

CIVIL AND POLITICAL RIGHTS WITH THE CASE STUDY MYANMAR MILITARY COUP

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Abstract

Civil and political rights are rights which inherent to all of people around the world, it cannot be taken by anyone including a state. These rights are protected on international agreement such as The Universal Declaration of Human Right in 1948, and International Covenant on Civil and Political Right 1966. The aims of this paper are to analyse civil and political right phenomenon in the world. Myanmar Military Coup started on February with the argument that President Election of Myanmar was not legitimate on other hand, Myanmar Society assumed that President Election of Myanmar was legitimate by the constitution. Along with it, the writer found that there was human right violence that violated during the Myanmar Military Coup. To aggrandize this paper, the writer is going to use concept of human right which explained about all of right that inherent which had by all of people, and international convention concept which clearly explained about right that be protected and can be violated. This research uses qualitative method which based on secondary data that collect from books, journals, article, news, and validity website that can help this paper.

Keywords: Civil and Political Rights; Myanmar Military Coup

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Introduction

In recent times Myanmar experienced a coup in its government by the military led by Min Aung Hlaing against the elected president of Myanmar Win Myint due to fraud in the presidential election. The military declared a state of emergency in Myanmar for one year. The incident began with the kidnapping of pro-democracy activists and also the kidnapping of state advisor Aung Sans Suu kyi (Putra, 2021). Due to this incident the people of Myanmar staged demonstrations in response to the coup action carried out by the military. Demonstrations were carried out by teachers, lawyers, students, students, bank employees and government employees. Almost all cities in Myanmar staged demonstrations to reject this coup action. Current Myanmar leader Min Aung Hlaing responded with threats to the demonstration community by taking "effective action" against those who took part in the demonstration and not returning to

work as usual. Prior to that, Min Aung Hlaing had called on government employees to return to work after they went on a national strike.

Protests carried out by the community since the day after the coup were met with water cannon shots from police cars. Not only that, rubber bullets to live bullets were used in response to this protest (Aid, 2021). The military also detained anyone who supported the anti-coup demonstrations. Many famous celebrities in Myanmar have been arrested for their support for the demonstrations. Currently the military is hunting down 100 celebrities who support this action. The coup that took place in Myanmar made the country hit by chaos and the violence perpetrated by the authorities further worsened the situation. Many victims fell where more than hundreds of people died and more than 2,500 people were arrested for opposing the coup (Ariyanti, 2021).

A. Theoretical Framework

The Writer is going to use two concepts to analyze this case, those are Human Right concept; Human rights are the rights that given to every human where instinctively expect deserved to be treated as a person, like the right to live freely, to speak your opinion, to be treated the same, the right to live where we are all born free, equal, and have the freedom of religion. According to experts, one of them, namely John Locke, human rights are rights that are owned by humans which are given directly by God as natural rights and have fundamental characteristics. For that reason, there isn't any power in this world that can uproot it from every individual. This right is given to all humans and is inherent in humans (Arifin, 2019).

This right is universal or applies for every individual because everyone in this world were born with this right and entitled to them. All people own the same rights, regardless any differences, their race, gender, ethnic, religion, etc. Also, this right cannot and never be taken away or given away. As a human being, despite we are entitled to our human rights, we also should respect and stand up for the human rights of others.

B. International Convention Concept;

According to Mochtar Kusumaatmadja (1982), International Convention are treaty that held between members of the community of nations and aims to make certain legal consequences. In 1948 the United Nations' new Human Rights Commission had captured the world's attention. Eleanor Roosevelt chaired the formulation process of the UDHR (Universal Declaration of Human Rights) draft. UDHR was adopted on 10 December 1948 by the 56 member nations of the UN General Assembly, and it was happened in the general assembly meeting in Paris. UDHR was the result of the experience of the World War II. Thus, it can be said that the emergence of the concept of human rights internationally in the west is a form of effort to address threats to human dignity that are generated by oppressive economic and political systems.

After the acceptance of the universal declaration in 1948, there was a need for the change of human rights which became a legally binding obligation. In order to adopt such a binding agreement which is carried out to protect human rights, one

agreement is deemed insufficient to cover problems that have different characteristics. Therefore, the UN general assembly asked to the UN Human Rights Commission in a session that took place in 1951, to build draft of a convention that discussing civil and political rights which would contain various articles stipulating that all people have the right to determine their own destiny. So that the division can be seen in 1966 where there was acceptance of two separate covenants, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic and Socio-Cultural Rights. These two covenants came into force after 35 countries ratified the two treaties in 1976. The delays that occurred were mostly caused by the cold war, when human rights were abused and politicized (ÇAMUR, 2017). In addition, the UN general assembly also ratified the optional protocol to the international covenant on civil and political rights, which was the same as passed on December 16, 1966. The aim of ratifying the ICCPR convention was to strengthen the principles of human rights in the civil and political fields as stated in the UDHR is, therefore a provision that will be legally binding and, in its translation, will cover other related issues (Adminlbh, 2013).

C. Literature Review

In article journal write by by (Mukarramah & Habaib, 2021) with tittle “The Governance Crisis in Myanmar: an International Law Perspective and International Society Response Towards Myanmar 2021 Coup D’ Etat” concluded that in international law perspective to the current phenomenon of Myanmar *coup d’etat* have proved that the government of Myanmar failure to protect the non-combatan as mandated in the Geneva Convention IV. Moreover, responses are expected coming into two form; global and regional community (ASEAN). Global community response is highly possible for the UNSC that holds the global community response to launch humanitarian intervention for stopping the human right violation and fulfil the humanitarian needs in such state. ASEAN as the regional community has the responsibility to safeguarding the human right and fulfilments in ASEAN countries through a collective measure by recalling the purposes and principles enshrined in the ASEAN charter, political stability to achieving a peaceful, stable and a prosperous ASEAN community that can only be succeed through a dialogue, reconciliation, and a stringent action by the ASEAN countries (Mukarramah & Habaib, 2021).

Comprehensively in Faustina Ivana, Euneke Dewi, and Fiki Rahmatiya’ journal with the Tittle “*Kudeta Myamar; Junta Militer Di Era Moderen*” explained that the effort of Myanmar to democratize their county as a democratic country is totally failed. This Journal explain the military coup in 1962 – 1988 which causing suffering to the people of Myanmar. Bad experience under government the military made the people of Myanmar fight for democracy through a series of processes democratization since 1990 until finally succeeded in having the first civilian government in 2015. The successful implementation of democracy since 2015 does not close the possibility of a military coup, as happened in February 2021 ago. Thus,

it can be concluded that efforts to apply the values of democracy is not easy (Ivana, 2021).

And continued with journal from Sita Hidriyah by the title “*Krisis Politik Myanmar dan Intervensi ASEAN*” This paper discusses about what kinds of intervention that ASEAN is able to do, as well as the international community, including the United Nations, in seeking a solution to the political crisis in Myanmar. In responding to the political crisis in Myanmar, ASEAN cannot leave of the principles enshrined in the ASEAN Charter. One of the most common principles stated is the principle of non-intervention. This means, it is not easy for ASEAN to intervene in overcoming the crisis in Myanmar. When ASEAN interventions are not effective, then alternative solutions to dealing with the Myanmar crisis could involve the international community who wider, including the United Nations. Through the United Nations, with powerful tools and authorities that owned, the world body can suppress the military junta regime if it deems uncooperative in resolving the crisis in Myanmar (Hidriyah, 2021).

And also explained by Rizki Roza with journal’s title “*Kudeta Militer Di Myanmar: Ujian bagi ASEAN*” that coup on February 1, 2021, was a step backwards for Myanmar's recent democratization efforts. The people of Myanmar protested and took to the streets, and the military responded by using force and various abuses of power. These developments have sparked criticism from some in the international community, and calls for ASEAN to play a greater role actively return to normal. This paper discusses the possible efforts of ASEAN. The coup at least reflected the military's unpreparedness to hand over power completely to a civilian government. So far, the coup led by General Min Aung Hlaing seems softer than ever before. The military also tends to be more open to the outside world. This is an opportunity that ASEAN can take advantage of to play a more active role, provided that ASEAN dares to be more flexible with the principle of non-intervention (Roza, 2021).

Method

This research uses qualitative research methods. Qualitative research is a method of exploring and understanding the meaning derived from social or humanitarian problems. This qualitative research process involves important efforts by collecting specific data from a wide range of references that can then be analysed by researchers (Cresswell, 2017).

This study uses qualitative methods to collect data and information regarding the coup that occurred in Myanmar. Because this is a recent phenomenon, the authors use qualitative methods to collect information and data about the Myanmar Military Coup. The data obtained will be obtained from news about the coup in Myanmar or reports about the situation that occurred in Myanmar as well as writings from several journals about the coup. The data and information obtained will be used as predictions of the

implications of the Myanmar coup on Civil and Political Rights. This Research looks from Human Right Convention especially in Civil and Political Rights.

Result and Discussion

A. Civil and political rights implemented in the state

In the International Covenant on Civil and Political Rights, almost every country has ratified this right. This covenant is very important for every country to have. The International Covenant on Civil and Political Rights contains important guarantees for the protection of civil and political rights. This covenant was adopted by the UN General Assembly on 16 December 1966. One of the countries that has ratified this right is Switzerland, which adopted the Convention on 18 June 1992. The ICCPR has two optional protocols: First Optional Protocol to the International Covenant on Individual Civil and Political Rights under the jurisdiction of states parties that claim that their rights and freedoms under the Covenant have been violated can submit written communications to the Human Rights Committee. The United Nations completed the optional protocol on December 16, 1966. It entered into force on March 23, 1976 (Right, Optional Protocol to the International Covenant on Civil and Political Rights, 1976). Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at the Abolition of the Death Penalty. The protocol obliges states parties to abolish the death penalty. The United Nations completed the protocol on 15 December 1989 and entered into force on 11 July 1991 (Right, Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition, 1989). Switzerland ratified the second optional protocol on 16 June 1994 and entered into force on 16 September 1994. Switzerland has not yet adopted the first optional protocol.

The manner in which this right is implemented varies from country to country. This right has two treaties (Pact I and II). Pact I concern rights which in principle contain the obligation of society to act towards individuals, such as: the right to work, to strike, to social security, right to family protection, the right to an adequate standard of living, health as much as possible or the right to education. Pact II contains what are called classical civil liberties, which protect individuals from restrictions imposed by the state. What will be mentioned is the right to life, the prohibition of torture, slavery and forced labour, the right to freedom, the obligation to treat detainees humanely and respectfully, guarantees of equality for all people in court, freedom of expression, the right to protection of private life, both the rights of minorities. the right of society to self-determination, the general prohibition of discrimination or the prohibition of discrimination against women is contained in these two treaties. Switzerland has only ratified the second pact.

Both pacts provide mandatory reporting experience for international controls over domestic law enforcement measures. Every four years, contract countries must submit a report in which they account for the steps taken to realize their respective rights and for the progress made, and also to indicate the difficulties that may arise

in implementing the pact. The UN agency responsible for examining reports (Pact I: Social Committee, Pact II: Human Rights Committee) adopts country-specific statements. The Pact II also provides for state complaints procedures - optional (recognized by Switzerland). In addition, the first optional protocol governs an individual complaint procedure in which individuals lodge complaints with the Human Rights Committee about violations of their rights. Switzerland has not yet ratified this Optional Protocol.

Switzerland submitted its first report on Pact II to the Human Rights Committee in February 1995. The Human Rights Committee concluded its first report on 8 November 1996. The second (periodic) country report on Pact II was submitted in September 1998. Updated from the Second State Report has been submitted. The Committee adopted its conclusions in its Second Report (updated) on 5 November 2001. On 12 October 2007, Switzerland submitted its third country report on Pact II to the Human Rights Committee. After the oral presentation of the report on 12 and 13 October 2009, the Human Rights Committee published its conclusions on 30 October 2009 (FDFA, Menschenrechtspakte der UNO, n.d.).

Any international instrument approved by Switzerland becomes directly a part of Swiss law and binds all bodies of the State, in accordance with the monist doctrine. Therefore, international commitments are implemented immediately without any special procedures necessary for international norms to be enforced under Swiss law. With the implementation of the ICCPR rights, Switzerland guarantees that every citizen of his country has the protection of physical integrity, the right to life, the prohibition of torture, the prohibition of genocide, the prohibition of discrimination on the basis of race, color, sex, language, religion, political position, fortune, origin, etc. Prohibition of slavery and forced labor, arbitrary detention, protection of the dignity of persons deprived of their liberty. Procedural rights, political rights, freedom of thought, religion, movement and freedom of association. The right to vote and stand for election, equal access to public office (FDFA, International Covenant on Civil and Political Rights, n.d.).

B. Myanmar Government Human Rights Violence on Political Rights During Myanmar Coup

In this case, the Myanmar government which is led by the military has committed many human rights violations, such as the information previously provided. Starting from violations of civil rights to politics and other rights. The violations that occurred were more about violations of civil rights and political rights committed by the military, where there were arrests of demonstrators and activists who voiced their opinions. The military has violated the political rights of its citizens by arresting demonstrators and prohibiting criticism or protest against policies and actions carried out by the military such as coups. The current government of Myanmar has also violated the right to life of its people by carrying out violence and shooting against demonstrators who opposed the coup. Freedom of opinion also cannot be achieved by Myanmar citizens because the military has

banned all activities or actions to protest and exercise the right to freedom of expression in any media. The arrest of demonstrators and activists also violates the right to justice (Boven, 2010).

The world condemns the actions carried out by Myanmar because what they have done violates human rights. Sanctions were also given to Myanmar's military leadership by several countries such as Britain, the United States, and several countries in Europe (Winahyu, 2021). Many Myanmar citizens fled to India to escape violence perpetrated by the Myanmar military (BBC, 2021). Previously, many international organizations criticized and urged countries in the world to impose sanctions on the Myanmar military. The sanctions provided are in the form of embargoes and sanctions against partners or companies that cooperate with the Myanmar military. The UN Council has sent a delegation to prevent further violence from occurring, and to ensure that the situation is resolved amicably. The military coup also violated several provisions in the 2008 constitution drafted by the Tatmadaw, such as attacking and injuring unarmed protesters. Military action is considered a terrorist act because of committing crimes such as shooting, beating and arresting protesters (Sembayang, 2021).

The Myanmar government has experienced many human rights violations and now it is happening again. As is the case with the Rohingya ethnic group where there have been many human rights violations in their actions. Now coups carried out by the military have also repeated violations of human rights (HRW, 2021). This coup violates human rights articles 3, article 5, article 10, and article 19 of the Universal Declaration of Human Rights. This is based on information and actions taken by the Myanmar military during the coup that was carried out.

Conclusion

In conclusion, In the UDHR, there are several rights that are classified as human rights and one of them is civil and political rights, which are the first rights to be recognized. Basically, these rights arise due to the desire for individual protection or freedom from all forms of violations or abuse of power. The second world war that gave rise to a modern view of human rights made individual rights as the centre where legally protected individuals rights, and this is the result of the adoption of the UDHR. Civil and political rights are strengthened by the emergence of a convention called the ICCPR which is important and can be guaranteed for every country. By looking at the conflict situation in Myanmar, we can say that it is violating the human rights, two of them are civil and political rights. In Myanmar there has been a political crisis that violates the democratic rights of Myanmar citizens which of course violates the civil and political rights of individuals in Myanmar. The treatment by the police and military in Myanmar that denied the pro-democracy masses are not in line with the values contained in the ICPR. Where the community who voiced their opinion or criticized them were immediately arrested. Moreover, in the worst case, there were also many victims who died because they were killed. In handling this case, the response of the United Nations

as an international organization and the response of other countries is very important in order to re-enforce human rights values in Myanmar. In its capacity, UN can address this violations by take a role in intervening constructively. However, all these things must be carried out firmly by the United Nations, especially the security council at the UN.

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