

PROTECTION OF HUMAN RIGHTS: EFFORTS TO SOLVE THE CRIME OF GENOCIDE IN THE MUSLIM COMMUNITY

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Abstract

The crime of genocide has long been a serious threat to Muslim communities around the world. In this article, the protection of human rights has taken center stage. This article aims to investigate the efforts that have been made to overcome the crime of genocide that threatens Muslim communities. We explore the background to these crimes, explore recent developments in human rights protection, and analyze the various solutions and initiatives that have been implemented by international organizations, governments, and civil society groups. We use a qualitative approach based on normative juridical research methods, namely research conducted based on primary legal material by examining theories, concepts, legal principles and statutory regulations related to this research. We also identify factors that trigger the crime of genocide. Conflict resolution can be resolved in court and outside court. If a case is resolved outside of court, it can be done by mediation and negotiation, but if it is done in court, which in this case applies to an international court, then the settlement can be resolved by the International Criminal Court.

Keywords: Human Rights, Genocide, Muslim Community

1. INTRODUCTION

Human Rights are rights inherent in humans, which are natural and fundamental gifts from God Almighty which must be respected, protected and shared by every individual, society or country. Meanwhile, the Human Rights Law explains the meaning of Human Rights as a set of innate rights which are a gift from God. These rights must be respected, protected and upheld by the state, law, government and the general public, so that they can be implemented properly. maintain human dignity and protect their privacy (Indonesia, 1999).

Because human rights must be respected by everyone, therefore we must protect each other's rights and not violate them. Human Rights Violations are humanitarian violations that violate the human rights of other people without any legal basis, or any reason, whether committed by individuals, countries or other institutions. Human rights violations refer to violations of internationally recognized human rights. Human rights violations can be divided into several categories, such as crimes against humanity, war crimes, intentional killing, inhumane torture, intentional infliction of great suffering, recruitment of children under 16, genocide, etc. (Prasetyo, 2020).

Genocide is an example of a heinous crime that occurred to humanity. Not only does it kill thousands or even millions of human lives, but it is also a direct attack on the most basic human rights, such as the right to life, freedom from oppression, and the right not to

be a target of discrimination. One example of the crime of Genocide that is currently popular is the case experienced by ethnic Muslims in various parts of the world. (Hassanah, 2017).

By investigating this issue in more depth, the authors hope this journal can provide valuable insight into the complex challenges of protecting the human rights of Muslim communities and how the international community can come together to play a role in preventing genocide that not only damages the future of these communities, but also tarnish the morality of humanity as a whole.

2. IMPLEMENTATION METHODS

The approach used in this research is a qualitative approach based on normative juridical research methods, namely research carried out based on main legal material by examining theories, concepts, legal principles and regulations legislation related to this research (Soekanto, 2003). This data collection technique carried out through library research. Material References used includes primary legal materials (primary sources of authorities) in the form of statutory provisions and secondary legal materials (secondary sources of authorities) in the form of textbooks, literature and writings of experts in general.

3. RESULTS AND DISCUSSION

3.1 Definition of Genocide

According to the language, genocide begins with two words "*geno*" and "*cidium*". The word "*geno*" comes from the Greek meaning "race" and the word "*cidium*" The word originates from Latin which means "to kill" (Siswanto, 2015). According to Article 7(a) of the Rome Statute and the Law on Human Rights Courts: "Genocide means the destruction or extermination of all or part of a national, racial, ethnic or religious group by killing members of that group. causes serious physical or mental suffering to members of the group; creating conditions for group life resulting in partial or complete material destruction; take action to prevent births within the group; forcibly moving children from one group to another." (Hafidzi, 2015). The elements of genocide include:

1. Killing or exterminating a certain group
2. Men create suffering for members group both physically and mentally strenuous;
3. Causing conditions in group life that can cause physical destruction in whole or in part
4. Enforcing oriented behaviors _ on birth prevention within a group
5. Moving children by force from one group to another (Rome Statute of the International Criminal Court , 1998).

3.2 Factors and Impact of the Genocide Movement

The factors that cause it the emergence of criminal acts of genocide include:

1. Religious Factors

The first factor in the crime of genocide is the religious factor . Often, religious beliefs are the main cause of conflict between two groups. Where minority religions will always be subjugated by majority religions in areas that have a history of violence against humans. Violent disputes between religious groups occur more frequently, resulting in violence and attacks against individuals of different beliefs.

Conflicts that arise for religious reasons will continue to occur if the group lacks the initiative to overcome the problems that cause the conflict itself. The main role is given to religious mentors, religious leaders and other religious figures who have the authority and trust to direct their groups and not commit violence against other humans. (Ni Putu Rai Yuliantini, 2019).

2. Economic Factors

Significant economic inequalities between certain ethnic or religious groups and other groups can create social tensions. If a more economically powerful group feels that another group is threatening their economic position, this can trigger a conflict that has the potential to lead to the crime of genocide.

3. Racial Factors

Many groups in the world believe that racial differences are the root cause of genocide, such as apartheid in South Africa in the 17th century. This event occurred because after the South African people became independent from British and Dutch colonialism, two groups were formed that controlled South Africa. Among the groups that want to control South Africa, one of the nationalist parties has won and controlled South Africa. One of the strategies and tactics used in exercising his power was to create apartheid conflicts in order to strengthen his control over the economic and social system. (Widyawati, 2014).

4. Government Factors

The existence of discriminatory policies or discriminatory actions by the government or authorities can trigger feelings of dissatisfaction and anger within certain groups. This can include laws that disadvantage certain groups, political oppression, or discrimination in terms of employment or education.

5. Tribal Factor

Next, there are other causes that could cause its appearance. The crime of genocide is the ethnic background of a group. Problems that arise as a result of tribal (ethnic) discrimination, rights violations committed against minority groups. Colier said that ethnic conflict is not only caused by differences in general ethnicity, religion, politics and economic development, however it can also be caused by civilians in a place itself (Putra, 2018).

6. Military Factors

Involvement of extremist groups, military in planning and carrying out crimes of genocide can trigger an escalation of violence. They often have resources and skills that can be used to carry out acts of genocide.

7. Propaganda and Media Factors

The involvement of the mass media can be used by governments or groups carrying out genocide to spread propaganda that shows the group to be targeted as a threat or enemy. By using derogatory and inflammatory rhetoric, mass media can shape public opinion in favor of cruel actions against these groups.

The crime of genocide had a very serious and traumatic impact on the Muslim communities who were victims. These impacts can cover various aspects, both individually and collectively, and can last in the long term. The following are some of the impacts of the crime of genocide on Muslim society:

1. Loss of life, Genocide often involves the mass murder of members of a particular group, resulting in the loss of many lives.
2. Psychological Trauma, Genocide survivors may experience physical and psychological trauma that can last for years or even generations.
3. Displacement, Genocide can result in the forced removal of people from their homes and communities, resulting in a loss of cultural identity and sense of belonging.
4. Social and economic disruption, Genocide can disrupt social and economic systems, causing poverty, unemployment, and other social problems.
5. International tensions, Genocide can cause tensions between countries and international organizations, leading to diplomatic and economic sanctions.
6. Continuing Insecurity The crime of genocide may give rise to a continuing sense of insecurity in surviving Muslim communities. Muslim communities tend to live in fear of further violence or discrimination.

3.3 Efforts to resolve the crime of genocide in Muslim communities

Resolving the Crime of Genocide Based on International Law. The first issue in litigation can be resolved in one of two ways: through the judicial system or before a judge; or secondly, by using a non-litigation approach which is characterized by out-of-court settlement. This is an effort that can be used to resolve situations faced by countries involved in conflict on a global scale by asking for help from mediators. Settlement of non-litigation cases is as follows:

1. Negotiation, the majority of disputes in society are resolved through negotiation, which is the most popular method of resolving them. This is mainly because through this method all parties involved can monitor the dispute resolution process and all agreements are based on the agreement of the parties to the dispute. (Wahyudi, 2021).
2. Mediation, using a mediator or third party intermediary is known as mediation. These mediators may represent countries, international organizations such as the UN, politicians, lawyers, or scientists. The mediator is actively involved in the mediation process. Typically, mediators use their position of authority as an impartial third party to help all parties reach a peaceful resolution of the conflict. (Wahyudi, 2021).
3. Conciliation is a more formal dispute resolution procedure carried out by a commission or third party formed voluntarily by the parties to the dispute. These commissions, also known as conciliation commissions, are also responsible for deciding the terms of the dispute resolution process but their decisions are not binding on either party. (Indien, 2017).

If peace cannot be achieved, international crimes must be punished through the legal system. Crimes related to global issues in general, including those in the ICC, will be punished. Therefore, the establishment of a permanent International Criminal Court is believed to be crucial in the future prosecution of international crimes. Article 125 paragraphs 2 and 3 of the Rome Statute, Article 126 paragraph 1, Article 4 paragraph 1, Article 4 paragraph 2, and Article 3 paragraphs all include provisions governing the International Criminal Court. The International Criminal Court was established under the 1998 Rome Statute, which aims to reassure victims of major international crimes that those responsible for these crimes cannot escape punishment (International Criminal Court, 1998).

This process is an example of the efforts made to resolve the conflict that occurred in Myanmar between the Myanmar government and the Rohingya Muslim ethnic group

(Rahmi, 2022). To resolve the conflict between the Myanmar government and the Rohingya Muslims, according to Article 33 of the UN Charter, it is best to use diplomacy first, if there is no solution, this can only be changed by legal means, namely the courts (UNITED NATIONS, 1945). The crimes committed by the Myanmar state against the Rohingya tribe are classified as genocide, because according to the definition of genocide in Article 6 of the Rome Statute, genocide is a crime aimed at eliminating a race, ethnicity and religion, either in whole or in part. Responding to the problem of the Rohingya Muslim tribe in Myanmar, the UN has strongly warned Myanmar of the need to immediately end the long-standing violence. However, this was not welcomed by the Myanmar government, and to date no efforts have been made to resolve the conflict. The conflict that occurred in Myanmar is considered an international crime of genocide, so efforts to resolve it can be carried out in various other ways. Apart from resolving disputes in international criminal law, also through processes outside the court such as mediation and negotiation. However, from the method of resolving international criminal disputes, the disputes that occur can be resolved through the International Criminal Court, even though what is in dispute is not the condition of the parties but each person who is subject to the jurisdiction of the International Criminal Court, namely the Criminal Court. The entire population of a country is subject to the jurisdiction of the ICC because first, the country has ratified the ICC Statute, second, because the country claims ICC jurisdiction on an ad hoc basis, and, third, the security of the UN. The Council referred this dispute to the International Criminal Court, so that this action can be tried through the International Criminal Court.

4. CONCLUSION

The Genocide Movement is a very cruel criminal act. Where several factors can cause this criminal act. Crimes committed against ethnic Muslims can be said to be an international crime of genocide, because it fulfills several basic elements, namely mass murder, discrimination from the majority religion against minority religions, carried out systematically, and aims to destroy a certain ethnicity and group, then from this it can be concluded that the crime is classified as a criminal act of genocide. In relation to resolving conflicts that occur, these conflicts can be resolved in court and outside court. If it is done outside of court, dispute resolution can be done by mediation and negotiation, but if it is done in court, which in this case is an international court, then the dispute can be handled by the International Criminal Court. Because all citizens are under the jurisdiction of the International Criminal Court.

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