

# Review: Government Policy against Former Followers of International Terrorist Organizations

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## Abstract

The purpose of this study is to analyze the legal status of citizenship of ex ISIS and analyze government policies and compare the implementation of policies with other countries. The author uses library research methods , techniques and deductive approaches , to analyze cases and regulatory problems in various phenomena . Legal information is obtained from primary, secondary, and tertiary sources. In this paper, the author applies the theory of state ownership, state responsibility, and citizens. The results of the study found that citizenship status is a fundamental right for everyone . This right cannot be exercised without a state legal framework, and the state must consider the consequences of revocation of citizenship as long as citizens want to return to being good citizens and loyal to the state. The state must protect the basic rights of individuals as regulated by domestic law and international law.

**Keywords:** Legal status citizenship, human rights, state jurisdiction

## INTRODUCTION

Regulations related to citizenship according to Kansil are clearly regulated in Law number 12 of 2006, namely that a person's citizenship plays an important role in public law that determines a person's status as a legal citizen (Kansil 1996). The state can be illustrated as a large organization that has members, now citizens are members of state organizations.

The state must have citizens, otherwise the entity is not called a state because the state and citizens are one and inseparable. The rights and obligations of the state and its citizens are bonds that must always be maintained. Indonesia with a large area has a very large population, of course, not all residents are citizens, even if they have previously been citizens, they can lose their citizenship status if they do things that violate their rights and obligations.

The rights and obligations as citizens and as a state are affirmed in the 1945 Constitution Article 27 paragraph (1) which states that every citizen has the same position in the eyes of the law or referred to as "equality before the law" so that the regulations and laws must be obeyed by anyone without exception. Including the obligations of citizens as stated in Article 23 of Law number 2006 concerning citizenship (Santika 2021):

Problems 343 Indonesian citizens who have joined the membership of international radical groups such as the *Islamic State of Iraq and Syria* or more popularly known as ISIS (Suhendra 2017). After being trapped in Iraq and Syria, they finally asked to be returned to Indonesia, as reported by CNN Indonesia media. (Sohuturon 2017)

Some argue that the revocation of citizenship status for Indonesian citizens who have joined ISIS is an effort to create a deterrent effect. (Pietersz dan Saija 2021) Budhiardjo believes that this is a lesson so that people are not easily tempted to follow terrorist movements and radical movements that are contrary to the ideology of the Indonesian nation. The revocation of citizenship does not necessarily mean that any citizen associated with terrorism and radicalism networks will remain for members who

have pledged allegiance or who have consciously sworn allegiance to prohibited groups and organizations and do not recognize the Indonesian state and Pancasila as the basis of the state. (Budhiardjo 2018)

The defeat of ISIS to the Syrian Democratic Forces (SDF) in a coalition with the United States left 70,000 refugees consisting of women and children. The polemic occurred when deciding the fate of the militants and their families who had joined ISIS. (Han and Rahmayanti 2021) Several crucial issues related to citizenship status as stated in the Citizenship Law, the threats and risks of their repatriation as well as human rights issues if they are not reinstated as Indonesian citizens.

The Indonesian government, represented by Defense Minister Ryamizard Ryacudu, emphasized that those who had joined ISIS did not need to return to being Indonesian citizens. (Stefanie 2017) In fact, the results of research studies from various parties such as the Anti-Defamation League explain that the participation of Indonesian citizens to be part of the ISIS group for reasons of economy, geography, demographics. In addition, the factor of rampant radicalism campaigns in the form of acts of terrorism on social media that are increasingly rampant is the cause of several Indonesian citizens who are willing to fight to defend radical groups. (ADL 2014)

The main issue of this research, what is the legal status of citizenship for those who join and swear to join the ISIS militia? The term militia means an obligation to enter the army for a certain time or a person who becomes a soldier because he fulfills his military service. (KBBi n.d.) Many people have accused them of treason against the state.

Juridical analysis of citizenship explains that the Indonesian government has an obligation to protect its citizens within or within the Juar region of Indonesia. In the 1945 Constitution Article 26 paragraph (1) explains what is meant by a citizen, which is often the subject of debate. Article 12 of the International Covenant on Civil and Political Rights (hereinafter referred to as ICCPR), which has been ratified by Indonesia.

According to international law, only citizens have unlimited rights to enter and remain in a country. Therefore, stateless persons may end up without residency status or, worse, end up in long-term detention. (Kansil 1996) Statelessness also causes difficulties in other areas such as travel, access to education and health care. To this day, the issue of the legal status of citizenship for those who join ISIS militia members is still a matter of debate within the government or society. To this day, there are still many Indonesian citizens in Syria or Iraq who find it difficult to return to Indonesia due to problems with their legal citizenship status (UNHCR n.d.)

The condition of the ex-ISIS followers is very concerning because it is far from a decent standard of living. They experience a crisis of food, access to clean water, health facilities. This condition, which is far from ideal, is in dire need of humanitarian assistance. Several countries have carried out the process of repatriating their citizens. However, countries in Europe are reluctant to do the same and even the issue of the abolition of citizenship status is rolling. From the side of some followers of former members (family) of ISIS followers also do not want to return to their home countries. They tried to find another country that would accept them as refugees .

The dilemma experienced by countries that have ex-ISIS followers is also experienced by Indonesia. Humanitarian encouragement or prioritizing national security and resilience is a difficult choice for a country. The problem is not from the state side, but there are still many ex ISIS members who hold fast to their loyalty and consider their radical ideology to be a threat to national security.

The description of problems related to the legal status of Indonesian citizenship who joins the radicalism movement can be drawn several issues that must be studied in this study related to citizenship status and policies of several countries related to the same problem related to former followers of global terrorist organizations.

## **METHODS**

Research is generally distinguished between normative legal (Diantha dan MS

2016) research and sociological (empirical) research (Nurdin dan Hartati 2019). Normative legal research is included in library law research. Meanwhile, sociological or empirical legal research mainly produces primary data. In this study the author uses a normative legal research methodology or also called the library method.

This research refers to the legal norms contained in the legislation, therefore this research uses library materials in the form of secondary data which includes primary and secondary legal materials.

## **RESULTS AND DISCUSSION**

Citizens have a special position towards their country to be protected because legally they are members of a large organization called the state as stated in Article 1 number 1 of Law Number 12 of 2006 concerning citizenship, namely "Citizens are citizens of a country determined based on laws and regulations. -invitation"

The principles used in determining citizenship are the principle of descent or *Ius Sangius*, and the principle of domination (*Ius Soli*), however, the formulation of citizenship regulations is built on the principle of national interest which is an effort to maintain the sovereignty of a unitary state that has lofty ideals as a sovereign nation.

Citizenship in Indonesia is also built on the principle of maximum protection, meaning that the principle of maximum protection is an effort so that the government can fulfill its obligations to provide full protection to every Indonesian citizen under any circumstances, both at home and abroad.

Citizenship must also be built on the basis of equality in law and government. This principle guarantees that every Indonesian citizen gets equal treatment in law and government. Citizenship is also built on the principle of substantive truth. This principle is a procedure for a person's citizenship. The principle is not only administrative in nature, but citizenship status must be accompanied by the substance and conditions of the application that can be justified.

The right to citizenship is also ensured that it does not contain injustice, so that the principle of non-discrimination, the principle that does not differentiate treatment in all matters relating to citizens on the basis of ethnicity, race, religion, class, gender and gender. (Dawam, Ibrahim, dan As-salafiyah 2021) Citizenship as regulated in regulations is also based on the principles of openness and respect for human rights. The state must guarantee, protect and glorify human rights. (Lubis dan Sururi 2020)

The principle of openness is also an important principle for regulating citizens. In essence, dealing with citizens must be done openly. In upholding the principle of openness, there is also the principle of publicity in the citizenship rules, namely the principle that determines that someone who gains or loses citizenship of the Republic of Indonesia must be announced in the State Gazette of the Republic of Indonesia.

The main subject of law related to citizenship is the responsibility of the state to protect its citizens. This is an indicator of the sovereignty of a country. Citizens wherever they are, as long as their citizenship status is still recognized, the citizens concerned must submit and obey their rights and obligations as good citizens. The state is like a large power organization integrated with political power and has the right to regulate all matters concerning human relations in its territory. Protection and order in all aspects of the dynamics of society is the duty of the state to solve all existing problems.

Indonesia as a country that respects human rights provides guarantees for human rights (HAM) for every citizen. The guarantee of human rights in a country is an indicator that the country is a state of law. As emphasized in Article 28I paragraph (4) of the 1945 Constitution, that the fulfillment, enforcement and protection of human rights is an obligation and responsibility of the State. In addition, the State guarantees the right of everyone to protection, recognition and legal certainty and is entitled to fair and equal treatment before the law (equality before the law).

## **OVERVIEW OF COUNTRIES THAT HAVE CITIZENS EXPOSED TO ISIS AND ARE IN EXCEPTIONS**

In this discussion, several countries with the same problem are described, namely having citizens who are proven to have joined and participated in ISIS militia activities. The United Kingdom also has policies related to international radicalism issues such as the ISIS network. Seoyoung Hong 's analysis results in the November 2021 Occasional Paper entitled " *Bringing Back Women And Children From Syria: Rethinking Citizenship Removal and Improving Reentry Policies and Deradicalization Programs* ". The case raised concerns a female British citizen named Shamima Begum, an ISIS follower who was refused to return to the UK due to the loss of her citizenship. Hong explained that the policy taken by the British parliament and government is more inclined to follow political motivations and ignore UK law and international law that prohibits the state from abandoning its citizens in dangerous conditions. The UK would be more at risk if it allowed its citizens in Syria than to be reinstated as citizens, especially the followers of women and children (Hong 2021).

González added in his thesis entitled " *Dilemmas and challenges regarding the EU position to the ISIS Women and Minors remaining in Syrian camps* " that ideally the government should repatriate all citizens by seeking prior court approval and be included in the rehabilitation program, but this is difficult to achieve considering the community in Europe the majority adhere to Xenophobia. In the end, the case of Shamima Begum, a British citizen, was reported and sparked a controversy that caused strong and contrasting opinions. Many felt that his permanent exile from Britain was a fair and reasonable response to what he had done. On the other hand, many also see that what the government is doing is discriminatory against citizens (Wallner dan Paul Winfree 2016).

The Indonesian government has long tied bilateral relations with the British government, many of which have the same goals that the two countries want to achieve. Aris Oktrias Siregar, "Indonesia's strategy



to run gastrodiplomacy with the UK in 2012-2019" (UPN Veterans East Java, 2021). One of Indonesia's strategies to build relations is to improve the Gastrodiplomacy model so that the closeness of the two countries is growing. The existence of this good relationship is certainly a momentum for Indonesia to create a program to overcome the problems of citizens exposed to ISIS so that both parties can firmly address the problem.

The Netherlands has experience dealing with this problem. The Netherlands has decided to revoke the citizenship of its citizens who are proven to have joined ISIS militants. Parliament and the Minister of Justice and Safety of the windmill country (Times 2019).

The Netherlands, this country has established defense cooperation relations since 2014. Defense cooperation with this country is certainly very relevant because the Netherlands is a country with a good reputation in the field of waters and shipbuilding. With defense diplomacy by carrying out strategic cooperation, promoting civil-military democratic relations and maintaining peace and enhancing it. According to Filovia et al, the cooperative relationship between Indonesia and the Netherlands since 2014 is quite effective so that problems such as resolving the citizenship status of ISIS militants and their families are very easy to build to find a good solution for both countries. (Filovia, Alfatih, dan Abror 2021)

The state of Australia also acted in the same way as the Netherlands, revoking the citizenship of its citizens who were proven to be followers of international terrorist organizations. Dutton (Minister of Home Affairs) said that the actions of ISIS followers from their citizens had made a serious mistake and were categorized as dangerous terrorists. A person's participation in an organization according to the applicable law in Australia results in the loss of citizenship status (stateless) so that protection from the state cannot be given to the person concerned (Laine 2017). Radicalism and terrorism are "extraordinary crimes" which are declared as gross human rights violations and violate human values.

ISIS has clearly committed crimes such as the church bombing in the Philippines that killed innocent people. ISIS has also carried out inhumane things such as genocide against the Yazidi population of Iraq and Syria. They also do other things related to slavery and sexual harassment. This is the reason countries have abolished citizenship for any citizens who join international terrorist groups such as ISIS. (Cheterian 2021)

The threat of global terrorism must be addressed with bilateral cooperation as an effort to deal with the expansion of terrorist organizations such as ISIS. According to Amin in his article entitled "ISIS Towards Southeast Asia" explaining that since the battle of Marawi broke out in 2017 it has become clear evidence of the presence of the ISIS terrorist group and is even alleged to be the latest goal in expanding the territory of the Islamic state's caliphate under Abu Bakr Al-Baghdadi. ISIS as a global terrorism is trying to continue to increase its influence in the Southeast Asian region. The bilateral cooperation of countries in Southeast Asia must be able to anticipate this.

The status of Indonesian citizens who have consciously committed criminal acts of terrorism abroad and/or joined with parties affiliated with terrorist organizations are subject to criminal sanctions applicable in Indonesia, namely the application of the active national principle or the principle of personality. For Indonesian citizens who are proven (at least 2 pieces of evidence) are declared suspects by the Police of the Republic of Indonesia (the apparatus) immediately issue a wanted list or DPO. In addition, the police will also ask for assistance from international police organizations or the so-called *International Criminal Police Organization* (ICPO) & NCB-Interpol Indonesia. After the application is received, the ICPO and NCB-Interpol will issue a *red notice*.

Indonesian citizens who are known to be involved in terrorists will then be included in the Prevention List by the Directorate General of Immigration and their passports will be deactivated and documents will be withdrawn. Representatives of the Republic of

Indonesia in countries occupied abroad by Indonesian citizens will be given protection and assistance to ensure that citizens are safe from all forms of terrorism.

The Directorate General of Immigration enters the name and biodata of Indonesian citizens into the Prevention List and can be withdrawn from Travel Documents, namely Passports. 2. Protection efforts by the state in protecting Indonesian citizens from the impacts arising from acts of terrorism abroad are carried out through representatives of the Republic of Indonesia in the country occupied by Indonesian citizens. This effort is realized by providing protection, assistance, and gathering Indonesian citizens in safe areas, as well as seeking to return them to Indonesia at a cost borne by the state as mandated by Law no. 37 of 1999 concerning Foreign Relations (Samu 2018).

## CONCLUSION

Indonesia as a sovereign country has rights and obligations to protect the legal status of Indonesian citizenship. The Indonesian citizenship law is a form of protection for the Indonesian state for its citizens. The Indonesian citizenship law regulates who is included in the Indonesian Citizens in article 4 and article 5 of the citizenship law also regulates any matters that can eliminate the legal status of Indonesian citizenship in article 23, among others, states that a person can lose his citizenship status. If a person participates in the service of a foreign country or takes an oath to pledge allegiance to the foreign country, Indonesia itself does not recognize it as a state entity but categorizes it as a terrorism group, this was conveyed by HE Desra, the representative of Indonesia for the 69th meeting of the United Nations General Assembly. Yang also said that ISIS is a terrorist group.

Regarding terrorism groups, Indonesia has legal rules such as the law on criminal acts of terrorism which specifically regulates criminal sanctions given to Indonesian citizens who are involved in acts of terrorism. The law does not regulate the legal status of a person's citizenship if it is proven that they have joined a terrorist militia member. Until now, the Indonesian government has never

taken steps to revoke the legal status of citizenship of Indonesian citizens who joined Isis members, but the Indonesian government is pursuing a deradicalization program to eliminate radical understanding of terrorism in former ISIS militia.

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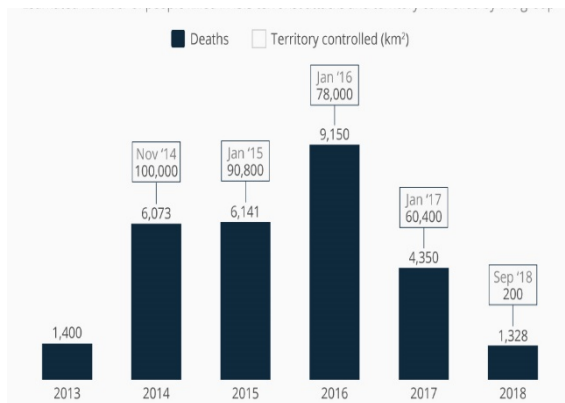
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<https://www.heritage.org/political-process/report/the-implications-regular-lame-duck-sessions-congress-representative>.

**Tabel 1. Teror ISIS di Dunia**

No.	Description	Amount
1	Attack	228
2	Country	33
3	Victim	2773

Reference : *katadata.co.id* (Suhendra 2017)

**Gambar 2. The Rise and Fall of ISIS**



Reference: *Statista* (Niall McCarthy 2019)