

## **CHAPTER IV**

### **THE COOPERATION AMONG UNHCR, INDONESIAN GOVERNMENT AND PHILIPPINES GOVERNMENT IN EXECUTING THE PILOT PROJECT**

In managing the problem of persons of Indonesian descents in Mindanao the actors that include to take control in managing the problems not only comes from the role of state actor but also comes from the non-state actors such as from the International Governmental Organization and from the local government, UNHCR, Indonesian Consulate in Davao City and Philippines government.

In this thesis, the writer refers to Trans-Advocacy Network which is the collaboration of some actors in dealing with an issue (Keck & Sikkink, 1998). The writer would explain more about the further information using this concept as the base of the framework because in this undergraduate thesis the writer includes three actors that working together in managing the stateless status issue of persons of Indonesian descents in Mindanao.

#### **A. The Cooperation among the UNCHR, Indonesian government and Philippines government**

As we know, Indonesia has a sea border with the Philippines that are geographically located sufficiently close. Remembering that there are similarities from the geographic and demographic characteristics of the population living in the border region between the two countries, even since before the independence of both countries, until after the independence of both countries. A lot of people and

goods crossings were done traditionally without any documents or through the official port (sea port). This becomes a dilemma for both countries, until the bilateral meetings and both countries agreed on some cross-border agreements as follows:

- Agreement between the Republic of the Philippines and the Republic of Indonesia on Immigration, 4 July 1956 ratified on 16 January 1961;
- Joint Directive and Guidelines on the Implementation of the Immigration Agreement on Repatriation and Border Crossing Arrangement between the Republic of Indonesian and the Republic of the Philippines, 16 September 1965;
- Joint Implementation of the Border Control Agreement and Border Crossing Arrangement between the Government of the Republic of Indonesia and the Government of the Republic of the Philippines, 11 March 1975 (Majid, 2016).

The implementation of the agreement experienced some dynamics problems in the field, due to the high number of the traditional passer (without supporting documents passer) and the number of islands that stretches around the border of Indonesia and the Philippines making it more difficult in monitoring the passing activities. Then a new problem occurred when a lot of people from Indonesia who choose to stay or settled in the southern Philippines. Although they do not have official documents, Philippine governments allow them to remain settled in the Philippines with the status of aliens (foreigners). When citizens from Indonesia got married and given birth to their children, their children were recognized as a

community known as the Persons of Indonesian Descent (PIDs) (Pulmano, 2012, p. 7).

According to the Indonesian Foreign Ministry mission, it is obligated to the Indonesian representative in another country to have an active role and support the needs of Indonesian citizen who lived outside the Republic of Indonesia. The problem of persons of Indonesian descents in Mindanao has become a serious issue between Indonesia and the Philippines. Indonesian Consulate in Davao City, as the official representative of the government of Indonesia to Mindanao, Sulu and Tawi-tawi is an official representative which take control over the problems that related to the persons of Indonesian descents in Mindanao directly (Kemenlu, 2015).

Most of the persons of Indonesian descents that lived in Mindanao today are mostly 2<sup>nd</sup> generation, 3<sup>rd</sup> generation and some of 4<sup>th</sup> generation which was born in the Philippines (their parents are originally from Indonesia which entered the Philippine territory illegally without documents). Despite having been born in the Philippines, they are not necessarily recognized as citizens of the Philippines because the Philippines adheres to the principle of *lus sanguinis* (citizenship by descent determination) (Alam, 2006).

Remembering the behavior of Philippines government at that time around 1970s that still recognize the persons of Indonesian descents as the foreigner, Indonesian government has to recognize these persons of Indonesian descents as Indonesian citizen, which is in the implementation of Indonesian consulate in Davao City, this is their obligation to protect the persons of Indonesian descents in Mindanao. The

crucial problem that still being faced until today is the incompleteness of their immigration status in which Philippines government recognize them as undocumented citizen.

Philippines government helps Indonesian consulate a lot in managing the problems of persons of Indonesian descents that settled in Mindanao, especially in acquiring the Alien Certificate of Registration (ACR). Alien Certificate of Registration is a requirement for foreigners who come to Philippines after several times. This card is also issued for those foreigners to be able to leave the Philippines (n.d., 2014). Philippines government helps issuing those persons of Indonesian descents in acquiring ACR by decreasing the price of ACR application fee. However, due to the poor condition, not everyone could acquire the ACR, so they remain as undocumented citizen (Majid, 2016).

Looking at the endless problem that faced by the persons of Indonesian descents in Mindanao, the efforts that has done previously seems did not showing any sufficient result. In 2011, the Philippines government and Indonesian consulate collaborate with United Nations High Commissioner for Refugees (UNHCR) as the mediator to initiate the Person of Indonesian Descents Registration Project to identify the nationality status of the persons of Indonesian descents in Mindanao and to help them in deciding the nationality that will become the permanent nationality of persons of Indonesian descents.

After the registration done, the persons of Indonesian descents will be awarded as the citizen of the nationality that they have choose during the registration process.

By this collaboration, the registration project of persons of Indonesian descents become the pilot project to work on the nationality awarding for the persons of Indonesian descents in Mindanao (Maramag, 2016). These are the lists of the cooperation that has been done by the actors in managing the stateless status issue of persons of Indonesian descents in Mindanao:

Table 4.1

The efforts in managing the Persons of Indonesian Descents stateless status issue

Tahun	Uraian	Inisiator	Keterangan
1975	Letter of Instruction No. 270, 11 April 1975 ttg Naturalisasi	Filipina	Waktu Terbatas
1976	Return Migration 452 orang	Sukarela	Ancaman Keamanan
1977	Return Migration 432 orang	Sukarela	Ancaman Keamanan
1978	Pendaftaran Ulang WNI	KJRI	Validasi Data
1979	Return Migration 175 orang	Sukarela	Ancaman Keamanan
1980	Return Migration 210 orang	Sukarela	Alasan Ekonomi
1984	Kebijakan <i>Closing Our Eyes</i> terhadap keberadaan WNI ilegal	Filipina	Kebijakan Presiden Marcos
1993	Rapat interdep merumuskan repatriasi dengan program transmigrasi	KJRI	No progress
1994	Act No.7919, 25 Juli 1994 tentang naturalisasi	Filipina	Terlalu Mahal dan waktunya singkat
1995	1 <sup>st</sup> Joint Committee on Bilateral Cooperation (JCBC) : Pembahasan tentang Undocumented Indonesian National in Southern Philippine	Filipina & Indonesia	Akan melakukan Survey bersama, no progress
1995-1996	Repatriasi 396 orang	KJRI	Talaud dan Maluku Utara
1998	Sidang komisi bersama untuk kerjasama bilateral 23-25 Februari di Jakarta	KJRI	Alternatif solusi : repatriasi, legalisasi & integrasi
1999	Survey KJRI : repatriasi 1.783, legalisasi 3.672, intergrasi 256,imbang 1.158 (6869)	KJRI	Keterbatasan dana pemulangan, perlu pembahasan oleh Senat
1999-2002	Memorandum order commissioner immigration No.32 tgl 26 Juni 2002 ttg ACR	Filipina, BI	Penyesuaian biaya ACR
2004-2007	Bantuan pembayaran Alien Certificate of Registration (ACR)	KJRI	1000 orang WNI pemukim ilegal
2011	Kesepakatan Joint Committee on Bilateral Cooperation, survey WNA	Filipina & Indonesia	Registrasi PID dengan UNHCR

(Source: (Majid, 2016))

## **B. Pilot Project Execution**

Agus Abdul Majid in the interview explained about the pilot project that the process of making this has been started since 2011. In cooperation between the Philippines government with the help of mediation of the UNHCR, these actors start with the process of mapping (to map the problem and the populations of the Persons of Indonesian Descents). After the mapping process then these actors invite the representatives from local government, researchers, academics, NGOs and related parties to discuss this issue in forum group discussion. The results of mapping and forum group discussion are they will start doing the pilot project registration and arrange the applications comprehensively in order to enlist the PIDs. Registration activities started in 2014 and ended in March 2016 the representative of Indonesian consulate, Philippines government and UNHCR visit the rural area of Mindanao to register the persons of Indonesian descents and also to meet them in person. The registration was later analyzed and discussed in a bilateral meeting between the two governments (Indonesia and the Philippines) and the representative of both countries agreed on some policies. These policies then begin to be executed in the form of Solution Mission (Affirmation Status) which was began in March to October 2016 (Majid, 2016).

The processes of this pilot project is highly expected to become a successful way for the persons of Indonesian descents since the nationality is one of human right that belong to everyone in this world. This is also include in one of the eight (8) priorities of foreign policy of the Republic of Indonesia as what Agus Abdul Majid mentioned:

“I think it is a fundamental right of a human to have a nationality. Nationality rights for every individual is closely related to human rights. The Indonesian government even makes the protection of rights of Indonesian citizens as one of the eight (8) priorities of foreign policy of the Republic of Indonesia. It is manifested from first principles in Nawa Cita of President Joko Widodo, namely the presence of the State in solving problems faced by Indonesian citizens both at home and abroad” (Majid, 2016).

The General Consulate of Indonesian Consulate in Davao City Berlian Napitupulu mentioned that the problem of rights protection of Indonesian citizen is one of Indonesia’s foreign policy priority. He also said the same thing as what Agus Abdul Majid has mentioned above. He also added that as the Indonesian’s representative. The government should give the full protection to all of the Indonesian citizen whether they stay in Indonesia or live abroad as what have explained in Indonesia’s constitution. Especially, in this context we have to handle the stateless status issue of the persons of Indonesian descents (Fajardin, 2016).

The mission started by the registration system which during the registration system the persons of Indonesian descents will follow some steps. After getting the results of the registration systems and have done in following all the steps, the actors will find out the permanent solution for the persons of Indonesian descents. The permanent results will be based on what have been chosen by the persons of Indonesian descents during the registration.

### **1. The Registration System**

The implementation of the registration is done by a joint team which consist of the representatives of Indonesian Consulate in Davao City, the Department of Justice, Bureau of Immigration, Public Attorney's Office, UNHCR and NGOs

(Pasali). Before the implementation of the registration process, the field team of UNHCR and Pasali will stage the community preparation to have a meeting with the LGU (Local Government Unit), to prepare for the registration place and spread the invitation to the PIDs with the help of Liaison Officer (LO) of Consulate General in Davao City (Pulmano, 2012).

### **i. Orientation**

The first step of all registration system is an orientation. Every persons of Indonesian descents who comes (both carry the invitation or not) to the registration place will be placed in groups to attend a brief orientation about the necessary documents and details of activities in the registration process so that they can follow all the stages of registration well (Majid, 2016).

In this step, it is really important for the persons of Indonesian descents to prepare their documents and details well so that they can be proceed to gain the nationality that they will choose in the next step. The orientation will be the open door for them to gain what they have been dreaming since their ancestor.

### **ii. Reception**

At this stage, each persons of Indonesian descents will be given a serial number, and booklet/information regarding to the rights and obligations of citizens. At this stage they also will be given some facilitations that might really helpful for them especially for the special assistance (Majid, 2016).



During this step, the persons of Indonesian descents who need the special assistance such as the children, adult and non-english or non-indonesian speakers will be assisted by the joint team members. The joint team representative provide them with the translator to help them in communicating during the registration process to make them understand well about the process.

### **iii. Data Verification**

At this stage, each PIDs are required to show their documents to the representatives of joint team whatever they have (passports, birth certificates, identity cards, voter cards, etc.). Each document will be checked for authenticity by the verifiers from the representatives of Joint Team and short interviews related to the documents (Majid, 2016).

The data that brought by the persons of Indonesian descents and the interview that was held at this step will help the persons of Indonesian descents and also the joint team representative to determine the nationality of the persons of Indonesian descents. After the data has been clarified, the persons of Indonesian descents will be listed whether at the current time they were Indonesian, Filipino or stateless (if they do not have any documents) according to the documents that they used in daily life.

#### **iv. Registration**

The registration step is the main step over all. At this stage, every persons of Indonesian descents' personal data, information of the family (father, mother, wife/husband and children), their origins and occupation will be input into the registration system of PIDs. At this stage the joint team also taking the biometric data (photograph and fingerprints) and scanning the documents that own by the persons of Indonesian descents into the database of registration system of PIDs (Majid, 2016).

Every documents and biometric data that has been inputted into the database of the registration system of PIDs will be analyzed and proceed for the permanent solution for the persons of Indonesian descents. The permanent solution will be based on their option whether they will choose Indonesia or Philippines as their nationality.

#### **v. Counseling**

At this stage each persons of Indonesian descents are given the opportunity to consult with the Lawyer of the Public Attorney's Office as well as from the representatives of the Indonesian Consulate in Davao City in order to understand about their citizenship status under the Act and the rules that apply in Indonesia or the Philippines, in order to gain a complete understanding of the rights and responsibilities of citizenship countries (both Indonesia and the Philippines) (Majid, 2016).

The last step which is counseling is really important for the persons of Indonesian descents. In this step, the result of their conseling session will be really helpful for them and also for the joint team representatives in finding out the obstacles that they have been struggled with. Beside that, in this counseling session they were also given the explanation about the importance of nationality in their life.

## **2. Registration Result**

On March 3<sup>rd</sup>, 2016 Indonesian Consulate in Davao City received a delegation from the Department of Justice, Bureau of Immigration and representatives of UNHCR Philippines were present to report on the overall results of the implementation of the registration and confirmation of nationality of Persons of Indonesian Descent residing in Southern Philippines which started from the end of 2014 to February 2016. From the results presented, the result of the persons of Indonesian descents that registered as many as 8.745 persons (Majid, 2016).

## **3. Permanent Solution for PIDs**

After the registration processes the most important agenda is the solution mission for the persons of Indonesian descents. In this preparation for the permanent solution mission, the Philippines government has done some meeting with some agencies related to the internal of Philippines government, also bilateral meeting between the Philippines Department of Justice and the delegates of Indonesia's Ministry of Laws and Human Right to establish the joint policy which

will be permanent in order to determine the clarity of the nationality status of the PIDs (Ariwibowo, 2016).

The permanent solutions for the persons of Indonesian descents that offered by the actors can be described as follows:

Table 4.2

The Optional Solution for the Persons of Indonesian Descents

Status	Options	Follow-up Actions	Institutions
WNI (Indonesian)	Stay in Mindanao	Nationality Clarity	The ministry of Laws and Human Rights Republic of Indonesia & Indonesian Consulate in Davao City
		Passports granting, Regarding the PNBP the passport needs to get the exemption	Indonesian Consulate in Davao City/The immigration of the ministry of Finance
		The clarity of Philippines immigration permission	Philippines Bureau of Immigration
		Residing Visa	DOJ/Bureau of Immigration
WNI (Indonesian)	Return to Indonesia	Confirmation granting of the Indonesian nationality	The ministry of laws and Human rights of Republic Indonesia & Indonesian Consulate in Davao City
		SPLP Granting, Regarding the PNBP SPLP need to give exemption.	Indonesian Consulate in Davao City/The immigration of the ministry of Finance
		Returning process/repatriation	Indonesian Consulate in Davao City/Central government
		Living place and the source of livelihood in Indonesia	The ministry of village, PDT and transmigration, BNPP North Sulawesi
WNF (Philippines)	Settled in Mindanao	The withdrawing of the Indonesian nationality and all the documents related to republic of Indonesia	Indonesian Consulate in Davao City/ The ministry of laws and Human rights of Republic Indonesia
		The confirmation of Philippines nationality	Philippines government

(Source: (Majid, 2016))

Regarding to the end of the registration process of persons of Indonesian descents in Mindanao and also the process of the nationality status determination, the Indonesian Consulate in Davao City consider that it is important to visit to remote areas in Mindanao in order to socialize the results of the registration and counseling process of determining the status of persons of Indonesian descents in order to have a comprehensive understanding regarding the nationality status as well as their rights and obligations as citizens.

Furthermore, for the citizen who chose to return to Indonesia, Indonesian Consulate in Davao City will coordinate with the central government to prepare the repatriation process and cooperate with the Agency for Border Management of North Sulawesi in particular related to the relocation of dwellings and livelihoods viable for them, since most of them do not longer have family in Indonesia.