

A Juridical Study of Constitutional Court Decision No. 58/PUU-VIII/2010 on the Right to Education and Non-Discrimination in Indonesia

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ABSTRACT

This study presents a normative juridical analysis of Constitutional Court Decision Number 58/PUU-VIII/2010, which addresses the constitutional right to education and the principle of non-discrimination in Indonesia. The decision represents a significant advancement in Indonesian constitutional jurisprudence, affirming the state's obligation to ensure equal access to education as mandated by Article 31 of the 1945 Constitution. Using a normative legal approach, this study examines the Court's reasoning, relevant constitutional provisions, and the decision's broader implications for human rights and educational equity. The findings show that the Constitutional Court emphasized education as a fundamental and universal right, requiring the state to adopt affirmative measures to eliminate structural inequalities and discriminatory practices in educational policy. The decision aligns national law with international human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Overall, this study concludes that Decision Number 58/PUU-VIII/2010 strengthens Indonesia's constitutional framework for protecting the right to education and reinforces the state's responsibility to promote equality, inclusivity, and social justice within the education system.

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1. INTRODUCTION

Education is a fundamental human right that plays a pivotal role in shaping individual potential, advancing social justice, and fostering national development. In Indonesia, the right to education is constitutionally guaranteed under Article 31 of the 1945 Constitution, which mandates the state to provide quality and equitable

education for all citizens. This constitutional mandate underscores education not merely as a state policy objective but as a legally protected right that must be upheld without discrimination. The principle of non-discrimination, embedded within both national and international human rights frameworks, ensures that every citizen—regardless of gender, ethnicity, religion, or economic status—has equal access to

educational opportunities. The 1945 Constitution, along with the National Education System Law and Human Rights Law, explicitly prohibits discrimination in education [1], while policies such as school-based quality improvement and community-based education aim to enhance educational access and quality [2]. Despite this comprehensive legal framework, challenges persist in achieving non-discriminatory access to education, as discrimination based on SARA (ethnicity, religion, race, and inter-group relations), gender, economic conditions, and disability continues to hinder equality [1]. Furthermore, the need for affirmative regulations and innovative financing schemes remains critical to ensure equitable access to higher education [3]. Education is also viewed as a key instrument for economic growth, poverty reduction, and social mobility, aligning with the philosophy of Pancasila [3], [4], while the national education system aspires to nurture a competent generation capable of contributing positively to Indonesia's sustainable national development [5].

Constitutional Court Decision Number 58/PUU-VIII/2010 marks an important jurisprudential development in Indonesia's legal history concerning the protection of educational rights. This decision emerged from a judicial review of certain legislative provisions that were argued to restrict or create inequality in access to education. Through its ruling, the Constitutional Court reaffirmed the constitutional obligation of the state to eliminate discriminatory practices in the education sector and to promote inclusivity across all levels of society, reflecting a broader commitment to realizing Indonesia's constitutional values of justice, equality, and human dignity. The decision emphasizes the state's obligation to ensure equal access to education and eliminate discriminatory practices, aligning with the constitutional values of justice and equality. The Indonesian Constitution mentions "dignity" in the context of civil, political, and socioeconomic rights, with the Constitutional Court interpreting it as a principle that should be

promoted in socioeconomic contexts, including education [6]. Education is regarded as a fundamental right that contributes to human dignity and identity, necessitating state intervention to ensure equal access and quality [7]. The decision also highlights the importance of judicial protection in realizing the right to education, as unequal application of laws has historically violated this right (Hui, n.d.). Judicial activism and support structures for legal mobilization have been crucial in challenging policies that undermine educational rights, as seen in recent Indonesian court cases [8]. Furthermore, the state bears the responsibility to provide quality education without discrimination, as education is a public domain requiring state presence to protect and fulfill citizens' rights [9]. This landmark ruling thus aligns with the constitutional mandate to ensure equal, quality, and affordable education services for all levels of society [9].

The issue of educational inequality and discrimination has long been a concern in Indonesia. Despite significant progress in expanding educational access, disparities remain between urban and rural regions, public and private institutions, and socioeconomic classes. These disparities often lead to structural inequalities that hinder the realization of education as a universal right. In this context, Constitutional Court Decision Number 58/PUU-VIII/2010 serves as a judicial safeguard, ensuring that state policies and regulations align with constitutional guarantees and international human rights obligations. This study aims to analyze the normative legal implications of the Constitutional Court's decision, focusing on how the Court's interpretation strengthens the right to education and the principle of non-discrimination. By employing a normative juridical approach, the research examines relevant constitutional provisions, statutory laws, and judicial precedents to understand the legal reasoning behind the decision and its broader implications for Indonesia's education policy.

The significance of this study lies in its contribution to understanding how

constitutional jurisprudence can serve as a mechanism for social transformation and equality. The decision analyzed herein not only provides a legal foundation for protecting citizens' educational rights but also reaffirms the judiciary's role in promoting constitutional justice. Ultimately, this paper seeks to highlight the essential role of the Constitutional Court in ensuring that Indonesia's education system functions as a tool for empowerment and inclusivity, rather than perpetuating inequality and exclusion.

2. LITERATURE REVIEW

2.1 *The Constitutional Foundation of the Right to Education in Indonesia*

The 1945 Constitution of the Republic of Indonesia enshrines education as a fundamental right, mandating the state to ensure accessibility, affordability, and quality in education. This constitutional guarantee is further elaborated in Law Number 20 of 2003 concerning the National Education System, which emphasizes equitable educational opportunities. Article 31 of the 1945 Constitution explicitly states that every citizen has the right to education and obliges the government to establish a national education system that enhances faith, piety, and noble character [10], [11]. The state is mandated to allocate at least 20% of the national and regional budgets to education, ensuring financial support for educational initiatives [11], and the National Education System Law aligns with these constitutional directives by promoting equality and inclusivity within Indonesia's diverse population [10], [11]. Despite these strong legal foundations, significant barriers persist, particularly in remote and underdeveloped regions where access to quality education remains limited [10], [12]. Economic disparities, exacerbated by the 1998 economic crisis, have increased the number of children unable to attend school, underscoring the need for stronger state intervention [13]. Furthermore, evaluations indicate that the state has not fully met its obligations to provide equitable education [13], [14]. The

government has initiated various programs to address these disparities, particularly in the 3T (terdepan, terluar, tertinggal) regions, yet such efforts require further strengthening [12]. Ensuring transparency, efficiency, and fairness in managing educational funds remains crucial to improving the quality, reach, and inclusivity of Indonesia's education system [11].

2.2 *The Principle of Non-Discrimination in Education*

The principle of non-discrimination in education is a fundamental aspect of international human rights law, ensuring equitable access to education for all individuals regardless of their background. This principle, enshrined in various international treaties, has been incorporated into the domestic legal systems of countries like Indonesia. It not only prohibits unequal treatment but also mandates affirmative actions to address historical and structural inequalities, thereby promoting substantive equality through access for marginalized groups such as the poor, people with disabilities, and those in remote areas. The right to education is recognized internationally as a fundamental human right, with obligations for states to ensure non-discriminatory access to education [15]. Instruments such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights emphasize the duty of states to provide education without discrimination [16], while the "4A" framework—availability, accessibility, acceptability, and adaptability—guides states in fulfilling these obligations to ensure inclusivity and equity [15]. Domestically, Indonesia has integrated these international principles into its legal framework, including Law Number 39 of 1999, which affirms equal educational rights for all citizens [17]. However, challenges persist, particularly for children with disabilities, due to inadequate funding and infrastructure

that hinder effective implementation of inclusive education policies [17]. Furthermore, practical issues such as social inequalities and limited resources continue to obstruct the realization of non-discriminatory education, emphasizing the need for a dual approach that enhances both meaningful learning experiences and equitable access to institutions offering positional advantages [18].

2.3 *The Role of the Constitutional Court in Protecting Fundamental Rights*

The Constitutional Court of Indonesia plays a pivotal role in upholding constitutional rights through its judicial review mechanisms. Established under the Third Amendment of the 1945 Constitution, the Court functions as the “guardian of the Constitution,” ensuring that all laws align with constitutional principles and uphold equality, justice, and democracy within national legislation. Its authority encompasses examining the constitutionality of laws, resolving disputes between state institutions, and protecting citizens’ fundamental rights from unconstitutional legislative actions. Through judicial reviews, the Court safeguards the supremacy of the Constitution amid political and social pressures [19], [20]. Landmark decisions—such as those concerning legal aid and citizenship equality—demonstrate its proactive stance in advancing substantive equality and non-discrimination [20]. The Court’s constitutional functions include testing laws against the Constitution, resolving authority disputes among state institutions, deciding on the dissolution of political parties, and adjudicating election disputes [21]. Acting as a balance between legislative and executive powers, the Court ensures that governance adheres to human rights and democratic values [20]. Nonetheless, it continues to face institutional challenges, notably the absence of a constitutional question mechanism that would allow citizens to

challenge unconstitutional practices directly. This limitation highlights the need for further legal reform to strengthen the Court’s role as the ultimate constitutional guardian [22].

2.4 *Previous Studies and Analyses of Decision Number 58/PUU-VIII/2010*

The scholarly discussion surrounding Decision Number 58/PUU-VIII/2010 emphasizes its significant implications for ensuring equal access to education and reinforcing the state’s role in preventing discriminatory educational policies. This decision is pivotal in reaffirming education as a public good accessible to all citizens irrespective of socio-economic status, reflecting a human rights-based interpretation of the Constitution that bridges constitutional theory with social justice in practice. Education is increasingly recognized as a non-pure public good, with technology enabling widespread access and dissemination at minimal cost, thereby supporting the notion of universal accessibility aligned with the decision’s emphasis on equality [23]. The ruling underscores the state’s obligation to provide education as a public service and to ensure it remains a right rather than a privilege [24]. Furthermore, the decision aligns with the human rights dimension of education, emphasizing the state’s duty to promote, protect, and fulfill the right to quality education without discrimination [9], while bridging the gap between constitutional theory and social justice to make education an instrument of empowerment rather than exclusion [9]. As a transformative moment in Indonesia’s legal development, the decision establishes normative standards for social equity in education [9] and highlights the need for inclusive and equitable education policies that reflect a multidisciplinary and justice-oriented approach to public policy [24].

3. RESEARCH METHODS

This study employs a normative juridical (doctrinal legal) approach to analyze

Constitutional Court Decision Number 58/PUU-VIII/2010 concerning the right to education and the principle of non-discrimination in Indonesia. This approach examines law as a normative system consisting of principles, rules, and doctrines, focusing on legal reasoning, constitutional interpretation, and the normative implications of judicial decisions within Indonesia's constitutional framework. As Soerjono Soekanto (2006) explains, normative legal research treats law as a prescriptive system that guides legal actors and institutions. In this context, the method is used to evaluate how the Constitutional Court interpreted the right to education and non-discrimination in light of the 1945 Constitution and other relevant legal instruments, including an assessment of the *ratio decidendi* (the reasoning behind the decision) and *obiter dicta* (additional judicial opinions) that contribute to strengthening the legal foundation of educational equity and equality before the law.

The data used in this research are secondary and classified into three categories: (1) Primary legal materials—the 1945 Constitution (particularly Articles 28C, 28D, and 31), Law No. 20 of 2003 on the National Education System, Law No. 39 of 1999 on Human Rights, Law No. 24 of 2003 on the Constitutional Court (as amended), and Constitutional Court Decision No. 58/PUU-VIII/2010 as the central object; (2) Secondary legal materials—books and academic writings by Indonesian and international scholars such as Jimly Asshiddiqie, Bagir Manan, Satjipto Rahardjo, and Philip Alston, as well as journal articles, dissertations, and commentaries on constitutional law, human rights, and education law, complemented by reports from institutions such as UNESCO, Komnas HAM, and the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek); and (3) Tertiary legal materials—legal dictionaries, encyclopedias, and online legal databases that provide conceptual clarity and access to constitutional references. Data collection is conducted through a systematic documentary or library study, involving the collection, reading, and

analysis of legal documents and academic literature. The steps include identifying and gathering relevant legal materials, examining the full text of the Constitutional Court's decision, comparing its reasoning with constitutional provisions and human rights standards, and synthesizing findings from scholarly sources to contextualize the decision within Indonesia's broader education and equality framework.

The data analysis method applied is qualitative normative analysis, involving logical reasoning, legal hermeneutics, and comparative evaluation. The process includes: (1) identifying the main legal issues addressed in the decision, especially regarding the right to education and non-discrimination; (2) interpreting legal norms by analyzing the Court's reasoning and consistency with constitutional principles; (3) systematizing related norms to understand their structure and interrelation; (4) evaluating the Court's reasoning in light of constitutional doctrines, international human rights principles, and social justice objectives; and (5) drawing conclusions that highlight the decision's legal implications for protecting the right to education and eliminating discrimination. This descriptive-analytical approach ensures that the study not only presents the legal substance of the Court's ruling but also critically assesses its significance, coherence, and contribution to advancing justice and equality in Indonesia's constitutional jurisprudence.

4. RESULTS AND DISCUSSION

4.1 *Background and Substance of the Case*

Constitutional Court Decision Number 58/PUU-VIII/2010 originated from a judicial review petition filed by several parties who questioned the constitutionality of certain provisions in Law Number 20 of 2003 on the National Education System. The petitioners argued that these provisions potentially led to inequality and discrimination in educational access, particularly for marginalized communities with limited economic resources. The main contention centered on the implementation of cost-

sharing mechanisms and school autonomy, which, according to the petitioners, created unequal educational opportunities between privileged and underprivileged groups, thereby violating Article 31 of the 1945 Constitution, which guarantees every citizen the right to education and obliges the government to fund basic education.

Law Number 20 of 2003 has also been criticized for containing legal ambiguities and conflicting norms that complicate its implementation and enforcement [25]. Such inconsistencies can lead to varied interpretations of educational policies, exacerbating inequalities in access. The law mandates shared financial responsibility among the central government, regional governments, and the community, but this cost-sharing mechanism may disproportionately burden marginalized groups lacking the financial capacity to contribute equally, ultimately widening the gap in educational quality and accessibility [11].

Additionally, the RSBI (International Standard School Pilot) program has been cited as an example of discriminatory policy implementation, as it provided superior resources and facilities to selected schools, resulting in unequal treatment of students [26], [27]. The Constitutional Court eventually revoked the RSBI policy, ruling it inconsistent with constitutional principles guaranteeing equal educational rights for all citizens [27]. The equality of educational rights is also deeply influenced by socio-economic factors, requiring continuous efforts to balance economic and educational resources to achieve true equity (Jia & Liao, n.d.). In light of these conditions, the petitioners contended that the state had failed to fully uphold the principle of non-discrimination, prompting the Court to examine whether the legislative provisions under review were consistent with constitutional guarantees of equality and the right to education.

4.2 *Legal Reasoning of the Constitutional Court*

In Decision Number 58/PUU-VIII/2010, the Constitutional Court of Indonesia provided a comprehensive constitutional interpretation that reaffirmed the state's obligation to guarantee inclusive and non-discriminatory education for all citizens. The Court emphasized that education is not merely a social policy but a constitutional right, as stipulated in Article 31 paragraph (1) of the 1945 Constitution, which mandates the government to ensure that every citizen, regardless of background or economic status, enjoys equal access to education. It also underscored the government's positive duty to formulate and implement effective educational policies, including the provision of adequate funding, infrastructure, and qualified teachers, while cautioning against the excessive delegation of educational responsibility to private institutions or market mechanisms that could foster inequality.

The Court's reasoning was grounded in the principles of non-discrimination and social justice, referencing Article 28I paragraph (2) of the Constitution, which prohibits any form of discrimination. The Court noted that inequality in education may stem not only from direct exclusion but also from systemic barriers such as uneven resource allocation and biased policy implementation. Equality, it asserted, should not be understood as uniformity but as fairness in opportunity, thereby requiring affirmative actions to assist marginalized and economically disadvantaged groups. This perspective aligns with the state's constitutional duty to uphold justice and equality before the law, ensuring that education serves as a means of empowerment rather than exclusion.

Furthermore, the Court integrated principles from international human rights instruments, including the Universal Declaration of Human Rights

(1948) and the International Covenant on Economic, Social and Cultural Rights (1966), both of which position education as fundamental to human dignity and development. Complementing these interpretations, Government Regulations No. 47/2008 and No. 48/2008 mandate compulsory and free education up to high school through the School Operational Assistance (BOS) program, aimed at promoting equitable access and justice-based education [28]. However, persistent disparities in resources, poverty, and regional management highlight the need for stronger implementation [10], [13]. In conclusion, the Constitutional Court's decision emphasizes that education must remain accessible, equitable, and non-discriminatory, strengthening the constitutional and moral obligation of the state to uphold educational justice as a cornerstone of national development [7].

4.3 Implications for the Right to Education and Non-Discrimination

The Constitutional Court's Decision Number 58/PUU-VIII/2010 carries profound normative and practical implications for Indonesia's educational and human rights framework. It strengthens the constitutional guarantee that education is an inherent right of every citizen, mandating that all laws, regulations, and government programs align with the principles of equality and non-discrimination. This decision obliges the state to prioritize equitable funding and access to education, particularly in rural and underdeveloped regions, by effectively implementing the constitutional requirement to allocate 20% of national and regional budgets for education, as stated in Article 31 paragraph (4) of the 1945 Constitution. Furthermore, it reinforces the legal foundation for inclusive education policies that serve students with disabilities, minority groups, and those from economically disadvantaged families, in line with global commitments such as the UN Sustainable Development Goal 4 (SDG 4), which advocates for

inclusive and equitable quality education for all.

Beyond fiscal and policy reform, this ruling establishes a vital judicial precedent for future constitutional reviews involving socio-economic rights, affirming that the Court can intervene when legislation or policies conflict with constitutional principles of justice and equality. The decision also promotes the integration of human rights perspectives into Indonesia's national education law, positioning educational institutions as agents of empowerment and social mobility rather than exclusion. By linking the right to education with the broader ideals of human dignity, equality, and social justice, the Court's interpretation reaffirms the state's constitutional and moral responsibility to create an education system that is accessible, fair, and transformative for all citizens.

4.4 Broader Constitutional and Social Impacts

The implications of Constitutional Court Decision Number 58/PUU-VIII/2010 extend beyond the legal sphere into broader social and constitutional contexts. The decision reaffirms the supremacy of the Constitution as the highest legal authority, ensuring that all state actions conform to its provisions and principles. By interpreting education as a constitutional right, the Court strengthens the rule of law, enhances government accountability, and compels the state to address educational inequalities as part of its obligation to promote social welfare, as enshrined in the Preamble of the 1945 Constitution. Moreover, the ruling encourages participatory governance by empowering citizens and civil society organizations to demand equitable education and challenge discriminatory policies, thereby increasing civic awareness and public engagement in education policy-making.

The decision also aligns Indonesia's legal and educational systems with international human rights

standards, particularly the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), which affirm the right to universal, equitable, and quality education. Beyond policy implications, the ruling contributes to the evolution of Indonesia's constitutional jurisprudence by advancing the understanding of social and economic rights. It marks a doctrinal shift from formal equality—treating all citizens identically—to substantive equality, which emphasizes fairness and equity based on individual needs and circumstances. In doing so, the Constitutional Court reinforces the transformative function of constitutional law as an instrument for achieving justice, inclusivity, and sustainable national development.

5. CONCLUSION

Constitutional Court Decision Number 58/PUU-VIII/2010 stands as a landmark ruling that reinforces Indonesia's constitutional and moral commitment to safeguarding the right to education and eliminating all forms of discrimination. The Court's interpretation affirms education as a fundamental constitutional right that the state must equitably protect and promote, ensuring fair access for all citizens regardless of their economic, social, or geographical

background. This decision strengthens the legal foundation for educational justice by embedding the principles of equality and inclusivity into Indonesia's constitutional identity. It also demonstrates a progressive constitutional interpretation that integrates international human rights norms, thereby harmonizing domestic law with global standards on the right to education. From a normative standpoint, the ruling compels policymakers to formulate equitable and inclusive educational regulations, maintain consistent budgetary support to reduce disparities, and use this decision as a constitutional benchmark for future judicial reviews concerning education-related legislation.

Ultimately, this decision serves as both a legal and moral compass for Indonesia's education system, ensuring that education remains a tool of empowerment rather than exclusion. It reflects a paradigm shift from formal to substantive equality—emphasizing fairness in access and opportunity rather than mere uniformity in treatment. Furthermore, the ruling underscores the judiciary's vital role as the guardian of constitutional justice, reaffirming the state's obligation to advance social welfare and uphold human dignity. By aligning Indonesia's constitutional framework with the ideals of justice, equality, and inclusivity, Constitutional Court Decision Number 58/PUU-VIII/2010 contributes significantly to the nation's pursuit of a more democratic and equitable society.

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