

Citizenship Rights and Human Rights in the Constitution: A Case Study of the Cancellation of Citizenship Status in Indonesia

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ABSTRACT

Sexual harassment is a serious human rights violation with widespread psychological and social impacts on victims. In Indonesia, sexual harassment is classified as a criminal offense and is explicitly regulated in various laws, including the Indonesian Penal Code (KUHP) and Law No. 12 of 2022 on Sexual Violence Crimes (UU TPKS). Positive law provides a clear legal framework to prosecute perpetrators and protect victims' rights. In contrast, from the perspective of the four major Islamic fiqh schools, Hanafi, Maliki, Shafi'i, and Hanbali, sexual harassment is also considered a major sin that violates Sharia law and must be punished strictly, either with hudud or ta'zir penalties. This study aims to conduct a comparative analysis between the positive law approach in Indonesia and the fiqh perspective of the four Islamic schools regarding sexual harassment, as well as to evaluate how these two legal approaches can complement each other to create a more comprehensive and effective protection strategy. The research method used is normative legal research with legislative, case, conceptual, historical, and comparative approaches. The study results indicate that the integration of positive law and fiqh can enhance protection for victims, raise public awareness, and ensure more just law enforcement that aligns with the local socio-cultural context.

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INTRODUCTION

Citizenship rights are an essential element in the relationship between the individual and the state that not only determines a person's legal status but also affects his or her access to various human rights. Citizenship grants a person the right to participate in the political,

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economic and social life of a country. Loss of citizenship, which can occur through cancellation of citizenship status, can result in loss of access to these basic rights and potentially create statelessness. This phenomenon raises serious legal, political and social issues, particularly in relation to the protection of human rights.

The Constitution of the Republic of Indonesia, particularly in Article 26 and Article 28D of the 1945 Constitution, explicitly guarantees the right of every individual to citizenship. However, the implementation of this guarantee in practice does not always go smoothly. Cancellation of citizenship in Indonesia is often associated with issues such as terrorism, involvement in radical organizations, or disloyalty to the state. However, the legitimacy of this procedure is often questioned, especially when it is carried out without a transparent and fair legal process. This research aims to explore in depth the relationship between citizenship rights and human rights in the Indonesian constitution, with a focus on the cancellation of citizenship status. This research is not only academically relevant, but also has practical implications in the context of law and public policy in Indonesia. Through a comparative approach, this study will also examine how other countries, such as the United States, the United Kingdom and Australia, have dealt with similar issues, and how their experiences can provide lessons for Indonesia in formulating more effective and equitable policies.

From the problem above so research question is 1) How is the principle of human rights applied in the process of nationality revocation in Indonesia?. 2) What are the impacts of nationality revocation policies on individuals at risk of losing their citizenship, particularly in terms of their basic rights?. 3) To what extent does the nationality revocation process in Indonesia align with international standards regarding the protection against statelessness?. 4) How can the legal process of nationality revocation in Indonesia be ensured to be transparent and provide the right to appeal for affected individuals?. 4) What role do independent bodies, such as the National Commission on Human Rights (Komnas HAM), play in monitoring and ensuring that nationality revocation policies are not used for political or discriminatory purposes?. 5) How can the Indonesian government improve the socialization of citizenship rights and revocation procedures to raise public awareness of their rights?

METHOD

This study will employ a qualitative approach focusing on legal analysis and case studies to understand the relationship between citizenship rights and human rights in the context of citizenship revocation in Indonesia. This approach is chosen for its relevance in exploring the complex and dynamic issues related to law, public policy, and administrative practices in Indonesia while also comparing them with practices in other countries.

The approaches employed in this study include:

1. Descriptive-analytical research.
2. Data Sources
3. Data Collection Techniques
4. Data Analysis Techniques
5. Validity and Reliability
6. Research Limitations

This study employs a descriptive-analytical approach to explore the relationship between citizenship rights and human rights in the context of citizenship revocation in Indonesia. It

utilizes primary data from interviews with legal experts and practitioners and secondary data from legal documents, academic literature, official reports, and court rulings. Data collection methods include semi-structured interviews, document analysis, and case studies of citizenship revocation cases in Indonesia over the past five years. Data is analyzed thematically, juridically, and comparatively to evaluate compliance with international human rights principles and draw comparisons with practices in other countries like the United States, the United Kingdom, and Australia. Validity and reliability are ensured through data triangulation and transcription of interviews. However, the study faces limitations such as restricted access to certain legal documents, the small number of analyzed cases, and its Indonesia-specific context. Despite these constraints, the research aims to enhance the understanding of citizenship law and human rights in Indonesia and provide policy recommendations aligned with international standards.

Theoretical Review

Citizenship rights and human rights are interconnected concepts that play a vital role in a nation. Citizenship rights encompass fundamental entitlements individuals possess as members of a state, such as participation in governance, legal protection, and access to social and economic benefits. Meanwhile, human rights are universal and inherent to every individual, aiming to safeguard freedom and dignity from unjust or arbitrary actions.

As a rule-of-law state, Indonesia ensures the protection of citizenship rights and human rights in its Constitution (UUD 1945). For instance, Article 28E guarantees freedom of religion, Article 31 ensures the right to education, and Article 27 upholds equality before the law. The principles of a rule-of-law state also mandate the government to uphold social justice and comprehensively protect its citizens' rights.

According to Rousseau's social contract theory, the relationship between citizens and the government is based on an agreement where the government is obligated to safeguard citizens' rights. Similarly, Rawls' theory of justice emphasizes that laws and policies must be designed to promote fairness and equality, particularly for vulnerable or disadvantaged groups.

However, the implementation of citizenship and human rights in Indonesia often faces challenges. One significant issue is the revocation of citizenship, which can severely impact individuals who lose their status. Without fair and transparent procedures, this policy risks violating fundamental rights, including access to legal protection and essential state services.

Thus, it is crucial for Indonesia's policies on citizenship revocation to align with principles of justice, the rule of law, and respect for human rights. By doing so, the state can maintain its sovereignty while fulfilling its obligation to protect the rights of its citizens.

RESULTS AND DISCUSSION

The impact of illegal online loans on the millennial generation and society in Indonesia is a complex and layered problem, covering interrelated economic, psychological and social aspects. Economically, illegal online lending practices with high interest and fines can push individuals into a debt spiral, causing financial instability that leads to difficulty meeting basic needs or planning for the future. From a psychological perspective, the pressure to pay debts, coupled with aggressive collection methods, often results in stress, anxiety, and various other mental health problems, reducing the borrower's quality of life and mental well-being. The social implications are no less serious; Family conflicts and disruptions in social relationships are becoming increasingly common, while extreme stress can drive some individuals into

criminal behavior as a way to pay off debts.

Citizenship is a fundamental right that defines the relationship between an individual and a state, granting legal status and access to other rights such as political, social, and civil rights. Under international law, citizenship is protected by instruments like the Universal Declaration of Human Rights (UDHR) 1948, which affirms the right to nationality. The 1961 UN Convention on the Reduction of Statelessness further ensures that no one becomes stateless due to revocation or cancellation of citizenship.

However, in some countries, including Indonesia, citizenship can be revoked through certain administrative procedures. The Indonesian Citizenship Law No. 12/2006 allows for the revocation of citizenship under specific circumstances, such as treason or joining a foreign military without presidential consent. While legally valid, this can raise serious human rights concerns if not accompanied by fair legal procedures and international standards.

1. Citizenship as a Fundamental Right in the Perspective of International Law

Citizenship is one of the fundamental rights that defines the relationship between an individual and the state. It grants individuals a legal status and access to various other rights, such as political, social, and civil rights. In the context of international law, citizenship is protected by several international instruments, such as the Universal Declaration of Human Rights (UDHR) of 1948, which explicitly states that everyone has the right to a nationality¹. Furthermore, the 1961 UN Convention on the Reduction of Statelessness emphasizes that states must ensure that no individual becomes stateless due to the revocation or cancellation of their nationality².

However, in some countries, including Indonesia, citizenship can be revoked by the state through certain administrative procedures. Law No. 12 of 2006 on the Citizenship of the Republic of Indonesia grants the state the authority to revoke an individual's citizenship on specific grounds, such as treason against the state or serving in the armed forces of a foreign country without the president's permission³. While this action is considered legally valid, it can raise serious human rights concerns if not accompanied by fair legal procedures in accordance with international standards.

2. Revocation of Citizenship and Its Implications on Human Rights

The revocation of citizenship can significantly impact an individual's fundamental rights. In some cases, such actions not only strip individuals of their legal status in the eyes of the state but also place them in a vulnerable position as stateless persons. According to UNHCR reports, statelessness can lead to the loss of access to healthcare, education, and decent employment, as well as the inability to participate in political processes⁴.

Hannah Arendt's perspective on citizenship as the "right to have rights" underscores the critical role of citizenship as the foundation for individuals to enjoy their rights. When someone loses their citizenship, they effectively lose all rights dependent on that status. This situation can create a humanitarian crisis, particularly when citizenship is revoked without clear legal processes or for political purposes, as seen in some countries that use citizenship revocation as a political punishment against government opponents.

3. Case Study: Revocation of Citizenship in Other Countries

To gain a broader understanding of the implications of citizenship revocation, it is important to compare practices in Indonesia with those in other countries. In the United Kingdom, for instance, the government has the authority to revoke an individual's citizenship under the British Nationality Act of 1981, particularly if the individual is involved in activities that

threaten national security. However, decisions to revoke citizenship are often criticized for violating human rights, especially if there are no guarantees that the individual will not become stateless after the revocation.

Another example can be observed in the United States, where citizenship can be revoked if it is proven that the individual obtained citizenship fraudulently or was involved in terrorist organizations. Although strict legal procedures are applied in these cases, citizenship revocation remains a controversial issue as it can lead to human rights violations if not carried out through fair legal processes.

Australia also has stringent policies for revoking citizenship for individuals deemed threats to national security, particularly those involved in terrorist activities. Since 2015, more than 20 individuals have lost their Australian citizenship due to their involvement in terrorist groups. However, Amnesty International has criticized these policies for failing to provide adequate legal protections and potentially rendering individuals stateless.

4. Revocation of Citizenship in Indonesia: Procedures and Legal Challenges

In Indonesia, the revocation of citizenship is regulated under Law No. 12 of 2006. This law specifies several legitimate grounds for revocation, such as treason against the state, obtaining foreign citizenship, or joining the armed forces of another country without government approval. While these grounds are legally valid under national law, the implementation of this policy often raises issues, particularly in relation to human rights.

One major concern is the lack of transparency and accountability in the citizenship revocation process. Many individuals who lose their citizenship are not granted adequate access to fair legal procedures, including the right to defend themselves or to appeal the decision. In some cases, individuals are not even informed beforehand that their citizenship has been revoked, leaving them without the opportunity to seek legal assistance.

Additionally, there are concerns that the policy of citizenship revocation could be used for political purposes, such as targeting individuals involved in political opposition or those deemed threats to government stability. This raises serious issues of discrimination, violating principles of non-discrimination recognized under international human rights law.

5. Implications of Citizenship Revocation on National Security and Human Rights

The revocation of citizenship is often carried out by governments as a response to threats to national security. However, it is crucial to balance this action with the protection of human rights. In some cases, revoking citizenship can lead to greater security challenges, especially if individuals who lose their citizenship feel alienated and are forced to seek refuge abroad.

According to experts, citizenship revocation may push individuals involved in terrorist activities to seek support from radical groups overseas, thereby exacerbating global security threats. On the other hand, human rights violations resulting from citizenship revocation can provoke criticism from the international community, ultimately tarnishing the country's reputation on the global stage.

6. Challenges and Policy Recommendations

To address these issues, several steps can be taken by the Indonesian government to ensure that citizenship revocation policies are implemented fairly and in accordance with international standards.

First, the existing citizenship law needs to be revised to guarantee that fair legal procedures are applied in all cases of citizenship revocation. Individuals who lose their

citizenship should be granted the right to be heard in an independent court, and revocation decisions should be subject to a transparent appeal process.

Second, the government must ensure that citizenship revocation does not result in statelessness. This can be achieved by collaborating with other countries to ensure that individuals who lose Indonesian citizenship still hold citizenship in another country or, at the very least, have access to international protection through organizations like UNHCR.

Third, the implementation of citizenship revocation policies must be conducted responsibly and transparently. Every decision should be based on strong evidence and follow clear procedures, ensuring that affected individuals have the opportunity to fairly defend their citizenship status.

Finally, there must be monitoring and evaluation mechanisms for citizenship revocation policies to ensure that they are not used arbitrarily or for political purposes that violate individuals' fundamental rights^[20]. These mechanisms should involve the participation of independent institutions such as the National Commission on Human Rights (Komnas HAM) and civil society organizations focused on human rights. United Nations, Universal Declaration of Human Rights, 1948. United Nations, Convention on the Reduction of Statelessness, 1961. Law of the Republic of Indonesia No. 12 of 2006 on the Citizenship of the Republic of Indonesia. UNHCR, *Global Trends: Forced Displacement in 2022* (UNHCR, 2023). Hannah Arendt, *The Origins of Totalitarianism* (Harcourt, Brace, 1951). British Nationality Act 1981, UK Legislation.

CONCLUSION

Research findings on illegal online lending activities in Indonesia have had a substantial detrimental impact, particularly among the millennial age. The primary issues that must be addressed include low levels of digital literacy, debt bondage, financial risks, and the impact on the image of legal loans. Government rules have been implemented, but they still face numerous challenges, including weak oversight and enforcement systems. Future study should focus on increasing financial and digital awareness among millennials, as well as implementing preventive measures and better regulation of unlawful internet lending operations. Regulations must be strengthened, financial and digital literacy increased, and cross-sector cooperation fostered. As a result, it may foster a healthy, secure, and inclusive digital financial environment for all levels of society. Sexual harassment is a serious issue that has significant impacts on both the victims and society at large. From the perspective of positive law, sexual harassment is recognized as a criminal offense that threatens the security, honor, and dignity of individuals, and it is explicitly regulated in legislation with clear criminal sanctions. Positive law seeks to provide comprehensive protection for victims through severe penalties for perpetrators, legal protection for victims, and access to fair and equitable justice. From the perspective of Islamic jurisprudence (fiqh) in the four schools of thought—Hanafi, Maliki, Shafi'i, and Hanbali—sexual harassment is also regarded as a major sin that violates Islamic moral and legal norms. While there are variations in the emphasis and application of punishments among these schools, all agree that sexual harassment is haram (forbidden) and must be addressed firmly. The punishments range from hudud penalties, such as stoning or flogging for adultery, to ta'zir punishments, which are determined at the discretion of the judge. The common view between positive law and the fiqh of the four schools emphasizes the importance of a firm and comprehensive approach in handling cases of sexual harassment. Integrating these two

perspectives can strengthen the legal protection framework for victims, raise awareness of victims' rights, and encourage the implementation of laws that are fair and responsive to societal needs. Therefore, closer collaboration between law enforcement, religious leaders, and society is needed to create a safe environment that respects human rights and eliminates cultures of violence and sexual harassment. Research Suggestion is to improve citizenship policies, several recommendations are proposed: First, the government should revise citizenship laws to align with international standards, ensuring transparent procedures, appeal rights, and access to independent courts. Second, measures should be taken to prevent statelessness by collaborating with organizations like UNHCR to provide protection or alternative citizenship. Third, transparency and accountability in citizenship revocation must be enhanced through independent monitoring and opportunities for individuals to understand and contest decisions. Fourth, safeguards should be implemented to prevent political abuse, ensuring decisions are based on objective, non-discriminatory laws. Fifth, a robust monitoring and evaluation system involving civil society and independent bodies is essential to prevent human rights violations. Lastly, public education on citizenship rights and revocation procedures should be prioritized to empower individuals to take appropriate legal actions.

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