

**POSSIBILITY OF RECOGNITION OF MULTIPLE CITIZENSHIP STATUS  
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Telp./Fax: +62-451 422611 E-mail: [jalaludintatanegara1@gmail.com](mailto:jalaludintatanegara1@gmail.com)*Submitted: Nov 19, 2022; Reviewed: May 23, 2023; Accepted: Jun 22, 2023***Abstract**

*The regulation of citizenship is a contemporary study that will always demand changes so that the concept of citizenship follows the development of an increasingly open world order due to globalization. The era of globalization that is happening in the world today shows the fading of boundaries between countries, which is followed by a change in the meaning of the concept of nationalism and the revival of the concept of love for the homeland which is inclusive of cosmopolitanism, nationalism, the recognition of dual citizenship status becomes important in the effort to provide legal protection for every person of Indonesian descent who is now a member of the Indonesian diaspora community. The purpose of this paper is to study the possibility of allowing dual citizenship status for the Indonesian diaspora community and to study what changes were made in Law number 12 of 2006 concerning Indonesian Citizenship to provide recognition of dual citizenship status of Indonesian diaspora. The method used in this paper is normative legal research using a statutory approach and a historical approach as well as a conceptual approach. The study's results revealed that it was possible to recognize dual citizenship for the Indonesian diaspora community by redefining the concept of nationalism which had been interpreted narrowly and exclusively to be inclusive of cosmopolitanism.*

**Keywords:** *Dual Citizenship; Inclusive Cosmopolitanism; Inclusive Nationalism; Indonesian Diaspora*

**INTRODUCTION**

The regulation of citizenship is a contemporary study that will always demand changes so that the concept of citizenship follows the development of an increasingly open world order due to globalization. In the era of globalization that is happening in today's world, dual

citizenship is essential. In the last 60 years, there has been a significant change worldwide in recognizing dual citizenship due to rapid migration, growing diaspora communities, and increasing regional integration efforts.<sup>1</sup>

This situation shows signs of the revival of the concept of Cosmopolitanism in

<sup>1</sup>Zendy Wulan Ayu WP, Dual Citizenship in Indonesian Legislation (Paper), Faculty of Law Airlangga University, Surabaya, January 3, 2017.

addition to the concept of nationalism as the basis for determining the citizenship of a particular country. The concept of cosmopolitanism teaches that the homeland of humanity is the entire face of this earth (cosmos). In other words, Cosmopolitanism holds that every human being is a citizen of the world.

The concept of nationalism is the oldest concept practised in ancient Greece, where the state at that time was still in the form of a city-state; the area and the population (people) were still minimal. Therefore, to be fully implemented in the current era of globalization, it is no longer relevant.

The Indonesian diaspora community is a global citizen, including those who seek a living abroad, marriages between Indonesian citizens and foreign nationals (mixed marriages), children resulting from marriages of Indonesian citizens and foreigners who fail to take care of their citizenship administrative documents which are due according to Article 21 and Article 21. Twenty-three of Law number 12 of 2006 will automatically lose his citizenship status as an Indonesian citizen, but the concerned person still considers himself an Indonesian citizen.

Their rationale follows Article 5 of the Universal Declaration of Human Rights: "Everyone has the right to a nationality and no one can be arbitrarily expelled from his citizenship or refused only to change his nationality."<sup>2</sup>This can lead to the problem of dual citizenship status and even occur without citizenship if the government emphasizes minimum protection of citizens.

To anticipate this situation, the State/Government of Indonesia must be able to make citizenship arrangements that can guarantee the human rights of every person and the constitutional rights of citizens by way of the government placing more emphasis on maximum protection that allows the recognition of dual citizenship status.

On the one hand, the regulation of Indonesian citizenship is faced with the provisions in Article 5 of the Universal Declaration of Human Rights, as stated earlier. Nevertheless, on the other hand, Article 1 of the 1930 Hague Convention states that the determination of citizenship is an absolute right of the country concerned.

Based on the Hague convention, the Indonesian State can form various provisions regarding its citizenship. Even

<sup>2</sup>B. Hestu Cipto Handoyo, (2003), Constitutional Law, Citizenship & Human Rights (Understanding the Process

of Consolidating the Democratic System in Indonesia), Yogyakarta: Atma Jaya University, p. 240.

though the state has the absolute right to determine a person's citizenship rights, whether by using the principle of *jus sanguinis* or the principle of *jus soli*, according to Article 5 of the Universal Declaration of Human Rights, no one can arbitrarily be expelled from his citizenship or be refused to change his citizenship. "

With this conflict of rights and authority, general law will create obligations between the two. The state is required or obliged to provide recognition and protection through national legal instruments. Meanwhile, everyone is obliged to take firmness regarding their citizenship status through procedures regulated by applicable laws and regulations.

Data from the Ministry of Foreign Affairs of the Republic of Indonesia shows around 3.1 million citizens abroad. However, the figure is estimated to be around 9 million people, and the majority are migrant workers<sup>3</sup>. The population of the Indonesian diaspora ranges from 7 to 8 million people. Millions of the Indonesian diaspora are accommodated by various organizations or associations. Netherlands: 1,700,000 (2021), including Indonesian descent; Malaysia: 3,500,000 (2020),

including Indonesian descent, legal and illegal Indonesian Workers, Suriname: 80,000 (2021); including the Javanese diaspora 673 (2021); Singapore: 198,444 (2019); including Indonesian descent.<sup>4</sup>They still feel they are Indonesian citizens who still need legal protection from the government of the Republic of Indonesia.

This phenomenon of the Indonesian diaspora requires an analysis of applicable legal norms in anticipating problems that develop with the fading of boundaries between countries, which is marked by the strengthening of the symptoms of cosmopolitanism. While the founders of the country (the founding fathers) put the concept of Indonesian citizenship not apart from the concept of nationalism, namely putting one's highest loyalty to a particular country (single citizenship), in its development, the Indonesian state adhered to dual citizenship on a limited basis, especially for children born from a mixed marriage.

The Indonesian diaspora wants dual citizenship to be implemented in Indonesia.<sup>5</sup>This is to provide total capacity for the diaspora to remain considered citizens to provide more benefits to Indonesia. There are several fundamental reasons why

<sup>3</sup> <https://m.merdeka.com>, Ministry of Foreign Affairs of the Republic of Indonesia, accessed November 1, 2022, at 08.15 WITA).

<sup>4</sup> <https://id.m.wikipedia.org>, Overseas Indonesian, Wikipedia, accessed on November 1, 2022, at 08.30 WITA)

<sup>5</sup>Novianti, (2014), Dual Citizenship Status for Indonesian Diaspora in International Law Perspective, *Journal of Studies* Vol. 19, No. 4, h. 311-325, accessed on November 1, 2022, 09.00 WITA

Indonesia has to implement dual citizenship: it provides economic benefits and human capital. In addition, a study by Leblang comparing 133 countries in 1980-2009 showed that dual citizenship also encouraged more significant remittances because the policy was designed to create a feeling of inclusiveness and recognition from the homeland.

In developing citizenship arrangements, we face the problem of dual citizenship (bipartite) and the problem of statelessness (patricide). The issue derived from the main issue is the question of when a person is deemed to have lost the citizenship of the Republic of Indonesia. Is the application of Article 23 letter (i) of Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia to Indonesian citizens domiciled abroad deemed appropriate? Is it necessary to improve the regulation or law of positive Indonesian citizenship?<sup>6</sup>

Based on the description above, the problems in this paper can be formulated, namely (1) to what extent is it possible to allow dual citizenship status for the Indonesian diaspora community; and (2) What changes were made in Law number 12 of

2006 concerning Indonesian Citizenship to provide recognition of dual citizenship status for Indonesian diaspora groups.

The purpose of this writing is to conduct a study regarding the extent to which dual citizenship status is permissible for the Indonesian diaspora community: (2) what changes were made in Law number 12 of 2006 concerning Indonesian Citizenship to provide recognition of dual citizenship status for diaspora groups Indonesia?

## METHODS

### Research Type

This type of research is normative legal research (Legal Research). The normative legal research is intended to understand the concept of citizenship status in the application of the legal principles of citizenship in an effort to provide a rationale regarding the possibility of recognizing dual citizenship status for the Indonesian diaspora community. The approach used in this normative research is a statutory approach and a historical approach as well as a conceptual approach. The use of a statutory approach in this research is based on the consideration that the object of this research already has laws and regulations governing it, namely, the laws and

<sup>6</sup>Jalaluddin and Idham Chalid, Legislative Ratio and Legal Consequences of Allowing Limited Dual Citizenship in Indonesia, (Paper), Presented at the Symposium on Constitutional Law, Collaboration Between Lectures

Association of Constitutional Law and State Administrative Law and Ministry of Law and Human Rights of the Republic of Indonesia, Bali, 17-21 May 2022

regulations governing citizenship. The use of the historical approach in this study is based on the consideration that to determine the direction of legal policy (choice of method) towards citizenship; it is necessary first to understand the philosophy of the rule of law from time to time relating to the citizenship law. Finally, the use of the conceptual approach in this study is based on the consideration that the notion or concept of citizenship in the citizenship legislation still creates differences in the assessment of facts on concrete events regarding dual citizenship status, especially for diaspora groups and marriages between Indonesian citizens and foreign nationals.

#### **Research sites**

The research location is the Library and Laboratory of the Faculty of Law, University of Tadulako.

#### **Source of Legal Material**

These research sources include research sources in the form of primary legal materials and secondary legal materials. The primary legal materials in this study consist of statutes, official records, or treaties in making laws and regulations relating to citizenship arrangements. Secondary legal materials are in the form of all legal publications, including textbooks, legal dictionaries, legal journals, and comments on decisions regarding citizenship.

#### **Legal Material Collection Techniques**

First of all, identify the legal facts and determine the legal issues. Then collect legal materials by tracing various legal sources to find materials relevant to the legal issues/problems raised in this research.

#### **Analysis Techniques**

The collected legal materials will be analyzed using theoretical instruments/principles or the concept of determining citizenship status in discussing or providing answers to the problems posed in this study.

### **ANALYSIS AND DISCUSSION**

#### **The Possibility of Allowing Dual Citizenship Status for the Indonesian Diaspora**

Citizenship is an introductory study of constitutional theory and constitutional law. Citizenship is related to citizens and membership as citizens. Citizenship is any relationship between a person and the state that results in the state's obligation to protect the person concerned. Therefore, the study of the possibility of recognizing dual citizenship status for the Indonesian diaspora community is significant, but how to implement it so that it does not undermine the order of Indonesian nationalism, which is based on exclusive state sovereignty.

In the current era of globalization, showing the fading boundaries between countries, and strengthening regional integration, inevitably, this phenomenon must be followed by a change in the meaning of the concept of nationalism (love for the motherland) and provide space for the revival of the concept of love for the motherland which is inclusive nationalism. Cosmopolitanism, thereby enabling the recognition of dual citizenship status to provide legal protection for every person of Indonesian descent who is now part of the Indonesian diaspora community.

It is admitted that the initial concept of citizenship is inseparable from the concept of nationalism. Therefore, regulations regarding citizenship are a direct consequence of nationalist understanding (nationalism) development. Nationalism is a concept that places one's highest allegiance to a particular (modern) country.<sup>7</sup>

The concept of nationalism is rooted in ancient civilizations developed by the Ancient Greeks and Hebrews. However, it is the people of the two nations themselves who, as a whole, weave their history. The Ancient Hebrew nation was shaped and nurtured by memories of its past and hopes for a shared future. In comparison, the

Ancient Greeks put their highest allegiance to a political bond known as the polis. This is where the roots of nationalism are located, which then colour the pattern of modern nations today.<sup>8</sup>

At the end of the fourth century, BC appeared Alexander the Great or Iskandar Zulkarnain, who dreamed and risked everything to create an empire that covered the whole world. Under the influence of this Macedonian ideal, the stoic Greek philosophers developed a concept known as cosmopolitanism.<sup>9</sup> This concept teaches that the homeland of humanity is the entire face of this earth (cosmos). In other words, Cosmopolitanism holds that every human being is a citizen of the world.

In its development, in the fourteenth century, there was a cultural revolution known as the Renaissance and reformation. At that time, the concept of cosmopolitanism began to get less place. Through the Renaissance, the works of Ancient Greek and Hebrew were re-examined in a new spirit, and the concept of nationalism began to be revived. There are modern nations all over the world. These nations live and run modern states with the following main characteristics: cultural homogeneity (common civilization), common destiny

<sup>7</sup>Koerniatmanto Soetoprawiro, (1996), Indonesian Citizenship and Immigration Law, Jakarta: Gramedia Pustaka Utama, p. 4-5

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

(common struggle), and a given territory (the same homeland). Citizenship of a country can occur because of birth (by blood or by the soil) or because of legal reasons, commonly called naturalization. Every citizen is the subject of state institutions.

The notion of nationality is not ethnic, group, or limited to ethnic issues that are compartmentalized.<sup>10</sup>The ideology of Indonesian nationality is built on a common destiny and the same homeland (a given territory). Although the Indonesian nationality is formed from various tribes, ethnicities, cultures, and languages who feel they are fighting against colonialism, both have the determination to break away from colonialism and are determined to choose the same homeland, which is called the homeland of Indonesia, namely the former colonies of the Dutch East Indies. Therefore, in the regulation of Indonesian citizenship, it must follow the spirit of "feeling in arms" so that no descendants or those born in Indonesia, wherever they are, escape the maximum legal protection from the government of the Republic of Indonesia.

In the current era of globalization, new ideas are needed, and a new spirit

regarding a more open concept of nationalism (inclusive nationalism) based not only on a common civilization, shared struggle, and the same homeland (exclusive nationalism). Above all, one concept of citizenship is the main reason why countries fail to grow following the development of a more advanced world order. It can be seen in terms of reality (sociologically), for example, China, which allows people of Chinese descent to have dual citizenship, as long as the country where they are looking for work does not matter or even if their country of residence instructs them to choose one citizenship and choose to become citizens of their second country of residence but secretly in practice sociologically politically the Chinese State still recognizes all Chinese descendants as citizens wherever they live. Whatever the circumstances, wherever the Chinese descendants are, the State of China is always ready to be the motherland/homeland for the Chinese diaspora community. Juridical recognition of being a particular citizen is only used as a form of formalization of legal protection for Chinese descendants who are overseas.

Likewise, the practice in the United States of America (USA) using the immigration approach makes it possible to

<sup>10</sup>M. Said Nisar, (2006), Overview of Citizenship Principles in the Perspective of Human Rights, In Citizenship Books (Understanding in the Context of History, Theory,

and Practice), Jakarta: National Commission on Human Rights, p. 8-9.

recognize dual citizenship status secretly, regardless of whether when someone naturalizes as a citizen of the United States, that person is still a citizen of their original place of residence, whether as a descendant or place of birth. . Case in point, for example, the former Deputy Minister of Finance of the Republic of Indonesia, after being appointed as the new Deputy Minister of Finance, the Government of the Republic of Indonesia found out that he already has/holds a United States passport and has held a prestigious position in a strategic company in the United States. An example of another case is the elected Regent of East Nusa Tenggara. It will be known later that the person in question already has/holds a passport of the United States of America after he was elected as Regent of East Nusa Tenggara. Cases like this for the United States do not matter. It can be seen that they adhere to the concept of nationalism inclusive of cosmopolitanism.

For the State of Indonesia, cases like those mentioned above are a problem because, in addition to the Indonesian state using a civil approach, it also uses the concept of narrow nationalism/exclusive nationalism in determining citizenship status (single citizenship). This way of thinking, which seems unwise, contradicts the concept of cosmopolitanism which requires

that everyone is a citizen of the world. As a result of the concept of narrow nationalism/exclusive nationalism, which only considers the aspect of the state's territorial integrity and unity, loving the only homeland, the Indonesian government is unable to provide maximum protection for Indonesian descendants overseas, which are commonly referred to as diaspora communities. In terms of they can contribute to accelerating development in Indonesia. Apart from being a source of state revenue, it can also accelerate the transfer of new ways of working and a new work ethic. New ways of thinking from developing countries where they work are to be emulated in the implementation of development in Indonesia—prioritizing the implementation of inclusive elements of nationalism. Inclusive nationalism is a portrait of deep appreciation of the roots of the problems faced by the Indonesian nation. In the concept of inclusive nationalism, every Indonesian citizen abroad should not quickly lose his Indonesian citizenship; they must be allowed to improve their standard of living in developed countries and remain Indonesian citizens. It can also accelerate the transfer of new working methods and a new work ethic. New ways of thinking from developing countries where they work are to be imitated in the implementation of



development in Indonesia—prioritizing the application of elements of inclusive nationalism. Inclusive nationalism is a portrait of deep appreciation of the root problems faced by the Indonesian people. In the concept of inclusive nationalism, every Indonesian citizen abroad should not quickly lose his Indonesian citizenship. They must be allowed to improve their standard of living in developed countries and remain Indonesian citizens. It can also accelerate the transfer of new working methods and a new work ethic. New ways of thinking from developing countries where they work are to be emulated in the implementation of development in Indonesia.

They are prioritizing the implementation of inclusive elements of nationalism. Inclusive nationalism is a portrait of deep appreciation of the roots of the problems faced by the Indonesian people. In the concept of inclusive nationalism, every Indonesian citizen abroad should not quickly lose his Indonesian citizenship; they must be allowed to improve their standard of living in developed countries and remain Indonesian citizens. They are prioritizing the implementation of inclusive elements of nationalism. Inclusive nationalism is a portrait of deep appreciation of the roots of the problems faced by the Indonesian people. In the concept of inclusive nationalism,

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Learning from the practice of Chinese and United States citizenship concepts that promote cosmopolitan, inclusive nationalism, they have succeeded in bringing their country a developed country, mastering the world economy, mastering automotive technology, mastering information technology, as well as from the socio-cultural and defense and security aspects. Therefore, the Indonesian government should be inspired to be able to recognize dual citizenship for the diaspora community in order to accelerate the transformation of various advances from various developed countries into development activities in all fields in Indonesia.

Dual citizenship or bipartite, commonly called dual citizenship, dubbele citizenship, dubbele nationaliteit, means that a person adheres to two nationalities simultaneously. A person with the status of more than two nationalities is called meervoudige nationaliteit.

In terms of dual citizenship, the 1945 Constitution is not expressly prohibited. However, in the discussion of Article 26 paragraph (1) of the 1945 Constitution, it can be interpreted that dual citizenship is not allowed for other nations domiciled in Indonesia must recognize Indonesia as their homeland and be loyal to the Republic of Indonesia. On the other hand, for the Indonesian diaspora community, it can be interpreted that the descendants of Indonesians who are overseas in other countries may be given dual citizenship status; they not only recognize the Indonesian state as the only supreme of the land but also do not have monoloyalty. Moreover, by the state, they can also be accepted as citizens of the country where they work, which does not automatically mean they lose Indonesian citizenship.

Even though based on Article II of the Additional Rules of the 1945

Constitution of the Republic of Indonesia (new editorial) at the time of the Fourth Amendment to the Constitution, it revoked the entire Elucidation of the 1945 Constitution, the issue of dual citizenship is still not justified when it is associated with the sovereignty of a unitary state.<sup>11</sup> Article 1, paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that the State of Indonesia is a unitary state in the form of a republic. However, in the concept of nationalism which is inclusive of cosmopolitanism, the opinion that a dual citizenship system can make the unitary state incomplete and spare divisions no longer following the development of a new world order that prioritizes the protection of human rights and the welfare state.<sup>12</sup>

There is an opinion that dual citizenship is inappropriate in a unitary state system (eenheidstaat), in contrast to the federal form of state. A person can have the status of a citizen of the central government and a state. It is no longer possible to defend such an opinion purely because, in the United States as a Federal country, citizens of other countries have been accepted as citizens, even though that person still secretly recognizes their citizens of origin.

<sup>11</sup>HM. Laica Marzuki, (2006), Some Notes on Indonesian Citizenship, In Citizenship Books (Understanding in the Context of History, Theory, and Practice) Jakarta: National Commission on Human Rights, p. 33-41.

<sup>12</sup>Supriyadi A. Arif, (2020), Unraveling Dual Citizenship in Indonesia in the Perspective of Human Rights and the Welfare State, SASI Journal, Vol. 26 No. 4: 527-539. DOI:<https://doi.org>. Accessed November 1, 2022, 08.45 WITA

For example, from Chinese descent to become a citizen of the United States of America. The Chinese state also still recognizes them as Chinese citizens. Even Indonesians become citizens of the United States,

When a country adheres to the *ius sanguinis* principle and another adheres to the *ius soli* principle, this can result in dual citizenship problems. For example, according to the provisions of the Chinese citizenship law of 1929, any person born to Chinese parents remains a Chinese citizen. Meanwhile, according to the provisions of Indonesian citizens when Law Number 3 of 1946 was still in effect, following the previous *Staatsblad* 1910 Number 296, the *ius soli* principle was applied. Therefore, people of Chinese descent who do not use the denial of citizenship (right of repudiation) within two years are still Indonesian citizens. This gives them dual citizenship status.

The Chou En Lai-Sunario Agreement dated April 22, 1955, which was well accepted by the DPR at the session on December 17, 1957, provided a way to overcome dual citizenship. They are required to choose one of two citizenship statuses expressly. However, culturally, Chinese descendants still feel like Chinese citizens even though they have determined their

attitude to become Indonesian citizens and are legally accepted as Indonesian citizens.

Arrangements regarding citizenship in Indonesia are contained in the constitution. Chapter X of the 1945 Constitution of the Republic of Indonesia is entitled, Citizens and Residents. Chapter X contains three articles, namely Article 26, Article 27, and Article 28. To differentiate the meaning of citizens and residents, Article 26 regulates citizens in paragraph (1) and residents in paragraph (2) and further stipulations in paragraph (3). Article 26, paragraph (1) reads: "Those who become citizens are native Indonesian people and people of other nations who are legalized by law as citizens." It is determined in paragraph (2) that "Residents are Indonesian citizens and foreigners residing in Indonesia. Furthermore, paragraph (3) stipulates, "Matters concerning citizens and residents are regulated by law."

The 1945 Constitution of the Republic of Indonesia after the amendment did not explicitly prohibit dual citizenship, but does it mean that if it does not explicitly prohibit it, does it mean that it is allowed? Of course, this is not the case; it is still necessary to see what kind of dual citizenship does not entirely contradict the sovereignty of the unitary state (public interest). In addition, it must also be seen from the will of

the state's founders at the time of the debate on the draft Article 26 paragraph (1) of the 1945 Constitution.

As previously explained, the inclusive concept of nationalism allows granting dual citizenship status to the Indonesian diaspora community to avoid Indonesian descendants abroad without citizenship (maximum protection). On the other hand, the will of the founders of the State at the time of the debate on the draft Article 26 paragraph (1) required "other people" such as Dutch, Chinese, and Arab Peranakans to become Indonesian citizens, meaning that the founders of the country did not want dual citizenship for people. Others were living in Indonesia at the time of its new independence. In this case, of course, it is contrary for the Indonesian diaspora community, or in other words, the government can still grant Indonesian citizenship status.

### **Changes in the Concept of Citizenship of the Republic of Indonesia as an Answer**

The possibility of recognizing dual citizenship status for the Indonesian diaspora community must be followed by the government's political will of the Republic of Indonesia to make changes to Law Number 12 of 2006 concerning the Citizenship

of the Republic of Indonesia. Law Number 12 of 2006 concerning Indonesian Citizenship has the spirit of eliminating bipartite for foreign residents living in Indonesia (diaspora of other countries). On the other hand, it revives the spirit of recognizing dual citizenship status for the Indonesian diaspora community. This is shown where Law Number 12 of 2006 concerning Citizenship of the Republic of Indonesia stipulates that children in the category of dual citizenship are still given limited legal space or the opportunity to have 2 (two) nationalities simultaneously. This matter,

In subsequent developments, Indonesia's positive law allows for dual citizenship by placing it on the following principles:<sup>13</sup>The principle of *ius sanguinis* (law of the blood): a person's nationality is based on ancestry, not based on the country of birth; the principle of *ius soli* (law of the soil): nationality of a person based on the country of birth, which is limited to children following the provisions stipulated in the law; the principle of single citizenship: determining one nationality for each person; the principle of dual citizenship: determining dual citizenship for children following the provisions stipulated in the law. Suppose the government of the Republic of

<sup>13</sup>Jimly Asshidiqie, (2008), Principles of Indonesian Constitutional Law, Jakarta: Popular Science Bhuana, p. 669.

Indonesia has the political will to recognize dual citizenship status for the diaspora community. In that case, the government must adhere to the principle of dual citizenship and determine dual citizenship for the diaspora community following the provisions stipulated in the law.

Soepomo, as one of the members of the drafting committee of the 1945 Constitution, proposed the basis for Indonesian citizenship, namely: (1) *Ius Sanguinis* (the principle of heredity); (2) *Ius Soli* (territorial principle). The simultaneous application of the two basic citizenships (*Ius Sanguinis* and *Ius Soli*) can give birth to dual citizenship (*bipartite*). This dual citizenship principle can determine dual citizenship for the Indonesian diaspora community as long as there is a will from the Government of the Republic of Indonesia to regulate it in the citizenship law of the Republic of Indonesia.

After the reform, citizenship arrangements were found in the 1945 Constitution of the Republic of Indonesia; Articles 26, 27, 28D paragraph (4), there is no explanation. Article 28D paragraph (4) Citizenship status is human rights. Therefore, although it is not explicit whether a person is entitled to one or two citizenship statuses, there must be no state of *apatride*. Meanwhile,

the possibility of *bipartite* is neither required nor prohibited.<sup>14</sup> Article 28E paragraph (1), "Every person is free to choose citizenship," the choice of one or two nationalities, is closely related to Indonesia's national legal politics to respond to globalization, protect human rights, including anticipating the implications of international migration, as well as empowering Indonesian human resources abroad for the national interest.

Suppose Indonesia's national legal politics regarding the basis of Indonesian citizenship is more directed at protecting individual interests (citizenship liberalization). In that case, it will tend to accommodate dual citizenship (*bipartite*) so that even if a particular person already has a passport from another country, it will not cause him to lose his Indonesian citizenship.<sup>15</sup> In other words, an Indonesian citizen will not quickly lose citizenship. However, the citizenship liberation policy, on the one hand, can respond to demands for the fact that in the current era of globalization in the world, dual citizenship is essential. as a result of rapid migration, a growing diaspora community, as well as increased regional integration efforts, on the other and threaten the existence of state sovereignty. Modernizing the concept of citizenship by

<sup>14</sup>Jalaluddin and Idham Chalid, *Op.Cit.*

<sup>15</sup>*Ibid.*

injecting the ideology of liberalism into the existing articles on the draft citizenship law without regard to national culture and national security will become a severe threat to nationalism following the Pancasila state ideology.

Conversely, suppose the politics of Indonesian national law regarding the basis of citizenship is more directed at protecting public interests (read: the interests of the State, nationalism) above individual interests. In that case, we will adhere to single citizenship so that when for example, a particular person already has a passport from another country, it will cause the person concerned to lose Indonesian citizenship. This opinion is based on the legal ratio that the form of loyalty of Indonesian citizens to their country is not to accept citizenship from other countries. Therefore, having a passport from another country means that the person concerned has received citizenship from another country.

Therefore, to respond to globalization and still pay attention to State sovereignty in international relations, the most moderate option is the basis of mixed citizenship. Namely, elements of the *ius sanguinis* and *ius soli* principles make it possible to apply for limited dual citizenship, apart from for children. They are born from mixed marriages, also for the Indonesian

diaspora community. Thus, in certain subjects and specific conditions (diaspora), it will not be easy to lose Indonesian citizenship. In this context, the application of Article 23 letter (i) of Law Number 12 of 2006 concerning the Citizenship of the Republic of Indonesia to Indonesian citizens domiciled abroad is deemed inappropriate.

Philosophically, juridically, and sociologically Law no. 12 of 2006 is no longer following the development of society and the state administration of the Republic of Indonesia as part of the international community requires equality of treatment and status of citizens before the law; it is necessary to expand certain subjects of dual citizenship (diaspora groups) which can be given legal space or opportunities to have 2 (two) nationalities simultaneously on a limited basis other than those mentioned in the provisions of Article 4 letters c, d, h, and l as well as in Article 5 of Law Number 12 of 2016 concerning Citizenship of the Republic of Indonesia. Therefore, it is necessary to amend Law No. 12 of 2006 concerning Indonesian Citizenship.

In making changes, one must pay attention to the principles of general citizenship, namely the *ius sanguinis*, *ius soli*, and mixed principles. To respond to globalization, protect human rights, including

anticipating the implications of international migration, and empower Indonesian human resources abroad for the national interest, the Indonesian citizenship system needs to accommodate the mixed citizenship principle in the draft amendment to Law No. 12 of 2006.

The concept of inclusive-cosmopolitanism of nationalism, the application of the mixed principle (*ius sanguinis* and *ius soli*) makes it possible to allow dual citizenship for Indonesian diaspora groups, of course, while still paying attention to the particular principles in drafting amendments to Law No. 12 of 2006, namely: the principle of national interest, the principle of maximum protection, the principle of equality before the law and government, the principle of substantive truth, the principle of non-discrimination, the principle of recognition and respect for human rights, the principle of transparency, and the principle of publicity.

The possibility of being allowed dual citizenship status for the Indonesian diaspora community must be followed by changes to the concept of citizenship. These changes include changes to the principles/principles in Law Number 12 of 2006 concerning the Citizenship of the Republic of Indonesia: the principle of anti-

bipartite, the principle of single citizenship, and the principle of limited citizenship.

There is a change in the principles/principles in Law Number 12 of 2006, and it is necessary to change the Arrangement concerning the Prohibition of Dual Citizenship in Law No. 12 of 2006, which includes: (1) Dual citizenship subjects; (2) The conditions under which dual citizenship is permitted (including the procedure); (3) Conditions that cause the loss of Indonesian citizenship which has dual citizenship (including the procedure); (4) Provisions regarding cooperation with countries that accept dual citizenship to ensure that dual citizenship is recognized reciprocally, (5) Transitional provisions governing the process of recognizing dual citizenship.

The possibility of allowing dual citizenship status for Indonesian diaspora groups requires an amendment to Law Number 12 of 2006, followed by harmonization with Related Laws and Regulations: Implementing regulations of Law Number 12 of 2006, Laws governing property ownership. The law governing political rights, the Law on Immigration, and its implementing regulations.

## CONCLUSION

In the current era of globalization, new ideas are needed, and a new spirit regarding a more open concept of

nationalism (inclusive nationalism) is not only based on the similarity of civilization and the same homeland (exclusive nationalism). The concept of inclusive nationalism requires everyone to be a citizen of the world (cosmopolitanism). In the reality of state life in various parts of the world, countries that apply only one concept of citizenship above all are among the main reasons the country fails to grow following the development of a more advanced world order. The 1945 Constitution of the Republic of Indonesia provides the possibility of applying the concept of inclusive-cosmopolitanism nationalism and the application of mixed principles (*ius sanguinis* and *ius soli*) by placing nationalism in the spirit of feeling together and sharing the responsibility, not just one homeland and one civilization. Exclusive nationalism). The Government of the Republic of Indonesia is committed to being able to protect its citizens both at home and abroad; it is necessary to expand certain subjects with dual citizenship (Indonesian diaspora community), which can be given legal space or the opportunity to have 2 (two) citizenships simultaneously. Where dual citizenship status is allowed for the Indonesian diaspora community, thus giving rise to the government's obligation to provide protection and legal certainty for the Indonesian

diaspora community by amending the Principles/Principles in Law Number 12 of 2006, changes to regulations regarding the prohibition of dual citizenship in Law No. 12 of 2006, harmonization with laws and regulations related to implementing regulations for Law no. 12 of 2006, the law governing property ownership. The law governing political rights, the Law on Immigration, and its Implementing Regulations. The laws governing property ownership. The law governing political rights, the Law on Immigration, and its Implementing Regulations. The laws governing property ownership. The law governing political rights, the Law on Immigration, and its Implementing Regulations.

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