



THE LEGAL PROTECTION OF THE ROHINGYA ETHNIC GROUP AGAINST THE REJECTION OF THE ACEHNESE PEOPLE IS REVIEWED FROM LAW NUMBER 39 OF 1999 CONCERNING HUMAN RIGHTS

Andi Lesmana¹, Ade Soraya², Dian Eriani³, Munawir⁴
^{1,2,3,4} Fakultas Hukum, Universitas Islam Kebangsaan Indonesia

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Abstract

The prolonged conflict in Myanmar has caused many victims from the Rohingya ethnic group which leads to genocide crimes, this has caused many Rohingya ethnic people to be forced to leave their country in any way to escape the conflict. The Rohingya as victims of violence in their country try to save themselves by fleeing to neighboring countries by sea to reach destination countries such as Bangladesh, Malaysia and Indonesia as destination countries. Indonesia, especially Aceh, throughout December 2023 there are areas where the Rohingya ethnic group is located, including Sabang City, Aceh Besar, Pidie, Lhokseumawe/North Aceh and Langsa. The existence of the Rohingya ethnic group in Aceh caused a pro and con reaction by the wider community, the rejection was not only carried out by the general public but also caused a reaction from hundreds of students to the existence of Rohingya ethnic refugees. Thus there are many waves of rejection from the community. Therefore, this problem must be handled quickly by the central government and local governments to overcome the problem of displacement from the Rohingya ethnicity.

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Corresponding Author:

Andi Lesmana
Email: alesmana1982@gmail.com

I. INTRODUCTION

The Rohingya are one of the ethnicities that experience a form of discriminatory treatment which is a minority population that inhabits two areas located in the north of Myanmar, the part of Rakhine and the western region which is a monolithic Muslim religion whose actions until now are not recognized so that they do not have citizenship which causes crimes against humanity that are contrary to Human Rights (HAM). (Septia Renanda et al., 2022)

Conflict, persecution and human rights violations have massively caused 63.5 million people in the world to become refugees. (Rosyid, 2019) Refugees from countries experiencing turmoil are the world's concern and should be on the agenda that needs attention, because refugees can be described as a failure of state relations with communities and/or border areas (state-society-borders). (Yani &

Zulkarnain, 2021) with the failure of the relationship between the three resulting in violence, one of which is a violation of Human Rights.

The existence of the Rohingya ethnic group in Aceh caused a pro and con reaction by the wider community, the rejection was not only carried out by the general public but also caused a reaction from hundreds of students to the existence of Rohingya ethnic refugees. Thus there are many waves of rejection from the community. Therefore, the problem must be handled quickly by the central government and local governments to overcome the problem of displacement from the Rohingya ethnic group

Human rights given to human beings are the greatest Grace given directly by God Almighty, which must be respected by every person and country in this world, so with the existence of human rights which is a basic human right as it is the nature of human beings to live on earth to live and develop as it should, but as a concrete example this does not happen for the Rohingya ethnic group who are defacto or dejure It is not recognized by their country as a citizen which causes the Rohingya ethnic group to experience political exclusion, persecution of life under threat, detention of deporting and forced relocation that must be continuous. (Bintarawati et al., 2023) This act led to the genocide crime of the Rohingya ethnicity.

Legally, formally Indonesia, is not a country that has ratified the 1951 convention or the 1967 protocol, (Adha, 2023) in the protocol for the handling of refugees. whose handling of refugee status is handed over to the United Nations High Commissioner for Refugees (UNHCR), not being relegated to the refugee convention is a problem, resulting in difficulties faced by authorities in Indonesia, especially in Aceh, lack of state obligations towards refugees, (Muhtar et al., 2023). By not legalizing the convention, it has no obligation, but on the contrary, if it does, the state has an obligation to provide facilities to refugees. (Novianti, 2019) Therefore In 2016

Indonesia has regulated the issue of refugees through Presidential Regulation No. 125 of 2012 2016 on the Handling of Overseas Refugees.

The handling of Rohingya ethnic refugees who should have been regulated in such a way that the incident of Rohingya refugees stranded in Aceh who experienced rejection and then returned to the middle of the sea of the community violates the principle of Non-refoulement which means prohibiting every country from returning refugees to areas where their safety is threatened. (Riyanto, 2012) This is the " juice cogens" and no refugee can be returned to an area where their life or freedom is threatened. (Salsabila & Purwandoko, 2019)

The rejection and return incident occurred in the Aceh region of Sabang City, Meulaboh City, Banda Aceh City, Aceh Besar, Bireuen Lhokseumawe, Aceh as one of the areas located at the western end of the island of Sumatra is part of the stopover or stranded place of the Rohingya ethnic group with their arrival in Aceh. The arrival of the Rohingya ethnic group received different responses among the community which resulted in the emergence of pros and cons against refugees, with poor handling, of course, it will cause friction both between the pro-and contractual community to the handling of Rohingya ethnic refugees, the community with Rohingya ethnic refugees and or the

community with the government, the handling of this problem certainly raises problems both in terms of law, social and political.

II. RESEARCH METHODS

This study uses Socio-Legal Research (Muhammad, 2004) with a qualitative approach (which is dialogued through theories and concepts, laws that have been presented which are then interpreted while still pointing to the primary data obtained in the field so that what is being researched becomes clear) intends to understand the phenomenon of what is experienced by the research subject holistically by utilizing various methods/data analysis with stages, namely: reduction, display and verification stages. The stages of data collection are in qualitative research, data collection with observation, interviews and documentation or a combination of all three to obtain social symptoms/objects to be studied. (Fadli, 2021)

III. RESULTS AND DISCUSSION

3.1. How the Protection of Rohingya Ethnic Law in Aceh is Reviewed from the Law Number 39 of 1999 concerning Human Rights

The protection of human rights has undergone a very significant change in international law where the rule of law can be reflected in the social arena for the protection of human rights both from individuals, groups and even to the state. The protection of a group or individual who becomes a refugee is the responsibility of a country to protect human dignity and dignity. Realizing human rights is an obligation for the state to protect all human dignity and dignity which is outlined in the principles of international law which are part of customary international law.

Regarding the arrangement of the nation's desire as a country that realizes world peace, the Constitution 1 has regulated and about the recognition of Human Rights (HAM) which includes civil, political, economic, social and cultural aspects (Tenang Haryanto, Johannes Suhardjana, 2008) which is regulated in Article 28 A to Article 28

J The 1945 Constitution is a basic law that is the highest norm as a rule for enforcing human rights in Indonesia, because it is located in the constitution and guaranteed by the state. The preamble to the 1945 Constitution shows the concern of the Indonesian people for problems that arise around the world, one of which is the issue of the Rohingya ethnic minority. Therefore, to ensure the principle of the state of law, Indonesia has formed several similar laws and regulations in realizing the protection of basic rights, namely by issuing Law Number 39 of 1999 about Human Rights.

The Human Rights Law is a representation of the state's view on the importance of protecting human dignity and dignity from acts of discrimination. (Arianta et al., 2020) in general, the Human Rights Law, in addition to regulating human rights, also regulates several human obligations

consisting of fundamental rights. The concept of protection or what is often referred to as basic rights or basic rights or what is often referred to as human rights. in Article 1 number 1 of the Human Rights Law, namely the inherent human rights which are gifts from Allah SWT from the time she was in the womb until she died in peace, must be upheld as high as possible and protected by the state for the protection of human rights.

The state's recognition upholds human rights as a natural right that cannot be separated from humans, the natural right of age that is upheld as high as possible, namely the right to live physically, mentally and spiritually which is a fundamental right because without these rights, of course, other rights cannot be guaranteed. The definition of human rights provides a new thing or the concept of basic obligations consisting of a set of obligations that arise and if these obligations are not implemented or implemented, causing consequences that make it impossible to implement and uphold human rights That is the right to life.

3.2. Reasons for Rejection by the Community Against Rohingya Ethnic Refugees

The arrival of refugees in Aceh has occurred for the umpteenth time, becoming one of the stopover places, Aceh at the beginning of the arrival of its ethnic spirits, the people of Aceh provide a sense of humanity to provide assistance to their ethnic spirits who are stranded in the waters and land on the coast in Aceh, but often with the time the presence of their ethnic spirits experiences rejection carried out by the community spontaneously. The reason for the rejection of the Acehnese people against the Rohit ethnic collectors is known based on the results of interviews with community leaders in several city districts

The issue of human trafficking is a factor in the community's distrust with the Rohit refugees as a result of a meeting of one of the community members who lives where the Roh ethnicity is placed in the city of Sabang, as an area located in the city of Sabang.

separated from the mainland of Aceh province which is located and surrounded by the sea, some of its spiritual refugees can escape from shelters. The flight of Rohingya ethnic refugees from the placement given by the Sabang City Government raises a big question for the community, so that the community thinks that the Rohingya ethnicity is part of the human trafficking network.

Another reason for the rejection of the Acehnese people against the refugees of their ethnic Rohingya The request of refugees of their ethnic Rohih which makes some Acehnese feel that the request is very excessive, this is because the refugees of their ethnic Rohih ask for their rights as refugees to be equated with local residents such as getting a job while they are staying in the refugee camp. This request gave anger to the local population, because the people felt that Aceh had not received enough attention from the Aceh regional government, in fulfilling jobs in Aceh, so that with the demand of the spiritual ethnicity they felt excessive

The gap between local residents and Rohih ethnic refugees, where local residents feel that the government prioritizes the interests of their Rohit ethnicity more than local residents, this creates a gap such as facilities for Rohnya ethnic refugees who get easy access to education for Rohih ethnic children while local residents feel ignored by the Aceh Government. In addition, the Rohingya ethnic group gets a monthly money facility, the ease of getting income from the government through non-governmental institutions by providing financial assistance to the Rohingya ethnicity. This problem is seen from the view of the Acehnese public to the central and regional governments, which is an act that greatly hurts the people of Aceh, on the other hand, many Acehnese people experience hardship and live below the poverty line.

3.3. Solutions to Overcome the Rohnya Ethnic in Aceh

The entry of spiritual refugees into Indonesian territory, especially Aceh province, has caused considerable problems both in the people of Aceh and strategic issues of the nation, namely in terms of sovereignty and human rights. (Rosmawati, 2015) The stranding of rohih refugees in several areas in Aceh spread across several words/districts such as Sabang City, Meulaboh City, Aceh Besar, Pidie, Bireuen and North Aceh has experienced rejection from various elements of the community so that if this is left unchecked, of course, it will result in conflicts not only between the community but will cause friction between the community and the rohih refugees.

Steps to resolve refugee problems in general have been carried out with three long-term settlement models, including repatriation to the country form in which the refegees fled to the country form with Integration into the country of first asylum and the latter resettlement in another country.. The first model of refugee return is a rational model to encourage, the integration into the country of origin in accordance with the environment and culture. Second, integration into a third country to accept refugees by granting them social rights, the politics of refugees as citizens and the last is the ideal option, namely by submitting a resettlement of refugee countries. (Fitria, 2015)

Indonesia as a part or member of the United Nations but the issue of refugees, the Indonesian government is not one of the countries that until now has retrified the 1951 Convention on Refugees and the 1967 Protocol on the Status of Refugees, but morally the state is also responsible for implementing the UDHR convention, which is a juridically non-binding international agreement, as a form of state responsibility for the importance of human rights protection. The handling of the refugee problem is maximum and has been carried out by the government against Vietnamese refugees during the time of President Suharto. This can also be seen in the handling of Rohnya ethnic refugees. The implementation of moral responsibility towards Rohingya ethnic refugees, although in fact it is not a country that is obliged to accept refugees based on the 1951 refugee convention, the state has tried to

protect with all possible means to implement the protection of human rights for refugees, especially the Rohingya ethnic group.

As a country that does not ratify the refugee convention, it is one of the reasons why it is not mandatory for the government to accept refugees who enter Indonesian territory to accept refugees. The government in fulfilling the rights of refugees has issued a presidential regulation on the handling of refugees. Although it is only limited to handling refugees who come from abroad. Based on the Presidential Regulation on Guidelines for the Implementation of Handling Overseas Refugees, the handling of refugees is divided into two methods, namely conventional ideas for countries that have formalized the refugee convention and Non-Convention Ideas for countries that have not yet adopted which have taken several approaches through relief assistance programs and also applied the ideological approach of humanitarianism to refugees. (Yani & Zulkarnain, 2021)

The Refugee Handling Regulation emphasizes more on the ideology of humanitarianism to Rohingya ethnic refugees, namely by providing and facilitating refugees temporary shelter for the next time the problem was handed over to the authorities, namely The United Nations High Commissioner for Refugees (UNHCR). The temporary nature of refugee accommodation is not easy in handling refugees, this can cause conflicts in the community, this can be due to incomplete handling in handling refugee problems. So that it causes expulsion or rejection that has occurred in several areas, especially in Aceh. This shows that the handling of the government at the central and local levels is not optimal in handling Rohingya ethnic refugees.

The handling and coordination between the central and regional authorities as well as institutions dealing with refugees in Aceh has become a polemic that continues to occur, considering that the number of Rohingya refugees is not a new thing, but the absence of good coordination with government and private institutions causes the handling to be protracted which causes a wave of rejection to occur in the community. The handling of refugees who have been rejected by some Acehnese people as a short-term countermeasure in Aceh can be caused by the lack of involvement of customary institutions in resolving the problem of Rohingya ethnic refugees in the Aceh qanun Number: 8 of 2019 concerning the Aceh Customary Council (MAA) which includes the Aceh Customary Council, Imeum mukim, imeum chik, Keuchik, Tuha Peut, Tuha Lapan, Imeum Meunasah, Keujreun blang, Panglima Laot, Pawang glee, Peutuah Seunebok and Syahbanda. These 13 (thirteen) customary institutions are established institutions and their existence is still respected by the people of Aceh who uphold their customs

The use of customary institutions to solve a problem in the community has a fairly high percentage of the use of customary facilities such as customary institutions that solve cases in gampong or other names contained in Qanun Aceh Number 9 of 2008 concerning the Development of Customs The level of satisfaction of respondents in using customary justice is 97 (ninety-seven)

percent of respondents stating that they are "satisfied" with solving problems through customary justice. (Lesmana, 2022)

The solution to the problem of Rohingya ethnic refugees by involving the Lao customary institution chaired by Panglima Laot, was given the authority to solve the problem where according to Aceh customary sea stakeholder Adli Abdullah said, the maritime customary law states that anyone who experiences difficulties at sea must be helped, by leaving someone in danger at sea in violation of the customary law of the sea. This regulation is also known in the principle of handling refugees internationally, namely the principle of non-refoulement which has similarities with the main principle of refugee protection, which is to prohibit a

countries to expel and return refugees to the sea where there are indications of torture and discriminatory treatment that is binding and must be complied with by every country.

The principle owned by the Lao customs in Aceh with the principle of non-refoulement shows that the customs in Aceh have accommodated the problem of refugees and provided humane protection so that the problem of refugees in the future must involve customary deliberation first in resolving the problem of refugees in Aceh.

The use of customary institutions in Aceh, where the people are still thick with culture and religion provides considerable opportunities in involving these customary institutions, where the factor of the leader of the traditional institution provides more value in the Acehnese community in handling the Rohingya ethnic group in Aceh.

IV. CONCLUSION

The protection of Human Rights as prescribed by Law Number 39 The 1999 Law on Human Rights is part of the ideals of the Indonesian nation contained in the Constitution of the Republic of Indonesia in the Preamble to Law Number 1945, namely in the fourth (fourth) year of the preamble to the 1945 Constitution. Regarding the regulation of the nation's desire as a country that realizes world harmony constitutionally, it has regulated and about the recognition of human rights covering the civil, political, economic, social and cultural fields.

Therefore, from the reasons mentioned above, of course, it is a form of anger against the government in dealing with ethnic spiritual refugees in Aceh, where the central and regional governments do not have firmness in dealing with ethnic spiritual refugees, so that it seems that the handling of the spiritual ethnic is protracted which causes friction between the pros and cons of the community against the existence of spiritual ethnic refugees in Indonesia, especially in Aceh.

The solution to handle the Rohit ethnic group in Aceh, so far, has been carried out only by involving government agencies and non-governmental institutions such as UNHCR without involving the community (grassroad) namely by involving customary institutions in Aceh in overcoming the Rohit ethnic group in Aceh.

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