# RESPONSIBILITY TO PROTECT OF ROHINGYA REFUGEES: INDONESIAN PERSPECTIVE

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Abstract: The research aims to describe the implementation of responsibility to protect concept from military intervention to non-military intervention in Rohingya refugee case. Ethnic conflict in Rakhine, Myanmar has caused many Rohingya people became a refugee in neighboring countries and lead a regional problem. Approximately 700 Rohingya peoples have become a refugee in Aceh, Indonesia as a victim of the ethnic conflict in Rakhine, Myanmar. As a part of international community and maintain regional stability, Indonesia has taken role to protect them. Using the responsibility to protect concept as a non-military approach, this research seeks to point out Indonesia's perspective in protecting the victim of the Rohingya ethnic conflict. Humanity became the main basis of Indonesia action. The result showed what has been done by Indonesia is in accordance with the principle of responsibility to protect.

**Keywords:** responsibility to protect; refugee; ethnic conflict; humanity

### Introduction

The issue of humanity became one of the important issues in the decades after World War I, World War II and the Cold War. The issue was being concern of by some activists, agencies or organizations working in the field of humanity. This can be seen from the facts related to mass killing of Armenians during World War I. At the time of World War II there was a massacre of Jews residing in Germany. This massacre was a major tragedy

during World War II occurred in Europe at the time. In 1945 was the birth of United Nations meaning the world has been conscious to stop acts that violate human rights and humanity.

War, conflict, authoritarian governments and natural disasters are arenas where humanity has its place to grow. One of the humanitarian issues developed in the situation was refugees. Several years ago, it was massive migration of Syrian refugees to European countries. According to UNHCR from 2008-2016 every year the number of refugees continues to increase. By the end of 2014 the number of world refugees has reached 59.5 million people, the highest number in the past decade.¹ Every year the number of refugees seeking asylum and better living places spread throughout the world.

For a long time, the concept of responsibility to protect is more likely used intervention to protect civilians. The intervention ultimately focused on the use of military force and created another wars or conflicts in the name of humanity. It resulted a new victims and suffering. Shouldn't the concept of responsibility to protect be implemented as an effort to reduce the suffering of the victims? It is the time for international community to interpret another concept of responsibility to protect through in any other humane ways. Humanity should be the cornerstone of the implementation of this RtoP concept.

What happened in Myanmar regarding to Rohingya can be said to be a form of ethnic cleansing. The act was contrary to norms of responsibility to protect that have been formulated in the 2005 World Summit document, UN Security Council Resolution 1674 and UN Secretary General's Report.<sup>2</sup> Myanmar's inability to protect Rohingya, discriminated and persecuted them certainly contrary to the concept of RtoP. The ethnic conflict has forced thousands of Rohingya became refugees in neighboring countries. Refugee problems if not addressed properly will disrupt the stability of Southeast Asia region. ASEAN countries should take initiative to provide protection and treatment to Rohingya refugees and call upon the Myanmar government to immediately address their concerns. Therefore, in the context of Rohingya refugees which are widely spread in some ASEAN countries, the concept of RtoP is challenged to be implemented as a form of humanitarian protection to the victims.

Indonesia, even had not ratified the 1951 Convention on Refugee Status and the 1967 Protocol, became refugee destination with a total of 7,616 person in the end of January 2016. Most of the refugees who came to Indonesia were from Afghanistan, Myanmar and Somalia.<sup>3</sup> The refugees flow who entered Indonesia started with the "boat people" from Vietnam.

Indonesia placed them in Galang Island in 1979 until 1996. The civil conflict that hit the Rohingyas brought them to Indonesia for better life.

In 2015 Rohingya refugees from Myanmar anchored in Indonesia, especially in North Aceh, Kuala Changkui, East Aceh, Langsa and Tamiang. Refugees left Myanmar because their lives were not safe and comfortable as a minority. In other hand, the Myanmar government was unable to take steps to resolve the conflict. The absence of law enforcement by the state or even became a part of the human rights violation then it can be said as state impunity.<sup>4</sup>

The arrival of Rohingya refugees began matter for Indonesia. As a State that has not been a State Party to the 1951 Convention and the 1967 Protocol, Indonesia did not have a system of determining the status of refugees. The arrival of refugees will create mixed population movements because of assimilation between indigenous and immigrant populations. The Indonesian government, however, did not turn a blind eye to these Rohingya refugees and provided temporary shelter in Aceh and North Sumatra. This condition showed Indonesia as a country that upholds humanity which is accordance to its nation constitution.

Indonesia which has commitment to humanitarian values actively participate to solve the Rohingya case. Although the case occurred in Myanmar's territory, the foundation of international law underlying the principle of state sovereignty Westphalia agreement in 1648.<sup>5</sup> The principle stated, the state has full or sovereign responsibility for the security and safety of its citizens. But condition in Myanmar was very different. Humanitarian tragedy which had happened there became shared responsibility among international members. Of course, Indonesia commitment to help Rohingya refugees will challenge our nation readiness for humanity. In spite of Indonesia's good relationship with Myanmar, of course, this research is interesting because what Indonesia did would have impact on the stability of the region in Southeast Asia.

### Theoretical Framework

The concept of Responsibility to Protect which has been formulated in the 2005 World Summit document, UN Security Council Resolution 1674 and the UN Secretary General's Report (Implementing the Responsibility to Protect) was a concept born from the principle that:<sup>6</sup>

1. State sovereignty contains fundamental responsibility to protect its own citizens within the territory of the country.

2. When a population of state in danger due to internal war, insurgency, oppression or failed state, and the state is "unwilling" or "powerless" to stop or to prevent it, non-intervention principle is justified for international community to take responsibility.

The implementation of RtoP based on the three pillars which underlying how this concept will be carried out in the field. The main concern of these three pillars of RtoP is the realization of protection and prevent the occurrence of crimes against humanity. The three pillars of RtoP are as follows:<sup>7</sup>

- 1. The responsibility of the State to protect its own people from genocide, war crimes, ethnic cleansing and crimes against humanity, and from all manner of actions that lead to types of that crime.
- 2. The commitment of the international community to help States carry out their responsibilities.
- 3. The responsibility of each State member of the United Nations to respond collectively, on time and decisively when a State failed to provide such protection.

The concept of RtoP emerged as a form of response to humanitarian problems, especially those that occurred because of wars and conflicts when faced with the concept of sovereignty. The events of ethnic war in Rwanda in 1999 raised international attention when should the international community have to act on humanitarian issues. It is related to the concept of sovereignty which authorizes each State to determine its domestic policy without external intervention. Interventions identical to the use of military force are justified as an effective means of stopping the suffering caused by various forms of crimes against humanity. But of course, based on the concept of sovereignty there will be no one country that wants his country intervened by outsiders. When there is a humanitarian problem within a State, the concept of RTOP is expected to be able to bridge those who uphold the sovereignty of the State and those who believe that international community action needs to protect the affected people.

The RTOP concept provides an opportunity for a sense of humanity to play a role in promoting peace and protection. Departing from the statement of sovereign as responsibility by Francis Deng it becomes the duty of the State to be responsible, protect and promote the welfare of its citizens. The responsibility of the State is reflected in three main types of responsibility:<sup>8</sup>

1. Responsibility to prevent mass destruction and other crimes against humanity. It is the responsibility of every State and the international

- community to address the causes of conflict, such as poverty, the dissemination of resources, as well as economic, political and socio-cultural pressures.
- 2. Responsibility for reacting or responding to situations where mass murder, ethnic cleansing or crimes against humanity have taken place or are imminent.
- 3. Responsibility for building after the mass murder and crimes against humanity. Individual countries and the international community are responsible for providing assistance to people who have experienced mass crimes to recover, build and reconcile after the conflict.

During this time the implementation of the RTOP is mostly done through the action of military intervention. It is time that we begin to further expand the scope of this RTOP not only on how to pass assessment to the State when they are unable to carry out their responsibilities. There needs to be a deeper view of the consequences of state incapacity such as the emergence of refugees. Especially if the case is happening is the forms of crimes against humanity such as war crimes, genocide, ethnic cleansing and mass annihilation.

The international community today begins to see how an effective form of protection that is not only directed to the State but also the individual of a State. One of the consequences that arise from cases of crimes against humanity, especially those committed by the State is refugees. These refugees can be categorized as forced migration - people who are forced to leave their homes for political reasons. The spread of refugees can be distinguished between internally displaced persons (IDPs) and cross border refugee. These two forms of refugees will equally disrupt the security, economic, social and political stability of the State.

Cross-country refugees are usually out of their country to seek better livelihoods and asylum. They hope to get protection in other countries. Not all refugees have a smooth way to get country destination. Among them there who were trapped in a transit country or even vacillated in the oceans because they were denied to entry neighboring countries.

The rights of refugees are set out in the 1951 UN Convention and 1967 Protocol on the Status of Refugees. The Convention affirms that refugees are persons with a reasonable fear of persecution based on race, religion, nationality, membership of a particular social group or political views outside their country of origin and unable or because of their fear, unwilling to obtain protection from his country. This means that every person who leaves his country because of the threatened reasons of their life due to intimidation from the government and his country then can be said as

refugees. They also received the same protection in accordance with 1951 UN convention and 1967 protocol.

Based on definition above we can assume that refugees concept associated with RtoP concept. Therefore, we can assume that RtoP concept should be applicable in the case of refugees. Especially refugee who leave the country due to persecution from the State itself.

Rohingya refugees were example of repressive regime behavior. The state did not give citizens freedom to live as its citizens. There was no human rights protection. They left Myanmar to seek asylum from another countries. This humanitarian crime has become one of the responsibilities of the international community against ethnic massacre and security pressure. It was justified for the international community to intervene because of state disability.

The mass exodus did by Rohingya have become an international concern regarded their entering to some neighboring countries such as Malaysia, Thailand and Indonesia. Indonesia as a part of the international community has the role and responsibility to support humanitarian actions caused by crimes against humanity. This responsibility come from the principle of non-refoulement. This is stated in the 1951 Convention of Articles 32 and 33 that principle of non-refoulement is the act of a state not to refuse or return refugees or asylum seekers to the home country because of their threatened life.

Based on the three types of State responsibilities described above, Indonesia has acted properly toward Rohingyas. As a part of the international community, Indonesia has responsibility to prevent mass destruction and crimes against humanity. It cannot be denied that what happened to Rohingyas categorized as a form of ethnic cleansing which is, of course, very contrary to the concept of RtoP. It wasn't time to use intervention approach addressing the Rohingyas issue. We need a victim-oriented soft power approach to immediately provide protection to the refugees and resolve the problem.

## Indonesia Perspective of Responsibility to Protect toward Rohingyas

The following will explain how Indonesia implemented RtoP using the main reference of three forms responsibility.

# Responsibility to prevent mass destruction and other crimes against humanity

When the international community condemns the discrimination experienced by the Rohingya ethnic group in Myanmar, Indonesia has opted for another way to resolve this ethnic conflict. After the visit of President Susilo Bambang Yudhoyono and Foreign Minister Marty Natalegawa in 2013 as a form of Indonesia's attention to this ethnic conflict in Myanmar. The meeting confirmed that Indonesia use humanitarian approach to peace building in Rakhine. Indonesia effort had been realized by the development of four government aid schools of the Republic of Indonesia located in four villages namely Thaykan Village, Sanbalay Village, Mawrawaddy Village and Buthidaung Village. The construction of these four schools cost US \$ 1 million. 10

The development of the four schools was a real form of government action to encourage reconciliation and peacebuilding in the Rakhine region based on a sense of humanity. The Indonesian government prefer used a constructive approach to humanity in resolving the Rohingya conflict as its respecting Myanmar's sovereignty and the implementation of ASEAN's non-interference principle. This humanitarian approach focused on peaceful means and persuasive away from the use of weapons. This can be said as a form of RtoP implementation in a more human context. Reflecting on the events of the US invasion of Iraq and the cases that plagued Algeria, Tunisia and Libya where the concept of RtoP had been used as an excuse for military attacks, what Indonesia did to the conflict in Rakhine provided a new perspective. RtoP did as a key entry to intervene against the sovereignty of a State then there is another way to do so. Indonesia showed even that form of responsibility touched on the victims.

Conflict resolution based on educational approach need to be developed as more peaceful means. The Rohingya ethnic who has not gained access to education by the Government of Myanmar made them retarded and did not have a broad perspective in overcoming the problem. Violent became the way for them to express aspiration. There is a hope by adequate education will bring Rohingyas more civilized life. Indonesia believe that education could be an instrument of peace and showed our responsibility to prevent mass destruction and crimes against humanity.

# Responsibility for reacting or responding to situations where mass murder, ethnic cleansing or crimes against humanity have taken place or are imminent.

Fulfillment of the concept of responsibility to protect by the Indonesian government in the implementation of the second responsibility related to the handling of Rohingya refugees who fled to neighboring countries. The fulfillment of these responsibilities has carried out by the relevant agencies that were divided into two task forces between central and regional government. The central government coordinated in dealing with issues relating to refugee policies, consolidation with UNHCR and IOM and foreign relations with the governments of Myanmar, ASEAN, some donor countries and the UN. While regional government had in charge of providing shelter, humanitarian assistance and fulfillment of refugees need.

This Rohingya issue became dilemma which is quite complicated for the stability of the Southeast Asia region. Myanmar had stated that Rohingyas were not citizen then making them stateless. ASEAN member countries themselves also had difficulty when faced with the government of Myanmar regarding to the principle of non-interference. In relation to the principle of non-interference ASEAN cannot force Myanmar to change its policy toward Rohingyas. Otherwise Rohingya refugees has become a regional issue that needs to be handled together. Together with Thailand and Malaysia, Indonesia finally tried to take a stand of this issue. Comprehensive solutions offered by Indonesia, Malaysia and Thailand through burden-sharing and shared-responsibility have shown how to handle of the Rohingyas issue upholds the principle of RtoP.<sup>11</sup>

Following the efforts of the Indonesian government in handling Rohingya refugees:

- 1. Conducting Search and Rescue (SAR) operations for refugees who is still floating in the ocean.
- 2. Conducting a coordinated marine patrol and facilitating sea evacuation when ships containing the migrants are found.
- 3. Provide humanitarian assistance including shelters, food, medicines, and other necessities for stranded migrants in the territory of Indonesia.
- 4. Improve cooperation and coordination with UNHCR and IOM in identifying and verifying immigrants, including seeking third countries for resettlement processes.
- 5. Encourage ASEAN through the ASEAN Coordinating Center for Humanitarian Assistance on Disaster Management (AHA Center) to mobilize all the resources it has in solving the Rohingyas crisis.

Indonesia divided the management of Rohingya refugees into central and regional clusters. The central government performed policy points 4 and 5, while local governments implementing policy points 1, 2 and 3. One of the areas that have mandate to implement the policy is North Aceh Local Government. A total of 792 refugees are located in the district of North Aceh stems from the deposition of their ship in the waters of North Aceh in May 2015.<sup>12</sup>

Managing Rohingya refugees in North Aceh Regency, the central government have given mandates to these regional agencies: Social Service, Women Empowerment, and Child Protection Office; Class II A Immigration Office of Lhokseumawe; and Regional Disaster Management Office (BPBD). Those institutions are commanded by the Government of North Aceh Regency. In managing the refugees, not only they are guided by a standard operating procedure, but also, they are under supervisions from central government.

## 1. Government of North Aceh Regency

The Government of North Aceh Regency is taking a pilot project role in handling Rohingya refugees for the central government. The Regent as the person in charge of the project establishes a refugee handling task force which consists of individuals from the Immigration Office; Social Service, Women Empowerment, and Child Protection Office; Regional Disaster Management Office (BPBD), Health Office; The National Police of the Republic of Indonesia; The National Military Armed Forces; NGOs; and North Aceh civilian. In running this task force, local government are getting direction from two ministries: Coordinating Ministry of Politics, Law and Security; and Treasury Ministry. In accordance with the President's instructions, refugees entering Indonesia are the responsibility of the local government. The refugee's management is funded by the emergency response and the task force operation budget of International Organization for Migration (IOM) and UNHCR. The Government of North Aceh Regency is then facilitated for building a temporary shelter facility for refugees in Blang Adoe Village, North Aceh, which is cooperated with Aksi Cepat Tanggap (ACT). The Government of Indonesia is willing to accommodate refugees to stay in Indonesia for a year until they find their final destination country.<sup>13</sup> A total of 687 immigrants have entered North Aceh in 2015, and a total of 86 immigrants in 2013.

# 2. Class IIA Immigration Office of Lhokseumawe

The Social, Woman Empowerment, and Child Protection Office is responsible to protect and giving special treatment (if needed) for woman and child during their stay in the refugee's shelter. This office usually making an open public kitchen and served logistics to the refugees. Beside of that, they are also giving social assistance, and various educations consist of: religious; self-hygiene; and sanitation. Playground and education for the young ones are also well taken care of in the shelter by this office.

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Social assistances given by this office for the Rohingya refugees are mostly foreign language and entrepreneurial skills. Those two aspects are considered as crucial when they start living in the destination country. in a new Bahasa Indonesia and English teachers are regularly holding classes for them. These teachers are coming from the NGOs and other institutions. Entrepreneurial skills given to the Rohingya women refugees are such as flower stringing, sewing, and embroidery. This skills assistance is intended to encourage them to be independent in the community, and these assistances received good response from them.

Woman and child right protection are also given more attention. During their stay in the shelter, the possibility of domestic violence to Rohingnya's women and children is increasing. Some of the acts of violence perpetrated were beating, harassment and persecution. To prevent or at least reduce the possibility for those violences, this Office is giving counseling and socialization related to women and children rights.

spiritual assistance is conducted through the subuh prayers. Most of the refugees are Muslims and included in this activity is also the Qur'an reading. These kinds of prayers by the Office are also regarded as a trauma healing

activity. There is also Tahfidz Al-Qur'an assistance for the refugees if they are interested in a more in-depth activity.

Self-care and environmental assistance is conducted by teaching the refugees with hygiene tools and hygiene facilities. The Rohingya's people life quality is considered as low in Myanmar. Most of the refugees are not used to using hygiene facility, especially bathrooms. In that regards, the assistance from the Office is considered as important.

The fulfillment of the education rights for children is cooperated with Save The Children (NGO). They provide teachers and education facility for Rohingya's children. In addition to that, Government of North Aceh Regency have created a system to accommodates Rohingya's children which enables them to be involved in formal schools across North Aceh.

## 4. Regional Disaster Management Office of North Aceh

Regional Disaster Management Office of North Aceh (BPBD) has a role to search, rescue and relief the refugees. This government institution is usually the first task force involved in managing refugees, because usually the refugees are stranded in the North Aceh sea which need emergency rescuing. The main task of BPBD to ensures the refugees are safe. In its operation BPBD will coordinate with Health Office when the refugees are needing medical treatments. In Rohingya's case, BPBD was rescuing the refugees whose ships are stranded in the North Aceh Utara. After the rescue, BPBD took the refugees to the shelter.

These actions conducted by the central and local government of North Aceh through BPBD; Social, Woman Empowerment and Child Protection office; and the Immigration Office are based on three main responsibilities of RtoP concept which have been described in the Methods Chapter. As a human being we are entitled to help to each other especially Rohingya peoples. The condition of the refugees has influenced the Aceh people to help and accept them in North Aceh territory, putting aside of their international relations context. Local government and North Aceh society has then conducted the Responsibility to Protect principle.

Responsibility for building a new place after the mass killing and crimes against humanity. Indonesia both as country and as a part of the international community are responsible to give assistance to society who experienced mass crimes, to help them build and reconcile after the conflict.

Indonesia's acceptance of Rohingya refugees has demonstrates Indonesia's responsibility on this humanity issue. Indonesia's readiness to provide one year of temporary shelters for refugees and cooperation with several International organization such as UNHCR, USAID, IOM, Aksi

Cepat Tanggap, and Save The Chidren are a form of concern and assistance that is urgently needed by refugees. Indonesia may refuse the refugees but based on a sense of humanity as mandated by the constitution, and a sense that Indonesia is a part of the international community, then Indonesia is taking the responsibility of the safety of the refugees.

This principle is in accordance with the UN's mandates in the World Summit 2005, which stated as follows:

"the 'to uphold their responsibility to protect' (R2P) principle imposed upon each individual state a primary responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity. When the state is unable responsibility, the international community is to assist states to exercise their responsibility". 14

Indonesia has conducted the RtoP principle by providing assistances for the Rohingya people. Myanmar government has failed to protect the people and responsible to Rohingya exodus, which led the Rohingya to become a refugee in many countries.

## Conclusion

The role of Indonesia in managing refugees which have been conducted by the central and local government, societies, and NGOs is a firm proof that Indonesia is actively making contribution as a part of the international community in regards serving RtoP principles to Rohingyas. Although Indonesia have not ratified the 1951 UN Convention and 1967 Protocol on refugee status. It is a stance that Indonesia is concern about the implementation of RtoP principle.

Based on to the 1951 convention, Indonesia is not obliged to help the Rohingya refugees. But based on humanity and in accordance of the country's constitution, Indonesia is indulged to assist this cross-country refugee. Moreover, Indonesia as a part of an international community needs to uphold the values of humanity, and responsible to protect people who are experiencing inequality. Therefore, Indonesia has the responsibility to take a role in giving assistance for Rohingya refugees.

The RtoP principles developed by Indonesia is not to violate the principle of non-interference nor does to violate sovereignty of Myanmar. These acts of principles are to demonstrate to the world that humanitarian intervention is not the only ways to implement RtoP principles. Humanitarian intervention is not the only way to solve humanitarian conflict. The international community need to change their perspective in

implementing RtoP principles by using a more humanely and civilized approach.

The case of Aceh in managing Rohingya refugees have driven the central government to establish a legal basis in its efforts to handle refugees across the country. The issuance of President's Regulation No.125, 2016 about the Handling of Refugees from Abroad is a result of Aceh's cross-country refugee's management. This regulation is Indonesia's action to achieve better implementations the principles of Responsibility to Protect.

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- <sup>3</sup> Saraswati, 2006.
- <sup>4</sup>Stedman, 1995, 14-20.
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