

FOCUS

Asia-Pacific



Newsletter of the Asia-Pacific Human Rights Information Center (HURIGHTS OSAKA)

June 2016 Vol. 84

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Editorial

Home and Citizenship

People sail the sea or travel by land to seek a place where they can build a home. With the passing of time, they build communities and develop strong roots at the place. Despite hardships, the place truly becomes their home; the place where they feel they belong.

However, this simple migration story has to contend with the necessity of belonging to a country.

The cases of the Vietnamese communities in Tonle Sap and the Indonesian communities in Mindanao illustrate the challenges facing settled foreign migrants. They portray the difficult lives of foreign migrants, complicated by the citizenship issue. Due to the manner by which the Vietnamese and the Indonesians migrated and the laws of their own countries, they faced statelessness. And even with citizenship, migration laws in Cambodia and the Philippines threaten them with deportation to their "own country" and the destruction of "home."

The two cases stress the necessity of full cooperation of the governments of the countries where the migrants come from and where they settled to address the issue of maintaining home and citizenship at the same time.

A Boat Without Anchors: Cambodia's Vietnamese Minority Still Looking for its Place in Society

Christoph Sperfeldt

Yang Oun can no longer remember when his ancestors arrived from Vietnam to Cambodia. All he knows is that his parents and grandparents were born in Cambodia and called this place their home. Yang Oun was born in 1964 from a Vietnamese father and a Chinese-Khmer mother. He grew up in a village predominately populated by Cambodia's ethnic Vietnamese minority. Due to his Vietnamese name he was always perceived to be more "Vietnamese" than Cambodian. When the Khmer Rouge arrived at his village in April 1975, they separated the Vietnamese from the Khmer residents and forcefully deported his family, along with an estimated 150,000 to 170,000 other members of the Vietnamese minority, across the border to Vietnam. The Khmer Rouge forced them to leave behind all belongings and documents of their life in Cambodia. All the Vietnamese who remained in Cambodia were systematically killed by the Khmer Rouge. Now, the few senior leaders of the Khmer Rouge regime who are still alive are charged with genocide against the Vietnamese before the Khmer Rouge Tribunal in Phnom Penh.

In 1982, after several years in a refugee camp in Vietnam, Yang Oun returned to Cambodia after the Khmer Rouge were ousted

from power. He and his young family started a new life on one of the many floating villages along the Tonle Sap Lake in Kampong Chhnang province, nowadays one of Cambodia's tourist attractions. Since the day of his return, the Cambodian authorities have treated him and his fellow returnees as "immigrants" or "foreign residents." He has neither Cambodian nor Vietnamese nationality documents. His children have no birth certificates, and he claims that this is one reason they cannot go to school.

Ethnic Vietnamese Community

The ethnic Vietnamese in Cambodia is one of, if not the

largest, minority group in the country. Despite this, the ethnic Vietnamese population in Cambodia remains understudied. While many ethnic Vietnamese have successfully integrated into society, others continue to live at the margins of society and face difficulties substantiating their legal status in Cambodia. Any discussion about this group needs to start with a proper differentiation, as "The Vietnamese" in Cambodia are not comprised of one single group, but are comprised of diverse sub-groups. Such sub-groups include Cambodian citizens of Vietnamese origin; ethnic Vietnamese in mixed



marriages with Khmer spouses; long-term residents of Cambodia; and more recent immigrants seeking economic opportunities. One of the most vulnerable groups is Cambodia's long-term ethnic Vietnamese minority – the group Yang Oun arguably belongs to.

In an attempt to shed light into the circumstances of Yang Oun's situation and that of his community, a report – *A Boat Without Anchors* – explored the status of members of the Vietnamese minority population residing on three floating villages on the Tonle Sap in Kampong Chhnang province.¹ All respondents in this research indicated that they, and in the majority of cases also their parents, were born in Cambodia. Taking account of the average age of the respondents, it is apparent that these ethnic Vietnamese communities – although not necessarily of the current composition – existed at the time of the French colonial protectorate, with many of these Vietnamese born on Cambodian territory, either before or shortly after the country's independence in 1953. This suggests that this group belongs to one of the longest existing ethnic Vietnamese communities in Cambodia, as distinct from more recent Vietnamese immigrants.

The report then assessed the status of this specific group under the applicable Cambodian and Vietnamese nationality laws and considered how the authorities of Cambodia and Vietnam view and treat this group under the operation of their respective

laws. All respondents seemed to be living legally in Cambodia and possessed various forms of documentation identifying them as “foreign residents.” The report concluded that Yang Oun and most members in this community appeared to be stateless. Although he has never heard of this term, Yang Oun knows the daily struggles associated with the reality of being a person without a nationality under the laws of any state. The ethnic Vietnamese minority group has frequently suffered under the often-times contentious bilateral relationship between Cambodia and Vietnam. Recurrent dynamics of discrimination and exclusion against this group have complicated their integration into Cambodian society. Without citizenship and other documentation, numerous ethnic Vietnamese in Cambodia do not have access to basic economic, political, and social rights and face an array of disadvantages, including limited freedom of movement, being unable to own land, and difficulty in accessing employment, education, health care, and legal protection. In addition, few development activities have taken place in these communities.²

Legal Status

More specifically, *A Boat Without Anchors* found that many Vietnamese minority communities have, by and large, no effective access to birth registration. According to Cambodian law, birth registration is not linked to nationality and is available to all children born on Cambodian

territory.³ The absence of birth registration documentation for children in these communities creates barriers for obtaining other documents relevant to exercising future rights and entitlements such as admission to school and access to Cambodian nationality. In order to ensure that statelessness does not perpetuate through generations within the Vietnamese minority populations in Cambodia, there is a need to expand universal birth registration to the children of these communities.

Providing access to birth registration and granting of citizenship are not just a human rights issue, they are also a development issue. The recently adopted Sustainable Development Goals (SDGs) of the United Nations recognized this link by stating under goal 16.9 the commitment of states to provide “by 2030 [...] legal identity for all including birth registration.”⁴ In doing so, the sustainable development goals acknowledge that the means to prove legal identity are linked with participation in education and the formal economy, as well as civic empowerment.

Cambodia already recognizes the importance of civil registration. In collaboration with UNICEF, it has developed a National Strategic Plan for Identification that will guide acceleration of national efforts to increase the birth registration rate and identification in the country. These efforts should be continued and expanded, including awareness-raising among vulnerable populations and local authorities. Such activities would align with

Cambodia's support of the goals of the Asian and Pacific Civil Registration and Vital Statistics (CRVS) Decade 2015-2024, under which the ministers jointly agreed to give "particular attention and take measures to reduce all barriers to civil registration and to ensure the registration of vital events among hard-to-reach and marginalized populations."⁵

Continuing Concern

As the research for *A Boat Without Anchors* was limited in scope, its findings would not allow broader generalizations about the situation of all ethnic Vietnamese subgroups on the Tonle Sap Lake. However, the few secondary sources available on this topic suggest that the problems experienced by the respondents are a more widespread phenomenon, not only limited to Kampong Chhnang province – although the exact magnitude of affected populations remains unknown.⁶

After years of silence, the issue has also re-emerged on the radar of various mechanisms under international human rights instruments that Cambodia has ratified. During Cambodia's last reporting cycle under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the CEDAW Committee expressed concern that "women of Vietnamese origin undergo considerable difficulties in the registration of births and the acquisition of Cambodian citizenship, which places them at risk of statelessness." The CEDAW Committee therefore called upon Cambodia to "intensify

efforts to facilitate the birth registration of children born to Vietnamese mothers and their acquisition of citizenship."⁷ The Human Rights Committee similarly raised the issue during its last review of the implementation of the country's obligations under the International Covenant on Civil and Political Rights (ICCPR) and recommended that Cambodia "facilitate access to identification documentation" and "guarantee the right of children who were born on the territory of Cambodia to stateless parents to acquire a nationality."⁸

In July 2013, Cambodia's national parliamentary election saw much debate about the place of the country's ethnic Vietnamese minority. While the contemporary politicized discourse in the country focused primarily on who should have a right to vote, few commentators or policy-makers addressed the underlying question of the social and legal status of this minority group in Cambodia. An immigrant census, conducted by Cambodian authorities in 2014 and 2015, saw hundreds of illegal Vietnamese immigrants being deported from the country.⁹ With the census focused on illegal immigrants, many legal residents in Cambodia who could be granted proper legal status under Cambodian law were not identified.

During the recent state visit to Cambodia by the Vietnamese President, a joint government statement expressed the hope that "the Kingdom of Cambodia would continue to take measures in ensuring the

legitimate rights of Vietnamese residents, equally treated as other foreign residents in Cambodia in conformity with the laws and regulations of Cambodia."¹⁰ Perhaps as sign of some official recognition of the need for action, some people in the floating villages recently received new immigration cards – with a promise to reassess their status after seven years. While it is difficult to assess the intentions of the government, it seems that authorities are now taking a more systematic approach to recording these populations.

Toward the Future

A careful balance needs to be struck, which respects the right of the Cambodia state to regulate immigration, and the rights of long-term residents in accordance with Cambodia's national laws and with international human rights standards. To achieve this balance, authorities need to distinguish between individuals who have resided for many generations in Cambodia and more recent immigrants. Cambodian laws should apply equally to everybody – both majority Cambodians and members of the ethnic Vietnamese minority in Cambodia. Furthermore, expanding much needed services, in particular in the education and health sectors, to cover these and other marginalized communities would contribute to integrating them into Cambodian society and upholding their basic rights. As rights and obligations go hand in hand, this could provide a more sustainable basis for integration.

Unfortunately, Yang Oun will not see these efforts come to fruition, having passed away two years ago. However, he had always insisted that the main objective of his fight for recognition as a citizen was to spare his children and grandchildren from the disenfranchised life he had lived. It is here that local, national and international actions can make a difference, by increasing attention to statelessness and marginalization in Cambodia. This may go a long way towards providing future generations of the ethnic Vietnamese minority with equal rights and development opportunities in Cambodian society.

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Endnotes

1 Lyma Nguyen and Christoph Sperfeldt, *A Boat Without Anchors: A Report on the Legal Status of Ethnic Vietnamese Minority Populations in Cambodia under Domestic and International Laws Governing Nationality and Statelessness* (Phnom Penh: Jesuit Refugee Service, 2012). Available at http://jrscambodia.org/about_without_anchors.html [accessed on 24 June 2016].

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3 Sub-decree No.103 on Civil Status of 29 December 2000.

4 "Goal 16, Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions," Sustainable Development Goals, <https://sustainabledevelopment.un.org/?menu=1300>.

5 Paragraph 7 of the Ministerial Declaration to "Get Every One in the Picture" in Asia and the Pacific. The Declaration also states the link of birth registration to international human rights standards:

(e) Consistency with international human rights and legal principles, and national law. The Regional Action Framework is consistent with relevant international frameworks, including article 6 of the Universal Declaration of Human Rights and article 7 of the Convention on the Rights of the Child, as well as the principles of universality and non-discrimination. The Regional Action Framework should be applied consistently with the existing national law, rules and regulations; (notes omitted)

Ministerial Declaration to "Get Every One in the Picture" in Asia and the Pacific, available at www.unescap.org/sites/default/files/Asian_and_Pacific_Civil_Registration_and_Vital_Statistics_Decade2015-2024_Booklet.pdf.

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Indonesians in Mindanao

Anne Maureen Manigbas

Recorded migration of Indonesians to Philippine shores dates back to the 17th century,¹ with the first major wave of diaspora occurring in the early 1900s.² Porous 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 Sarangani 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.³

Studies identified several push and pull factors of the first wave of Indonesian migrants including: (1) the Dutch presence and rule in their homeland; (2) overpopulation; (3) scarce resources and (4) other economic hardships.⁵

The descendants of these Indonesian migrants (also identified as Persons of Indonesian Descent [PIDs]) currently reside in the provinces

of Davao del Sur, Davao del Norte, Davao Oriental, Sarangani, Sultan Kudarat, North Cotabato, and South Cotabato, and the cities of General Santos and Davao.⁶

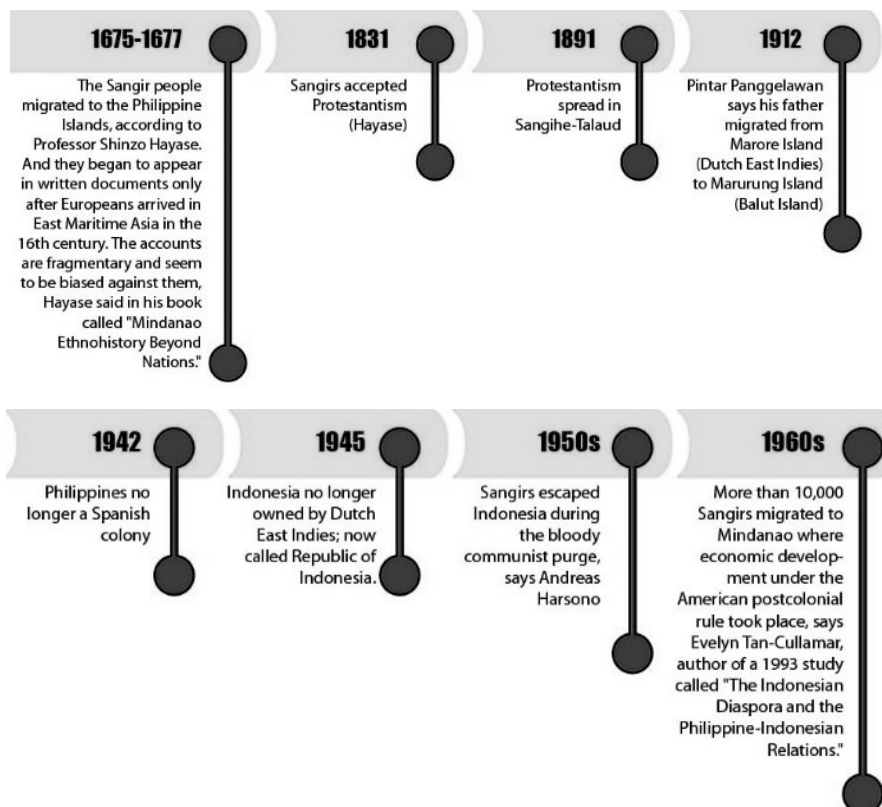
The stance of an Indonesian whose parents came to Mindanao in the 1930s but who neither spoke the Indonesian language nor knew relatives in Indonesia, is probably true of many other Indonesians in the region. They maintain their identity as Indonesians but call the Philippines their home.⁷

At Risk of Being Stateless

Indonesian law puts these Indonesians at risk of becoming stateless. The 1958 Law Number 62 on the Citizenship of the Republic of Indonesia⁸ provided that Indonesian citizenship would be lost upon failure to declare intention to retain citizenship within five years of living outside Indonesia. The 2006 Indonesian citizenship law⁹ retained the same rule but allowed reacquisition of Indonesian citizenship. However, citizenship reacquisition should be done within three years from the promulgation of the 2006 law.¹⁰

Indonesian citizenship is also lost due to possession of foreign passport, travel document, or national identification cards.¹¹ Today, many of the Indonesians

Timeline of Migration of Indonesians to the Philippines⁴



living in Mindanao possess Philippine Health Insurance Corporation (PhilHealth) identification card, a Philippine government-issued document. Although only Filipinos are supposed to have these cards, the Indonesians are able to get the PhilHealth cards because of lenient processing procedures.

Voluntary participation in a foreign election is also a ground for losing Indonesian citizenship.¹² While the right to vote in Philippine elections is exclusive to Filipino citizens, many Indonesians have registered as voters with the Philippine Commission on Elections (COMELEC) and have participated in elections.

With very little access to information about their rights and little or no financial resources,¹³ many Indonesians have failed to comply with the requirements in retaining Indonesian citizenship or in reacquiring it, leaving their legal status in limbo. Without nationality, they cannot enjoy their human rights, including: the right to freedom of movement; formal education; access to social services; and own property. They often have poor access to basic services like affordable healthcare and higher education.¹⁴

Community Profile

In 2012, PASALI Philippines Foundation, Inc., with the support of the United Nations High Commissioner for Refugees (UNHCR), released a mapping report on the Indonesians in Mindanao.¹⁵ Researchers visited eleven communities in Sarangani,

Sultan Kudarat, Davao del Sur provinces and General Santos City. Only a few of the original migrants were left. The majority of the respondents in the mapping exercise were second- and third-generation Indonesians. Most of them resided along the seashore and relied on subsistence fishing or farming in order to provide for their family's daily consumption needs.

Since foreigners are prohibited from owning land in the country by the 1987 Philippine Constitution, the Indonesians cannot own the land where their houses sit. They constantly face risks of sudden eviction by Filipino land owners who can withdraw the permission to use the land at any moment.

Registration

Since 1990, the Indonesians have been encouraged to formally register with the Philippine immigration authorities. Philippine immigration regulations require all foreigners who stay in the country for more than fifty-nine days to secure an Alien Certificate of Registration (ACR), which is renewable annually. The 2012 PASALI report however revealed that a majority of the Indonesian respondents remained unregistered.

The Indonesian respondents have difficulty complying with the registration requirement as it is cost prohibitive. As of 2014, first-time registration and renewal of the ACR costs sixty US dollars for migrants who were fourteen years and older. The government also imposes a

penalty for non-renewal. While the fee is a small amount, expenses to be incurred in order to successfully obtain the ACR are considerable. The person must personally appear at the immigration office to be able to register. The transportation cost of an entire family, with multiple boat rides, would amount to around twenty US dollars. While some choose to abide by the rules, many Indonesians voiced out that the costs were too much of a burden given that the family income was insufficient to sustain their basic needs. There are even cases where the ACR expenses are more than the combined yearly income by a family of twelve persons.¹⁶ Also, those who do not have the necessary documents are discouraged from even applying for an ACR.

Failure to comply with the registration requirement could mean detention and deportation.

Livelihood

Aside from the struggle of securing an ACR, the Indonesian respondents also face difficulties in obtaining work permits. Philippine labor laws require foreigners who want to engage in gainful employment to secure an Alien Employment Permit (AEP). In addition, employment opportunities usually require them to present documents to prove that they are legitimately staying in the country and/or have high educational attainment, which most Indonesians residing in Mindanao lack.

Many of the Indonesian respondents have no stable source of income. They are employed in seasonal work in coconut plantations, rice and vegetable fields, and fishing enterprises that are owned by Filipinos. Due to limited job opportunities, the average household family income of the Indonesian respondents ranged from twenty US dollars to seventy-five US dollars per month. Others who reside in urban areas have a higher average income.

Basic Living Conditions and Access to State Services

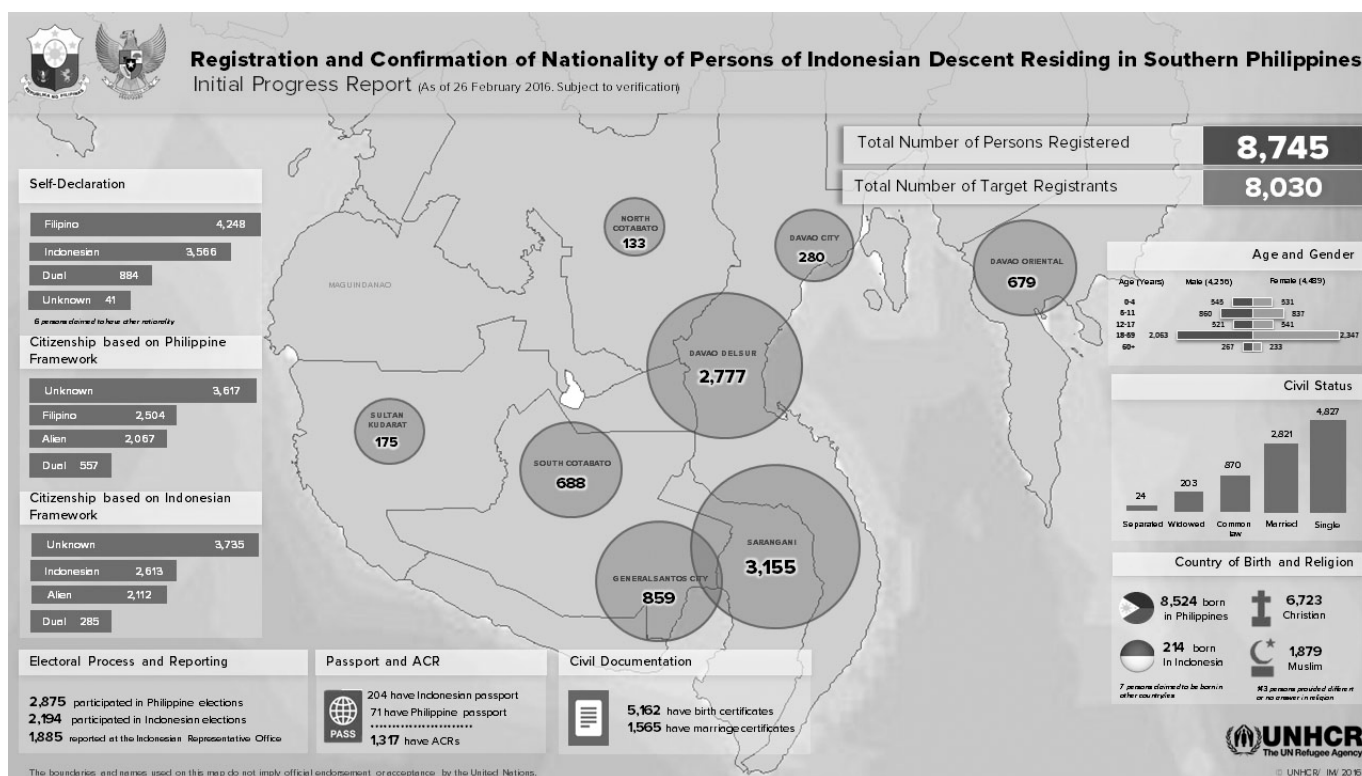
The majority of the Indonesian respondents have very poor living conditions. A typical Indonesian family household would not have basic facilities such as a water supply and a toilet. Because of low income, they constantly experience

problems of food and water security.

Philippine public primary and secondary schools accept all children regardless of their citizenship. However, Indonesian families worry about expenses for transportation, school supplies, project materials and food while in school. Despite having relative access to education, a big number still consider themselves illiterate, especially those belonging to the older generations. Due to financial difficulties, fewer Indonesians opt to continue their education, as seen in the decreasing number of college students. Even those Indonesians who have obtained college degrees ultimately experience challenges in finding stable employment because of their uncertain residence status.

Basic medical and health services provided by public hospitals and health centers (including the national health insurance program or Philhealth) are easily accessible to Indonesians who reside in urban areas. However, many of them live in far-flung areas and have difficulty accessing these services. Many Indonesians who avail of Philhealth benefits are married to Filipinos.

The *Pantawid Pamilyang Pilipino* Program (4Ps), the conditional cash transfer program of the Philippine government, has also been made available to the Indonesians. Again, there is a disparity between those who live in the urban and the far-flung areas. Those who live farther from the 4Ps centers are discouraged from obtaining 4Ps benefits due to the transportation expense in using motorized boats to get there.



(Map courtesy of UNHCR/IM/2016)

One report shows Indonesians recognizing the assistance provided by the Philippine government (such as supply of medicines and mosquito nets), while lamenting the lack of assistance from the Indonesian government.¹⁷

Recent Developments

The Philippine and Indonesian governments jointly committed in 2012 to take action in addressing the situation of the Indonesians. As part of the UNHCR's #IBelong campaign that aims to end statelessness worldwide by 2024, the Philippines' Department of Justice (DOJ) and the Indonesian Consulate in Davao city, with the assistance of the Philippine Public Attorney's Office (PAO) and the Bureau of Immigration (BI), started the registration process of the Indonesians. The registration process yielded 8,745 Indonesians in seven provinces and two cities, which include the provinces of Davao del Sur, Davao del Norte, Davao Oriental, Sarangani, Sultan Kudarat, North Cotabato, South Cotabato, and the cities of General Santos City and Davao.¹⁸ Out of this number, six hundred sixty-four underwent, in March 2016, the citizenship formalization process led by the two governments. The UNHCR said that five hundred thirty-six persons of Indonesian-descent have been confirmed as Filipinos, with the rest opting to remain Indonesian.¹⁹

Despite this groundbreaking initiative, challenges remain. Those who are eligible to undergo the Philippine naturalization process are required to pay a fee of around

2,100 US dollars, as mandated by law. Considering their current socioeconomic status as discussed above, it would be impossible for them to afford such extravagant fee. The UNHCR Philippines is currently in talks with the Philippine government to consider exempting them from the naturalization and immigration fees. There are also plans to ask legislators from the provinces where the Indonesians reside to sponsor a law that would grant Filipino citizenship to these applicants and spare them from such a heavy burden.²⁰

There is still much work to do to resolve the problem of statelessness of the Indonesians. But as seen in their experience, a lot can be done with the involvement and strong commitment of state agents, civil society and other stakeholders who all have a shared vision.

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6 *Supra* note 1.

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8 *Law No. 62 of 1958, Law on the Citizenship of the Republic of Indonesia*, 1 August 1958.

9 *Law of the Republic of Indonesia No. 12 on Citizenship of the Republic of Indonesia*, 1 August 2006. This law repealed the 1958 citizenship law.

10 *Ibid.*, article 42.

(Continued on page 15)

Responsible Supply Chains: Civil Society Response to the G7 Ise-Shima Leaders' Declaration

We, the undersigned civil society organisations, express our profound disappointment that the issue of “responsible supply chains” was given short shrift at the Ise-Shima G7 Summit, despite the pressing nature of the issue.

The issue of “responsible supply chains” was examined in detail at the G7 Summit in Schloss Elmau in 2015, when the G7 countries committed to the UN Guiding Principles on Business and Human Rights. The G7 leaders also stressed, inter alia, the need to increase transparency, to strengthen grievance mechanisms to promote better working conditions, and for the private sector to implement human rights due diligence.

Despite the measures taken by some G7 countries as outlined in the Progress Report submitted to Ise-Shima, the reality is that the global supply chain continues to be plagued by human rights violations, damage to the environment, and poor working conditions. Civil society called repeatedly for the Ise-Shima Summit to take a hard look at this reality, and for the G7 countries to renew their commitment to take effective, meaningful measures. Nevertheless, “responsible supply chains” was not even included in the Ise-Shima agenda, and the final declaration includes only a brief reference in the section on trade that the G7 will “continue to strive for better application of internationally recognized

labour, social and environmental standards in global supply chains”. Such a passing mention cannot be said to be sufficient, and it does not appear that the issue was discussed in any detail.

We therefore renew our call on the G7 governments to take the following actions:

- Ensure that the G7 takes measures towards full implementation of the commitments that were made at Schloss Elmau. Furthermore, ensure that the G7 countries collect necessary data and conduct a clear evaluation in line with the index described in the Ise-Shima Progress Report, for reporting at the next G7.
- Highlight the critical importance of transparency in supply chains, which facilitates respect and protection for labor rights.
- Implement the UN Guiding Principles on Business and Human Rights by developing substantive National Action Plans on the basis of meaningful consultations with all stakeholders.
- Strengthen the system of National Contact Points (NCPs) for grievance redress by making NCP peer reviews mandatory.
- Take effective measures to address the erosion of social protection of workers and the risk of child labour in global supply chains.

We are disappointed that Japan, the chair of the Ise-Shima Summit, did not take an active role in addressing responsible supply chains. We urge that Japan, which has not yet started the preparation process of developing a National Action Plan on Business and Human Rights, to engage in this process without delay. Development of a National Action Plan is especially urgent in the case of Japan, which will host the Tokyo 2020 Olympics and Paralympic Games.

We will continue to call for examination of the responsible supply chains issue at the next G7 Summit, in Italy. Moreover, we urge the G7 countries to create a mechanism for meaningful engagement with all relevant stakeholders including civil society including the affected people, NGOs, international trade unions and labour rights groups, before, during, and after G7 Summits.

June 10, 2016

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Business, Human Rights and Refugees

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The continuing flow of people crossing national borders in order to flee from persecution, armed conflict and other hardships has raised issues beyond obtaining safety and security. One question is on these people's survival once they find a place of refuge. Will they be able to find the means to support themselves and rebuild their lives while staying in other countries as refugees?

A roundtable meeting on the link between business, human rights and refugees that was held in Seoul on 8 June 2016 stressed the importance of providing support to refugees in their country of refuge.

Professor Yasunobu Sato of The Human Security Forum, Tokyo University, explained that the meeting was the second activity held on the link between business, human rights and refugees. He was referring to the meeting held in the Philippines on 30 January 2016.¹ The January 2016 meeting was attended by representatives of non-governmental organizations and the academe in the Philippines, and a delegation from Japan.

The Seoul meeting continued the "conversation" with the presentations on business and human rights initiatives and projects that addressed the socio-economic needs of refugees. Mr Pillkyu Hwang of

the Korean Public Interest Lawyers Group (GONGGAM) introduced a network of Korean non-governmental organizations working in various fields including: human rights and corporate social responsibility; energy/climate policy; and labor rights. This network, Korean Transnational Corporations Watch Network (KNTC Watch), researched on human rights abuses involving Korean companies operating in the Philippines, China, Indonesia, Bangladesh, Sri Lanka, Burma, Laos and Vietnam. It also researched on possible civil and criminal complaints that could be filed against Korean companies. It has filed a complaint before the Korean National Contact Point (and also those in Netherlands and Norway) regarding the displacement of forest dwellers in Orissa, India by POSCO India. It also held dialogues with company officials to address complaints regarding workers and members of communities affected by company operations. Mr Hwang noted the problem of successfully litigating cases against companies, and the need for diverse tactics to address issues related to companies. He cited alternative courses of action (for example, networking with other non-governmental organizations doing similar work) as necessary in taking action on companies.

Mr Jefferson R. Plantilla of HURIGHTS OSAKA introduced the business and human rights project of the Northeast Asia member-organizations of the Asian Consortium for Human Rights-Based Approach to Access to Justice (HRBA2J-Asia). He explained the start of the project with a research on the situation in four Northeast Asian countries (China, Japan, Korea and Mongolia) regarding access to justice and company operations. The research project was finished in 2014,² and another project on training manual on business and human rights was immediately launched. The training manual, entitled *Business, Human Rights and Northeast Asia – A Facilitator's Manual*, focuses on the third pillar of the United Nations "Protect, Respect and Remedy" Framework, makes use of materials in the research report (different cases involving Northeast Asian companies and the efforts of company workers and members of affected communities to address these issues were included as training materials) and cites experiences in Asia that illustrated the different aspects of the remedy pillar.

Mr Brian Barbour of Japan Association for Refugees presented possible areas of engagement for the Asia Pacific Refugees Rights Network (APRRN) in relation to business, human rights and refugees. He

said that the APRRN has two hundred non-governmental organization-members in Asia and the Pacific involved in different areas of work on refugee issues.

He stressed that refugees and asylum seekers are vulnerable to abuse and exploitation because of their often precarious legal status in this region.

He cited the challenges involving the power imbalance of global corporations with resources that often outpace States. He also noted, however, the opportunity provided by principles of corporate social responsibility, and pro bono. He listed several ways of using corporate support:

- Holding of job fairs for refugees and asylum seekers;
- Providing in-kind assistance and goods;
- Pro bono projects involving law firms, annual pro bono legal aid trainings, mentor-mentee systems, and partnering with in-house counsel;
- Marketing and branding of initiatives that support refugees and asylum seekers can sometimes be supported by the expertise that corporations have; and
- Translation support (for legal documents, annual reports).

Professor Yasunobu Sato discussed the program of the *Compilation and Documentation on Refugees and Migrants (CDR)* of the Research Center for Sustainable Peace at the University of Tokyo. He briefly reviewed the projects of the CDR, including the

continuation of the development of database on country of origin information (COI).

He also presented UNIQLO's "Fast Retailing Refugee Support Program," which aims to contribute to the permanent solution on the refugee problem through programs related to business. UNIQLO signed a "global agreement" with the United Nations High Commissioner for Refugees (UNHCR) in 2011 regarding support for refugees, the first Asian company to do so.

The Fast Retailing Program has four components:

1. Clothing donation – under the All-Product Recycling Initiative, UNIQLO aims to donate fifty million pieces of clothing by 2020;
2. Help for self-support – UNIQLO aims to hire fifty refugees all over the world and train them to become store managers by 2018;

3. Enlightenment about refugee problems – public awareness campaign and information dissemination using online, broadcast and print media;
4. Education at schools – UNIQLO plans to visit two hundred thirty eight schools involving twenty-five thousand students every year.

Under the Help for Self-support component, UNIQLO hired those with refugee recognition status in Japan as store employees. There are currently twenty refugees working in UNIQLO stores in Japan. There is a follow-up support program to help refugees work well with Japanese colleagues and develop their career in UNIQLO.

To increase the public's awareness of the refugee issue, UNIQLO has been holding campaigns during the World Refugee Day (June 20). It shows movies and exhibits photos regarding refugee issues at its stores. It provides information on refugees through the



internet, television and newspapers.

UNIQLO's store managers visit schools to introduce its recycling project. They discuss the refugee situation and how the recycling project can help refugees. Students are encouraged to join the project and collect clothes. During the last three years, 56,500 students have joined the project from four hundred sixty-five schools and collected 215,000 pieces of clothing.

Professor Saburo Takizawa discussed the Japanese government plan to accept one hundred fifty Syrian refugees into Japan as exchange students. Syrian refugees, selected by the UNHCR, would be accepted as exchange students over a period of five years.

He also discussed the Japan for UNHCR that he headed and its social enterprise project. The Association was establishing a coffee company with the aim of training refugees to become company heads. The project consisted of putting up coffee stalls in sport stadiums/schools/hospitals that would be managed by refugees. The Association also engaged with business institutions to make them invest on the refugee issue. It received the support of professional staff (e.g., Goldman Sachs), who provided advice on how to establish companies and develop markets. A non-governmental organization was created to guide the management of the coffee company and funds would be raised through direct investment and "cloud funding."

He stressed the need for more engagement with business to support the refugees. This effort should not be limited to raising funds but extended to raising awareness of the private investors on the refugee issue.

He raised the idea of burden sharing for the Syrian refugees through several means:

- a. For the Japanese government
 1. Expand traditional resettlement arrangement by also providing employment and educational opportunities;
 2. Consider the support for refugees as investment for future business opportunities; and
 3. Provide over several years legal entry for Syrian refugees as trainees;
- b. For companies, provide more employment opportunities in addition to giving funds.

He said that refugees were being exploited with the lowest paying job and bad working conditions, as in the case of refugees in the United States. However, he also saw the possibility of having the companies' role in increasing awareness of the refugee issue.

Representatives of Refuge pNAN, a Korean non-governmental organization, explained the organization's assistance to refugee program.

Representatives of Korean non-governmental organizations, the UNHCR Seoul Office, and the delegation from Japan attended the meeting.

The Seoul meeting was jointly organized by The Human

Security Forum, Tokyo University, the Northeast Asia Group of the Asian Consortium for Human Rights-Based Approach to Access to Justice (HRBA2J-Asia), the Legal Aid and Advocacy Working Group of the Asia Pacific Refugee Rights Network (APRRN), and was hosted by the Korean Public Interest Lawyers Group (GONGGAM).

For further information, please contact HURIGHTS OSAKA.

Endnotes

- 1 The meeting, entitled "A Continuing Conversation on Business, Human Rights and Refugees," was convened by the Asian Network for Refugee and International Protection (ANRIP), the Asian Consortium for Human Rights-based Access to Justice (HRBA2J-Asia), The Research Center for Sustainable Peace at The University of Tokyo, the NPO Human Security Forum and was hosted by the Ateneo Human Rights Center (of the Ateneo de Manila University School of Law). The meeting was held at the Ateneo Professional Schools, Rockwell, Makati city, Metro Manila.
- 2 This is the book entitled *Bridging Human Rights Principles and Business Realities in Northeast Asia* (Osaka/Kuala Lumpur: SIRD/HURIGHTS OSAKA, 2014).

Deciding on Protection Pleas

Jefferson R. Plantilla

How should applications for protection by people who crossed national borders, at times at great risk to their lives, be considered? What make these cases different from pleas for protection by citizens and residents of the country?

For those who advocate for proper application of international standards on handling cases of refugees and asylum seekers, one important principle to keep in mind is the principle of “obligation to protect” those who flee their countries due to persecution and other serious threats to their safety. Countries that have ratified the Convention Relating to the Status of Refugees, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights have to comply with their “obligation to protect.”

The International Association of Refugee Law Judges (IARLJ) saw the need to clarify how this international principle of “obligation to protect” should be applied in concrete. The paper entitled “A Structured Approach to the Decision Making Process in Refugee and other International Protection Claims,” explains:¹

Noting the “protection obligations” which states have entered into, pursuant to international law, and recognising the gravity of the predicament that may face claimants who are in need of

international surrogate protection from serious harm, judges (and other decision makers) must approach all claims with an outlook that gives claimants full individual respect and recognizes the seriousness of the task being undertaken. In the simplest of terms the task is to make a soundly reasoned, objective assessment of all the material evidence from which, noting the accepted characteristics of the claimant and relevant COI [country of origin information], the question whether there is a real risk of the claimant being persecuted or suffering other qualifying serious harm on return must be determined.

While not binding to “judges and other decision makers,” the paper provides a comprehensive discussion of the various elements of a “structured approach” to deciding refugee and other international protection claims. The paper likewise aims to be “instructive to all decision makers, counsel and claimants.”

Guide to Decision Makers

The substantive guide to decision makers contains the following:

1. Flowchart of Using International Judicial Criteria and Guidance;
2. International Judicial Guidance for the Assessment of Credibility

- i. Basic Criteria and Standards of Good Practice,
 - ii. Basic Criteria Applicable for Credibility Assessment of Claimants,
 - iii. International Judicial Guidance on Best Practice in Credibility Assessments
 - a) Treatment of Substantive Evidence,
 - b) Procedural Standards,
 - c) Treatment of Vulnerable Claimants,
 - d) Residual doubts and the “benefit of the doubt” principle;
3. The COI Judicial Checklist.

The paper was presented in the conference entitled “The Role of the Judiciary in Asylum and Other International Protection Law in Asia” held in the Judicial Research and Training Institute of Korea on 10 - 11 June 2016. It was also provided to participants of the Advanced Training Workshops organized by IARLJ on 9 June 2016.

For further information, please contact: Ms Joy Ottaway, Conference Registrar, e-mail: joy.ottaway@internet.co.nz.

Endnote

- 1 Allan Mackey, Martin Treadwell, Bridget Dingle and Bruce Burson authored the paper under the auspices of IARLJ.

Human Rights Events in the Asia-Pacific

An international symposium on “Responsible Business, Responsible Supply Chain ‘How should Japan implement UN Guiding Principles on Business and Human Rights in its policy and practice?’” was held on 29 June 2016 at the United Nations University U Thant International Conference Hall in Tokyo. There were presentations on several topics including “Responsible business and human rights risk in emerging markets,” “Present and future of implementation of UN Guiding Principles - global development of human rights due diligence,” and “Implementation of UN Guiding Principles in the United States - Government, Company and CSO.” This symposium was organized by the Institute of Developing Economies (IDE-JETRO) and supported by the Ministry of Economy, Trade and Industry of Japan.

For more information, please contact: External Relations Division, Research Promotion Department, IDE-JETRO; ph +81-43-299-9536; fax: +81-43-299-9726; e-mail: info@ide.go.jp; www.ide.go.jp/English/Events/Sympo/160629.html and www.ide.go.jp/English.

The first local/regional tribunal session of the International Tribunal on Evictions will be held in Asia on 2-4 July 2016 in Taipei, Taiwan. Named “East Asia Regional Tribunal on Evictions,” twenty-five eviction cases from Southeast and Northeast Asia will be heard. A special session in Hua-Kuang Community in Taipei will hear the testimonies of witnesses in seven selected eviction cases from Taiwan, Japan, South Korea, Hong Kong, Thailand, Malaysia and the Philippines. The witnesses will

speak on their experiences of forced eviction, the disenfranchisement of right to housing/ habitat, and take evidence from activist witnesses. Roundtable discussions will discuss eighteen other eviction cases. The tribunal sessions are part of the collective efforts to demand priority in the Habitat III Agenda to the deteriorated situations of evictions worldwide.

For further information, please contact: The Steering Committee of 2016 East Asia Tribunal on Evictions, e-mail: rightstohousing@gmail.com; www.taafe.org.tw/iteea2016.

Indonesians in Mindanao

(Continued from page 9)

11 Ibid., article 23 (h).

12 Ibid., article 23 (g).

13 Supra, note 1.

14 “Hundreds finally out of legal limbo in groundbreaking pilot between Indonesia, the Philippines,” UNHCR Philippines Press Release, 10 March 2016, <http://unhcr.ph/news-stories/hundreds-finally-out-of-legal-limbo-in-groundbreaking-pilot-between-indonesia-the-philippines> (last visited 16 June 2016).

15 PASALI Philippines Foundation, Inc., *Persons of Indonesian Descent in Mindanao, Philippines, Periodic Report, 2012*. Full report available at https://issuu.com/manchamancha/docs/mapping_indonesians_pasali_philippines_unhcr.

16 See the 2012 Pasali report for an example of this situation on page 15.

17 Supra, note 4.

18 Supra, note 14.

19 Carolyn O. Arguillas, “664 persons of Indonesian Descent (PIDs) in Mindanao end statelessness,” *MINDANEWS*, 14

March 2016, available at www.mindanews.com/top-stories/2016/03/14/664-persons-of-indonesian-descent-pids-in-mindanao-end-statelessness/ (last visited 28 May 2016).

20 Supra, note 1.

HURIGHTS OSAKA Calendar

The preparation of the 7th volume of *Human Rights Education in Asia-Pacific* has started and is expected to be printed by end of July.



PRINTED MATTER

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May be opened for inspection by the postal service.

HURIGHTS OSAKA, inspired by the Charter of the United Nations and the Universal Declaration of Human Rights, formally opened in December 1994. It has the following goals: 1) to promote human rights in the Asia-Pacific region; 2) to convey Asia-Pacific perspectives on human rights to the international community; 3) to ensure inclusion of human rights principles in Japanese international cooperative activities; and 4) to raise human rights awareness among the people in Japan in meeting its growing internationalization. In order to achieve these goals, HURIGHTS OSAKA has activities such as Information Handling, Research and Study, Education and Training, Publications, and Consultancy Services.

FOCUS Asia-Pacific is designed to highlight significant issues and activities relating to human rights in the Asia-Pacific. Relevant information and articles can be sent to HURIGHTS OSAKA for inclusion in the next editions of the newsletter.

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