Ratio Legis on the Right to Language in the Education System in Timor Leste

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Abstract
The East Timor obtained its independence through a referendum conducted by the United Nation (UN). The constitution of the Democratic Republic of Timor Leste (RDTL) officially enacted on 20th of May 2002. The language clause with the constitution, article 13 states that the official language of East Timor is Tetun and Portuguese. Based on the language clause mention above, the government of East Timor puts a policy in place, obligated all level of educational system to only use Portuguese in their activity. This policy, however, gets fierce rejection especially from private educational institutions because of its inconsistency with the new reality. According to the data from the United Nation (UN), actually, only less than 5 percent of the Timorese speaks Portuguese. in this research, there are 2 legal issues emerged. The first is about the language as a constitutional right of citizens. Secondly, use of Portuguese language in the education system in East Timor to human rights?. To analyze the legal problems, this research utilizes the qualitative and legal method. And, it can be successfully proved that the implementation of language clause of East Timor The government policy does not consider the legal principle of proportionality justice and then to be discriminative for Timorese who use Tetun and other national languages, which are important to be developed by the nation as well. The conclusion that the use of Portuguese language violated constitutional rights and impedes the quality of education.

Keywords: Language; Education System; Constitution; Human Rights.

Introduction
East Timor gained independence through a referendum organized by the United Nations (UN) on May 20th 2002 the constitution of Democratic Republic of East Timor, officially entered into force, and in the constitution governing language contained in article 13 which the official language of the East Timor countries as Tetun and Portuguese. In the provisions of article 59 paragraph C, the state must guarantee
all citizens, according to ability, the opportunity to enter school or be involved in the highest level of education, carry out scientific research and artistic creativity. Article 159 states Indonesian and English as the working language of East Timor.

We observe in the provisions of article 59 and article 159 that it is against the government policy to implement in the education curriculum and all government activities use Portuguese, whereas according to data taken from the\(^1\) UN development in 2006 only less than 5 percent of the population can speak Portuguese. Because many problems arise students from middle school junior high school first until their students do not understand the meaning of material given from the teacher to them, instead they only understand the language given by the teacher to students with the rote system. Due to many problems that arose, on October 15th 2016 East Timorese president Taur Matan Ruak issued a statement and criticized proceedings in Portuguese. Because the parties involved in the process did not understand clearly what was conveyed by the judge to suspect, defendant, or a convicted person.\(^2\) this factor will hamper the quality of education and also violated the constitutional rights of citizen. Nor will the achievement of good governance be achieved.

Language in Timor Leste consist 36 languages including Tetun. Mambae, Bekais, Bunak, Dawan, Fataluku, Galole, Habun, Idalaga, Laklei, Kawaimia, Kemak, Lovaia, Makalero Makasae, Tekodede, Wetaresa, Naueti.\(^3\) Some of these languages are the language of communication between one tribe and another. But these languages are only used for small groups people in that area. Meanwhile, the Mambae language is mostly spoken by 5 Districts, namely Ermera, Manufahi, Aileu, Ainaro and Dili Districts. 40 percent of the of East Timor population of 1,3 Millions, Tetun is spoken by 80 percent of the 13 districts in Timor Leste. Meanwhile, only 5 percent of Portuguese speakers are also the older generation whose that age is ever 55 years old, data from UNDP in 2006 in my research in 2017

\(^1\) Repository Unwira, ‘Data Dari Pembngunan PBB (2006)’ <https://www.repository 2019/unwira.ac.id> accessed 19 October 2019.

\(^2\) Berita Nasional Timor Leste (TVTL), ‘Sebaiknya Di Pengadilan Menggunakan Bahasa Tetun Supaya Para Pihak Mengerti Apa Yang Disampaikan Oleh Para Hakim’ (2015).

\(^3\) Paiseco Luis, ‘Lingua Materna En Timor Leste’ [1980] Institustu Camoes.[1].
samapai 2019, the people of East Timor that can speak Portuguese only 6.5 percent in a period of 13 years the Portuguese has not developed, there is only an additional 1.5 percent of the population of Timor Leste that can speak Portuguese.

Article 59 of the East Timor constitution says the government is obliged to create quality education for citizens. On the other hand, the government policy to use Portuguese language in the education system from primary schools to university, forgets the that realizing quality education in language is a determining factor in improving this education, on the other hand. The Portuguese language is only less than 5 percent in 2006 and 6.5 percent in 2019. This is that the government policy has violated human rights to get a good education. And contrary to international covenant on social-economic ad cultural rights.

From 1976 to 1999 East Timor still joined with the republic of Indonesia during 24 years, in fact the people of East Timor around 43 percent of the population can speak Indonesia language properly and correctly because the Indonesian government was very open to the people of East Timor at the time, the younger generation could get scholarships to continue their education at university in Indonesia. The regulation of language in the East Timor constitution after gaining after independence is regulated in the constitution of Article 13 that the official language of the state is Tetun and Portuguese, and Article 159 that the working language are Indonesian and English. How over, the implementation does not use Indonesian and English of the workers, because the majority of the older generation that during 24 years East Timor is still a province of Indonesia, they live in Australia, Portugal, and Mozambique cannot speak Indonesian, therefore the application of Portuguese language is for benefit of the group them. But, harms society at large.

The data obtained shows that in the implementation of the national exam for senior secondary school Tetun is not including as the main language in the exam, on the other hand Portuguese language is included as one of the important materials in the national curriculum. This is of course the language of the original identity of the people of East Timor and also the cultural representation of East Timor is a language but not Portuguese language.
Based on background and seeing the impact of using Portuguese in the education system in East Timor will hinder the quality of education itself and also hinder good governance in running government in public services in the life of the nation and state has violated human rights to get access to quality education in accordance with mandate of the constitution Article 59 therefore the author raises two issues as follows: what is language as a constitutional rights of citizens? and what use Portuguese language in the education system to human rights? In this study the research uses a qualitative method, the approach, which examines the concept of human rights against a statutory approach by examining all policy and legislation related to human rights and a historical approach studying the history of East Timor adopting Portuguese language in constitution.

The concept of legis ratio according to Satjipto Rahardjo has similarities with the principle of law, which is made, then we will understand the ethical directions of a statutory regulation. Thus we can develop an effective structure building with existing regulations. From the opinion above, it is clear that in building a legal order there needs to be a harmonization between the new regulations and the existing regulations, both equal and higher, given that the law is a unified system in the sense that the law is an order of one unit intact, consisting of elements that have interactions between one regulation and another to work together to achieve the goals in the unity, according to the opinion of Sudikno Mertakusumo.

Talking about legis ratio is the same as discussing about legis ratio philosophy about the use of Portuguese in the legal system, we must focus on 3 aspects which become the main foundation of the first philosophical study on the aspects of ontology, epistemological and axiological aspects. These three aspects in philosophy we are familiar with the direction of all science. Legal ontology discusses the nature law, epistemology of law according to positive flow discussing the validation of norms whereas the axiology is the teaching of values related to the purpose of law.

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4 Satjipto Rahardjo, *Ilmu Hukum* (Citra Aditya Bakti 2000).[4].  
5 Ali Z, *Filsafat Hukum* (Sinar Grafika 2011).[116].
Language is a system this means that language is formed by a number of components whose patterns are constant and can be addressed, the language system is in the form of sound symbols, each language symbolizes something called meaning or concept. Because each sound symbol has or states a concept or meaning, it can be concluded that every language word has a meaning. For example a language symbol that reads. Rice symbolizes the concept or meaning of something that people can eat as staple food has been said to be concluded that among the characteristics of language are arbiter, productive, dynamic, diverse and humane. The language is divided into 4 first parts, language as a means of communication. Second, language as a cultural element, the there languages as a marker of social stratification and finally language as a symbol of ethnic and culture.

Definition language the understanding of language is one of the important connectiong tools between fellow humans, therefore language can be said to be very fundamental in communicating. The literal meaning of language is the means used by every human being as a means of communication in interactions with other human, how language begins in writing that appears after language is known to be not as easy as written history. Many people think that differences in types and versions and theories in explaining the origin of language have been debated by historian so that there is not general agreement about the meaning of language that clearly expressed. Even so, data from various sources obtained can be concluded that the number of language in the number of language in the world in very diverse, and from these languages is estimated that there are 6000 to 7000 languages.

Natural language is the processing of which are called signalling as a second medium that can be equalized using audio, tactile or visual simulations. Example of language that use the second medium braille, graphic writing and whistling, the language used as a communication medium is independent of the modality as a thinking infrastructure and a means of supporting the growth of science and technology. As basic concept, language refers to cognitive abilities that study

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6 Herlina Lilis, *Bahasa Dan Produk Hukum* (PT Rafika Aditama 2015).[23].
7 Tudung Mulia Lubis, *Ragam Bahasa Hukum* (PT Rafika Aditama 2002).[35].
complex communication system, from the whole language is a semiosis process that connects signs and meanings. If a language is still in doubt, then there is an organized and generally agreed symbol system to produce learning methods that are used as presenters when communicating. In ancient times, language has become the main tool in channeling values and moral beliefs, including in art and belief or religion.

Richard S. Key constitution is the implementation of legal rules or rule of law in the relationship between the community and the government. Constitutionalism creates a wide range of situations and fosters a sense of security because of the limitations on the powers of the government that were set earlier. Cart J Fredrick’s constitution is asset of activities created by the council on behalf of the people, but it is subject to some restrictions and hopes to ensure that the powers needed for governance are not misused by those who have the task of governing. Meriam Budihardjo. The constitution is a charter which states the ideals of a nation and the basis for the organization of a nation. In it contains various basic and main regulations related to the distribution of power, the ideals of the country, state ideology, laws, sovereignty over political, economic issues and so on.

The in addition to constitutional rights, there is also a concept of human rights. The notion of human rights is a legal concept which states that humans have inherent rights because they are human rights apply anytime, anywhere and to anyone. So it is universal in principle, human rights can not be revoked, human rights can not be divided and interconnected, and are interdependent. Human rights are usually addressed to the state, in other words, the state that has the obligation to respect. Protect, and fulfil human rights to prevent and take action against violations committed by other parties.

In modern terminology. Human rights can be classified into civil and political rights relating to civil liberties such as the rights to life. The rights not to be tortured and freedom of opinion, as well as economic, social and cultural rights related to

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\[8\] ibid. [6].
access to work in government and the rights to education, and the rights housing. Conceptually human rights can be based on the belief that these rights are naturally bestowed by one god. Meanwhile, those who the use of natural elements believe that human rights are the stewardship of values that are agreed upon by society. Others regard human rights as representative of the claims of those who are oppressed. At all, and claim that human rights only exist because they spark and talk about the concept. From the standpoint of international human rights law itself can be limited or reduced on certain conditions. Restriction usually have a legitimate purpose. Necessary in a democratic society. Meanwhile, the reduction can only by done in an emergency that threatens the life of the nation. The outbreak of war was not sufficient for this condition. During the war, International humanitarian law acts as a lex specialis, even so, a number of rights still cannot be excluded under any circumstances, such as the rights to be free from slavery or torture.

Ancient society did not recognize the concept of universal human rights like modern society, the real pioneer of the human rights discourse was then concept of natural rights which was developed in the enlightenment and later influenced political discourse during the French revolution. The concept of modern human rights emerged in the second half of the century twentieth, after the formulation of a general statement on human rights in Paris in 1948 since then human rights have experienced rapid development and are like the code of ethics that is accepted and enforced globally. Human rights at the International level are overseen by the human rights Council and United Nations Treaty bodies such as the human rights committee and the economic, social, and culture. While at the regional level human rights are upheld by European Human rights courts, American human rights as well as African human rights and population rights courts. International Covenant on civil and political rights and International Covenant on economic, Social and Cultural Rights have been ratified by all countries in the world.

Language in cultural structures has a dual position, function and cultural products that also function as a means of supporting the growth and development of science and technology. Without the role of the language of science nothing will
develop. The implication in the development of reasoning makes language a modern thinking infrastructure. Therefore, if we are careful in using language, we will also be careful in thinking because language is a reflection of the power of (reason).

Holding on to that formulation, it is said that one can not possibly be an intellectual without mastering language. Intellectual people who certainly think of course need language in the thought process. Language as a tool for national culture development, and science and technology. The correct languageis the language that has the right taste value and in accordance with the situation of the user. The use of good and correct language will produce good and right thoughts as well. The fact that the national language of a nation as a form of language identity is a means of communication in modern society.

The more developed technology in our lives will also have an impact on the development and growth and development of culture, science and technology. In this globalization era East Timor must play a role in the world of free competition, both in the political, economic and communication fields. New concepts in the growth and development of science and technology directly enrich the authentic language of their own country, thus, all culture products will grow and develop in accordance with the growth and development of science and technology, including national languages. As well as acting as a thinking infrastructure and a means of supporting technological growth and development To do wise action. of these laws and regulations can be a reference when a law and regulation comes into force and is binding.

This type of research is normative research because what is studied is philosophy and fact which is obtained from the source related to the subject matter examined, namely norms in the field of law concerning the legis ratio of the Use Of Portuguese In The Education System In East Timor. Place of research namely: the Dili district, in East Timor, Canossa high school, and the Universidade da Paz (UNPAZ).

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9 Peter Mahmud Marsuki, *Penelitian Hukum* (1st ed., Kencana Prenada Media Group 2005).[93].
The approach used in research to find the two problems faced is the (statute approach), the (case approach), the (conceptual approach) and (comparative approach). To find problems with the use of Portuguese in the education system in East Timor.

**Language as a Constitutional Right of Citizen**

Constitutional Rights. The East Timor constitutional regulated language in Article 13. Therefore, this section will explain the concept of constitutional rights. Constitutional rights are the norms contained in the constitution, not only governing the organization of state institution, but also relations between one another, and give birth to constitutional authorities, also regulated the relationship between the state and citizens in the context of the state’s authority in relation to the people’s constitutional rights, in relation to state power. The rights of citizens are regulated in the constitution as protection from action that may be carried out by the administration of the state as the holder of the people’s sovereignty. The manifestation of democracy is not only visible from those that have the seat of state power through the people’s suffrage which is one of the constitutional rights. It can also be seen from the rights stipulated in the constitution.10

Things that cannot be violated by the administration of the state in exercising state power, namely either as citizen’s rights or a human rights in the constitution which is a rights inherent in human dignity from birth, such as the rights to life, the rights to be treated equally and to obtain legal certainty and justice, as well as other rights. These human rights actually do not depend on the state, therapy has existed or was born.11 Constitutional rights can also be seen reciprocally with the constitutional obligations of the state which are mentioned in the constitution, concluding that there are constitutional rights as an inseparable part of every citizens

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10 A. Ahsin Thohari, *Hak Konstitusional Dalam Hukum Tata Negara Indonesia* (PT Gelora Aksara Pratama 2016).[45].
11 Virgayani Fattah, ‘Hak Asasi Manusia Sebagai Jus Cogens Dan Kaitannya Dengan Hak Atas Pendidikan’ (2017) 2 Yuridika <https://e-journal.unair.ac.id/YDK/article/view/4775>.[3].
and attached to the obligations of the state. For example. The state’s obligation to improve the welfare of its citizens and provide proper education and language that is easy to understand is a constitutional right of citizens. Therefore, in addition to constitutional rights which can be seen explicitly written in the constitution and there are also things that must be concluded from the obligations of the state and the obligations of citizens because the rights and obligations can not be separated from one another.

Constitutional rights of citizens there are several rights granted by the constitution though the norms that formulate the goals of the state, in the fields of education, economic, and politics. The supremacy of the constitution which is a doctrine in state administration rest on the recognition of the constitution as the source of legitimacy in all policies. Both in the legal and economic and social fields. In guarding the constitution on legislative action in the form of constitutional review of the resulting legislation, measured from the written norms in the constitution.

All countries in the world admit to having their respective constitutions from the purpose of a state. As stipulated in the constitution for the welfare of citizens. Both in the fields of economy, politics and human rights. The relationship between rights and obligations is constitutional authority. As a rule of law based on the constitution, the limits on the exercise of state power can be measured from the protection of the rights of citizens provided by the constitution. There are actions or actions that are prohibited. If they violated the rights of their citizens which have been given to them by the constitution. Hence the action is unconstitutional.

**Elements or Content of Constitutional Rights**

Constitutional rights are part of the rights of citizens guaranteed in the constitution so that it is unconstitutional if there are mistakes or violations from public officials or state institutions such as the presidential body, parlementary institution, or judicial institution in committing actions that violate the constitutional rights of citizens. Country constitutional or unconstitutional is a form of constitutionality testing or negligence or action of state officials resulting in
violating the constitutional rights of citizens. Then, it is submitted to the court to test the constitutionality of the policy of the public official is constitutional or unconstitutionuonal. Constitutional complaint is a method of constitutional complaint as a means of protecting the rights of citizens, constitutional complaints are the last legal means to defend constitutional rights for every citizens thus an effort to protect constitutional rights. Constitutional complaint is one form of the implementation of constitutional democracy, namely control from the people to restore constitutional rights guaranteed by the constitution.

Constitutional rights of citizens. Constitutional rights are basic rights which are later adopted in the constitution including human rights and citizens rights guaranteed in the constitution and apply to every citizens, considering that the function of law is to provide protection for individuals and the basic rights of these individuals, specially citizens. The three basic rights become constitutional rights. In a country of law such as East Timor the basic rights or human rights of every citizens which later become constitutional rights, must not only be respected, but must be fully guaranteed.

Hans Kelsen stated that the implementation of constitution rules regarding legislation can be effectively guaranteed if organ other than the legislative body is given the task of examining whether a legal product is constitutional or not. And also not to treat it according to this organ. Hence, the product of the legislative body is unconstitutional. Hans Kelsen’s put idea regarding the judicial review of the law, it in line with the idea forward. by Muhammad Yamin at the trial of the investigative body of the preparation for Indonesian independence.

The Use of Portuguese in the Education System to Human Rights

East Timor government implements Portuguese in the education system too hastily and does not go through a comprehensive study, because language is a determining factor for the advancement of a nation’s education. More over, East

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12 Damanhuri Fattah, ‘Teori Keadilan Menurut John Rawls’ (2013) 9 Jurnal Tapis.[31].
13 Hans Kelsen, General Theory Of Law And State (1961).[157].
Timor gained independence during the industrial revolution 4.0 is a challenge to defend itself in the midst of increasingly complex relations between nations, for that the East Timor nation must prepare themselves and must be proud to use their own language in daily life. In the learning process because language is a process of thinking someone to formulate a concept to solve a problem.\footnote{14}

Then in the teaching and learning process especially the teachers must be better mastered language that will be taught to students. If this problem does not materialize then the goal of the state to create the quality of education that is aspired to in the constitution will not be realized. If the government is responsive to dynamics of Portuguese language mastery by the majority of the community, the government will not forced the resilience to implement Portuguese language in the education system. Because the East Timor People only less than 5 percent of people understand Portuguese it is also only the older generation. While the younger generation is not enthusiastic about learning Portuguese, whereas thousands of younger generations are more I choose to from the data above, it can be application of Portuguese in the education system in East Timor hampered the quality of education, because teachers who are the foundation in developing the task of integrating citizens. Will be an obstacle to preparing Young people for the era of industrial revolution 4.0 will be very behind the nation others. Because East Timor still faces language barriers while other nations have entered the digital era. According to the data above, students want to write scientific versions of Portuguese which are very difficult, because they cannot speak Portuguese well. And also lecturers this is a serious concern from the government in applying Portuguese in the education system in East Timor.

**The Rights to Education As a Human Rights**

International human rights recognizes the rights to education as a fundamental human rights. Giving each person the attainment of personality development and the ability to enable him to participate effectively in society. For International

\[\text{\footnotesize\textsuperscript{14} Muhammad Yamin, Naskah Persiapan Undang - Undang Dasar 1945 (Yayasan Prapance 1959).[52].}\]
organization. The fulfilment of the rights to education has been stipulated in the International Convention. So the state must carry out the fulfilment of the rights to education which occupies the mains. Priority to promote one’s existence as a human being the rights to education provides an important meaning for the fulfilment of human rights in a broad sense.

This affirmation is very important for efforts to build quality education in East Timor. It requires collective awareness, starting from academics, more importantly, the government’s responsibility to develop education that is in accordance with the culture and culture associated with the native language of the community. Coomans said the right to education effectively gave users direct access to other rights. For Copmans, the fulfillment of the right to education is the fulfillment identity and dignity. In accordance with the above. Manfrek Nowak. Emp hasized that education is a precondition for the of human rights. Nowak reminds people about the importance of education as a human right.

The right to education is clearly very relevant. The right to education is contained in Article 13 of the International Covenant on Economic, Social, and Cultural Rights. Education includes various elements of both economic, social, cultural rights, as well as civil and political rights. The rights to education itself is a human right, and is an absolutely necessary means of realizing other rights.\footnote{General Comment On The Right to Education document, United Nations E/C.12/1999/10 77.\cite{15}.} completion of an educational program which must satisfy the public at large, especially the choice of language because language is an important foundation in improving the quality and providing reliable human resources.\footnote{Article 6 Of The International Covenant on Economic, Social, and Cultural Rights (1998).\cite{16}.} so that education is seen as gateway to success.

Strong welfare can be seen between the right to education and the development of respect for human dignity. Education plays a very important role in the empowerment of all societies.\footnote{Comment on Action Plans for basic education United Nations Document General E/C.12/1999/4.\cite{17}.} Because knowledge is often equated with
power. Without education, it would be impossible for someone to be able to access everything related to development in all aspects of life. Therefore, the importance of education is reflected in reality.

**Factors Affecting the Quality of Education use Portuguese Language Interview**

**2000 Student from Upper Secondary Schools and University**

| Problems that affect The quality of education | High school student numbers that do not understand Portuguese language | College student numbers that do not understand Portuguese language |
|-----------------------------------------------|------------------------------------------------------------------------|------------------------------------------------------------------|
| Education Years                               | 2017 2019                                                              | 2017 2019                                                        |
| Teachers and lecturers                        | 1820 1790                                                              | 1800 1744                                                       |
| Do not master Portuguese well                 |                                                                        |                                                                  |
| Because understanding Portuguese does not provide economic benefits | 1654 1500                                                              | 1600 1632                                                       |

This data was taken on September 2017 and 2019 in two schools, namely Canosa High School and UNPAZ University.

**The Policy On The Use Of The Portuguese Language Has Implications for The Quality Of Education.**

The right of citizens to get quality education is stipulated in the Constitution of East Timor Article 59 that all citizens have the rights to get quality education. Of course, the use of language must also be understood by all citizens. In a quality education system, the main supporting factor is language which determines the quality of education itself. Though a declaration of human right said that education is a human right.\(^{18}\) This means that government policies must be in line with the declaration of Human Rights regarding education itself because after East Timor gained independence in 2002, East Timor has ratified the International Convenant on economic, social and culture rights. Education has also been included in it therefore, inevitably, the government must issue policies in the field of education that must also pay attention to language. Because so far the implementation of

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\(^{18}\) Knut D. Asplund. Suparman Marsuki dan Eko Riyadi, *Hukum Hak Asasi Manusia* (Pusat Studi Hak Asasi Manusia PUSHAM UII 2008).[15].
Portuguese in the education system has violated the human rights and cultural rights for citizens to access quality education.

The struggle of people of East Timor for independence, so that they are free from ignorance, poverty and strive for quality in education. However, after independence, there arose differences in the use of the language of a handful of people that could speak Portuguese while the people could not speak Portuguese. This is the implication of violating human rights to obtain education in accordance with Article 59 of the constitutional order.

It has been 2 decades that East Timor became independent it should be towards a better direction, but it cannot be denied that the quality of education is still a lot of obstacles, especially the central problem is that teachers and lecturers do not know the Portuguese language. This is very essential thing and how the government’s responsibility to respond quickly to this phenomenon. Because we all know that education is the foundation of the progress of a nation. On the other hand, the younger generation lacks enthusiasm to learn Portuguese. In my interview with several school students an have two problem. Learning Portuguese language does not give economic benefits, but to learning English, Mandarin, and South Korean language more promising to work in the countries.

The application of the right to education must also not involve political, ethnic, and social status or position interests. The school that was established by the Portuguese government in Balide is called a Portuguese school. In admitting students, the parents who can speak Portuguese before their children are admitted to the school. This shows discrimination against parents that not speak Portuguese, we know that a small group of parents that can speak Portuguese. They are the category of the elite group and domination in all aspects. Such as economic, politics and other social positions it is also against human rights.

Government policy forces private university to use Portuguese as a medium of instruction in lectures, but there are university that to violated policy is because it does not want to not follow the government’s recommendation instead in the teaching and learning process using Tetun and Indonesia language, because the majority of
student understand and master both language. The university’s policy is because it does not want to violate students human rights to access the material conveyed by lectures in accordance with Article 59 of the constitutional order regarding the government.’s responsibility to create the quality of education itself.

Data taken from UNPAZ University on March 2019 on campus that so far UNPAZ University was established since the first language used in the teaching and learning process was Indonesian and Tetun was very effective, because the interaction between lectures and student was very good because of the material used, conveyed by the lecturer using Indonesian they understand very well, because student can also speak and can write in Indonesian. More importantly, students looking for references for their coursework will find it easier to get Indonesian versions of books in writing scientific papers and final theses.

**Comparison of Language use with the Philippines**

The first independent Philippine country to use Tagalog and Spanish as official language. But over time because the Spanish language does not provide benefits to the Philippines community. Finally the Philippine government does not force people to learn Spanish. But the Philippines government makes regulations to require its citizens to learn the Tagalog language because the language is the language of the Identity of the Filopino people, and the two governments require their citizens to study English because English is an International language. Finally the Filopino people can work in any country, because the citizens are already face speak English Philippine Per capita income from citizens that work abroad because they have no problems communicating with the International community.

**Conclusions**

Language is the constitutional right of citizens, the East Timor government applyes Portuguese as the official language, of the automatic state, preventing citizens from exploring their ability to access quality education. Which has been written in article 59 of the constitution regarding quality education. It can be
formulated that, the higher one's ability to speak, the higher the way of thinking, the mastery of the official language of the country can be to defend their rights and obligations. Like the statement of president Taur Matan Ruak through East Timor television on 15 Oktober 2015 criticizing the legal process in the court is better to use the language Tetun. So that the parties involved can understand what is delivered directly by the judge or lawyer in order to defend himself, for a suspect, defendant, or a convicted person so that their constitutional rights are not violated.

The use of Portuguese in the education system impedes the quality of education in East Timor not in line with the provisions of article 59 of the constitution on education. Those who made the constitution are dominated by a group of people who lived in Portugal, Angola and Mozambique. They can already speak Portuguese well. But they do not know the impact of the policy on the quality of education contained in the article 59 constitution.

The policy is only for their interest and the interest of the Portuguese government. Because the Portuguese government wants to expand its language in Asia because Portuguese has entered Africa and Latin America. The interests of the older generation who used to live in Portuguese in Portugal, Angola, and Mozambique. So that they control all position in the government by applying Portuguese and closing the way for the easy generation who received education when East Timor was still a province of Indonesia.

**Bibliography**

A. Ahsin Thohari, *Hak Konstitusional Dalam Hukum Tata Negara Indonesia* (PT Gelora Aksara Pratama 2016).

Ali Z, *Filsafat Hukum* (Sinar Grafika 2011).

Berita Nasional Timor Leste (TVTL), ‘Sebaiknya Di Pengadilan Menggunakan Bahasa Tetun Supaya Para Pihak Mengerti Apa Yang Disampaikan Oleh Para Hakim’ (2015).

Damanhuri Fattah, ‘Teori Keadilan Menurut John Rawls’ (2013) 9 Jurnal Tapis.

Hans Kelsen, *General Theory Of Law And State* (1961).
Antonino Pedro: Ratio Legis on the Right

Herlina Lilis, *Bahasa Dan Produk Hukum* (PT Rafika Aditama 2015).

Katarina Tomasevski, *Education Deniel* (Zed Boos 2003).

Knut D. Asplund. Suparman Marsuki dan Eko Riyadi, *Hukum Hak Asasi Manusia* (Pusat Studi Hak Asasi Manusia PUSHAM UII 2008).

Komite Mengenai Hak Ekonomi Sosial dan Budaya, *Komentar Umum 13 Dok PBB E/12/1999* (1999).

Muhammad Yamin, *Naskah Persiapan Undang - Undang Dasar 1945* (Yayasan Prapance 1959).

Paiseco Luis, ‘Lingua Materna En Timor Leste’ [1980] Institustu Camoes.

Peter Mahmud Marsuki, *Penelitian Hukum* (1st ed, Kencana Prenada Media Group 2005).

Repository Unwira, ‘Data Dari Pembngunun PBB (2006)’ <https://www.repository 2019/unwira.ac.id> accessed 19 October 2019.

Satjipto Rahardjo, *Ilmu Hukum* (Citra Aditya Bakti 2000).

Tudung Mulia Lubis, *Ragam Bahasa Hukum* (PT Rafika Aditama 2002).

Virgayani Fattah, ‘Hak Asasi Manusia Sebagai Jus Cogens Dan Kaitannya Dengan Hak Atas Pendidikan’ (2017) 2 Yuridika <https://e-journal.unair.ac.id/YDK/article/view/4775>.

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