

# Legal Review and Human Rights Related to the Zoning System on Enrollment of New Students, a Progress or Setback in Respecting Education and Human Rights

Yuli Rakhmawati Ramdhani<sup>1,\*</sup> Heru Susetyo<sup>1</sup>

<sup>1</sup>*Faculty Of Law, University Of Indonesia, Jakarta*

<sup>\*</sup>*Corresponding author. (E-mail: uwierahma84@gmail.com)*

## ABSTRACT

Human Rights under law No. 39 of 1999 is a set of rights inherent in humans as God's creatures and is a gift that must be respected, upheld and protected by the State, law, government and everyone for honor and protection of human dignity. According to the United Nations (UN) human rights is a right inherent in our own humanity, without which it is impossible for us to live as human beings. The right to education is one of the guarantees of human rights in the economic, social and cultural fields. Education in this case is considered as a means to change the quality of life and welfare of citizens. Indonesia has constitutionally realized the respect for human rights by carrying out ratifications or giving recognition and ratification of international law which was then realized by the birth of several legal rules now applicable nationally. Enrollment of new student using a zoning system, is a new system that used by Indonesian Government, that indicate has a system that no regarding for a achievement students.

**Keywords:** *legal review, human rights, zoning system, enrollment, new students*

## 1. INTRODUCTION

Human Rights are basic rights or basic rights inherent in human beings since humans are created as a gift from God Almighty. This human rights is fundamental for human life. One of kind human rights that we know is a right to get an education. [1]

Human Rights is a right given by god directly to human as basic rights. Therefore, there is no power in the world that can remove it. Humanity has it not because it is given by society or based on positive law, but based on its dignity as a human being. [2]

Jhon Locke, a state science expert, stated that human rights are rights granted directly by God as the creator of natural rights. In its implementation, human rights are divided into several types namely: [3]

### 1. Personal Rights (Personal Rights)

Human rights related to human personal life. Examples of personal rights are as follows,

- The right to freedom of movement, travel and movement.
- Right to freedom of expression or expression.
- Right to freedom of choice and active in organizations or associations.
- The right to freedom to choose, embrace, practice their religion and beliefs.
- The right to live, behave, grow and develop.
- The right not to be coerced and tortured.

### 2. Political Rights

Namely human rights associated with political life, the right to participate in government, the right to choose and be elected. Examples of political rights are as follows.

- The right to vote and be elected in an election.
- The right to participate in government activities.
- The right to create and establish political parties and other political organizations.
- The right to make and submit a petition proposal.
- Rights are appointed in government positions.

### 3. Legal Equality (Legal Equality Rights)

The rights have the same position before the law and government, namely rights relating to legal life and government. Examples of legal rights are :

- The right to equal treatment in law and government.
- The right to become a civil servant (PNS).
- The right to obtain and have a legal defense in a court of law.
- Right to services and legal protection.

### 4. Economic Rights (Property Rights)

Rights relating to economic activities. Examples of these economic rights are :

- Right to freedom of trading activities
- Right to freedom of contract.
- Right to freedom of operating leases and debt.
- The right to freedom to own something.
- The right to enjoy natural resources.
- The right to a decent life.

- The right to improve quality of life.
  - The right to have and get a decent job.
5. Judicial Rights (Procedural Rights)  
The right to be treated equally in court procedures. Examples of judicial rights are as follows:
- The right to legal defense in court.
  - Equal rights to search, arrest, detain and investigate before the law.
  - The right to legal certainty.
  - The right to refuse search without a search warrant.
  - The right to fair treatment in law
6. Social Culture Rights  
Rights relating to social life. Examples of socio-cultural human rights are as follows:
- The right to determine, choose and get an education.
  - Right to teaching.
  - The right to develop a culture that matches your talents and interests
  - The right to develop Hobbies
  - Right to be creative
  - The right to social security
  - The right to communicate

Further than that, Jhon Locke put a human right as individual are endowed by nature the inherent right to live, freedom and ownership, which is their own and cannot removed or taken by state [4]

One of the rights held by citizens is the right to get an education. Education in Indonesia plays an important role in the framework of educating nation life. Education rights include economic rights, social and culture also civil rights and political rights. [5]. Education rights is also needed to fulfill another rights.[6] Graduate from education program with a good mark is condition that should be have to get a job.[7].

This is in accordance with the Opening of the Constitution of the Republic of Indonesia 1945 The fourth alinea, namely: protecting the entire Indonesian nation and all spilling blood of Indonesia, advancing public welfare, educating the life of the nation and participating to carry out world order based on freedom, eternal peace and social justice.[8]According to that statement , every Indonesian citizen is protected and guaranteed by the government through Republic of Indonesia's 1945 Constitution in obtaining the formulated human rights in article 28C paragraph:

- (1) every person has right to develop themselves by meeting needs basically, has right to get education and benefit from science and technology, art. and culture, in order to improve the quality of life and for the welfare of the human;
- (2) Article 28D Paragraph (3) Every person has right to get the same opportunity in government (1945 Constitution of the Republic of Indonesia).

Educational Matters are regulated in Article 31 of the Basic Law of Indonesia Constitution Indonesia 1945 which states:[8]

1. Every citizen has the right in education.
2. Every citizen is obliged to attend basic education and the government is obliged to finance it.

3. The Government undertakes and organizes a national education system by improving faith and piety and noble character in order to educate the life of the nation regulated by law.
4. The state prioritizes the education budget of at least twenty percent of budget for state revenues and expenditures as well as regional income and expenditure budgets to meet the needs of implementing national education.

The government promotes science and technology by upholding values religion and national unity for the advancement of civilization and the welfare of mankind. Education for a nation is certainly an obligation for the state to provide fulfillment to its citizens, especially Indonesia as a rule of law state that prioritizes normative aspects for fulfillment.

Basically Indonesia is a state of law, as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states "The State of Indonesia is a State of Law". The rule of law aims to create a just social order by making law the highest authority. To realize a complete legal state, the legal system must be established (law marking) and enforced (law enforcing) for justice. The concept of the rule of law includes four important elements, namely:[9]

- Human rights;
- The separation or distribution of powers to guarantee those rights;
- Government based on regulations; and
- Administrative justice in disputes.

The discussion about respectness for human rights in essence has been regulated constitutionally in Indonesia through national legal products or through the Ratification of International Treaties.

There is a constitutional protection of human rights with legal guarantees for the demand for the rule of law in terms of granting state obligations to human rights for the community. Protection of human rights is widely promoted in order to promote respect and protection of human rights as the main characteristic of a democratic rule of law.

Literally education is an effort to develop human potential in the form of physical potential, creative potential, potential taste or potential work. Basically education can be interpreted as learning the knowledge, skills and habits of individuals or groups of people who are passed down from generation to the next generation, through teaching, training, or research.

In general, education is a process of learning the knowledge, skills and habits of a group of people passed down from one generation to the next through teaching, training, and research.[10]

In English, the word education is called Education [11] where etymologically the word comes from Latin, namely *Eductum*. The word *Eductum* consists of two words, *E* which means development from the inside out, and *Duco* which means developing. So etymologically the meaning of education is the process of developing one's own abilities and strengths.

Almost all countries in the world realize that education is believed to have the ability to prepare human resources (HR). the hope that arises from the education process is its ability to provide guidance for the survival of life in accordance with the ideological and cultural values of the nation.

Education must be able to provide awareness to each individual of the potential "humanity" they have, and more than that education must be able to stimulate individual students to use this potential in accordance with humanitarian values. Materially, education should be able to provide knowledge that promotes and enhances the quality of life, both on the scale of personal, community and state life.

The awareness of the important position of education for the sustainability of the life of the nation and state makes the government (state) has an obligation to carry out the educational process for its citizens as well as possible.

This is emphasized in the National Education System Law Article 11 point (1), namely the Government and regional governments are required to provide services and facilities, as well as guarantee the quality of education for every citizen without individual discrimination. The Preamble to the 1945 Constitution of the Republic of Indonesia stated that one of the goals of the Republic of Indonesia was to "educate the life of the nation" and for that every citizen of Indonesia was entitled to receive quality education according to his interests and talents regardless of social status, race, ethnicity, religion and gender.

Equitable opportunity and the attainment of quality of education will make Indonesian citizens have life skills so they have the ability to recognize and overcome problems of themselves and their environment, encourage the upholding of civil society and modern society imbued with Pancasila values. Education is the need of every individual and always changes following the times, technological science and culture of society. Education is considered very important because education is a necessity in improving the quality of each individual's HR.

Quality Education will be the main basis in adding insight and knowledge that will shape the character of the nation's successors who are ready to face any situation. The government needs to make continuous improvements to all components in education. The goal of national education can be achieved by formulating a strategy related to the problems of education in Indonesia. The problems of education in Indonesia today include issues of education quality, educational equity and education management. So the Government make many solution to make the problem of education have good enough, the newst one is by zonatitition for the school when they receive a news stundent that governad by the Law No 14 of 2018.

In fact there's some advanteges for students also for school that doing this method, this reserch try to find out, and making solution for the problem.

### ***1.1. Related Work***

Indonesia as the one of the country that respect human right in world, have a a big responsibility to make it true on real world. Education is the most of human right that should be respect by country an other. Receivness for newst student at school nowadays have a diffrent method, According by the law no 14 of 2018, The receivest of student using a zonatitition according by the adress that student live it.

Before the govermant make this method, the receivness of new students using achivment path.The first the receivness of new students using achivment path.The first step,student will be test as first step to see their academic abilities through a series of test results, second step school will see the mark of student from the annual report, so they can knowing intakes student by their report from the eldest school, there so also a path to achievement for new students, for students who have a good achievement in sports and arts. According to the zonatitition, nowadays school only can receive the student that nearest from school according to zona or subdisctrict. According to the rule 95 % of student that nearest to the school should received, and 5 % is for a student with a good achievement.

This method felt unfear for a some student that learn so hard to improve their ability for get education in a best school but they are not in a same zone, in other side this method also make some of school that have a good quality on past, nowadays doesnt god enough because less of student that have a high achievement, it means when eduaction is part a human right, the other side with this method so many student that have a dream to get a good eduaction cant reach it just because of the zone.

### ***1.2. Our Contribution***

This research presents some improvements to analyze zoning system for enrollment a new student In Indonesia .This research also expected to be an input of our knowledge, especially in the field of state law and to provide a legal rievew of system enrollment student in Indonesia..

### ***1.3. Paper Structure***

The rest of the paper is organized as follows. Section 2 introduces the methode that used for this research and also introduced the zoning system as as prosses of enrollmet a new student and also presents an analiize this system according to legal review and human rights the methode that used for this research. Then, the framework on section 3 is making solution of this system for awardness human right in education related to enrollment a news student on zoning system .Section 4. concludes the paper and presents direction for future research.

## 2. BACKGROUND

The form of research in this study is normative juridical research. This research is a descriptive study. The data used in this study is secondary data, in the form of data that is not obtained directly from the field but through library materials consisting of primary legal material from law No 14 of 2018 about acceptance of new students. The Author doing research at Sukabumi, Jawa Barat .

The method uses the statutory approach with the main data, while the second data is produced from interviews with 3 school principals in Sukabumi also representatives from the Education and Culture Service Regional 5 West Java.

An important issue that discuss in this research is about the world of education today is have lack of equitable quality of education in almost every country. In Indonesia, it is still very clear and clear that there are gaps in the quality of education in almost every region. Assistant Director General for Education from The United Nations Educational, Scientific and Cultural Organizations (UNESCO), Qian Tang in the launch of the 2016 Global Education Monitoring (GEM) Report in Jakarta said Indonesia experienced a significant increase in the number of education participation, but the obstacle faced by the Indonesian government was ensuring all the nation's children who go to school get the same quality of education. Qian Tang explained that so far the Indonesian government has focused too much on the graduation rate of students in carrying out basic education, but the equalization of the quality of education has not been a priority of the government. In fact, increasing the number of students attending school will not have a positive impact on national economic growth if students do not get adequate quality of learning. The Ministry of Education and Culture said the results of the Global Education Monitoring (GEM) report were used as a reference and encouragement to continue to develop Indonesian education.[12]

According to Ki Hajar Dewantara, the notion of education is the process of guiding all natural forces that exist in students' children, so that they as humans and as members of society can achieve the highest safety and happiness.

According to Law No. 14 of 2018 states that the education process for the 2019/2020 Academic Year begins with the activities of the New Student Recognition (PPDB) based on zoning. The zoning route is a PPDB selection path using a regional division system into zones, taking into account the geographical location, administrative area, and location of the educational unit for students.

Zone is an area or area that covers several administrative areas at the sub-district and or sub-district level within the closest distance to the education unit organized by the Regional Government and stipulated by the Regional Government. Based on a proposal from the School Principal Work Consultation (MKKS), School Supervisory Work Consultation (MPKS) ) and is approved by the Head of the

Education Office Branch.[13] Permendikbud no 18 tahun 2014 Pasal 16 Point 4.

In the process of implementing the zoning system policy for the 2018/2019 school year, according to the direction of the State Technical Directive the quota was fulfilled and accommodated 90% of prospective students whose domiciles were close to schools, while for achievement students were given a portion of only 10% to get opportunities at favorite schools. then what about student rights achievers to get proper education in accordance with their interests, if the child's area is not included in the desired school zoning area? .

The mention of favorite schools actually does not happen without a reason, things that have good quality, often get a place of interest by consumers, including in this case the services in education, understanding of superior or favorite schools are schools that are developed to achieve excellence and are much in demand in the output (output) of education. To achieve these advantages, the input (input), the process of education of teachers and personnel to education, management, education services and supporting facilities. School can be said to be a favorite and excellent school if it has the following characteristics:

1. Having more complete facilities, infrastructure and facilities.
2. Make a fairly strict selection of registrants.
3. Academic and non-academic achievements above the average school in the area.
4. The learning system is better and the learning time is longer.
5. Get a large interest from the community, as evidenced by the large number of registrants compared to class capacity.

With the policy regarding the acceptance of new students through the zoning system, which is set in the Minister of Education and Culture Regulation No. 17 of 2017, No. 14 of 2018, and No. 51 of 2018, the Ministry argues that the zoning PPDB system aims to improve access to education services in public schools, regardless of the economic class of students' parents. Minister of Education and Culture Muhadjir Effendy said the zoning PPDB also aims to remove the predicate of favorite school.[14]

The Ministry of Education considers that the previous PPDB system, which used exam scores as a basis for admission selection, tended to accept students with relatively high academic achievements who generally came from well-off families. Consequently, students with low abilities, especially those from disadvantaged families, are forced to attend private schools or even risk dropping out

To find out the impact of the implementation of the zoning system on PPDB in Sukabumi Regency on the guarantee of human rights to get a proper education, the authors conducted a study of a sample of SMA and SMK Negeri in Sukabumi Regency. According to the research that has been

done, author find some of problem on zonating system the is the zoning-based PPDB there has an impact not only on the characteristics of students accepted by the school but also the learning process in the classroom. [15]

New students who are accepted through PPDB zoning indeed live closer to public schools than achievement-based PPDB. However, the composition of students accepted through the zoning system has lower grades and is more diverse than students who are accepted through the achievement system. This situation requires teachers in state schools to adapt quickly.

Teachers who are used to teaching students with high average abilities must now teach students with low average grades with very diverse abilities. In fact, the skills needed by teachers who teach high-ability and low-ability children are different. Highly capable children need new challenges and enrichment from teachers to be motivated and improve their abilities. On the other hand, low-ability children need the help of teachers to develop their scientific understanding correctly.

Moreover, the challenge of teachers in teaching children with diverse abilities is more severe than children with relatively homogeneous abilities. Teachers who teach homogeneous classes tend to be able to teach all students in parallel. However, when the class being taught is relatively heterogeneous, the teacher must adjust teaching patterns to accommodate children who are fast and slow in learning. The greater the gap in children's abilities, the greater the teacher's burden in teaching.

The problem is, this ability to teach teachers cannot be done in a short time. As a result, the learning process in the class cannot run optimally and creates shock which actually disrupts the learning process in the classroom. Apart from the problems faced by teachers, students also experience challenges due to heterogeneous class composition. Students who are slow in learning can be left behind by their peers and become uncomfortable in learning.

Then, students who are fast in learning can lose motivation if they don't get challenged. Geographically, school location data in Kita School [16] shows that public schools are not evenly distributed compared to the distribution of prospective student residences.

In Sukabumi, the problem arising from the application of the zoning system to new students are as follows:

1. Not accommodating students who excel because the quota for achieving students is limited to as much as 5% which indicates that the right to get a proper education as a form of respect for human rights is restricted.
2. The quality of education in grade A schools is decreasing, because many high-achieving students cannot take education because it is hindered by the zonatisation system. Students who have good achievements cannot develop their talents and academic abilities because they cannot find a school that can

facilitate them. we also know there are differences between one state school with another, the difference can be seen from the facilities, the quality of teachers, so it cannot be the same between one school and another even in one district. As an example in Kabupaten Sukabumi from 5 school only 3 school that have a language laboratory, its means their have a different facilities even in a same district. [17]

### **3. RECOMMENDATON**

Recomendation for the govermant if they want make zonatonation properly good enough and efisien, is by add more quota for students who have a good acievmnt so they have a same right to get a good education, also the govermant should make a same standar for all the school so by the zonatonation method, every student also have a good eduaction as the respectfullness of human right on education.

### **4. CONCLUSION**

System in the acceptance of new students who are regulated through Law No. 14 of 2018 on the Acceptance of New Students, has several weaknesses namely the loss of human rights of high-achieving students to get proper education because it is constrained by zonating system.

Zone is an area or area that covers several administrative areas at the sub-district and or sub-district level within the closest distance to the education unit organized by the Regional Government and stipulated by the Regional Government. Based on a proposal from the School Principal Work Consultation (MKKS), School Supervisory Work Consultation (MPKS) ) and is approved by the Head of the Education Office Branch.

The decline in the quality of teaching and learning activities in schools, given the intake of students is only based on the proximity of students to school locations based on zonating system.

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