

## **Polemic on the Repatriation of Indonesian Citizens Involved in Terrorism in Syria**

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### **Abstract**

The repatriation of Indonesian citizens (WNI) involved in terrorism in Syria has become a complex debate in the realm of national and international policy. This issue involves aspects of national security, human rights, and efforts to deradicalize and social reintegrate. This study aims to analyze the factors that influence the policy of repatriating ex-combatant Indonesian citizens, including legal, political, and socio-cultural considerations. The method used is a qualitative approach with literature studies and relevant policy analysis. The results of the study indicate that the government is faced with a dilemma between maintaining national security stability and fulfilling the obligation to protect its citizens. In addition, the challenges in implementing deradicalization and reintegration programs are crucial factors that need to be considered. This study recommends synergy between state institutions, civil society, and international organizations in handling the repatriation of ex-combatant Indonesian citizens comprehensively.

### **Keywords:**

Terrorism in Syria, repatriation, Indonesian citizens

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### **Abstrak**

Pemulangan warga negara Indonesia (WNI) yang terlibat terorisme di Suriah menjadi perdebatan kompleks di ranah kebijakan nasional dan internasional. Isu ini melibatkan aspek keamanan nasional, hak asasi manusia, serta upaya deradikalisasi dan reintegrasi sosial. Penelitian ini bertujuan untuk menganalisis faktor-faktor yang memengaruhi kebijakan pemulangan WNI eks-kombatan, termasuk pertimbangan hukum, politik, serta sosial-budaya. Metode yang digunakan adalah pendekatan kualitatif dengan studi literatur serta analisis kebijakan yang relevan. Hasil penelitian menunjukkan bahwa pemerintah dihadapkan pada dilema antara menjaga stabilitas keamanan nasional dan memenuhi kewajiban perlindungan terhadap warganya. Selain itu, tantangan dalam pelaksanaan program deradikalisasi dan reintegrasi menjadi faktor krusial yang perlu diperhatikan. Penelitian ini merekomendasikan adanya sinergi antara lembaga negara, masyarakat sipil, serta organisasi internasional dalam menangani pemulangan WNI eks-kombatan secara komprehensif.

### **Kata kunci**

Terorisme di suriah, pemulangan, warga negara Indonesia

## **Introduction**

Theoretically, according to the doctrine of state science, the elements of the state consist of territory, people and sovereign governments.<sup>1</sup> This theory is also widely put forward by constitutional law experts in general, such as Hans Kelsen who said that the formation of a state must be supported by several main elements, namely the territory of a country or the boundaries of the country's territory, the people as citizens or residents of a country, state power in the form of government in various systems, as well as the constitution and the sovereignty of the people.<sup>2</sup> Thus, it can be understood that citizens are elements of a state, because citizens are one of the components of the population in a country. As a state of law, of course, all aspects of life in society, state and government in Indonesia have been regulated in legislation, including regarding citizens.

The regulations related to citizenship have been regulated in Law No. 12 of 2006 concerning Citizenship of the Republic of Indonesia (hereinafter abbreviated as Law No. 12 of 2006 concerning Citizenship). Even though the concept of citizenship has been described in a written rule, the facts on the ground show that the issue of citizenship status still often occurs in Indonesia and has always been a debate in the government environment. One of them can be seen from the case that was reported some time ago, namely regarding the polemic of the repatriation of Indonesian citizens (hereinafter abbreviated as Indonesian citizens) and the issue of their citizenship status who has joined the Islamic State of Iraq and Syria (ISIS) movement.

ISIS is a movement in the name of Islam and seeks to expand its power around the world. The emergence of ISIS has become very phenomenal, because in a short time it has been able to gain followers, supporters and sympathizers who have mushroomed in various regions of the world, including Indonesia. In addition, the presence of ISIS has had an impact on the creation of security instability at the global, regional and national levels. As an implication, the presence of ISIS threatens the world order and the existence of the existing modern nation-state. ISIS, which wants to create the concept of an Islamic state with the ideology of a caliphate under one government, often spreads propaganda with the statement that a state that is not based on the caliphate is thagut and infidels. Meanwhile, the Muslim community is legally sheltering under infidel countries, including Indonesia. This propaganda is one of the many things that are the background for Indonesian citizens to sympathize with ISIS and then become part of ISIS, they join with the same goal which is to build an Islamic state around the world. Based on several sources, the number of Indonesian citizens who joined the ISIS movement has been recorded from a few years ago.

In 2017, The Soufan Center said there were 600 Indonesian citizens who joined ISIS in Syria, consisting of 113 women, 100 children and the rest adult men. Furthermore, in 2018, BNPT said that there were 1,321 Indonesian citizens who tried to join ISIS in Syria. Around 600 ex-ISIS citizens are still abroad. Until 2019, the number of Indonesian citizens supporting ISIS was around 600 people. Then, based on data from intelligence submitted by the Ministry of Defense, many Indonesian citizens who supported ISIS ended up fleeing in several places because ISIS fell at the hands of the Syrian Democratic

Forces from the Kurdish tribe. After a long time in the refugee camp, they wanted to return to Indonesia. However, the Indonesian government does not have a discourse to repatriate the 689 ex-ISIS members. In this regard, the issue has become a debate among the government and legal experts. There are two views on the issue of repatriating ex-ISIS Indonesian citizens, namely there are groups that reject and there are also groups that support. The group that refused argued that their return would have a bad impact on Indonesian society. Meanwhile, the groups that support it are based on human rights values that must be protected regardless of the status of Indonesian citizens who support ISIS. However, in the end, as reported by CNNIndonesia, the government decided not to repatriate hundreds of ex-ISIS Indonesian citizens to Indonesia.

This was decided in a cabinet meeting held behind closed doors by President Joko Widodo and a number of ministries at the Presidential Palace, Bogor, West Java on Tuesday, February 11, 2020, then with further consideration the government stated that weak women and children under the age of 10 would be repatriated with a verification process first. In line with the above, the polemic about the revocation of the citizenship of ex-ISIS Indonesian citizens also raises pros and cons among the government and legal activists/academics. The pro party bases it on Law Number 12 of 2006 concerning Citizenship Article 23 letter d, which states that loss of citizenship is caused by "entering the service of a foreign army without prior permission from the President". Meanwhile, the opponents firmly base it that ISIS is not a state because it does not have fixed elements in the formation of a state, including the recognition of sovereignty as a state of any country in the world. Therefore, Indonesian citizens cannot lose their citizenship status. Another thing that is considered is that throwing away the ex-ISIS Indonesian citizens does not solve the problem.

In addition, challenges in the process of deradicalization and social reintegration are important factors that affect the success of repatriation policies. Ineffective deradicalization programs can increase the risk of a recurrence of domestic terrorism. Therefore, a multidisciplinary approach involving governments, civil society, and international organizations is needed to address this problem comprehensively.

## **Method**

This study uses a qualitative approach with a descriptive-analytical method to understand the dilemma of the policy of repatriation of Indonesian citizens (WNI) involved in terrorism in Syria. This approach was chosen because it allows researchers to explore in depth the factors that influence government decision-making as well as their impact on national security and human rights.

## **Discussion**

### **1. Opinions of the Government and Legal Experts on the Citizenship Status of Ex-ISIS Citizens**

#### **a. President Joko Widodo's Opinion**

Drawing from CCNIIndonesia, the President of the Republic of Indonesia Jokowi personally argued that he refused to repatriate *ex-ISIS* Indonesians, but the decision was final. The next decision will be reviewed and will be discussed first by the president and the minister in a cabinet meeting at the presidential palace.

President Joko Widodo stated unequivocally that the Government has plans to repatriate people who joined ISIS in Syria. This is because the government has security responsibilities for 260 Indonesian residents who must be prioritized. Then he also said that the people who were in trouble with ISIS were *former* Indonesian citizens. Thus, it can be concluded that Indonesian citizens.

b. Opinion of Hikmahanto Juwana (UI International Law Expert)

He stated unequivocally that Indonesians who are ISIS combatants automatically lose their citizenship as (Indonesian citizens). In fact, he termed it no longer an Indonesian citizen *who was a former* Indonesian citizen. According to him, this is because based on article of Law Number 12 of 2006 concerning citizenship which states that citizenship will lose points in it, including entering the service of foreign soldiers, therefore the government does not need to take further action. Furthermore, Hikmahanto also explained that former Indonesian citizens who are members of ISIS because they have lost their citizenship, these ISIS members can only be considered to be from Indonesia, but their nationality is no longer known for sure. This is the basis that the government has no obligation to protect them, including returning them to Indonesia.

c. Opinion of Chairul Anam (Commissioner of Komhas HAM)

In contrast to the two opinions above, Chairul Anam as the Commissioner of Komhas HAM stated and urged the government to repatriate all *ex-ISIS* Indonesian citizens. He explained that the Indonesian citizens did not lose their citizenship when they became part of ISIS, because ISIS is not a state, and if it is reviewed again legally there is no strong enough reason to think that they are no longer Indonesian citizens (WNI). According to Chairul, the repatriation of *ex-ISIS* Indonesian citizens is based on the Indonesian constitution which strongly upholds human values. However, he emphasized that there must be strict processes and conditions in the repatriation of Indonesian citizens to Indonesia.

The condition is that the Indonesian citizens who join must be properly researched and there must be a categorization of them. According to Chairul, the process of repatriating *ex-ISIS* Indonesian citizens can be seen from the latest Terrorism Law, namely article 12 A and article 12 B of Law Number 5 of 2018, which says that every person or every Indonesian citizen who goes abroad to join, campaign, organize and so on for military training of a terrorist organization can be punished. By paying attention to the Terrorism Law, it can be used as a reference to regulate punishment for the level of involvement of a person in terrorism.

1. Indonesian Government's Policy on the Repatriation of Ex-ISIS Citizens

The Indonesian government has set a policy not to repatriate Indonesian citizens involved in terrorism in Syria, especially Foreign Terrorist Fighters (FTF). This decision was announced in 2020 in response to concerns about national security threats. Based on

data from the National Counterterrorism Agency (BNPT), about 600 ex-ISIS citizens are in Syria, mostly in refugee camps such as Al-Hol and Roj. The government considers the repatriation of children with a strict assessment process to ensure that there is no exposure to radical ideology. This reflects a humanitarian-based approach that still considers national security.

## **2. Factors Influencing the Repatriation Policy**

Some of the factors that influence the Indonesian government's decision in repatriating ex-ISIS citizens include:

- **National Security:** The risk of infiltration of radical ideologies into society is one of the main concerns. The government is concerned that individuals who have been exposed to extremist ideology could commit acts of terrorism in the country.
- **Legal Aspect:** Legally, Indonesian citizens have the right to return to their homeland. However, the government also adheres to the principle of public safety which is a priority. **Politics and Diplomacy:** International pressure related to the handling of foreign combatants also affects national policies. Indonesia also participates in international cooperation to monitor cross-border terrorist movements. **Human rights:** Human rights groups highlight that women and children in refugee camps experience appalling humanitarian conditions, requiring assistance and protection.

## **3. Challenges in Policy Implementation**

The challenges faced in the implementation of the repatriation policy include 3, namely:

- **Identification and Verification:** The process of verifying the identity of Indonesian citizens in Syria has become difficult due to the lack of biometric data and official documents. Many Indonesian citizens use fake identities to join ISIS.
- **Deradicalization and Reintegration:** Deradicalization programs require a comprehensive and sustainable approach. Not all ex-combatants can undergo the program effectively, especially if they still hold radical beliefs.
- **Social Stigma:** People tend to have an attitude of rejection of the return of ex-combatants, which complicates the process of social reintegration.

## **4. Comparative Studies with Other Countries**

The polemic of the repatriation of Indonesian citizens (WNI) involved in terrorism networks in Syria is a complex issue and has given rise to various debates in society and government circles. Since the Syrian conflict and the emergence of terrorist groups such as ISIS, a number of Indonesian citizens are known to have gone to the region to join as sympathizers or combatants. After the defeat of ISIS, many of them were detained in

refugee camps such as Al-Hol and Roj, along with their families, including women and children. The Indonesian government is faced with a big dilemma, namely between maintaining national security and fulfilling its humanitarian responsibilities to its citizens. On the one hand, many parties refuse to repatriate Indonesian citizens who are ex-ISIS combatants due to national security concerns. It is feared that they still hold radical ideologies and may re-spread them domestically, either directly or through underground networks. The deradicalization process is also considered not always successful, especially for those who have undergone military training and have been exposed to ideology for a long time. In addition, legal obstacles arise because most of their acts of terrorism are committed abroad and do not have enough legal evidence to bring to court in Indonesia.

However, on the other hand, there are arguments that emphasize the humanitarian and human rights aspects, especially towards women and children in refugee camps. Many of these children were born in Syria and had no choice in the situation. In fact, most of them have no official documents and are vulnerable to hunger, violence, and exploitation. There are also women who claim to have been brought to Syria by their husbands and have never been directly involved in acts of terror. This group is considered worthy of consideration for repatriation with a humanitarian and social rehabilitation approach. When compared to other countries, Indonesia's policies are fairly firm. Britain, for example, took the extreme step of revoking the citizenship of citizens involved with ISIS, as in the case of Shamima Begum. France had refused to repatriate its citizens, but then became more lenient and began to accept the repatriation of children gradually. Germany is more active in repatriating its citizens, especially women and children, and in carrying out legal processes and reintegration programs. Malaysia also repatriated its citizens on the condition that they follow a deradicalization program and strict supervision.

## **Conclusion**

The policy of repatriating Indonesian citizens (WNI) involved in terrorism in Syria is a complex dilemma for the Indonesian government. On the one hand, the state has an obligation to protect human rights, especially for women and children who are victims of the conflict. On the other hand, the national security aspect remains a top priority given the potential threat of terrorism that can arise from individuals who have been exposed to radical ideologies. The results show that the government's decision not to repatriate adult combatants, especially men, was based on concerns for public safety. However, a more humane approach is applied to children and women who are considered not directly involved in acts of terrorism. This decision considers the principle of prudence through a rigorous verification and assessment process to ensure that those who are repatriated do not pose a threat to society.

The main challenges in the implementation of this policy include the identification process of Indonesian citizens in Syria, the implementation of effective deradicalization programs, and social reintegration efforts that are often hampered by societal stigma.

Therefore, synergy is needed between governments, civil society, and international organizations in ensuring that rehabilitation programs run in a sustainable manner. As a recommendation, a selective approach to repatriation needs to continue to be applied, with priority given to vulnerable groups such as children. A comprehensive, community-based deradicalization program should also be strengthened to ensure a safe and effective reintegration process. In addition, public education campaigns are important to reduce social stigma against returnees. With a balanced policy between national security aspects and humanitarian values, Indonesia can create sustainable solutions in dealing with the issue of the repatriation of ex-terrorist Indonesian citizens from Syria.

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