



## Globalisation and Indonesia's Demand for Dual Citizenship: Problems and Alternatives

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Article	Abstract
<p><b>Keywords:</b> Citizenship; Citizenship Status; Dual Citizenship.</p> <p><b>Article History</b> Received: 24 Jan 2023; Reviewed: 27 Feb 2023; Accepted: 20 Mar 2023; Published: 25 Mar 2023.</p>	<p><i>This paper aims to discuss Indonesia's current legal framework of citizenship following its more pervasive demand to adopt dual citizenship. It argues that several issues regarding citizenship law in Indonesia have been relatively problematic, mainly related to the change of citizenship status contentiously experienced by Arcandra Tabar, Gloria Natapraja, and Djoko Tjandra to the increasing demand for dual citizenship. On the other hand, in this context, Indonesia's diasporas have voiced this interest in legal reform, resulting in more flexible opportunities and supporting transboundary businesses, as they have encountered some challenges due to restricted citizenship regulations. Using legal research, this study showed that citizenship had become a strategic issue with far-reaching implications. While Indonesia adopts a limited scale of dual citizenship and the vigour for dual citizenship has increased, the flexibility over dual citizenship requires further study of national security and citizens' loyalty to Indonesia. This paper suggested in adopting India's OCI model for Indonesia's citizenship policies as ample opportunities for this country's citizens with foreign status to continue enjoying and accessing their rights in Indonesia, except in the political field. This measure subsequently would be a step forward to adapt citizenship regulations to globalisation while still paying attention to the nationalism concern.</i></p>



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### INTRODUCTION

Over the centuries, migration has played an essential part in developing multiculturalism. While it signals the advent of globalisation, recent decades have demonstrated rapid technological innovation that offers a more connected world.

Technological globalisation has been inevitable and contributed significantly to shaping a more profound global citizen. Consequently, the boundaries of citizenship have become increasingly blurred, leading to the desire to adopt dual citizenship. Such a discussion has emerged in various jurisdictions, and each state has responded differently, whether by adopting dual citizenship or offering its alternative to adapt in this globalised world. Some Global South countries, such as the Philippines (Aguilar, 2018) and South Africa (Dahlin & Hironaka, 2008), have already adopted dual citizenship. However, the disagreement has continually emerged in other post-colonial states, such as India and Indonesia. This disagreement centres on a disputed argument about whether they should change to a new approach to aggressively embrace globalisation or still highly maintain nationalism and retain sovereignty. In the process, in 2005, India subsequently took an alternative of dual citizenship through the adoption of Overseas Citizen of India (OCI) (LEE, 2020) amidst its current turbulence of the latest citizenship amendment act (Jain et al., 2022). This OCI is often called a non-regular status of citizenship, which resembles another kind of possible naturalisation scheme (LEE, 2020). In the following year, Indonesia adopted dual citizenship as a conditional alternative, restricted to mixed-married children.

In retrospect, studies on Indonesian citizenship were relatively domestic and focused on their relations to nationalism. The discussion and proposal of granting dual citizenship have often been considered to trivialise nationalism. In Indonesia, nationalism is sacred and undisputable, and it is often exaggeratedly believed to be an idea to preserve and achieve national unity. Therefore, limited literature has looked at the relevance of dual citizenship in Indonesia in the context of globalisation. For instance, the thriving globalisation has influenced diaspora groups to struggle in demanding the legalisation of dual citizenship (Nurmawati & Suantra, 2020). In addition, Dewansyah argues that the inception of the Indonesian Diaspora Network (IDN) has been the emerging institutionalisation of encouraging the adoption of dual citizenship in Indonesia (Dewansyah, 2019). Given societal transformation and globalisation have been inevitable, they have become multidimensional to adapt to current challenges.

On the other hand, in recent years, citizenship issues in Indonesia have been problematic as they may become the key rationale for rejecting dual citizenship. It can be exemplified by the cases experienced by Arcandra Tahar (Bayu, 2016), Gloria Natapraja (Darusman, 2017), Djoko Tjandra (Report, 2017), and Indonesian pilgrims with Philippines passports (Sutari, 2016). Amidst more complexities that have been encountered, these issues have been limited to be resolved by reference to the Citizenship Act 12/2006. Indeed, this new Act has significantly improved compared to the previous one adopted in 1958 due to its more support for the Universal Declaration of Human Rights and international conventions that guarantee the right to citizenship to avoid statelessness. The Djoko Tjandra case has become one of the

examples of the extent to which Act 12/2006 could not necessarily anticipate further challenges like the falsification of citizenship. In the meantime, Diasporas' desire for flexibility and the government's support has become another impetus for considering dual citizenship to be adopted in this current time (Salim et al., 2022). Simultaneously, at the parliament, this current issue has been scrutinized regarding its potential problems related, encouraging their members to refrain from this proposal (Harijanti et al., 2017).

This paper aims to analyse Indonesia's opportunities and challenges in adopting dual citizenship against the discourses of globalisation and nationalism. It also examines citizenship provisions in Indonesia, the transfer of citizenship status, and its legal consequences. Against the academic question of whether dual citizenship status in Indonesia is necessary, this paper also examines the extent to which citizenship regulations in Indonesia are relevant to globalisation but can also maintain the spirit of nationalism as part of efforts to realise national unity in Indonesia.

This paper contains four main sections. In the first section, the paper outlines the relationship between citizenship and nationalism; the second section examines the regulation of adopting dual citizenship in Indonesia; the third section discusses the complexities and challenges of citizenship in Indonesia; the fourth section discusses the middle ground of adopting diaspora interests with reference to India's citizenship policy.

## **METHOD**

This research mainly uses library resources with a doctrinal method (Al-Fatih & Siboy, 2021). As the analysis examines the applicable regulations in Indonesia with legal doctrines relevant to the citizenship law, the method uses statutory and comparative approaches. The statutory approach analyses regulations regarding citizenship status in Indonesia. The further approach compares the adoption of citizenship in Indonesia with the regulatory experience in another jurisdiction like India in adopting Overseas Citizenship of India (OCI). The primary information resources are collected from the national constitutions and regulations relating to citizenship provisions, judicial decisions, books, and journal articles on this research issue.

## **RESULTS AND DISCUSSION**

### **Citizenship, Nationalism, and Imagined Communities**

Citizenship is inevitably linked to nationalism. The term nationalism has become accepted as a general norm with the formation of new states in the 20<sup>th</sup> century. Much of the 20<sup>th</sup> century literature refers to the intersection between citizenship and nationalism, particularly the extent to which citizenship was instrumental to nation-building. Today, citizenship has the equivalent of nationality as a term that refers to one's nationality. Scholars such as Nairn, Hobsbawm, Anderson and Renan have attempted to define the meaning of nationalism as a term to connect with a nation and state formation (Utama, 2017) also closely related to citizenship and citizenship.

From this discourse, Anderson proposed the term imagined communities to Renan's thesis that asserts the nation as a common property but forgets the common property rights (Anderson, 2006). Likewise, imagined communities are proposed to balance Gellner's idea of each citizen's participation in the nation's formation (Utama, 2017). Gellner considers that there is a connection between nationalism and citizenship (McCrone & Kiely, 2000). However, recent literature on the study of their relevance to globalisation questions their interconnectedness, given in modern societies, they represent an increasingly complex relationship (McCrone & Kiely, 2000).

Furthermore, what is a nation? Anderson defines it as a political and inherently limited imagined community with sovereignty. The term imagined community emphasises that it is highly unlikely that every individual member of a nation will ever actually interact. The meaning of having sovereignty means that the nation can claim ownership of an independent territory. Nationalism, according to Anderson, began with national consciousness that emerged with the help of the industrial revolution 2.0 through printing capitalism. The proliferation of the printing industry as a new medium contributed to the birth of a national language. This thesis contradicts Renan's assumption that language is not the basis of nation-building (Ahmad, 2017).

### **Regulating Dual Citizenship in Indonesia**

In every country, citizenship occupies an important position (Mudde, 2010). The importance of citizenship is characterised by its regulation in various laws and regulations. Citizenship is stipulated in Articles 26, 27 and 28D of the 1945 Constitution. It is also regulated in Law No. 12/2006 on Citizenship (Law 12/2006), replacing Law No. 62/1958 on Citizenship of the Republic of Indonesia (Law 62/1958). The fundamental difference between Law 62/1958 and Law 12/2006 regards the citizenship status of children resulting from mixed marriages (Amalia, 2015). In Law 62/1958, the child's citizenship status follows the father's citizenship status. It asserts that in a mixed marriage, which is a marriage between an Indonesian citizen (WNI) and a foreign citizen (WNA), the child's citizenship can be WNA or WNI by following the father's citizenship status. The determination of whether the child is a foreigner or an Indonesian citizen is determined by the father's citizenship status. Unlike the provisions in Law 12/2006, children can hold dual citizenship until they are 18 or married. Therefore, Indonesia's new Citizenship Law has adopted dual citizenship in a limited condition.

This relaxation is a consequence of adopting the idea of universal citizenship to avoid the occurrence of a stateless population (apatride) (Amalia, 2015). In other words, the limited adoption of dual citizenship in Indonesia is an exception to the concept of single citizenship in Indonesia to guarantee citizens' constitutional rights. It underpins a rationale that the nature of citizenship is a sign/identity of a legal bond between a citizen (individual) and the state in which (s)he lives. These ties give legal

consequences in the form of the emergence of constitutional rights and obligations of citizens set forth in the 1945 Constitution.

In general, in the study of citizenship, there are two main terms for determining citizenship status: *ius soli* and *ius sanguinis* (de Groot & Vonk, 2018). *Ius soli* is the principle of determining one's citizenship based on descent, while *ius sanguinis* determines citizenship status based on the country of birth. In the Indonesian context, especially after the enactment of Law 12/2006, there are also two other principles: single citizenship and limited dual citizenship. The two do not need to be contradicted because, in practice, it does not mean that everyone is free to have two citizens.

Indonesia has adopted dual citizenship. This adoption is outlined in Law 12/2006. When children are 18 years old or married, they must choose one citizenship. According to the procedure, the child must submit a statement of choosing citizenship by three years before the child marries or enters the maximum age limit of 18 years. The criteria for children who can have dual citizenship include: (a) children from a legal marriage with an Indonesian father and a foreign mother; (b) children from a legal marriage with a foreign father and a foreign mother; (c) children outside a legal marriage with a foreign mother whom an Indonesian father recognises; (d) children born outside the territory of Indonesia to an Indonesian father and mother because the provisions of the local country also give citizenship to the child; (e) Indonesian children born outside a legal marriage before 18 or unmarried whom a foreign father legally recognises. (f) an Indonesian child under five years old legally adopted as a child by a foreigner with a court decision.

#### 1. Loss of Nationality

In Law 12/2006, several provisions regarding citizenship status can only be recovered if one of several elements is fulfilled. First, an Indonesian citizen has obtained citizenship from another country because of his/her own will; second, a person gets the opportunity to acquire another nationality but does not refuse or does not renounce the nationality of the other country; third, a person's citizenship is lost due to their request, such as a person who has reached the age of 18 or has entered into marriage, residing outside the jurisdiction of Indonesia.

Fourth, a person enters foreign military territory without obtaining permission from the President; fifth, a person voluntarily enters the military territory of a foreign country, where the position in Indonesia can only be held by Indonesian citizens; sixth, a person voluntarily declares an oath or pledge of allegiance to a country other than Indonesia or part of a foreign country; seventh, a person is not obliged to but has participated in political activities in a foreign country; eighth, a person has a passport or passport-like letter from a country outside Indonesia or a valid citizenship certificate from another country in his or her name.

Eighth, a person has resided in a foreign country for five years continuously, not because of state service or without legitimate reasons and deliberately does not express his/her wish to remain as an Indonesian citizen before the end of the five-year period. In each of the following five years, the person does not submit a request to remain as an Indonesian citizen to the Indonesian representative after the Indonesian representative has sent written information, provided that the person remains stateless.

## 2. Nationality or Naturalisation

What if someone wants to regain Indonesian citizenship? Law 12/2006 stipulates that a person who wishes to regain Indonesian citizenship must undergo a naturalisation procedure that must fulfil several requirements. Firstly, a person has reached the age of 18 or has entered into a marriage. Secondly, a person at the time of applying has lived in the territory of Indonesia for at least five consecutive years or at least ten non-consecutive years.

Third, a person is physically and mentally healthy. Fourth, a person can communicate in Indonesian and recognises Pancasila and the 1945 Constitution. Fifth, a person has never been in a legal case with a criminal threat of one year or more. Sixth, a person will not become a dual national if (s)he has obtained Indonesian citizenship. Seventh, a person has a job or regular income. Eighth, a person must pay the naturalisation fee to the state treasury.

After fulfilling the above procedures, an administrative procedure is required by submitting a written application to the Indonesian Government authorities. Furthermore, within 14 days of the application, the government forwards and processes the application. The decision to approve or reject the application for naturalisation is issued within three months from the date of the application. If the application is rejected, the government provides reasons for rejecting the application for naturalisation. If the application is granted, the applicant is required to take an oath or pledge of allegiance.

## **Citizenship in Indonesia: Complexities and Challenges**

Since the enactment of Law 12/2006, many parties consider this legislative product to be more accommodating to change. The development of the times also needs to be responded to by adjusting regulations in the field of citizenship. However, Law 12/2006 is often faced with complexities and challenges. Law 12/2006 must be able to answer various citizenship issues, such as the citizenship status of Arcandra Tahar, Gloria Natapraja, and the citizenship of Indonesian pilgrimage using Philippine passports and the citizenship status of Djoko Tjandra, which is also in the spotlight and will be enumerated as follows.

### 1. Arcandra Tahar's citizenship

In mid-2016, the public was surprised by the appointment of Arcandra Tahar as the Minister of Energy and Mineral Resources (ESDM). President Joko Widodo swore in Arcandra Tahar as a minister on 27 July 2016 (Nurmawati & Suantra, 2020). After 20 days in office, Arcandra was dismissed on 15 August 2016 due to his ownership of Indonesian and U.S. citizenship (Bayu, 2016). This polemic arose to implementing the law in Indonesia where other than Indonesian citizens need to meet the qualifications to be appointed to and hold positions as ministers.

While the current Citizenship Law does not provide for dual citizenship, the idea of dual citizenship may become an academic discourse and continue to be a policy through the revision of the current Citizenship Law to respond to the times. According to Law 12/2006, Article 23 states that Indonesian citizens who become citizens of another country lose their citizenship. This loss of citizenship applies automatically. The controversy at the time was related to the term loss, differentiated from the term revocation. Some experts, such as Mahfud MD, argued that the citizenship change occurs not requiring administrative revocation procedures (MD, 2016). Mahfud concluded that even if an Indonesian citizen who has obtained foreign citizenship holds an Indonesian passport and has yet to have his citizenship revoked by the Indonesian authorities, Indonesian citizenship is no longer attached to that person.

However, Arcandra was re-inaugurated by the President as Deputy Minister of Energy and Mineral Resources), following the reaffirmation of Arcandra's Indonesian citizenship in a Decree of the Minister of Law and Human Rights dated 1 September 2016 (Bayu, 2016). Arcandra's naturalisation took into account the examination and clarification process results on 22 August 2016, after Arcandra applied for loss of United States citizenship on 12 August 2016 (Bayu, 2016). The United States issued Arcandra's loss of United States citizenship letter on 15 August 2016 (Bayu, 2016).

It is a consensus that Arcandra, of his own accord, became a citizen of the United States. This willingness has implications for the loss of Arcandra's status as an Indonesian citizen. However, with the loss of U.S. citizenship status, Arcandra became stateless. Law 12/2006 has the idea of universal citizenship, which must avoid *apatride*. It also aligns with the provisions of international law, the Universal Declaration of Human Rights and international conventions, protecting a person's right to citizenship (Yolla & Wibowo, 2018). This loophole lies in the matter why the Ministry of Law and Human Rights should consider re-granting Arcandra Indonesian citizenship.

Law 12/2006 essentially adopts dual citizenship but only applies to children from a mixed marriage. In other words, Indonesia restricts the recognition of dual citizenship because it only applies to adults, so it is arduous for Indonesian citizens to hold another citizenship. However, the citizenship administration system is complicated, especially for diaspora citizens. The Arcandra Tahar case is an example where it was found that an Indonesian citizen also held an American passport, although Arcandra eventually chose to become an Indonesian citizen (MD, 2016). The

administrative procedures need to improve the policy of guaranteeing that citizens avoid statelessness (Amalia, 2015), which led Arcandra to obtaining Indonesian citizenship without going through the procedures prescribed in Law 12/2006.

## 2. Citizenship of Gloria Natapraja

Gloria Natapraja served as a Pusaka Flag Raising Team (Paskibraka) member at the 71st anniversary of the Republic of Indonesia in Jakarta on 26 June 2016. Gloria successfully passed all the long selection stages and became a member of 68 teams, from school, city, to provincial level. However, at the final stage, it was discovered that Gloria also held a French passport. Consequently, Gloria was considered a French citizen and highly loyal to France. On the other hand, Gloria was considered not an Indonesian citizen. At the same time, the Minister of Youth and Sports Regulation No. 0065/2015 stipulated that Indonesian citizenship is one of the requirements to join the Paskibraka troops. In the end, Gloria was dropped from the list of Paskibraka members. Due to this situation, Gloria could not do anything but resignedly accept that she could not deliver the flag hoisting on Independence Day. Gloria still attended the independence ceremony at the State Palace not as part of the troops but as a spectator of her 67 friends.

After the ceremony, Gloria met directly with the President and Vice President. Both allowed Gloria to join the Paskibraka squad and serve in the flag-lowering ceremony later that afternoon on the grounds of her Indonesian citizenship. Law 12/2006 adopted limited dual citizenship, where children born in mixed marriages have the facility to obtain two citizenships from their father and mother until they are 18 years old or have entered into a marriage. In other words, although Gloria held a French passport, she also held an Indonesian one because she was still 18 years old.

## 3. Citizenship of Indonesian Hajj Using Philippine Passport

Another problem is Indonesian citizens using Philippine passports to perform the Hajj pilgrimage. Due to the limited Indonesian quota and the relatively long waiting process, 177 Indonesian citizens decided to use Philippine passports to depart for Hajj. Using fake passports, Indonesian citizens travelled from the Philippines to take advantage of the hajj quota allocated to Filipinos. As planned, the Indonesians were to fly to Medina on a Philippine Airlines (PAL) plane at Ninoy Aquino International Airport, Manila, on Friday, 19 August 2016, in the early morning. However, the Airport Immigration Bureau discovered the pilgrims were not Philippine citizens and immediately barred the 177 Indonesians from boarding the plane.

In this incident, the Indonesian pilgrims were accompanied by five Filipinos. The five Filipinos are believed to be a syndicate of passport forgers for Indonesian citizens to perform the Hajj pilgrimage by departing from the Philippines. In explaining the chronology, the Indonesian citizens are known to have arrived in the Philippines

separately as tourists. They came to the Philippines a few weeks before their scheduled departure to Saudi Arabia. The Indonesians both stated Jolo, Sulu as their temporary address in the Philippines, with information that they were required to pay US\$ 6 thousand - US\$ 10 thousand (Rp 78 million - Rp 131 million) per person to obtain a Philippine passport to be able to access the hajj quota from the Philippines.

Freddy Harris, Director General of the Ministry of Law and Human Rights, stated that the 177 pilgrims caught in the Philippines had lost citizenship (Sutari, 2016). Harris referred to Law 12/2006 implying that a person can lose citizenship by receiving a passport from another country (Sutari, 2016). However, one of the criteria for losing one's citizenship is due to one's own will, while these 177 Indonesians obtained passports due to fraud, not their own will. In the end, these 177 Indonesians did not lose their Indonesian citizenship.

#### 4. Citizenship of Djoko Tjandra

Recently, Djoko Tjandra's corruption case has resurfaced. The legal process is relatively tortuous, and the chronology lasts relatively long. Djoko Tjandra is a convict in the Bank Bali cessie corruption case who escaped a day before the Supreme Court judgement was read out. The case has been ongoing since 1999, starting with the investigation of the case by the Attorney General's Office. On 28 August 2000, a panel of judges acquitted Djoko of all charges. Although the prosecutor's charges against Djoko were proven during the trial, Djoko's actions were deemed not criminal but civil.

Finally, in October 2008, the prosecution filed a judicial review (P.K.) with the Supreme Court (M.A.). The Supreme Court granted the review, and Djoko was found guilty. Djoko was sentenced to two years in prison, a fine of IDR 15,000,000 and a confiscation of Rp 546.1 billion to be handed over to the state. However, a day before the Supreme Court's verdict was read on 11 June 2009, Djoko Tjandra fled by chartered plane from Halim Perdanakusuma Airport to Port Moresby, Papua New Guinea. As a result, Djoko Tjandra was declared a fugitive from justice (Sunaryo, 2021), and on 10 July 2009, a Red Notice was issued by the International Police (Interpol) for Joko Sugiarto Tjandra, who fled from execution in Indonesia.

Djoko Tjandra changed citizenship to Papua New Guinea in June 2012. However, the change of citizenship was considered invalid because Djoko Tjandra still had legal problems in Indonesia (Nurdiana, 2020). In addition, to obtain a Papua New Guinea passport, Djoko had committed 18 violations involving Immigration Chief Mataio Rabura and his men and Minister of Foreign Affairs and Immigration Ano Pala (Tempo.co, 2018). Of the 18 violations, Pala gave Joko a guarantee of citizenship even though he knew that Joko was not eligible for citizenship and the granting of citizenship to Joko was contrary to the Papua New Guinea Citizenship Act (Report, 2017). According to the procedure, any person wishing to obtain Papua New Guinean

citizenship must have lived for at least eight consecutive years (Tempo.co, 2018). Joko did not pay the fee to become a Papua New Guinean citizen as required by the Citizenship Act. Instead, payment was made four months after obtaining citizenship (Tempo.co, 2018). After his passport was issued in May 2012, Joko applied for a new passport three days later by changing his name to Joe Chan (Tempo.co, 2018). He also changed his date of birth from 27 August 1951 to 27 September 1963. In June 2012, Joko Tjandra's new passport was issued with the name Joe Chan and a new date of birth (Tempo.co, 2018).

In June 2020, Djoko Tjandra was known to have been in Indonesia pursuing a judicial review of his legal case before fleeing to Papua New Guinea. However, the Ministry of Law and Human Rights confirmed no record of Djoko Tjandra returning to Indonesia in immigration records (Arbi, 2020). In early July 2020, the government initiated efforts to arrest Djoko Tjandra (Arbi, 2020) and it was discovered that Djoko had been removed from Interpol's wanted list since 2014, as the Attorney General's Office did not apply for an extension.

#### 5. Citizenship of Sabu Raijua Regent-elect Orient Riwu Kore

In 2021, a heated debate emerged on the issue of the possession of dual citizenship of the Sabu Raijua Regent in East Nusa Tenggara, Orient Riwu Kore. Amidst the part of regency's head election process, he was supposed to legally hold U.S. citizenship in addition to his Indonesian citizenship (Suhendarto & Saraswati, 2022). As Indonesia does not recognise dual citizenship, this dual possession became a contentious topic to the extent that it contradicts Indonesia's current citizenship law. Article 6(1) of Citizenship Law outlines that in case of Indonesian citizens possess another citizenship, their citizenship should be lost as stated in Article 31(1) of Government Regulation 2/2007 on the procedure of obtaining loss cancellation and re-obtaining Indonesian citizenship. This issue also highlighted the resurfacing discourse on the demand and limitation on the future provisions on this matter.

In this context, Orient Riwu Kore's candidature in this local election used Indonesian citizenship. During the election process, it was known that he also received U.S. citizenship from 2007 to 2027 (Ghozi & Rasji, 2021). Following this dual citizenship, the Constitutional Court granted the petition filed by the other electoral candidate by disqualifying Orient Riwu Kore from this local election. The Court annulled four resolutions made by the Sabu Raijua General Election Commission and ordered to conduct re-vote with the participation of two other candidate pairs (Amir, 2021).

#### **An Alternative for Adopting Dual Citizenship in Indonesia**

The presence of these various complexities also indicates that the interests of the diaspora have not been accommodated. In fact, every citizen has human rights that

the state is obliged to recognise, respect, protect, facilitate and fulfil. Conversely, citizens have obligations that must be recognised, respected and fulfilled by them. For example, every citizen has the right to protection by the state and the right to participate in politics but also must pay taxes. Hence, "there is no representation without taxation" is often said, and conversely, "there is no taxation without participation" (Jimly Asshiddiqie, 2011).

One of the citizens in question is the diaspora which, according to Wahid Supriyadi, plays an optimal role in providing benefits for Indonesia. This is correlated with what happened in China. In its first twenty years of development, there was USD307 billions of incoming investment, 50 per cent of which was from the diaspora (DetikNews, 2015). The role of dual citizenship in the transnational sphere is enough to provide full capacity for employment opportunities abroad and in their homeland, as it can stimulate domestic investment related to economic capacity. However, it must still pay attention to other things selectively regarding the type of work, expertise, capital, and technology that can be an added value for Indonesia. With good and appropriate regulations, the Indonesian diaspora is not limited to being an economic force. However, it can also become an important political, diplomatic and social force for Indonesia at the international level (Hasanah, 2013).

In addition, capital is one of the potentials of the Indonesian diaspora. This potential arises because they have lived outside Indonesia long, working abroad, which requires and encourages them to have cross-border abilities, skills and networks. This potential can help the development in the country. This potential can be called an extended nations strategy that has proven to bring results and benefits at the domestic level (Hasanah, 2013). However, there is no legal certainty for the Indonesian diaspora abroad provided by the Government of Indonesia. The legal certainty includes the recognition of the diaspora as part of Indonesia, including granting certain rights even if the diaspora decides to renounce Indonesian citizenship for the demands of the profession in the overseas land of Indonesia. In an economic context, this situation can be referred to as economic potential if certain rights are still given to diasporas. For example, in the absence of specific regulations on diaspora and citizenship, there are obstacles for the diaspora to invest and contribute to Indonesia for their networks and expertise. In contrast to India, which has been responsive to this opportunity, the country allows diasporas in the U.S. to build a network of technology industries in India.

On the other hand, the Indonesian diaspora suffers from retaining the single citizenship policy set by the Indonesian government. Even if dual citizenship has been recognised, it only applies to those under 18 years old. In fact, according to a study conducted by Leblang using a comparison of 133 countries in the period 1980-2009, the regulation of dual citizenship in a country's constitution had encouraged

remittances by 78% and investment.<sup>1</sup> In addition, granting dual citizenship status to diasporas has made them work transnationally because, with dual citizenship status, they can have access to employment opportunities abroad and in their home countries. Indonesia has tremendous potential if empowered adequately, with many Indonesian diasporas of around 6-8 million people. It can refer to annual remittances of over \$7 billion. On 27 January 2014, Bank Negara Indonesia stated that the money transfer into Indonesia from the diaspora in 2013 was IDR 491.32 trillion, equivalent to USD 40.44 billion. From this explanation, the diaspora, one of the development subjects with remarkable potential, can be given the ease of working abroad for Indonesia. If Indonesia still applies a single and limited dual citizenship system, it will undoubtedly hinder the diaspora from working and contributing to Indonesia.

The Indonesian Diaspora Group as a representative of the Indonesian diaspora provides a proposal for the government to implement an unlimited dual citizenship system (dual citizenship) to replace the single citizenship system that has harmed the Indonesian Diaspora Group (Kurniawan, 2018). This concept proposed by the Indonesian Diaspora Group refers to the application of OCI (Overseas Citizenship of India) implemented in India.

OCI was initially a demand by Indian Diaspora groups so that they at least have some of the same rights as Indians with Indian citizenship. Given India is one of the countries that firmly rejects the dual citizenship system, it will take much work to implement this. In this context, OCI is the recognition of another type of possible naturalisation and prevents being qualified as the existing or regular citizenship (LEE, 2020). However, in 2002 the Indian Diaspora High-Level Committee drafted a policy called OCI as an alternative effort to implement dual citizenship. After careful study, finally, in 2005, the OCI Card policy was issued by the Indian government after amending the Indian Citizenship Act of 1955. OCI is not a breakthrough programme that refers to the dual citizenship system, as OCI cardholders cannot have the same rights as ordinary Indians. Some of the rights that OCI cardholders do not have are the right to hold government office, the right to vote, and the right to purchase agricultural land (Dual Nationality | U.S. Embassy & Consulates in India, n.d.).

Foreign nationals eligible for an OCI card include residents who became citizens of India on or after 26 January 1950 or became eligible to be Indian citizens on 26 January 1950. In addition, it applies to foreign nationals residing in territories that became part of India after 15 August 1947 or who are the child, grandchild, or great-grandchild of such a national. This inclusion also covers foreign nationals who are minors, and both parents are Indian citizens, or one of the parents is an Indian citizen who is eligible to apply for OCI card holding.

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<sup>1</sup> Indonesian Diaspora Network, *Diaspora dan Dinamika Kewarganegaraan di Indonesia*, leaflet yang diberikan dalam Seminar Ilmiah di Universitas Indonesia, 22 Oktober 2014

In addition, spouses of Indian origin or spouses of overseas origin with OCI cardholders whose marriage has been registered and maintained for a continuous period of not less than two years qualify for an OCI cardholder. However, cardholders are not allowed to be citizens of Pakistan, Bangladesh or any other country mentioned by the Government of India in the Government Gazette on registration as OCI cardholders. This exception emerges from the adverse experience of territorial partitions where the inclusion can impede national security.

Once citizens qualify as OCI cardholders, they will be entitled to various benefits as OCI cardholders. We can see this in the provisions governing the implementation of OCI. OCI cardholders have the facilities of (a) multiple-entry, multi-purpose lifelong visa to visit India; (b) the exemption from foreigner registration requirements for any length of stay in India; and (c) parity with non-resident Indians in financial, economic, and educational fields except in the acquisition of agricultural or plantation properties.

The convenience that the Government of India has given to OCI cardholders has also been augmented by granting equal rights to overseas Indian nationals in matters such as child adoption and domestic air fares and tickets to enter national parks and wildlife sanctuaries. Then in 2009, the Ministry of Overseas Indian Affairs granted OCI cardholders the same rights as overseas Indians to work as nurses, advocates, pharmacists, doctors, dentists, and accountants. In 2012, OCI cardholders had the new privilege of giving equal treatment to OCI cardholders in terms of housing (Naujoks, 2013).

In addition, OCI cardholders are exempted from registering with the Foreigners Regional Registration Officer (FRRO) when they come to India. OCI cardholders also have the right to live and settle in India like any other citizen. OCI cardholders also have it easier than foreign nationals, who face a complex bureaucracy to obtain a work visa (*OCI cardholders are hot for Indian assignments—The Economic Times*, n.d.). The many conveniences offered to OCI cardholders also have an impact on the economy in India, and the OCI application grants overseas citizens special privileges, affects expectations about privileges, and eases the transaction process and reduces cost and risk (Naujoks, 2013).

From these three points, using OCI as a dual citizenship solution can reduce the actual cost of activities by removing formal requirements that are considered relatively bureaucratic. Thus, based on the above statements, OCI cardholders have special rights (a) to stay for a long time; (b) to equality with Indian citizens in foreigner registration obligations; (c) to equality with Indian citizens in the economic, financial, and educational fields; (d) to adopt Indian children; (e) of convenience or access to tourist attractions; (f) to get a job without a work permit. The presence of these points explains that OCI (Overseas Citizenship of India) has made it easier for the Indian diaspora to take part and contribute to their country.

## CONCLUSION

Citizenship has become one of the strategic issues despite its far-reaching implications. Of Indonesia's various citizenship issues, Indonesia has adopted dual citizenship but on a limited scale. In its process, along with globalisation, the interest in adopting dual citizenship has increased. At the same time, adopting dual citizenship raises questions about nationality, including citizens' loyalty to the nation and state. However, the flexibility over adopting dual citizenship requires further study of national security and citizens' loyalty to Indonesia. Against the above problems, a comparison to India's Citizenship Act with the adoption of OCI has become an alternative policy that Indonesia can apply in the future. This alternative provides ample opportunities for Indonesian citizens with foreign status to continue enjoying and accessing their rights in Indonesia, except in the political field. As follow-up matters, this measure will become a strategic adaptation of the future policies considering globalisation but retain nationalism as its other critical concern. In doing so, the amendment of citizenship law by inserting this alternative to accommodate this two-side consideration is inevitable.

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## REFERENCES

- Aguilar, F. V. (2018). Political love: affect, instrumentalism and dual citizenship legislation in the Philippines. *Citizenship Studies*, 22(8), 829–854. <https://doi.org/10.1080/13621025.2018.1538317>
- Ahmad, K. B. (2017). Imajinasi Kebangsaan di Nusantara: Suatu Kajian Bibliografis. *Afkaruna: Indonesian Interdisciplinary Journal of Islamic Studies*, 13(2), 168–203. <https://doi.org/10.18196/afkaruna.v13i2.4209>
- Al-Fatih, S., & Siboy, A. (2021). *Menulis Artikel Karya Ilmiah Hukum di Jurnal Nasional dan Internasional Bereputasi*. Inteligencia Media.
- Amalia, R. R. (2015). Studi Komparatif Status Anak Yang Lahir dari Perkawinan Campuran Berdasarkan Undang-Undang Nomor 62 Tahun 1958 dan Undang-Undang Nomor 12 Tahun 2006 Tentang Kewarganegaraan. *Jurnal Hukum Prodi Ilmu Hukum Fakultas Hukum Untan (Jurnal Mahasiswa S1 Fakultas Hukum Universitas Tanjungpura*, 3(3). <https://jurnal.untan.ac.id/index.php/jmfh/article/view/10950>
- Amir, I. (2021). Disqualification of the Candidate Pair for the Elected Regional Head of Sabu Raijua Regency. *Al-Bayyinah*, 5(2), 196–213. <https://doi.org/10.35673/al-bayyinah.v5i2.1830>
- Anderson, B. (2006). *Imagined communities: Reflections on the origin and spread of nationalism*.

- Verso books.
- Arbi, I. A. (2020). *Chief Security Minister Orders Immediate Arrest of Fugitive Djoko Tjandra*. The Jakarta Post. <https://www.thejakartapost.com/news/2020/07/03/chief-security-minister-orders-immediate-arrest-of-fugitive-djoko-tjandra.html>
- Bayu, D. J. (2016). *Kaleidoskop 2016: Akhir Bahagia Polemik Kewarganegaraan Arcandra dan Gloria*. Kompas.Com. <https://nasional.kompas.com/read/2016/12/14/07250711/kaleidoskop.2016.akhir.bahagia.polemik.kewarganegaraan.arcandra.dan.gloria>
- Dahlin, E. C., & Hironaka, A. (2008). Citizenship Beyond Borders: A Cross-National Study of Dual Citizenship\*. *Sociological Inquiry*, 78(1), 54–73. <https://doi.org/10.1111/j.1475-682X.2008.00221.x>
- Darusman, Y. (2017). Kajian Yuridis Dualisme Kewarganegaraan Dalam Undang-Undang Nomor : 12 Tahun 2006 Tentang Kewarganegaraan (Studi Pada Kasus Gloria Natapraja Hamel). *Jurnal Ilmiah Galuh Justisi*, 5(1), 53. <https://doi.org/10.25157/jigi.v5i1.233>
- de Groot, G.-R., & Vonk, O. (2018). Acquisition of Nationality by Birth on a Particular Territory or Establishment of Parentage: Global Trends Regarding Ius Sanguinis and Ius Soli. *Netherlands International Law Review*, 65(3), 319–335. <https://doi.org/10.1007/s40802-018-0118-5>
- DetikNews. (2015). *Jalan Panjang Mengupayakan Dwi Kewarganegaraan Indonesia*. Detik.Com. <https://news.detik.com/berita/d-2921957/jalan-panjang-mengupayakan-dwi-kewarganegaraan-indonesia>
- Dewansyah, B. (2019). Indonesian Diaspora movement and citizenship law reform: towards ‘semi-dual citizenship.’ *Diaspora Studies*, 12(1), 52–63. <https://doi.org/10.1080/09739572.2018.1538688>
- Dual Nationality | U.S. Embassy & Consulates in India*. (n.d.).
- Ghozi, A., & Rasji, R. (2021). Penyelesaian Kepemilikan Kewarganegaraan Ganda dalam Pemilihan Kepala Daerah Kabupaten Sabu Raijua (Putusan Mk Nomor 135/Php. Bup-Xix/2021). *Jurnal Hukum Adigama*, 4(2), 4471–4489. <https://doi.org/10.24912/adigama.v4i2.18014>
- Harijanti, S. D. mname, Dewansyah, B. mname, Abdurahman, A. mname, & Dramanda, W. mname. (2017). In Searching Law on the Indonesian Diaspora: Lessons Learnt from South Korea and India Experiences. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3095884>
- Hasanah, S. M. (2013). Peranan Task Force Diaspora Terhadap Diplomasi Kuliner Indonesia di Luar Negeri. *Makassar: Universitas Hasanuddin*.
- Jain, S., Srivastava, A., & Tiwary, A. R. (2022). Revisiting India’s Amended Citizenship Act 2019 in Light of Constitutional Ethos. *Lentera Hukum*, 9(2), 303. <https://doi.org/10.19184/ejrh.v9i2.28430>
- Jimly Asshiddiqie. (2011). “Kewarganegaraan: Konstruksi Hukum Keindonesiaan” *Makalah disampaikan dalam Simposium tentang Ke-Indonesiaan dan Kewarganegaraan, Lembaga Ilmu Pengetahuan Indonesia*. 3.
- Kurniawan, M. B. (2018). Penggunaan Diskresi dalam Pemberian Status Kewarganegaraan Indonesia terhadap Archandra Thahar ditinjau dari Asas Pemerintahan yang Baik. *Jurnal Penelitian Hukum De Jure*, 18(2), 149. <https://doi.org/10.30641/dejure.2018.V18.149-162>

- LEE, C. (2020). Nation v. State: Constitutionalizing Transnational Nationhood, Creating Ethnizens, and Engaging with Kin-Foreigners in Europe and Asia. *Asian Journal of Law and Society*, 7(1), 5–38. <https://doi.org/10.1017/als.2019.23>
- McCrone, D., & Kiely, R. (2000). Nationalism and Citizenship. *Sociology*, 34(1), 19–34. <https://doi.org/10.1177/S0038038500000031>
- MD, Moh. Mahfud. (2016). *Pengaturan Dwikewarganegaraan*. Kompas.Com. <https://nasional.kompas.com/read/2016/09/07/18265511/pengaturan.dwike-warganegaraan>
- Mudde, C. (2010). The Populist Radical Right: A Pathological Normalcy. *West European Politics*, 33(6), 1167–1186. <https://doi.org/10.1080/01402382.2010.508901>
- Naujoks, D. (2013). *Migration, Citizenship, and Development*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780198084983.001.0001>
- Nurdiana, T. (2020). *Djoko Tjandra Ditangkap, Ini Kronologis Lengkap Skandal Cessie Bank Bali*. Kontan.Co.Id. <https://nasional.kontan.co.id/news/djoko-tjandra-ditangkap-ini-kronologis-lengkap-skandal-cessie-bank-bali>
- Nurmawati, M., & Suantra, I. N. (2020). The Arrangement of Dual Citizenship of the Indonesian Diaspora: A Legal and Human Rights Perspective. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 9(3), 495. <https://doi.org/10.24843/JMHU.2020.v09.i03.p03>
- OCI cardholders are hot for Indian assignments—*The Economic Times*. (n.d.).
- Report, P. (2017). *Investigation into Improper and Unlawful Issuance of Entry Permits, Citizenship and Passports to Joko Tjandra: Summary Report*. PNGI.Org. <https://pngiportal.org/directory/investigation-into-improper-decision-to-engage-central-lands-limited-to-build-a-government-office-complex-summary-report>
- Salim, A. A., Anggriawan, R., & Arumbinang, M. H. (2022). Dilemma of Dual Citizenship Issues in Indonesia: A Legal and Political Perspective. *Journal of Indonesian Legal Studies*, 7(1), 101–154. <https://doi.org/10.15294/jils.v7i1.53503>
- Suhendarto, B. P., & Saraswati, R. (2022). Implikasi Hukum Status Kewarganegaraan Asing Pada Calon Terpilih Dalam Pemilihan Kepala Daerah. *Jurnal Pembangunan Hukum Indonesia*, 4(3), 382–401. <https://doi.org/10.14710/jphi.v4i3.382-401>
- Sunaryo, S. (2021). Formal genus of the value of justice in Indonesia. *Legality: Jurnal Ilmiah Hukum*, 29(2), 223–236. <https://doi.org/10.22219/LJIH.V29I2.16609>
- Sutari, T. (2016). *Punya Paspur Filipina, 177 Jemaah Haji Kehilangan Status WNI*. CNN Indonesia. <https://www.cnnindonesia.com/nasional/20160825142815-12-153783/punya-paspur-filipina-177-jemaah-haji-kehilangan-status-wni>
- Tempo.co. (2018). *Ombudsman Papua Nugini: Kewarganegaraan Joko Tjandra Ilegal*. Tempo.Co. <https://dunia.tempo.co/read/1078972/ombudsman-papua-nugini-kewarganegaraan-joko-tjandra-ilegal>
- Utama, W. S. (2017). Nasionalisme dan Gagasan Kebangsaan Indonesia Awal: Pemikiran Soewardi Suryaningrat, Tjiptomangoenkusumo dan Douwes Dekker 1912-1914. *Lembaran Sejarah*, 11(1), 51. <https://doi.org/10.22146/lembaran-sejarah.23783>
- Yolla, Y., & Wibowo, A. (2018). Perlindungan Dan Penegakan Hak Asasi Manusia Bagi Etnis Rohingya Yang Tidak Memiliki Kewarganegaraan Menurut Hukum Internasional. *Jurnal Hukum Adigama*, 1(1), 1883.

<https://doi.org/10.24912/adigama.v1i1.2277>