

CHAPTER V

CONCLUSION, LIMITATION AND RECOMMENDATION

A. CONCLUSION

1. Rohingya refugee and Vietnamese refugee share the same status under international law

The Vietnamese and Rohingya refugee share the common status under the international law particularly the International 1951 Convention relating to the Status of Refugee. As both refugees were suffering prosecution for their particular ethnic. Both of the refugee groups were taken care by UNHCR and registered under it. Both Vietnamese and Rohingya refugees fulfill the elements required by the Refugee Convention for them to be considered as refugees. The elements are outside the country of nationality, well-founded fear, persecution, convention's ground and state protection.

2. The treatment to Rohingya refugees were different compared to Vietnamese refugees in Indonesia caused by several factors

There were few reasons why the treatment to Rohingya refugees was different from what Vietnamese refugees received. First, as the embodiment of Indonesia's foreign policy as an independent and active state. The refugee problem can not be separated from the world political constellation which was overcome by the cold war.

War for hegemony between the communist and capitalist-liberal (East and West) is heated up and burned in Vietnam that ultimately lead to humanitarian issues in Southeast Asia. As one of the countries in the region, Indonesia freely and actively working to bring about peace and solve the problem of Vietnamese refugees, based on a sense of humanity. This active participation was without sacrificing the internal stability and security issues.

Secondly, to prove to the world that Indonesia concerned with human rights issues. Indonesia, which has the political prisoners exiled to Buru Island was accused for the of human rights violation. Indonesia's step to accommodate refugees on Galang Island Vietnam was an attempt to erase the negative image of post GESTAPU (Movement September Thirty). Indonesia holds the Vietnamese refugees, rejected by Malaysia or expelled by Thailand regardless of their background, whether they are people who have lived under the communist regime or not. In fact, in the era of New Order Indonesia is a country that is well known and being reactive to anti-communist. Indonesia's active role in accommodating and caring for refugees has more or less succeeded in reversing this negative image into a positive.

The succeed in the resettlement and repatriation program of Vietnamese refugees were in debt to UNHCR and third countries whom accepted the refugee to resettle in their country also the fund to build the refugee camp in Galang Island.

Indonesian in taking care of the refugee has given them the basic rights set forth in the refugee convention. The rights are those most basic human rights set in the universal declaration of human rights. Although the treatment to Rohingya refugees were different, but Indonesia government fully obligate the principles and norm of the international law such as principle of non-refoulement. Even when Indonesia is not a party to the international convention, it doesn't relieve the fact that a state must not defy the international customary law (Jus Cogens). Also Indonesia show what it meant for law serve as a protection to all law subjects.

3. The possibility to implement solutions of Vietnamese refugee to Rohingya's case

The possibility to implement the solutions of Vietnamese refugee to Rohingya's case is relevant to the political condition of Myanmar and also the support from other states and UNHCR. As for Indonesian it is better to relieve itself from any unnecessary burden whether economically or politically.

B. LIMITATION

Researchers realized that the thesis is far from perfect and very likely a mistake in this thesis, because of below limitations;

1. The depth of knowledge that the author had in discussing this thesis;
2. Time constraints, among others in collecting data;

3. Limitations to find literature related to the title of this study; and
4. Author only research through literature and report rather than conduct field study to see the actual condition of the refugee in Aceh, which may cause difference in information to the actual fact and condition.

C. RECOMMENDATION

There also some recommendation which author would like to suggest as follows:

1. To the Indonesia government, author suggests for Indonesia to ratify the refugee convention as soon as possible also cooperate strongly with UNHCR in providing assistance to the refugees. Although Indonesia government can also implement and adopt the regulation and principle of the 1951 Convention, but Indonesian government does not have the legal obligation to obey and follow the principles, only mere moral obligation as part of the United Nation. There will be no any consequence or whatsoever against Indonesia government if Indonesia violates any principles or customary law regarding the refugee protection. Thus such ratification is necessary so that there are legal consequence for Indonesia violation to the refugee rights;
2. To UNHCR, to able provide stronger support and better program for any option of resettlement, repatriation, integration or even assimilation for the Rohingya refugee just like what Vietnamese

received in the Orderly Departure Program (ODP), although there are already effort given by the UNHCR to find third country to resettle the refugee, but the progress is going slow. UNHCR need to make efforts and international conference if necessary to boost the progress; and

3. To Myanmar government, must immediately take action against the Rohingya refugee crisis and put an end to the discrimination of the refugees. The Myanmar government must immediately give the Rohingya their citizenship and civil rights, as part of the nation. Also to eliminate all discrimination campaign against the Rohingya.