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Overview of Human Rights Violations Against Rohingya Ethnicity in Burma and Uighur Tribe in China in International Law Perspectives

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ABSTRACT

Since the inception of the Declaration of Human Rights, 1948 the acknowledgment of the human rights protection for each person has been arranged, so it is hoped that there is no violation of human rights and crimes in every country in the world. Every human being has the right to live peacefully and carry out every activity of religious beliefs without any oppression. But this does not happen to the Rohingya tribes of Burma and the Uyghur tribes of China. So far, various facts have shown that human rights violations have been held against them, both in sustaining life and in exercising their religious beliefs. Countries should give space and comfort to act as perpetrators of human rights crimes against them. The United Nations, ASEAN or other international organisations, as well as other countries cannot do much of the human rights abuses and humanitarian crimes. This paper will discuss how the international legal view of the human rights abuses is. The results showed that human rights violations against the Rohingya ethnicity and the Uyghur people had violated international law provisions. It should be a proven leader of the country with its policies to have committed human rights violations and humanitarian crimes could be judged international Criminal Court (ICC) as perpetrators of humanitarian crimes and could not be sheltered behind the country. Need the courage and firmness of the UN in addressing this if it still puts the law as a regulator of peace and Order of the world.

Keywords: human rights abuses, China Uyghurs, Myanmar ethnic Rohingya, international law, international conventions

1. INTRODUCTION

Human rights are the rights of human beings solely because it is human, not because it is given by society or by positive law, but merely by his dignity as a human being [1]. In the context of human rights protection for every individual country who plays an important role in citizens' individual human rights protection, international organizations such as the UN and regional organizations.

Human rights violations are a major threat to the peace, security, and stability of a country, in this case violations of human rights differ from the violation of ordinary laws, human rights violations as a "violation of obligations of State" born of international human rights instruments, in its case it is obvious that the responsible person in the violation of human rights is a (state responsibility), not an individual or other legal entity.

In the United Nations Declaration, it is acknowledged that humans are individuals who bear status as the subject of international law in addition to the country. In general, based on the number of declarations and covenants relating to human rights issued by the United Nations, known as three generations of human rights [2]. Although the declaration is not a source of Legally binding. But this

can be a reference in the various decisions and actions taken by other organizational bodies and organizations under the UN to protect and enforce human rights.

In international legal instruments such as UDHR (the Universal Declaration of Human Rights) and twin Covenants (KIHESB and KIHSP) lay the foundation for contemporary international human rights as supported by the UN and the community international conventions in general. The creation of convention such as Convention on the Rights of Children, the Convention on the Elimination of any form of discrimination against Women, the Convention against Torture, the Convention on the Elimination of Racial Discrimination.

In the case of human rights violations against the Rohingya ethnicity, the Convention is related to a convention on racial discrimination which means any distinction, exclusion based on race, color, ancestry or nationality, ethnic intended or resulted in cancellation or deducting recognition [3].

The act of the Rohingya ethnicity by the Burmese Government is the act of human rights violations due to the immorality of Burma's government in resolving its Rohingya case as a result of racial discrimination also violated Principles of human rights that are non-equality

principles and Non-discrimination as such are violations of international obligations.

In the international human rights issue, Burma's Rohingya ethnic violence case does not escape the perspective of human rights violations, the UN report states that the Rohingya is the most persecuted ethnic in the world citing information from the media Republika

"The United Nations (UN) said that the ethnic Rohingya minorities in Myanmar are the minority ethnic groups that are currently the most popular in the world for humanitarian and violent conflicts committed by radical Buddhist follower groups In Myanmar [4]

As for the other issues of violence against the Rohingya ethnicity because the Burmese Government is implementing a policy that is, in fact, a violation of human rights that the Rohingya ethnicity is not a Burmese citizen. In the Citizenship Act of 1982 explicitly do not acknowledge the people of the Rohingya as Burmese citizens. This is an overview of what is happening if someone is not Have citizenship because without citizenship one does not possess and obtain a guarantee of legal protection according to international law [5].

In the case of human rights violations committed by the Chinese government to the Uyghur people in East Turkistan where the Chinese government called it Xinjiang which means a new block, human rights abuses committed by China's government such as prohibiting Ethnic Uighur Muslims to worship according to his religion and prohibit doing religious rituals such as prayers, in addition to freedom in the religion of human rights violations conducted by other Chinese governments such as discrimination, barriers to obtaining Education, employment and abusive treatment conducted by the Chinese government as well as ethnic residents of Chinese

The right to the citizenship status and the right not to be discriminated against is the rights secured by the instrument of human international law contained in the Universal human Rights Declaration (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and other international law instruments. This paper discussion about overview of human rights violations against Rohingya ethnicity in Burma and Uighur Tribe in China in International Law Perspectives.

2. DISCUSSION

The Government of human rights abuses committed by the Burmese state began due to the rule against the Rohingya ethnic state that the ethnicity is a Rohingya stateless person by the Burmese government, in the Myanmar Nationality Law (The Citizenship Act of 1982) does not explicitly acknowledge the people of the Rohingya as Burmese citizens and this regulation is a violation of human rights to the population, the impact of the regulation after it is issued is in ethnic The Rohingya one of which is where their basic rights such as health care, employment and education and as an overview of the

illiterate level in the Rohingya community reaches 80% of the population.

In international law instruments such as UDHR 1948, the Association of human rights violations, especially those listed in Chapters 2 and article 7, is

Article 2

"Everyone has the right to all rights and freedoms contained in this Declaration with no exceptions whatsoever, such as the distinction of race, color, gender, language, religion, politics or other views, national origin or Rights, births, or other positions."

Article 7

"All people are alike in front of the law and are entitled to the same legal protection without discrimination. All are entitled to the same protection against any form of discrimination contrary to this declaration, and to any incitement which leads to such discrimination [6]

From the Burmese regulatory perspective of the Myanmar Nationality law(The Citizenship Act of 1982) in which case it does not recognize the ethnic population of the Rohingya in the legislation is a form of discrimination in which they do not get legal protection from the country of Myanmar, in This is contrary to Chapter 7, their rights and positions are also distinguished by other ethnicities in Burma in which the rules made also violate article 2.

The ethnic distinction made by the Burmese government, in this case, is a form of racial discrimination which can be seen that the Burmese government does ethnic distinction in order to reduce and eliminate recognition of its ethnic Rohingya In the country of Myanmar, it is also appropriate as stated in the ICERD (International Convention on the Elimination of All Forms of Racial Discrimination) Convention

Article 1 defines "racial discrimination" as:

"Any form of distinction, exclusion, limitation, or primary based on race, color, lineage or nationality or SUKUBANGSA, which has the intent or effect of negating or damaging the recognition, achievement or execution, on the basis of Equality, human rights and basic freedoms in the field of political, economic, social, cultural or other areas of community life "[7]

The human rights breach of the right to the Rohingya population commenced from a wide variety of issues, one of the factors is that the British colonized Burma began in 1824, in this case, all forms of population migration during the British colonial period were Burma and the Burmese government nod that the Rohingya ethnicity is also not an ethnic origin of Burma but rather from Bangladesh.

In international law obtaining its citizenship status is absolute in international law, some conventions govern such issues such as the Universal Declaration of Human Rights 1948 and the Convention to the Relating of Stateless persons 1954 and Convention on the Reduction of Statelessness 1961 which is closely related to the case of the Rohingya ethnicity in the issue of Stateless Person. But in this case, Myanmar is not a country that ratifies the Covenant.

In terms of access to healthcare services that are difficult to get healthcare due to the absence of citizenship given by

the Vietnamese Government. These rules are certainly a violation of the actions Principles of human rights.

In the principles of Human Rights, it includes several principles that are aimed at protecting certain rights which; 1) Equality principle It is the principle that every human being should be treated equally without being enforced differently from others; 2) Principle of non-discrimination The dissemination is a gap of a deed and different treatment, Discrimination divided into 2 types, namely direct discrimination such as directly and differently treated and indirect discrimination is due to a rule Legal impacts and practices of the law create indirect discriminatory deeds. 3). Positive obligation to protect certain rights. In the field of law, legal protection for ethnic Rohingya is not included, therefore their status is increasingly vulnerable because they are not entitled to any protection from the government and vulnerable to human rights violations where they Not escape the discriminatory treatment.

The acts of violence committed by state authorities have occurred primarily after the appointment of emergencies on 10 June 2012, abuses committed such as looting, killing, shooting mass arrest of the Rohingya citizens with The violence that occurs in the northern area of Rakhine, this is a tangible evidence of human rights violations in terms of the right to life, and the right to live a sense of security. The UN has identified the Rohingya as one of the most persecuted ethnicities in the world one of the largest groups of people without citizenship status.

As for discrimination against ethnic Rohingya Muslims in Arakan by the Burmese government. Attempts to suppress the Rohingya are as follows (History of Rakhine State and the Origin of the Rohingya Muslims, Haradhan Kumar Mohajan.):

1. Expel Muslims from their work and replace them with Buddhists.
2. To close Islamic institutions, schools and other Islamic organisations.
3. Confiscate their property and distribute it to Buddhists.
4. To incarcerate or alienate Muslim leaders outside their home country.
5. To incite Buddhists to kill Muslims, and prove Muslims as terrorists.

In this case certainly the act of emphasis on ethnic Rohingya by the Burmese Government violates the principles of human rights principles.

The actions undertaken by the Burmese military and the majority of Buddhists in Rakhine are the systematic murder and rape of the Rohingya Muslims in the Tula Toli village in the state of Rakhine 30 August 2017 in Human Rights Watch's reported massacre Its Rohingya ethnic are part of the military's "ethnic cleansing campaign" which is where around 645,000 people flee to neighbouring Bangladesh, rape against women by the Burmese military and murder of children Ethnic Rohingya, according to the spokesperson of the Rohingya Activist Institute in Europe, European Rohingya Council (ERC), Anita Schug between 2,000 and 3,000 the Muslim Rohingya was killed in Rakhine state in just three days.

In the Rohingya ethnic run to nearby countries such as Bangladesh, Thailand, Indonesia and Malaysia They also do not escape the discriminatory treatment in the countries they are visiting, as well as factors to the countries that Being a Rohingya ethnic escape is not a country that ratifies the Convention and is not a member of the UNHCR 1951 Refugee Convention.

Offenses committed by the Government of Burma and the majority Buddhist resident of Rakhine to ethnic Rohingya are included in a perspective based on the statute of Rome the Act is categorized as a humanitarian crime (crimes Against humanity) which is an act of persecution (persecution) by the Burmese Government.

Judging by the rules of the Roman statute that human rights abuses committed by the Burmese government and the majority of Buddhist Buddhists in Rakhine against ethnic Rohingya fulfill some of the elements contained in the Roman statute of article 7 concerning 'crime against of humanity "As for the related article [8]. At Article 7 paragraph 1 (H) of the Roman statute explaining a persecution trait is, "Persecution of an identifiable group or collectivity on the basis of politics, race, national, ethnic, cultural, religious, gender as defined in paragraph 3, or on another basis universally recognized as not permitted Based on international law, which relates to any act referred to in this paragraph or any crime that is in the jurisdiction of the Court ". Then in article 7 paragraph 2 (G) The notion of persecution is, "Persecution" means deliberate and abusive deprivation of fundamental rights contrary to international law because of such group identity or collectivity ". However, in the Treaty of Rome, Myanmar is not a country that is responsible for the statute of Rome, so the International Criminal Court (ICC) is unable to prosecute the case of Burma, therefore the ICC recommends that the national judiciary Myanmar [9].

In this case, it can be seen that human rights violations against ethnic Rohingya can also be attributed to the deeds of genocide, the signs of genocide have been seen, although from the government of Myanmar refute it. According to the United Nations news site, the UN spatch, Burma has fulfilled eight stages of genocide established by the Genocide Prevention Organization, Genocide Watch. Among the eight steps of the genocide are: classification, symbolization, dehumanization, organized, polarization, preparation, destruction, and denial: [10]

As for the measures of genocide such as: 1) *Classification (classified) and symbolization* where the ethnic Rohingya is distinguished by the Burmese government as well as during the 2nd World War where the German state distinguishes the German and Jewish population. Classifying is done by the Government of Myanmar because the ethnic Rohingya is a resident of illegal from Bangladesh. 2) *Dehumanization* is negating the nature of humanity. They are considered pests, diseases, that must have retreated. In this Rohingya ethnic case it is seen that they are considered so because they have no citizenship, do not get the right rights such as health insurance, education, employment. 3) *Organized* genocide is always done in an organized, usually done by the government. In

some cases, governments use militants to cleanse the ethnic groups to escape from responsibility. In the case of the Rohingya years 2016 and now, government soldiers were even involved in the violence against the Rohingya. Their villages were burned in an organized. Human Rights Watch in his report last February said the Burmese army was killing and raping the Rohingya people. Including their victims are children and infants. 4) *Polarization* is an extreme separation between a group and the other group. This Propaganda of separation is buzzing with a loud, disconnection of marriage to them or even interacting. Where an extremist Buddhist organization in Burma calls for the ethnic cleansing of the Rohingya 5) *Preparations*, prospective genocide victims are identified and separated based on their ethnicity or religion. The list of people who will be dead is created. According to Genocide Watch, in this step, they are gathered in the slum, concentration camps, or in poor areas of resources to starve to death. It can be seen in the case of Rohingya. The Burmese government separates them from other citizens, gathering in the Rohingya special settlement.

Quoted by CNN in 2014, Rohingya limited its movements only in their territories. At Sittwe, formerly Rohingya coexisted with the inhabitants of Rakhine, but it is now difficult to find the Rohingya running freely on the streets of the city. They are isolated from the outside world and increasingly powerless. 6) *Destruction* in this case Genocide Watch uses the word "destruction" because for the genocide perpetrators they are not slaughtering or killing but destroying pests because the victims are considered non-human. This was done by the Nazis in the Jewish massacre in 1940-since 2012, ethnic cleansing efforts were carried out against the Rohingya. The Burmese government does nothing to prevent it from being suppressed by the Western government. Years 2016 and 2017 the same massacre happened again. 7) *Denial* is the last step that must exist in a variety of cases of genocide. Genocide Watch says, "perpetrators of genocide dig mass graves, burn dead bodies, try to cover evidence and intimidate eyewitnesses. They denied committing crimes, even blaming the victims. In this case, it has been perceived by ethnic Rohingya [11].

In the theory of human rights, human rights theories are also relevant in solving cases of human rights violations which are aimed at analyzing the cases that occur, as well as some important theories in human rights issues, among others:

Natural Rights Theory, these rights include the right to life, freedom, and property. Recognition is not necessary for human rights, either from the government or from a legal system, because human rights are universal. Based on this reason, the real human rights source. The solely stems from the natural human nature. *Positivity theory (positivist theory)*

According to the theory of positivism, a right must stem from a clear source, such as from legislation or constitutions made by the state, this theory defies the theory of natural rights because the source is unclear. This is where the theory This positivism only considers the existence of a right to be derived by the state. And than

cultural relativism theory (Cultural relay) mean is cultural relativism theory, which looks at the theory of natural rights and its emphasis on universality as a compulsion over a culture of another culture that is named Cultural imperialism (utility). According to cultural relativism theorists, there is no universal right. They feel that theories of natural rights ignore the social basis of identity that is possessed by individuals as human beings. Humans are always a product of several social and cultural environments and different cultures and civilizations that contain different ways of being humans living in different cultural settings.

Regional international organizations such as ASEAN also play an important role in the Rohingya case, where the country of Burma is also a member of the ASEAN organization [12]

ASEAN countries agree that its Rohingya problem is domestic and is a communal conflict, not a religious conflict. Myanmar is a member of the ASEAN organization, the beginning of the establishment of the regional organization is to increase the economy in Southeast Asia and member countries, it continues to develop developments that ASEAN Forming a human rights body, namely AICH (Asean Intergovernmental Commission on humans) but this cannot be realized because the Member State still holds the principle of absolute sovereignty/non intervention of each country that is still used by the state The member.

The principle still held firmly by the ASEAN member countries is the shared values and principles that serve as guidance in each policy and its activities. Norms and principles that become the foundation of the sustainability of this relationship between ASEAN members are against the use of violence and prioritizing peaceful solutions, regional autonomy, not interfere with the internal affairs of other Member States (non-intervention principles), and Against military pact and supporting bilateral defense cooperation. This is why ASEAN has not played an active role because its member State still holds the principle of Non-intervention.

In the case of Uyghur tribes in China, the Chinese government's policy on the principalities since the beginning of power in 1949 made their lives filled with violations of their human rights, including civil rights. The Chinese Government's policy of the Uyghur ethnicity from the beginning of its reign in 1949 made their lives filled with customers' rights, including civil rights. Although the Chinese Government declared Xinjiang an autonomous region, the people's life in Xinjiang was strictly controlled [13].

The violation of human rights committed by the Chinese government is to colonialism in the eastern Turkistan of the Uighur tribe where the method of colonization carried out is the occupation colonization where the Chinese government moved about 8 million Chinese population from Han descent to East Turkistan.

In this case, it can be seen that the Chinese government seeks to conduct ethnic cleansing which aims to remove the Uyghur tribe in East Turkistan slowly.

The discrimination suffered by Uighur Muslims is the policy of the Government of China that wants the realization of One China Policy or China's policy. The integrative patterns of the Chinese government with civic education proved to be unsuccessful in integrating Uighur Muslims with the other majority of Chinese residents. Even the ethnic Uighur Muslims were in opposition because of the migration policy of the Chinese government by conducting a massive displacement of Han ethnic which is the ethnic majority to the region of Xinjiang and Urumqi [14]

Here is China's main policy in Xinjiang since 1990

1. Resentralization of economic decision making
2. Ethnic Han is migrated
3. Exploitation of natural resources in Xinjiang
4. Strengthen economic and political relations with countries in central Asia
5. The country tightened control over religious and ethnic minority cultures.

In this case it is apparent that the Chinese government has committed human rights violations and made policy rules that are discriminatory in religious freedom.

In this case, religious freedom has been governed by the International Covenant on Civil and Political Rights (ICCPR), especially in chapter 18 that religious freedom is a human right inherent to all human beings and related to religion cannot be eliminated by everyone.

In Roman statutes Chapter 7 that humanitarian crimes are crimes committed as part of a widespread or systematic attack aimed at a group of civilians,

In the case of Uyghur tribes in China, the Chinese government in this case has violated international law provisions in international law instruments of the Romans Chapter 7 which is a form of violations of heavy human rights crimes against humanity is one of four gross human rights violations in the jurisdiction of the International Criminal Court such as genocide, war crimes, and aggression crimes, it is also aimed at civilian populations especially Uighur people in Xinjiang.

In this case it is the International Criminal Court in dealing with such cases, but in this case the state of China is a country that does not ratify the Roman statute until the ICC cannot prosecute the government China's humanitarian crimes against the Uyghur people of China's Xinjiang.

The United Nations, especially the largest international organization of security councils that oversees many countries should play more and pay attention to the case of the Uyghur people in Xinjiang, and realize the objectives of the Security Council Keeping international peace and security.

In the conventions that ensure the question of the statute of the Rohingya ethnic Person is like *UN Charter article 2, Convention Relating to the Status of Stateless Persons, Convention on the Reduction of Statelessness, International Covenant on Civil and Political Rights, Declaration on Territorial Asylum, UDHR* [15], in which the Convention Convention applies to each country until the countries are required and enforce international law provisions and instruments.

In creating the peace of the UN organization in this case should also be instrumental in the occurrence of conflicts against the Rohingya ethnicity because the goal of the UN itself is to safeguard the world peace and security and protect human rights, in the case of the Rohingya, as the largest international organization, housing many of the UN member countries must invite its member countries to create and realize the UN objectives that have been formulated.

The UN Human Rights Commission also needed to devise a new declaration in which the Declaration was thorough/universal so that the application of human rights theories can be applied to all human beings and the entire Member State of the Organization.

3. CONCLUSIONS AND SUGGESTION

The conclusion and suggestion of the discussion are *Granting asylum to ethnic Rohingya*, the United Nation as an international organization that also focuses on humanitarian issues, UNCHR as an institution created by the United Nations that focuses on refugees as well as asylum seekers where people are stateless persons. The granting of asylum aims to prevent the Rohingya ethnicity from getting discrimination, in the case of Rohingya refugees seeking shelter in nearby countries such as Indonesia, Thailand, Malaysia, Bangladesh Where those countries are not members of the refugee conventions, so often the ethnic Rohingya are forcibly deportation and discrimination by the governments of each country being a place of refuge by the ethnic Rohingya.

Protection against the stateless person, protection against the stateless persons is also very important, protection from international law which aims to avoid the treatment of discrimination and arbitrary against individuals/groups who have no status of citizenship. To the international conventions that apply to every country, whether the Member State of the Convention or not the Member State of the Convention which is the principle of humanitarian principles should be embodied in The Rohingya ethnic protection.

Mediation settlement efforts in the United Nations Charter in Uyghur Tribe Cases, the United Nations as an international organization, in the regulation of article 33 of the United Nations Charter that the parties to the dispute in this case can complete the efforts by means of mediation, the parties to the dispute are the Uyghurs and government of China. It is also a role in the settlement of such cases so that the rights of Uyghur people in China can be fulfilled based on the rules applicable in international law.

4. SUGGESTION

To invite countries were refugees from their ethnic Rohingya to protect and fulfill their rights under the provisions of international law. ASEAN as a regional organization also invites its member countries to be able to solve humanitarian problems by conducting diplomacy and approach in a family (soft ways) in solving the humanitarian case.

Encouraging the UN to undertake the establishment of a universal Roman statute. The Roman statute has provisions which can be categorized as a jus cogens and is an erga omnes, in which case the UN is supposed to be a form of an undoing of the Roman statute in order for the Roman statute to be universal and applicable to the country Ratified and not so that cases such as the Rohingya ethnic and Uyghur tribes can be settled in the International Criminal Court and punish perpetrators in human rights abuses.

The United Nation Security Council in this regard as a protector in the case of human rights violations in which the United Nations Safety Council proposes a Uighur event to the International Criminal Court in order for humanitarian crimes perpetrated by the Chinese government As well as the Han ethnic population of the Uyghur tribe can be punished in order to avoid any arbitrary treatment in the case of human rights violations.

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