

CHAPTER I

INTRODUCTION

A. Background

By definition, human rights are those rights which are inherent in all human being by virtue of their humanity alone. They are not only inherent but also inalienable, universal, indivisible, and apply equally to all human beings.¹ Indications efforts to protect the human rights have been clearly recorded by the establishment of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESC).

Although in the Declaration of Vienna Convention 1993 it is stipulated that every state has committed that all human rights are universal, indivisible, interdependence, and also interrelated² but its development, acceptance, and implementation in each country are very different.

In this regard, the international community's commitment upon the protection of human rights today can be said to have exceeded the limits of territorial (region). The argument becomes natural to look at the history of human civilization and interstate relations. Arbitrary actions committed by the state against its people has provided a valuable lesson, the authority of the state over its citizens should be limited. Such

¹ Alina Kaczorowska, 2010, *Public International Law*, New York: Roudledge. p. 492

² Vienna Convention 1993, Art. 5

restrictions are not seen as trimming the country's sovereignty, but as a precaution toward the state not to do arbitrary action. On the other hand, the continuation of that authority limitation will raise awareness in the international community to increase a cooperation in the protection and respect on behalf of humanity.³

On the some cases, violation of human rights over the world is very massive. Such as a case that happened in Myanmar until now, especially the case of Rohingya. Rohingya is an ethnic who inhabits the Rakhine region, west Myanmar and directly borders with Bangladesh. Rohingya is one of 135 ethnic groups in Myanmar. Rohingya is awarded by the United Nations as the most persecuted minority and earned the nickname as the Gypsies of Asia.⁴ Such identity was given because this ethnic received much discrimination from the people or even from the government of Myanmar. Rohingya is not the only ethnic obtain discriminatory measures; other ethnics such as Christian Karen, Chin, Kachin and Mon are without exception. Ironically, only the Rohingya is not recognized as citizens of Myanmar.

Regardless of discrimination given by the Government of Myanmar against ethnic Rohingya Muslims, this is a major challenge for ASEAN to prove its credibility as a regional organization in Southeast Asia in resolving the conflict in Myanmar as one of the ASEAN member countries. However, problems arise when ASEAN wants to solve the

³ Muhammad Herjuno, *Pelaksanaan Prinsip Non-Intervensi di ASEAN*, Available at: https://www.google.co.id/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&cad=rja&uact=8&ved=0CD8QFjAGahUKEwiBqO584fJAhWKtBQKHTcJCeM&url=http%3A%2F%2Fwww.uui.ac.id%2Fimages%2Fstories%2Fdocuments%2FFFH-UII-PELAKSANAAN-PRINSIP-NON-INTERVENSI-DI-ASEAN_STUDI-KASUS-MYANMAR.pdf&usg=AFQjCNFIXM-OZka9M-oM74eZsWmYcGq6_Q&bvm=bv.106923889,d.cGc, downloaded on October 10th, 2015, at 3.26 p.m.

⁴ Bruno Philip, *The Most Persecuted Minority in the World: The "Gypsies" of Burma*, <http://www.worldcrunch.com/most-persecutedminority-world-gypsies-burma/world-affairs/the-most-persecuted-minority-in-the-world-the-gypsies-of-burma/c1s5701/>, accessed on October 19th, 2015, at 10.44 p.m.

case because ASEAN has implemented the principle of non-interference as stated in the Bangkok Declaration, August 8, 1967. It becomes a common reference for ASEAN to carry out its duties as a regional organization in Southeast Asia. Non-interference principle is the principle which affirms that no country has the right to interfere in the affairs of other countries, either directly or indirectly, for any reason to conduct internal or external relations with other countries.⁵

The principle of non-interference on the one side by the United Nations General Assembly resolution 36/103 entitles each state to set its own destiny and give full authority over their own countries without any worries to the intervention of other countries.⁶ As the consequence, it makes ASEAN and its member states cannot do a lot and seems to be reluctant to interfere the internal affairs of ASEAN member states. It is meant that by the existence of non- intervention principle early lead ASEAN and its member states cannot do much when there is a violation of human rights in internal country's of ASEAN as happened in Myanmar.

B. Research Question

1. How is the impact of non-interference principle to resolve humanitarian issues in Southeast Asia?
2. Can the non-interference principle solve the humanitarian issues in Rohingya?

⁵ Imam Muliana. 2012, *Penemuan Hukum Nasional dan Internasional*, Bandung: Fikahati Aneska in cooperation with International Law Affairs, Faculty of Law Universitas Padjajaran. p.282

⁶*Ibid.* p. 284

C. Research Objectives

The objectives of this research are:

1. To understand how non-interference principle influence the ASEAN effort to resolve humanitarian issues in Southeast Asia.
2. To know how to solve the humanitarian issues in Rohingya with the existence of non-interference principle of ASEAN

D. The Advantages of Research

1. Theoretical Aspect

This research gives insightful theory on non-interference principle in ASEAN used as a rule of International Law to resolve humanitarian issues in Southeast Asia.

2. Practical Aspect

This research provides better understanding on the role of ASEAN in resolving humanitarian issues in Southeast Asia meanwhile the non-interference principle is still implemented by the ASEAN and State Members.

E. Overview of the Chapter

This research consists of five chapters, namely: Chapter I Introduction, Chapter II Literature Review, Chapter III research Methods, Chapter IV Discussion, Chapter V Conclusion and Suggestion.

The aims of this research are to learn more about the impact of non-interference principle of ASEAN in resolving humanitarian issues in Southeast Asia: A case of Rohingya.

1. Chapter I: The author tries to explain on the humanitarian issues happened over the world widely and specifically in Southeast Asia by mentioning Rohingya case in Myanmar and also the existence of non-interference Principle in ASEAN. In this introduction, the author also delivers the research problems which will be discussed in the next chapter. The objectives and advantages of this research will be also discussed in this chapter.
2. Chapter II: This chapter discusses related library reviews regarding the establishment of Association of Southeast Asian Nation (ASEAN), the meaning of non-interference principle, and the humanitarian issue in Rohingya.
3. Chapter III: This chapter elaborated research method which used in this research. The discussion is started from type of research, legal materials, method of collecting data, and method of data analysis. Type of this research is normative legal research. The research applies statute and case approaches. The data were gathered from some literatures consist of primary legal material, secondary legal material, and tertiary legal material. Furthermore, the data were taken through library research, and analyzed systematically by using qualitative and descriptive method.

4. Chapter IV: In this chapter the author presents the results and elaborates in details whether non-interference principle of ASEAN is still needed or not. Then its potentials in resolving humanitarian issues in Southeast Asia and solving the problem of humanitarian issue in Rohingya are presented thoroughly.
5. Chapter V: In this chapter, the author wraps up the findings and makes conclusion on the effect of non-interference principle in ASEAN to resolve humanitarian issues. Suggestions are then given to resolve the humanitarian problems among Southeast Asia Countries.