
DOUBLE STANDARDS IN INTERNATIONAL LEGAL POLITICS IN THE SETTLEMENT OF VIOLATIONS OF HUMAN RIGHTS TO THE ROHINGYA ETHNIC

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Abstract

This article aims to identify the resolution of gross human rights violations against the Rohingya ethnic group who have been discriminated against by the Myanmar Military Junta Government. The international community and political response are putting pressure and criticism about upheaval against the settlement of violations against the Rohingya. The Myanmar government's rejection of accusations of gross human rights violations can be seen from the international double standards towards the settlement of the Rohingya case. This article uses the library research method, and critical analysis to understand the settlement of human rights violations against the Rohingya. The conclusion is Discrimination against this ethnicity can be considered by international human rights law as a gross violation of human rights, even though Myanmar has legal arrangements for protecting human rights in force in its country. International human rights law as a political instrument is powerful in efforts to create quality international policy products including guaranteeing the implementation of respect for human rights in the world through the role of international institutions as guardians in the process of enforcing human rights violations committed by a country through various strategic steps both repressive, preventive and curative.

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Introduction

The Rohingya are one of the ethnic minorities living in the State of Myanmar, which geographically shares a border with the State of Bangladesh (Fabiana Meijon Fadul, 2019). Physically they are slightly different from Myanmar because the majority are dark-skinned, embrace Islam, and are from the Tamil ethnic group. Politically, the Rohingya do not receive recognition from the Myanmar government. The government of Myanmar refuses to recognize the ethnic Rohingya because they are not native to Myanmar. The government also classifies them as illegal immigrants even though they have lived in Myanmar protractedly (Rohmayni, 2013).

The Rohingya ethnic group is discriminated against to have violated gross human rights by the international community. Chronologically, human rights violations against the Rohingya ethnic group allegedly began in 1978, when the government of the State of Myanmar carried out Operation King Dragon as an effort to intimidate the Rohingya and force them out of Myanmar's territory. In 1982, the Rohingya were denied citizenship as part of the 135 official ethnic groups in Myanmar. In 2001, the forced return of Rohingya refugees who had fled to Bangladesh because they could not survive the prolonged conflict in 1990 and the destruction of mosques and schools.

The Rohingya Elimination Group movement emerged with the orchestration of an extremist group called 969, they intend to eliminate the Rohingya ethnic group from Myanmar. There was a large-scale evacuation of ethnic Rohingya by boat to flee to Indonesia, Malaysia, and Thailand. Thus causing thousands of people to die on the way, UNHCR estimates that at least 150,000 people fled from January 2012 to 2015. In October 2016 there was a massacre of ethnic Rohingya Muslims which left 150 people dead and 3 villages burnt (Kurniawan, 2018).

Cases of the Rohingya ethnicity caused pressure from the international community. However, the Government of Myanmar continues to reject pressure from the international community. However, The government of Myanmar would never admit any interests or reasons behind this discriminatory policy. They do not care or even give attention to some of the criticisms and even warnings from several countries that are protesting against of atrocities the Rohingya ethnicity, because the Myanmar government itself has not received sanctions or reprimands in the form of warnings from the United Nations (UN), that's what can be seen that there is a tendency for double standard practices to be carried out by the United Nations. The BBC News daily reported that the UN deliberately did not raise or discuss the issue of Rohingya ethnic rights and even the UN avoided raising the topic.

The peak of tension between ethnic Muslims and ethnic Buddhists occurred in 2012 when clashes occurred which caused approximately 100 people to die and 100,000 to flee to the vicinity of the state capital, Sittwe. The tendency of the Myanmar government to side with the Buddhist ethnicity is overpowering because aid for the Rohingya ethnicity is channeled through aid agencies with the help of the Myanmar government and several Buddhist communities. But

at the same time, the United Nations as well as aid agencies know that talking about human rights with the stateless Rohingya will upset many Buddhists and an investigation into the UN's work in Myanmar has revealed that the Rohingya issue has been sidelined internally. It is quite understandable that there are strong indications of a double standard from the United Nations and the Government of Myanmar which pays more attention to the Buddhist ethnicity than the Rohingya Muslim ethnicity also several UN allied countries (America and Europe) have kept their mouths shut and turned a blind eye to cases of persecution and discrimination against ethnic Rohingya Muslims. If they are objective, the case can be resolved quickly without causing many victims. Of course, this cannot be separated from political influences and double standards from several countries.

Some articles show that human rights abuses are experienced by Rohingya Muslims committed by the Myanmar Government. Untoro et al. assessed ASEAN to play an active role in solving these crime cases (Untoro et al., 2016). Shahabuddin said that this case is an international humanitarian disaster that demands the responsibility of the whole world to protect every individual from violence and crimes against humanity. The inherent relationship between colonialism and international law and how it has shaped the development of postcolonial countries (Shahabuddin, 2019). Fernandes and Azmi mentioned that the crimes committed by the Myanmar Government against Rohingya Muslims threaten human dignity (Fernandes & Azmi, 2017). Gaol et al. provide a solution to the disputes that occurred between Rohingya Muslims and the Myanmar Government, namely through conciliation, and the intervention of the United Nations so that it can realize respect and the promotion of human rights (Gaol et al., 2017).

Research Method

In this study, the authors used the library research method (Ali, 2018), which is carried out by searching and studying various kinds of literature such as books, journals, newspapers, and scientific articles related to research. This article uses critical analysis to understand the settlement of human rights violations against the Rohingya ethnic group.

Results and Discussions

Settlement of Human Rights Violations Against the Rohingya Ethnic

Rohingya ethics are part of various ethnic groups in Myanmar who are Muslim, but not recognized and even have discrimination by the country. The forms of discrimination perpetrated by the Myanmar government include serious violations by refusing to recognize the Rohingya ethnic group, even mentioning that the Rohingya ethnic group is illegal immigrants. Therefore, many of the Rohingya chose to flee and even moved to countries where they felt safer and did not discriminate. They exodus to Indonesia, Thailand, and Bangladesh. These countries, apart from being willing to accept the Rohingya ethnicity, also helped to put various pressures on the Myanmar government to take responsibility and overcome this serious problem.

Discrimination against the Rohingya ethnicity is considered a gross violation of human rights, especially crimes committed against humanity, namely carrying out forced evictions whose actions are systematic (Literate & Indonesia, 2020) such as the State of Myanmar refusing to recognize the Rohingya ethnicity as part of its country's ethnicity and even revoking their citizenship because there are differences, including religious differences, language and ethnicity. Even though the reasons used by the state of Myanmar are not under the conditions for

revoking citizenship which is not following the provisions agreed upon in international law, even the reasons mentioned by the state of Myanmar are considered very discriminatory reasons.

Everyone has the right to religious freedom under Article 18 of the Universal Declaration of Human Rights. But in reality, the implementation of this article was not felt by the Rohingya because, they did not have the freedom to carry out their worship according to their religious teachings, even their places of worship were prohibited from being repaired and building new. The Rohingya ethnicity is treated discriminatively, and the Government of Myanmar makes rules regarding "Bumanization and Buddhistization" (Kajian UGM Terhadap Kasus Rohingya.Pdf, n.d.). Myanmar is known for the largest ethnicity, and ethnicities other than Buddhists recognized are different from the Rohingya ethnicity which is not recognized and even discriminated against. Rohingya are considered different from most of the population in Myanmar in terms of language, identity, and even physical characteristics. Another discrimination felt by the Rohingya ethnicity is restrictions on marriage, especially the Rohingya ethnicity must have a marriage license which takes years to have a permit, another limitation is getting a job and education which causes most of the ethnic Rohingya to be illiterate (Setiawan & Suryanti, 2021).

According to diplomacy, we can detail that there are many forms of mechanisms in diplomacy that can be carried out to resolve cases that are relatively serious in Myanmar, one of them is mediation. It is resolved through peace or negotiations with a third party as an intermediary in resolving cases, as well as those who are not biased towards one side, whichever is known as a mediator. These mediators can be from individuals to international organizations such as the United Nations. If it is related to the case that occurred with the Rohingya ethnic group and the Myanmar government, the United Nations can help resolve this by providing suggestions for the parties without being biased or detrimental to either part.

The United Nations has carried out a movement against the Rohingya ethnic case. It has strongly threatened the Myanmar government regarding the violence committed against the Rohingya ethnicity. However, the Myanmar government did not heed the threats made by the United Nations. Mediation methods have also been carried out by the United Nations but have failed to resolve the problems that have occurred. So that this case can be taken up by the UN Security Council to be resolved through the legal framework, namely the International Criminal Court. (Aminuddin, n.d.)

In the ICC there are four jurisdictions, namely (Apripari Irham, n.d.): *Rationae materiae*; *Rationae personae*; *Ratione loci* and, *Ratione temporis*. From these four jurisdictions, Myanmar is not a member that ratified the International Criminal Court, but it does not mean that crimes committed by Myanmar against the Rohingya cannot be tried through the International Criminal Court. All citizens are under the jurisdiction of the International Criminal Court in various conditions.

All forms of discrimination perpetrated by the Myanmar government are inseparable from the support and interests of the government itself. Apart from this insistence that was completely ignored by the Myanmar government, this is the reason why the Myanmar government continues to discriminate against the Rohingya ethnicity. If Myanmar already has legal arrangements for protecting human rights in the country, it is still deemed necessary to bind itself to the international human rights protection system. International law part of national law provides a legal basis for citizens to use international human rights protection mechanisms if their citizens feel that domestic mechanisms have been exhausted (Gaol et al., 2017).

International Politics Toward the Settlement of Rohingya Ethnic Violations

The essence of international law for a country is an instrument for that country to

achieve the national goals (international law as an instrument of national policy) (Juwana, 2012). This is because through the reality of international law relations between countries are established in it. It was uncommon to offend countries, because there is a tendency to influence each other from the countries concerned. Moreover, in the pattern of relations that exist between powerful states and powerless states.

Based on this relationship pattern, the existence of international law as a political instrument can be used as a medium for realizing the desire or national interest of a country to participate in the domestic affairs of other countries systematically without being considered a violation of the intervention of other countries as stated in Article 2 paragraph 7 UN Charter. In the current era, coercion regarding certain principles, doctrines, or goals that a country wants to achieve is no longer effectively carried out by physical means in the form of violence.

International agreements as one of the sources in the application of international law can be used as a medium for achieving the political goals of a country through the points and dictums in the substance of the international agreement. The points in the treaty dictum are very substantial considering that the international treaty itself can be interpreted as an agreement that binds a country to the agreement. So the points in the substance of the agreement will have implications for the rights and obligations of the participating countries in the process of converting the provisions contained in the international agreement into the national law of a country (Juwana, 2012). Countries that are parties to international agreements must follow the provisions of the agreement, and the provisions of existing national law must reduce the provisions of the international agreement itself.

In line with this, international law as a political instrument can be understood to have great potential in the effort to create quality international policy products, including in efforts to guarantee the implementation of respect for human rights in the world. However, the function of international law, which politically should be able to play its role in resolving human rights, seems to only play a role at the top level. The influence of existing international policies, especially in the field of human rights, is less able to reach the level of awareness of the international community, especially the international community in developing countries.

The lack of understanding of respect for human rights that led to situations of crimes against humanity can be seen when were cases of crimes against humanity of the Rohingya people in Myanmar which peaked in 2017. It caused approximately 725,000 citizens of Myanmar to seek asylum in neighboring countries due to gross human rights violations that occurred on a large scale in their country (Setiyani & Setiyono, 2022). This should serve as a reminder that there is still a lack of respect for human rights, especially in developing countries. Human rights enforcement should also develop in line with increasing public awareness of this matter. Even with various instruments of completeness of human rights enforcement itself.

In such conditions, it will be contradictory when the level of public awareness shows an increase and human rights enforcement instruments can also be interpreted in full, but in fact, the settlement of human rights violations in the context of the Rohingya case has not fully received a bright spot in the realm of the international law settlement. These conditions lead to a question how the actual participation of the international community in this case. Especially the active role of international institutions which often echo the movement of appreciation and respect for human rights.

Answering this question in the international realm recognizes the United Nations as a successor institution that carries out the main task as an international institution that universally has the main goal of being an institution that maintains world peace and security through the creation of good relations between nations with the principle of respect for human rights in it. In this regard, the fact-finding team formed by the UN Security Council explicitly advised the

UN Security Council to immediately prosecute and convict suspects at an ad hoc trial or refer suspects to be tried at an international court in The Hague, Netherlands (Prisilia, 2021).

This is based on the fact that international law itself is not only interpreted as "positive morality" as explained by John Austin. This means that even though the conception of the resolution issued by the UN General Assembly does not provide a guarantee that the country concerned, in this case, Myanmar will comply with the resolution. Considering that the binding power of a law including international law is based on the country's compliance with the provisions of that law. This is in line with the opinion expressed by Andrew T. Guzman that the biggest motivation for a country to participate in legal compliance is based on the element of interest as well as the rationalization of a country (model of rational and self-interested) to maintain the reputation or good name of that country. as well as an effort to avoid sanctions (Dyah et al., 2022).

It can be concluded that the aspect of state interests also determines the country's compliance with international law, including if the provisions of international law contain points that are prone to causing conflicts of interest. This becomes very urgent to be addressed if later the conflict of interest has broad implications for the difficulty of resolving a case, in this case, crimes against humanity experienced by the Rohingya ethnicity, which automatically lead to even greater losses due to the occurrence of this situation. If this happens, the control of a state becomes very influential over this matter, and the implications of this should be the responsibility of the state.

It became a joint thought about the state's responsibility for such conditions. In this regard, the state can be held accountable because, in this case, there was negligence and even deliberate action by the state in efforts to protect and guarantee the human rights of citizens. This is in line with the thoughts of C. De Rover, who explained that in every arrangement of the legal system for the failure to implement a responsibility imposed by the rules, there is responsibility (Kurniawan, 2018).

The occurrence of crimes against humanity against the Rohingya can certainly be said to be a violation of the state's obligation to protect the human rights of its citizens. Respect for human rights values is one of the basic points for the birth of the conception of state accountability in the international realm. This means that historically, upholding human rights was the forerunner to the birth of the concept of state responsibility, which is legally recognized internationally. This also indicates that the application of contradictory aspects of human rights violations that occur globally cannot be resolved immediately by only examining them through the lens of national law.

It can be said that in this case, Myanmar, as the country where the violation of international provisions occurred, did not recognize or tend to ignore the points of international criticism for the violations that occurred. So Myanmar can still be held accountable. And this responsibility can be realized in two forms, namely from a preventive perspective, which can be carried out by pursuing programs that can prevent losses from occurring (Ida Bagus Wiyasa Putra, 2001).

Double Standards on the Settlement of Rohingya Cases

Double standards are the things that most often arise in global problems, namely the problem of violations and even crimes against human rights. In Eichler's opinion, the term "double standard" refers to the phenomenon of evaluating the behavior of two or more people/groups in the same behavior using different standards or assessments. Zeichmann emphasized that double standards refer to different evaluations and attitudes towards men and women based on the social structure established by society based on one's gender. Even in this

day and age where men and women may compete, discussions about double standards still occur every time (Ratri, 2019).

Meanwhile, according to the author, there are two views regarding the notion of double standards: First, a double standard is a condition that manifests in the behavior or actions of a person or even a group association where there is an inconsistency in judging something. Second, double standards are the implementation of discriminatory norms, principles, and assessments of conditions, individuals, or groups; namely, standards that apply to one group do not apply to other groups, even under similar conditions (Azeem, 2022).

The double standard in this case refers more to aspects of crimes against human rights. An example is that the United States is protesting against Iran's double standards in human rights issues, particularly in the execution of the death penalty, because the United States still uses the death penalty method in several cases. As of 2013, the state executed a total of 1,359 drug-related legal cases, of which Texas was the state with the most executions that year (Darmawan, 2016). Methods of the death penalty used in Iran include shooting, hanging, stoning, and, in some cases, falling from a certain height (such as falling from a cliff of a certain height), subject to the judge's evaluation.

Regarding the case of suppression of discrimination against the Rohingya, it is clear that there is no strong indication of the application of double standards by several countries, such as Western block countries (Europe and America), which did not care about the Rohingya that occurred about 5 years ago. However, they are very concerned about recent cases, namely the Cold War carried out by Russia, which invaded Ukraine. America's concern and that of several NATO members for the invasion tragedy have resulted in several series of sanctions against Russia (Moscow). This gives a negative view of the actions of America and the Western faction, which is called "hypocrite" because it supports sanctions and international investigations related to crimes against humanity in Russia's war against Ukraine but instead protects Israel, which often always carries out military interventions against the Palestinian population, both civilians and military (Indonesia, 2022).

Although the US and its allies impose sanctions on Russia, they refuse to apply the same policy to Israel. Even though it is very clear that the countries of Russia and Israel both committed war crimes against their respective territories that were attacked by the two countries, it was only Russia that received various sanctions both politically and economically from the Western bloc countries, while Israel was still free to carry out acts of war against humanity against the Palestinian. And the author agrees with the words of Palestinian President Mahmud Abbas that the current situation on the European continent has shown a striking double standard in the Russian-Ukrainian case compared to recent cases (Palestine and Rohingya).

This is a strong enough indication that there is a double standard that is always used by America and several of its allies in cases of crimes against humanity. In several countries, even parts of the world have condemned human rights crimes committed by the Myanmar military against the Rohingya in Rakhine. Indonesia, also condemned the crime, as stated by the former Chairperson of the People's Consultive Assembly of the Republic of Indonesia for the 2014–2019 period, who said: "Because it also does not reflect respect for human values". And it also ignores Article 5 paragraph (1) instrumen Rome Statute of The International Criminal Court yang termasuk sifat dan karakteristik Gross Violations of Human Rights yang merujuk pada empat prototype kejahatan internasional, diantaranya: kejahatan genosida (crime of genocide), kejahatan terhadap kemanusiaan (crimes against humanity), kejahatan perang (war of crimes), dan kejahatan agresi (the crime of aggression). When referring to the 1998 Rome Statute regarding the elucidation of Article 6 and Article 7, which, in the opinion of the author, are related to the Rohingya case, which is included in the two international crime classifications,

which include genocide and crimes against humanity, the following reads the two articles:

Article 6: Genocide: For this statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such: Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group; Forcibly transferring children of the group to another group (Rome Statute of the International Criminal Court, 2012).

Article 7: Crimes against humanity: For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: Murder; Extermination; Enslavement; Deportation or forcible transfer of population; Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; Torture; Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; Enforced disappearance of persons; The crime of apartheid; Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (Rome Statute of the International Criminal Court, 2012).

The hundreds of deaths in Rakhine are no small number. Surprisingly, the rest of the world seems to think the event doesn't exist. Cases of massacres, rapes, arson, and evictions did not go unnoticed by their reactions. Yet from the perspective of human rights, this is an extraordinary human rights tragedy. The question is where are the big countries that always use human rights slogans?

It is understandable that the world, led by the Western bloc countries, will react if the victims are non-Muslims. Once the victims are Muslims, it's as if they close their eyes. It is not uncommon to make it like the Bosnian Holocaust tragedy. The Paris bombing shocked the world; everyone shouted abuse and cursed the perpetrators, although only a few were killed. Do you also remember the shooting incident that occurred before Timor-Leste was separated from Indonesia? The world is shocked because East Timorese Christians were killed by the Indonesian military.

According to an article by Ramzy Baroud on PressTV on July 16, 2012, West's silence may have been motivated by business reasons. "Western companies are pouring into Myanmar, trying to offset China's influence on the Myanmar economy," Ramsey wrote. The conclusion is very clear: the provisions of human rights do not apply if the victims are Muslims. This is supported by the existence of political and religious factors in this case of crimes against humanity.

Even the Karen Women's Organization (KWO) believes the government has implemented a double standard for the Rohingya genocide and links their struggle for justice and rights with the Burmese government troops who have paralyzed and killed their people for decades. According to KWO, there needs to be closer and stronger cooperation with several ethnic groups who experience the same thing as the Rohingya in responding to what was done by the Myanmar government and the Myanmar military. By uniting various ethnic groups, Myanmar will respect its citizens' national rights (Puspa Ayu Saraswati, 2018).

This heinous act was discriminatory against Myanmar Muslims. Even the government of Myanmar considers the Rohingya a group of foreign immigrants, not citizens. The United

Nations (UN) also mentions that the Rohingya are one of the most oppressed minority groups in the world. According to the author, after examining the case, there were intentions to act apartheid (racial segregation), commit genocide against minority groups, and commit crimes against humanity for the Rohingya.

This was also highlighted by members of The House of Representatives of the Republic of Indonesia at that time. By urging the United Nations (UN) to thoroughly investigate the humanitarian tragedy that has killed several Rohingya. According to Abdul Hakim (Rohmayni, 2013), as a member of the Indonesian Parliament Commission of VIII, he said emphatically that "this should never happen in any country. The enforcement of human rights needs to be upheld."

The government of Myanmar has committed acts of genocide against the Rohingya ethnicity and discrimination against minorities. Also, for the sake of upholding and realizing humanitarian solidarity for the Rohingya, which is a form of implementing human values, we participate in urging the international community to be fair and not apply double standards to any cases of crimes against humanity.

Conclusion

On this basis, the participation of international institutions as guardians in the process of enforcing human rights violations committed by a country is indispensable. This is aimed at optimizing state accountability for violations that have been addressed through various strategic steps, both in terms of preventive and repressive cases. In the case of the suppression of discrimination against the Rohingya, it is clear that there are strong indications of the application of double standards by several countries. Indonesia also condemned the crime because it did not heed Article 5 paragraph (1) of the instruments of the Rome Statute of the International Criminal Court and the 1998 Rome Statute concerning the elucidation of Articles 6 and 7. So it can be concluded that Myanmar has committed a crime as stated in Article 7 paragraph (1), letter j, and for the sake of upholding and realizing humanitarian solidarity for the Rohingya, we must participate in urging the international community to be fair and not apply double standards to cases of crimes against humanity.

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