



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 85/PUU-XXI/2023**

**Concerning
Zoning System in New Students Admission**

Petitioner	: Leonardo Siahaan
Type of Case	: Judicial Review of Law Number 20 of 2003 concerning National Education System (Law 20/2003) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Judicial Review of Article 11 paragraph (1) of Law 20/2003 against 1945 Constitution
Verdict	: To dismiss the Petitioner's petition in its entirety
Date of Decision	: Wednesday, 27 September 2023
Overview of Decision	:

The Petitioner as an individual Indonesian citizen has constitutional rights as regulated in the 1945 Constitution and these rights have the potential to be harmed by the application of the Article being petitioned for review by the Petitioner. The constitutional rights granted by the 1945 Constitution to the Petitioner and used as a legal ground for review are Article 28C paragraph (1) and Article 31 paragraph (1) of the 1945 Constitution.

Regarding the authority of the Court, since the Petitioner petitions for a judicial review of the law, *in casu* Article 11 paragraph (1) of Law 20/2003 against the 1945 Constitution, the Court has the authority to hear and decide on the *a quo* petition.

Regarding the legal standing of the Petitioners, because the Petitioners have been able to describe the presumed loss of the Petitioners' constitutional rights as guaranteed in the 1945 Constitution due to the enactment of Article 11 paragraph (1) of Law 20/2003 submitted in the *a quo* petition, therefore, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the *a quo* petition.

In connection with the constitutionality issue questioned by the Petitioner, it cannot be separated from the substance of Article 11 paragraph (1) of Law 20/2003 which states, "The Government and Regional Government are required to provide services and facilities, and guarantee the implementation of quality education for every citizen without discrimination". The substance of Article 11 paragraph (1) of Law 20/2003 is the implementation of the Preamble to the 1945 Constitution. The provisions of such norms cannot be separated from the "Basis of Remembering" of Law 20/2003 which is the spirit of the formation of the norms of Article 11 paragraph (1) of Law 20/2003. In addition, hierarchically the Preamble to the 1945 Constitution has mandated the Government to protect the entire Indonesian nation and all of Indonesian people and to promote general welfare, educate the life of the nation, and participate in implementing world order based on freedom, eternal peace and social justice. Furthermore, the 1945 Constitution also mandates the Government to strive for and implement a national education system that increases faith and devotion to God Almighty as well as noble morals in order to educate the life of the nation. Therefore, the national education system is expected to be able to guarantee equal distribution of educational opportunities, improve the quality and relevance and efficiency of education management to face challenges in accordance with the demands of changes in the local, national and global life so that it is necessary to reform education in a planned, directed and sustainable manner (*vide* Considering

Section letters b and c of Law 20/2003);

Furthermore, by looking closely, the Petitioner wishes for the provisions in Article 11 paragraph (1) of Law 20/2003 to be interpreted so as not to cause discrimination in the admission of new students using the zoning system. Regarding the Petitioner's wishes, the Court is of the opinion that the zoning system is one way of new students' admission that uses regional restrictions that are linked to the minimum and capacity of the school. Therefore, whatever system is chosen for new students' admission, including any other methods such as affirmation, transfer of duties of parents/guardians, and/or achievements [*vide* Article 11 paragraph (1) of the Minister of Education and Culture Regulation Number 44 of 2019 regarding Admission of New Students in Kindergartens, Elementary Schools, Middle Schools, High Schools and Vocational High Schools], that is just a method in the management of a system for new students admission. Therefore, without intending to assess the legality of the Minister of Education and Culture Regulation Number 44 of 2019, the Court is of the opinion that the Petitioner's argument is actually not related to the issue of the constitutionality of the norms of Article 11 paragraph (1) of Law 20/2003. This is because the provisions in the norms of Article 11 paragraph (1) of Law 20/2003 have ordered the Government and Regional Governments to provide quality education for every citizen without discrimination. Therefore, the Petitioner's argument is irrelevant for further consideration because the issue of new students' admission using the zoning system is implemented according to the laws and regulations under the law in accordance with the provisions of Article 11 paragraph (1) of Law 20/2003. Therefore, the Court is of the opinion that the norms of Article 11 paragraph (1) of Law 20/2003 are in line with the spirit and objectives of the state as stated in the Fourth Paragraph of the Preamble to the 1945 Constitution.

Pursuant to these legal considerations, the Petitioner's argument regarding the provisions of Article 11 paragraph (1) of Law 20/2003 giving rise to discriminatory treatment towards new student admissions using the zoning system is not an issue of the constitutionality of norms, but even if the argument of the Petitioner is correct, this is an issue of implementation of the norms instead of the constitutionality of the norms of Article 11 paragraph (1) of Law 20/2003. Therefore, the Petitioner's argument regarding the interpretation of Article 11 paragraph (1) of Law 20/2003, which according to the Petitioners, is contrary to Article 28C paragraph (1) and Article 31 paragraph (1) of the 1945 Constitution and therefore it is conditional and does not have binding legal force, provided that it is not interpreted as the description stated in the *Petitum* of the *a quo* petition, such argument is legally unjustifiable.

Accordingly, the Court subsequently handed down a decision whose verdict states to dismiss the Petitioner's petition in its entirety.

Dissenting Opinion

Regarding the *a quo* decision of the Constitutional Court, Constitutional Justice M. Guntur Hamzah has a dissenting opinion as follows:

Within the limits of reasonable reasoning, the Petitioner, who has not directly experienced a constitutional loss, cannot immediately use the constitutional loss of his younger sibling as a loss of his constitutionality, except with a power of attorney to represent his younger sibling's interests to submit the petition to the Constitutional Court. Even if the Petitioner has received the power of attorney from his younger sibling, *-quad non-*, then it must also be considered whether the Petitioner's younger sibling is competent to make the power of attorney to the Petitioner. If the Petitioner's younger sibling is not yet competent, then the Petitioner's younger sibling through their parent or guardian may give such authority to the Petitioner. But in this Petition, once again, the Petitioner actually acted on behalf of himself as a party who believes his constitutional rights had been violated due to the enactment of Article 11 paragraph (1) of Law 20/2003. Moreover, the Petitioner is not of school age.

Whereas in the absence of constitutional loss to the Petitioner, therefore (*eo ipso*), in my opinion, clearly, there is no apparent loss caused by Article 11 paragraph (1) of Law 20/2003 in the *a quo* Petition. In other words, the Petitioner has no legal standing in the *a quo* petition. Therefore, once again, the Petitioner's Petition should have been declared as inadmissible (N.O/ *niet ontvankelijke verklaard*)