

Conference Paper

Protection of Rohingya Child Refugees within Local Wisdom "Peumulia Jamee" in Aceh

Rahmadi S. Pdi and Arthur Josias Simon Runturambi, M. Si

Faculty of Social and Political Sciences, Universitas Indonesia

Abstract

This research aims to describe and analyze Acehnese local wisdom in the protection of Rohingya refugee protection in Aceh, Indonesia. The people of Aceh have a local wisdom commonly referred as "Peumulia Jamee", which means a form of honor in Indonesian language. This normative research puts emphasis on the protection for Rohingya child refugees in shelter camps. The study collected primary, secondary, and tertiary data from literature review. Results of this research explain how the ancient local wisdom can provide protection for refugee children and help fulfill their basic human rights. Furthermore, this research will clarify whether there is any difference in rights fulfillment between refugee children and local children. This research analyzes whether the local wisdom is implemented only to protect and assist refugees in general or whether there is any special attention given to refugee children. As it is known that up to now Indonesia has not ratified refugee convention. Hence, all matters related with Rohingya refugees within Indonesian region is attributed to UNHCR responsibility. This is contrary to Convention of the Rights of the Child (CRC), which has been ratified by Indonesian Government. The Rights of children according to CRC falls into four categories. First is survival right, the basic right to survive and receive the best health care possible. Second is protection right, the right for children to be protected from discrimination, exploitation, violence and abandonment. Third is development right. Children should be able to obtain education and to achieve good living standard for their physical, mental, spiritual, moral and social development. Fourth is participating right, the right to express opinion in all matters affect them. This research answers whether "Peumulia Jamee" local wisdom that exists in Aceh is able to meet those rights fulfillment toward refugee children in accordance with CRC.

Keywords: Child Protection, Rohingya Refugees, Rights of the Children, Local Wisdom, Aceh

Received: 19 March 2018

Accepted: 27 July 2018

Published: 29 August 2018

Publishing services provided by
Knowledge E

© Rahmadi S. Pdi and Arthur Josias Simon Runturambi, M. Si. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the ICSPI 2016 Conference Committee.

OPEN ACCESS

1. Introduction

Everyone is entitled to all rights and freedoms. All human being has equal rights to live, to be free, to play, and to feel secure. Among those basic rights endowed by human being is to be determined as citizen of a state. To obtain citizenship is a fundamental right of human being as it is stipulated in Universal Declaration of Human Rights, Article 15, "Everyone has the right to a nationality". No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. Yet, not all people in the world get a chance get their rights fulfilled. Such is the case of Rohingya ethnic group expelled from their homeland, Myanmar.

Denied citizenship, Rohingya minority group fled Rakhine state in west Myanmar to neighboring countries such as Thailand, Malaysia and Australia to take refuge and to avoid criminal labeling. However, some countries refuse their presence and force them to return to Myanmar. Indonesia and Malaysia initially refused Rohingya entry boats that arrived. Indonesian Government provided them with water and provision for them to sail back to their motherland. However, feeling pity toward starving and diseased asylum-seeker entering Aceh seashore in boats, local fishermen gave help. The government of Indonesia, afterward, takes an alternative policy allowing the refugees to stay temporarily before the government deported them to the home country. Prior to the decision of Indonesian Government, local residents in Aceh had taken initiative to help the refugees. Aceh local groups send humanitarian aids such as clothing and food to refugee shelters, long before the government supplied the refugees' living needs.

Atik Krustiyati (2012) mentioned that refugee crisis is a universal problem related with human civilization. For particular reasons, an individual or a group of individuals has to leave their homeland to other region within his country or to a neighboring country. Since refugee is a matter of humanitarian issue, it should then be handled in accordance with humanitarian principles.

The 1951 United Nations' Refugees Convention defines refugee as someone owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country or his nationality and is unable, or owing such fear, is unwilling to avail himself of the protection of that county; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

Based on the definition above, a refugee is someone who does not have de jure nationality (stateless) due to his own fear of persecution and who is scared to return

to his country or whose country is unwilling to fulfill his rights. Refugees may face extreme situation in which the absence of citizenship resulted in persecution, or vice versa. Persecution is a condition in which state is involved in human rights abuse (Pickering, 2005).

1.1. Problem formulation

Since Indonesia has not ratified 1951 Refugees Convention nor 1967 Protocol, Indonesian Government do not have the authority to grant refugee status, commonly referred as Refugee Status Determination [RSD]. Hence, it is the duty of the United Nations High Commissioner for Refugees [UNHCR] in accordance with the mandate it received upon Statute UNHCR in 1950 to accommodate refugees, in this case is Rohingya. However, all country in the world, include in those which has not ratified the Convention, has compulsory to uphold refugee standard protection as a fundamental principle of international law. Since the convention has become *jus cogens*, no asylum seeker repatriation permitted to the region where his life or freedom is threatened (Krustiyati, 2012).

Meanwhile, Indonesia did not issue any specific regulation regarding to child refugees' protection [Human Rights Watch, 1995]. Two present regulations, Immigration Act as well as Act No. 23 by 2002 which was later converted into Act No. 35 by 2014 about child protection do not specifically pay attention to children of asylum seekers. Until now, Indonesia has yet to ratify UN's Refugees Convention; hence, refugees and asylum-seekers protection within Indonesian territory belongs to UNHCR's responsibility. In contrast, since Indonesia has ratified the Convention of the Rights of the Child [CRC], the fulfillment of children's rights within its territory becomes obligation of the state (Nani January, 2013). Children's rights according to the CRC are grouped into four categories:

- Survival Right is the right to preserve and maintain the life and to obtain the best health care possible.
- Protection Right is the right for children against discrimination, exploitation, violence and abandonment.
- Development Right is the right to acquire education and achieve living standard for their physical, mental, spiritual, moral and social development.
- Participation right is the right to participate and to express opinion in all matters that affect them.

The presence of local community with its existing wisdom and culture can give a slight change toward Rohingya refugees' protection, especially toward children so that they can play freely. However, children playing happily cannot ensure all aspects of children rights protected comprehensively. Rohingya child refugees are experiencing exclusion from countries. Without nationality, freedom and security makes them vulnerable in the future. Even they seem to be happy to play freely, Rohingya child refugees are actually face the limitation. With Rohingya adults in Indonesian shelter camps, the children only get temporary staying permit. They can only stay for short period with the help of local community to survive.

This research's aim is to find out whether local wisdom named "*Peumulia Jamee*" in the community affects the fulfillment of children rights at refugee camps in Indonesia. How does local wisdom "*Peumulia Jamee*" can support the human rights fulfillment of Rohingya child refugees? The study also seeks to find whether Indonesian Government needs to ratify the 1951 Refugees Convention and 1967 Protocol about the refugee's status. Knowledge found through this study is expected to provide an academic or practical base to support the creation of protection system toward refugee children in Indonesia.

This study uses qualitative approach to understand whether the Acehese wisdom motivates local community to help stranded Rohingya refugees, or if there is any other reason. The qualitative approach enables the exploration of necessary information in compiling scientific papers. This research is descriptive in nature with ultimate goal to describe whether local values can help stakeholder to provide protection toward children and women of ethnic Rohingya refugees in Aceh.

2. Literature Study

Aceh is an Indonesian province located on the end side of Sumatra Island. It is the western side province of Indonesia. The population of this province about 4.500.000 people. With 57.365,57 km², the territory is located at the northern end of Sumatra. Its capital is Banda Aceh. It is close to the Andaman and Nicobar Islands of India and separated from them by the Andaman Sea. While for the ocean area, Aceh conterminous with Banggala Gulf to in North, the Indian Ocean in the West, and Malacca Strait in the East. Because Aceh is directly adjacent to the sea from three sides, then it is reasonable that many refugees from other countries, who use sea lanes to reach its destination, end up stranded in land. This is what had happened to Rohingya refugees. They are now accommodated in some refugee camps in Aceh.

Aceh was known as a prosperous kingdom. The area consisted of several kingdoms, including Samudera Pasai Kingdom, which first embraced Islam brought from the Middle East as their religion. In this case, there are different opinions regarding to what time Islam came to Aceh. As quoted from Shadiqin (2009), a historian calls that Islam came to Aceh during the Caliphate of Uthman Ibn Affan. Aceh was the initial location where Islam started in Indonesia and spread to Malay Archipelago.

Aceh currently consists of 18 districts and 5 Cities. This province is home to 13 native ethnics. The ethnics include in Gayo, Gayo Lut, Gayo Lues, and several other ethnics that inhabited Aceh highlands. Aceh natives were generally farmers; most of them were coffee planters. Whereas in coastal areas live Suku Aceh, generally fishermen, and entrants such as ethnic Javanese, Minangkabau, Batak and other ethnics.

The majority of coastal Aceh communities work as fishermen. Aceh fishermen are famous for their toughness. They adore persistence of Admiral Cut Nyak Dhien, the first female hero who fought at sea against Netherlands colonial in the 15th century.

2.1. Rohingya

Rohingya is an ethnic, linguistic, and religious minority in north Rakhine State, Myanmar, adjacent to Bangladesh (Lewa, 2009). This Muslim Sunni community lives in the majority Buddhist country. There is some dispute as to whether the Rohingya are indigenous to the region or whether Rohingya descendants arrived in Rakhine State during British colonial (from 1842 until 1948).

In addition, in terms language and physical characteristics, ethnic Rohingya have no affinity with the inhabitants of Myanmar, but have proximity to Bengal, Indian, and Arabian. Since Myanmar's independence from the United Kingdom in 1948, Rohingya has become the target of government repression, which aim to control and corner this ethnic group (Omi, 2011; Berkeley, 2009). Since July 2012, the Myanmar Government does not include Rohingya into 135 "national races", hence the ethnic has no claim to Myanmar nationality.

2.2. Local wisdom

Local wisdom refers to local knowledge or local genius. It is a way of life based on clear reason and prudence. Local wisdom refers to a work of reason, deep feelings, habits, mannerisms, and recommendations for the glory of the people. Mastery over local wisdom will carry their souls to the more virtuous.

According to Rahyono (2009) local wisdom is intelligence owned by certain ethnic groups. It is knowledge commonly applied by a specific community through years of experiences but may be absent in others. Local values attached strongly to a particular society and passed on for generations throughout existence of the community.

Sibarani, R. (2012) in *Hakikat, Peran dan Metode Tradisi Lisan* (the Nature, Role and Methods of Oral Traditions) mentions that local wisdom is a society's original knowledge derived from cultural traditions to set people's living order. Local wisdom may refer to local values, which may be applicable to wisely set community's life.

Local wisdom is a cultural heritage product consistently implemented as a way of life. Local knowledge evolves together with the community and its environmental system. This evolutionary process goes together along with time and received by society as a potential energy.

Every community across the world has its own local wisdom. It is similar with Indonesia, in which society composed of many ethnics. Each tribe has its particular generated wisdom they use daily. Abidin Nurdin in his writing: *Revitalisasi Kearifan Lokal Aceh: Peran Budaya Dalam Menyelesaikan Konflik Masyarakat* (Revitalization of Aceh Local Wisdom: The Role of Culture in Solving Society Conflicts) (2013) citing Azwardi Azra (Kompas: 2002) states that:

"Local wisdom can be used as a sociocultural mechanisms valued in the tradition of Indonesian society. The tradition is believed to be and has been proven a powerful means of rallying fraternity and solidarity among society which has become customary and solid in social and cultural order."

In various aspects of social life, Acehnese use local wisdom as a life guidance. Aceh local wisdom is inherent in Islamic values because Aceh constitutes the highest percentage of Muslim in Indonesia. Aceh Special Region was the initial location where Islam started to spread in Indonesia. Up until now, most of Aceh people live under the guidance of Islamic rules (sharia). As it is implemented since the Kingdom of north Aceh be in command. Viscosity of Islamic values as it represented in local wisdom are clearly visible everyday lives of North Aceh community where one of the ethnic Rohingya refugee camps currently resides.

3. Discussion

3.1. History, development, perspective of local wisdom “Peumulia Jamee”, and theory

Atik Krustiyati (2012) mentioned that ethnic Rohingya is a native of Rakhine State, Myanmar. Rohingya is a small Muslim community who live in the middle of majority Buddhist in Myanmar. In addition, in terms of language used and facial shape, ethnic Rohingya have no affinity with the inhabitants of Myanmar. Instead of, Rohingya has proximate physical characteristics to Bengali, Indian, and Arabian people. These differences lead to Myanmar's military junta continuous oppression toward the minority. Problems occurred since the regime does not consider the least wanted ethnic as indigenous ethnic group of Myanmar.

Absence of military junta recognition and continuous oppression toward the Muslim ethnic caused thousands of Rohingya fleeing Rakhine State by boat in recent years. Indonesia initially was not a purposed nation of the runaway. Their main destinations are the neighboring country Malaysia and continent of Australia. However, as their boat adrift in the sea for weeks, the starving migrants could not help but to seek closer help. They arrived in Aceh territorial line. Since refugee waves keep coming, Indonesian government was finally forced to take an alternative policy allowing the refugees to temporarily stay at several camps in Aceh province.

Amirul Hadi (2008) citing W.S. Unger in his writing “De Oudste Reizen van de Zeeuwen Naar Oost-Indie 1598-1604 (’s-Gravenhage: Martinus Nijhoff, 1948) stated that on June, 24th 1599, Frederick de Houtman, a Netherlands adventurer, merchant, and seaman landed in Banda Aceh. The first arrival of the Netherlands to Aceh was warmly welcomed by Sultan Sayyid al-Mukammil (reigned 1589-1604). A variety of food and drinks served. In accordance with the tradition at that time, the guest went along Sultan down into the River to enjoy the meal. Al-Mukammil even presented the European guest a pair of custom clothing and kris. This example shows that the Kingdom of Aceh has implemented its local wisdom of honoring guests (Peumulia Jamee) since a long time ago. However, the question is whether Peumulia Jamee wisdom of glorifying guests is still attached to the people of Aceh now. Whether Acehnese are still glorifying such local wisdom toward foreign guests – the ethnic Rohingya refugees – particularly refugee children in accordance with the rights endowed.

3.2. Cultural conflict theory

Kemal Darmawan (1994) in his book "Teori Kriminologi 2" describes cultural conflict theory as a collection of theories that explain the role of culture among warring groups in a society that bring about conflict. Disobedience toward cultural rule leads to conflict. There are two kinds of cultural conflict, one of which appears out of contention of two different cultures. Secondly, the conflict arises due to emergence of a sub culture in certain culture.

3.3. Human rights theory

In the theory of indivisible rights – human rights are inherent to all human beings, whatever our nationality, place of residence, or ethnic origin is, and wherever we are. We are all equally entitled to all rights, include in freedom of thought, conscience and religion. Because human rights are universal, one does not need State recognition of his rights. Therefore, human rights are accepted as something naturally intact to human being, something people born with.

This research attempts to examine children protection in the context of local wisdom shown by people in the area where the refugees temporarily stay. In explaining this phenomenon, the authors use Constitutive Criminology Perspective discovered by Henry and Michalowski (1996). The writers utilize such perspective to study the relationship among ethnic Rohingya children who suffer repression in the form of legal product, exclusion, violence, and unmet fundamental rights.

Children as a subject close to social structure are vulnerable to losing their rights fulfilled. Structured violence by the Government of Myanmar against ethnic Rohingya ethnic causes their parents take them to find a better living outside their motherland. This uncertain condition might cause the children victim of human rights violation. On the other hand, due to existing condition, the receiver country with the help of local wisdom must strive to fulfill refugees' rights. Receiving state should also ensure to fulfill rights of ethnic Rohingya child refugees as they stay.

4. Conclusion

Spontaneous decision of the Aceh fisherman to help stranded Rohingya refugees without previously asking for the Indonesian government permission is a kind of a help for fellow human being. Then, through several bureaucratic processes undertaken, the

Government later decided to allow ethnic Rohingya refugees to temporary reside for a year under the supervision of government, NGOs, and Aceh people. The asylum seekers are placed in some Refugee Barracks in north and east Aceh.

Local wisdom "Jamee Peumulia" owned by Aceh community seemingly obvious survives as Acehnese voluntary serve the Rohingya child refugees for some times before the Indonesian Government sends them humanitarian aid. Hand in hand, The people of Aceh give those refugee help. They collected humanitarian aids in the form of food, clothing, and medicines toward the needs at refugee shelter.

Thus the authors conclude that local wisdom "Peumulia Jamee" is still survives from time to time along with the lives of Acehnese. In terms of refugee children protection, further research need to be conducted to obtain deeper understanding of whether Acehnese with local wisdom "Peumulia Jamee" is also capable of give protection toward child refugees. Because so far, only protection toward refugees in general can the authors observe.

References

- [1] Abidin, Nurdin. (2013). *Revitalisasi Kearifan Lokal di Aceh: Peran Budaya Dalam Menyelesaikan Konflik Masyarakat*.
- [2] Berkeley, B. (2009). *Stateless People, Violent States*. *World Policy Journal*, 26, 3-15.
- [3] Darmawan, Kemal. M. (1994). *Teori Kriminologi*, 2. Universitas Terbuka.
- [4] Hadi, Amirul. (2008). *Menguak Beberapa Dimensi Budaya Aceh*.
- [5] Januari, N. (2013). *Peran United Nation High of Commisioner for Refugess (UNHCR) dalam Menangani Pengungsi Rohingya di 2009-2010*.
- [6] Krustiyati, A. (2009). *Aspek Hukum Internasional Penyelesaian Pengungsi Timor Leste*. Post Graduate Thesis. Surabaya: Universitas 17 Agustus 1945.
- [7] Krustiyati, A. (2012). *Kebijakan Penanganan Pengungsi di Indonesia: Kajian dari Konvensi Pengungsi Tahun 1951 dan Protokol 1967*.
- [8] Rahyono, F.X. (2009). *Kearifan Budaya dalam Kata*. Jakarta: Wedatama Widya Sastra.
- [9] Sibarani, R. (2012). *Kearifan Lokal: Hakikat, Peran dan Metode Tradisi Lisan*. Jakarta: Asosiasi Tradisi Lisan.