

Political Negotiations in The Issue of Dual Citizenship in Indonesia

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ABSTRACT

Citizenship is an important aspect in a country, in fact it is a fundamental element for the country, because citizens will become political leaders. The global situation in the contemporary era shows a phenomenon that a citizen has two citizenships at once (dual citizenship). This condition has become a political dynamic in Indonesia, because the principle of Indonesian citizenship does not recognize the terms dual citizenship and statelessness. However, pressure from diaspora circles to demand dual citizenship for various reasons, such as economics and human rights, makes it necessary for the government to conduct political negotiations with diaspora groups. This research focuses on studying political negotiations using a qualitative approach with literature methods which aims to identify negotiation models that are suitable for solving dual citizenship problems. The results of this research focus on discussing political negotiation models that are in accordance with democratic principles, especially since citizen issues are an important part of a fundamental element for a country's sovereignty. This research can become a basis for future researchers in developing research using other methods, such as case studies or phenomenology in studying dual citizenship.

Keywords: *Negotiation, Political, Citizen, Dual Citizenship.*

1. INTRODUCTION

In the current context of globalization, the struggle to realize social justice is faced with the aggressive penetration of neoliberal economics which is increasingly deepening the gap in global economic inequality and disparity. Isin & Turner (2007) investigate citizenship in this case necessarily involving a comparative study of the rights and obligations of citizens in various countries. Rights that depend on obligations towards the state play an important role in the emergence of two modern movements, namely nationalism and capitalism. Furthermore, Isin & Turner (2007) state that most of the research conducted on modern citizenship, implicitly or explicitly, is concerned with the tensions and contradictions between citizenship and the state (exclusion versus inclusion, rights versus obligations), and between nationalism and capitalism (the movement inward versus outward, social cohesion versus accumulation).

Fighting for social justice in the context of redistributive justice relating to the distribution of resources and the economy more fairly and improving a better standard of living for the public, becomes important when faced with the reality of a market economy without regulation, driven by private interests, and running in the absence of commitment to public (Dierckxsens, 2000; Hertz, 2002). This situation makes the Indonesian diaspora, numbering more than 8 million (IDN Global data), want dual citizenship to be implemented, so that they have economic access in their country, which they consider will have a positive impact on increasing Indonesia's foreign exchange. On this basis, the Indonesian diaspora proposed a revision of Law Number 12 of 2006 to provide access to dual citizenship as a solution to the socio-economic conditions they face abroad.

On the other hand, recognition of the legal status of citizens is an important part of the politics of recognition initiated by Honneth (1995), that the law demands a broader consensus compared to recognition in love (personal between parents and children). Law is related to the status of a "legal person," how a person obtains rights and obligations as part of a wider social community compared to basic, private needs. Reciprocal relationships as fellow rights holders can only occur when faced with the perspective of a "generalized other" who is aware of the social norms of the distribution of rights and obligations (Honneth, 1995). This confirms that this reciprocal relationship is the result of the universalization of the interests of citizens.

Recognition has received various opposition from diaspora groups and citizens of the countries where the diaspora lives. Isin & Turner (2007) stated that in Austria, Denmark and Germany there were arguments regarding state security and the need to maintain political boundaries which changed public opinion towards outsiders in general and towards Muslim foreign workers in particular. Therefore, increasing state securitization typically brings together three categories of people: migrants, refugees, and asylum seekers. This condition indicates that the diaspora needs to receive recognition from their country of origin and the country where they live.

In the context of the country of origin, the pressure of the Indonesian diaspora to recognize the legal status of dual citizenship creates political dynamics among citizen groups. There are pros and cons to this push, meaning that discussions regarding dual citizenship in the Indonesian parliament have been going on for more than ten years, but have not been able to produce a revision of the law.

The slow process of political decisions in parliament is highlighted by Warren & Mansbridge (2013) that the most worrying failure to take action occurs when legislators have the opportunity to make policies that improve the status quo, do not violate the rights of minorities or individuals, and are supported by the majority of society, yet lawmakers still failed to agree and thus failed to act. Failures like these are not normatively neutral, they support the status quo and weaken collective responses to long-standing and emerging problems. Privileging the status quo is not the sole authority of one party in the political spectrum, even citizens who want government must pass laws to achieve that goal.

This paper explains conceptually how political negotiations in the context of deliberative democracy are in understanding the conditions of political negotiations of dual citizenship. The issue of dual citizenship is very dilemmatic, there are many contradictions such as nationalism versus human rights, as well as economic versus security issues. Compromise on this debate is a difficult aspect to adjust because there are strong principles in rejecting or approving dual citizenship.

2. METHODS

This research uses a qualitative approach with a literature study that uses sources in journals related to dual citizenship in Indonesia as the unit of analysis. Data processing is carried out through data presentation, data reduction, then drawing conclusions. The steps in this research used the Kuhlthau (2002) procedure, namely: a) topic selection; b) information exploration; c) determine the research focus; d) collection of data sources; e) preparation of data presentation; and f) preparation of reports. Data analysis uses content analysis by selecting, comparing, combining and sorting various findings from various studies regarding political negotiations in the context of dual citizenship. After all the data is collected, the next step is to analyze the data to draw conclusions. To obtain correct and precise results in analyzing data, data analysis techniques use in-depth discussion of the content of written or printed information in journals. Content analysis is used to analyze all research results discussing dual citizenship political negotiations. The research analysis is intended to answer the research formulation and objectives, namely the political negotiation of dual citizenship.

3. RESULTS AND DISCUSSION

3.1 Strengthening Dual Citizenship Issues

The discourse on the need for unlimited dual citizenship arrangements is increasingly emerging and has become an issue that continues to be fought for by the Indonesian diaspora in various countries around the world. This discourse was echoed, especially during the first Diaspora Congress in Los Angeles in 2012, then followed by a similar event at Wisma Indonesia, Sydney with the theme "Dual Citizenship Forum". The event aimed to guard the aspirations of the Indonesian Diaspora petition the previous year after 6,000 names and signatures were submitted in Los Angeles. It is important to note that currently it is estimated that more than 8 million Indonesian citizens are spread across 5 (five) continents, and they are domiciled in approximately 90 countries and as many as 4.6 million of them still maintain Indonesian citizenship (Charity, 2016).

According to members of the Indonesian Diaspora, for example, the benefits of dual citizenship for the government include: First, it can improve economic relations between two countries. Second, expand the economic base. Third, encourage the development of trade and investment which opens up job opportunities. Fourth, dual citizenship holders influence economic and political decisions in the country where they live, in such a way that the decisions made can benefit the Republic of

Indonesia. Fifth, dual citizenship will be a bond and avoid the loss of talented, intellectual and highly educated experts. Sixth, dual citizenship is very good at supporting investment in Indonesia. Seventh, dual citizenship can introduce Indonesian culture abroad (Charity, 2016).

During the American Diaspora Congress, for instance, the diaspora stated that their presence benefited Indonesia greatly, with remittances amounting to almost USD 7 billion in 2011. To fully realize this potential and be able to accomplish more for Indonesia, the government must recognize and welcome the diaspora. They will have the same rights and responsibilities from and towards their home nation if they are granted citizenship. Every individual has rights that the government is required to acknowledge, uphold, safeguard, enable, and fulfill. However, each and every citizen also has responsibilities, which are rights granted by the state that each and every citizen must acknowledge, uphold, and exercise.

Among the challenges that the Indonesian diaspora frequently encounters overseas are, for instance, the automatic acquisition of local citizenship by children of Indonesian nationals born in many nations, including the United States. When kids grow up, their parents offer them the choice to select their nationality. If they could maintain their parents' Indonesian citizenship without having to renounce their place of birth citizenship, it would be extremely advantageous for him and our nation. Similarly, those from Indonesia who wish to regain their Indonesian citizenship can easily return home to fulfill their duty of loyalty to their country, Indonesia. The goal of having dual Indonesian citizenship is to encourage people from Indonesia, as well as their offspring and grandchildren, to contribute in the development of their homeland and/or to return without hesitation (Roring, 2021).

The diaspora of Indonesians who have moved and obtained citizenship in their new nation are currently facing challenges while attempting to invest in Indonesia and return the energy and experience they have gained, either by trying or by acquiring more knowledge and experience. Having dual citizenship with Indonesia will promote the return of professionals (brain gain) and decrease the exodus of experts (brain drain).

3.2 Empirical Problems and Positive Law

Citizenship is very important because, when someone invests in a country, they can assume that they have a legitimate claim to that country when they fall ill, or become unemployed, or become too old to support themselves. Past contributions to society form the basis of a legitimate claim to "commonwealth." In this case, they can see or feel a clear connection between effort, reward, and virtue. Citizenship in this way involves, often covertly, a cultural education of citizenship in which, as citizens, citizens have patriotic pride in the society in which they find themselves, they are therefore committed to defending its democratic institutions. Citizenship creates civic virtue that can only be produced through education in certain political and social customs (Althof & Berkowitz, 2006).

Civic virtue emerges from the drudgery of everyday political life in a democratic society. It is here that the importance of the state in cultivating democratic values in everyday politics and linking these values to cosmopolitan values becomes clear. It is in the country as a democratic space that "acts of citizenship" unfold and form relationships that bind various places to become citizens. This relationship between aesthetics, ethics and politics does not exist in relation to human rights, or if it does exist it is unclear and fragile. If people begin, even in modest ways, to pay for their rights and contribute through taxation to the common good at the global level, then human rights will become a more visible part of everyday life. "Ordinary men and women" will feel involved in the global project to prevent famine and drought, and they will begin to act as cosmopolitan citizens.

If over the last decade we have witnessed the emergence of citizenship as an important political, social and cultural issue of our time, this is because citizenship is an important democratic or democratizing institution. This has been demonstrated by a growing number of scholars who have investigated a large number of citizenship-related issues by focusing on different aspects from a variety of different perspectives, broadening its scope and deepening its meaning (Isin & Turner, 2002).

The current legal politics of Indonesian citizenship adheres to the principle of single citizenship. This principle has even been adhered to since the Proclamation of 17 August 1945 with the publication of Law Number 3 of 1946 concerning Citizenship of the Republic of Indonesia, which was then replaced by Law Number 62 of 1958 concerning Citizenship of the Republic of Indonesia and most recently updated with Law Number 12 2006 concerning Citizenship of the Republic of

Indonesia and Government Regulation Number 2 of 2007 concerning Procedures for Obtaining, Losing, Cancelling and Regaining Citizenship of the Republic of Indonesia.

This principle of single citizenship is even reflected in several provisions regarding the reasons for losing the status of an Indonesian citizen if it turns out that an Indonesian citizen (i) voluntarily enters the service of a foreign country, whose position in such service in Indonesia is in accordance with the provisions of statutory regulations. can only be held by Indonesian citizens; or (ii) is not required but participates in the election of something of a constitutional nature for a foreign country. Even though Law Number 12 of 2006 can be said to be starting to accommodate the possibility of dual citizenship for children up to 18 years of age or already married, the general attitude of the legislators still seems to be very *a priori* towards foreigners.

Currently, there are several legal obstacles related to the implementation of dual citizenship, but this does not mean that there are no opportunities for dual citizenship to be implemented in Indonesia. In Indonesia, it cannot be denied that the international private law system that applies in Indonesia to this day is still a legacy of the Dutch private international law system in which there are regulations regarding personal status. In Article 16 of the *Algemene Bepalingen Van Wetgeving* (hereinafter referred to as AB) which originates from Article 6 of the Dutch AB which is copied again from Article 3 paragraph 3 of the French Civil Code states that statutory provisions regarding the status and authority of persons remain binding on Indonesian citizens. if they are abroad (Gautama in Bakarbesy & Handajani, 2012).

Based on Article 16 AB, Indonesia adheres to the principle of nationality or citizenship in determining a person's personal status. This means that for Indonesian citizens who are abroad, as long as matters relating to their personal status, Indonesian national law still applies. On the other hand, according to jurisprudence, for foreigners residing in the territory of the Republic of Indonesia, their national law is used as long as this matter is included in the scope of personal status, including regarding marriage and divorce, marriage annulment, guardianship, authority to carry out legal actions, matters regarding names, matters regarding the status of children. underage and so on. Because Article 16 AB is a unilateral reference rule (*eenzijdige verwijzingregels*) so in practice it is often interpreted reciprocally (*tweezidige*). This is different from Common Law countries where a person's personal status is assessed according to the law of their domicile (Bakarbesy & Handajani, 2012). The existence of this principle is certainly part of the obstacles and challenges in implementing dual citizenship status for the Indonesian Diaspora.

3.3 Human Rights and Nationalism Debate

The paradox is that human rights are not linked to obligations and are not based on past contributions. There is no system of taxation or military service linked to the possession of human rights. The UN Declaration implies obligations, but these obligations are not clearly and unequivocally defined. Although states enforce social rights, there is no uniform sovereign power to enforce human rights at the global level.

Arendt (1951) developed the most powerful critique of the “rights of Man.” He complained that these inalienable rights were said to exist independently of any government, but once citizenship rights had been abolished, there was no authority left to protect humans as humans. Human rights that cannot be enforced by any authority are mere abstractions. These rights are almost impossible to define and it is difficult to show how they add up to specific rights of citizens. The “right to have rights” only makes sense to people who are already members of a political community.

A viable state is important as a guarantee of rights. Human rights violations are basically a consequence of state tyranny, dictatorship, and state failure resulting in civil war and anarchy. There is some truth to Burke's argument: citizens' freedoms are better protected by their own state institutions than by external legal or political intervention. The state is the authority through which human rights laws are enforced.

Perhaps even worse is the absence of international authority on human rights and “the aim of international concern for human rights is to make national rights effective based on national laws and through national institutions” (Henkin, 1998). Moreover, the chaos resulting from the “human rights wars” in East Timor, Kosovo, Afghanistan, and Iraq should cause us to view with radical skepticism any government that claims the right to intervene in the name of protecting its own citizens (Chandler, 2002). However, human rights wars tend to be fought selectively when powerful states have a direct interest in the conflict. The United States has shown no interest in military intervention in Darfur or the Horn of Africa, but it has committed billions of dollars to intervene in Afghanistan and Iraq in the “war on terror.”

The security provided by an authoritarian state may be preferable to a democracy that is fragile and requires foreign troops to defend it. From a Hobbesian point of view, a strong state is needed to enforce agreements between conflicting social groups. Another way of expressing this idea is to argue that we need to maintain a distinction between citizens' rights that are enforced by the state, and human rights that are protected, but often inadequately enforced, either by the state or international institutions.

3.4 Negotiation Politics

Dual citizenship is indeed something that the Indonesian diaspora in various countries dream of considering that many Indonesian citizens in the diaspora with single citizenship status often experience various obstacles and limitations, especially in terms of equal and equal treatment with local citizens in accessing various existing opportunities and opportunities. The diaspora experience various obstacles and limitations, for example not being able to become politicians in the country where they live. They are also often considered as citizens of a second country so they do not have equality and equality of access with local citizens.

De Tocqueville claimed to show that the absence of centralized bureaucratic administration had encouraged individual initiative, and that voluntary associations and community groups had emerged to solve social and political problems, rather than state institutions. It is generally argued that Americans are fundamentally alienated from formal politics, big government, and centralized authority, so that their political commitment is channeled through local and informal associations (Bellah et al., 1985).

The fundamental rights of a cosmopolis are what we call "mobility rights" and "transaction rights". Many modern rights claims are implicitly or explicitly related to crossing or interacting across borders or creating new settlements—the rights of migrant workers, the right to hold a passport, the right to enter a country, the right to asylum, the rights of refugees and other rights to residence, the rights to marry outside one's state, or the rights to purchase property, goods and services or invest in another state. However, these rights to mobility and transactions do not appear to be related to any mobility and transaction obligations.

Tobin (1978) was originally designed to stabilize national governments by providing greater regulation of international financial transactions compared to goods and services. Tobin's original proposal was essentially a stamp duty on foreign exchange trading. This basic idea was later developed and expanded to include other taxation possibilities such as global lotteries. Tobin's proposal, simple and radical, has enormous benefits because it is global. However, this does not sufficiently reach social levels of income and wealth to include goods and services purchased over the Internet across states. To some extent, this was a tax on the elite and therefore did not have sufficient social or political depth.

Therefore, we should look towards more general and broader taxes on geographic movements and transactions of goods and services especially for the middle class—tourist taxes on fuel consumption or tourist taxes on airplane or aviation fuel, mobility taxes on people who enter another country for tourist purposes. by using passports, or sports taxes for people traveling abroad to watch sporting events, transaction taxes on goods and services purchased over the Internet across state borders or even internal taxes when crossing internal state boundaries within federal constitution. These taxes are not very large from an individual perspective but they can generate huge resources for cosmopolitan institutions in the fight against urban and rural poverty, illiteracy, diseases such as AIDS, environmental degradation, climate change, or civil unrest.

There are clear practical problems in applying a cosmopolitan tax to mobility and transactions. There will likely be considerable political resistance, as there will be debate about the appropriate balance between contribution and benefit. Mobility and transaction taxes are conceptualized as obligations that in principle apply to everyone and that the resources of these cosmopolitan taxes will generate funding to meet the needs of rights claimants everywhere.

Dual citizenship for the diaspora does have a very strategic urgency even though it still has pros and cons among Indonesian society. Apart from being a medium for voicing the aspirations of the diaspora community in the country, dual citizenship can also be used as an effort to strengthen relations between the two countries. Apart from that, the dual citizenship arrangement, in addition to having the function of "connecting the dots", is also expected to provide opportunities for Indonesian citizens to have an important role abroad.

Although the origins of Western citizenship institutions can be seen in the political culture of ancient Greece and Rome, citizenship rights have become important as an aspect of modern politics

strengthened by revolutionary events in the past, such as the English Civil War, the American War of Independence, and the French Revolution. These revolutions had similar implications for the evolution of citizenship, involving a series of exclusive rights that established claims to collective resources, and contributed to the formation of states and then nations. There is a shared emphasis on the contribution of “ordinary people” in service to the state through taxation and military service (Isin & Turner, 2007).

Arguments regarding state security and the need to maintain political boundaries have turned public opinion towards foreigners in general and towards Muslim foreign workers in particular. Therefore, increasing securitization by states typically brings together three categories of people: migrants, refugees, and asylum seekers.

Although economic migrants make significant contributions to growth, they are often considered parasites in the welfare systems of host societies. These workers do not easily adapt to a contributory entitlement welfare model in an era of terrorism, when states have turned to maintaining security as their primary contribution to the functioning of society. European governments are reluctant to grant citizenship status to migrants without strict membership criteria and naturalization is often a slow and complicated process. Citizenship applicants are increasingly expected to pass tests to prove that they are more knowledgeable about the society they wish to join than current citizens. Even more implausible was that conservative politicians in England expected new citizens, such as Indians and Pakistanis, to support the English cricket team over their national team (Ameli, 2002).

While considered an asset, dual citizenship is now increasingly seen as a threat, as questions arise about guaranteeing and maintaining full loyalty to the state. If dual citizenship is technically possible, this is not recommended. As a result, there has been increasing political criticism of quasi-citizenship, dual citizenship, and flexible work arrangements, as these forms of membership are seen as undermining traditional models of political loyalty.

3.5 Impact of Negotiations Not Achieved

Member of the DPR RI Legislative Body, Khatibul Umam Winaru, does not agree with the dual citizenship discourse presented by President Jokowi at the DPR RI Plenary Session on 16 August 2016. He stated that he strongly rejects the change in the Citizenship Law aimed at accommodating dual citizenship, let alone accommodating certain interests. According to Khatibul, the push for the Citizenship Law to accommodate dual citizenship clearly poses a serious threat to the sovereignty and national interests of the Indonesian nation. He further said that citizens who choose dual citizenship only want to enjoy Indonesia's natural wealth as a gift from God, but do not believe in Indonesian people who have been given blessings and mercy because of their noble desire to organize life together in the Indonesian homeland (RMOL.ID, 2016). A similar opinion was expressed by M. Azis Syamsuddin, namely that apart from thorough legal studies, a common view regarding political promises and commitment is needed between the government and the DPR as a law-forming institution. Furthermore, Azis is of the opinion that the key point is not to Indonesianize foreigners, but rather to maintain the Indonesianness of Indonesians (Parliamentary Bulletin, 2020).

In considering these trade-offs, it is worth emphasizing that failure to reach agreement is often detrimental to inclusion, the formation of collective will, efficiency, collective trust, and legitimacy. First, a system that experiences bottlenecks tends to overpower the claims that arise. Failed negotiations freeze existing patterns of inclusion and exclusion, and fail to respond to social and economic change. Social change can occur, but the forces of change must work outside the political system.

Failed agreements often result in reduced mutual trust, which affects the possibility of future agreements. Any failure to reach agreement tends to encourage participants to disrespect their opponents and demonize them. Failure to reach agreement breeds an adversarial culture and mindset, which in turn makes future agreement less likely (Gutmann and Thompson 2010). In contrast, successful agreements often produce positive ethical externalities: they generate trust among dissidents that is necessary for subsequent agreements.

These failures have a detrimental impact on legitimacy. We distinguish between normative legitimacy and empirical legitimacy. Normative legitimacy occurs when a process can be justified with strong reasons. Empirical legitimacy occurs when a process is truly accepted by the majority of society in the relevant collectivity.

Impasse undermines normative legitimacy when practices undertaken by institutions established to support democratic ideals can no longer be justified both in terms of the ideals themselves and their reasonable balance with other ideals, such as democratic action. We have previously noted that

legislative deadlock drives the shift of power away from the legislature. If the legislative institution is the most “democratic” institution—judged from its ability to represent collective pluralism and enable two-way communication between constituents and their representatives—then deadlock will result in a less democratic process. Deadlock also produces undemocratic outcomes. As political scientists have argued since the 1960s, “indecision” is as important as any decisive decision or action. 4 If the majority of the population supports the action and opposition to the action is not based on the rights of individuals or minorities, then inaction is the right thing, not democratic.

Inertia is particularly worrying when for external reasons the situation is already developing in one direction and inaction allows the “deviation” to continue, or when the preferences of a strong majority change in response to new circumstances but existing political bodies do not change the relevant policies.

4. CONCLUSION

Dual citizenship is a dilemmatic issue in the negotiation process, because it is not only the other party who needs to be convinced, but also the public. This condition makes it difficult for the parties involved to reach an agreement. Delays in making agreements also have an impact on the social situation in society, such as a lack of trust in government institutions. This situation requires careful consideration and willingness between parties to see clearly and place common interests before group interests in order to reach an agreement.

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