

Principle of Dual Citizenship of Children in Determining their Citizenship Based on Act No. 12 Years 2006 about Citizenship of the Republic of Indonesia and in the Perspective of Human Rights

¹Beben Saputra, ²Zainul Daulay, ³Azmi Fendri

¹Magister Of law, ²Magister Of law, ³Magister Of law
Andalas University, Padang, Indonesia

Email : ¹bebensaputra124@gmail.com, ²zdaulay@gmail.com, ³azmi26@gmail.com

Abstract: *The establishment of a country must meet several requirements, there is a certain area in the punishment should be, there are the people who fixed and government of a sovereign, the people who settled in a certain region, in its connection with the state called by citizens. The act of citizenship of the Republic of Indonesia stated that the principle of that which is embraced by the act of citizenship ius sanguinis is the principle of the Republic of Indonesia, ius soli, the principle of single citizenship and the principle of citizenship double limited to children of a mixture of marriage. The 4 years passed after the act of citizenship, it will become difficulty himself to children who do not enroll over a period of 4 years for a double citizenship status. On the other side, the need for regulation of the use of double discourse of citizenship which is not limited discussed and an issue that continues to championed the diaspora Indonesia in various countries in parts of the world. Based on it, How the dual citizenship against children in determining their citizenship based on Act No. 12 years 2006 on citizenship of the Republic of Indonesia and in perspective human rights and How the implementation of the double citizenship for the based on the regulation related to citizenship Republic of Indonesia. Writing the it uses research methodology law normative who used case study normative of products behavior law. Known from the research that the principle of double citizenship be realized in the act No.12/ 2006 on the nationality of Republic of Indonesia as the levies on child who is born of a marriage a mixture of until he was 18. Citizenship is a division within the human rights are meant to be summons by the government in the context of the application of human rights. With the limited dual citizenship given to children born of a marriage mix, it was automatically he can enjoy their rights Indonesian citizens and foreigners.*

Key Words: *Dual Citizenship, Children, Human Rights, right civil son of father, Legal Protection, Outer Child Marriage, Birth Certificate.*

1. INTRODUCTION:

Citizens is the subject of the law which bears and obligations of the truth and against the country. People country has the right to recognized by the state, and as respected, protected, facilitated, and filled by the state. And, each citizen have liability to the state of being rights to is the country which is also recognized, respected, and obeyed by every citizen [1].

The existence of citizens is one of the essential elements of a country. Citizenship status importance because citizenship is evidence formal having been binding that binds these individuals with an area the most (country) and each citizen is entitled to receive protection, life and judicial. Article 28D paragraph 4 the constitution 1945 stated that every persons have the right of citizenship status.

Any state of being sovereign indeed entitled to decide how into a citizen. Relating to the terms into a citizen in the science of statecraft known there were two citizenship principle, the ius-sanguinis and ius-soli principle. The ius-soli principle is hometown, the mean that status of someone for citizenship determined by the place. Ius-sanguinis is the principle of relationship by blood, citizenship someone that determined by their parents [2]. The regulations firmly on citizenship is very important to any state, it can prevent the existence of the apatrida and bipatrida. By is important also has to distinguish the truth and for citizens and not a citizen. Regulation that regulate the citizenship on the act of citizenship in Indonesia Indonesia including act no 62 years 1968 which are then converted with act no. 12 year 2006 about citizenship of the republic of Indonesia [3].

Act no 12 years 2006 about the republic of Indonesia new citizenship is a large citizenship breakthrough of the previous act no. 62 years 1968. Although in the same single is citizenship, but in the act of citizenship is known the principle double limited to children a mixture to the marriage was 21 (twenty one) year to designate any one citizenship

their parents. Article 4 the letter c, h, and i act no. 12 years 2006 allows a child born of marriage a mixture having acquired dual citizenship. Boundaries 4 years after act no.12 years 2006 about citizenship of the republic Indonesia legalized, it will become trouble himself for children who do not enroll over the past 4 that year to get the status of dual citizenship.

Dutch and German, apply the act of single citizenship single impose dual citizenship as a law exceptions. In contrast Belgium, Finland, Italy, Poland and Greece, apply the dual citizenship, who implicitly allow each subject law the country having acquired citizenship more than one, any many .More specifically, Greek and Poland apply the rules of that once someone into a citizen Greek or Poland, so forever concerned will remain the Greek or polish , though concerned was having acquired citizenship other and / productive or not live again in Greece or Poland. Even to the Greek, if someone able to prove that concerned were descendants of Greek, wherever he was in the earth, then they deserve of citizenship Greek [4].

On the other side, the need for regulation of the use of dual citizenship which is not limited only discussed and an issue that continues to championed the diaspora Indonesia in various countries in parts of the world. It spoken especially when first congress of diaspora in Los Angeles in 2012, was followed by a similar event in Wisma Indonesia. Sydney with a theme “dual citizenship forum”. The event was conducted with the aim to escort the aspirations of a petition diaspora Indonesia the previous year after 600 the name of which there is no more than around 8 million Indonesians is in 5 the continent , and they reside in more or less 90 countries and as many as 4.6 million from of them keep maintain of Indonesian citizenship [5].

2. CONCEPTUAL FRAMEWORK:

1. Dual Citizenship

In determining citizenship, some countries wearing *ius soli*, while in other countries apply the principle of *ius sanguinis*. It thereby has caused, two possibilities namely:[6]

- a. *Apatrida*, namely the state of a resident there once do not have citizenship.
- b. *Bipatrida*, the people have the two kinds of citizenship and citizenship (double or dual citizenship).

2. Children

according article 1 paragraph (5) act no. 39 years 1999 concerning human rights stated that child is every man who are under 18 (eighteen) years and unmarried, including children who are still in the womb should that is to their interests. Then according to article 1 paragraph (1) act number 35 years 2014 on amendments to act number 23 years 2002 about children protection said that the child is someone who have not aged 18 (eighteen) year, including children who are still in the womb

3. Citizenship

Citizens are people who settled in the area and the people of certain in its connection with the state. In the relationship between citizens, country citizen has obligations against the country while citizens also have their rights to be given and protected by the state [7]. Then under article 1 paragraph (1) act no 12 years 2006 about citizenship of the republic of Indonesia state that citizens are evolved denizens of a country that is stipulated in accordance with legislative regulations.

4. Human Rights

Human rights is rights have held by someone since he in the womb .Shall jointly universal human rights. The rudiments human rights set out in 1945 constitution is on article 27 paragraph (1), article 28, article 29 paragraph (2) , article 30 paragraph (1) , and article 31 paragraph (1). According to article 1 paragraph (1) act number 39 years 1999 concerning human rights stated that human rights is a set of the inherent right in the nature of and the location of a human being as but one god and creature is that his grace, held in high esteem and protected by the state, law, the government, and everyone for the honor and the conservation and safety of human dignity.

In the theory of the state, is called with *pactum unionis* and *subjectionis pactum*. *Pactum unionis* is an agreement between individuals or groups form of a country, while *pactum subjectionis* covenants between citizens with ruler who is chosen among the citizens (through *unionis pactum*). Thomas hobbes *subjectionis* only acknowledging the *pactum* .Jhon locke and acknowledging the *pactum unionis subjectionis pactum* , and JJ Roessaeu *unionis* only acknowledging the *pactum* But in this theory give priority to protection of citizens rights that must be guaranteed by the .Guarantees must be set out in the constitution [8].

3. LITERATURE REVIEW:

Citizenship is relationships most often and sometimes relations the only between a individuals and a country that ensure he gave rights and liabilities of an individual in international law. According to j.g starke of citizenship can as etudes kolektivitas individuals where the act of membership, they recognized the decision and policy through the concept of a state law that it represents individuals [9]. Citizenship according to section of 1 clause 2 act no. 12 year 2006 about

the republic of Indonesia those who citizenship is everything relating to citizens. Citizenship rights very important rights is a form of recognition of the right of a country upon its citizens.

Determine element of citizenship someone was based on 2 (two) principle, namely the principle of birthplace (ius soli), that is the principle of citizenship set any man by the place of their birth. The country of origin. Then the principle of heredity (ius sanguinis), that is the principle of citizenship set of citizenship anyone by their parents (his offspring without concerning where he was born.

Since the issuance of the act no 12 years 2006 on of citizenship of the republic of Indonesia more attention to the principle of citizenship general or universal:

- a. The principle of ius sanguinis (law of the blood), is the principle determine the nationality of someone based on the descendants of, not based on country of birth.
- b. The principle of ius soli (law of the soil) an infinite supply, is the principle determining someone, citizenship based on country of birth, which was introduced for limited children in accordance with the provisions set out in act.
- c. The principle of single citizenship, is the principle determining one citizenship for everyone.
- d. The principle of limited dual citizenship is the principle determining dual citizenship for children in accordance with the provisions set out in act.

The status of citizenship in a juridical manner. governed by national legislation But by the absence of similarity in specify the terms to be recognized as a citizen of resulting from the base used in citizenship and nationality. various problems arise The problem of citizenship that arises is the possibility that seseroang have citizenship double (bipatrie) or without citizenship (apatride).

In international relations in each country there always citizens and it all is the strangers. Each citizen is the a country, and any penduduk citizens, not necessarily stranger it may be. A country includes the citizens and aliens, with ties to the state. Every citizen has not in a living out even though he land. Stranger relatives and only as long as he living within the country Citizens are people who settled in the area and people. certain in its connection with the state In the relationship between citizens and the state, citizen has rights to be given away and protected by the state [10].

Then the definition of children according to article 1 paragraph (1) act number 35 years 2014 on amendments to act number 23 years 2002 about children protection is “child is someone who have not aged 18 (eighteen) year, including children who are still in the womb”. In civil law, note that human beings have status as the subject of law null he was born. Article 2 act book of criminal law give exceptions that children who are still in the womb can be the subject of law if any interest that will and born in a state of life [11]. Children can be categorized as a subject of the law that are not capable in performing legal action. Someone who did not tell because immature represented by a parent or guardian. in performing legal action Children born of mixed marriages have the possibility that dad citizenship his mother have different so subject to two different laws jurisdiction.

Sudargo Gautama described the theory international civil law, to determine the status of children and the relationship between children and parents, needs to be taken first marriage his parents legitimate as a problem introduction, whether marriage his parents legitimate so the have a legal relationship with his father, or marriage was not valid, so the regarded as a wedlock only have a legal relationship with his mother [12].

4. METHODS:

The research is research law normative .Research law normative (normative law research) using case study normative of products behavior law , for example study the act. The issues are those laws as the norm in or maxim applicable in the community and everyone is used to behavior. So that research law normative focus on inventory positive law, principles and the doctrine law, the discovery of law in the matter of in concreto, systematic law, the economic situation of synchronization, comparison law and history law [3]. In general, this approach in research normative law consisting of: [14]

- a. Statute Approach
- b. Conceptual Approach
- c. Historical Approach.
- d. Case Approach

This research is descriptive. Said descriptive because the results of the research is expected to be obtained or painting of a factual state of an object of study with a view to clarify is hypothesized to help in strengthening the old theory or within the framework of preparing the new theory [15].

5. DISCUSSION:

In terms of social aspect, the background of the regulation the status of dual citizenship limited only to a child of a hand in marriage act number 12 years 2006 treatment is discrimination against a child of marriage legal one out of a mother Indonesian citizens and a father foreign nationals, children born outside the marriage legal one out of a mother

foreign nationals recognized by a father Indonesian citizens as his son and son of mother Indonesian citizen who was born outside marriage is legal with a father foreign nationals, that is not a guaranteed legal certainty as Indonesian citizens by because before act number 12 years this was born 2006 Indonesia submitted to the principle *ius sanguinis* in determining the status of citizenship someone so that the status of the nationality of a child the results of a marriage out of this legitimate and rightful outside the marriage determined based on the line of / regional ties with dad. This is another form of apartheid (segregation) or state sponsored racial behalf that are expressed through legal instruments and habits [16]

Justice is one of legal purposes. Legal purposes is not only justice, but also legal certainty and significance. Ideally law must be accommodate all [17]. Rights and obligations in the state is at three parties must be fulfilled its right and has an obligation, namely everyone , the community and the country .As we know that the state is organization formed by the community through social contract between them , then the state first burdened obligation, which is to meet right everyone .Then everyone burdened obligation that the state can to his duties meet right everyone [18].

If the phrase “at the latest 4 (four) years after this act is promulgated” contained in article 41 the act number 12 years 2006 is less favourable than the changes, so children who do not enroll starting from the date of 1 august 2006 until the date of the 1 august 2010 when he wanted to acquired citizenship of the republic of Indonesia, then he should be eligible to receive the of citizenship. It is certainly going to need a long time for such a child in obtaining the nationality of Indonesia. When the changes by the absence of 4 years time limitation for children born prior to 2006 and he should choose the one of citizenship after aged 18 (eighteen years) or are married, and he would choose automatic citizenship which does what he wants without going through the process to be citizen.

Based on article 28 d paragraph (4) the constitution 1945 stated that “everyone is entitled to citizenship status”. Among the laws of the base is not stated that everyone will be eligible for one or two. citizenship status but what is important to the constitution is not the case of 1945 apartheid, may while the possibility of bipatriate, not required and also forbidden. Hence, policy on this matter be submitted to the form of the act of put it further in accordance with the provisions of article 26 paragraph (3) the constitution 1945 and stated that “things of citizens and the set with the act”. By the presence of the dual citizenship limited to children the marriage mixture regulated by the law number 12 year 2006, and has provided room for children to having acquired citizenship double and he can decide to citizenship which the best for her after 18 (eighteen) years old.

6. ANALYSIS:

A. PRINCIPLE OF DUAL CITIZENSHIP AGAINST CHILDREN IN DETERMINING THEIR CITIZENSHIP BASED ON ACT NO. 12 YEARS 2006 ON CITIZENSHIP OF THE REPUBLIC OF INDONESIA AND IN PERSPECTIVE HUMAN RIGHTS

The associated the act of citizenship Indonesia began with the ratification of act no. 3 years 1946 about citizens and. an inhabitant of the country Act no. 3 years 1946 in principle on the principle of *solus*. Indonesians passively obtained the status Indonesian citizens. But for those who do not want, of status has able to exercise their rights repudiasinya by submitting a written statement from Indonesia. Citizenship And essentially act no 3 years 1946 said there are 4 (four) ways to be Indonesian citizens. First, to native automatically becomes Indonesian citizens. Second, those who already over five years and never declared itself refuse of citizenship Indonesia is Indonesian citizens. Third, all descendants of of the way first and the second way the. Fourth, strangers enlisted for into a citizen Indonesia. Then after the ratification of act number 3 years 1946 so on the 1st august 1958 endorsed act no 62 in 1958 about of citizenship of the republic of Indonesia as the conduct of of article 5 paragraph (1) the act of a temporary basis 1950 .The act of citizenship number 62 in 1958 adheres to the principle of citizenship single , and the born of marriage a mixture of only could have one of citizenship , namely must follow of citizenship his father .

With the ratification of act number 12 year 2006 so principle of limited dual citizenship in the born of a marriage partner a mixture. Then dual citizenship to cub was limited the 18 (eighteen) years or are married and at least 3 (three) years after that the child has to bring citizenship which he pick.

The provisions of the law of citizenship is logically from the national and state life. By the presence of the act of citizenship in addition to the emergence of a dimensions arrangement the rights of citizenship everyone , it is also related to human rights especially in perspective citizenship. Article 28 i paragraph (4) the constitution of 1945 stated that “protection , advancement , enforcement and fulfilment of the rights of human rights is the responsibility of the state especially”. The status of citizenship is part of human rights .That is why every human beings are entitled to get citizenship status. Recognition the status of citizenship for someone will give birth to the rights and obligations of legal for the appropriate person .Related to the rights of an obligation for citizens clearly has been stipulated in the constitution of 1945.

Trevor Buck in his book “International Child Law” states that “children rights can only be properly understood in the context of the human rights movement as a whole”[19]. it can be understood that all the things that concerning with the rights of the child can only be understood correctly in the context of human rights. Then Antonio Cassese in his book “International Law” states that: [20]

The human rights doctrine has had the great merit of projecting domestic bills of rights on to the international stage, thereby pushing for the world-wide recognition of certain basic values hitherto only upheld within the national setting of a few countries.

Related to the implementation of human rights, Indonesia apply act no 39 years 2009 concerning human rights. Acknowledgement this law load widely to human rights. A right guaranteed in it includes from the recognition of civil rights and political, economic, the social and culture to the collectively. While the right to become a citizen is one of the rights that should be on a human being in the realm of public law as a consequence of the concept of the state. This is also the implementation of social and political rights. Indonesia is the state of law as stated in article 1 verse (3) the constitution 1945. The concept of the state law to be in line with human rights. Protecting human rights is the must be implemented widely in order to promote respect and protection of human rights as features important a legal state democratic. Every man after its birth bears rights and duties are is free and rights. The establishment of the state and thus the power of a state shall not diminish meaning or signification freedom and human rights. Therefore, the protection and respect for the human rights a basis that is essential in a state called as a legal state. If in a country, human rights neglected or broken by deliberately and suffering that they inflict, justice cannot be overcome then the country they could not be called as a legal state whether it is physical.

In terms of benefice, the act of number 39 of 1999 is legal protection from all legislation related human rights. This law with evident to admit of understand “natural right” see human rights as a right kodrati attached to man. The same thing happened in categorization of the right in it may refer to international instrument to human rights as universal declaration of human rights , international covenant on civil and political rights , international covenant on economic, social and cultural rights , international convention on the rights of child , and so on .Thus it could be said that this law have adopted rights norms in which there is a variety of instruments the international human rights.

In implementing the social life, national, and state, it is not despite the implement law. This is related to a legal sense as an assemblage (biological clues the communications) governing good governance in a society. It shows that law intended to create peace, security and peace in society. The role of the law as reference in application. legal sovereignty In a country, government law has a role to play in ensuring the crucial state. Justice is a measure in determining an agreement about the truth and the prevailing in the community in a state. Law dominion application in regulating. State administration of justice means, a government in a country founded upon law and uphold the law as the basis of acting and behaving [21].

When examined further of the dual citizenship , then dual citizenship are potential to cause problems at a later date because someone will be subject to two jurisdiction different countries and when someone has dwi citizenship and he will subject to rule two different countries. And be not depend on the agreement between countries in regulating problems related to citizenship for its citizens .Sefriani in her book called “International Law” said that international law in practice in bilateral, trilateral, regional, and universal multilateral. Internasional bilateral legal means that the regulations are made by two countries and only binding on two states that is it. All countries to engage or make an international agreement both bilateral , trilateral even the universal. [22]

In the world today tending to the fused and with the dynamics of intercommunication between people more loose and dynamic, symptoms of citizenship double it is quite possible will continue to grow in the coming. Even, perhaps, that will appear in, practices not only the dual citizenship but perhaps also multi citizenship especially amongst the rich and can live move based on his heart. [23] Dual citizenship in Indonesian receive the greater regulatory broad space, the remembrance of rights over changes of citizenship in the constitution, not be limited to a claim for “one of citizenship”, but the right to vote of citizenship. It means, the choice of one or two of citizenship , our national law political is very much related to respond to globalization , protecting human rights , including anticipate the implications of international migration , as well as empower of Indonesian human resources abroad in the national interest . But , Indonesia want to treat dual citizenship for its citizens, this is to be assessed in perspective From the perspective of risk and reward in terms of somebody just came up with dwi of citizenship.

According to the diaspora of Indonesia there are some benefits dual citizenship for the government: [24]

- a. to enhance the economic between two states, economic extending the base, led to the development of trade, investment open job opportunities;
- b. Dual citizenship had an impact on economic and political decisions in the country where they live, in such a way that the decision made benefit for Indonesian state;
- c. Dual citizenship will increase and avoid the labor of talented, intellectual , and highly educated;
- d. dual citizenship to support investment in Indonesia;
- e. dual citizenship can introduce Indonesian culture abroad.

A number of reasons on of course be logical and can provide a big profit for Indonesian. But for those who do not agree with the concept of dual citizenship there are several reasons among others: [25]

- a. double of incurring liability for tax , military service;
- b. can still has received different special treatment (political and social);

- c. confused in implementing the rights and obligations of a citizen;
- d. the low social participation for the two countries;
- e. encourage relatives or friends to move/migratory;
- f. a decrease in loyalty to the nation and the state;
- g. allows illegal or avoid law;
- h. threatening the world of identity politics and the defense of the country.

The benefit of having acquired citizenship double, is that persons the gaining of it is free to live in both the state by ignoring the provisions of immigration to foreigners. But financial losses for one who stateless double for example in some state exists an obligation to compulsory military service what applies to every citizen in his country, one who stateless double is able to have the flexibility to live in both the state by ignoring the provisions for the stranger and the immigration can also choose a passport of the state from the best country suitable for traveling to various countries.

With imposed dual citizenship can also there are the assumption that citizenship as if Indonesia would no longer be the second class compared to foreign citizenship, for example of citizenship Indonesia and united. The holder dui of citizenship later on might be more concerned with their rights and duties as a citizen than as citizens Indonesian foreign, it takes about give priority to the Indonesia national interests. The implementation of dui of citizenship at the time of this is of course also as compared to those of the act of citizenship, because it will be change basic over in the act of citizenship, so that a consequence is have to change the act of citizenship. Act as a kind of changes of citizenship would have an impact on changes in regulations of act other related invitation as taxation, land, civil relationship.

B. THE IMPLEMENTATION OF THE DUAL CITIZENSHIP FOR THE BASED ON THE REGULATION RELATED TO CITIZENSHIP REPUBLIC OF INDONESIA

To provide legal protection to all citizens and give a guarantee of legal certainty about whom Indonesian citizens so that the reflected a parallel law among citizens. The act no 12 2006 is a legal product born of an amendment to the constitution of the republic of Indonesia 1945. Then implementing regulations of law number 12 years 2006:

- a. The government regulation No. 2 years 2007 on the procedures for the received copies of the short, lose a bit of their, the cancellation of the and win back of the republic of Indonesia citizenship as a capital investment.
- b. The minister policy relating of law and human rights Republic Of Indonesia number 22 years 2012 on the procedures for the registration of the son of stateless double and redouble and be the group proposal and is immigration facilities that replaces the with the minister policy relating of law and human rights number M.80-HL.04.10 years 2007 on the procedures for the registration, attending to the duties of, and the provision of immigration facilities as Indonesian citizens who stateless cup double this term.
- c. The minister policy relating of law and human rights republic of Indonesia number 47 years 2016 on the procedures for the citizenship as a capital investment attention was given to disseminating the group proposal and is of the republic of Indonesia electronically.

Children born before the act no 12 years 2006 late with any possible reason to registered to get citizenship double Indonesia so of children is a loss of citizenship Indonesianya so that of children is a foreign citizens so that to him treated as foreigners. An example of this was said to be an other forms of the termination or the repeal of the citizenship someone forcibly resulting in the man to deprived of the rights of citizenship Indonesianya and that is form of human rights violation that is carried out by the state concerned. Rights everywhere, all the time it is not permitted for reduced even the person has commits an offense. This means the state of having committed the repeal of the upon the rights soial and political a person in national life.

The implementation regulations of citizenship act are the law government number 2 year 2007, the minister law and human rights number number 22 year 2012 and the minister law and human rights number 47 year 2016 on procedures entreaty citizenship delivery of the republic of Indonesia electronically. In the rules implementing the act of citizenship the children, a double must register himself to get of citizenship double is limited to age 18 (eighteen) years and obtain facilities immigration. With the time limitation 4 (four) years for children, a double so indirectly the state has limited children, a double the to get their rights in obtaining of citizenship Indonesia.

Article 4 act no 12 years 2006 clear that the Indonesian citizens is a child born out of lawful matrimony of fathers one Indonesian citizens and the foreigners, or otherwise and that then led the berkewarganegaraan double and he shall pronounce a pick one citizenship after 18 (eighteen) years old 18 And no longer needed limitation period 4 (four) years in Indonesia acquired citizenship because the provision it will cause the problems associated with this requirement. Then the limitation period it was contrary to prinsip of citizenship in free by the law number year 2006 12 principle is ius soli (law of the soil) to a limited extent is the principle of citizenship determine any man by the birthplace of, Imposed limited to the in accordance with the regulation regulated by law and citizenship limited - double is the principle determine double to the citizenship in accordance with the regulation arranged in this law.

With the provisions of article 41 act number 12 years 2006, so there is only one opportunity for the children who are enrolled in accordance with the deadline mentioned above can obtain Indonesians the from marriage a mixture of her parents have divorced and his mother was Indonesian citizens. Article 29 paragraph (3) act number 23 years 2002 about children protection as modified by act number 35 years 2014 on amendments to act number 23 years 2002 about children protection said that “in the event of divorce as stated in paragraph (2), while the have not been able to make the choice and his mother stateless republic of Indonesia, by the best interests of the child or at the request of his mother, the government to take care of citizenship status of Indonesia for these children”.

The authors argue that with the time limitation 4 (four) years education for children who had dual citizenship, indirectly countries have limit the children who had dual citizenship for a their rights in obtaining citizenship Indonesia. Supposed to be the phrase “at the latest 4 (four) years after this act is promulgated” contained in article 41 it should be implemented in the changes so that the law is not only to certainty, but can also provide justice to ensure the constitutional right as stipulated in the constitution. A child can double acquired citizenship at the latest of 3 (three) years after child up to the age 18 (eighteen) years or have already marriage. After aged 18 (eighteen) years were given the freedom to choose the child own citizenship, whether fixed stateless Indonesia or choose foreign citizenship in accordance with his heart.

The theory fiction assume everyone have to know law (*presumptio iures de iure*) without exception , by the presence of the theory fiction cases the children born of a marriage a mixture that is born prior to 2006 were given time limitation in registering himself in a period of time 4 years after the act no 12 the year of 2006 at acknowledge that is on the 1st august 2010. Article 41 act of citizenship is the transition from the undang-undang, when viewed from appendix II the act number 12 year 2011 about the formation of regulations pertaining, invitation transitional provisions loading the adjustment of the arrangement legal action or legal ties that already exists under the rules a long act violated rule the new act, whose aim is to guarantee legal certainty and provide legal protection for the affected by the change of the provisions of act. With this policy the term may cause uncertainty and lack of legal protection in respect of what a marriage partner mixed born prior to 2006. If a child does not register him in term set by law the no child can enjoy their rights as citizens treated as Indonesia and will foreign citizens. Although one cannot to users law with quibble not know any law and act, set but then it could be minimized by the information law by community countries concerning legal fiction and in other words the law should be supported by adequate.

7. CONCLUSION:

- a) The principle of a dual citizenship in Indonesia manifested in act number 12 years 2006 about citizenship of Indonesian republic contrast to the previous two act citizenship act number 3 years 1946 who adheres to the principle *ius soli* and act number 62 years 1958 who adheres to the principle *ius sanguinis*, act number 12 years 2006 adheres to the principle of dual citizenship that limited went into effect against children born of mixed marriages.
- b) In the rules implementing the act of citizenship, children who have dual citizenship must register himself to get double nationality is limited to age 18 (eighteen) years and obtains facilities immigration. By the time limitation 4 (four) years for children who have dual citizenship so the state indirectly limited children to get their rights in obtaining Indonesian citizenship. Article 4 the act of citizenship distinctly stated that which into a citizen Indonesia is a child born of legal marriage of dad a Indonesian citizens and mother a foreigners or conversely, then that the double have led the citizenship and he has to bring designate any one citizenship after was 18 (eighteen) .And needed restriction (4) a period of four years to Indonesia acquired citizenship. Then with the result that the son to have dual citizenship and he shall pronounce a pick one citizenship after 18 (eighteen) years old. Then no longer needed limitation period 4 (four) acquired citizenship in Indonesia.

8. SUGGESTIONS:

- a) To guarantee legal certainty and protecting human rights especially the right of a child in Indonesia get citizenship rights , the registration period for stateless children should be double that is born prior to 2006 and have been given time limitation 4 years to acquired citizenship conversion required Indonesia to the changes. Should the decree of the already existing at the present time the act of citizenship especially in article pertaining to the provision of citizenship on a limited extent need to review back so that there should have been harmonisation with human rights norms until it must be in the revision of regulation.
- b) relation to child who is not enroll relating to dual citizenship, when he was 18 (eighteen) years suppose he wanted to acquired citizenship Indonesia, so the government should ease the child to acquired citizenship Indonesia and It is suggested that not through a lane for acquired citizenship, enough with statement choose of citizenship Indonesia because by choosing Indonesian citizenship, then brings that he loved Indonesia and want to be a part from Indonesia by tying itself into a citizen who has the right and obligation to his country .

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