

CILIS FACTSHEET 1

Indonesian Citizenship Law

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This Factsheet covers:

- The current law on Indonesian citizenship
- Category of Indonesian citizens
- Dual Citizenship
- Naturalisation
- Risks of Statelessness

What is the Current Law on Citizenship?

The right to citizenship is guaranteed in the 1945 Constitution of Indonesia. Article 28D(4) states that “Every person has the right to citizenship status”, while Article 28E(1) recognises that every person has the right to choose their citizenship (these provisions were inserted by the second amendment in 2000).

Law No. 12 of 2006 on Citizenship ([Indonesian text-English text](#)) is the current citizenship law. The structure of the law is as follows:

- (1) Chapter I, “General Provisions”.
- (2) Chapter II, “Citizens of the Republic of Indonesia” lists the categories of people recognised as Indonesian citizens.
- (3) Chapter III, “Requirements and procedures for acquiring citizenship of the Republic of Indonesia” provides for naturalisation procedures.
- (4) Chapter IV, “Loss of Indonesian Citizenship” lists the reasons that the state may repeal a person’s Indonesian citizenship.
- (5) Chapter V, “Requirements and Procedures for regaining citizenship of the Republic of Indonesia”,
- (6) Chapter VI, “Provisions on Criminal Acts” lists criminal acts related to citizenship matters, including false information, forgery, and official negligence.
- (7) Chapter VII, “Transition Clauses”.
- (8) Chapter VIII, “Closing”.



The 2006 Citizenship Law repealed Law No. 62 of 1958, with an important change to the principle of dual citizenship (discussed further below). This law also confers equal rights on men and women in determining a child's nationality.

Who can be Recognised as an Indonesian Citizen?

Article 26(1) states that “The persons recognised as citizens consist of indigenous Indonesians and foreign nationals who are legalised by the law as Indonesian citizens”.¹ The latter category is made up of:²

- (1) All persons recognised as citizens** by the preceding law on citizenship or agreement between the Indonesian government and the government of other countries regarding citizenship. Before the 2006 Citizenship Law, Indonesian citizenship was determined by Law No. 62 of 1958. Two bilateral agreements between the Indonesian government and foreign governments regarding citizenship were:
 - a. an agreement between Indonesia and the Netherlands of 1949, which regulated the status of Dutch nationals living in Indonesia at the time; and
 - b. an agreement between Indonesia and the People's Republic of China of 1958, which stipulated that Chinese nationals living in Indonesia needed to choose between Indonesian or Chinese citizenship.³
- (2) Children who were born through legal wedlock between a man and a woman, at least one of whom is an Indonesian citizen**, including children of:
 - a. an Indonesian father and mother;
 - b. an Indonesian father and a foreign national mother;
 - c. a foreign national father and an Indonesian mother;
 - d. an Indonesian mother and a stateless father or a father whose country does not confer automatic citizenship on the children; and
 - e. an Indonesian father, where the child was born within 300 days after the father has passed away.
- (3) Children born out of legal wedlock, where at least one of the parents is an Indonesian citizen**, including children of:
 - a. an Indonesian mother; and
 - b. foreign national mother - where the Indonesian father claims the child as his natural child and such claim is declared before the child reaches the age of 18 or before the child is legally married.
- (4) Children born in Indonesian territory**, including:
 - a. children whose parents' citizenship is undetermined or unclear (for example, in the case of naturalisation) at the time of the child's birth;
 - b. children newly born and found in Indonesian territory whose parents are unknown; and
 - c. children born in Indonesian territory where both parents were stateless at the time of birth, or whose whereabouts are unknown.

1 Article 2 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

2 Article 4 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

3 Susi Dwi Harijanti, *Report on Citizenship Law: Indonesia* (Global Citizenship Observatory (GLOBALCIT) Robert Schuman Centre for Advanced Studies) February 2017.

- (5) **Children born outside Indonesian territory** from an Indonesian father and mother, where the country of birth automatically provides citizenship to the child due to the country's law (limited dual citizenship applies, see further below).
- (6) **Children of naturalised parents**, including children born from a father and mother who were granted citizenship but died before the parents swore allegiance.

Does Indonesia allow Dual Citizenship?

Indonesia allows limited dual citizenship to the following categories of children aged up to 18 years old:⁴

- (1) Children born through legal wedlock between a man and a woman, including:
 - a. an Indonesian father and a foreign national mother; and
 - b. an Indonesian mother and a foreign national father.
- (2) Children born out of legal wedlock from:
 - a. a foreign national mother whom the Indonesian father claims as his natural child, where such claim is declared before the child reaches the age of 18 or before the child has married; and
 - b. an Indonesian mother and foreign national father, where the child is under the age of 18, unmarried and has not been legally adopted by their foreign national father.
- (3) Children born outside Indonesian territory from an Indonesian father and mother, and the country of birth automatically provides citizenship to the child by the operation of the country's law.
- (4) Indonesian citizen children under the age of 5 who are legally adopted by foreign citizens through legal proceedings.

Based on the 2006 Citizenship Law, upon reaching the age of 18 or upon marriage, a child with dual citizenship must choose a single citizenship by making a written statement to choose that citizenship and submitting it to the appointed officials within 3 years after turning 18 or getting married (if he or she marries before turning 18).⁵

Matters related to dual citizenship are further regulated by Government Regulation No. 21 of 2022 on the Procedures for Acquiring, Losing, Repealing and Regaining Indonesian Citizenship, which amended Government Regulation No 2 of 2007. The latest regulation provides that children with dual citizenship who have not been registered by their parents to acquire limited dual citizenship, or have not declared their citizenship after the time limit fixed in the 2006 Citizenship Law are given two years since the enactment of the regulation on 31 May 2022.⁶

When can a Foreign National Apply for Indonesian Citizenship?

According to Chapter III of the 2006 Citizenship Law, a foreign national can apply for naturalisation (pewarganegaraan) to become an Indonesian citizen if he or she meets the following requirements:

- a. is at least 18 years old or married;
- b. at the time of application, has lived in Indonesian territory for at least five consecutive years or, if not in consecutive years, at least ten years in total;

4 Article 6 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

5 Article 6 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

6 Elucidation of Government Regulation No. 21 of 2022 on the Procedures to Obtaining, Losing, Repealing and Regaining Indonesian Citizenship

- c. has steady employment or income;
- d. can communicate in the Indonesian language; and
- e. has never been punished for a crime punishable by imprisonment of one year or more.

A person can apply for naturalisation as long as he or she will not have dual citizenship if they receive Indonesian citizenship.

A person married to an Indonesian citizen can also apply for Indonesian citizenship if they meet requirement (b) above.⁷

What are the Risks of Statelessness in Indonesia?

Statelessness refers to a situation where a person is not recognised as a national by any state. At Indonesian law, nationality is linked to citizenship or status as a citizen.⁸ This means that a person is considered stateless if he or she does not have citizenship status recognised by any state.

According to the 2006 Citizenship Law, a person can lose his or her Indonesian citizenship for several reasons.⁹ These include obtaining citizenship from another country. In these cases, although Indonesian citizenship will be lost, the person will not be stateless. Other reasons for loss of Indonesian citizenship include **reasons related to one's allegiance to Indonesia**, encompassing:

- a. entering into foreign military service without prior approval from the President;
- b. voluntarily entering into the services of foreign entities in a position that, under Indonesian law, would, in Indonesia, be reserved for citizens of Indonesia;
- c. voluntarily declaring allegiance to a foreign country or part of a foreign country; and
- d. voluntarily participating in a referendum that is civic in nature in a foreign country.

Other Risks of Statelessness

Other than being stateless due to loss of Indonesian citizenship for the reasons listed above, there are other causes of statelessness due to varying circumstances:

- (1) A person living in Indonesia cannot obtain an Indonesian citizen identification document due to legal and administrative obstacles. For example, many Indonesians of Chinese descent have been unable to obtain Indonesian citizenship identification due to the past legal requirements for production of a Proof of Indonesian Citizenship Document, or *Surat Bukti Kewarganegaraan Republik Indonesia* (SBKRI), as regulated by the Presidential Decision No. 52 of 1977. This impeded poorer people from applying for citizenship identification and from correcting errors in civil registers that wrongfully recorded their citizenship status.¹⁰
- (2) An Indonesian migrant worker who has lived in another country and does not possess the citizen identification documents to prove his or her citizenship status as his or her stay exceeded the

7 Article 19 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

8 Pip Garrard, 'An Overview of Statelessness', Melbourne Law School (6 February 2023) <<https://law.unimelb.edu.au/centres/statelessness/resources/factsheets/an-overview-of-statelessness>>.

9 Article 23 of Law No. 12 of 2006 on Citizenship of Republic of Indonesia

10 'Orang-orang tanpa kewarganegaraan', UNHCR Indonesia <<https://www.unhcr.org/id/orang-orang-tanpa-kewarganegaraan>>; Tim Lindsey, 'Minorities and Discrimination in Indonesia: The Legal Framework' in Greg Fealy, Ronit Ricci and ISEAS-Yusuf Ishak Institute (eds), *Contentious Belonging: The Place of Minorities in Indonesia* (ISEAS Yusuf Ishak Institute, 2019).

passport validity period and he or she has been unable to renew his or her documents.¹¹ Based on Article 23 of the 2006 Citizenship Law, this category of people is not at risk of statelessness because the provision on losing citizenship as a consequence of living outside Indonesian territory for more than five consecutive years shall not apply to someone who risks being stateless if they lose Indonesian citizenship. However, as exemplified by the Indonesian National Commission of Human Rights (Komnas HAM) report in 2022, the situation of Indonesian migrant workers in Malaysia shows that many workers do not obtain valid documents and risk being stateless if the situation remains and there is no action from the Indonesian government to ensure the workers can obtain their citizenship documents.¹²

- (3) Children who were born outside Indonesia of parents who are Indonesian migrant workers may face risks of statelessness.¹³ Although based on Article 4 of the 2006 Citizenship Law, a child of this category is guaranteed Indonesian citizenship, due to administrative issues or the parents' migration status or marital status in the country of the child's birth, if the birth was not registered, the child consequently could not obtain Indonesian citizen identification document.
- (4) Refugees and asylum seekers who reside in Indonesia may become stateless if they lose ties with their country of origin, are unable to provide proof of citizenship, and, due to the administrative barriers in the 2006 Citizenship Law (see naturalisation above), are unable to acquire Indonesian citizenship.¹⁴
- (5) Children of refugee or stateless parents. Despite their rights to citizenship in the 2006 Citizenship Law, they remain at risk of being stateless due to the difficult administrative requirements.¹⁵

**If you have any suggestions or find this factsheet out of date,
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- 11 Sekar Anggun Gading Pinilih et al, 'The Legal Policy of Citizenship in Fulfilling the Rights of Stateless Persons as an Effort to Fulfill Human Rights in Indonesia' (2022) 7(1) *Diponegoro Law Review* 17; Andi Adam Faturahman, 'Penyebab Ratusan Pekerja Migran Di Indonesia Akan Kehilangan Kewarganegaraan', *Koran Tempo* (News Portal, 23 December 2022) <<https://koran.tempo.co/read/nasional/479124/penyebab-ratusan-ribu-pekerja-migran-indonesia-di-malaysia-akan-kehilangan-kewarganegaraan>>.
 - 12 Komnas HAM, 'Keterangan Pers Komnas Ham: Peringatan Hari Pekerja Migran Sedunia 2022 Mendorong Tata Kelola Dan Perlindungan Pekerja Migran Indonesia Berbasis Hak Asasi Manusia' <<https://www.komnasham.go.id/files/20221218-keterangan-pers-nomor-047-hm-00-536KDC9.pdf>>.
 - 13 Laras Susanti, 'Sulitnya Anak-Anak Luar Kawin Pekerja Migran Indonesia Dengan WNA Mendapat Kepastian Identitas, Hak-Hak', *The Conversation* (8 January 2021) <<http://theconversation.com/sulitnya-anak-anak-luar-kawin-pekerja-migran-indonesia-dengan-wna-mendapat-kepastian-identitas-hak-hak-149166>>; Migrant Care, 'Anak Pekerja Migran Yang "Hilang" Dalam Kebijakan Perlindungan Pekerja Migran Indonesia' <https://migrantcare.net/wp-content/uploads/2019/11/20190812_Policy-Brief-Anak-Pekerja-Migran-min-1.pdf>.
 - 14 Alysa et al, *Pemetaan Situasi Orang Dengan Risiko Tanpa Kewarganegaraan Di Indonesia* (Human Rights Working Group, 2023).
 - 15 UNHCR, 'Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report, Universal Periodic Review: 3rd Cycle, 27th Session, Indonesia' <<https://www.refworld.org/pdfid/59158ed24.pdf>>.