

THE UNCHR'S ROLE IN SOLVING OF VIETNAMESE BOAT PEOPLE PROBLEM IN HONGKONG

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Key Concepts: Static Context Advertisements, Celebrity Product,
Cross-Cultural Investigations, Globalization, Hypothesis

After the fall of the Saigon on April 30, 1975, hundreds of thousands of Vietnamese boat people have started to flee the Vietnam. This problem continued up to a period of quarter century. The exodus of Vietnamese boat people is considered to be *one of the most protracted refugees problems in history* (Loescher 2001, 259), to extent that from 1975 to 1997, over one million Vietnamese left Vietnam for neighbouring countries. Of these refugees, many had helped the Americans during their war with Vietnam and faced persecution in their absence-they felt they had little option but to migrate. In many instances, the British colony of Hong Kong was their favoured destination, and after Margaret Thatcher the then Prime Minister of England announced *Hong Kong as the first port of asylum* (Lawrence 1990, 12-14). It appeared something of an *open door policy* (Lawrence 1990, 12-14) in the minds of the fleeing boat people. This began to result in the small colony of Hong Kong seemingly overrun, amidst a growing native hostility. Hong Kong received its first wave of Vietnamese boat people on May 4, 1975. A group of 3,743 strong refugees were found arriving on board the Danish freighter Clara Maersk and were accepted as refugees. Although the Hong Kong Government declared them *illegal Immigrants*, this arrival marked the start of a wave of refugee migration to Hong Kong (<http://www.refugeecamps.net/Hongkong.html>). In the last decade of twentieth century most of the boat people returned to Vietnam with loss of hope to resettle in Western countries or in first asylum countries of Southeast Asia and Hong Kong. Some of them returned to home country owing to camp hardships or forced repatriation. Majority of the repatriates despite their fear they successfully reintegrated with their kinsfolk. Though repatriation problem was 25 years old and was linked with United Nations High Commissioner for Refugees (UNHCR); this problem concluded some times on happy note and on other occasions in an inhuman way. In some instances, UNHCR was blamed, because of its acceptance of forced repatriation. However, it must be said that the UNHCR was bound to a difficult set of targets; with significant factors such as 1997 Chinese takeover of Hong Kong abridged their ability to operate successfully (Alex 1990, 272-76). This paper has highlighted the UNHCR role to solve the Vietnamese boat in Hong Kong and from 1982, the Vietnamese boat people entering Hong Kong and facing various processes that gauged their eligibility for refugee status and forced repatriation to emptying the camps with an innovative manner has discussed along with bitter criticism faced the UNHCR by the global community.

Origin of Boat People Problem

The Vietnamese refugee problem had its origin in the very policies of Communist Government of Vietnam. It came to the globe notice in 1973 from both the sides of 17th parallel. The United Nations High Commissioner for Refugees (UNHCR) had send housing material and cotton yarn to both north and South Vietnamese. In the south, especially in Quang Tri Province

and the Central Highlands were devastated by years of heavy bombing and conflict with North Vietnam (Fernando 1998, 26). All classes of people had suffered a lot in Communist Vietnam because of its excessive state control on all human activity and severely curtailed individual freedom. On the other hand, economic reconstruction of the society and the march of Vietnam's armed forces into Kampuchea had strained their economic resources.

UNHCR Entity into the Boat People Problem

Whilst at the time of fall of Saigon in 1975, nearly 130,000 refugees fled Vietnam for resettlement into Western Countries. Later on, up to mid-1978, the refugee problem was not severe in the region of first asylum countries (Raja Mohan Rao 1994, 170). Even the boat people problem did not seriously affect the Southeast Asian Countries. The world's reaction to the Vietnam refugee problem, initially, was so unforthcoming. However, on July 28, 1976, the UNHCR "found it necessary to issue the first of several international appeals" on behalf of the boat people (Kroef 1979, 9). When the Sino-Vietnamese relations frozen to be worsen in 1978, the flood of Vietnamese refugees number heightened to region first asylum countries. Some of these boat people dingy boats were overthrown by the first asylum countries without any assistance because of the strained international relations with Vietnam (Kroef 1979, 9). While in this agonic situation, UNHCR had paid attention to serve food and shelter for boat people. Further it ensured that the asylum seekers would be out of the transit country within three months, but the volume of refugees by the end of 1978 was unimaginable and pledge could not be fulfilled. Further, the record numbers of Indochina refugees had burdened the resources of UNHCR, which was forced to increase its budget for them (Donald 1979, 126-28).

The average cost of refugee varied from country to country. For example, Thailand per head cost a day was US 25 cents, in Hong Kong where they were put up in the hotels, it was US\$ 7 to 8 (Donald 1979, 126-28). At that time United States and Hong Kong officials anticipated that the flood of refugees could be increases. And the US Congress said that; she would take concrete steps to meet the requirements of increasing refugees and it urged the same to other Western countries (Donald 1979, 126-28). The UNHCR's Executive Committee also urged all other countries to provide help on high seas and at least to provide temporary asylum for coming refugees as a port of first asylum (Kroef 1979, 9).

In December 1978 under the UN initiation a group 37 countries including Vietnam and Association of South East Asian Nations (ASEAN) countries met in Geneva to find a solution to this nagging problem. In the Conference, the delegates arranged an additional 5,000 resettlement places (bringing the total to 82,350) and an amount of the U.S. \$1 million (Donald 1980, 110-15). But, apart from getting together to discuss the issue, no real solution was found. The delegates of region and Western countries had opposed the Vietnamese government policy of exporting refugees into the region first asylum countries. After the conference, the number of the boat appeared to have decreased, in December (Choi 1987, 106-11). Responding to the criticism from first asylum countries about the Vietnamese refugee problem, the government of Vietnam had announced on January 12, 1979, its plan of legal channel to stop the illegal flow, and would permit only those intended to have family reunification abroad and eke out their livelihood. This policy demanded the intended people to reduce required norms (Pham 1990, 1-5). Even it could not work out because Hanoi wants to implement it with the help of UNHCR without support of other recipient countries. With the UN initiation on May 30, 1979, an agreement was signed

between UNHCR and Vietnam to implement legal channel of Orderly Departure Programme (ODP) for family reunification in abroad and it was seven point programme (Purcell 1984, 32-34). In practice it had a very limited scope to the intending asylum seekers to have family reunification.

First Geneva Conference on Indochina Refugees

In this grim situation with global leaders' involvement on July 20-21, 1979, first 'Geneva Conference' on Indochina Refugees was held with prime focus on Vietnamese boat people problem. UN general Secretary, Kurt Waldheim chaired the Conference and concluded three broad steps to solve this problem these includes; 1) final resettlement countries agreed to provide resettlement for asylum seekers in South East Asia and Hong Kong; 2) regional first asylum countries also agreed to provide asylum to new arrivals, and 3) ODP was accepted and special arrangements were made to rescue the boat people on the high seas (Rajamohana Rao 1988, 8-9). With effect of summit a total number of 1,028,537 Indochinese refugees got resettlement from 1979 to 1988. It is the biggest refugee resettlement since the World War II (Rajamohana Rao 1989, 7-9).

Boat People Problem between the two Geneva Conferences

By June 1982 the Vietnamese boat people camp load in Hong Kong was about 15000, whilst at that time; Hong Kong was facing two kinds of problems. One was the majority of the asylum seekers of Vietnam were ethnic Vietnamese from North Vietnam rather than South Vietnamese of Chinese origin (Hoa) and they were mainly influenced by communist ideology and they left the country to have better economic prospects in abroad. These waves have slim chances to resettle in the West. Another was purely domestic in nature. It was concerned with the forced repatriation of main land Chinese. Consequently, by July 2, 1982 the Hong Kong authorities introduced human deterrence policy of *closed camp system*. But this was not objected by the UNHCR. Already in 1980 and 1981, the UNHCR officials expressed doubts about the Vietnamese boat people that they were economic migrants rather than politically persecuted refugees. In this juncture, some of the UNHCR officials said that they suffered from 'compassion fatigue', because they thought that were doing immigration service in spite of refugee service (Patrick 1981, 26-28). The number of the camp personnel also gradually decreased in Hong Kong and Southeast Asian countries. On the other hand, thanks to the impact of O.D.P. policy, the number of illegal departures diminished and legal departures rose for the first time in 1984 and 1985 (Robert 1988, 58-60). It appeared to be as the UNHCR's involvement in the Geneva Conference of 1979 was successful to some extent. But it did not solve the problem of the Vietnam boat people altogether. Further the arrival and resettlement rate was somewhat balanced up to 1987. But it reversed from 1987 onwards, and the resettlement countries did not show much interest in taking residual people (Thayer 1987, 45-46). Since 1985, the volume of boat people number had been slightly continued to increase and became high in 1988. The total number of asylum seekers increased to 39,000 in Southeast Asia in the first half of 1988 (Raja Mohan Rao 1988, 7).

The arriving rate of the Vietnamese refugees in Hong Kong very high and it was about 700 per cent by May 1988, as compared to 1987 (Thayer 1987, 46). At that time Hong Kong introduced its *detention system* of strict human deterrence policy and applied it with some difference as part of new approach to control the unending influx into the colony. According to the new detention system, the Vietnamese boat people, who newly arrived in Hong Kong would be treated as illegal immigrants from June 16, 1988 onwards (Raja Mohan Rao 1988, 7). And they

have to face the *screening policy* to determine their status as refugees. Even UNHCR expressed its displeasure over the decision of Hong Kong but the UNHCR had planned to monitor the Hong Kong's screening procedure. In July there had official level talks were held which resulted in a broad understanding and traditional role of the UNHCR to monitoring of eligibility criterion of refugee status (Raja Mohan Rao 1988, 7). According to one estimate, under the policy of screening only 10 per cent of the asylum seekers to be qualified as genuine refugees (Robert 1988, 2). This policy was very slow and strenuous procedure; by the end of the year only 529 people were interviewed (Judith 1989, 20-23). Hong Kong also assumed that only 10 percent boat people were genuine refugees and in screening also she given only 10 percent eligibility. It means it is their pre conceived plan to deterrent the new arrivals (Judith 1989, 20-23). Basic principles of the screening policy were mainly of three kinds. In the first phase, all the asylum seekers eligible for screening by the authorities would get the status of either refugees or economic immigrants. In the second phase, all the screened out people eligible for the second phase of screening policy would appeal to check their fate (Rosslyn 1990, 6). However, the screened out refugee had no right to be present and argue over his appeal nor could he send a legal representative. The screening board would merely review the appeals of the applicant's case filed on the basis of immigration norms (Barbara 1993, 81). After the second phase; boat people had two options one has to return voluntarily to their origin country, and other to remain in detention camps. Third or final phase of screening UNHCR had mandatory powers. It would interview some of the people who in its perception that they lost the refugee status in the earlier phases. But UNHCR had pays little attention for its job of latter step (Rosslyn 1990, 6). Hong Kong had implemented a "special screening policy" towards the unaccompanied minors and to vulnerable groups. They were screened by the representatives of 'International Social Service' (ISS). After procedure was over they have to report to the UNHCR's committee that to repatriate or resettlement of such category people (Rosslyn 1990, 6).

Actually screening system had introduced to avoid the excessive burden of increasing refugees. But the definition of refugee always remained a subject of controversy. The UN definition of refugee applied to the background of the European refugees of World War II and it has very limited scope and it less suited to Indochinese. Political as well as economic factors were always much considered in Indochina states. Large number of the refugee waves pertains to lifelong threatening like droughts, repression and genocide. The common forms of individual oppression includes the lack of educational facilities to their children of those who supported the South Vietnam regime prior to 1975, permanent separation of family members and indefinite reeducation terms (Caroline and Raymond 1990, 46-7).

As per the norms of 1951 Convention, Vietnamese boat people to qualify refugee status under screening policy is very difficult. The main aim to introduce screening was to find out economic migrants and send them Vietnam. The fundamental principle of the mandate was that of *non-refoulment* (1951 Convention, article 33) which prohibits the return of a refugee to a country where his or her life and freedom might be threatened. This provision includes those who fall outside the Convention definition of refugee and arguably includes those Vietnamese found to be illegal migrants since they did not enjoy the protection of their Government (Janelle 1989, 70-72).

UNHCR's hand book had shown difference between economic migrants and refugees as explicit: what appears at prima facie status, to be an economic reason may be the consequence of

an individual's political opinion or else, or steps implemented by government to damage the economic prospects of individuals. Similarly those who suffer restrictions on the right to earn a living or to have access given them a legal sue to get refugee status through Convention. So, based on these factors, the UNHCR being a responsible agency of refugees it had taken the targeted share of twenty percent of refugees to 'screen interviews' in Hong Kong. The UNHCR also provided the voluntary repatriation assistance for the Vietnamese boat people those who failed to get the refugee status in order to encourage them to return Vietnam (Lind 1990, 114). But the UNHCR did not provide legal aid for the asylum seekers. Some immigration officials tried to thwart the boat people efforts to gain refugee status while others appeared to know little about the refugee law or political and human rights situation in Vietnam. In the third week of January 1990, the government of Hong Kong ascribed the screening progress and its supervision to UNHCR, which acts as a *safety net*. But Robert Van Leeuwen, head of the UNHCR agency in Hong Kong said that, the UNHCR had very few workers to check the cases. To quote him, *we are not able to ensure with confidence that people who might mandatorily be repatriated in the future might not be refugees* (Basler 1993, A11).

The government of Hong Kong stated that its main aim was to empty the camps through screening and accordingly it was planning to vacate nearly 44,000 boat people who were in detention centers since June 16, 1988 (Sheila 1990, A3). But the screening policy could not succeed, because the government of Vietnam opposing the forced repatriation.

In a multilateral meeting on 27-28 October 1988 at Bangkok UNHCR officials affirmed that Vietnam would not be ready to take economic migrant lest it should become its social and economic problem (Rosslyn 1990, 6). Other delegates also confirmed that Vietnam suffered to receive traitors because of its country's legal problem. In this scenario, the UNHCR official, De Mello said that the UNHCR opposed the forced repatriation. However, this problem can be talked through bilateral talks, in case the refugees failed to get their background persecution on international refugee norms (Rosslyn 1990, 6).

Second Geneva Conference on Indochina Refugees

In spite of all deterrence measures the refugee influx increased in the region of Southeast Asia and Hong Kong. In that situation another International Conference on Indochina refugees was held in Geneva on June 13-14, 1989. In the opening speech UN Secretary, Perez De Cuellar said that it is *a sad measure of the inability of international community to address and resolve the root causes of mass displacement of persons than an International Conference in Geneva to deal essentially with the same humanitarian problem* (Rajamohana Rao 1989, 7-9). The main object of the conference was to re-channel to the extent possible, the departures through legal means, while limiting entitlement to resettlement to recognize bona fide refugees. The Conference coordinated various provisions and aspects of the Comprehensive Plan of Action (C.P.A.) in addition to the proposals of the delegates (Asia Oceana, Part II 1990, 1).

The Conference stopped the sudden endorsing of *refoulement* of the thousands of the boat people who were tarried in flagrant and overcrowded refugee camps across Southeast Asia and Hong Kong. However, the global community bestowed the choice for the disqualified asylum seekers to go voluntarily to Vietnam before taking harsh measures. A majority of participants of the U.N. Conference had accepted to send those boat people who were disqualified as refugees

forcibly to Vietnam. But the U.S., France, and Vietnam objected the decision of delegates.⁴³ Final conclusion of Conference was that those who fled economic reasons should be repatriate on voluntary basis.

Forced Repatriation of Boat People

In contrast to C.P.A. a secret agreement was reached at by Vietnam and Britain in 1989, according to which the economic migrants would be sent forcibly by Hong Kong to Vietnam the former for it agree to pay money (Philip and Emily 1989, 13-14). This agreement was directly in conflict with article 14(20)of Universal Declaration of Human Rights. In spite of bitter criticism against the screening policy on December 12, 1989, the first batch of 51 boat people from Hong Kong to Vietnam were sent involuntarily (William 1989, 5). It was implemented abruptly besides voluntary repatriation policy to avoid global community criticism. As a result, by 1997 the number of refugees got reduced to a few hundred. Finally, when the gates close at midnight May 31, 2000, the *Pillar Pont* refugee camp in Tuen Mun, in Hong Kong's southwestern New Territories, will be no more, officially ending the long-running Vietnamese refugee saga (<http://www.regugeecamps.net/Hongkong.html>). It should be mentioned in this context that some of the refugees indulged in self – immolation rather than returning home on compulsion. This policy of forcible repatriation incurred adverse criticism from human rights activists. Especially, the screening pursued by south East Asian countries and Hong Kong evoked considerable adverse criticism.

Comprehensive Plan of Action (CPA)

Forced repatriation policy could not get the full international community support. But C.P.A. only suggested voluntary repatriation. The screened out people would not automatically be considered for resettlement. Even a small number of people get refugee status under screening policy, but their resettlement was not guaranteed. On the other hand the screening policy could not stem the refugee inflow into Hong Kong. In this scenario UNHCR accepted new screening of forced repatriation. However, under the pressure of the 1997, handover of Hong Kong and cutting its resources, it could be argued that they had very little choice but to agree to the new CPA and its implementation of illiberal measures to promote repatriation. However, the UNHCR utilized abhorrent measures to encourage voluntary repatriation: restricting movement, cutting back on education, medical services and reducing employment opportunities ((Loescher 2001, 261). These reprehensible activities show the pressure the CPA put them under and how these acts affected the recipients more than anyone else. It is felt that this could have been avoided had they not signed and legitimized such a restrictive agreement and for many *the forced repatriation of screened-out Vietnamese non-refugees tarnished the UNHCR'S reputation as the protector of refugees* (Loescher 2001, 261). On the other hand, half a million people had been resettled in the west before the C.P.A. ended in 1996. At the same time, Government of Vietnam agreed to accept back those “screened out” as economic immigrants. UNHCR began the most intensive evaluation of any return movement in the history (Mundo 1998, 27).

By the mid 1998, UNHCR's Vietnamese speaking monitors numbering seven had individually visited more than 40 percent of the 110,000 returnees - a record, which on diplomat described as “stunning”. To end the boat people problem UNHCR spent US\$ 113 million since the starting of this problem. This amount included \$71 million for the return of rejected asylum

seekers, of which \$35 million was a reintegration allowance and another US\$ 14 million to start an estimated 600 small community development projects (Mundo 1998, 27).

Conclusion

As the boat people issue was unsolved, UNHCR field officer Kai Nielsen recalls “the situation was very difficult and complicated at the start....” (Mundo 1998, 27) And the white people were almost banished in Vietnam, because of their ill-feeling against the Westerns. The country was ruined due to Western involvement and economic embargo. The Western missions were treated as ‘honest brokers’. The UNHCR Senior officials also took ten days time to monitor the situation of early repatriation after their arrival into Vietnam. Anyhow, the overall reintegration programme has been implemented, and some Vietnamese have readjusted to life back home better than others (Mundo 1998, 27-8). The Vietnamese boat people issue has harassed public opinion for a quarter century went out of sight. Human rights activities called the forced repatriation and individual screening policy under 1951 Convention in spite of group wise was gross violation of human values. In spite of UN definition, the word ‘refugee’ has acquired another connotation, which when applied to those who fled owing to political persecution; they are also treated as ‘refugees’ in international context. But migrants basically flee from poverty, whereas poor people are not free from either political persecution or poverty. It may be as dangerous to go to poverty as to go back political persecution. In this fragile situation the UNHCR image which was pertaining to its decades of sainted service to refugees was blamed in the context of deadline to solve this nagging problem before 1997 and was link up its budget constraints.

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