

CHAPTER V

CONCLUSION AND RECOMMENDATION

A. Conclusion

The subject of lack of citizenship is not only a menace in constitutional and state administrative law but also, an international law challenge that leaves many governments concerned and international community restless to find a lasting solution to it. This research, therefore, reaches the following conclusions that:

1. The problem of lack of citizenship and the increase in the menace of statelessness still persists and this is due to the differences that exist in national laws of various states. This causes the gap that persists in constitutional and state administrative law of both The Gambia and Indonesia. The commitment of these countries to implement citizenship law and the lack of commitment to meet international standards on citizenship is the ultimate gap between the right to citizenship and the problem of statelessness.
2. The legal implication on the issue of statelessness is that the spirit of the rule of law in terms of respecting individual's rights in constitutionalism is quite limited. It undermines the rule of law and legal protection which are key components of modern constitutionalism. This helps in propagating discrimination and

subverting the legal value and culture of protection that a state ought to provide for its citizens. It, therefore, weakens the rule of law and strengthens “rule by law”. Rule by law is when a law is designed not to improve the quality of life of the people but to subvert it. When this happens, their right to vote, health, education and other rights are denied or curtailed by the state that ought to provide them.

3. To create inclusivity of stateless people in concept and perception of national human rights frameworks, there must be urgency to not only sign the relevant international instruments on citizenship and statelessness but to ratify and domesticate them in the national legislative processes to make them binding on these concerned States. This will help in changing the status of these international instruments from soft laws to national laws that can hold the concerned states legally accountable in the event that they violate them.

B. Recommendation

Based on the results and discussion above, the researcher makes the following suggestions:

1. For The Gambia

First, The Gambia, having signed the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, should extend this good act to a national

legislative process by domesticating them as Acts of National Assembly. This will help to reduce the gap between the right to citizenship and the problem of statelessness. Therefore, dual citizenship is important as it helps in minimizing the gap between constitutional rights and statelessness. While it is important to grant dual citizenship in order to reduce statelessness it is equally important to consider the interest of these states by putting in place the mandatory requirements to be met including integrity and loyalty test as ideals of nationalism.

So, to deal with “rule by law” as an implication, there is a need to promote a government by law in which the law is the principal tool of governance. With this, it will create a platform for legal protection through state institutions to keep acts of the executive and legislature in check.

Finally, the National Human Rights Commission needs to be supported and strengthened by the AGC and MoJ to ensure that the people are sensitized to the importance of citizenship and the need and urgency to ensure birth registration is made at the right time for all children born in the country.

2. For Indonesia

The delay in ratification is due to the existence of a legal vacuum because there are no comprehensive rules regulating stateless people in positive law in Indonesia. Therefore, to reduce the gap between

citizenship and statelessness, Indonesia should consider signing, ratifying and most importantly, domesticating the international instruments on citizenship and statelessness in its national legislative program (*prolegnas*). It is important to do this because the country receives unprecedented immigrants because of its strategic location as surrounded by many countries including Australia where many migrants want to move to.

Secondly, having identified the implications of statelessness, this research recommends that Law No. 12 of Year 2006 on Citizenship and the legal system in general be strengthened by ensuring that the citizens and Civil Society Organizations have access to participate in the legislative decision-making processes when the international instruments on citizenship and statelessness are being considered by administrative processes to be part of the laws of the country. The ultimate aim of this is to restrict the bureaucratic manipulation of the state and political ambition of the political class to dominate the interest and will of the inner morality of law towards attaining universal acceptance.

Finally, aware that Law No. 40 of Year 2008 of Indonesia regulates national issues on discrimination, there should be institutional adjustment in terms of commitment towards reducing discrimination. By doing this, it will create inclusivity of stateless people in the agenda

of national human rights framework. This adjustment in institutional framework can be executed at the level of National Commission on Human Rights (*Komnas HAM*) to engage in national discourse and sensitization to the issues of citizenship and statelessness so as to reduce this gap of constitutional dichotomy.



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