


RIGHTS OF THE ROHINGYA:
EFFECT OF THE GAMBIA VS
MYANMAR ON ASEAN'S AND
ASEAN INTERGOVERNMENTAL
COMMISSION ON HUMAN
RIGHTS (AICHR)
POLICY AND ACTION

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Khairil Azmin Mokhtar
Rachminawati



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Introduction

- 01 THE TYRANNY AGAINST THE ETHNIC ROHINGYA IS A DOMESTIC, REGIONAL AND GLOBAL ISSUE.
- 02 THE ROHINGYA ISSUE IS COMPLICATED: POVERTY, INSURGENCIES, COUNTERINSURGENCIES, SECURITY, HUMAN RIGHTS, AND SO ON.
- 03 THE UN AND THE US: CONSIDER AS ETHNIC CLEANSING
- 04 ASEAN?
- 05 SUMMARY AND CONCLUSIONS
AICHR?

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Questions?

What and how is ASEAN's response to the issue?

How is the effect of the ICJ's order on the case of Gambia vs Myanmar to the ASEAN's and AICHR's policy and action towards the Rohingya?

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What and How Is ASEAN's Response to The Issue?

ASEAN as organization continues to remain silent, NO collective action and avoided making official comments or statements

The ASEAN Humanitarian Assistance (AHA) center was established but focus only to humanitarian aid not to solve the roots problems

It reflects of ASEAN's poor commitment in championing human rights despite the establishment of the AICHR as a human rights body

ASEAN as the key institution is accountable for AICHR's lack of action

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Progress that The AICHR was Made Despite Its Lack Mandate

In 2019 and 2020: the AICHR agreed on the correspondence guideline.

The change of perspective that the Rohingya case is not only a humanitarian case, but also one that needs to be addressed from all aspects by all countries particularly those in ASEAN.

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THE CASE OF THE GAMBIA VS. MYANMAR AT THE ICJ

The Gambia alleged that in its application to the ICJ, Myanmar committed genocide against the Rohingya through its policy and violated the Genocide Convention in a variety of ways, including failure to prevent and punish genocide (Article 9 of the Genocide Convention)

Issues on Proceeding: legal standing and court's jurisdiction,

The hearing was held on the 10th-12th. December 2019.

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THE CASE OF THE GAMBIA VS. MYANMAR AT THE ICJ

ICJ Order issued on January 23, 2020 in *The Gambia v. Myanmar*: "There is a realistic and imminent risk of irreparable damages to the rights claimed by Gambia "

The mentioned in Article III and Gambia's right to require Myanmar to comply with the obligation not to violate genocide and to prevent and punish genocide under the Convention are "plausible"

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The Case and the Responsibility to Protect (R2P) Framework

The ICJ has a vital role in the development of the Responsibility to Protect (R2P) Framework.

2003-2005 in Darfur, Sudan.

Key judgement: the Bosnia Genocide case

The concept of "responsibility to protect" has never appeared in an application to the International Court of Justice in *The Gambia*, a court hearing, or a court order, but there is an element that makes stand out from an R2P perspective.

These first observations emphasize that the state should be seen as a tool that can help carry out its responsibility to protect. Therefore, Canada and the Netherlands, two major supporters of R2P, and therefore, ideally ASEAN member states can carry out its R2P

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The Effect of The ICJ's Order On The Future Of ASEAN's And AICHR's Policy and Action in Protecting Rights' of Rohingya

- After the Court's order, Myanmar takes all steps to prevent genocide
- The case should be seen as a basis for the future ASEAN policy towards the case of Rohingya to hold Myanmar responsible and to monitor the implementation of the order by Myanmar.
- The AICHR should also find out the way can also to waive or compromise the ASEAN ways or any other hindrances resulting from their TOR.

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The Effect of The ICJ's Order On The Future Of ASEAN's And AICHR's Policy and Action in Protecting Rights' of Rohingya

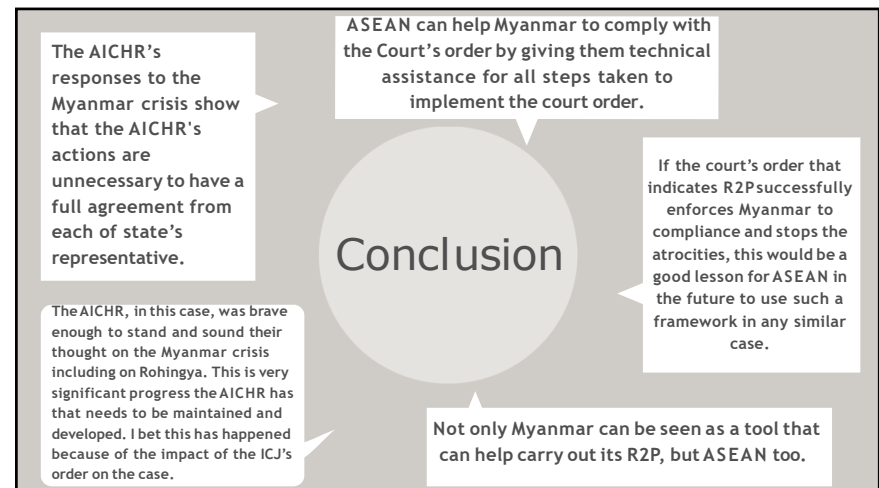
- AHA center must act beyond its humanitarian mandate. Ideally, the mandate to give human rights protection to Rohingya people lies with the AICHR.
- ASEAN via AICHR can do a country visit to assure Myanmar stops all the atrocities
- ASEAN or AICHR can continue to lobby Myanmar to take more action

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CONTRIBUTION OF THE CASE FOR THE INTERNATIONAL LAW DEVELOPMENT

The ICJ's order can be said as a product of necessity that is successfully issued and in practice, places the individual at the top priority. Something that is rarely implemented in other fields of international law.

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