Regionalism Approach Protection of Refugee Rights: Lesson Learned From Africa and Asia Regions

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Abstract

This study aims to explore the experience of managing refugees in other regions, such as Africa and Asia, as well as protecting their rights. This study focused on the practice of refugee protection in Asia and Africa regions in order to take beneficial messages to apply in Indonesia. This was a literature study of both scientific and grey literature sources, including The 1951 Geneva Convention and the 1967 Protocol, as well as other international law sources pertaining to refugees as the main legal source. Analytical thinking was applied to collect and analyze the data. The flow of refugees to neighboring countries for transit, for example to Indonesia, has become problem since the country still struggling for its own welfare. A harmonious relationship with international bodies has helped but not yet optimal in the practical field, as Southeast Asia region has been trying until recently. Learning from more developed countries was also one of the efforts worth trying to improve the protection to the refugee. However, reciprocal cooperation with neighboring countries in the region is also important given the region's unique characteristics. As the Africa region has practiced, revitalizing existing bodies and clarifying the authority of certain bodies are beneficial to improve the protection of refugee, despite the lack of funding and resources. A more intense and timely coordination with international bodies concerning refugees are also the field which need for improvement in the near future.

Keywords: *refugees; refugee rights; asia region; africa region;*

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Abstrak

Penelitian ini bertujuan untuk mengeksplorasi pengalaman penanganan pengungsi di Afrika dan Asia sebagai kajian untuk penanganan pengungsi yang lebih baik. Kajian ini fokus pada praktik perlindungan pengungsi di kawasan Asia dan Afrika guna mengambil hal-hal yang mungkin cocok untuk diterapkan di Indonesia. Penelitian ini merupakan studi literatur baik dari sumber ilmiah maupun non-ilmiah seperti surat kabar atau majalah yang relevan, serta menggunakan Konvensi Jenewa tahun 1951, Protokol tahun 1967, dan sumber hukum internasional lainnya yang berkaitan dengan pengungsi sebagai sumber hukum utama. Arus pengungsi ke negara-negara yang berdekatan untuk transit, misalnya ke Indonesia, menjadi sebuah masalah karena kurangnya sumber daya dan pembiayaan yang tersedia di negara tersebut. Hubungan yang harmonis dengan badan-badan internasional untuk pengungsi selama ini membantu dalam perlindungan pengungsi namun belum optimal dalam tataran praktis, seperti yang telah diupayakan di kawasan Asia Tenggara hingga saat ini. Berbagai contoh dari negara maju juga merupakan salah satu upaya yang patut dicoba untuk meningkatkan perlindungan terhadap pengungsi, namun kerja sama timbal balik dengan negara-negara tetangga di suatu kawasan juga penting mengingat karakteristik kawasan yang unik. Seperti yang telah dilakukan di kawasan Afrika, revitalisasi badan-badan yang ada dan memperluas sekaligus memperjelas kewenangan badan-badan tertentu bermanfaat untuk meningkatkan perlindungan pengungsi, meskipun tidak menyelesaikan masalah terbatasnya dana dan sumber daya. Koordinasi yang lebih intens dan tepat waktu dengan badan-badan internasional untuk pengungsi juga merupakan hal yang masih perlu ditingkatkan dalam upaya penanganan pengungsi yang lebih baik.

Kata Kunci: pengungsi; hak pengungsi; kawasan asia; kawasan afrika;

A. Introduction

Refugees are still a global problem. For the last decade, the number of refugees around the world is still high and even increasing in several regions. The conflict in Syria for example, has made a large number of refugees spread to several

countries around Syria and resulted in waves of irregular arrivals of refugees in European countries. This wave of refugees elicited various responses from various European Union countries, starting from Hungary which then built a fence along its border[1] to Germany which declared its readiness to support the incoming refugees with asylum whether they entered the European Union via Germany or not.[2] The action taken by Germany is actually not in accordance with *the Dublin Regulation* [3]in force in the European Union, which stipulates that applications for asylum or refugee status are made by the country where the refugee first entered the European Union.[4] These different reactions have led to a change of policies which resulted in a change of refugees flow regarding transit and destination countries.

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[1] Maysa Abbas Ayoub, "Understanding Germany's Response to the 2015 Refugee Crisis," Review of Economics and Political Science ahead-of-p, no. ahead-of-print (2019), https://doi.org/10.1108/reps-03-2019-0024.

[2] Ayoub.

[3] *The Dublin Regulation* is a policy related to refugees within the European Union. The Dublin Regulation has been in effect since 1995 and has undergone several amendments. The function of the Dublin Regulation is to allocate each country seeking protection within the "Dublin area" to a member state of the European Union. The countries included in the Dublin area are the 28 member states of the European Union plus 4 countries affiliated with the EFTA (*European Free Trade Area*). See: Francesco Maiani, "The Reform of the Dublin System and the Dystopia of 'Sharing People,'" *Maastricht Journal of European and Comparative Law* 24, no. 5 (2017): 622–45, https://doi.org/10.1177/1023263X17742815.

[4] Ayoub, "Understanding Germany's Response to the 2015 Refugee Crisis."

Refugees need protection and security guarantees and are trying to find countries that enable them to get it.

Most of the current refugees are in developing countries (85% of the total 26 million refugees in the world), where there are also problems of conflicts, human rights violations, catastrophic disasters, or government instability.[5] Based on UNHCR Data Finder, 76% of refugees are hosted in the low- and middle-income countries in 2022, which is still a significant burden for those countries.[6] Unfortunately, the majority of these developing nations already struggle with issues like poverty, hunger, and underdeveloped infrastructure that made countries did not readily available for accepting refugees.[7] Indonesia for example, has been placing asylum seekers and refugees in immigration detention centers which unfortunately cost a fortune. There are also funding from other country and assistance from international bodies such as IOM but still the burden is so heavy. The lack of resources may lead to

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[5] UNHCR, "Trends at a Glance: Global Trends Forced Displacement in 2019," UNHCR The UN Refugee Agency , 2020, 1–84, https://www.unhcr.org/5ee200e37.pdf.

[6] United Nations High Commissioner for Refugees, "Refugee Statistics," Refugee Data Finder, 2023, https://www.unhcr.org/refugee-statistics/.

[7] Will Jones and Alexander Teytelboym, "Matching Systems for Refugees," *Journal on Migration and Human Security* 5, no. 3 (2017): 667–81, https://doi.org/10.1177/233150241700500306.

maltreatment, abuse, or even neglected rights protection for them.[8]

The Southeast Asian region itself is not free from refugee problems. UNHCR reported in its 2019 Global Report that the Southeast Asia region is home to 2,010,759 refugees, most of whom are in Thailand (671,117 people) and Myanmar (600,879 people). Even based on the UNHCR Global Report in 2022 there will be a surge in the number of refugees around 138,000 or 16% of the number of refugees in 2021.[9]

As explained above, most of the refugees will flee to neighboring countries as seen in the Rohingya refugees who fled to the Thai-Myanmar border, as well as to Indonesia. As developing countries, South-East Asian countries still have limitations in the management and protection of refugees, especially in relation to resource issues. According to the above data, the problem of refugees not only affects one country in the Southeast Asian region but affects the entire region, so the Association of Southeast Asian Nations (ASEAN) should understand that refugees are a common problem.[10] This view will underlie an action in forming shared awareness of common

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[8] Antje Missbach, "Accommodating Asylum Seekers and Refugees in Indonesia: From Immigration Detention to Containment in 'Alternatives to Detention,'" *Refuge* 33, no. 2 (2017): 32–44.

[9] George Palattiyil et al., "Global Trends in Forced Migration: Policy, Practice and Research Imperatives for Social Work," *International Social Work* 65, no. 6 (2022): 1111–29.

[10] Christine Elizabeth Macaraig and Fariz Pradipta Mursyid, "The Plight of Refugees in ASEAN Member Countries," Technium Soc. sci. J. 15 (2021): 633.

problems that need to be solved together, one of which is through "sharing responsibility" or shared responsibility. The shared or collective awareness is needed to provide a fundamental comprehension that leads to collective action. Those actions can be in a form of financial sharing, material sharing, or people resettlement as briefly elaborated in a study by Afriansyah and Banggaditya.[11]

As members of the international community, states are morally bound by the obligations and responsibilities of protecting international refugees, including adhering to the principle of non-refoulement. Refugees as human beings also have basic rights that must be protected, so that the handling of refugees at least fulfills their human rights.[12] This also needs to be studied in Indonesia, that Indonesia is not a country that has ratified the 1951 Geneva Convention and the 1967 New York Protocol on the Status of Refugees, but is bound by the responsibility to protect refugees as part of its responsibility to fulfill human rights. The inability to provide adequate protection to refugees can result in their rights being violated or denied and even other damage being caused.

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[11] Arie Afriansyah and Angky Banggaditya, "Refugee Burden Sharing: An Evolving Refugee Protection Concept?," *Arena Hukum* 10, no. 3 (2017): 333–56.

[12] Eiko Thielemann, Richard Williams, and Christina Boswell, "What System of Burden-Sharing between Member States for the Reception of Asylum Seekers?," 2010, 195, http://eprints.lse.ac.uk/30051/.

This article is a review of scientific literature on refugee protection practices carried out by countries in Asia and Africa regions. As main legal sources, The 1951 Geneva Convention and the 1967 New York Protocol on the Status of Refugees were used along with other relevant legal sources as secondary ones. As a literature review, this article were unable to bring a complete picture of refugee protection practices in Asia and Africa regions in a practical manner and this was found as one of the limitations of this study. Another limitation is that the authors' perspectives or opinions in the literature included in this review inevitably influenced their writings. However, the Author tried as far as possible to keep the analytical thinking objective and stay true to the aim of this study. This article will be initiated with a brief review of refugee rights, followed by the protection of refugees held in Asia and Africa, and a short review on Regionalism approach on refugee protection. This article will be closed with a conclusion that reciprocal cooperation with neighboring countries in the region is important given the region's unique characteristics, thus a Regionalism approach is applied. Nevertheless, revitalizing existing bodies and clarifying the authority of certain bodies are beneficial to improve the protection of refugee, despite the lack of funding and resources.

B. Discussion

1. Protection of Refugee Rights and Its Regulation

Refugees are also humans who possess basic rights which need to be protected and fulfilled. Refugee Human Rights include the right from forced return to their origin-country, the right to seek asylum, the right to equality and non-discrimination, the right to life and security, as well as the right to return to his home country, especially when the situation is more favorable.[13]

When a person or several people flee from their country of origin to another country for indications of human rights violations because of fear of persecution that may jeopardize their lives, security, and integrity, then the country must ensure that they are not returned to their country of origin in order to avoid further human rights violations.[14] The international community has recognized the principle of non-refoulement stipulated in among others *Article 33 Paragraph 1 of the 1951 Refugee Convention; UNHCR Basic Legal Documents on Refugees 1999 page 8-37; Article 3 United Nations Declaration on Territorial Asylum.*

The legal basis of *non-refoulement* for refugees is regulated in among others *Article 9 of the Universal Declaration of Human Rights (UDHR); Articles 2 and 6 of the Convention*

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[13] Guy S Goodwin-Gill and Jane McAdam, *The Refugee in International Law*, 4th ed. (Oxford: Oxford University Press, 2021).
[14] Goodwin-Gill and McAdam.

Against Torture; and Article 7 of the International Covenant on Civil and Political Rights.

Refugees' rights to seek asylum were also protected. When a person or group of people seeks asylum after being subjected to human rights abuses in their home country, asylum is a form of protection offered by the country's legal system within its borders. Mary Crock explained the state's position in granting asylum "*The State will bear joint responsibility for the fate of the asylum-seeker as a matter of international law*".[15] In fact, granting asylum frequently causes issues between nations due to disparities in viewpoints and understanding of asylum. In light of this, the author contends that, so long as it does not violate international law, the provision of asylum must be regarded as a principle of international law in the UN charter.

The principle underlying UNHCR is "*if asylum seekers arrive on a large scale, then the state at least provides temporary protection*".[16] In line with the provisions of Article 14 of the UDHR, the granting of asylum cannot be said to be an act of hostility by another country, especially the country of origin of the asylum seeker. Even Gil-Bazo proposed that asylum is one

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[15] Mary Crock, "In the Wake of the Tampa: Conflicting Visions of International Refugee Law in the Management of Refugee Flows," Pac. Rim L. & Pol'y J. 12 (2003): 49.

[16] Michell Moussalli, "Who Is a Refugee?," Refugee Magazine UNHCR , 1982.

of the general principles in international law, to be in accordance with above mention statement. [17]

The risk of prejudiced treatment often confronts refugees, both in their country of origin and during their journey to a new country. It is imperative that the country granting asylum treats refugees with dignity and respect, in accordance with international human rights law. As a general rule, the rights and freedoms recognized by international human rights law are owned by everyone, including refugees who have the right to respect and basic human rights as citizens of the country granting asylum.[18] Upholding the rights of refugees, as outlined in various international conventions and charters (among others *Article 2 paragraph 1 ICCPR; Article 2 paragraph 2 ICESCR; Article 1 paragraph 3, article 13 paragraph 1 (b), 55 (c) and 76 (c) of the UN Charter; Article 2 Universal Declaration of Human Rights*) is crucial to protecting them from discrimination, particularly when they are in an unfamiliar environment. Therefore, safeguarding the rights and freedoms of refugees is of utmost importance at a global and regional level.

As was previously stated, refugees are a group of people whose safety is at risk. Even while they are in their country of

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[17] María-Teresa Gil-Bazo, "Asylum as a General Principle of International Law," *International Journal of Refugee Law* 27, no. 1 (2015): 3–28.

[18] B Chimni, "The Changing World Order, the Structural Role of Humanitarian NGOs, and the Protection of Displaced Persons and Migrants," in ICVA CONFERENCE , 2003.

origin, some of their fundamental rights are in jeopardy during the evacuation process. According to Gil Loescher and other studies, because they were compelled to leave their home country, the refugees' conditions were extremely bad, worse than they were while living there.[19] Refugees frequently experience family separation, danger, exploitation, and the nagging fear of being forcibly deported back to their country of origin. Refugees frequently run the risk of being victims of violent crimes like murder, rape, genocide, and forced disappearances. In terms of becoming a victim of violence, women are most at risk.[20] Bearing in mind that the right to life and security is a universal right that must be protected from arbitrariness as stipulated in several international human rights provisions, including *Article 3 of the Universal Declaration of Human Rights; Article 6 paragraph 1 ICCPR and protection against genocide in article II Genocide Convention 1948.*

As stated in *the Vienna Declaration of 1993, paragraph 28*, those who violate a refugee's right to life and safety will face harsh punishment. In order to encourage all nations to enact laws that protect women from rape and other sexual violence, this declaration emphasizes to all nations to conduct

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[19] Gil Loescher, "Introduction: Refugee Issues in International Relations," *Refugees and International Relations*, 1989, 1–33; Daniel Ghezelbash and Nikolas Feith Tan, "The End of the Right to Seek Asylum? COVID-19 and the Future of Refugee Protection," *International Journal of Refugee Law* 32, no. 4 (2020): 668–79.

[20] United Nations High Commissioner for Refugees, "United Nations Report on Refugees" (New York, 1998).

investigations if evidence of violations of refugee rights by anyone is discovered.

If refugees want to voluntarily return to their home country, especially when the circumstances are more favorable for everyone involved, they must be given guarantees. Additionally, protection from being compelled to return to their country of origin is needed for refugees. Individual rights to re-enter their country of origin are governed by human rights through *Article 13 paragraph 2 of the Universal Declaration of Human Rights and Article 12 paragraph 4 of ICCPR,* and also several others conventions. The UN Security Council through UN Security Council Resolution Number 876 of 1993 has emphasized that "refugees and displaced persons have the right to return to their country of origin" (UNSC Resolution 876 (1993) of 19 October 1993 on the situation in Abkhazia on the right of Palestinians to return). Subsequently, in the aftermath of the Cold War, with an increase in the number of refugee crises and a decrease in the international community's dedication to voluntary repatriation, there were significant changes. Long's book provides a detailed account of how the Rohingya and Rwandan refugees were subjected to repatriation programs in the mid-1990s that were essentially a form of "forced return." This was the lowest point in modern international refugee policy, according to her.[21]

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[21] Katy Long, *The Point of No Return: Refugees, Rights, and Repatriation* (OUP Oxford, 2013).

Refugees are entitled to go back to where they came from and live enjoyably and happily. In terms of receiving nations or in coordination with UNHCR, it is preferable to return refugees if it is known that their country of origin's conditions is favorable, as required by Article V of the 1969 OAU Convention, and if they do so voluntarily. It should be emphasized that when a state intends to repatriate refugees to their home country, it must ensure that the home country no longer poses a threat or jeopardizes the safety of the refugees.[22]

2. Protection of Refugees In Asia

The big challenge in terms of refugees does come in the Asia Pacific region. These major challenges are complex, and large-scale, and require collaborative and multi-sectoral solutions. Multi-sector collaboration can play a very important role in solving refugee problems through a varied vision, experience, knowledge, and resources in a wide spectrum. [23]One example of possible collaboration is collaboration between countries and international organizations.

Sebastien Moretti gave an example of the excellent potential for collaboration to work with international organizations, for example, UNHCR and IOM. This can be seen

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[22] Mollie Gerver, "Must Refugees Return?," *Critical Review of International Social and Political Philosophy* 24, no. 4 (2021): 415–36.

[23]Annette Quayle, Johanne Grosvold, and Larelle Chapple. New Modes of Managing Grand Challenges: Cross-Sector Collaboration and The Refugee Crisis of the Asia Pacific. *Australian Journal of Management* 2019:44(4), pp. 665-686. https://doi.org/10.1177/0312896219872234

in several cases in the Asia Pacific.[24] The Andaman Sea refugees and the Bay of Bengal refugee crisis, which peaked in 2015, serve as the first examples. This crisis started when several human smuggling networks were exposed, making it unprofitable for traffickers to drop off Bangladeshi refugees in Thailand so they could travel to Thailand by land. Malaysia is where they are going. The smugglers even had the guts to abandon their ship, which was carrying refugees without proper documentation, in the middle of the open seas with no idea of what would happen to them. Due to these circumstances, Thailand, Malaysia, and Indonesia got together to talk about this issue. Then, Malaysia and Indonesia helped to provide stranded illegal refugees with temporary housing. Given the limitations of these two countries, they are willing to offer temporary protection in exchange for assistance from international organizations. In this instance, it appears as though UNHCR and IOM are vying with one another to be at the fore in terms of logistical and financial support and assistance to refugees.

Another example is when the Rohingya refugee crisis occurred in Bangladesh, where the Bangladeshi government appointed IOM as a party to help manage refugees to obtain status from UNHCR. As we all know, Bangladesh is not a major participant in the 1951 Convention, so the government needs

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[24] Sebastien Moretti, "Between Refugee Protection and Migration Management: The Quest for Coordination between UNHCR and IOM in the Asia-Pacific Region," *Third World Quarterly* 42, no. 1 (2021): 34–51.

UNHCR assistance to grant refugee status and provide follow-up after the incoming refugees obtain status. In this case, the government of Bangladesh chose to carry out its responsibility in protecting refugees through cooperation with an international organization, namely IOM.

Different from IOM's role, UNHCR is showing a stronger role in *the Bali Process*, including initiating an operational office (*Regional Support Office, RSO*) and ensuring that *the Bali Process* does not only address *irregular migrants* but also covers the protection of international refugees. Good cooperation was shown by Indonesia and Australia in hosting this activity and received strong support from UNHCR even since the formulation of the activity and afterward. However, over time UNHCR's role is more to carry out what already exists without any innovation or something new in handling refugees. This then triggers a review of UNHCR's role in the RSO and the Bali Process. As a follow-up, in 2013 UNHCR in collaboration with Indonesia held a special conference on irregular movements, which in this conference raised questions about what had been achieved in the Bali Process and its follow-ups. The conference which was held in Jakarta then resulted in the Jakarta Declaration whose contents were more oriented towards protecting refugees when compared to the Bali Process.

Since its inception in 2002, the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crimes (Bali Process) has effectively raised local awareness of

the dangers of trafficking, trafficking, and Related Transnational Crimes. The Bali Process is a political forum for dialogue, exchange of information, and practical cooperation to help the region deal with these issues. The 2018 Declaration, which was adopted at the 7th Bali Process Ministerial Conference, currently directs the activities of the Bali Process in the implementation of various priorities undertaken by ministers.

Indonesia and Australia are co-leading the Bali Process, which boasts 49 members, including UNHCR, IOM, UNODC, and ILO. The Ad Hoc Group, consisting of concerned member countries and supported by various related international organizations, is working to address the issue of irregular migration. The Regional Support Office (RSO) of the Bali Process has also been established to promote and enhance cooperation in the protection of refugees and international migration, including human smuggling and trafficking, as well as other aspects of migration management within the region.

In March 2016, the 6th Bali Process Ministerial Conference established the core objectives and priorities of the Bali Process through the adoption of the Bali Process Declaration on People Smuggling, Trafficking in Persons, and Related Transnational Crimes. This statement acknowledges the growing size and intricacy of the difficulties of irregular migration, both happening within and outside the Asia Pacific Region, and endorses different steps that can aid a

comprehensive plan to address offenses of smuggling and trafficking in individuals. The Bali Process Cooperation Strategy is one of the cornerstones in strengthening the overall effort and its impact across the Region.

In August 2018, the 7th Ministerial Conference of the Bali Process and the 2nd Government and Business Forum of the Bali Process were conducted. The previously mentioned statement of 2018 will be continued with further involvement in handling illegal migration alongside the private sector and the wider public. The suggestions presented by the business industry to the government to improve collaboration in dealing with current licensing have been approved, and business operations have become long-lasting elements of the Bali Process.

The Bali Process is essentially a means of promoting collaboration to enhance the management of refugees on an international scale, specifically in Southeast Asia and Australia, which serve as destinations for refugees. The Bali Process was initially convened in 2002 and 2003, followed by a hiatus until 2009 when it was reactivated and expanded with the implementation of various new mechanisms. During this subsequent phase, the discourse surrounding the Bali Process has become more oriented towards "securitization", with a

greater emphasis on transnational criminal activities and stricter limitations on asylum seekers.[25]

The growth and emergence of The Bali Process follow the journey of refugees traveling from different areas to Australia, which is highlighted as the primary endpoint for refugees in transit. The timeframe from 2001 to 2002 witnessed a surge in the migration of refugees undertaking 'subsequent movements' towards Australia.[26] Most importantly, the Bali Process now has extra than forty participants, consisting of international locations withinside the region, supplying international locations of refugees transferring to Australia (including Afghanistan, Iran, and Iraq) and 'superpowers' including America and the People's Republic of China. In addition, IOM and UNHCR are actually reputable participants of The Bali Process.

In April 2009, in the context of increasing the 'boat arrivals' of asylum seekers, Australia, Indonesia, and other governments in the region attended the Third Bali Regional Ministerial Conference (BRMC) and reaffirmed their

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[25] Susan Kneebone, "The Bali Process and Global Refugee Policy in the Asia–Pacific Region," *Journal of Refugee Studies* 27, no. 4 (2014): 596–618.

[26] Susan Kneebone, "The Pacific Plan: The Provision of 'Effective Protection'?," *International Journal of Refugee Law* 18, no. 3–4 (2006): 696–721.

commitment to the Bali Process.[27] The surge in individuals seeking asylum can be credited to the ongoing conflicts in Sri Lanka and Pakistan. Corresponding with worldwide patterns, there has been a significant rise in the number of asylum seekers attempting to make their way to Australia through Indonesia by boat.[28] The several examples of cases above show that there is great potential for support from IOM and UNHCR in the protection of international refugees. The actions taken by these two organizations show full support for refugee protection which, when collaborated, has the potential to have a greater impact on efforts to protect international refugees.[29]

3. Protection of Refugees In Africa

The implementation of *shared responsibility* in Africa is characterized by regional integration actions or actions in Africa which are generally carried out under the auspices of regional economic communities (*Regional Economic Communities*, RECs).

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[27] Susan Kneebone, "The Refugee–Trafficking Nexus: Making Good (the) Connections," *Refugee Survey Quarterly* 29, no. 1 (2010): 137–60.

[28] Susan Kneebone, "Controlling Migration by Sea: The Australian Case," in *Extraterritorial Immigration Control* (Brill Nijhoff, 2010), 341–68.

[29]Sebastien Moretti. Between refugee protection and migration management: the quest for coordination between UNHCR and IOM in the Asia-Pacific region. *Third World Quarterly* 2021:42(1), 34–51. https://doi.org/10.1080/01436597.2020.1780910.

A space is made for the protection of refugees and asylum seekers within the framework of RECs to the extent that regional integration schemes like REC Africa are empowered to engage in activities outside the traditional economic circle, including areas like the realization of human rights. Thus, "new regionalism" explains or justifies REC's entry into the politically unstable field of human rights, with the extension of guaranteeing the protection of vulnerable groups like refugees and asylum seekers on the platform of the international organization.

From a more pragmatic standpoint, it appears that regional integration activists in Africa are becoming more conscious of the fact that the objectives of integration can only be achieved in an environment of peace, security, and respect for human rights. Effectively, there are at least two strong bases for REC Africa's involvement in the business of protecting refugees and asylum seekers. *Firstly*, as some stakeholders have observed, refugee protection is fundamentally a human rights question and therefore forms or should form part of a serious human rights regime. Therefore, as far as integration efforts depend on the principle of respect for human rights, and refugee protection by the REC cannot be excluded. *Second*, the potentially disruptive effect that a humanitarian crisis in a neighboring country can have on the economic agenda of integration of a group of States is something that integrating States cannot bear. Together, they complement the new theory

of regionalism as a justification for incorporating refugee protection issues into the arena of economic integration discourse.[30]

As indicated above, sub-regional international organizations in Africa are largely economically oriented. As such, these organizations claim very little, if any, clear competence in relation to refugee protection. As a result, it is almost impossible to find legal instruments that are expressly and specifically dedicated to the protection of refugees and asylum seekers. However, a review of the relevant instruments indicates that there are provisions in the legal frameworks of some RECs relating to the protection of refugees and asylum seekers.

Refugee management within the framework of African sub-regional organizations is typically assigned to offices in the secretariats of particular organizations, integrated with the peace and security office of the organization. Thus, the issue of refugees is considered from a security perspective rather than a human rights perspective. However, as UNCHR increasingly engages sub-regional organizations in collaborative work for the protection of refugees and asylum seekers, the human rights perspective on the refugee question becomes more central to the work of sub-regional organizations.

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[30] Solomon T Ebobrah, "Sub-Regional Frameworks for the Protection of Asylum Seekers and Refugees in Africa: Bringing Relief Closer to Trouble Zones," in *Regional Approaches to the Protection of Asylum Seekers* (Routledge, 2016), 67–85.

In East Africa, there are at least three active sub-regional organizations that can have an impact on the protection of refugees and asylum seekers. These are the EAC (*the East African Community*), ICGLR (*the International Conference on the Great Lakes Region*), and IGAD (*the International Governmental Authority for Development*). To ensure refugee management through those organizations, the UNCHR continues to be involved with the EAC, so despite the absence of this specific unit, the organization is still actively involved in protecting refugees and those seeking asylum from the 1990s onwards. By signing a Memorandum of Understanding with the EAC with the goal of "establishing a framework for cooperation in the field of refugee protection," UNCHR has, for instance, encouraged EAC action in the refugee protection area. Given the ongoing state of conflict in the East African Region, the volume of refugees, and refugee camps in the region, involving the EAC in protective measures is essential. Unlike the EAC, both ICGLR and IGAD have work units that are quite promising in the field of refugee protection.

The ICGLR secretariat's unit in charge of humanitarian and social affairs coordinates a number of initiatives, including those pertaining to the safety of refugees and those seeking asylum. The Humanitarian Affairs Section of the Peace and Security Division is an office dedicated to the protection of refugees and related matters within the IGAD framework. The IGAD Humanitarian Affairs Section's approach to the refugee

issue places a strong emphasis on dealing with the "root causes of conflict and natural hazards" in order to provide long-term protection for refugees.

For the West African region, the Department of Humanitarian and Social Affairs Commission of ECOWAS is in charge of managing refugees within the framework of ECOWAS (the Economic Community of West African States). The ECOWAS Commission's various departments are involved in the organization's work with refugees. ECOWAS's involvement in peacekeeping and humanitarian work in the West African Sub-region has resulted in the ECOWAS Commission playing an important role in addressing the issue of forced displacement. Thus, the most visible contribution of ECOWAS agencies to refugee protection is the positive implementation of the Community's free movement Protocol for the benefit of refugees from Member States. Examples of such unilateral and multilateral activities began in the period after the end of the civil conflict in the West African region. In relation to its post-conflict work, ECOWAS Community signed a multipartite agreement with UNCHR and the governments of Liberia, Nigeria, and Sierra Leone in 2007 to facilitate the local integration of Liberian and Sierra Leonean refugees in Nigeria. In this regard, the ECOWAS Memorandum on 'Equal treatment of refugees with other nationals of ECOWAS Member States in the exercise of Free Movement, Right of Residence and Establishment' serves to promote a shared understanding of

the potential that exists for the protection of refugees in the ECOWAS legal framework.

Countries in the southern part of the African continent have been known for their negative sentiments towards refugees and migrants, especially in South Africa. South African citizens consider the number of refugees in their country to be getting bigger and consider them a source of various problems. [31] This attitude, which is often referred to as xenophobia, does not only occur in South Africa but also in several countries in the southern African continent. Even so, it seems that the sense of solidarity about refugee problems among countries in the region is quite low despite the fact that they have joined a community of countries in the region known as the *Southern African Development Community* (SADC).[32] In 1980, a coordination conference led to the creation of SADC, which became a development community in 1992. Through regional integration, establishing democratic values, and promoting

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[31]Jonathan Crush and Wade Pendleton. 2004. *Regionalizing Xenophobia? Citizen Attitudes To Immigration And Refugee Policy In Southern Africa.* Southern Africa Migration Project. South Africa: Cape Town. p. 12-13

[32]Jonathan Crush and Wade Pendleton. 2004. *Regionalizing Xenophobia? Citizen Attitudes To Immigration And Refugee Policy In Southern Africa.* Southern Africa Migration Project. South Africa: Cape Town. p. 9-10

equal and sustainable development, SADC works to achieve its objectives.[33]

Unlike SADC, Uganda is known as a country that is friendly to refugees by being home to a large number of refugees, namely around 1.4 million refugees at the end of 2017. Nonetheless, Uganda faces several challenges in accepting refugees, including the increasing number of refugees, the length of time refugees have lived, the burden of receiving refugees in their countries, limited resources, and the lack of support from the international community. [34]In facing challenges in managing the influx of refugees into Uganda, the government of Uganda together with the United Nations, in collaboration with the World Bank, several donors, non-governmental organizations both national and international, as well as the private sector, have prepared a strategic response in handling refugees based on what has been presented in New York Declaration on Refugees and Migrants (19 September 2019).

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[33]Southern Africa Community Development Official Web page. Available at https://www.sadc.int/about-sadc/overview/ , Accessed April 13, 2021 at 12.09.

[34]Ahimbisibwe Frank. Uganda and the refugee problem: challenges and opportunities. *African Journal of Political Science and International Relations* October-December 2019;Vol. 13(5): pp. 62-72. DOI: 10.5897/AJPSIR2018.1101

4. Regionalism and Its Role in Refugee Protection

Today, regionalism and multilateralism in the Asia Pacific region take many different forms, with ASEAN serving as the cornerstone of regional cooperation. There is a desire to broaden regional cooperation in Asia, especially East Asia so that it can become more comprehensive without having to lay the foundation for *acquis communautaire* (regulatory and legal framework required by the community), similar to that of the European Union.

Regionalism is defined as the interaction or positive relationships between people, institutions, media, goods, and finance, including political connections and military cooperation, within a region. Relationships between nations or interest groups that are effectively institutionalized in a region to accomplish specific goals are another definition of regionalism.[35]

Discussions of regionalism in Southeast Asia are inextricably linked to the Association of Southeast Asian Nations (ASEAN), the grouping of Southeast Asian nations. Southeast Asia is regionalizing unquestionably more quickly and easily now that ASEAN is a thing. The development of regionalism in Southeast Asia is progressing, but it cannot be

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[35] Louise Fawcett, "The History and Concept of Regionalism," in *European Society of International Law (ESIL) Conference Paper Series*, ed. Nico Krisch, Anne van Aaken, and Mario Prost (Valencia, 2012).

separated from the interference of outside powers that "want" the political stability of the region.

International refugees have a set of fundamental rights that, like all other people, must be upheld wherever they are and by whoever comes into contact with them. This demonstrates the fact that more needs to be done on a global level to safeguard refugee rights. The fight to protect refugees has new hope with a new regionalism strategy.

One of the many factors leading to the growth of cooperation in a region is shared sentiments of allegiance, awareness of one's neighbors, and a desire to create a welcoming and supportive environment. This is also discussed in the study of regionalism, particularly the new regionalism, which better captures the current state of relations among nations in a region.

It turns out that many regions have utilized this new regionalism strategy, possibly unintentionally. These procedures serve as one of the benchmarks for strengthening regional cooperation in the area of refugee protection across many regions, particularly Southeast Asia. As an illustration, the African region has made use of already-existing organizations to manage and defend the rights of refugees, despite the fact that these organizations aren't specifically focused on helping refugees. Meanwhile, ASEAN has adopted a number of strategies and partnered with organizations that assist refugees, including UNHCR and IOM. Even though various

approaches and in-depth discussions have been conducted on refugee protection and issues, cooperation in the Southeast Asian region is thought to not yet be capable of providing refugees with comprehensive protection. Learning from the abovementioned examples, the close cooperation among countries within the region applying the regionalism approach is a promising strategy to strengthen and deepen the cooperation for refugee protection. Common characteristics within a region will give way for better communication among countries in arising a collective awareness led to collective strategy and action as intended in shared responsibility in refugee protection.

C. Conclusion

The problem of refugees will not be resolved without any collective efforts from countries around the world. The construction of collective efforts should be started with collective awareness that the refugee problem is everybody's problem, thus initiating a growing shared responsibility which led to the action of burden sharing in many ways. The collective effort itself can be started from a small part, in a regional way for example.

Based on the Regionalism approach, a region possesses collective unique characteristics that unconsciously bind the countries within the region. Thus, a collective awareness is relatively easier to build within a region than among far-away

countries. The need for adjusting the efforts to the characteristics of the area is one of the lessons that can be learned from the examples above. This suggests that the endeavors made in the African region can be implemented in other regions by considering and adapting to the unique features of the countries in this region. Consequently, each country not only shares some of the responsibility but also has the capability to contribute fairly to regional efforts in protecting refugees. A reciprocal cooperation with neighboring countries within the region is also important given the region's unique characteristics. Based on the practice of the Africa region, revitalization of existing bodies and clarification of the powers of certain bodies are beneficial in improving the protection of refugees, despite the lack of funds and resources. More intensive and timely coordination with international institutions in the field of refugees is also an area that needs to be improved in the near future. These efforts will not be effective without close coordination and effective cooperation with international organizations specializing in the protection of refugees.

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