ASEAN Chair, to respond appropriately to humanitarian crises in member states in accordance with the principles of the ASEAN Charter and the ASEAN Declaration on Human Rights. The last but not least, they commit to protect the fleeing from the crisis in Rakhine State, including by granting refugee status to Rohingya and providing the UN refugee agency with unfettered access.

Therefore, ASEAN cannot hide under its non-interference policy anymore or shut a blind eye to the gross human rights violations and state-sponsored genocide against the Rohingya. (ACSC/APF, 2014) ASEAN member countries must pressure Burma and lobby for the Rohingya to be recognized as the citizens of the country once again. While ASEAN welcome the Myanmar government's efforts at a peace process, this must include the Rohingya as well. ASEAN leaders must push for Myanmar to look into the Rohingya's right to return to their homeland.

Myanmar and its neighbors see the Rohingya conflict and the trafficking of migrants in the region very differently, complicating the refugees' plight, for example, Indonesia. As a Muslim majority country, Indonesia does pay extra attention to international conflicts involving Muslim populations. Indonesia has sought to intercede in regional conflicts involving Southeast Asian Muslim populations. Violence against Rohingya Muslims in Myanmar has attracted Indonesia's attention, as well as the attention of Indonesian jihadis who have attempted retaliatory terror attacks. Indonesia has been able to do little on the issue beyond making concerned statements.

In the President Susilo Bambang Yudhoyono administration, Foreign affairs minister urges OIC to help resolve Rohingya issue. Foreign Affairs Minister at that time, Marty Natalegawa has urged the Organization of Islamic Cooperation (OIC) to play a more constructive role in the resolution of the issue of Rohingya people in Myanmar.

"The OIC must level its approach towards finding a solution for the Rohingya people. It has been repeatedly voicing strong statements, while Indonesia has been focusing more on action and the results emerging thereafter," said Mr Marty Natalegawa (Boot, 2012).

Natalegawa added that Indonesia, Malaysia and Brunei Darussalam will try to urge the OIC to play a more constructive and concrete role in the settlement of Rohingya issue, including problems related to sending humanitarian aid to the Rohingya people, their economic development and reaching a national reconciliation between the conflicted parties in Myanmar. Indonesia has actively engaged with the Rohingya issue by approaching both the Myanmar government and the displaced Rohingya people living in the Rakhine province. Indonesia has also been raising the subject at various international meets, such as at the UN, ASEAN and OIC forums.

Indonesian stance is clear, that Indonesia refuses and is against the discriminatory treatment of anyone and anywhere. Indonesia cannot tolerate this and is asking the Myanmar government to manage this issue as Myanmar moves forward toward democratization (Jakarta Globe, 2012). Indonesia would emphasize its opposition to any kind of human rights

violations, including the violence against the Rohingya in Myanmar. The government has been trying its best in the diplomatic efforts with Myanmar. Myanmar, meanwhile, has denied the communal conflict motivated by religion and rejected any effort to bring an international presence into the conflict. Foreign Affairs Ministry of Myanmar said in a statement:

“Peace and stability is indispensable for the on-going democratization and reform process in Myanmar. National solidarity and racial harmony among different nationalities is vital for the perpetuation of the Union. Myanmar is a multi-religious country where Buddhists, Christians, Muslims and Hindus have been living together in peace and harmony for centuries, hence recent incidents in Rakhine State are neither because of religious oppression nor discrimination,” (Saragih, 2012).

In contrast from the Susilo Bambang Yudhoyono Era, Joko Widodo administration gives different response to the issue of stateless and violation which is occurring in Rohingya. According to Minister of Foreign Affair of Indonesia, Mrs. Retno LP Marsudi, Indonesia is viewing in different point of view that every state should respects the other state democracy in this case Myanmar, although they had such a kind of internal problem. However, still another country cannot intervene other state`s policy including Indonesia. So, Indonesia decided to not use open diplomacy towards Rohingya problems to force and to persuade Myanmar in recognizing Rohingya ethnic in the name of respecting a state authority and sovereignty.

Another response comes from Bangladesh. Bangladesh is certainly closely tied to the Rohingya crisis because the politics surrounding these

people in Myanmar insists that they are Bengali people. There are also hundreds of thousands of Rohingya people living in the country. The Bangladeshi government, however, shows no sympathy for these refugees. The Prime Minister, Sheikh Hasina describes these people as “fortune-seekers” and “mentally sick” and expressed concern that they are “tainting the image of the country along with pushing their life into a danger.” (BBC News, 2015).

In fact, she nearly equates the actions of people fleeing persecution with traffickers who are taking advantage of them and states that both ought to face punishment. She has historically been quoted as denying that the Rohingya people were the responsibility of Bangladesh, stating instead that Bangladesh was “already an overpopulated country.” In the wake of the 2015 crisis, the government announced that they would relocate the Rohingya people living in camps to a small island away from the tourist spot where they were at the time. The Economist writes, this is “consistent with Bangladesh’s long-standing policy of making itself as unappealing as possible as a destination for Rohingyas.” (Hatiya, 2015).

Meanwhile in Malaysia, the journalists spotted when the Deputy Home Minister Wan Junaidi responded to Rohingya crisis saying that they have been very nice to the people who broke into their border. They have treated them humanely, but they cannot be flooding their shores like that. They have to send the right message that Rohingya are not welcome in Malaysia (Ivan Watson, 2015).

However, days later, Malaysian Prime Minister Najib Razak announced that Malaysia would help to deliver humanitarian aid and search for stranded Rohingya people in the Andaman Sea. A statement posted on his Twitter called these actions as “basic human compassion.” This is certainly a pressing issue for the nation as one of the primary locations where Rohingya people are trafficked. However, the government is adamant that while they are sympathetic to the needs of these people, they feel unfairly burdened with the responsibility because they are not the “source” of the problem. Prime Minister Najib Razak instead called for a response from larger bodies such as the ASEAN, the United Nations and the Organisation of Islamic Cooperation (Aljazeera, 2016).

Unlike Indonesia and Malaysia, Thailand did not agree to house displaced the Rohingya people even though Thailand is one of the major places where the Rohingya travel to when fleeing Myanmar. This journey is not often successful. In fact, near the beginning on May 2015, it was reported that authorities discovered numerous mass graves on the border between Thailand and Malaysia. Although they disagree to house displaced Rohingya, it did concede that it would not turn people away and would contribute aid (BBC, 2015).

Meanwhile, the Philippines has a history of accepting people into its borders from Jewish refugees during World War II to Vietnamese refugees during the Vietnam War and pledged to extend the same welcome to Rohingya people who land on their shores. Communications Secretary Herminio Coloma Jr., Justice Secretary Leila de Lima and Department of Foreign Affairs spokesperson, Charles Jose each released statements to this

effect, citing their commitment to the 1951 Convention Relating to the Status of Refugees and the 1954 Convention Relating to the Status of Stateless Persons (The Manila Times, 2015).

Response also comes from Singapore. The Foreign Affairs Minister, K Shanmugam said that the Singapore government will offer an initial contribution of US\$200,000 (S\$267,000) through ASEAN to support the efforts of countries such as Thailand, Malaysia and Indonesia that have been aiding Rohingya refugees. Singapore is concerned about the situation and welcomed efforts by countries, in particular Malaysia and Indonesia, which agreed to provide temporary shelter for the Rohingyas, said Mr Shanmugam. He said the financial aid is part of an ASEAN-led initiative, adding that Singapore is prepared to consider further assistance, if there are specific requests.

Mr Shanmugam said that the Rohingya crisis has raised two key issues - one is how to help those currently on boats and stranded at sea, while the other is the need to deal with the problem at its source. This would require looking at living conditions created by countries of origin as well as the criminal organisations putting them on boats, subjecting them to terrible conditions. He stressed that the countries where the refugees originated from should take responsibility, and both ASEAN and the international community needs to address this issue. The contribution of Singapore comes days after the Government said that it is unable to accept any refugees or those seeking political asylum because it is a small country with limited land (Sari, 2015).