

THESIS

**THE RIGHT TO CITIZENSHIP AND THE THREAT OF
STATELESSNESS: THE GAMBIA'S AND INDONESIA'S
CONSTITUTIONAL DICHOTOMY**



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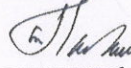


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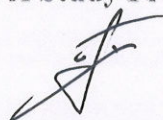
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Hereby declares truly that my thesis titled: “THE RIGHT TO CITIZENSHIP AND THE THREAT OF STATELESSNESS: THE GAMBIA’S AND INDONESIA’S CONSTITUTIONAL DICHOTOMY” is the original result of my scientific work and is not a plagiarism from other people’s work, in whole or in part. Where another’s works are used, due acknowledgment is made. If in the future there is plagiarism in this thesis, I am willing to accept appropriate sanctions in accordance with statutory regulations of Universitas Atma Jaya Yogyakarta.

Sleman, 03 January 2024

Ousu Mendy

FOREWORD

Praise and gratitude to God, the Almighty who has bestowed His Grace upon me so I could complete this thesis titled “THE RIGHT TO CITIZENSHIP AND THE THREAT OF STATELESSNESS: THE GAMBIA’S AND INDONESIA’S CONSTITUTIONAL DICHOTOMY”. The preparation of this thesis receives lots of help, directions, and guidance from various parties.

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This thesis is far from being perfect and has shortcomings. Therefore, subsequent research can be built upon these shortcomings. It is hope that this work will provide additional resources to research especially in the field of law.

Sleman, 03 January 2024

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TABLE OF CONTENTS

Page Title.....	i
Thesis Approval Page	ii
Thesis Endorsement Page	iii
Thesis Statement of Authenticity.....	ivv
Foreword	iv
Table of Contents	viii
Abstract	xi
List of Abbreviations.....	xii
CHAPTER I	1
A. Background.....	1
B. Legal Issues.....	7
C. Research Objectives	7
D. Research Benefits.....	7
E. Originality of Research.....	8
F. Concept Limitation.....	10
CHAPTER II	12
A. Literature Review	12
1. The Dichotomy of Citizenship and Statelessness.....	12
2. Overview of Citizenship	15
3. Requirements for Citizenship	20
4. Citizenship Law in Indonesia	21
5. Citizenship Law in The Gambia	33
6. Overview of Statelessness.....	39
7. Causes and Effects of Statelessness.....	42
B. Theories	48
1. State Obligation Theory	48
2. Derogation and Limitation Theory	50
3. Theory of Legal Protection	54

4. Natural Law Theory.....	56
5. Social Contract Theory	58
CHAPTER III.....	60
A. Types of Research	60
B. Research Approaches	61
1. Legislative Approach	61
2. Conceptual Approach.....	62
3. Comparative Approach	62
C. Sources of Data	63
D. Data Collection Method	63
CHAPTER IV.....	65
A. Description of Research Subjects and Results at Attorney General’s Chamber and Ministry of Justice of The Gambia	65
1. Contentious Issues on Dual Citizenship and its Setbacks in The Gambia.....	67
2. Negative Impacts of Statelessness in The Gambia	71
3. Mechanism for Reduction of Statelessness in The Gambia	74
4. The Gambia’s Relationship with International Law in the Context of Citizenship.....	77
B. Indonesia’s Standard Against International Benchmark	80
1. The Perception of International Community on Indonesia’s Citizenship Statuses.....	81
2. Reducing the Gap between the Right to Citizenship and the Problem of Statelessness in Indonesia	84
3. Indonesia’s Relationship with International Law in the Context of Citizenship.....	95
4. The Polemic of Migration in Relation to Citizenship and Statelessness in Indonesia	101
CHAPTER V	103
A. Conclusion	103
B. Recommendation	104

1. For The Gambia.....	104
2. For Indonesia.....	105
REFERENCES.....	108

ABSTRACT

The issue of citizenship and statelessness in both The Gambia and Indonesia is as topical as it is dichotomic and the impact of the latter is of great concern both at national and international levels. States as legal entities are governed mainly by state laws in the form of constitutions and legislations. This research aims at making a comparative study on the right to citizenship in The Gambia and Indonesia with the aim of minimizing the gaps that promote statelessness. It also aims at reducing the effects of statelessness in constitutional governance of these states and finally, analyses how stateless people can be included in their national human rights frameworks. This research uses empirical and normative research methods. Interviews and desk reviews are conducted on The Gambia and Indonesia to present the results of this research. Legislative, conceptual and comparative approaches are used to support the theoretical basis of this research. This research finds that, the problems of citizenship and statelessness still persist due to differences that exist in national laws of various states. Therefore, dual citizenship is important as it helps in minimizing the gap between citizenship and statelessness. Also, the rule of law in terms of protecting individual's rights and limitation of states' interference and respect for human rights is quite limited as regards the right to citizenship. So, the legal implication of statelessness is that it undermines the rule of law and equality before the law which are key components of modern constitutionalism. Finally, to create inclusivity of stateless people in the concept and perception of national human rights frameworks, there must be urgency not only to sign the relevant international instruments on citizenship and statelessness but to also ratify and domesticate them into national legislations thereby making them binding on The Gambia and Indonesia.

Keywords: Citizenship; Dual Citizenship; Ius Sanguinis and Ius Soli; Legal Protection; Statelessness

LIST OF ABBREVIATIONS

AGC	Attorney General's Chamber
ASEAN	Association of Southeast Asian Nations
BPP	British Protected Person
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CHRP	Commission on Human Rights of the Philippines
CUKC	Citizens of United Kingdom and Colonies
DIPS	Department of International Protections
ECOWAS	Economic Community of West African States
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economics, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families
Komnas HAM	Komisi Nasional Hak Asasi Manusia
MoJ	Ministry of Justice
NHRC	National Human Rights Commission

SUHAKM	Human Rights Commission of Malaysia
UDHR	Universal Declaration of Human Rights
WPUGR	Working Group on the Universal Periodic Review