

THE ROLE OF ASEAN INTERGOVERNMENTAL COMMISSION ON HUMAN RIGHTS IN HANDLING THE ISLAMOPHOBIA IN MYANMAR ROHINGYA CASE

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Abstract

The 2017 Rohingya ethnic's mass massacre that happened in Rakhine states, Myanmar had been paid ASEAN attention in which ASEAN has established a specific body that can handle the concerning matters in this case. This body is called AICHR (ASEAN Intergovernmental Commission on Human Rights), with its particular function to address human rights issues to maintain the harmony between goals and principles of ASEAN Charter. Concerning ASEAN Charter, surely, AICHR is expected to align with the non-intervention principle of ASEAN. Consequently, it is inevitable for AICHR to undergo this mission with uncertainty to decide AICHR's way to handle this case. Through using the qualitative research method in this paper, we could at least understand this case easily by being described enough from our collected data, then synchronously we could picture these two major ideas in this paper, namely AICHR and ASEAN Way whether in a partial or impartial technique to know how AICHR contribute while under the influence of ASEAN Way in this Rohingya Case, and to thoroughly solve this Rohingya case, it is our main goal to make this paper as considerable as possible to be discussed.

Keywords: AICHR, ASEAN Way, Human rights, Rohingya

1. Introduction

1.1 Background

Myanmar is one of members of ASEAN, with most of the population being Buddhist and the minority being Muslim. It is just that ethnic Muslims in Rohingya get discriminatory treatment where they do not get recognition from their own country and do not get full citizenship rights. The Myanmar case commonly referred to as the Rohingya and Rakhine ethnic group, is a religious conflict between minority and majority ethnic groups (Mitzy, 2017). Under the military government chaired by Ne Win, a new policy was created for the Rohingyas called the Burma Citizenship Law (BCL), which stipulates that Rohingya citizens do not get citizenship, land rights, education, and jobs that are sufficient.

Through having 135 ethnic groups, Myanmar has removed the Rohingya from its eight main ethnic groups. Therefore, the Rohingya are not recognized as an ethnic group. This has resulted in the Rohingya people losing their rights as citizens, such as finding a job, getting married, going to school, and having a maximum of two children in one family. Human rights violations that occurred were triggered by violence, murder, rape, burning of houses, and government discrimination against the Rohingya ethnic group to revamp their citizenship (Siba & Qomari'ah, 2018). One factor backgrounded this violation of human rights is motivated by the fear of the existence of ethnic Muslims in Myanmar which poses a threat to Buddhists who have become the majority religion in Myanmar.

According to (Esposito & Kalin, 2011, 46-47) Islamophobia is a stereotype of violent and radical Muslims that is making people worry about Muslims. This draws fear into hatred and leads to unjustified hostility and leads to treatment of exile to discrimination against Muslims. Many factors are affected by Islamophobia in an area. Among them are many Muslims who should not have power in politics, ostracized immigration, limited facilities and health, to the workplace. One is the case in Myanmar. Islamophobia is the main reason for the violence in Myanmar. Buddhist extremists regard Islam and Christianity as aggressive groups that pose a major threat to the existence of Buddhists. It was caused by the migration of the population by Muslims from India which had an impact on the domination of Muslims in the economic sector. This makes the Buddhists, who are the majority, fear that Islam will become the majority in Myanmar. This causes the emergence of hatred and fear towards Muslims which makes Muslims get a lot of negative impacts from all ethnic groups in Myanmar. All means are done to prevent Muslims from getting power that can be used to fight for their human rights as citizens. Starting during the colonial period in Myanmar, the Buddhists and Biksu activists (Pongyi) succeeded in fighting the British. To repay his success, Biksu is highly respected and the government protects the Buddhists in Myanmar. In addition, the growing Muslim population in Myanmar due to mixed marriages between Buddhists and Muslims has led to the opinion that it is a strategy of Muslims to eliminate the next generation of Buddhists and threaten the existence of religion and Buddhists. This does not mean that Muslims do not make efforts to protect themselves. They are trapped in their territory because they cannot escape. Muslims are trying to get the justice they are looking for a safe place in other areas in Myanmar. However, because of the threat from extremist

Buddhists to Muslims. No other ethnic group dares to protect and help Muslims into their territory (Hapsari, 2012).

Although the United Nations has ordered Myanmar to protect Rohingya ethnic Muslims from atrocities in their country, there are still rebellions that violate Muslims' human rights in Rohingya. In 2017, there were massacres in the Rohingya, with a total of 6,700 victims, of which 730 were children (Beech, Sang, & Simons, 2020). Children should get a proper education, not suffer from violence because of the government's greed. They were massacred, brutally murdered, and raped with no sense of humanity. Based on the number of fatalities, this is a crime of genocide. This conflict has also caused the international community, especially other ASEAN member countries, to feel worried about the welfare of Myanmar.

The Association of Southeast Asian Nation (ASEAN) is an international organization under the auspices of the United Nations which was formed on August 8, 1967, in Bangkok, Thailand, through the signing of the ASEAN Declaration (Bangkok Declaration) by five originating members: Indonesia, Malaysia, Philippines, Singapore, and Thailand. Myanmar is a member of ASEAN, but Myanmar often takes actions that violate the ASEAN Charter, such as military coups, massacres of Rohingya Muslims, and others. This makes ASEAN unable to move even though the impact made by Myanmar is detrimental to the surrounding countries.

However, even though ASEAN recognizes this factual situation. ASEAN as an international organization and its other members can only urge the government to uphold the human rights that exist in the country. They cannot help because of the fundamental principle adopted by ASEAN, namely non-intervention as stated in ASEAN Charter Chapter II, Article 2 paragraph 2e (ASEAN, 2008). Likewise, they cannot do much with the UN because this case is a domestic issue of Myanmar. Asia as the region with the highest population density in the world did not establish a regional mechanism until finally in 2009 AICHR was established as a regional human rights institution in Southeast Asia. The ASEAN Intergovernmental Commission on Human Rights (AICHR) was formed inaugurated on October 23, 2009, by ASEAN leaders at the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand (ASEAN Intergovernmental Commission on Human Rights, 2016). The establishment of the ASEAN human rights institution is also stated in the ASEAN Charter article 14, which explains that ASEAN must have a human rights institution to harmonize the goals and principles of the ASEAN Charter (ASEAN, 2008). In carrying out its duties as an ASEAN human rights body, AICHR is oriented to the direction of non-intervention. So how will the AICHR deal with the insurgency in Myanmar? Even though Myanmar is currently on its way to democracy, Myanmar will surely listen to the words of countries that support it. In this paper, readers will be invited to find out how ASEAN managed the problems in the Myanmar conflict by the actions taken by AICHR in dealing with the Rohingya humanitarian crisis.

1.2 Research Question

How are the AICHR's actions under the influence of ASEAN Way in reacting to the Islamophobia in the Rohingya human rights crisis after the mass massacres in 2017?

1.3 Purpose and Objective

Based on what has been issued in the background before, on that account, our research question was made to query around the significant influence that ASEAN Way affects this AICHR's contribution to the Rohingya human rights crisis in Myanmar which is caused by islamophobia. In order of that, this research aims to emphasize some important matters (i.e., AICHR's flaw) from our compiled findings then to address these matters into the consideration of the reader and especially the AICHR regarding handling this human rights crisis through their decision-making process. It is possible in every decision-making process of AICHR could be jumbled by the ASEAN Way, we shall not take impulsive action towards matters that reader, AICHR, and person in charge of ASEAN that found to be fixed, rather it would be more beneficial if we could hold a conference out of it.

Addressing these matters is in our concern to seek, emphasize important matters, give these matters a possible understanding through our conclusion and recommendations, and the last is hopefully through this research, both the actors that in charge of formulating, and establishing the ASEAN Way and how the AICHR supposed to work as a body of regional organization in fulfilling the human right concept of human security, could be fixed the possible obstacles we have provided that seems to make AICHR could not function properly under the influence of ASEAN Way. In that term of 'fix possible obstacles', we intend not to just only seek some flaws and give it a recommendation with AICHR alone, but also, we will find out how this ASEAN Way gives us some important indicators of red flags that contribute to makes the AICHR's decision-making process in handling this Myanmar human right crisis, disturbed by.

2. Literature Review

Liberalism as ground theory in the world of international relations departs from the thought of individual freedom to live as the basic source of the formation of a just politics (Dugis, 2016). In contrast to the theory of realism, which is based on the principles of anarchy and the power of liberalism, the theory concentrates on the use of force that cannot be simplified. Which will be a fundamental threat to the main values of liberalism, namely the freedom of individual liberal ideas of individualism, freedom, equality, tolerance and progress (Meiser, 2017; Lawson, 2015). The means to control this power is through institutions and setting international norms to limit the power of states to act. The establishment of an international system with various ornaments of international organizations and international law in the international order, it is evidence of the influence of liberalism upholds the perspective of individual freedom to form a fair system in regulating international relations to limit violence (Meiser, 2017). One of the ornaments that is focused on liberalism is the principle of human rights, in this case fulfilling the fulfilment of human rights as individuals in a country or region is regulated in the concept of Human Security by the United Nations Development Program (1994) which stated that every individual must be freedom from fear, freedom from want, and freedom to live in dignity (Caballero-Anthony, 2002). This concept does not only apply to the state but also to other actors who have the authority to regulate the system in international relations. The humanitarian crisis that occurred in Myanmar is not only the responsibility of the state, but international

organizations also play a role in voicing this case because it is related to human rights violations. Where ASEAN as a regional organization which is in the closest position to Myanmar is expected to take concrete steps in seeking a resolution to this crisis.

Myanmar's membership in regional organizations (ASEAN) is expected to have a major influence in resolving this long-standing humanitarian conflict in Myanmar. However, due to the non-intervention principle in the ASEAN Charter, optimization in finding a resolution to this crisis is difficult to achieve. Rahmanto (2017) Assessing the compatibility between the principle of non-intervention with the norms and principles of human rights and obtained the result that the principle of non-intervention implemented by ASEAN does have a positive and negative impact in dealing with issues directly related to the internal affairs of the state. The positive of this principle, ASEAN countries become independent in dealing with their problems without the help of ASEAN interference. The opposite impact is caused if ASEAN member countries cannot handle the problem, then it will become a protracted problem if it is become the international world spotlight. In the Rohingya case, Myanmar as a member of ASEAN is unable to find a resolution to this problem. Meanwhile, the case has drastically become a hot topic of discussion around the world because it is considered to have carried out discrimination and genocide which has led to an increase in the number of refugees in neighbouring countries. Myanmar's inability to deal with this problem is evident in the development of the Rohingya case which has been going on for a long time but has yet to produce significant results. ASEAN's non-intervention principle causes deviations from the principle of Human Rights, where the state should hold the principle of state responsibility and law enforcement in protecting human rights. If a country is categorized as failing to comply with these principles, the state or other actor has the right to file a claim against the problem (Rahmanto, 2017). This is what makes ASEAN's dilemma at stake in complying with human rights principles. In his writings, the author also states that there should be flexibility for the principle of non-intervention that can exclude problems related to humanitarian issues that have a major impact on the international community.

Meanwhile, ASEAN has its own body to deal with humanitarian issues, Rachminawati (2019) observes the extent to which AICHR's steps as a body for dealing with humanitarian problems in protecting the human rights of ASEAN member countries through observation of cases of Rohingya in Myanmar. In her writings, two things that become the focus of AICHR's problems in handling Rohingya humanitarian cases. As in other articles, the ASEAN principle of non-intervention is a major problem for ASEAN in dealing with the domestic problems of its member countries. Therefore, even though a body has been created to deal with these problems, the changes do not show anything significant. AICHR works under the ASEAN organization so however, AICHR cannot take any steps if the policies within ASEAN do not allow them to do something. In the article, no data that shows a clear statement or policy regarding the case of the Rohingya because they are closed for internal purposes only. Furthermore, the obstacle faced by AICHR is within the institution itself due to the lack of a mandate and the limited function of the AICHR to try to deal with this problem, then coupled with its membership which is not independent. These obstacles resulted in the AICHR agency which was originally intended to deal with humanitarian problems, but because of the non-intervention value of ASEAN, this agency ended up being useless. The policy taken by AICHR should be an exception to the ASEAN non-intervention principle if it is directly related to the issue of human

rights violations that affect many parties. Therefore, the redefinition of the principle of non-intervention must be carried out by the leaders of ASEAN member countries. Then, AICHR should have a strong foundation in organizing its system so that it can have full control to act on the problem of major human rights violations in ASEAN member countries without being limited to domestic problems or not (Rachminawati, 2019).

Based on those two articles, both focus on the problem of human rights violations in Myanmar but with a different analysis of the shortcomings of the subjects studied. In Rahmanto's writing (2017) he emphasizes on resolving this case if the state cannot handle it, then the state or other actors have the right to file demands for the problem, in which case ASEAN as a regional organization is expected to be able to handle cases of humanitarian violations, while Rachminawati (2019) uses the subject of AICHR as a humanitarian agency under ASEAN as an international organization which is considered as one of the solutions to conflicts yet have not mentioned any contributions towards the case. However, from both articles related to the actions taken by the organization as an actor by reason of the state is enabled to handle the crisis in this case ASEAN body AICHR which will undertake the humanitarian problem has not shown yet any significant alteration because of the lack of competency as an organization. This study aims to complement two previous studies regarding the search for a resolution to the Rohingya humanitarian crisis in Myanmar by exploring the role of AICHR in having an impact on the condition of the Rohingya community in Myanmar through what contribution has been taken concerning to help this crisis.

3. Research Method

The method used in this paper is a qualitative method. This method is used to describe the phenomenon of the Rohingya conflict in Myanmar by looking at how ASEAN Way is involved in dealing with the conflict through ASEAN's specialized body, namely AICHR. Therefore, researchers would likely to do a partial and impartial operation of dissecting each variable (e.g., AICHR, ASEAN Way) for us to understand it concisely when one variable is not being interrelated with another variable, and so do when these two variables are being interrelated, we already recognized the big picture from previous details that we have dissected. In a more focused way, our qualitative method will be conducted in a chronological aspect. This means we seek and analyze this event chronologically, and then we will make a point about which organization (be it AICHR or other parties) has influenced this event throughout the days until now and finally we will know from our collected qualitative data through this chronological aspect from this event what are the steps that AICHR has taken as what (Anggraini & Lume, 2021) stated regarding what to expect from this chronological aspect that, in academic writing, the chronological structure has many benefits, ones that are highly beneficial is when its use as to write a development of a term paper's subject.

In collecting the data and improving the paper, researchers use secondary data sources. We chose secondary data because in order to understand such historical context, we use the secondary literature on history to study Rohingya's history, because the secondary literatures serve as the best data source when there is no other better available data and this definitely enriches the research (Minar & Halim, 2020) The secondary data that we will cite on this paper can usually be obtained through books,

government publications, internal organization records, reports, journals, to various sites related to the information that is sought (Moloeng, 2011). The secondary data of our discussed topic came from a variety of available information. As we mention before, those data can be found through books, government publications, international organization records, reports, journals, and various credible sites, but in our paper, in order to achieve an accurate result, we will obtain the source carefully from historical book, government publications (be it ASEAN or other international or regional organization), to various journals. Furthermore, secondary data is a data that is collected by someone else for another primary purpose. The utilization of this existing data provides a viable option for researchers who may have limited time and resources (Johnston, 2014) In conducting research, the area of investigation and the research questions determine the method that the researcher follows. The research method consists of how the researcher collects, analyzes, and interprets the data in the study (Creswell, 2009).

Furthermore, regarding where the data that is being collected, researchers also would likely broaden up the limitation from books, government publications, internal organization records, reports, journals to video. Researchers collect those pieces of information to support data needs whether it is in the form of text, audio, or video that comes from various sources. For our data analysis techniques, we used qualitative data analysis. Typically, it involves immersing oneself in the data to become familiar with it, then looking for patterns and themes, searching for various relationships between data that help the researchers to understand what they have, then visually displaying the information and writing it up (Kawulich, 2004).

4. Results and Discussions

After the inclusion of Arakan into the territory of Myanmar, the Arakan region was divided into two religious communities. First, the Muslim religious community is called the Rohingya, located in the northern part of Arakan. And second, Buddhism is called Mogh or Rakhine, located in the southern part of Arakan. Conflicts that occur between the two ethnic religions cannot be avoided. Of course, the case of Islamophobia in Myanmar cannot be avoided. Islamophobia is anti-Islam caused by a group's fear of Islam originating from a closed view of Islam accompanied by a lousy prejudice that Islam can have more influence on the values in society than other religious groups in the region (Moordiningsih, 2015). The persecution of the Rohingya Muslim minority is a chilling reminder that religion still plays an important role. In Myanmar, Islam is the minority, and Buddhism is the majority religion. In other words, Buddhism has complete power in Myanmar.

The life of the Rohingyas who remain in Myanmar is still threatened by a prohibition imposed by Myanmar's Ministry of Development of the Border Region and the National Race, which prohibits Rohingyas from moving from one village to another without first obtaining permission from local authorities. In addition, the Rohingya were also provided with inadequate refugee shelters providing camps that did not allow humans to survive, and the Rohingya who could still stay were made into laborers or forced laborers (BBC NEWS Indonesia, 2014). Nowadays, the Rohingya have become the highest number of "stateless" communities in the world. The stateless status is the absence of legal guarantees and the fulfilment of fundamental rights. This makes Arakan experience a significant humanitarian crisis because of the

continuous cases of murder, forcible transfer of residents, depots, and other crimes against the Rohingya ethnic. Muslim economic and social activities continue to be restricted. Even aid from neighbouring countries provided to Rohingya is protested and blocked by ethnic Rakhine and local religious leaders.

Violence perpetrated by the Rakhine ethnic group against the Rohingya continues to occur, triggered by political elites and religious leaders (Biksu). One of the most influential well-known religious figures in Myanmar is Ashin Wirathu, who provoked and became the leader of the anti-Muslim movement in Myanmar. The leaders of the Arakan and Monk parties continue to spread wrong opinions about Muslims in the Rohingya. The latter claim that the Rohingya threaten Myanmar, especially the Rakhine. They issued anti-Rohingya statements referring to ethnic cleansing and anti-Muslims. This act of discrimination by the Rakhine ethnic group against the Rohingya also includes all areas of human life, including politics, economics, society, and culture. This discrimination is intended to reduce the population of the Rohingya ethnicity. This was motivated by social jealousy triggered by the fact that the Rakhine ethnic population was smaller than the Rohingya ethnic population. The of people in the Rohingya ethnic group continues to increase, which causes the Rakhine ethnic group to feel threatened because the Rohingya ethnic group is considered a threat to the rights, land, and economy of the Rakhine ethnic group in Arakan (Saudia, 2012).

ASEAN as regional organization in southeast Asia hoped impactful in responding to Rohingya crisis. Within the ASEAN, they adhere the ASEAN Way to manage human rights issues to sustain regional goals and stability. The ASEAN Way is a method of resolving difficulties among ASEAN countries through informal, non-confrontational, and cooperative interactions in which conflicts can be resolved peacefully. The ASEAN Way emphasizes consensus and deliberation on everyday issues, following the ASEAN principle of non-intervention. What ASEAN member countries do if there is an internal problem in a country is to apply pressure. In addition, ASEAN also has the ASEAN Intergovernmental Commission on Human Rights (AICHR), a commission with the obligation to protect and promote human rights in the Southeast Asian region.

However, when handling the Rohingya case, either ASEAN or AICHR seem to be silent and slow in taking action, especially with ASEAN's consensus and non-intervention principles. Based on Umar (2017), among the leaders of ASEAN member countries, only Najib Razak, the former prime minister of Malaysia, condemned the violence in Myanmar by considering the military operation against the Rohingya as an act of genocide. Despite pressure from rights groups and Muslim groups, the Indonesian government has provided humanitarian assistance to Rohingya refugees. In addition, Singapore is committed to assisting humanitarian efforts through the ASEAN Humanitarian Assistance Center (AHA). The governments of Indonesia and Laos have also agreed to work together to address Myanmar's humanitarian issues. The majority of ASEAN member countries provided support and responses to the Rohingya case rather than replies that were officially supplied through the ASEAN organization. All ASEAN members tend to avoid formal and official stances on this issue directly. It is not easy to find explicit policies or statements from ASEAN or the AICHR (Rachminawati, 2019). AICHR remained silent on cases of ethnic minorities in Myanmar from 2012 to 2013. From 2014 to 2016, AICHR focused on activities to promote human rights. In 2017, ASEAN finally responded to the situation in Rakhine,

a month after all the violence in Rakhine that led to the exodus of the Rohingya community to Bangladesh (Rachminawati, 2019). Since August 2017, ASEAN has discussed human rights in various forums. However, it has not addressed the Myanmar government's threat to the remaining Rohingya in Rakhine State, so it can be said that ASEAN, through the ASEAN Way and the AICHR, has failed to support efforts to investigate and prosecute crimes of military atrocities. What ASEAN should do is try to face the obstacles in resolving the Rohingya case, including the basic principle of non-intervention, to overcome one of the worst human rights crises in the world today.

4.1 Outlook within the weaknesses of AICHR

The establishment of ASEAN as one of the ASEAN organs engaged in the field of Human Rights covering the region is expected to help protect human rights in its countries which are a shared responsibility within ASEAN. However, the regulatory system contained in the AICHR is minimal compared to other humanitarian agencies because it only relies on the Terms of Reference (TOR) in taking steps for humanitarian cases. Article 3 of the TOR stipulates that AICHR is referred to as the 'Intergovernmental Consultative Body'. Meanwhile, Article 2.3 of the TOR stipulates that protecting human rights within the state is the primary responsibility of ASEAN member states. However, there is no further discussion if states fail to protect their people and what will happen if states fail to carry out their responsibilities (Muntarbhorn, 2013). Therefore, the policies that will be taken by AICHR tend to be minimal due to the lack of clarity in the TOR to take further steps on a case. In this regard, there are several weaknesses within the AICHR which ultimately led to the slow action of the AICHR which was limited by its own authority.

4.1.1 Low level of Credential

The existence of AICHR as an agency for dealing with human rights issues within ASEAN has similar goals to human rights bodies in the United Nations Human Rights Council where they work as a body that acts as a prevention and protection of human rights through. However, in its authority, the AICHR is not as big as the UN Human Rights Council. The mandate contained in the AICHR does not allow AICHR to act directly in addressing human rights issues directly (Rachminawati, 2019). AICHR can only monitor rather than protect and bind a problem to be processed. In the AICHR TOR it is not clear if a party violating human rights will be sanctioned or not. Therefore, the protection that was expected to be carried out by humanitarian agencies could not work properly. However, AICHR can only act as an advisory body, coordination and consultation on low politics issues (Kelsall, 2009).

This is due to the fact that AICHR is still relatively new as a humanitarian agency in regional organizations such as ASEAN and needs time to develop in having a wider authority like other humanitarian agencies in protection and problems solving measure. If the AICHR does not have the authority like the others, then the response to humanitarian problems can be slow like the Rohingya case in Myanmar. This is because AICHR cannot take legal action to prevent and impose sanctions on such legal actions. In the other factors, to support the functioning of an organizational body, adequate expenditure is one of the factors. AICHR is claimed to have a lack of financial supply from ASEAN, so that to stand as a well-functioning organization is still far from optimal. The absence of a permanent office, budget, and appropriate staff

are the reasons for the delay in the functioning of this ASEAN body (Rachminawati, 2019).

4.1.2 Bound with ASEAN

As part of the ASEAN organizational body, AICHR does not have its own independence in carrying out its own goals. In its reference to take written action, that AICHR only serves as a consultative body to the governments of ASEAN countries. When viewed from the main reason for the establishment of ASEAN which is the desire for cooperation between countries in Southeast Asia in the economic field and increasing prosperity, human values are not the main focus of ASEAN cooperation (Rachminawati, 2019). In addition, security is the main agenda in addition to cooperation in the economic field. Usually, human rights are included in the field of security and/or stand alone. But within ASEAN there is no clarity for both (Thamrin, 2018).

As stated in the ASEAN Charter and many experts have discussed the issue of the principle of intervention, AICHR cannot take further steps if it is still under the limited authority of ASEAN. Thus, the implementation of the protection of human rights will not reach its maximum goal in the form of law enforcement efforts in the form of advocacy and adjudication in ASEAN member countries due to the application of Article 2 of the ASEAN Charter. In this article, it stipulates that ASEAN and its member countries may not interfere in the internal affairs of other countries (ASEAN). In the case of Rohingya, ASEAN could not take action on further investigation of this case, because the principle of non-intervention was the main reason for the slow handling of this case by ASEAN.

4.2 Action taken by AICHR after the mass massacre

Right after the mass massacre in 2017, it is indeed a must for any humanitarian aid, specifically AICHR that belongs to ASEAN to make a contribution in order to resolve this conflict completely. However, in any contributions that AICHR made, there is no full guarantee of the conflict to not happen again, because the absence of AICHR's visible role by the public in addressing conflict-related issues in Rohingya-Myanmar is due to the limitation of legal personality, the strengthening of the reduction of the effectiveness of legal personality and the low politics of human rights enforcement in Southeast Asia. Meanwhile, the principle and commitment of ASEAN member countries in defending their citizens' human rights is questionable, if viewed on the principle of non-interference it is clear that ASEAN leaders should ignore the actions of Myanmar to ethnic Rohingya. However, concerns arise when the enforcement and protection of human rights in Southeast Asia through AICHR is not effective as expected by the people, because of Article 2 paragraph (2) letter e and f of the ASEAN Charter (Thamrin, 2018) Here shows the Article 2 paragraph (2) letter e and f of the ASEAN Charter “(e) *non-interference in the internal affairs of ASEAN Member States*; (f) *respect for the right of every Member State to lead its national existence free from external interference , subversion and coercion* (ASEAN Secretariat, 2008).

4.2.1 AICHR humanitarian aid from Indonesia

There are many ways that AICHR Indonesia has tried to resolve this conflict. One of them was from a persuasion as the Indonesian representative to the AICHR, Yuyun Wahyuningrum was made a remark through a written statement, that she wishes the Government of Indonesia could lead the discussion on establishing the protocol and protection body at the summit of ASEAN countries. She also called for the ASEAN to immediately outline protocols or ways that can be applied together to ensure the safety and security of refugees. As the virtual 36th high level summit on June 26 held by 10 ASEAN countries, it finally leads the summit to a further information on AICHR's lack of effectiveness in resolving this conflict in a greater scale (all member of ASEAN ready to help resolve this conflict) The cause of this inability is from AICHR's terms of reference that prevents it from effectively protecting human rights and fundamental freedoms are one of the reasons behind several ASEAN countries refusing to extend assistance to Rohingya refugees adrift at sea. So this, makes most of the ASEAN member refused to resolve this conflict, specifically help the refugees of Rohingya.

Although, other countries refused, the Government and people of Indonesia opted to help Rohingya refugees based on the fact that they had sailed through perilous seas in search of berths. The shelter for the refugees was in the residents of Lancuk, North Aceh, Aceh Province, that rescued 94 Rohingya refugees, and then were evacuated to the mainland after being adrift in the waters near the coast. Wahyuningrum also reminded the Indonesian government to meet the basic requirements of refugees, including shelter with sanitation, food, and security and safety guarantees. Furthermore, the Government of Indonesia should ensure that refugees adhere to health protocols to prevent the transmission of COVID-19. She also stated that “the rights for asylum seekers is also protected in the ASEAN Declaration of Human Rights” (Tenri & Kurmala, 2020).

4.2.2 Case resolution effort

One of many ways which AICHR took to at least resolve this conflict in their way directly in the country where the conflict happens was an approach with the government of Myanmar (Regional Management Strategy for an Effective Environmental Impact Assessment organized by the ASEAN Intergovernmental Commission on Human Rights (AICHR)) This was a workshop that held in Yangon, Myanmar on 29-30 October 2017. The objectives of this workshop are to discuss how to strengthen environmental protection policies/practices in order to achieve sustainable development by: a) considering other types of assessment, i.e. Strategic Impact Assessment, and b) adapting a rights-based approach to environmental protection, and to consider the feasibility of having regional guidelines for environmental assessment that could address environmental, social, economic and human rights issues as part of ASEAN's management of environmental impacts (Nonthasoot, 2017).

Another way was from the 2017 FORUM-ASIA. The report contained many information that outlined a number of ways in which the AICHR could have responded to the Rakhine state crisis—all of which are within the AICHR's mandate under its ToR. The details are: “FORUM-ASIA, its members, and partners continued to invest

resources and energy to protect civic space and champion the cause of human rights and democratic freedoms at all levels. Among others through the following: FORUM-ASIA protested, objected to, and countered all regressive moves, such as the introduction of laws against non-governmental organisations and cancellation of their licenses, through press-statements, research-based publications, thematic workshops, public discussions, side events and oral interventions during UNHRC sessions. FORUM-ASIA supported its members, human rights defenders, and youth activists in strengthening their capacity to maximise the impact of their work through trainings, advocacy, and campaigns. FORUM-ASIA engaged with inter-governmental mechanisms, such as the Association of Southeast Asian Nations (ASEAN) human rights mechanism, to explore areas of collaboration to address human rights challenges faced in the region. Their performance was critically reviewed, areas of improvements were identified, and recommendations were offered in the form of reports and other publications. Dialogues and interactions were held with them on pertinent human rights issues.

Through the Task Force on ASEAN Migrant Workers (TFAMW), FORUM-ASIA engaged in the development of a rights-based framework for the protection and promotion of the rights of migrant workers in Southeast Asia. In South Asia, where the South Asian Association for Regional Cooperation (SAARC) stood dormant, non-governmental and civil society organisations continued to call on the SAARC Member States to be responsive to human rights issues and challenges faced in the region. FORUM-ASIA monitored, through the Asian NGO Network on National Human Rights Institutions (ANNI), the performance of NHRIs in the region, including the process of their establishment, and provided feedback focusing particularly on the level and nature of their engagement with civil society organisations. Efforts were made to establish national and regional protection systems for the security of human rights defenders and women human rights defenders. Defenders facing reprisals for their legitimate work were provided with support, including relocation assistance. Dialogues and interactions were held between local defenders and the UN Special Rapporteur on the situation of human rights defenders, for the Rapporteur to be able to listen to cases and stories of harassment on the ground to have these be reflected in his reports and policy discussions. FORUM-ASIA engaged with the UNHRC in Geneva during regular sessions, facilitated the participation of human rights defenders and activists in the sessions, and organised a number of diplomatic briefings, bilateral meetings, and other meetings on country specific and thematic issues (FORUM-ASIA, 2017)

4.3 Do they give impact to the situation after the mass massacre?

If we look on UNHCR report about how many refugees flee from Myanmar in 2017, then it is possibly we would assume there are impacts given by the AICHR alone, since there are exactly over 168,000 Rohingya likely fled Myanmar since 2012 (Tan, 2017) The actual situation was the many roles given by international organizations and actors who are concerned about the Rohingya issue like Gambia, International Law, and UNHCR which ultimately pressured Myanmar to prevent this incident from happening. It was when Myanmar have no authority to avert those international warning.

5. Conclusions and Recommendations

An analysis of the steps taken by AICHR towards the humanitarian crisis caused by the Islamophobic behaviour of the Myanmar people found that AICHR was limited to decision-making because there were shortcomings in it as part of an ASEAN body. However, several actions in taking part in handling and assisting this case have been carried out by AICHR but through indirect channels such as by the AICHR Indonesia as an assistance provided on the basis of concern for humanity to the Rohingya community is not part of the effort to resolve the case, but is only limited to humanitarian assistance. Another effort made by AICHR is explicit approach with the local government in the environmental field as a form of trust-building efforts in order to take part in dialogue with the Myanmar government in seeking to resolve this case. In FORUM-ASIA 2017 where they engaged with intergovernmental mechanisms so that AICHR can respond to the Rakhine state crisis are all within AICHR's mandate under its ToR. The efforts that have been made by AICHR did not show significant changes to the progress of the settlement of the Rohingya case because the actions taken were explicit and did not come directly from the mandate of AICHR. However, these efforts support pressure on the government to prevent a similar conflict from escalating again, although it is not only the role of AICHR or ASEAN, but other international actors who react to this case as well.

Findings on data in the field regarding policies or clear steps taken by AICHR in handling this case, are limited due to lack of clarity due to obstacles found in AICHR as an ASEAN humanitarian agency. First, the low level of credential that causes AICHR to lack the authority to act directly in this case AICHR can only monitor rather than protect and bind a problem to be processed and there is a lack of financial supply from ASEAN, so that to stand as a well-functioning organization is still far from being successful. optimal. Second, engagement with ASEAN is still the main point that affects the first obstacle. As stated in the ASEAN Charter on the issue of the principle of non-intervention, AICHR cannot take further steps if it is still under the limited authority of ASEAN. The two obstacles found contributed greatly to the slow and weak effect of AICHR's efforts to resolve this case.

In relation to the obstacles found in AICHR in handling cases of the Rohingya humanitarian crisis in Myanmar, ASEAN as the main organization that regulates AICHR should give its own authority to AICHR regarding the authority to handle cases of large-scale human rights violations or those involving the security of the sovereignty of other countries. Increasing the power to have a structured and appropriate agency system as a humanitarian agency is also very important if it is to achieve optimization of the AICHR's functions. But apart from this, the main problem in the ASEAN principle which states the principle of non-intervention must be redefined for several major violations, especially in humanitarian matters such as in the Rohingya case which should provide an exception so that the AICHR body has its own authority to monitor and investigate as an effort case settlement. ASEAN must also have great principles in strengthening the AICHR as a humanitarian agency

through concrete plans and steps for the problem of preventing and dealing with humanitarian problems in Southeast Asia.

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