

**IOM ROLE IN MANAGING VIETNAM REFUGEES IN INDONESIA UNDER UNHCR
(1975-1996)**

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Abstract

As the result of Vietnam Civil war in 1975, many people killed. Most of those who survive from the war tried to flee from the country into other neighboring countries to look for protection and asylum. However, not all of asylum seeker could get what they want. Most of them became refugees and were not accepted by receiving countries due to some reasons. Indonesia as one of neighboring countries of Vietnam also became the destination of Vietnam refugees. Dealing with the problem, UNHCR as the official international organization under United Nations takes a big contribution. However, UNHCR could not play as the only actor. IOM also emerged as another actor that deals with refugees problem in Indonesia although it does not have direct mandate from United Nations in playing its function. Thus, the participation of IOM in dealing with Vietnamese refugees in Indonesia is questioned.

This study will provide an analysis of the reason behind UNHCR need another actor to deal with refugee crisis since IOM also has a big contribution and role toward every refugee issue in Indonesia by using role theory and international cooperation concept.

Keywords:

UNHCR, IOM, Vietnamese refugee, international cooperation, 1979 protocol of refugee, UNHCR convention on refugees

Introduction

International Organization for Migration (IOM) is one of intergovernmental organizations that focuses on the field of migration. It works with government, international governments & even non-government actors. It was established in 1951 aiming at promoting humanity and also the management of migration by providing services & advices to governments & migrants, also promoting international cooperation on migrant issues through law of international migration, policy, including debate and guidance, protection of migrant right, and also migrant health (International Organization for Migration).

In handling refugees problem, there is also UNHCR (United Nation High Commissioner for Refugees), one of the programs of United Nations that also aims at the same objectives as IOM. UNHCR was created a year earlier in 1950, and it has a direct mandate from United Nations to protect and support refugees at the request of a government or the UN itself and assists in their voluntary repatriation, local integration or resettlement to a third country (UNHCR – History of UNHCR) .

However, the fear of single institution becoming too powerful, put in context with the ‘communist influence’, influence the widespread support for the creation of another International Organization, as advocated by the USA and UK. IOM itself was established as a Western counterpoise to the UN organizations and it was initially intended to only exist temporarily. Logically, the IOM was founded outside the UN system and has never been provided with a UN mandate until today. It makes bias between IOM’s involvement while there has been UNHCR.

One of the cases that handled by both UNHCR and IOM is the case of Vietnamese refugees in Indonesia. Starting from 1975, Vietnam Civil War had already lasted for a long time and in the end, it always caused of misery (Akbar, 2013). That war resulted many innocent civilians killed and became the victims. Those who could survive from the war started to leave their countries to look for a safe place to live. However, not all of them could be guaranteed by the receiving countries. Most of them finally became refugees.

In that time, refugees including asylum seekers were the problem for every nation. The number of refugees arose because their desire to search for a better life in every aspect of life including economic, political, and also security.

As a country with strategic position in the world and is also one of the neighboring countries of Vietnam, Indonesia becomes one of the destinations or transit country for refugees or asylum seekers. Facing this condition, Indonesia can not avoid the attention of the International community in the process of finding the problem resolution.

When Vietnamese refugees started to flee to South-East Asia countries, there was no single country in South-East Asia had ratified the 1951 Refugee Convention and the 1967 Protocol including Indonesia. Also, there was no South-East Asian countries that had applied a domestic legal framework for receiving refugees. (Missbach, 2013)

Meanwhile the resettlement of about 200,000 Vietnamese refugees to the third countries which consist of developed countries like the United States of America, France, and also Australia, between 1975 and March 1979, in fact the countries of South-East Asia also took a part in dealing with the problem by taking care of refugees in various camps. Then, due to the increasing number of Vietnamese refugees spreading, the South-East Asian countries

started to apply the community's principle of burden sharing and assistance in dealing with the spread of the refugee.

After being participated in some meetings conducted among South-East Asian transit states and Western resettlement countries during the first half of 1979, the governments of Indonesia and the Philippines started to contribute in dealing with Vietnamese refugee problem. Action taken by them is providing a place for regional processing centers for refugees who had already been accepted for resettlement in a certain island. Indonesian government chose an island in Riau Archipelago province called Galang Island as the place for the establishment of regional processing center for refugees, also as the temporary home for up to 10,000 refugees at a time (Missbach, 2013).

From the very beginning, the Indonesian government emphasized

“that it would not receive refugees in its territory, but for the sake of humanitarianism it was forced to accept them during transit while they were waiting to move on to a third country, as well as actively providing thoughts and concrete support to find a solution for this problem.” (Department of Information of the Republic of Indonesia, 1980, p. 1)

Also the decision taken from the government from Indonesia was influenced by the result from the meeting conducted by ASEAN Foreign Ministers on May 1979, which stipulated that *“countries providing the site or island for the processing center shall retain the sovereignty, administrative control and security responsibility over the island”* (Department of Foreign Affairs of the Republic of Indonesia 1979, p5). It means that the budget needed by Indonesian government in establishing and running the camp in Galang island would be the responsibility of UNHCR, including the providing basic needs like of food, education center, and also health care.

From 1979 – 1996, Indonesia did not have any formal rights in accepting asylum seekers and refugees in its territory. Instead, under the monitoring of United Nations High Commissioner for Refugees (UNHCR) of International Organization for Migration (IOM), Indonesia only ‘tolerates’ their presence in the country. Highlighting the differences regarding the management of these two distinctive groups of asylum seekers helps to grasp the full scope of ‘stuckedness’ and also helps to understand the varied impacts of obstructed mobility on asylum seekers looking for permanent and effective protection (Missbach, *Assets of Commodities? Comparing of Regulations of Placements and Protection of Migrant Workers in Indonesia and the Philippine* , 2013).

In the early years of joint action (1979-1980), the UNHCR tried to reach an average level of resettlement to third countries of about 25,000 people per month across all South-East Asian camps (UN, 1979). Between July 1979 and July 1982, about 623,800 Indochinese refugees were resettled to a total of 20 resettlement countries. However, the only role conducted by UNHCR did not cover all things needed to solve the problem. While UNHCR prepared for resettlement to third countries, under the Memorandum of Understanding (MoU) between those organizations, it needs IOM in providing logistics. (Missbach, 2013)

Seeing the main role of UNHCR in handling refugees problem, Vietnamese refugees in Indonesia are supposed to be UNHCR responsibility. However, it was questioned when IOM as International Organization that did not have direct mandates from United Nations but it played a bigger role in dealing with the problem. This paper will analyze the reason of IOM involvement in managing Vietnamese refugee in Indonesia under UNHCR by using role theory and international cooperation concept.

Role Theory

Roles are considered as the social positions which are constructed by someone's ego and alter expectations toward his / her purpose of in a certain organized group (Harnisch S. , 2010). The function of certain position in a group itself has limitation. It depends on the limitation of the time and scope, also the structure and purpose of the group. Whereas some roles are constitutive to the group as such, recognized member of the international community, other roles or role sets are functionally specific like balancer, initiator etc (Missbach, Waiting on the Islands of 'Stuckedness'.Managing Asylum Seekers in Island Detention Camps in Indonesia: From the Late 1970s to the Early 2000s, 2013).

Role expectations for the actors who are involved in a certain cooperation, like international organizations or even states, may vary considerably. On the one part, they regularly comprise of ego, like domestic and/or individual expectations as to what the appropriate role is and what it implies, and alter expectations, that is implicit or explicit demands by others (counter or complimentary roles, audience cues). On the other hand, role expectations differ with regard to their scope, specificity, communality and thus their obligation. Hence, roles, and even more so role sets, entail a potential for conflict within a role and between roles. (Harnisch S. , 2010)

Role conceptions refer to the perception of certain actor toward his position (ego part of a role) and the perception of the role expectations of others (alter part of a role) as signaled through language and action. In short, role conceptions are including social identity of an actor and the actions and perceptions of others that already explained by Wendt. Role conceptions are inherently contested because roles and their enactment are closely related to the roles of other actors (counter and complementary roles). This "structural environment of

roles” may put severe limits on the behavior (social choice) and properties (social status) and even the very existence of others (Harnisch S. , 2010).

Also in his Mohtar Mas’oed book entitled "International Relations Studies" explains that role is the expected behavior that will be conducted by a person who occupies a position in accordance with the nature of the position. Mohtar Maso'ed also stated that the role is an organization. In general, the role can be said to be partial execution of certain functions by organization and expectations surrounding environment to the existence of the organization. (Mas'oed, 1994)

In relating the role theory to the involvement of IOM in managing Vietnamese refugees, it could be analyzed that the roles of IOM is to be responsible in migrant problem and take part in solving this problem.

International Cooperation Concept

In international relations, according to R.Axelrod and Keohane R.O in their books “*On six advances in cooperation theory, in: Analyse & Kritik*” & “*Achieving cooperation under anarchy : strategies and institutions, in: World Politics*”, the standard definition is that cooperation occurs when “*actors adjust their behavior to the actual or anticipated preferences of others*”. Therefore, international cooperation describes interactions to achieve common objectives when actors’ preferences are neither identical (harmony) nor irreconcilable (conflict). The framework of international cooperation also refers to the structures and processes of policymaking beyond the nation-state and is used synonymously with global governance. (Paulo, 2014)

Relating to the case of Vietnamese refugee in Indonesia, the concept of international cooperation occurs when Indonesia allowed UNHCR and IOM to solve the problem inside its state by working together with them. In this case, international cooperation could be seen as the importance of integrating the broader framework of international cooperation and global collective action into the effort of realizing a broadening agenda of global development.

International cooperation was also done by UNHCR when the aim of UNHCR as international organization to solve the problem of Vietnamese refugee could not be achieved yet, so that, there should be the involvement of other actor that could help UNHCR in achieving its' goal. As a consequence, IOM's involvement is conducted as international cooperation between International Organizations.

ANALYSIS THE ROLE OF IOM IN MANAGING VIETNAM REFUGEE IN INDONESIA UNDER UNHCR

The non-signatory of UNHCR 1951 convention and 1967 protocol by Indonesia

As an international organization which was created to deal with refugee problem, United Nations High Commissioner for Refugee (UNHCR) has a role to protect the refugees' right and welfare. UNHCR's role also has to grant all of refugee can use their right in aim to gain the asylum. However, in dealing with refugees problem in certain state, UNHCR needs its permission from the host-country. As the member of UNHCR, states need to sign the 1951 Convention and 1967 Protocol about the status and rights of refugees based on its instrument. The United Nation Convention 1951 and protocol 1967 which is related to the status of refugee has created a perspective for a signatory country

to provide protection to refugee at risk of persecution in their own countries capacity. The Convention defines as a refugee a person:

(who) owing to (a) 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 of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country (Millbank).

The Convention also contains several numbers of fundamental principles, mainly on non-discrimination, non-penalization and non-refoulement principles. The first provision of this convention is about non-discrimination which is applied to avoid discrimination based to race, religion or country of origin of the refugees. Developments in international human rights law also reinforce the principle about discrimination of sex, age, disability, sexuality, or other prohibited grounds of discrimination.

While the second principle of the convention explains about the specific exception of a subject which means refugees should not be penalized for their illegal entry or stay. It means that recognition of asylum seeker can require refugees to breach immigration rules. The prohibited penalties might include being charged with immigration or criminal offences relating to the seeking of asylum, or being arbitrarily detained purely on the basis of asylum seeker.

The last and most important principle of the convention is the some protections against the expulsion of refugees. Non-refoulement principle is very basic principle that no objections or derogations of its' existence. It explains that no one shall expel or return ("refouler") a refugee against his or her will, in any manner, to a territory where he or she

fears threats to life or freedom. Also, the convention settles the minimum requirements in handling refugee, without an exception for a state to give them a better treatment. This right included the access to the courts, primary education, work, and provision for documentation, including refugee travel document in passport form. (UNHCR, 2010)

However, non-refoulement principle only be applied in terms of mass displacement caused by conflict. Non-refoulement principle prohibits the act of one nations to return or sent back the refugee to the place where they will face persecution, threat, violence, or any kind of act which can put them in dangerous condition based on reason which is related with race, religion, nations, or political beliefs.

Seeing the obligations that will directly come into the signatory of UNHCR protocol, Indonesia prefers to be the non-signatory country. From the fundamental right that must adopted by signatories countries, it is really contradictive with the condition of Indonesia nowadays. From several fundamental rights explained before, about the right to avoid punishment and could not be sent back to the origin country somehow could burden Indonesia.

Beside that, the implementation of UNHCR convention is also not fit with the condition of Indonesia. The 1951 Convention contains a number of rights and also highlights the obligations of refugees towards their host countries which could not be fulfilled by Indonesia. The rights contain (UNHCR, 2010)

However, although Indonesia has not signed the convention, international conference in 1979 conducted by United Nations resulted several ASEAN countries including Indonesia to be temporary destination for the refugee and “tolerate” UNHCR in doing its job in their territories (ISIL Year Book of International Humanitarian and

Refugee Law). UNHCR is operating in Indonesia with the agreement of the Government of the Republic of Indonesia. The Indonesian Immigration Directorate General issued a Directive in 2010 (No: IMI-1489.UM.08.05) which states that persons seeking asylum or refugee status are to be referred to UNHCR for RSD and that “the status and presence of aliens holding Attestation Letters or identification cards issued by UNHCR as asylum seekers, refugees or persons of concern to UNHCR, must be respected”. Persons without those documents will be subject to detention, fines, and/or deportation (Legal Framework and Role of UNHCR to RSD, 2015).

Since Indonesia has not signed the protocol based on several reasons explained above, it made the limitation of UNHCR in doing its role in Indonesia. UNHCR could not play its main role to grant refugees right and welfare which makes UNHCR needs other actor to help them in achieving their common objectives toward refugee. UNHCR will provide for one of three possible durable solutions including resettlement to a third country, voluntary repatriation and also local integration. However, local integration is not available as an option in Indonesia because the Indonesian government does not authorize recognized refugees to stay living in the country (Legal Framework and Role of UNHCR to RSD, 2015).

As Indonesia is not a signatory to the 1951 Refugee Convention, the government has allowed two international institutions to deal with asylum seekers (Legal Framework and Role of UNHCR to RSD, 2015) :

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) oversees refugee status determination, resettlement, and repatriation.

2. The International Organization for Migration (IOM) is responsible for day-to-day assistance, including providing food, accommodation, and healthcare; asylum seekers and refugees remain IOM's responsibility until they are resettled in a third country or voluntarily return home.

Limitation capacity of UNHCR

United Nations High Commissioner for Refugee (UNHCR) role in managing Vietnamese refugee in Indonesia focused on the effort to find the third country as the permanent place for the refugee. However, since the number of refugees in Indonesia always increased, it made the limitation of UNHCR capacity to deal with it. Huge number of the refugee is not balance with the number of resettlement place. Low resettlement places leads to significant waiting periods. The lack of information and assistance available to asylum seekers and refugees to support themselves and their families leads to frustration and desperation of concern for many people (Legal Framework and Role of UNHCR to RSD, 2015).

While UNHCR was busy to find the third countries for the refugee, the waiting periods became longer and the number of refugee became increased. It made the refugees need more access to daily needs. Since the government of Indonesia did not provide the refugees right to seek for job, they could only rely on what UNHCR gave to them which made there were no means for them to take care of themselves and their families whilst transiting in Indonesia or waiting for resettlement. On May 2015, UNHCR reported that refugees who are still in the detention center had reached 4.589 persons, and among them, there were 696 individuals had reported themselves to immigration authorities.

Even for asylum seekers and refugees who do receive support, financial payments from UNHCR are Reported to be minimal.

At that time refugees could only access services of the International Organization for Migration (IOM) through referrals from Immigration Officials, the which leads to many vulnerable people slipping though the gaps (Legal Framework and Role of UNHCR to RSD, 2015). This is the role of IOM in helping UNHCR to deal with Vietnamese refugees in Indonesia. IOM gave the access to health care, education and work rights results in refugees and asylum seekers being extremely vulnerable to medical emergencies and livelihood.

Comparison of IOM and UNHCR Role

The IOM is an intergovernmental organization that is not based on an international convention. It offers 'migration management services' to governments in a wide range of areas, including labor migration and refugee resettlement programs. Having been established in 1951 by a group of 16 states, by 2013 its membership had grown to 151 states. (Koch, 2013)

The IOM is heavily dependent on project-based funding. While the organization has over the course of the past 20 years experienced a continuous growth in terms of both member states and budget, the percentage of its budget that is funded through member states' regular contributions is decreasing as the organization's overall budget is growing. (IOM, 2000, 2011)

While the basis of UNHCR's mandate, the 1951 Refugee Convention and its 1967 Protocol, has remained unchanged, the work of the agency has, nonetheless, undergone important changes. (Koch, 2013)

Based on the memorandum of understanding between UNHCR and IOM the specific cooperation and their organizational mandates and responsibilities in relation to various groups between both of them classified as (UNHCR, Memorandum of Understanding between the UNHCR and IOM, 1997) :

As indicated by the Statute of its Office and General Assembly resolutions, UNHCR assigned to actualize international protection and humanitarian assistance mainly in terms of refugees to gain long term solutions toward their problems.

General Assembly and international community urge, UNHCR competence involve by protecting all people outside their nations who is in fear, persecution, conflict, mass violence, aggression, or other condition which affected public condition that make them needs international protection.

Field of migration which has been the focus of UNHCR come from recognition of there may be a relationship between forced displacement and many migratory movements.

Mandates to insure the process of migration and organize the resettlement of refugee was given to IOM from its member states. The process included inter alia, pre-screening, counseling, documentation, medical treatment, training, transportation, also reception and integration.

Relating to its constitution, IOM adapt the principle of humane and orderly migration benefits migrants and society. which means IOM acts in assist the process of achieving operational challenges of migration, to involve the knowledge of migration issues, and also to push the social economic development and to works effectively based on human dignity and migrants prosperity.

In doing its job, IOM and UNHCR have their respective functions. UNHCR is entitled to determine the status of person as refugees or not, while IOM does not have right to do so. The second difference is UNHCR is parties that look for the third countries as permanent place for the refugee while IOM provide Voluntary Repatriation to the refugee.

Conclusion

In conclusion, based on the analysis using role theory and international cooperation, the reason of IOM's involvement in managing Vietnamese refugees in Indonesia could be seen from reasons such as the non-signatory of UNHCR 1951 Convention and 1967 protocol by Indonesia that made Indonesia did not have full responsibility in receiving the refugees. Also, the limitation of capacity of UNHCR which only focused on finding third country for resettlement made IOM took a role in providing basic needs of the refugees in the second country. While in comparing the IOM and UNHCR, it was explained in the MoU between both organizations that each organization has its own field and mandates from different sources.

References

Axelrod, R. (n.d.). *On six advances in cooperation theory in : Analyse & Kritik.*

Cease-fire goes into effect ; accessed December 1st 2016 from :

<http://www.history.com/this-day-in-history/cease-fire-goes-into-effect>

Elie, J. (2010). *Global Governance* 16.

Galang Refugee Camp 1975 - 1996 Riau Archipelago, Indonesia ; accessed December 1st 2016

from : <http://www.refugeecamps.net/GalangCamp.html>

Geiger, M., & Antoine, P. (2013). *International Migrations and the Politics of Migration. Ethic and Migration Studies.*

Grant, B. (1979). *The boat people : An Age Investigation.* Harmondsworth & Middlesex: Penguin books ltd.

Handbook for emergencies. (2007). UNHCR.

Harnisch, S. (2010). *ROLE THEORY: OPERATIONALIZATION OF KEY CONCEPTS.*

History of International Organization for Migration ; accessed November 18th 2016 from :

<http://www.iom.int/iom-history>

Holborn, L. (1975). *Refugees: A Problem of Our Time: The Work of the United Nations High Commissioner for Refugees, 1951–1972, vol. 1.* Metuchen, NJ: Scarecrow Press.

Indonesia, D. o. (1980). *Pulau Galang, pusat pemrosesan pengungsi.* Jakarta.

International Organization for Migration official website ; accessed November 18th 2016 from :

<http://www.iom.int>

IOM. (2000, 2011). *Financial Report for the Year ended December.*

Joint Communiqué Issued at the Twelfth ASEAN Ministerial Meeting, Bali, Indonesia, 28–30 June 1979', in Thai Ministry of Foreign Affairs, *Documents on the Kampuchean Problem: 1979–1985*, Bangkok, 1985, p. 78.

Kisah Pilu 250.000 Pengungsi Vietnam di Batam ; Accessed from November 29th 2016 :

http://www.kompasiana.com/akbarzainudin/kisah-pilu-250-000-pengungsi-vietnam-di-batam_55294601f17e6177578b45a1

Koch, A. (2013). *The Politics and Discourse of Migrant Return: The Role of UNHCR and IOM in the Governance of Return. Journal of Ethnic and Migration Studies.*

Legal Framework and Role of UNHCR to RSD ; accessed November 26th 2016 from:
<https://suaka.or.id/2015/07/09/legal-framework-and-role-of-unhcr-to-rsd/>

Mas'oeed, M. (1994). *Ilmu Hubungan Internasional* . LP3ES.

Memorandum of Understanding between the UNHCR & IOM. (1997). UN high commissioner for refugees.

Missbach, A. (2013). Waiting on the Islands of 'Stuckedness'. Managing Asylum Seekers in Island Detention Camps in Indonesia: From the Late 1970s to the Early 2000s.

Missbach, A. (2013). Waiting on the islands of 'stuckedness' : managing asylum seekers in island detention camps in Indonesia ; from the late 1970s to the early 2000.

Paulo, S. (2014). International cooperation and development : a coceptual overview. 3.

Refugees, U. H. (1997 , May 15). *Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration* . Retrieved November 2016

Resolution Of The Problem Of Boat People: The Case For A Global Initiative ; accessed October 24th 2016 from :
<http://www.worldlii.org/int/journals/ISILYBIHRL/2001/8.html>

Robinson, W. (1998). *Terms of refuge : The indochinese exodus & International response*. London & Newyork: Zed books ltd.

Sultoni, Y., Widagdo, S., & Suryokumoro, H. (2013). The Reason of Indonesia not Ratified Refugee Convention 1951 and Legal Protection For Refugees in Indonesia.

Supporting System of Refugee and Asylum Seekers in Indonesia ; accessed October 24th 2016 from : <https://suaka.or.id/2015/07/09/supporting-system-of-refugee-and-asylum-seekers-in-indonesia/>

The history of United Nations High Commissioner for Refugee ; accessed October 26th 2016 from : <http://www.unhcr.org/history-of-unhcr.html>

The Problem with the 1951 Refugee Convention ; accessed November 30th 2016 from :
http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0001/01RP05

UN General Assembly, "Statute of the Office of the United Nations High Commissioner for Refugees," UN Doc. A/RES/428(V) (1950)

UNHCR. (1997). *Memorandum of Understanding between the United Nations High Commissioner for Refugees and the International Organization for Migration*.

UNHCR. (1997). *Memorandum of Understanding between the UNHCR and IOM*. United Nation High Commisioner for Refugee.

UNHCR. (2000). *The State of the World's Refugees*.

(2000). *The State of the World's refugee : Fifty Years of Humanitarian Actions*. In UNHCR, *The State of the World's refugee 2000 - Chapter 4* (pp. 83-86).

UNHCR. (2010). *Convention and Protocol relating to status of refugees*.

(n.d.). *Use with United States: Civil War to Today*.

Wagiman. (2012). *Hukum Pengungsi Internasional*. jakarta: sinar grafika.

Walbert, D. (2010). *The Vietnam War: A timeline*.

Weatherbee, D. E. (2009). *International Realations In Southeast Asia : The Struggle for Economy*. New York : Rowman & Littlefield publishers.Inc.