

BAB V

KESIMPULAN

Kenya merupakan salah satu negara di Afrika yang memiliki permasalahan *statelessness*. *Stateless persons* yang berada di Kenya tidak mendapatkan perlindungan hukum sehingga mereka mengalami penganiayaan dan diskriminasi yang melanggar hak asasi manusia. Hal ini disebabkan Konstitusi Kenya 1963 yang tidak mengizinkan orang yang bukan asli Kenya untuk mendaftarkan diri menjadi kewarganegaraan Kenya. Konstitusi Kenya setelah kemerdekaan tersebut telah mempersulit kelompok etnis tertentu untuk mendapatkan pengakuan kewarganegaraan. Beberapa kebijakan dalam Konstitusi Republik Kenya melakukan diskriminasi atas dasar gender, yang tidak memberikan hak kepada ibu untuk mewariskan kewarganegaraanya kepada keturunannya sehingga menyebabkan anak-anak menjadi *stateless*. Selain itu, Undang-Undang Kewarganegaraan Kenya tidak memberikan perlindungan terhadap permasalahan *statelessness*, terutama permasalahan anak-anak *stateless* yang lahir di Kenya.

Pelanggaran hak asasi manusia yang dilakukan oleh Pemerintah Kenya terhadap *statelessness* membutuhkan penanganan dari UNHCR sebagai organisasi internasional yang memiliki mandat untuk mengidentifikasi, mencegah, mengurangi, dan melindungi *statelessness*. Oleh karena itu, peneliti menjawab pertanyaan, “Bagaimana Upaya UNHCR dalam Menghapuskan Permasalahan *Statelessness* di Kenya pada tahun 2014-2017?”.

Dengan menggunakan teori liberalisme institusional yang menganggap negara membutuhkan peran dari aktor lain, salah satunya adalah organisasi internasional yang dapat membantu meningkatkan kerja sama antar aktor dan mampu menyelesaikan permasalahan yang tidak terjangkau oleh negara seperti permasalahan *statelessness*. Selain itu, peneliti menggunakan konsep peran organisasi internasional sebagai instrumen, arena, dan aktor untuk menjelaskan upaya-upaya UNHCR dalam menghapuskan permasalahan *statelessness* di Kenya. Konsep selanjutnya adalah *International Regime of Human Rights* yang memerlukan kerja sama global dan regional, tujuan umum dan khusus, serta pemerintah dan non-pemerintah yang terlibat dalam upaya penjaminan hak asasi manusia.

Upaya UNHCR untuk menghapuskan permasalahan *statelessness* di Kenya yakni, melakukan advokasi kepada Pemerintah Kenya, memberikan dukungan operasional, mendorong Pemerintah Kenya untuk fokus terlibat dalam upaya menghapuskan permasalahan *statelessness* di ranah internasional, dan melakukan Kampanye #IBelong. Dalam upaya melakukan advokasi kepada Pemerintah Kenya, UNHCR membantu Pemerintah Kenya dalam membuat *National Action Plan* dengan memberikan saran dan memasukkan kontribusi pemangku kepentingan lainnya untuk menghapuskan permasalahan *statelessness* di Kenya. Pemerintah Kenya menyetujui 9 dari 10 langkah yang terdapat dalam *Global Action Plan* untuk dimasukkan ke dalam *National Action Plan*. Keputusan ini diambil berdasarkan kebutuhan langkah-langkah yang harus dilakukan sesuai dengan situasi *statelessness* di Kenya. UNHCR memastikan Undang-Undang

Kewarganegaraan Kenya membantu untuk menghapuskan permasalahan *statelessness* non-pengungsi, tidak memiliki unsur diskriminasi, mengatur mengenai status kewarganegaraan ketika terjadi suksesi negara, dan mendorong Pemerintah Kenya untuk meratifikasi konvensi-konvensi terkait *statelessness*.

Pada upaya memberikan dukungan operasional kepada Pemerintah Kenya, UNHCR membantu implementasi Undang-Undang Kewarganegaraan Kenya serta komitmen internasional Kenya dalam menghapuskan permasalahan *statelessness*. Dengan membantu registrasi secara *mobile* dan desentralisasi layanan registrasi kelahiran, membantu registrasi anak sekolah tanpa dokumen kelahiran, menyediakan bantuan hukum bagi *statelessness* untuk mendapatkan status kewarganegaraan, membantu implementasi hukum Kenya berbasis *equality gender*, dan menyediakan data informasi terkait *statelessness* di Kenya.

Upaya UNHCR untuk mendorong Pemerintah Kenya untuk fokus terlibat dalam upaya menghapuskan permasalahan *statelessness* di ranah internasional. UNHCR mendorong Pemerintah Kenya untuk aktif terlibat dalam berbagai pertemuan internasional yang membahas mengenai reformasi hukum nasional dan prosedur registrasi, penyelesaian permasalahan *statelessness* termasuk solusi terkait anak-anak *stateless*, dan kebutuhan mendesak terkait dibutuhkanannya *Protocol on the Right to a Nationality in Africa* serta mengimplementasikan komitmen yang sudah disetujui untuk menghapuskan permasalahan *statelessness* di dalam wilayah negara Kenya.

Kampanye #Ibelong memiliki tanggung jawab utama, yakni '*Leave No One Behind*' yang memiliki pengertian bahwa setiap orang di dunia memiliki hak untuk mendapatkan kewarganegaraan. UNHCR berusaha untuk meningkatkan kesadaran bagi pemerintah dan masyarakat internasional terkait permasalahan yang dihadapi *statelessness* dan mempromosikan pentingnya melakukan advokasi dan tindakan nyata untuk menghapuskan permasalahan *statelessness*. Sedangkan, bagi *statelessness* kampanye ini dilakukan untuk mempromosikan dan meningkatkan wawasan mereka terkait prosedur perolehan kewarganegaraan. Hal ini dilakukan untuk mencapai tujuan yang tertulis dalam *Global Action Plan to End Statelessness 2014-2014*.

UNHCR fokus terhadap upayanya untuk mengurangi jumlah *statelessness* di Kenya dikarenakan UNHCR mengeluarkan dana terbesar untuk menyediakan bantuan bagi orang untuk memperoleh kewarganegaraan, memastikan keefektifan koordinasi proses naturalisasi dengan memberikan pelatihan kepada petugas registrasi, dan memberikan dukungan kepada Pemerintah Kenya terkait implementasi *National Action Plan to End Statelessness*. UNHCR akan terus bekerja sama dengan Pemerintah Kenya dan mitra-mitranya untuk memastikan Kelompok Etnis Pemba diakui sebagai suku asli Kenya dan memperoleh kartu identitas. Selain itu, UNHCR akan terus bekerjasama dengan *Kenya National Bureau of Statistics* untuk memastikan *stateless persons* terdata di *National Housing and Population Census* pada tahun 2019.

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