

## **CHAPTER IV**

### **END LINE OF STATELESSNESS TOWARDS THE PIDs IN THE PHILIPPINES**

There are many causes that made the problem of citizenship status towards PIDs in the Philippines still exist until late of 2016. According to the concept and model provided by this research, in this chapter the writer tries to explain the possible answer of the research question above. It has already mentioned before that there were also similar issues in term of statelessness like what already happened in the Philippines. It was clear that the case can not be solved when there is no cooperation between actors related to the issue. A country as one of the important actors that have to take the main responsibility towards statelessness that experienced by their citizen have to make a good cooperation with another actors such as another country, non-state actors or even the citizen itself (UNHCR, Ending Statelessness, 2001). Transnational Advocacy Networks showed that there are some factors that triggered an issue to emerge. For example, less effective policy from the countries involved or the countries involved only saw that by giving the citizen some kind of assistances is enough. It really help the statelessness. Yet it will not solve the problem (Transnational Advocacy Networks in International and Regional Politics, 1998).

The following aspect is the role of UNHCR as a non-state actors that actually one of the actors that really concern to this case became one of the policy influencer towards both Indonesian government and the Philippines government. as

the concept has already explained that there was a tactics of the networks to use. It called *leverage policy* (Transnational Advocacy Networks in International and Regional Politics, 1998). This kind of policy made the weaker members of the networks which is PIDs could call for a stronger actor to affect the situation towards them. Even though they were not literally called UNHCR as a stronger actor to take a role in solving the citizenship status problem, remembering that the issue of statelessness and the problem among them that unsolved yet, UNHCR has a huge role to solve the problem and mediate both Indonesia and also the Philippines in taking their clear role towards the citizens. In Transnational Advocacy Networks, cooperation between actors inside the issue is the major contributor so the issue can effectively be solved.

And it also has already explained before that the emergence of the Boomerang pattern in this case caused by a blockage towards one of the countries. Actually, the blockage has to be a conflictable issue. However in this case, the writer tries to analyze that the blockage actually came from a condition of a country that actually conflictable as well. Those issue is about Birthright Citizenship. Related to the issue, because of the PIDs were refugees for the first time, it was little bit difficult for both Indonesian government and the Philippines government to take a step. Moreover, there was a change policy in the Philippines relate to the giving a nationality towards the PIDs were not simple as it can imagine. So, the involving of the third party and stronger actor like UNHCR will be analyze in this chapter whether UNHCR actually should take part to this case or not.

## **A. Less Effective Policy Ran by both Indonesia and the Philippines Government**

As a country, it is a responsibility to ensure the citizen to get their welfare. Welfare does not always mean that a person has a good stability in their income and outcome. Welfare here means the citizen of a country can get their basic rights such as land to build a house, education, job, and many more which only can be gotten if a person belongs to a country legally. It has already run since the colonial era some citizens of Indonesia moved to the Philippines and loss their nationality. For a long time, the citizen called Persons of Indonesian Descent (PIDs) have to struggle to survive in another country. It has already explained in the previous chapter that eventhough both Indonesia and the Philippines have already tried to run their policy to help the PIDs' struggle, statelessness still exist until around 2015. Then, a non-state actors comes and tries to solve this problem. UNHCR take a role towards this problem. In this section, the writer tries to analyze for the first factor by using the concept of Transnational Advocacy Networks why exactly UNHCR take a role towards the stateless problem in PIDs case.

The effectiveness of a country to tackle this kind of problem which in this case Indonesia and the Philippines still could not give a nationality towards the PIDs. Mr. Yusuf, one of the PIDs from Davao, and he got married with local people in Laensasi, said that the problem faced by the PIDs were much. Mr. Yusuf explained that assistance from the Indonesian government, for muslim society there came twice a year. Those assistances came only at the moment of Idul Fitri and Idul Adha. About education, the assistance that came to them much more came from the

Philippines government. While the assistance from the Indonesia government related to education only available in Davao through *Sekolah Indonesia Davao* (SID). For Indonesian society who lived in Mindanao especially, they have an obligation to have Alien Certificate of Registration (ACR) like what already explained in the previous chapter. Mr. Yusuf also explained that for replacing passport and visa, ACR was an obligation for people that lived in the Philippines for a long time and they did not have legal document and those ACR should be extended every year. From the society that lived in Laensasi, there were many persons that have no capability to fulfill those obligation because of economic problem. Most of them are old people, and rather difficult to find a job. Indonesian society in Laensasi have a job as a sailor and the other one have a job as a farmer. Most of them admitted that the income from those job could not fulfill their everyday life needs. For represent another appreciation of another Indonesian societies especially the elders, Mr. Yusuf has some advices for the Government of Indonesia. Mr. Yusuf explained that assistance should be given to them in another area around Davao which is in the coastal area of Mindanao like Laensasi in every month or every three month that are food or money. Indonesian society here generally, they wanted to be noticed from the government of Indonesia (Manenda, 2016).

Like what already explained above that in every area lived by the PIDs there will be a chief that connected the PIDs and also the Government of Indonesia in Davao City named *Penghubung*. Mr. Rahman is one of *Penghubung* in PIDs society which located in Quilantang, General Santos City. Mr. Rahman explained

that during this time of their life actually there are no serious constraints. A problem just felt lately since the dismissal of fishermen from outside Indonesia to sail into the territory of Indonesia. Because majority of citizens who work in General Santos City is working in the fishing company owned by citizens of the Philippines (Rahman, 2016). One of common problem experienced by stateless there were economic problems. And because of those economic problems, stateless could break the local law. For example, stateless admitted that for fulfilling their daily needs, some of them smuggled stuffs from Indonesia to sale in the Philippines. As a result, they get criminal penalties.

Citizenship status nowadays becomes an important issues in International Relations. In the case of PIDs, citizenship status problem of Indonesian society that lived in the Philippines often became a complaint. According to Mr. Sammy, almost 85% Indonesian society which existed in Glan tend to choose to become Indonesian, however in fact they supported programs provided by the government of the Philippines like *Pantawid Pamilyang Pilipino Program (4Ps)* and another programs provided by the government of the Philippines. Not infrequently found that some of them also followed local government elections there. It means that Indonesian societies wanted to be Indonesian, but in another hand Indonesian societies also proved that they have already became semi-Philipinos. For managing the legal document, Indonesian societies in Mindanao especially outside Davao have to take some hours to go to Davao. Because, until now, the only one who provided any matter about citizenship issues in Mindanao was in the General Consulate of the Republic of Indonesia in Davao City. Their consideration were

about economic problem which they have to spend more money to go to Davao city. It became simpler when in a family only have a child, so they has only to handle a document for one person. However, in fact most of family there have more than three children, from those condition, most of them did not want to take their obligation related to their legal document because they think that they will spend more money to take care the legal document of the whole family (Makpal, 2016).

The information from some respondents above showed that almost all of them felt comfortable to stay in the Philippines because the kindness from the government of the Philippines that already gave them facilities and easiness for them to stay in the land of the Philippines. Concern for the Government of Indonesia because of any common problems happened in the middle of the society of the PIDs in Mindanao were not 100% solved yet. It will become a serious problem when there is a problem among Indonesian society or when they break the local law, Indonesian societies considered as Indonesian because they are the descendant of Indonesian so the government of Indonesian there has to take the responsibility of them. Until 2016 citizenship status that became a focus of discussion in this research were also not solved yet. Actually, assistance has already given from both the Indonesian government and the Philippines government. However, the main problem actually about their legality towards their nationality. Legality of their document could become an obstacle to them for example to find a job. Majority of them are a labor in a Philippines' sail company and also Copra which is work as a farmer in palm plantations but the land belong to the Philippines. When they work as a Copra farmer, they have to divide their income for 2:1, 2 for the land owner

and 1 for the farmer. Before the Feedback Mission program from UNHCR, assistances from the Philippines government and the Indonesian government only covered the policy to survive. All of them actually wanted to get their legal nationality for a long time ago, but they just got their rights from the Global Action Plan to End Statelessness from UNHCR in 2016. In terms of effectivity of role, both Indonesian and also the Philippines already gave them much assistances to survive. Yet, the one they needed is actually an assistance to get their legal nationality that just they got in the late of 2016 from the agenda of UNHCR.

#### **B. UNHCR as One of Policy Influencer Related to the Case of PIDs**

In the chapter III explained, the role of UNHCR was massive to solve the problem of statelessness. In its role, UNHCR did identification, prevention, reduction, and protection. Those special areas were inseparable to every case faced by UNHCR. As one of the important actor to eradicate such an issue like statelessness, UNHCR has those special areas to ran their job. Cooperated with other international organizations, NGO, or even the local government. Literally, those job areas of UNHCR have already showed how UNHCR handled an issue especially statelessness. UNHCR has already done to solve the problem of stateless in some countries. UNHCR becomes one of an institution from UN that very vital because taking a huge concern to the basic rights like nationality which is the important matter not only for individual but also for a country (Buitrago, 2011). A country basically also has a great responsibility towards their citizens that faced a citizenship status problem. Because, in this era, there are many organizations or even individual that can utilize this chance to exploit the individual to cover their

existence. And when the individual get caught, the related country is the one who responsible of the crime done by the individual. On the issue of PIDs, which incidentally has lasted so long from the first time they came since 1800s, stateless were not inevitable. Even though, approximaly some of PIDs have nationality and most of them were not. Therefore, UNHCR assisted by relevant countries and local NGOs are trying to solve this case on the idea in 2016. The result were around 1900 citizens of Indonesian descent in Mindanao choose to became Indonesian. However, the problem is after the nationality status is confirmed, what to do with them? The Indonesian government has already provided some options for those who choose to became Indonesian. Those options are whether the PIDs want to stay in Mindanao, go back to Indonesia, or they want to stay in the Philippines and become Philipinos.

There are some cases that have been solved thanks to the cooperation between the countries concerned with the UNHCR. In this case, the case that have been done by UNHCR in some countries looks similar to what happened to the PIDs in the Philippines. First of all, they become refugees because of some issues, stay in the destination country for long periods of time, and eventually become stateless because of the status of their citizens has been lost. It is caused by a lack of education and information regarding the legality of the citizenship status of a community within a country. This also happened because at this time the residents are fleeing from their home countries, legislation on citizenship status is not valid because of occupation, policy fluctuations, etc. The result, after decided to stay in the country of destination and lived for a long time, the stateless can not have their



own basic rights such as education, employment, and adequate housing. (Buitrago, 2011).

The first is what already happened in Sri Lanka. Stateless in Sri Lanka had occurred in the year 1820 - 1840, thousands of ethnic Tamil Nadu Province, India was brought to work in the tea plantations. It happened under British colonial rule at that time. At first, they were taken to the tea plantations. Because of they were under British colonial at that time, they could not do anything to fight. And then, similar to the PIDs case, most of them were assimilate to the local society and married with the local person and they have family there. In the end, they did not know clearly to which citizens they belong to. They became stateless for over more than 200 years. And in 2003, the government of Sri Lanka decided to give citizenship to the people of Indian descent in Sri Lanka. And since that time UNHCR moves to deal with such matters. About 190,000 residents get the citizenship of Sri Lanka in 2003 (Buitrago, 2011). In such cases, it takes much effort to get the basic rights named Nationality. In the case above show that prior to the determination of the status, the process is carried out through a lot of obstacles. Barriers that occur among others, less cooperation between the responsible countries, stateless considered as a threat, economic and educational background of the stateless, and many more. Related to the case of the PIDs, there are already more than a century of Indonesian descent citizens in the Philippines counted as stateless, and they live without basic rights. In the late 2016, UNHCR took steps with the cooperation of the two countries both Indonesia and the Philippines, local NGOs, and also Diaspora Indonesia in Mindanao. By the cooperation between those actors,

Persons of Indonesian Descent which have no clear citizenship status could get the legal status of Nationality whether they wanted to be Indonesian or Filipinos.

From those events, UNHCR has already given huge impact especially for giving many persons of descent their basic rights. And also, from those events, it could be analyzed that stateless have already emerged for a long time first. And then, by the role of UNHCR, local government, NGOs, and other actors that concern to this case, statelessness could be stopped and many persons of descent could get their nationality. When it is seen by the perspective of International Organizations Concept, the role of UNHCR here as an 'Actor' and also 'Arena'. Because, the stateless issue in the Philippines was rather complicated to overcome because for the first wave the PIDs came to the Philippines, Indonesia still in the era of Dutch Colonialism. It means that The Republic of Indonesia was not born yet. However, for the second wave the PIDs came to the Philippines, when the Poso conflict happened, Indonesia has already born. In this condition, the role of Indonesia and also the Philippines also rather difficult to overcome the case. Here, the role and the function of international organizations which in this case UNHCR emerge.

### **C. Birthright Citizenship as a Blockage**

Within a country, the familiar form related to determine the citizenship status of a person is to use the view of birthright citizenship. Birthright citizenship is the right to get a citizenship status determined by *Jus Soli* and *Jus Sanguinis*. As already described in the previous chapter that, *Jus Soli* is granting citizenship based

on where a person was born. A country that use this principle would recognize a citizenship when a person is born in the territory of a country. The following is *Jus Sanguinis*, in contrast to the previous principle, *Jus Sanguinis* recognizes someone to become citizens if a person has a blood relationship with the natives of the country or the child will be recognized by the status of citizens of a country if the parents of the child is a citizen belongs to the certain country. In this research one of the reasons why the case of stateless among PIDs unresolved for many years because it is influenced by the principle of a country in this case the Philippines to determine citizenship status.

The Philippines ever embraced the principle of *Jus Soli* in the mid 20s century. However, a change of policy from the previous *Jus Soli* became *Jus Sanguinis* made the government of the Philippines can not give citizenship to anyone born or lived a long time in the land of the Philippines (Aguilar Jr., 2016). Indeed, aid materially from the government of the Philippines remain on the PIDs. The PIDs felt that they were treated very well by the government of the Philippines even though they are not citizens of the Philippines. But the trouble is they are Stateless. UNHCR as one of the international organization under the auspices of the United Nations is very concerned about the case of stateless, because stateless means they were not present in any country. And behind it all, a stateless are the most vulnerable because they can not demand their rights as a citizen. The PIDs can only wait for a help from both Indonesian government and the Philippines government. The fear is the issues that occur among stateless lately about human trafficking, discrimination in employment, and many more. That may befall them

if the Indonesian government and the Philippines government can not protect them legally.