



Legal Aspects of Election Participation For Persons With Limited Dual Citizenship Status

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Abstract

Limited dual citizenship refers to a temporary legal status allowing individuals to hold two citizenships, commonly resulting from mixed-nationality marriages. In Indonesia, this status is governed under Article 6 of Law No. 12 of 2006. Individuals must choose a single citizenship by the age of 21. However, the rights afforded to those under this temporary status – particularly political rights – remain unclear. This paper aims to analyze the political rights of limited dual citizens using normative and comparative legal approaches. While these individuals may enjoy basic civil rights such as education and employment, their political participation, including voting rights, remains restricted due to concerns about national loyalty. The study further compares similar frameworks in Singapore to highlight regional legal trends.

Keywords: Limited Dual Citizenship, Political Rights

INTRODUCTION

Citizenship is a fundamental right guaranteed by Article 15 of the Universal Declaration of Human Rights (UDHR), which states that everyone has the right to a nationality and may not be arbitrarily deprived of it. In the context of a modern state, citizenship is not merely a legal identity, but also the primary basis for the rights and obligations of citizens, including political rights. Citizenship as a right is also regulated in Article 15 of the Universal Declaration of Human Rights (UDHR), which states that everyone has the right to a nationality and that no one shall be arbitrarily deprived of his or her nationality or denied the right to change nationality¹. Two important points arise from this provision: first, every state must provide individuals with the freedom to choose a nationality while preventing statelessness; second, the state must not act arbitrarily in determining a person's citizenship status. Therefore, in principle, every state should comprehensively regulate matters relating to citizenship,

¹ Deklarasi Universal Hak Asasi Manusia (DUHAM) [https://www.komnasham.go.id/files/1475231326-deklarasi-universal-hak-asasi--\\$R48R63.pdf](https://www.komnasham.go.id/files/1475231326-deklarasi-universal-hak-asasi--$R48R63.pdf) Diakses pada 28 November 2024

including the means of acquisition, loss, restoration, and other related issues. This is because the state consists of several components, such as population, people, and citizens, each of which has a different meaning. A resident is not necessarily a citizen, and therefore the rights and obligations attached to each status are also different. Such considerations explain why all matters relating to citizenship must be properly regulated.

Citizenship status often gives rise to various problems in many countries because it is connected to numerous aspects of state administration. Indonesia itself recognizes citizenship as a right, as stated in Article 28D paragraph (4) of the 1945 Constitution, which provides that every person has the right to choose his or her citizenship. However, Indonesia is a state that adheres to the principle of single citizenship under Law No. 12 of 2006, and therefore does not recognize dual citizenship. Indonesia only recognizes limited dual citizenship, as regulated in Article 6 of that law. In essence, the regulation of citizenship in Indonesia is already quite comprehensive, covering the ways citizenship is obtained, lost, and regained. Limited dual citizenship exists, among other reasons, to facilitate children born to parents in mixed marriages or under the relevant statutory provisions, so that they may access rights granted by the state.

The rights and obligations of citizens differ from one country to another, reflecting the relationship between the individual and the state. The 1945 Constitution regulates many citizens' rights, such as the right to education, the right to marry and form a family, constitutional rights, and many others. Constitutional rights include the right to vote and the right to be elected, in line with Indonesia as a democratic state. As a democracy, Indonesia uses the principle of direct elections in determining its leaders. This is part of the right to vote, while the right to be elected is also guaranteed so that every person may participate as a candidate in general elections. However, these rights are subject to limitations and legal rules so that the implementation of elections as one of the instruments of democracy can proceed in accordance with electoral principles. General elections, as one of the most important state agendas in a democratic system of government, constitute the main mechanism for ensuring popular sovereignty. Therefore, such an important agenda must be regulated properly to guarantee the constitutional rights of every citizen.

Limited dual citizenship is a complex citizenship status because the rights granted to a person holding this status may also be limited. Political rights, as rights closely related to popular sovereignty, must therefore consider the legal subject to whom they are granted. A person with limited dual citizenship has not yet fully acquired and attached a complete citizenship status. On the other hand, limited dual citizenship is also a status lawfully granted by the state. Accordingly, access to rights granted by the state should correspond to the person's position as a subject equal before the law. Restrictions on certain rights must also take into account human rights and the right to citizenship status.

METHOD

This study adopts a normative juridical approach with statute, conceptual, and comparative sub-approaches to analyze the norms, rules, and legal principles governing citizenship and political rights, particularly limited dual citizenship. Sources include primary legal materials (the 1945 Constitution, Law No. 12/2006 on Indonesian Citizenship and implementing regulations, electoral laws), relevant court decisions, and secondary/tertiary literature such as journals, books, and international reports. Data are collected through systematic library research and verification of official documents; limited interviews with legal informants may be used as complementary sources. Data analysis involves doctrinal interpretation (grammatical, systematic, teleological), systematic placement of norms within the legal system, comparative analysis, and assessment of conformity with international human rights principles. Validity is ensured by prioritizing primary sources and source triangulation; reliability is maintained through consistent interpretative methods. Ethical measures include proper citation, informed consent for interviews, and analytical objectivity. The study is limited by its focus on textual and jurisprudential analysis, with empirical data as supplementary.

DISCUSSION

1. Restriction of political rights for persons with limited dual citizenship

A citizen is defined in the Great Dictionary of the Indonesian Language (KBBI) as an inhabitant of a country or nation, based on descent, place of birth, and other factors, who possesses full rights and obligations as a member of that country². Citizenship has long been known since Aristotle, commonly referred to as *citizenship*, while a citizen, according to Aristotle, is someone who permanently participates in just government and holds office. This view does not fully correspond to the popular and pragmatic concept of citizenship, which commonly derives from birth and descent, as reflected in the principles of *ius soli* and *ius sanguinis*³. Indonesia's understanding of the term citizen is sufficiently appropriate because it indirectly reflects the legal framework in force. This definition clearly shows that citizenship cannot be separated from rights and obligations. The principal rights regulated by Indonesia are found in the 1945 Constitution, also referred to as constitutional rights. The constitutional rights of citizens are obligations assumed by the state to ensure that the rights contained therein are fulfilled, while citizens also bear obligations that must be carried out. This illustrates the relationship between the individual and the state.

However, Indonesia also recognizes another citizenship status, namely limited dual citizenship, under Article 6 of Law No. 12 of 2006, which provides that a

² Kamus Besar Bahasa Indonesia (KBBI), diakses pada 28 November 2024

³ Dr. Theodore Pangalila, S. Fils., M. Pd., Dan Dr. Rasid Yunus, S. Pd., M. Pd., "Sosiologi Kewarganegaraan, Tahta Media Group (Jakarta, Oktober 2023), H 1-2

child under the conditions set out in Article 4 letters c, d, h, and i acquires limited dual citizenship until the age of 18 or until marriage. This is further regulated by Government Regulation No. 21 of 2022, which provides that the person must declare a citizenship choice no later than the age of 21. Law No. 12 of 2006, as the only law governing citizenship, does not explicitly regulate the legal position of a person holding limited dual citizenship, such as what rights are granted by that status and what obligations bind the person. The law is more focused on the procedures for acquisition, retention, loss, and restoration of citizenship in general. Limited dual citizenship exists essentially to prevent statelessness, in line with the principle stated in the UDHR, which seeks to avoid statelessness whenever possible.

Limited dual citizenship is a citizenship status granted in response to globalization and international mobility⁴, Indonesia in principle adheres to single citizenship and does not recognize dual citizenship or statelessness⁵. The principles of *ius soli* and *ius sanguinis* adopted by Indonesia can also create dual citizenship from birth, for example where a child is born to parents who apply *ius sanguinis* but the child is born in a state applying *ius soli*⁶ For this reason, limited dual citizenship serves as a solution between the principle of single citizenship and those two doctrines. In addition, limited dual citizenship provides legal protection for children born from mixed marriages⁷. The general constitutional rights recognized in Indonesia include:

1. Presidential and vice-presidential candidates must never have voluntarily accepted another citizenship.
2. Every citizen has the right to work and to a livelihood worthy of human dignity.
3. Every citizen has the right to education.
4. Every person has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law.
5. Every person has the right to freedom of association, assembly, and expression.⁸

Limited dual citizenship, as a citizenship status that is not yet regarded as full citizenship, cannot fully enjoy those constitutional rights. In other words, certain rights are restricted. Political rights connected to the state system are crucial, and therefore rights related to voting and being elected cannot be possessed by someone who has not yet fully become a citizen. Likewise, appointment to state

⁴ Femmie Cynthia, "Status Kewarganegaraan Ganda Terbatas DI Indonesia", Jurnal Hukum Adigama, Volume 4, No. 2, Desember 2021, H 2235-2236

⁵ Glery Lazuardi, "Status Kewarganegaraan Ganda Dilihat Dari Perspektif Undang-Undang Nomor 12 Tahun 2006 tentang Kewarganegaraan Republik Indonesia", SIGn Jurnal Hukum, Volume 2, Nomor 1 (September 2020) H 44

⁶ Tundjung Herning Sitabuana, Hukum Tata Negara Indonesia (Jakarta: Konstitusi Press, 2020), H 79

⁷ Rahmat Fauzi, "Dampak Perkawinan Campuran Terhadap Status Kewarganegaraan Anak Menurut Hukum Positif Indonesia", Soumatera Law Review, Volume 1, Nomor 1 (2018), H 153

⁸ UUD NRI 1945

institutions related to governance is important and cannot be granted indiscriminately. Based on the constitutional rights listed above, the rights that may be accessible to a person with limited dual citizenship are basic rights such as education, employment, religion, and economic rights. However, there are also limitations in the economic sphere, such as rights over land ownership regulated under Law No. 5 of 1960. Returning to political rights, because limited dual citizenship is not a full citizenship status, the restricted rights may only be obtained after the person chooses a nationality at the age of 18 and no later than 21 years old, or upon marriage.

Several countries also apply a form of limited dual citizenship, such as Singapore. Singapore regulates the acquisition of citizenship through four grounds: birth, descent, registration, or naturalization. Dual citizenship in Singapore is also subject to restrictions until the age of 21 or before the person's 22nd birthday. Singapore's arrangement can be considered strict because after that age the person must be prepared to take the *Oath of Renunciation, Allegiance and Loyalty* (ORAL). If the person reaches 22 years of age, Singapore citizenship is automatically lost and the person automatically retains the other citizenship.⁹ Political rights are also not fully granted to persons with limited dual citizenship, because Singapore regards limited dual citizenship as a temporary status and strongly upholds the rights of its native citizens.¹⁰

2. Participation in elections for a person with dual citizenship is limited

Political rights, as a constitutional right of citizens, are highly important and must be upheld by every state, as they play a crucial role in determining the future direction of a country. In Indonesia, matters related to elections and citizenship are regulated in Article 23 letter g of Law No. 12 of 2006, which states that a person shall not be required to participate in political activities of a foreign state, including participation in elections or other constitutional processes. This provision reflects that matters relating to a person's loyalty to the state are crucial in the administration of state affairs and therefore require strict regulation. Loyalty or allegiance is also inseparable from the concept of national defense; thus, such participation may indirectly be interpreted as an act of affiliation with a foreign state.

Returning to the principle adopted in Indonesia concerning single citizenship and limited dual citizenship as a temporary citizenship status, it is possible for a person holding limited dual citizenship to participate in elections in a foreign state if that foreign state grants political rights, particularly the right to participate in general elections or other constitutional elections. However, it is highly unlikely

⁹ Eugene K B TAN "The Evolution Of Singapore Citizenship" <https://xignam.com/immigration/singapores-dual-citizenship-policy/> Diakses pada 28 November 2024

¹⁰ "Singapores Dual-Citizenship Policy" <https://www.todayonline.com/singapore/evolution-singapore-citizenship> Diakses pada 28 November 2024

that any state would grant full political rights to a person holding limited dual citizenship. Full political rights are generally granted only to native *punuwughu* or persons holding full citizenship status. Under the applicable law, namely Law No. 12 of 2006, participation in foreign constitutional elections is implicitly prohibited for all persons, regardless of whether they hold full citizenship or limited dual citizenship. Consequently, if such participation occurs, Indonesian citizenship is automatically lost.

CONCLUSION

Citizenship is a status that binds an individual to a particular state, granting rights and obligations to its citizens, as regulated by the constitution or laws of that state. In the Indonesian context, limited dual citizenship is a citizenship status granted to individuals born to parents of different nationalities or to those who acquire another nationality, as regulated under the principles of *ius soli* (place of birth) and *ius sanguinis* (descent). This status is temporary, with the provision that the individual must choose one citizenship upon reaching the age of 18 or, at the latest, 21 years old, or upon marriage.

Law Number 12 of 2006 concerning Citizenship regulates Indonesian citizenship in detail, but it does not clearly provide for the rights held by limited dual citizens. While the basic rights of Indonesian citizens, such as the right to work, education, freedom of association, and legal protection, apply generally to Indonesian citizens, political rights, especially those related to elections and state offices, are not fully granted to holders of limited dual citizenship. This is influenced by the concept of national loyalty, under which an individual with limited dual citizenship is considered not yet to be fully part of the Indonesian state, and therefore may not participate in elections or other constitutional political processes.

Loyalty to the state is one of the main grounds for restricting the political rights of holders of limited dual citizenship. Indonesia, which adheres to the principle of single citizenship, considers that participation in another country's elections may create a conflict of interest and undermine allegiance to the state. Therefore, although limited dual citizenship provides legal protection for individuals, particularly children born from mixed-nationality marriages, their political rights remain restricted. In such cases, a person holding limited dual citizenship is not permitted to participate in elections or take part in the constitutional affairs of a foreign state.

Furthermore, limited dual citizenship may be understood as a response to the demands of globalization and international mobility, where many individuals are born abroad or come from parents with different nationalities. Nevertheless, the state continues to impose restrictions on political rights, taking into account their effect on political stability and the integrity of the state.

In several countries that apply limited dual citizenship, such as Singapore, similar restrictions exist, where dual citizenship is permitted only until a certain age, after which the individual must choose one nationality. This concept emphasizes the importance of loyalty to the respective state, with political rights restricted until citizenship status becomes permanent.

Overall, limited dual citizenship in Indonesia provides a solution for individuals born with dual nationality while also reflecting the principle of allegiance to the state. A person with limited dual citizenship, although entitled to basic rights such as education and employment, remains restricted in political rights related to elections and state offices until they make a permanent choice of citizenship.

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