

**THE ROLE OF UNITED NATIONS HIGH COMMISSIONER FOR
REFUGEES (UNHCR) IN SOLVING THE PROBLEM OF
CITIZENSHIP STATUS
(Case Study of Persons of Indonesian Descents (PIDs) in the Philippines)
(2009 – 2016)**

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ABSTRACT

Persons of Indonesian Descent are the persons who can possibly said that they are the descendent of Indonesian. However, they lived in another country outside Indonesia which in this case is the Philippines. They came to the Philippines because they ran from their country to prevent the conflictual condition which is the Dutch Colloniatization era and also the Poso Conflict. After the independence of Indonesia and the regulation about nationality in Indonesia has already been made, the PIDs in the Philippines considered as stateless persons. Because of some limitation from the Indonesian and the Philippines government, the problem of citizenship status among the PIDs could not be solved for years. In 2009, United Nations High Commissioner for Refugees took a part to this case.

By using qualitative methodology of research, this undergraduate thesis will try to analyze the participation of UNHCR eventhough there are already two countries that try to solve the problem. The sopporting data from the concept of Transnational Advocacy Networks and the function of International Organizations showed that there are some aspects behind the participation of UNHCR in the case of statelessness among the PIDs.

Keywords: International Organization, PIDs, Stateless, Transnational Advocacy

Networks, UNHCR

A. Introduction

United Nations High Commissioner for Refugees (UNHCR) in the Philippines was first established in Manila, Philippines. It has already existed for around 30 years ago. However, the existence of UNHCR for the first time was still in Manila. UNHCR in the Philippines started to focus on Mindanao more since 2010. At start, UNHCR in Manila focused on the issues of asylum-seekers, refugees, broader asylum-migration issues and of course statelessness (UNHCR, Philippine Operation, n.d.). Statelessness that emerged in the middle of the Persons of Indonesian Descent (PIDs) society in the Philippines drive UNHCR to take apart towards this issue. The existence of citizenship status problem among the PIDs in the Philippines emerged in two cycle of period. Both of the period, the society avoided a conflict in the origin country which is Indonesia for their safety. The period are the colonialization era of the Dutch in Indonesia and also the Poso conflict. Both condition made the society afraid to stay in their origin country and choose to mobilize to the safer place. However, the society did not know that the island that they go to is other country' territory. Until their period of limitation of their citizenship were expired, the society from Indonesia still live there and led them to be stateless. One of the region in General Santos City, Mindanao, The Philippines, the elders from PIDs society explained that the people who felt afraid to the condition in Indonesia at that time started to move to the Philippines. If it is counted, they had already existed in the Philippines since the Dutch colonialization era. If the age of a human is around 60 to 80 years old, it means they have already had two until three generations. As a result, the second and the next generation

experience what we called stateless whether they are Indonesian or Philipinos because they did not know exactly how to manage a citizenship document. And also, even if they know, they admit that there are certain people who told them that they have to pay if they want to manage the Document.

According to some Indonesian Descendant in Davao city, Once the government offered a return program to them. However, after they arrived in Indonesia, they did not know how to find a job, where to live, and to whom they ask for help. Finally, they decided to go back to the Philippines. As a foreigner there, they gave a certificate to get a similar privilege to the Philipinos have but they have to pay for it. However, compared to the life that they got if they go back to Indonesia at that time, they preferred to stay in the Philippines. Until August, 2016 over 8,700 Indonesian conducted as a stateless in the Philippines (Aruperes, 2016). The Indonesian Descendants who live in the Philippines live faced many troubles and obstacles. Trouble that they face actually because they have no powerful document legally of living that explain what their status of citizenship is. Indonesia and Philippines have already given their efforts to end this citizenship status problem. Indonesian government through the Consulate General of the Republic of Indonesia in Davao city already gave some assistances towards the PIDs, such as facilitated the PIDs to go back to Indonesia, gave them loan so they could try to improve their economic status. As well as the government of the Philippines, one of the assistance that they gave was called Alien Certificate of Registration (ACR) which helped the PIDs to get some of their rights, such as health care, job vacancy, and many more. Since 2014, Indonesian government and Philippines government

assisted by UNHCR did some series of program, started from collecting data about the existence of PIDs in Southern Philippines, giving a socialization, and the closing of the program named a Feedback Mission Program.

In this case, the writer used the concept from Margaret E. Keck and Kathryn Sikkink. The concept called Transnational Advocacy Networks. In their article, Margaret E. Keck and Kathryn Sikkink told that what is the latest of those networks is “the ability of non-traditional international actors to mobilize information strategically to help create new issues and categories, and to persuade, pressurize, and gain leverage over much more powerful organizations and governments” (1998, p. 89). And in their article also told that “value is more important than materials and professional norms” (1998, p. 89). Those interactions between actors lead them to exchange information from both side. Transnational Advocacy Networks also could be a greater policy communities because one of the main actor that could influence the output of policy of a country is Non-state actor which in this concept is the major actor. The focus discussion of Advocacy Networks are more concern on the debate of human rights, environment, women empowerment, health, and also indigenous people (Transnational Advocacy Networks in International and Regional Politics, 1998). Next, the main actors to be focused on beside both countries representative is non-state actors which represented by UNHCR. The purposes of the emergence of Transnational Advocacy Networks according to Margaret E. Keck and Kathryn Sikkink (1998, p. 93):

- a) Channels between domestic groups and their governments are hampered or severed where such channels are ineffective for resolving a conflict, setting

into motion the 'boomerang' pattern of influence characteristic of these networks;

- b) Activists or 'political entrepreneurs' believe that networking will further their missions and campaigns, and actively promote them;
- c) International conferences and other forms of international contacts create arenas for forming and strengthening networks.

The role and function of the international organizations affected by the view of nature of the system itself. There are three major roles of international organizations (Archer, 2001): those are Instrument, arena, and actor. As an instrument, international organizations could massively affect other members policies especially, the one who take control is the stronger state over the weaker state. It becomes something different when a strong state have to deal with another strong state especially there is a state sovereignty. It made the power of every independent state in this world could not easily influence by another state through international organizations. The second role of international organizations is arena. As an arena, international organizations could be a great place for each members to discuss, argue, co-operate or even disagree (Archer, 2001). As a third role which is actor, international organizations could done anything that a state could not easily done. For example as an actor, international organizations could give an assistance towards the victims of war or in the disaster zone. Or even, international organizations could become the mediator for the conflicted states for example in Lebanon and in Korea (Archer, 2001).

B. Indonesia – Philippines Policy Towards the PIDs

PIDs or Persons of Indonesian Descent might be called as a phenomenon which explain about a group of persons who had already lives in a country and had had descendant in a country. In this case, persons means the community from Indonesia that moved on a large scale to the Philippines. According to some of the PIDs, the meaning of seeking a safer place was at the moment of colonialization era, the society in one of the region in Sulawesi which near by the Philippines that is Sangir and Talaud went to the coastal area of the Philippines. Some of the societies there felt afraid of the colonialization condition at that moment. So, they decided to ran to Neighbor country was, the Philippines. The society did not realize that it was the territory of another country. Sangihe island is one of the northern island which very close to the Philippines and have Marori island which is northernmost island of Sangihe island and became the exit point from Balut island, Sarangani which became the entry point from Philippines (Tiu, 2006). So, the first wave of Persons of Indonesian Descent moved to the Philippines by palm boat. Because of most of them were coastal area society, they had already had their own boat to go to sea, so they moved to the Philippines mostly by their own boats. Since there was minimum control in the border area especially in the sea territory, the society moved easily to the coastal area of the Philippines.

Nowadays, Persons of Indonesian Descent have already spread throughout Mindanao, Southern Philippines. there was a person pointed by Consulate General of the Republic of Indonesia to be like a liaison officer called *Penghubung* (Basa, n.d). In its history, Persons of Indonesian Descent survived with a limited skill.

Especially, they came to the Philippines at the moment of colonialization which most of Indonesian got no proper education. Because of the region was port city especially for fishing, most of male PIDs in the Philippines became a fishermen of big fishing company (Pulmano, 2012). In another *Barangay* (region) precisely in the area of Barangay Burias, Glan, Sarangani Province, most of the PIDs work as a tender of palm plantation owned by Filipinos (Pulmano, 2012). So, majority worked as a labour and worked for the indigenous people in the Philippines.

As one the founding father of the Association of Southeast Asian Nations (ASEAN), the Philippines and Indonesia have had a tight bilateral relationship since 1949 (www.gov.ph, 2014). It has already 67 years for the first time both Indonesia and the Philippines weave a bilateral relationship. The cooperation between two countries were spanning trade, joint investment, education, defense, security, and moreover against counterterrorism (Bartolome, n.d). In the era of President Susilo Bambang Yudhoyono both Indonesia and the Philippines signed an agreement which include in boundary dispute and maritime boundary called Exclusive Economic Zone (EEZ) Boundary Delimitation Agreement (Fardah, 2014).

Since the first coming of PIDs to the Philippines, Consulate General of the Republic of Indonesia in Davao City have already made a cooperation with the government of the Philippines towards this problem. Starting from data collection to map the existence of PIDs in Mindanao, giving them training and workshop, giving them loan through *Diaspora program* from Consulate General of the Republic of Indonesia (Drs. Soehardi, 2016), and giving them a card named ACR

from the government of the Philippines. Cooperated with *Diaspora Indonesia Filipina Selatan* (DIFS) some Companies, such as PT. Indofood CBP Sukses Makmur TBK., and PAG-ASA FULCHI Development Cooperative organized a Training and Workshop program on Salesmanship (Indonesia, 2014). This program aimed to manage and develop the PIDs so they can develop their economic status compared to just working as a labour which usually discriminated against the companies because of their unclear status as a citizen. From the side of the Philippines, the Philippines government has already given their assistance towards the PIDs in the name of humanity and also because of a good relationship between Indonesia and the Philippines. The Philippines government provided a card named Alien Certificate of Registration (ACR) for non-Filipinos, whether they are migrant workers, students, or even refugees. According to some of the PIDs, ACR greatly helped their life during their stay in the Philippines. ACR provided clarity about their status.

C. UNHCR Role Towards PIDs

It is not because a bad capability by Indonesia nor the Philippines so the case of citizenship status problem could not solve yet. It because of the problem of citizenship status which in this case is the problem of stateless that basically should fullfil the basic rights for many people is little bit complicated to solve. In this case, complicated means when a country did not want to recognize or take a step forward to give the stateless persons a nationality remembering that a country is the basic administrative unit of global politics (Burke, 2014). Especially this problem involve two countries that have different perspective towards the rights of people

to gain their citizenship status. Most of the PIDs societies confess that to find a job was very difficult there, and when they already got their job, there still some discrimination towards them (Majid, 2016).

Since 30 years ago, United Nations High Commissioner for Refugees took a place in the Philippines. For the first time UNHCR emerge, UNHCR was really concern in any issue related to refugees especially if the issues head to statelessness. Regarding to Statelessness, UNHCR have their special areas to do related to solve their concern which are identification, prevention, reduction, and protection (UNHCR, Ending Statelessness, 2001). Many cases in terms of stateless occurred because of persons are being refugees for the first time or it can be said as being a “*De Jure* stateless” or “*De Facto* stateless” (UNHCR, 2010). It means that, because of some condition, persons which firstly have a nationality could become a stateless. Actually, nationality is a right. By having a right to nationality, persons could have the other right from the state where they stand. Nationality also provides legal connection between persons and the State including grant a diplomatic protection and representation of the individual on international level (Batchelor, 1998). Since 2011, a serious program have already initiated by the Philippines government, Indonesian government and the mediator as the third party which is UNHCR. The program named *Persons of Indonesian Descent Registration Project* (Majid, 2016). This program has been done in the area of Southern Mindanao. This program also used to identify and analyze possible solutions towards the Persons of Indonesian Descent.

Regarding the role of UNHCR in the Philippines, as one of the major power to tackle the issues related to refugee, UNHCR have a big role towards the problem of Persons of Indonesian Descent. Since 2014 – 2024 UNHCR have a big agenda to tackle stateless in the world. There was named Global Action Plan to End Statelessness. This 10 years program from UNHCR gave new hope especially for stateless, refugees, asylum-seekers, internally displacement persons, and others persons whose faced the problem related to their basic right which is nationality (UNHCR, Global Action Plan to End Statelessness, 2014). One of the program from UNHCR assisted by both Indonesian government and the Philippines government carried out named Solutions Feedback Mission. This program basically to facilitate the PIDs to chose whether they wanted to be Indonesian or Filipinos. Until the data collection completed, the number of PIDs which are owned by UNHCR fewer than the data showed by the news. The data from UNHCR showed that 2,039 persons claimed to be Filipinos, 1,738 persons claimed to be Indonesia and 317 persons claimed to be dual citizens. From the data of UNHCR, from the first coming in around 1870s, the amount of Indonesian which are went to the Philippines are continuously decrease.

D. End Line of Statelessness Towards the PIDs in the Philippines

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). In this case, the blockage actually came from a condition of a country that actually conflictable as well. Those issue is about Birthright Citizenship.

Mr. Yusuf, one of the PIDs from Davao, and he got merried with local people in Laensasi. According to him the problem faced by the PIDs were much. Most of them admitted that the income from those job could not fullfil their live everyday (Manenda, 2016). In every area lived by the PIDs there will be a chief that connected between 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 Indonesian to sail into the teritory 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 fullfiling their daily needs, some of them smuggled stuffs from Indonesia for sale in the Philippines. And the consequences of their activity was criminal penalties. A country basically also have a great responsibility towards their citizens that faced a citizenship status problem.

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*. 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).

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