

CHAPTER I

A. Introduction

This chapter of this thesis will elaborate on the foundation of the thesis, which is the introduction, the research question, and the theoretical framework. This chapter will also explain about the research objective of the thesis, research methodology and the writing system of the thesis.

This undergraduate thesis will introduce the dilemma between legality and welfare of the registered Indonesian nationality from the passport distribution to the Registered Indonesian Nationality in Glan Sarangani Province, the Philippines. This topic is a crucial issue to discuss because it has many noteworthy aspects to analyze.

Firstly, the Indonesian Society that resides in the Philippines, specifically the community that lives in Mindanao Island, has an extensive history regarding their reasons for coming to the state. The Indonesian society that lives in Mindanao Island has resided since the recorded migration of Indonesians to the shores of the Philippines, which dates back to the 17th century.

Shinzo Hayaze, devotes on his 2007 book *Mindanao Ethnohistory Beyond Nations*, in which in the chapter 'birth of small Sangir Kingdoms' Hayase points out that Sangir People have moved in since 1675 and 1775 from the Sangir Island (People of Sangihe in present-day, North Sulawesi, Indonesia) (Talampas, 2015).

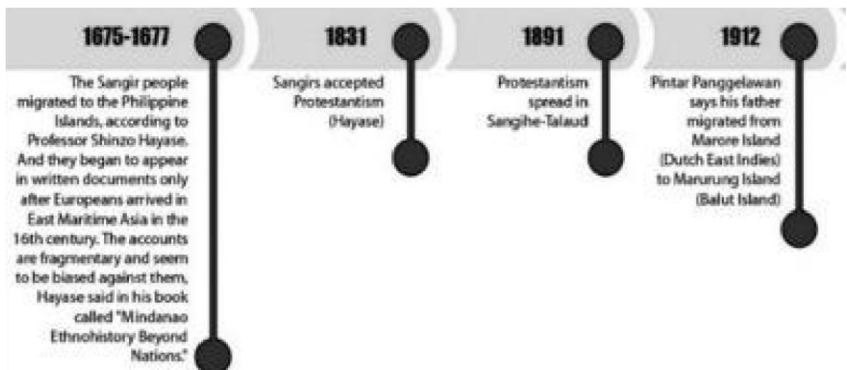
In the following sequence, according to Alex Bacarro, the counsel for the Philippine Justice Department's Refugee and Stateless Persons Unit, the second wave came by at the end

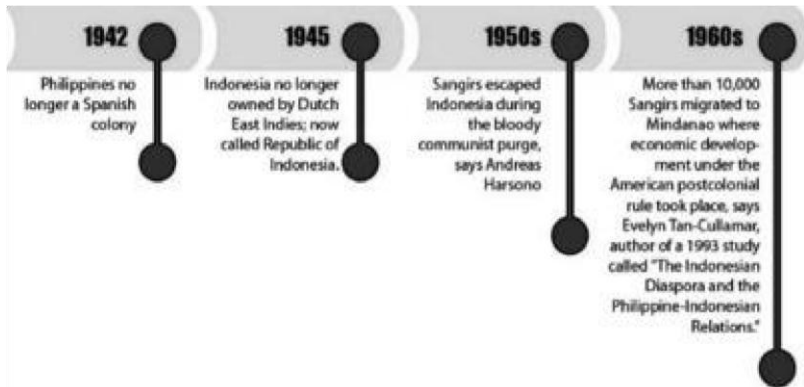
Of the 19th century. He stated that the present Indonesian descents that have been registered have already come to the Philippines since that time (Espina-Varona, 2016).

The wave of diaspora continuing happened in the early 1900s. The Causes of the migration of the Indonesian descents at that time were because geographical and maritime borders and proximity of the coasts of Mindanao led many Indonesians belonging to the Sangir and Marore groups from North Sulawesi in Indonesia to move to Balut and Saranggani Islands of Davao del Sur province.

Socio-cultural similarities with the ethnic communities of Mindanao including ethnolinguistic linkages and family and social networks strengthened the development of “transnational” communities in many parts of Mindanao at that time and in the current time. The Indonesian society that lives there has been living from generations to generations (Manigbas, 2018).

Figure 1.1 Timeline of the Migration of Sangir Decent to Mindanao





Source: Manigbas, A. M. (2018, December 9). *Indonesian in Mindanao*. Retrieved from *Asia-Pacific HumanRightsCenter*: <https://www.hurights.or.jp/archives/focus/section3/2016/06/Indonesians-Mindanao.html#2>

The reasons for the migration of the Indonesian descents to the Philippines vary. Firstly, the presence of the Dutch colony in Indonesia during the 16th century until 1942 made the society in Indonesia, which at that time was still called as the Dutch East Indies, worked as forced laborers, called as the *Rodi* work, for the Dutch colony.

The situations during the Dutch colonialism were very destructive for Indonesians. Thus, the reason for the Indonesian decent to flee to the Philippines was because they want to save their lives from the horror that was caused by the Dutch at that time. Furthermore, the economic situation during the Dutch era was devastating, which led to the increase of their willingness to go to the Philippines to search for a new life. Additionally, the geographic proximity of Sulawesi Island and the Philippines made the migration easier.

Figure 1.2 The route of Sangir's decent Migration to Glan



Source: Maps, G. (2019, March 13). Google Maps. Retrieved from Pulau Sangir: <https://www.google.com/maps/place/Pulau+Sangir/@3.5526721,124.4158031,8z/data=!4m5!3m4!1s0x328ba04e93882133:0xdd9ded12ca03ea2e!8m2!3d3.5303212!4d125.5438967>

In 1945-1946 the statelessness problem of Sangir descent started after the Independence of Indonesia and the Philippines because it caused several adjustments that should be done by the Sangir People. During the early times when Indonesia and the Philippines gain their Independence, the problems started to emerge. The Independence of both states created several adjustments that should be done by the Sangir People. The first aspect was that the people of Sangir should decide if they want to either be an Indonesia citizen or a Philippine citizen.

The reasons for how the Sangir descent could become stateless from the Indonesian perspective is because of several reasons. The law of 1958 Number 62 on

the citizenship of the Republic of Indonesia that has been renewed by the law of 2006 Number 12 on citizenship mention that when any person would like to register to become an Indonesian descent, they should stay for five years in sequence or a non-sequential ten years. This law created the problem because many Indonesian descents do not want to go to Indonesia and stay there, which consequentially made them stateless, with only several of them who can speak the Indonesian language (Government, 2016).

Inside of the Philippines' government, Indonesian descent also faces the same problem in the Philippines' system. The Philippines used the *Ius Soil* principle which means that the place of birth is defines the citizenship of the people. Meanwhile, some of the Sangir descents were not born in the Philippines and had a lack of information to register themselves to the Philippines government, leading them to attain their stateless status.

The government of the Philippines also used the *Ius Sanguinis* principle, which means that their status of citizenship can be attained from their biological parents while at that time their biological parents do not have any legal citizenship status because the Philippines and Indonesia still do not exist (Immigration, 2018)

Started since 1990, the Indonesians society that lived in Philippine already got encouraged to register with the Philippine Immigration authorities formally. Based on the law in the Philippines that is valid since the Memorandum Order of the Commissioner of Immigration No.32/April 26/2002, all foreigners that have turned to 14 years of age or more should pay for the Alien Certificate of Registration (ACR) and all foreigners that have lived for more than fifty-nine days need to have an Alien Certificate of registration which should be renewed annually (Putri, 2013).

In 2012, the Philippines and the Indonesian government started their programs to take action to address the status of the Indonesian society related with the UNHCR's #Ibelong campaign that aims to end statelessness all over the world by 2024 (Manigbas, 2018).

The Indonesian government handles the problem of the statelessness by doing a program to register all of the Indonesian descents in the entire Mindanao region. The Indonesian government tries to collect data of the Indonesian society in the entire Philippines. The Society that has been registered by the government of Indonesia is included in the Program from the Consulate General of Indonesia in Davao that was coordinated with the United Nations High Commissioner for Refugees (UNHCR) that was created in 2012.

The Philippines' Department of Justice (DOJ) with the Consulate General of Republic Indonesia in Davao city with the support of the Philippine Public Attorney's Office (PAO) and the Bureau of Immigration (BI) are working together to register all of the Indonesians Society in The Philippines and have succeed to register 8.745 Indonesians society in seven provinces and two cities which are provinces Del Sur, Davao Oriental, Sarangani, Sultan Kudarat, South Cotabato, North Cotabato, General Santos City and Davao city, the Statement from UNHCR said that five hundred thirty-six persons of Indonesia-descent had been confirmed as Filipinos and the rest opting as Indonesian (Manigbas, 2018).

In the next sequence, since November until December 2016, the government of Indonesia has given the citizenship status to 2.399 Indonesian descent that lived in Southern Mindanao, the Philippines, who had been stateless for a long time. The government of Indonesia gave the status to the Indonesian people during the averment

mission of the Indonesian Citizenship that has been done through the Consulate General of Indonesia that conducted this program through a corporation with the Technical team from the Minister of law and Human Rights of Indonesia and the UNHCR of the Philippines.

The actions of the government of the Indonesia I do believe related to make sure the security of the Indonesian descents because security is the deepest and most abiding issue in politics and the government of the Indonesia should make sure the Indonesian descent that live in the Philippines own that all of security forms. (Heywood, 2019)

The next action from the government of Indonesia to eradicate the issue of statelessness that happens to the Indonesian descents was giving the status to the Indonesian descents in 2016 by giving the "Surat Penegasan Kewarnegaraan Republik Indonesia." In the next sequence on 3 January 2018, the government of Indonesia proceeded to the next action to eradicate that problem by giving 300 passports to the Indonesian descents from the government of Indonesia An action is directly given by the Minister of Foreign affairs of Indonesia Mrs. Retno L.P. Marsudi (Hasan, 2018).

The emergence of the policy of the Indonesia Government to distribute Passports to Indonesian descents in the Philippines is a good move because the passport is a document that should be owned by every citizen in the world.

The distribution of passports will provide positive sides to the Indonesian society because it will help them to be more recognized inside the state that they live in. The passport would also help them to provide a convenient situation for their living because they will have a legal paper that ensures their settlements in the state that they live in. On the other hand, there are several contradictory

responses about the policy of the passports from several figures of Indonesian descents in Southern Mindanao. One of them is Mr. Samy Macpal and Mr. Benny Makatindo Takatalide. These figures have tasks as Pamong” “Penghubung” (liaison officer) “that have a responsibility as the connector between the Consulate General of Indonesia in Davao City and the Indonesian descents in Glan Municipality.¹

B. Research Question

Why did the Registered Indonesian Nationality in Glan, Southern Mindanao, the Philippines, felt the dilemma after their distribution of passport?

C. Theoretical Framework

In this part of the thesis, the author will explain the theoretical framework that was used to explain in the issue of the thesis. The author uses the structuration theory from Anthony Giddens and the concept of legalization from Robert Keohane. These theories and concept would help the author to explain the question from the research question.

A. Structuration Theory

Next, the author will use the Structuration theory from Anthony Giddens that will help the author to explain the policy from the distribution of the passport for the Indonesian Society in Glan, the Philippines. The theory of Anthony Giddens believes that the positivism theory cannot explain all the phenomena that happened in the world. Giddens believes that the world is considered as

¹ Interview with Mr. Benny Makatilo and Mr. Sammy Macpal the “penghubung” and “pamong” (liaison officer), in 18 August 2019, In Barangay Calabanit.

made up of two parts which are namely structure and events, and these two variables could influence one and another (D.Inglis, 2012).

Figure 1.3 Anthony Giddens Structuration Theory



Source: Fuchs, C. (2004). Knowledge Management in Self-Organizing Social System. *Journal of Knowledge Management Practice*.

According to realism, which is considered part of positivism, the distribution of passport by the Indonesian government to Indonesian Decent in Mindanao Island, especially in Glan city, is a form of the implementation of Indonesia's interests as reference to the Indonesian Constitution which mentions that the Indonesian government will always protect all of the Indonesian Decent an entire blood spilled of Indonesia, and it has been delivered in Indonesia constitution that established since 18 August 1945 but the question following why the action of Indonesia government to giving passport to Indonesia Society in Mindanao Island just happening in 2018.

The theory of Structuration theory elaborate that structuration explains that in the world are shaped by two things which are structure and agent and as time goes by

both of these things could always change. In this topic structure considered as Indonesia's Government and supported by the Philippine Government and the agents is the Indonesian Society in Glan, The Philippines.

As time goes by the pivot, Indonesia's Foreign Affairs policy have changed from before focusing on serious issues such as state to state. It has started to change since Susilo Bambang Yudhoyono presidency. In 2006 Indonesia had established The National Agency for the placement and protection of labor of Indonesia before that the body was in the form of Directorate General, but it has been changing to become The National Agency. This body has more ability to help the Indonesian Decent that worked outside Indonesia.

In Jokowi era the policy of Indonesia foreign affairs are shifting to more focusing to support and help the issues in individual level such as the idea of stateless it shows in the action of Indonesian government directly by Minister of Foreign Affairs Mrs. Retno L.P. Marsudi giving 300 units of passport in 3 January 2018 for Indonesian decent in Mindanao it has changed the status of Indonesian descent. Due to the existence of passport will consider boosting the social and economic welfare of Indonesian decent that life in Mindanao, The Philippines.

The Government of The Philippines is also considered part of the structure of the issues because the Indonesian Society is staying in The Philippines territorial. It means that the Indonesia government should work together with Indonesia the Philippines to discussing all the legal papers and recruitments of the Indonesian Decent to still in the legal situation to live inside The Philippines.

As time goes by started since 1990 that The Philippines government already encouraged the foreigner to have Alien Certificate of Registration to use as the legal paper of the foreigner, it also valid for the Indonesian

Society but the Indonesia Government think that it is better if the Indonesia Government has given passport to boost the stage of welfare of Indonesia.

In other hand the government of Indonesia already trying to support the process of the education and maintaining the culture of the Indonesian people by established the School of Indonesia in Davao city that has been exist since 27 of August 1968 and inside that school the teacher is teaching by using Indonesian language and also teach about Indonesian culture such as how to playing Angklung and perform Traditional Indonesian dance.

The Consulate General of Indonesia realizes that the Indonesian descents that lived in the Philippines cannot live a comfortable life without any strong documents, as many Indonesian workers cannot accomplish strong employment positions. This is because when they only have an ACR, their stance is relatively weak because many Philippines Governments are in doubt to employ them, due to their legal status of the Indonesian descents. Therefore, the existence of passports will boost the chance of the Indonesian descents to attain better living.

The action of the government of Indonesia to distribute 300 passports on the 3rd of January 2018 to the Indonesian people aimed to develop the welfare of Indonesian descents. The author analyzes that the Indonesian people cannot reach good welfare without a good law standing position. Thus, the action of Indonesia's Government to give the passports is an efficient response towards the situation regarding Indonesian workers searching for employment and it will helps them to go the college in the Southern Mindanao that obligate them to have passport and visa and also I-Card as their legal paper for go to the college in the Philippines.

The Indonesian Society in this issue is considered to be the agent when we relate it with the Anthony Giddens's Theory about structuration, which explains that the agent and the structure of the world influence each other. The Indonesian Society in this issue is considered as the agent that receives the impact from the structure that already exists. The Indonesian Government through the consulate general of Indonesia is considered as a part of the structure in this issue, about the Indonesian descent as the agent that has been changed since they first come to the Philippines as Indonesia citizens after the independence of Indonesia in 1945.

As time goes by, the Indonesian Society started to change during the 1990s. The Indonesian society could only have an Alien Certificate of Registration as their support and for their legal paper for their living in The Philippines. In another hand, the situation of Indonesian descent is proven to be weak when they only possess the ACR.

The agent delivers the situation by going through the Indonesian officer that working based on the concern Consul General of Indonesia that Alien Certificate of Registration should do not become the legal paper of Indonesia society there but need to be supported from the Essence of Passport benefits. (Chandra, 2018)

According to Anthony Giddens of Structuration. The structure and the agent have a reciprocal effect, and in this case, the policy from the government of Indonesia to distribute the free passport for Indonesian descents will influence the agent, and in this case, the structure is the government and the consulate general of Indonesia and the Person of Indonesian descents as the agent. The Indonesian descents have become the agent at this case because of the government policy to give them the Passport as the agent in this theory. The Indonesian government gives the

passport because they think that this is the solution for the Indonesian descents from the demand from the Indonesian descents that ask for the protection. The passport will be the symbol of the protection and hope because it will give them status and a clear status of citizenship and will also give them chances to go to universities and better job that obligate them to have passport as the require documents. But, the problem will come up right away at the time of the renewal because according to the Interview with Mr.Darius as “Penghubung”(liaison officer) in Barangay Margus the people of the Indonesian descents will get hard to pay the passport because commonly they only work as the farmer and peasant and their salary cannot even be enough for pay for them. This is the severe dilemma that should be faced by the Indonesian descents.²

B. Legalization

According to the book entitled International Law and International Relations that edited by Beth A. Simmons and Richard H. Steinberg the legalization concept has been explained in Chapter 6 of the book, in that chapter according to the Kenneth W. Abbott and Robert O Keohane they stated that Legalization refers to a particular set of characteristics that institutions may (or may not) process. The Characteristic inside the legalization concept is the obligations which mean that states or actors are bound by a rule or commitment or by a set of rules of actor commitment and there and there is also precision and also delegation. (Beth A Simmons, 2007)

The Action from the government of Indonesia to the government of the Philippines already giving the Indonesian descents a good legalization process even it gives them a dilemma in another side. However, according

² Interview with Mr.Darius the “Penghubung” (liaison officer) for Barangay Margus, in 27 January 2019, in Barangay Baliton.

to the concept of legalization from Robert Keohane, the action from the government of Indonesia already fulfilled recruitment as the process of the legalization because of the several arguments such as:

1. The delegation, the process from the government of Indonesia to distribute the passport is the action to do the delegation process to have legally bound the Indonesian descents with the rule and the commitment of the policy from the Philippines government. This policy is the final solution to make the Indonesian descents that live inside the Philippines to feel safe by making them own Passport and Visa as the legal documents for staying inside the Philippines.
2. Precision, the distribution of passport and Visa have shown that it makes the Indonesian government to finally become legitimate people that could live without breaking any law under the Bureau of Immigration of the Philippines that obligate all of the foreigners that live in the Philippines to have that. It prohibited them to live like before that only bring Alien Certificate of Registration as their way to live. The writer believes this makes the dilemma also comes up because they need to adjust the way they conduct their life that they are already used to and it needs time and many supports from external factors and also internal factors to help them to finally could adjust with the status quo that they should obey nowadays.
3. The delegation, In this case, the government of Indonesia through the Consulate General of Indonesia help the person of Indonesian descents to apply the rules and help the government of the Philippines to implement the rule and law that run

inside the Jurisdiction of the Philippines government. The Consulate also become the third party that will help if there is any problem with the Registered Indonesian Nationality with the policy that makes them should have passport and I-Card as their way to live in the Philippines. The Consulate General of Indonesia is one of the important actors to help the Person of Indonesian descents to overcome the problem and dilemma that they have to pay the passport. In this case, the Consulate should have the person of Indonesian descents to ready to adjust their life to get obey to have the passport, Visa and I-Card to live in the Philippines.

Both of the authors, Abbott and Keohane, have seen that the three aspects have their degree to which they are considered as high or low, and they stated that as "The Dimension of Legalization", international law that has a high degree include Agreement on Trade-Related Aspects of Intellectual Property (TRIPs) that is administered by the Trade Organization that is considered healthy on the three elements. Additionally, there is the 1963 Treaty Banning Nuclear Weapons Test in the atmosphere and outer space and underwater, but it has almost no legal authority. Furthermore, there is the Helsinki Conference on Security and Cooperation in Europe that stayed on the low degree of those three elements.

To relate to the following explanation of the concept, the theory from Robert E. Keohane and Kenneth W. Abbott could be implemented on the case study of the registered Indonesian nationality people in Glan, Southern Mindanao, the Philippines. In this case study, the Government of Indonesia through the Ministry of foreign affairs conducted the action of legalization by providing passports to Indonesian descents, directly given by the

Minister of Foreign Affairs in Southern Mindanao. In the process of legalization, the Minister of Foreign affairs, in this case, is in charge of the aspect of obligation and precision.

In this undergraduate thesis, the Passport will be considered as the rule and the commitment inside the international law and also the domestic law. Since the earlier 20th century the passport that we know today already began to be used. The passport started to use the legal documents for traveling between states.

The first modern passport was used by the British at that time it was valid for two years and now it has been changed to become three years and since that time every citizenship in the world should own the passport as their legal paper to stay abroad from their homeland country and it's considered as the part of the International law obligations.

The Passport also considers as the domestic law obligations because every citizenship that would like to own the passport should have an issue of it from their homeland state because only their homeland state that has an authority to issue the passport. In this case for Indonesian people that would like to have a passport, they should register their application to the Directorate General of Immigration based on the act of the Minister of Law and Human Rights number 8 years 2014 about the regular passport and Travel letter that have power like a passport.

According to the explanation before we can conclude that the passport not only consider as the part of the obedient from the citizen to the domestic law thus the use of passport for the citizenship not only as the legal document for going abroad but also as the form of obedient to the Domestic law and International Law that stated by Kenneth W. Abbott and Robert O Keohane.

D. Hypothesis

The author believes in the hypothesis that the Registered Indonesian Nationality in Glan, Southern Mindanao, the Philippines, complain after the distribution of passport to them because the obligation to have a passport for the Indonesian descents will affect them in terms of efficiency as when they have a passport they cannot go out of the Philippines as they could do before. In other hand they will also lost the help from the Philippines Government in term of facilities including health care and free education support. Furthermore,

E. Scope of Research

This research is limited to the process of the distribution of passport for the Registered Indonesian Nationality in Glan, Southern Mindanao, the Philippines, from 2018.

F. Research Objective

The objectives of this research are:

1. To examine the reasons of the government of Indonesia to distribute passports for Indonesian descents in Glan, Southern Mindanao, the Philippines.
2. To investigate the reasons for the complaints of Registered Indonesian Nationality in Glan, Southern Mindanao, the Philippines regarding the distribution of passport from Indonesia's government.

G. Research Methodology

Type of Research

The type of this research is qualitative and quantitative research using a data collecting method of interviews and questionnaires that will use a solving formula to measure the representative sample.

The library research, through the reliable media printed and electronic media, internet, Journal and books will also be used to support this thesis to become relevant and could be reliable as the scientific research.

Method of Collecting data

This undergraduate thesis will be using primary and secondary techniques for collecting data. The primary technique of collecting data will be run by doing the direct interview and spread the questionnaires by using the Likert scale with the Indonesian society that lived Glan Municipality and the surrounded area near Glan in the Sarangani Province, the Philippines.

Method of Analysis

This undergraduate thesis will use explanative research to explain the situations regarding the topic because this method would aid in examining the lives of Indonesian descents in Glan, Southern Mindanao, The Philippines. This thesis will analyze the obligation of the Indonesian descents to register and how this could affect the welfare of the Indonesian society in Glan, Sarangani Province, the Philippines. Furthermore, the connectivity and the cause and effect of the policy that comes from Indonesia's government would be analyzed.

H. Organization of Writing

This Undergraduate thesis consists of four chapters, and every chapter would have more detailed explanations in the subchapters. This issues will be explained and elaborated with a coherent and systematic style of writing in order to have a fruitful undergraduate thesis that will help the author and the reader to arrange and understand the research. The writing system of the undergraduate thesis will be as follows:

CHAPTER I contains the background of the problem, the research question, theoretical framework, and the research methodology of the undergraduate thesis.

CHAPTER II elaborates on the history of the process of migration of the Indonesian society from Sangir and Talaud Island to The Philippines.

CHAPTER III elaborates on the dilemma between legality and welfare and the reduction of efficiency in the way of living of the Registered Indonesian Nationality in Glan, Southern Mindanao

CHAPTER IV contains the conclusion and recommendation for the undergraduate thesis.

I. Research Period

This Research will elaborate on the dilemma of Registered Indonesian Nationality towards their welfare living in the Philippines in 2018 after the distribution of passport.

