

RINTISAN SEKOLAH BERTARAF INTERNASIONAL (RSBI) COURT CASE AND
CONTESTING VISIONS OF INDONESIAN NATIONAL IDENTITY

By

Dwi Agus Yuliantoro

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ABSTRACT

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Drawing on the concept of “imagined community” as the basis for national identity (Anderson, 2006), this study examines a case of educational policy reform and resistance to it in which contested visions of national identity played a central role. The policy in question was adopted as part of Indonesia’s National Education Law of 2003. It established a special category of schools known as *Rintisan Sekolah Bertaraf Internasional (RSBI)* (or Pilot International Standards School) in order to improve the quality of public education in Indonesia. For piloting, a selection of existing schools were transformed into International Standards Schools and were expected to enrich their curriculum under the influence of more highly developed countries.

After 7 years of implementation, the constitutionality of these schools was challenged in the Constitutional Court. Six critical education issues constituted the core of the case: the constitutional requirement for the government to “smarten” the life of the nation, government responsibility for organizing and financing the education system, the charge that the government had created a dual education system whereas the Constitution required a unitary system, allegations of “liberalization” (understood as creating a market system in education), the question of whether the new schools had led to discrimination and a “caste” system, and finally the implications for national identity.

Each side in the court case had the opportunity to present its vision of Indonesia in defense of its position. The RSBI trial is therefore a case in which we can look at how

different elements of the nation bring different imaginations to bear on how they envision Indonesia as a nation, as a country. On one side, the petitioners envision Indonesia as a nation strongly united to maintain its rootedness in the country's cultural values and history, and not overly influenced by trends and conditions outside the country. On the other side, the government is seeing the nation from the "outside" looking in. Instead of focusing so much on the inner strengths that Indonesia already had, the government wanted to develop the knowledge and competencies (inspired by other nations) needed to enable Indonesia to play an important role internationally.

In January 2013, after hearing these arguments, the Court reached a surprising decision in which it ruled against the government on all counts. The RSBI schools were promptly abolished and turned back into regular schools. In my view after studying the case, there was no need to rule so completely in favor of one side and against the other. Another way of imagining Indonesian national identity would be to see Indonesia as part of the global community, participating actively at the international level while still being rooted in its culture and values. Indonesians can identify with both of these imaginations without compromising their unity and national identity.

In addition to this analysis of contesting visions of national identity, this study gives the English speaking reader a needed opportunity to understand how the Constitutional Court works. After being established in 2003, the court has played an important role in the transition to democracy. The RSBI court case is a landmark of democracy in education in Indonesia because for the first time in history Indonesian people used the court system to defeat the government.

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I would like to dedicate this work, and the life journey that has come with it to my beloved mother and father, as well as my three angels: Annisa, Aisha, and Alarick. Your presence, patience, and unconditional love have inspired me to live life with spirit and perseverance.

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My academic journey and my debts of gratitude in Michigan started back in 2006 when I received a Fulbright scholarship to do my master's at Michigan State University in the Department of Teacher Education majoring in curriculum and teaching. As a Fulbright scholar, not only was I required to do well in school for all of my courses, but I was also expected to take a role as cultural ambassador representing my country Indonesia. This meant that besides performing well in school, I also needed to be involved in the community. Because of my passion for community work I became active in a variety of organizations on campus. I remain grateful for all these special opportunities.

Among all of those organizations, I was most involved in LATTICE (Linking All Types of Teachers to International Cross-Cultural Education), a study group established by an exceptional leader, the late Sally McClintock, for MSU international students and area K-12 teachers to learn from one another. Not only was I a very active member, I also was part of the organizing committee for their monthly session. For an international student like me who was away from home and initially homesick, LATTICE was the organization that could provide me with a sense of family, so that I could feel at home even away from home. As a result I was able to do well in my master's program. I graduated from this program in 2008 with an excellent GPA, plus much learning and experience, both academic and non-academic.

In short, becoming a Fulbright scholar did indeed open up many doors, giving me a life changing experience. For all this, I would very much like to express my gratitude to

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Finishing the Fulbright program and earning a master's degree from Michigan State University was such an amazing and precious experience for me that I thought I would be completely satisfied just to return home to Indonesia after graduation. I did not think about going on for a PhD. It was just not on my life-plan agenda. However, Prof. Jack Schwille who was on the board of directors for LATTICE as well as the director of the Office of International Studies in Education in the College of Education where I did my MA degree, talked me into continuing my study to get a PhD from Michigan State University in the same department where I did my master's. Prof. Schwille convinced me that I would do well in the PhD program. Sure enough, I took the chance to continue doing a PhD as he suggested.

I started the big step in my academic milestone in the Fall of 2008. With guaranteed funding to complete my degree, I was assigned to work with a newly established undergraduate program called GECP, which stands for Global Educators Cohort Program. I worked with Dr. Margo Glew who is the director of the program. I was assigned to work with her because of my international experience and my active involvement with LATTICE. It is during my five years working with Dr. Glew that I developed my deepest interest and identity as an international educator. I would like to thank her for her tremendous trust and support as we worked together for GECP. In her capacity as director, Dr. Glew treated me truly as her colleague, as a knowledgeable person who could partner with her in developing various initiatives, curricular and

extracurricular programs in accordance with the objectives of GECP. I will always cherish my time working with Dr. Glew and am looking forward to collaborate internationally with her to strengthen US and Indonesia partnerships.

As with every other doctoral student, the journey of becoming a scholar cannot be separated from the presence of a guidance committee which is crucial in shaping the candidate's academic identity by providing continuous support, advice, and wisdom throughout the program. I was so lucky to have a guidance committee which was very supportive and committed in making sure that I got the best guidance and support, while at the same time providing me with in-depth intellectual dialogues to sharpen my thinking and open up my visions with new as well as different perspectives regarding issues of curriculum, teaching, and educational policy. Above all that, they were completely committed to make sure that I finish the program.

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critical of Indonesian education. I cannot thank Prof. Melnick enough for everything she has done for me.

Since Prof. Melnick decided to retire before I finished my PhD, her role as my academic advisor was assumed by Prof. Lynn Paine. It was under her guidance that I started to develop much deeper knowledge and understanding of international and comparative education. As an expert in that field, she was always so eager to share her insights, experiences, and wisdom with me. I would like to thank her for all the guidance and learning that were priceless in shaping my identity as a qualitative researcher, an educational policy analyst, as well as an international scholar and educator. I am so grateful for all the experiences I have had in working with her that have transformed me academically to be someone so much more capable and knowledgeable than I could imagine myself at the start. Thank you very much.

This study is the second dissertation research that I did for my doctoral degree. The first one was a study on teachers learning in the context of International Standards School policy implementation in Indonesia. I unfortunately had to discontinue the first study because in January 2013, the Indonesian Constitutional Court annulled the international standards school policy. Because of that, I changed my research to study the court case which challenged the constitutionality of the International Standards School policy. This allowed me to investigate what happened during the trial in terms of issues that were raised and then used by the court to make their decision to annul the policy.

As the nature of the court case had a lot to do with issue of education and nation building, Prof. Melnick suggested that I asked Prof. Kyle Greenwalt to be part of my dissertation committee given his expertise in this area. His role in my dissertation writing

was significant. Since my practicum work with Prof. Greenwalt has become an important chapter in my dissertation. I would like to thank him for his guidance and facilitation for me during my struggle to learn concepts and theories about nationalism and national identity and their relations with education.

In the process of changing my study for the dissertation research, the person who had a significant role in my decision-making was Prof. Jack Schwille. Jack, that is how he prefers to be addressed without any formality, was the first person to let me know about the annulment of the international standards school policy. Jack happened to be in Jakarta with his wife Sharon when the court ruling happened. It was also Jack who encouraged me to study the court case. After serious consideration, I decided to do the study. If Prof. Melnick is my godmother, Jack is my godfather. Jack was not a new figure for me, as I have known him since my master's program in his capacity as the director of Office of International Studies in Education.

Jack had a very significant role in my academic journey; in fact, in my eyes he became indispensable. As I have mentioned earlier, he was the one who encouraged me to do my PhD. He was the one who opened up the door of possibility for me to continue pursuing a PhD at Michigan State University and he was also the one who has made everything that was required for me to finish and graduate clearer to me. This whole process of completing my degree was not in any way an easy journey. In 2011 I had a car accident that caused a very serious concussion. It took me years to really recover from the accident. Jack and his wife Sharon have been an amazing support for me in this recovery process. They were both so committed and invested in me, in my recovery, and in my completing the program because they have faith in me and trust that I will make a

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Chapter 1

Contemporary Indonesia and Its National Education

Overview

Indonesia is a country with diverse ethnic identities that are spread across its archipelago. With 17,504 islands (BPS, 2014), Indonesia is the biggest archipelago country in the world (CIA, 2014). In this country, which aspires in its development to be a great nation and be recognized by other countries around the world, citizens are an important factor for the success of its national development. In order to have a great nation and to have citizens with knowledge, skills, competence, and characteristics that embody the national identity, leaders often focus on education as the means to build a nation. This is the case with Indonesia. It is not something new that mass education is used as a political mechanism for nation building (Benavot, et.al., 1991; Meyer, J. et.al., 1992; Greenwalt, 2009: p. 496), be it in a developed country like the United States of America (Meyer, J. et.al., 1979), or in developing countries, such as Indonesia (Meuleman, 2006), that are still working to get recognition from around the world.

This dissertation on the discourses of Indonesian national identity aims to describe and explain the complexity of Indonesian national identity [re]formation amidst globalization as well as the role of education in building Indonesian national identity. I pursue these questions by examining documents from the court case annulling the *Rintisan Sekolah Bertaraf International* (Pilot International Standards School) Policy, also known as the *RSBI* policy. In this regard, drawing on Anderson's concept of "imagined community," this study asks specific questions – about one educational policy

reform and resistance to it – in the context of the nation’s effort to “go global.” I explore these issues through a particular policy moment in which the *RSBI* policy debate provides a lens to examine contested views of national identity in contemporary Indonesia. The complexity of national identity and its relation to education, especially in the case of the establishment of *RSBI* schools in Indonesia, is one of significant importance because the case of *RSBI*: a) is a national phenomenon that involves public schools nationwide, b) provides an example of how a project of nation building in such a diverse country like Indonesia has taken place, c) shows different imaginations of national identity and their significance in [re]imagining the nation today, and d) illustrates the important role of education in the idea of creating Indonesia. Although the dissertation focuses on the complexity of Indonesian national identity and the role of education in the creation of Indonesian identity as elaborated in the *RSBI* court dispute, it will also contribute insights to the broader conversation about national identity and the role of government in education that many countries, both developing and developed, are facing in this rapidly-changing global world.

Indonesia in brief

Indonesia gained its independence from Japanese colonialism in 1945. To be exact, it was on August 17, 1945 when there was a power vacuum due to the Hiroshima and Nagasaki bombing during the World War II (WWII). Japanese occupancy of Indonesia had been relatively short, from 1942 until 1945, as compared to Dutch colonialism in Indonesia that started in the early 17th century and lasted about 350 years. Although Indonesia declared its independence in 1945, it was not until 1949 that the

Dutch agreed to transfer sovereignty in response to United Nations mediation (CIA, 2014).

Since the struggle for independence, education has played a pivotal role in Indonesia's fight against colonialism. The first national awakening movement in 1908, known as *Boedi Oetomo*, was started by a group of STOVIA students, led by R. Soetomo. STOVIA stands for School Tot Opleiding Van Indlandsche Arsten, which was a medical school developed and staffed by the Dutch for elite natives, mostly students from Javanese royal families and government officials as well as a few from outside of Java (Kompas, 2008; Tilaar, 2008 in Tilaar, 2014, p. 1050). *Boedi Oetomo* was the first student organization of its kind that aimed to encourage and develop nationalism among Indonesians across the nation. Because of the significant of the *Boedi Oetomo* nationalist movement for the development of Indonesian national identity during the colonial era, its date of establishment, May 20, 1908 is now celebrated as the National Awakening Day.

The *Boedi Oetomo* nationalist movement reached its peak with the Youth Pledge of 1928, known as *Sumpah Pemuda*. The prominent Indonesian historian, Anhar Gonggong, describes *Sumpah Pemuda* as nationalism of the brain because it was a movement driven by well-educated youth from various ethnic groups with a modern education. Their pledge focused on three points: homeland, nation, and language of unity. The original pledge was written as follows:

1. *Kami putera dan puteri Indonesia, mengaku bertumpah darah yang satu, tanah air Indonesia.* (We, the sons and daughters of Indonesia, pledge to have one homeland: Indonesia).

2. *Kami putra dan putri Indonesia, mengaku berbangsa yang satu, bangsa Indonesia.* (We, the sons and daughters of Indonesia, pledge to have one nation: Indonesia).
3. *Kami putra dan putri Indonesia, menjunjung tinggi bahasa persatuan, Bahasa Indonesia.* (We, the sons and daughters of Indonesia, pledge to uphold one unifying language, the Indonesian language).

The 1928 youth pledge has two significances. First, the use of “sons and daughters of Indonesia” signifies that the nationalist movement is not only the task of Indonesian men, but it is also for women. It is a responsibility that everyone in the country has to share. Second, the choice to pledge to uphold the homeland, the nation, and the unifying language signify that there is an understanding of the need to put aside ethnic differences. The birth of this youth pledge was the work of a group of students who were then studying in Europe. They believed that the only way to gain Indonesian independence was by unifying all the diverse ethnic groups in the country into one great nation, with a shared homeland and language (Tilaar, 2014). At that point, language emerged as a central aspect of Indonesian identity.

As already mentioned, Indonesia is the biggest archipelago country in the world, with more than 17.500 islands, even though not all of them are inhabited. According to CIA World Fact Book (2014), Indonesia’s total population as of July 2014 is 253,609,643 people. Because of the geographical conditions of Indonesia, there is huge language diversity. To date, based on the mapping of vernacular languages done by the Indonesian Language Bureau in 2011, there are 514 languages and the number could increase since

there are some areas in the country that have not been visited by the Bureau (Budiwiyanto, 2014).

These various languages are not just different dialects; they are different languages altogether. Those different languages originated in various ethnic groups from across the Indonesian archipelago. Based on the 2010 census of Indonesian citizens, Ananta, et. al. (2014) categorized 633 ethnic groups that exist in Indonesia. The biggest ethnic group in Indonesia is the Javanese, who comprise 40.1% of the total Indonesian population. The Sundanese are the second biggest ethnic group with 15.5% of the population, and the third is the *Melayu* that make up only 3.7% (CIA, 2014). Both Javanese and Sundanese are originally from the island of Java whereas the *Melayu* are originally from the island of Sumatera, especially along the east coast of Sumatra.

During the *Sumpah Pemuda* 1928 or the Youth Pledge of 1928, the youth from various ethnicities agreed to use *Bahasa Melayu* or a Malay¹ language, as the unifying language. They called it *Bahasa Indonesia*, or the Indonesian language. The decision was made based on the fact that *Bahasa Melayu* has been used as the lingua franca of the nations along the Strait of Malacca. This choice of language was also to avoid potential domination by a particular ethnic group, such as Javanese or Sundanese, who together were a majority. The Youth Pledge leaders' commitment to unifying Indonesia, with its huge diversity in language, ethnicity, and religion or belief systems, sets aside group interests for an idea of the greater good.

The spirit of *Sumpah Pemuda* has now become the slogan of Indonesia, *Bhineka Tunggal Ika*, which means “unity in diversity” and is written on the Indonesian coat of

¹ It is not the same with the Malaysian language used by Malaysia, but it is a Malay language that is part of the Malay language family.

arms. The slogan aims to remind all Indonesian citizens that Indonesia is a country rich in cultural diversity, and yet has one identity as a nation; likewise *Negara Kesatuan Republik Indonesia (NKRI)* means the United Country of the Republic of Indonesia. Indonesia is diverse not only in terms of ethnicity and language, but also in terms of religion and socio-economic status. Today, the government recognizes six different official religions in the country: Islam, Catholicism, Other Christianity, Hinduism, Buddhism, and Confucianism. Islam is the majority religion in Indonesia, with 87.18% of the population identifying as Moslem (BPS, 2010).

According to Word Bank (2014), Indonesia is considered to be a lower-middle income country with a 2013 GDP of US\$ 868.3 billion. As of September 2013, according to the Statistics Bureau of Indonesia (2014), there were about 28,55 million people, both in urban and rural areas who live below the poverty line. World Bank (2014) data show that 11,4 % of the Indonesian population is still poor. All this diversity has led to a struggle over [re]defining or [re]imagining the Indonesian national identity and a debate over what is Indonesian-ness that makes Indonesians Indonesian.

Indonesian education

As mandated by the 1945 Constitution, the educational system in Indonesia is established in order to educate the citizens as a part of nation building. In the last paragraph of the preamble of 1945 Constitution, it is stated that:

Kemudian daripada itu, untuk membentuk suatu Pemerintah Negara Indonesia yang melindungi segenap bangsa Indonesia dan seluruh tumpah darah Indonesia dan untuk memajukan kesejahteraan umum, **mencerdaskan kehidupan bangsa**, dan ikut melaksanakan ketertiban dunia yang berdasarkan kemerdekaan, perdamaian abadi dan keadilan sosial... (UUD'45 paragraph 4)

[Therefore, to form a governing country of Indonesia which will protect all of the Indonesian nation and all the land of Indonesia and to improve the social welfare, **to smarten the life of the nation**, and to take part in establishing the world order that is based on freedom, eternal peace, and social justice...][*direct translation of 1945 Indonesian Constitution, beginning of paragraph 4*].

The text above clearly states that one of the primary tasks of the Indonesian government is to educate its citizens. This idea is explicit in the phrase “*mencerdaskan kehidupan bangsa*.” *Mencerdaskan* comes from the word “*cerdas*” that means smart. Prefix *men-* and suffix *-kan* when attached to “*cerdas*” (an adjective) means to make smart. *Kehidupan* is a noun that means life, whereas *bangsa*, also a noun, means nation. Thus, the whole phrase literally means to make smart or smarten the life of the nation (and the nation being the citizens of Indonesia).

I prefer to keep the translation as it is and not just translate it as ‘to educate the nation.’ I prefer this because *kehidupan* or ‘the life’ covers all kinds of elements that are related to being alive as human. That, of course, not only includes the cognitive, affective, and psychomotor elements of education as are conventionally covered in claims about the goal of schooling, but it also includes the wellbeing and social welfare of each and every Indonesian citizen. The government is mandated to do this through providing free compulsory education from grade 1 to grade 12 for all Indonesian citizens, without discrimination (UUD 1945: article 31, clause 2; UU No. 20-2003: article 11).

Some Indonesian education experts claim that the development of Indonesia as a country is very much dependent upon the success of its national education (Tilaar, 2004; Soedijarto, 2008). Referring to human capital theory, Tilaar further argues that education is one of the most significant tools to eradicate poverty (p. 723). He suggests that not only does education help the nation to be smarter with more intelligent citizens, thereby

improving the country's economy, but education also assists the development of Indonesian national identity. This claim is not without reason. Article 3 of the 2003 Law No.20, states that:

Pendidikan nasional berfungsi mengembangkan kemampuan dan membentuk watak serta peradaban bangsa yang bermartabat dalam rangka mencerdaskan kehidupan bangsa, bertujuan untuk berkembangnya potensi peserta didik agar menjadi manusia yang beriman dan bertakwa kepada Tuhan Yang Maha Esa, berakhlak mulia, sehat, berilmu, cakap, kreatif, mandiri, dan menjadi warga negara yang demokratis serta bertanggung jawab.
[National education functions so as to develop competencies and shape a dignified national character and civilization in order to smarten life of the nation. It aims to develop students' potentials in order to be religious and devoted to the one true God, to have noble character, be healthy, knowledgeable, competent, creative, independent, in short, responsible democratic citizens.]

Article 3 can be broken down into three important elements. First, it states the function of national education. Secondly, it mentions the goal of national education. Lastly, it describes the kind of citizens that national education should produce for Indonesia. The article states that the function of Indonesian national education is: a) to develop competencies, b) to shape a dignified national character, and c) to shape a dignified civilization. All three functions are made in order to smarten the life of the nation, which should be done through formal, non-formal, and informal education (Tilaar 2012: p. 66).

The Indonesian government has a policy concerning particular traits that the ideal Indonesian citizen should have and should develop. Those personality traits, as stated in the article 3, include being religious. This implies that a person needs to have a religion. It does not matter what religion the person has, as long as it is one of the religions that are recognized by the government. Once the person has a religion, s/he is assumed to be devoted to one true God based on the belief/religion that s/he has. The Indonesian citizen

should also have a noble character, be healthy, knowledgeable, competent, creative, independent, and lastly a responsible democratic citizen.

During the pre-colonial era, when Indonesia was then known as *Nusantara*, especially during the Hinduism-Buddhism era (circa 4-8 century), education was a privilege of Brahmana as the highest caste and also of Ksatria who were the royal families. Through education, they were to learn about theology, literature, language, science, and architecture (Herlanti, 2008). It was only after Islam was introduced widely in *Nusantara* during the 11th century that some kind of mass education in the form of *Pesantren* was established. *Pesantren* is a form of religious education in which students learn from a knowledgeable teacher known as '*kyai*.' Students usually lived in the boarding houses built by the *pesantren* in the area. The Islamic education of *pesantren* is known to be the oldest formal education system in Indonesia (Herlanti, 2008). In the past, the *pesantren* schooling system took place in the mosque to learn all about the Islamic teaching and values, but nowadays many *pesantren* have built classrooms for their schools and adopted the national curriculum, in addition to Islamic subjects, as part of their education system.

During the Dutch colonial era, the colonial government established different schooling systems that were designated for three different population groups: the colonial children of expatriates, the "eastern" foreigners who were mostly Chinese, and the native children, known as *pribumi*. Among the native group, they were subcategorized as divided between the children of the royal families and high rank officials – known as *priyayi* – and the common people. Besides the differences in curriculum and schooling system, the language used in the schools also differed from one group to another. The

colonial children learned and used Dutch, the colonial language at school. The “eastern” foreigners’ children who were mostly Chinese used the Chinese language at school, whereas the native people used their vernacular languages (Herlanti, 2008).

The use of different languages in school was a way to make clear one’s social status. Dutch as the language of the colonizer was seen as the language of power and people who spoke that language were higher in status. The schooling systems during the Dutch colonial era were very discriminatory not only in terms of social segregation, but also in facilities and learning opportunities that come with the social status. The higher the social status of the students in their society, the better education they could get. Students who were *priyayi* would learn more subjects that could prepare them to be leaders whereas students of common people would learn basic reading and writing so that they can understand instructions as workers.

Indonesian national education system

The birth of the Indonesian national education system took place long before independence. Ki Hadjar Dewantara, whose original name was Raden Soewardi Soeryaningrat, developed the model and values of Indonesian national education system. *Raden* is a royal title that means Ki Hajar a prince. He was the son of GPH Soerjaningrat, and the grandson of Pakualam III (the king of Pakualaman, in Yogyakarta kingdom). On July 3- 1922, after his exile in the Netherlands, Dewantara established a *Nationaal Onderwijs Instituut Taman Siswa* or National Institute of Taman Siswa. *Taman* means garden and *siswa* means students or learners. *Taman Siswa* was meant to be a place like a garden where students could come to learn and to live together. This institute put

emphasis on instilling nationalism in students so they would love their nation and motherland and would fight for independence (ML Taman Siswa, 2007).

It was during his developing the *Taman Siswa* Institute that Dewantara was also very active in writing about education and culture from a nationalistic perspective. The goal of *Taman Siswa* Institute was as follows:

Tujuan Pendidikan Taman Siswa adalah membangun anak didik menjadi manusia yang beriman dan bertakwa kepada Tuhan Yang Maha Esa, merdeka lahir batin, luhur akal budinya, cerdas dan berketrampilan, serta sehat jasmani dan rohaninya untuk menjadi anggota masyarakat yang mandiri dan bertanggung jawab atas kesejahteraan bangsa, tanah air, serta manusia pada umumnya (ML Taman Siswa, 2007). [The goal of Taman Siswa education is to develop learners to be human who believe and faithful to the one true God, are free physically and mentally, have noble character, are smart and competent, healthy physically and spiritually, in order to be a member of the society, who is independent and is responsible for the wellbeing of nation, the motherland, and other human beings in general].

If we compare and contrast the goal of Taman Siswa education and the goal of Indonesian national education as written in the Article 3 of the 2003 Law No. 20, although the wording is slightly different, the content and meaning of the two are almost exactly the same. Dewantara's famous teachings have also created mottos for Indonesian national education – *Tut Wuri Handayani* which means to give support from behind, *Ing Madya Mangun Karsa* which means to create an opportunity to work together side by side, and *Ing Ngarsa Sungtulada* which means to take the lead and be a role model. The words *Tut Wuri Handayani* can be found in the logo of the national education. Moreover, Dewantara's date of birth, May 2, is now celebrated as the National Education Day (ML Taman Siswa, 2007).

Today, the 2003 Law of National Education System has organized education in Indonesia in a centralized system. All the regular public education in the country is

managed by the Ministry of Education and Culture (MoEC). In addition to regular public schools, there are religion-affiliated public schools that are managed by the Ministry of Religious Affairs (MoRA). Both the Ministry of Education and Culture and the Ministry of Religious Affairs manage schools from elementary to middle to high schools as well as colleges and universities. In this study, I focus on the schools that are under the Ministry of Education and Culture.

In Indonesia, based on Article 1 of the 2003 Law education is defined as “conscious and planned efforts to create learning conditions in which learners actively develop their potential to have noble character, religious and spiritual strengths, intelligence, self-control, and other personality strengths, as well as the skills that will be needed for themselves, the society, and the nation state.” Furthermore, the definition of national education is an education that is based on *Pancasila*, and the 1945 Constitution of the Republic of Indonesia; that is, rooted in religious values, Indonesian national culture, and is responsive towards change (The Law No. 20 of 2003). *Pancasila*, which means the five moral principles, is the ideology and life-view of the nation-state.

Ir. Soekarno was the person who created the name ‘*Pancasila*’ on June 1, 1945 as a response to Dr. Radjiman Wediodiningrat, the chair of Badan Penyelidik Usaha Persiapan Kemerdekaan (BPUPK) Indonesia or the Bureau of Investigation for the Preparation of Indonesian Independence, who asked for the foundation of Indonesia as an independent nation state. In his speech, Soekarno presented five principles: 1) Indonesian nationalism, 2) humanism, 3) democracy, 4) social welfare, and 5) belief in one almighty God. Prior to Soekarno, on May 29, 1945, Mr. Muhammad Yamin presented his five principles that include: 1) nationality, 2) humanity, 3) divinity (religiosity), 4)

democracy, and 5) social welfare. Thus, the principles of Yamin and Soekarno were almost identical. (Dikti, 2013)

Based on their ideas, on July 14, 1945 a small committee led by Soekarno developed a comprehensive philosophical foundation for the Indonesian independence that is called the Jakarta Charter. It consists of the following (Dikti, 2013):

1. Believing in God by practicing Islamic *sharia* for all of its believers
(*Ketuhanan dengan kewajiban menjalankan syari'at Islam bagi pemeluk-pemeluknya*).
2. Just and civilized humanity (*Kemanusiaan yang adil dan beradab*).
3. Unity of Indonesia (*Persatuan Indonesia*).
4. Democracy led by wisdom that emerges through discussion by representatives of the people (*Kerakyatan yang dipimpin oleh hikmah kebijaksanaan dalam permusyawaratan dan perwakilan*).
5. Social justice for all citizens of Indonesia (*Keadilan social bagi seluruh rakyat Indonesia*).

However, on August 18, 1945, a committee that was called Committee for Indonesian Independence changed the first principle and then legalized *Pancasila*, as we know it.

Those five principles are translated as follow (Dikti, 2013):

1. Believe in the one true God (*Ketuhanan Yang Maha Esa*).
2. Just and civilized humanity (*Kemanusiaan yang adil dan beradab*).
3. Unity of Indonesia (*Persatuan Indonesia*).

4. Democracy led by wisdom that emerges through discussion by representatives of the people (*Kerakyatan yang dipimpin oleh hikmah kebijaksanaan dalam permusyawaratan dan perwakilan*).
5. Social justice for all citizens of Indonesia (*Keadilan social bagi seluruh rakyat Indonesia*).

During the Soeharto era, based on the decree issued by the House of the Representatives, TAP MPR No. II/MPR/1978, every Indonesian citizen starting in middle school and continuing to high school and through to university and even all of the Indonesian workforce, were required to take a training that was called training of appreciation and practice of *Pancasila* (Dikti, 2013). The training was different in duration and content depending on the levels.

The role of *Pancasila* as ideology and life-view of Indonesia as a nation state is ratified in the decree of the House of Representatives No. 18 of 1998, which is a revision of the decree No. II/MPR/1978. As the Indonesian life-view, *Pancasila* is a vision and direction for the establishment of the nation state that aims to create a civic life that is based on divinity, humanism, an awareness of Indonesian unity, democracy and also social justice. As an ideology, *Pancasila* is the foundation that is used to govern the system of governance in Indonesia and the life of Indonesian citizens. It means that all rules, regulations, and laws should be made based on *Pancasila* (Winarno, 2011).

Historically, *Pancasila* has played an important role in the process of defining or constructing Indonesians. These five moral principles are so important for Indonesia that even nowadays *Pancasila* has to be recited aloud on every Monday at school during the flag raising ceremony, along with the preamble of the 1945 Constitution.

In definitions of education and national education, as stated in the 2003 Law of the National Education System of Indonesia, nothing is explicitly said about school or schooling. In Indonesia, the term *pendidikan* or education is introduced as a general terminology to cover any learning that happens as long as it is conscious and planned regardless of its place and time, be it inside or outside of school contexts. It means that education in Indonesia can be acquired through formal, non-formal, as well as informal education.

In the context of formal education, the Ministry of Education and Culture (MoEC) divides Indonesian education by level into primary, secondary, and tertiary education. Primary education is a 6-year elementary education whereas secondary education includes a 3-year junior high school and a 3-year senior high school. The most recent compulsory education regulation requires a student to go to primary and secondary education starting from grade 1 (first year of elementary school) all the way through grade 12.

Based on the 4th amendment of the 1945 constitution of the Republic of Indonesia Article 31, the government is obliged to finance compulsory public education (Clause 2) using 20% of the nation's revenue and expenditure budget (Clause 4). In contrast, the provision for colleges and universities that offer post-secondary education is not specified by law and as a result higher education is typically not inexpensive; not all families in the country can afford to send their children to pursue higher education. (Tilaar, 2012)

In order to manage the implementation of the national education system and ensure the quality of national education across the country, in 2003 the government developed a set of national education standards. The standards consist of eight elements

that include: a) content, b) process, c) graduate competence, d) education personnel, e) infrastructure, f) management, g) funding, and h) education assessment. These standards provide comprehensive guidance for the management of the education system (UU Sisdiknas 2003, article 35: clause 1 & 2).

All public schools in Indonesia are required to implement these national education standards. The MoEC develops a national curriculum to be implemented by all of the public schools in Indonesia. The provincial and municipal levels of MoEC offices supervise the implementation of the national curriculum in each school located within their authority. The curriculum for elementary and secondary schools is mandated to include: a) religious education, b) civic education, c) language, d) math, e) science, f) social studies, g) arts and culture, h) physical education and sports, i) vocational skills, and j) local content (UU Sisdiknas 2003, article 37: clause 1). Public schools from grade 1 to 12 are required to teach all these nine subjects to the students in every academic year.

RSBI and public schools

The presence of international schools in Indonesia dates back as early as 1951 when Joint Embassy School² (JES) was established by the UN workers in Indonesia to serve children of expatriates. Since 1978, JES has been known as the Jakarta International School (JIS). In a big city such as Jakarta, the presence of international schools that are affiliated with foreign institutions is not uncommon. Although international schools have been in existence in Indonesia for some time, it was not until late 90's or early 2000 that the Ministry of Education and Culture paid much attention to the presence of these mostly private schools and their strong competitive position in the

² Information from <https://www.jisedu.or.id/story/index.aspx>

country. Today, they serve not only students of expatriates, but also domestic students who can afford to pay the tuition. This pattern has also become more common in other cities in Java and Sumatra islands.

The middle-upper class families who can afford sending their children to these private international schools prefer to do so rather than send their children to the regular public schools, arguing that the children will get a better quality education in the international schools, and hence be better prepared to keep up with globalization. In response to the growing importance of these schools, but only very recently, the MoEC adopted a policy to regulate the establishment and operation of international schools in Indonesia. On April 23- 2014, the Ministry approved a new policy about the establishment and operation of foreign education institutions in Indonesia in partnership with Indonesian institutions under Government Regulation No. 31 of 2014 (Tempo, 2014).

New international schools were created by MoEC in a related development. The 2003 Law No.20 on the national education system of the Republic of Indonesia, particularly Article 50, Clause 3, which states that, “the national and/or provincial government establish at least one education unit on each level of education to be developed as international standards education unit” was used as an umbrella policy for the establishment of international schools to be managed by MoEC. In 2007, as a response to the global competition in education especially from schools that are labeled as international, the Ministry upgraded selected high quality public schools into what is labeled as *Rintisan Sekolah Bertaraf International (RSBI)* or pilot international standards schools.

This establishment of RSBI was then enforced with the regulation of National Education Minister No. 78 of 2009 that provides guidance for the implementation of the international standards school policy on a school level (education unit). The stated goal of RSBI was to produce graduates who can achieve beyond the national education standards, hence, have a high comparative competence and who therefore can compete and play a significant role in the globalized world not only within Indonesia but also in the international arena. This includes the ability to communicate in a foreign language (Depdiknas, 2008).

In justifying the establishment of the RSBI, the Ministry of Education and Culture argued that as a nation, Indonesia “must participate actively in the international arena” (Putusan Mahkamah Konstitusi³, 2013). The argument is that this active role can only be achieved if Indonesia has highly competitive human resources; hence establishing international standards schools is necessary (Mahkamah Konstitusi, 2012b). Indonesia must have high quality human resources, not only for globalization, but also to be able to manage the available natural and human resources in Indonesia. RSBI schools were expected to develop as a center of education excellence while remaining a public school. In this way RSBI schools could reduce the tendency of many rich people sending their children to study abroad and also offer a center of excellence from that would benefit others as well (Mahkamah Konstitusi, 2012b).

In a related development, prior to the establishment of RSBI, all public schools in Indonesia assigned grades or categories to reflect their quality as determined by the National Education Standards (Tuan Guru, 2013). The top category was called *Sekolah*

³ Mahkamah Konstitusi is the Indonesia Constitutional Court. Putusan Mahkamah Konstitusi is the decision made by Mahkamah Konstitusi.

Formal Mandiri or Sekolah Standar Nasional (SSN) or National Standards School. The SSN status is gained after a school meets all the eight elements of National Education Standards and is accredited by the Ministry of Education and Culture office. The schools that have not yet met all the eight standards are called the *Sekolah Formal Standar* or are also known as *Sekolah Potensial* or potential schools (Explanation of PP No.19, 2005:Article 11, Clause 2 & 3). They are called potential schools because of their potential to be developed as a National Standards School.

With the RSBI policy in place, the process of establishing RSBI schools was done through selecting the best SSN schools in every province and then labeling them as RSBI schools. Two schools were selected at each level in every province. This is why it was mentioned earlier that the quality public schools were “upgraded” as the international standards schools. Thus, RSBI reform did not involve establishing a new school from scratch, but rather upgrading pre-existing public schools with high achievement and labeling the result an RSBI school.

These schools were called ‘*rintisan*’ or pioneering because, according to the policy plan, they would pilot new approaches and would ultimately, after a number of years of piloting (6 or 7 years depending on the school condition), through a performance based evaluation assessed by the Ministry, be designated as International Standards School (ISS) or *Sekolah Bertaraf International (SBI)*. By definition, as stated in the 2009 Government Regulation Number 78, *Sekolah Bertaraf International (SBI)*, also known as International Standards School (ISS), is a school that has met all the eight requirements of the National Education Standards and “is enriched” by a high level of excellence in

education. This enrichment is to be based on the standards of OECD⁴ countries and other developed countries. In the campaign to introduce the RSBI policy, the government presented a formula of: $SBI = SNP + X$, which means that an International Standards School is a National Standards School plus “X” factors. The X factor in the formula is what the Ministry stated as *‘diperkaya’* or being enriched.

In the policy, the Ministry does not state explicitly what being enriched means. It was not explained either what international standards means or refers to. The policy only says that on top of the National Education Standards that have been met, the schools are obligated to adapt or adopt the so-called international standards (the X factors) of high excellence. The Ministry suggested that the enrichment be done through adopting and/or adapting an international curriculum into the schools from one of the OECD countries (Depdiknas, 2008). The political decision of referring to OECD was because in 2007, Indonesia started to participate in the “Programme of Enhanced Engagement⁵” with OECD in the hope that this could lead to OECD membership for the country. Since the policy did not define what enrichment had to occur, schools were given freedom to implement curriculum enrichment of their choice. Most of the RSBI schools chose to adapt an international curriculum, which as it happened mostly meant using textbooks and lesson plans borrowed from Singapore.

However, the policy also provided funding for schools to consider alternative enrichment approaches as part of their professional development so that the people could examine models in other places. The Ministry did not state that Singapore should be used

⁴ OECD is Organization for Economic Co-operation and Development.

⁵ Programme of Enhanced Engagement provides in-depth evaluation of Indonesia’s economic and social performance based on international best practices.
<http://www.oecd.org/globalrelations/46241909.pdf>

as a model. It just happened that most RSBI schools chose South East Asian countries, especially Singapore, as their model. The schools chose Singapore because it is close to Indonesia and therefore not so expensive and practically easy to visit. In addition, Singapore also has adopted as one of its official languages Bahasa Melayu which closely resembles the Indonesian language. In that way, the problem of a language barrier could be minimized as compared to when RSBI teachers chose to visit a native English speaking country, like the USA or UK.

Before the government was able to announce which RSBI schools would be chosen to be the actual (no longer pioneering) international standards schools, the Constitutional Court of Indonesia intervened. On January 8th 2013 the Court (*Mahkamah Konstitusi*) decided that all RSBI schools would be abolished and that no RSBI/SBI schools would be allowed in the future. The decision was made based on the argument by critics of RSBI that the establishment of International Standards Schools by way of upgrading quality public schools could a) potentially undermine the national identity formation among youth who are studying at the international standards schools, especially given that English was used as the language of instruction, and b) create a bigger social gap between rich and poor people due to the fact that the international standards schools could charge tuition that the general population could not afford. (MK: 5/PUU-X/2012).

With this court ruling, all the pioneering international standards schools were no longer able to implement the RSBI policy. Moreover, those RSBI schools that so far had gotten a lot of financial support to upgrade had to immediately return to their National Standards Schools (SSN) status.

***Mahkamah Konstitusi* of the Republic of Indonesia**

For those who are not familiar with the RSBI policy and the court system in Indonesia, they may wonder about the role of *Mahkamah Konstitusi* in making the decision to revoke the RSBI school policy in Indonesia. The RSBI policy dispute is a case involving national education law and its relationship to the 1945 Constitution. In the case of *RSBI*, a group of people from the grassroots, who throughout this dissertation are called the petitioners, brought the case directly to the *Mahkamah Konstitusi*. *Mahkamah Konstitusi* did not initiate the case. The presence and the role of *Mahkamah Konstitusi* is a distinctive feature of Indonesian governance, with powers to declare laws unconstitutional.

Mahkamah Konstitusi Republik Indonesia or, literally, the Constitutional Court of the Republic of Indonesia is the highest level of judicial institution that has an independent judicial power to conduct trial and decide on matters that have something to do with the 1945 Constitution of the Republic of Indonesia. Based on The Law of 2003 Number 24 about the Constitutional Court of the Republic of Indonesia, the Constitutional Court has authority to:

1. Review/examine Indonesian law in relation to the 1945 Constitution of the Republic of Indonesia.
2. Rule on a dispute over the authority of national institutions (e.g. federal agency) authorized by the 1945 Constitution.
3. Rule on whether a political party is legitimate or not, and
4. Rule on disputes related to general election.

This authority differs from the Indonesia's Supreme Court. The Supreme Court deals with other legal cases where constitutionality is not an issue. The Constitutional Court consists of nine constitutional judges that are appointed by the President of the Republic of Indonesia. The nine judges are recommended by the Supreme Court (three judges), by the House of Representatives (three judges), and by the President of the Republic of Indonesia (three judges). The Constitutional Court is led by a chair and vice chair who are chosen from and by the constitutional judges themselves (1945 Constitution, article 24C).

At the time of the RSBI policy dispute, the nine judges of the Constitutional Court were: Mohammad Mahfud MD, who was the chairman of the court, Achmad Sodiki, Harjono, M. Akil Mochtar, Maria Farida Indrati, Muhammad Alim, Ahmad Fadlil Sumadi, Hamdan Zoelva, and Anwar Usman.

According to the 1945 Constitution article 24C item 1 as well as the Law No. 24 of 2003 article 10 item 1 about the Constitutional Court, the Court as the guardian of the constitution is responsible to adjudicate and make final decisions on cases in relation to the 1945 Constitution. Therefore, if there is any law that is deemed by the Court as unconstitutional, the Constitutional Court has the legal authority to annul the respective law by canceling the existence of that law, partially or entirely. Since the RSBI policy dispute was a case of national education law that was based on the specifics of the 1945 Constitution, the case came under the authority of the Constitutional Court to conduct a trial with all the parties involved and make a decision on the dispute.

Outline of this dissertation

After presenting this overview of Indonesia and its national education system, the dissertation continues with the following chapters:

In Chapter 2, I present the problem on which the study focuses, namely, the nature of national identity discourse in Indonesia. I use court documents from the annulment of RSBI policy as a context to study the complexity of Indonesian national identity and the role of education in that matter. The chapter includes a literature review on national identity with the emphasis on Benedict Anderson's concept of imagined community.

In Chapter 3, I present a summary of the hearings in chronological order. There were nine hearings in total. All of the hearings are presented as a narrative, drawing on the perspective of each individual who testified before the court. While Chapter 3 is a chronological presentation of the hearings, Chapter 4 analyzes the ideas presented in the hearings in order to answer the research questions asked in Chapter 2. The analysis is grouped into four themes that reflect the main arguments of the trial.

Chapter 5 is dedicated to present a summary of the study and also considers the implication for those who want to understand the role of the Constitutional Court of Indonesia as well as recommendations for policy makers, especially those who are involved in making educational policy for K-12 settings.

Chapter 2

Competing Visions That Underlie National Identity and Education in Indonesia

Imagined community

In this study, I use Anderson's (2006) concept of 'imagined community' to explore and analyze the different imaginations of Indonesian national identity that are found in the RSBI court documents. Anderson defines a nation as "an imagined political community and imagined as both inherently limited and sovereign" (p.6). Anderson further elaborates on this definition as follows:

- a. The nation is imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion. (p. 6)
- b. The nation is imagined as limited because even the largest of them, encompassing perhaps a billion living human beings, has finite, if elastic, boundaries, beyond which lie other nations. (p. 7)
- c. The nation is imagined as sovereign because the concept was born in an age in which Enlightenment and Revolution were destroying the legitimacy of the divinely ordained, hierarchical dynastic realm. (p. 7)
- d. Finally, the nation is imagined as a community, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always understood as a deep, horizontal comradeship. (p.7)

Anderson's concept of imagined community emerged from the work of Gellner (1964), *Thought and Change*, in which Gellner states: "Nationalism is not the awakening of nations to self-consciousness: it *invents* nations where they do not exist." (cited in Anderson, 2006, p. 6). However, in this notion of nationalism, Gellner equates invention to fabrication and falsity whereas for Anderson invention is equal to imagining or creation. Anderson further argues that:

Communities are to be distinguished, not by their falsity/genuineness, but by the style in which they are imagined. Javanese villagers have always known that they are connected to people they have never seen, but these ties were once imagined particularistically – as indefinitely stretchable nets of kinship and clientship.

(2006, p.6)

Javanese imagination of their kinship with other people is the perfect example for me to use in describing imagined community. As a Javanese myself, I completely fit in that example, inasmuch as I always think that other Javanese, regardless of who they are, are my family. Lexically, when we use the word "community" it is meant to describe a collection of individuals who share something in common, such as: tradition, ownership, interests, or characteristics (Neufeldt, 1996). Javanese, in this regard, share the spirit that we are all related by our connection to the ancestral land of Java. The fact that we all live in the same island (Java) shows that our ancestors are related or even come from the same '*trah*.' *Trah* is a relationship that exists because one person is connected to another through a family lineage. This sentiment is indeed deeply instilled in Javanese individuals. In this case, as in other communities, the Javanese community is indeed distinguished by the way it is imagined.

Kanno and Norton (2003) maintain that an “imagined community refers to a group of people, not immediately tangible and accessible, with whom we connect through the power of imagination” (p.241). The imagination that bonds people together as one community or nation is a cognitive process which requires *thinking* about what that each individual living in that community is somewhat related or connected to. It is in this sense of *thinking* that the notion of imagination is used in my study.

However, in the case of Indonesia, this imagining of community has proved very challenging. Indonesians come from exceptionally diverse backgrounds in terms ethnicity, religion, language, and culture, to mention a few. Indonesia, with its population of more than 250 million (CIA, 2013), has more than 300 ethnic groups and 700 local languages (Embassy of the Republic of Indonesia, 2008). These diverse backgrounds are bound to influence the national imagination of what Indonesia is one way or another. The way – or the style, as Anderson puts it – in which individuals think about (or imagine) their national identity, will not be necessarily be the same for all citizens in one of the most diverse countries in the world.

Thus, visions of national identity or what it means to be Indonesian can draw on different imaginations from one person to another, or from one group to another. These differences can result in contestation or friction. In response, it is not possible for Indonesia, say, to have fifteen different policies that govern national identity and integrate them in the national education system, i.e., in a top-down political system that requires uniformity. The RSBI school policy dispute is but one example of these contested visions.

National leaders and public figures, when discussing these issues in public or in the mass media, have used the phrase '*identitas bangsa*' (identity of the nation) as a term referring to national identity and treating Indonesia's diverse population as if it were homogenous. They do not provide a satisfactory explanation of what that national identity really is or what it refers to. Geertz (1996) has argued that it is very hard to describe Indonesia as a country because not only is Indonesia multi-ethnic, but it is also multi-ideology. This lack of clarity in explanations of '*identitas bangsa*' has created uncertainty and vagueness about what Indonesian national identity really is or means.

When I reflect on this uncertainty, it motivates me to study Indonesian national identity in depth and to examine its relation to education, especially since education is so often used by governments and certainly by the Indonesian government, as a political vehicle to realize its national agenda. Examining the RSBI policy dispute, particularly for the arguments surrounding issues of national identity, this study aims to understand the significance of the nullification of the RSBI school policy in relation to Indonesia's attempts to re/define or re/construct its national identity. In this study, I define national identity as distinctive characteristics that distinguish one nation from another. These distinctive characteristics can be found in the form of attitudes, behaviors, and/or intellect attached to a particular nation and seen more or less consistently in its citizens.

Issues regarding national identity have been studied for a long time. The defining moment for academic or scholarly debates about nationalism, especially in its relation to education, can be traced back to 1962 with the work of Eric Hobsbawm (Greenwalt, 2009). Hobsbawm, in his book entitled *Nations and Nationalism since 1780*, argues that the notion of nation has been evolving overtime. A modern concept of a nation, according

to Hobsbawm (1992), began to emerge during the Age of Revolution (p. 18). He argues that although its primary meaning is political, the notion of a nation has increasingly put people as members of the nation in a position above the state, where the state is understood as the institutional embodiment of the nation. As Hobsbawm puts it, “The nation so considered was the body of citizens whose collective sovereignty constituted them a state in which the element of citizenship and mass participation or choice was never absent from it.” (pp. 18-19)

Ernest Gellner (1983) in his book, *Nations and Nationalism*, states that, “nationalism is primarily a political principle, which holds that the political and the national unit should be congruent (p. 1).” Gellner further argues,

Nationalism is a theory of political legitimacy, which requires that ethnic boundaries should not cut across political ones, and, in particular, that ethnic boundaries within a given state – a contingency already formally excluded by the principle in its general formulation – should not separate the power-holders from the rest. (p. 1)

Both Gellner and Hobsbawm seem to agree that as a political project, there needs to be a governing body that holds power to regulate the people. It is only with that power that the state is capable of establishing the regulations to be followed by the people as part of their agreement to belong to that nation. In short, the concept of nationalism presented by Hobsbawm, Gellner, and Anderson insists on a collective agreement that being part of that same nation means that the citizens share common traditions, aspirations and interests, and are agreed to be governed by a national political authority. In other words, as Greenwalt (2009) puts it, “nationalism is a project whose mission seeks civic integration – that is, nationalism is understood as an explicit program for nation building (p. 496).”

RSBI as a case study of contested national visions

Since the implementation of this RSBI policy, few people have studied these new schools (Sakhiyya, 2011). The few people who have done so have mostly addressed the issue of English as the instructional language in the schools (Coleman, 2010; Sundusiyah, 2011; Haryanto, 2012; Zacharias, 2013). A policy analysis on RSBI policy has also been done to examine the notion of being international and how it has been implemented in schools (Kustulasari, 2009). Another policy analysis on RSBI was done to study the government's effort to improve school capacity (Sumitomo, et.al., 2012).

In the best-known journals in the field of education and social sciences, I found only one study of RSBI that addresses the issue of national identity. In this study, Sakhiyya (2011) questions and maps out how RSBI policy influences Indonesian national identity as a postcolonial country. However, her research is mostly about how Indonesia, as a postcolonial nation, positions itself globally among advanced countries. Thus, none of the research to date has examined RSBI in terms of what Indonesian national identity is, as seen domestically as well as internationally and none addresses the problem of reconciling internal and external views.

Outside the RSBI context, two studies are especially relevant. One is a phenomenological study that was conducted in France by Kyle Greenwalt (2009). In his study, using phenomenological interview data of secondary school students, he examines the relationship between the students' schooling experiences and their construction of national identity. The data were analyzed in terms of three different themes: relationship to teachers, purpose of schooling, and understandings of the national history curriculum

(p. 501). Based on what he found, Greenwalt argues for, “the need to reconsider the relationships among social solidarity, pluralism, and national identity and calling into question the contemporary relevance of structural representation of the nation-state” (p. 494).

The second study was done by Bonny Norton and Farah Kamal (2003) in Pakistan. The authors carried out their studies in a Model Elementary School that was involved in the Youth Millennium Project, a global initiative of the University of British Columbia (UBC), Canada. The project, as Norton and Kamal (2003) further described it, aimed “to provide youth [age 11-14] with the opportunity to build self-confidence and community by creating a local plan of action that addresses a larger social issue” (p. 304). Using questionnaires, interviews, and observations, Norton and Kamal employed Anderson’s (1991) notion of imagined community in which students express their hopes for the future. In their responses students at the Model Elementary expressed the hope “that their society of the future would be a peaceful one in which the principles of Islam would be valued and respected” (p. 313).

These studies by Greenwalt and Norton and Kamal, conducted in France and Pakistan respectively, helped me think about questions of national identity and the role of schooling in ways that could be fruitful for my study of Indonesia. Greenwalt (2009) explores the challenges of building the sense of national identity. He argues that, “the case of France demonstrates the many ways in which a state apparatus can attempt to assimilate a diverse population into a single and homogenous nation whole” (p. 495). These challenges are very similar to the problems that Indonesia has been facing since its independence in 1945 (Biezeveld, 2007). With such a diverse demographic population,

the Indonesian government continues to try to build one Indonesian nation under the slogan, “*Bhineka Tunggal Ika* or Unity in Diversity” (Yudha et.al., 2013).

In addition, being a country with the largest Muslim population in the world (BBC, 2013), Indonesia has a similar context to what Norton and Kamal (2003) described as they see that for Pakistani students, “their identities as Muslims were considered of paramount importance” (p. 313). Thus, the case of Pakistan is particularly useful for my study because it explores the role of Islam and the way in which religion and national identity come into play. For Indonesia, such issues have created a complicated struggle of re/defining and re/constructing national identity among Indonesians. My study addresses these by examining the complexities of one educational policy reform and resistance to it in the context of the larger issues about the nature of Indonesian national identity. The RSBI policy debate gives us a lens for looking at issues of national identity as they play out in the competing national visions faced by the court case.

While Norton and Kamal (2003) and Greenwalt (2009) have studied the issue of national identity in relation to schooling, the scope of their studies is limited to the individual local schools in which they conducted the study. In contrast, I focus on debates and discourse at the national level, using the RSBI policy dispute in Indonesia as a case in point. Such an approach is justified because: a) the RSBI policy dispute involves public schools nationwide, b) it provides an example of how a project of nation building in such a diverse country like Indonesia can be understood, and c) it reveals different imaginations of national identity and their significance within two competing visions of what Indonesia should be as a country.

Education and national identity

Some Indonesian education experts claim that the development of Indonesia as a country is very much dependent upon the success of its national education (Tilaar, 2004; Soedijarto, 2008). That is because not only does education educate the nation to be smarter or more intelligent, which in turn strengthens the country's economy, but education is also charged with developing the Indonesian national identity. This claim is not without reason. In the Law No.20 of 2003 article 3, it is stated that:

National education functions as to develop competencies and shape a dignified national character and civilization in order to smarten national life. It aims to develop students and their potentials in order to be religious and devoted to the one true God, to have noble character, healthy, knowledgeable, competent, creative, independent, and to be responsible and democratic citizens.

Although the issue of national identity is used as a basis to cancel a national level policy (RSBI school), research on how education is related to and influences or is influenced by national identity in Indonesia is hard to find. Even in the summary of the court's ruling on the RSBI dispute, it is not clear how Indonesian national identity is defined. Different Indonesian terms such as *jati diri* (identity), *identitas* (identity), *kepribadian* (personality), *watak* (character), *karakter* (character), *jiwa bangsa* (soul of the nation), and *akar budaya* (cultural roots) were used at different points in the court documents and all seem to refer to the notion of 'identity' in English. Unlike some terms that have definitions or where people ask for clarification, these terms are not questioned for definition or clarification. Unfortunately, there is no further explanation in the document of what each term meant. It is assumed that there is an agreement on its meaning.

An Indonesian senior philosopher, Koento Wibisono (2005), as quoted in Srijanti's book on civic education, defines national identity as "*nilai-nilai manifestasi budaya yang tumbuh dan berkembang dalam aspek kehidupan suatu bangsa (nation) dengan ciri-ciri khas, dan dengan ciri-ciri yang khas tadi suatu bangsa berbeda dengan bangsa lain dalam kehidupannya* (Srijanti, et.al., 2008)" (the manifestation of cultural values that grow and develop in the life of a nation with distinctive characteristics, and it is with these distinctive characteristics that a nation differs from others in its life).

There are two important ideas to be noted in this definition: "cultural values" and "distinctive characteristics". Looking back to the Article 3 in the National Education System Law No.20 of 2003, the distinctive characteristics and cultural values that reflect Indonesian-ness are described as: religious and devoted to the one true God, to have noble character, and be healthy, knowledgeable, competent, creative, independent, and to be responsible and democratic citizens. Consequently, education is expected to be able to serve as a means to develop this version of Indonesian national identity (Tilaar, 2004; Soedijarto, 2008).

But how distinctive are the characteristics of education with Indonesian societies? The world system theory developed by John Boli and Francisco O. Ramirez holds that with globalization there comes a convergent "world" agreement on education policy and how it is to be implemented across the world. This world-level cultural similarity is also found in education ideology and practices around the world (see Ramirez and Boli, in Thomas et.al., 1987; and Boli, 2005). Although the world system theory seems plausible, Schriewer and Martinez (2004) argue that this theory is at odds with findings in the fields of comparative history and sociology of the social sciences.

Education in their view is no different from other social sciences in the sense that it “inevitably is shaped by historical and cultural factors and, in this sense, can be considered an idiosyncratic form of theory and knowledge production” (Schriewer and Martinez, 2004, p.31). The concept of externalization as formulated by Schriewer and Martinez (2004) recognizes that every nation or society has a way of processing history/events that is inherently different from another and not consistent with the world-system position that sees nations or societies moving toward a creation of just one world. At times, countries will point externally, to events outside their country, as justification for a policy being recommended, while other times remembering the country’s past is the move that is used to provide a warrant for some claim. In Schriewer and Martinez’s view, multiple worlds will never cease to exist and “that processes of global dissemination and standardization, while indisputable at the macro level, are at the same time closely interrelated with recurring processes of culture-specific diversification” (Schriewer and Martinez, 2004, p. 34).

These theories of world system and culture-specific diversification can help us examine the RSBI court case and look closer at the positions taken by the opposing sides. In particular, how do the two sides – the petitioners and the government – represent the point of view of Schriewer and Martinez and the world-systems theory. The following chapters will address these questions as much as possible within the limits of the data.

Research questions

In order to achieve this, and be informed by Anderson’s (2006) concept of imagined community, the following research questions have guided my study:

- 1) What are the different discourses of national identity that emerged in the RSBI policy dispute?
 - a) How does the government envision Indonesia as a nation?
 - b) How do the petitioners envision Indonesia as a nation as compared to that of the government?
- 2) What are the most important disagreements between the petitioners and the government and what basic issues about the country's future do they raise?
 - a) What is the role of education in the creation of Indonesian national identity?
 - b) What is the role of education in building Indonesia according to each party?

These research questions have helped me to find answers to how differences in the imagination of Indonesian national identity have played a significant role in the nullification of the RSBI policy. Having answers to these questions has shed light on what currently is currently happening in the Indonesian polity especially with respect to re/defining or re/constructing our identity as a nation. In addition, those answers provide an explanation of how schooling in Indonesia is used as a political vehicle by the government to enact their nation-building agenda.

Approach

As mentioned in the previous section, this study uses the RSBI school policy dispute as a venue to investigate and understand Indonesia's struggle to redefine/reconstruct its national identity and to what extent education plays a role in this regards. Therefore I rely heavily on the documents related directly to the RSBI policy dispute as its primary source of data. My data used in this study include all the documents

that were required for and produced from the court on RSBI policy dispute. I also use key authoritative policy documents to which the court case refers, such as the Constitution and *Pancasila*. Since the data used for this study are all textual documents, content analysis is employed to carefully examine those documents.

Data collection. All the court-related data are obtained from the RSBI school policy dispute that was started on January 27, 2012 and ended on January 8, 2013. There are two sets of data related to the RSBI dispute. The first data set consists of the full court decision along with all nine transcripts of court hearings and three additional documents that were submitted for the case (petition of the case, revision of the petition, and written testimony from the House of Representatives). The second set of data used for the study consists of background laws and authoritative documents that are referred to in the dispute. These include: a) *Pancasila*- the five principles of national ideology, b) 1945 Constitutions and its amendments, c) National Education Law of 2003, and d) Ministry Regulation of 2009 on the establishment of RSBI schools. All copies of the documents from the court trials and laws/regulations were analyzed thoroughly. These documents are important for analysis to find out about the different discourses of national identity that were available to the judges when they made their decision. Both data sets are written in Indonesian with the exception of the court decision that is available both in Indonesian and in English.

Data analysis. In order to answer my research questions, I started to work on the data by identifying texts from the court documents that I consider as the most relevant texts for my analysis. I selected those texts based on themes that emerged during the court hearings. Because I am working from the original documents written in Indonesian

language, I translated all of the selected texts from the hearing that I used for my analysis. During the translation process, I also developed analytical memos. I employed a dialogical model to do my analysis. I shared all of my translation and analytical memos with Professor Jack Schwille, one of my dissertation committee members, who has played a very important role in serving as my dialogical partner to help me sort out what can be used as data, how I make sense of them, and how I interpret those texts. I developed the analysis based on insights and comments that Professor Schwille and I had on a daily basis throughout my translation process.

Chapter 3

A Trial of the RSBI Policy

Taking the RSBI policy to the court

Due to dissatisfaction that some parents in Jakarta experienced with their children in the public schools system as a result of RSBI policy implementation, the RSBI school policy was taken to court. The case of RSBI was brought to court on January 27, 2012 by a coalition of parents, educators, and education observers who were disappointed by the establishment of RSBI. This coalition consists of 7 people who authorized 15 lawyers who called themselves “*tim advokasi anti komersialisasi pendidikan*” or anti commercialization of education advocacy team.

Members of the coalition who were involved in the RSBI court case consist of four (4) parents (one of whom also an activist), one teacher educator, and two activists. The parents are: 1) Andi Akbar Fitriyadi, who works in a private sector. He enrolled his son once in an RSBI pilot elementary school, SDN 02 Menteng but then decided to withdraw his son’s enrollment due to financial obligation that parents had to pay to the school. 2) Nadia Masyukuria, a housewife whose three kids went to RSBI schools in Jakarta. Her eldest child went to SMPN 1 Jakarta (a middle school), and her two other children went to SDN 02 Menteng, Jakarta. 3) Milang Tauhidia, an employee whose two kids went to RSBI pilot middle schools but one was placed in a regular class (non RSBI pilot) and the other one was placed in the RSBI class. and 4) Juwono, an employee in a private company who is also a secretary of *Aliansi Orang Tua Murid Peduli Pendidikan Indonesia (APPI)*, an alliance of parents who care about Indonesian education.

Three other members of the coalition were not parents: 1) Lodewijk F. Paat, who is a faculty member in the college of education of Jakarta State University. He is also active in the education coalition; 2) Bambang Wisudo, the founder of the school for street children called “School Without Limit” who often conduct advocacy in education; 3) Febri Hendri Antoni Arif, who is a staff member in an NGO, the Indonesian Corruption Watch coordinating public service monitoring division.

The 15 authorized lawyers who called themselves the anti-commercialization of education advocacy team were: Alvon Kurnia Palma, Emerson Yuntho, Wahyu Wagiman, Febri Diansyah, Wahyudi Djafar, Donal Fariz, Iki Dulagin, Fatilda Hasibuan, Sulistiono, Zainal Abidin, Tandiono Bawor Purbaya, Abdul Kadir Wokanubun, Agustinus Carlo Lumbanraja, Ikhana Indah Barnasaputri, and Andi Muttaqien.

This chapter summarizes the court proceedings hearing by hearing. It is important for the English speaking readers to know how the Constitutional Court works because, after being established in 2003, it has played an important role in the transition to democracy. The RSBI case is its most important case in education to date. There are a total of nine court hearings. In this chapter I present the testimonies in the chronological order of the court hearing dates to provide a more true to life account before going on to the analysis of Chapter 4. The presentation on each hearing will focus on what was said during the trial. All of hearings took place in the courtroom of the Constitutional Court Headquarter building in Central Jakarta. Testimony was delivered in ways that differed from person to person. Full transcriptions of all the hearings are accessible online at the Constitutional Court website⁶.

⁶ <http://www.mahkamahkonstitusi.go.id/>

First trial: January 27, 2012

In this preliminary examination of the RSBI case hearing, the advocacy team presented reasons why the RSBI schools program, established by article 50 item 3 of Law No. 20 of 2003, violated the 1945 constitution. Wahyu Wagiman, who was the spokesperson for the advocacy team made three main arguments:

First, he argued that the RSBI schools program is against the spirit of “*mencerdaskan kehidupan bangsa*” or to smarten the life of the nation, that is mandated by the 1945 Indonesian constitution. In practice, Wagiman said, “the presence of RSBI schools has a potential to keep individual students from getting a proper and quality education.”

Secondly, in the eyes of the coalition group, the presence of RSBI schools has proven that the establishment of public education in Indonesia is not fair and has a tendency to be discriminatory. Not everyone can get into the RSBI schools due to the selection process and the resulting competition.

Thirdly, the establishment and implementation of *RSBI* schools in the public schools system created “dualism” in the national education system. *Dualism* is a terminology that the petitioners invented for the case of *RSBI* to show that there are two different standards that is nested in the same national education system. In each *RSBI* school, there are two types of classes: 1) pilot *RSBI* classes with complete facilities and master teachers, and 2) regular classes taught by the rest of the teachers in the school using older school facilities that were in place since before the *RSBI* program was implemented. The regular classes used the national curriculum whereas the pilot classes

combined the national curriculum with an adaptation and adoption of what was considered “international.” What counts as international could be as simple as the fact that the book is from another country, e.g., Singapore; or that they bought curriculum programs based on an Oxford model.

After Wahyu Wagiman finished his testimony regarding the RSBI case, the Constitutional Court judges responded by asking questions of clarification. Judge Achmad Sodiki raised a concern about the nature of international standards that the petitioners discussed in their case. Sodiki asked why, according to the coalition team, the International Standards Schools worked against the spirit of smartening the life of the nation. In addition, Sodiki also asked about the philosophical rationale for claiming that the International Standards Schools violate the Constitution. Both answers to these questions, according to the judge, were missing from the case as submitted. Sodiki also asked the advocacy team to include the copy of the Law No. 20 of 2003 as evidence.

In this first hearing, both the advocacy team and the judges made a point of referring to the Law No. 20 of 2003 article 50 item 3. Both parties looked closely at the language involved very closely to make their case or statements. The 1945 Indonesian Constitution was mentioned in the hearing but by the petitioners only to state that the article 50 item 3 was being tested for compliance with the 1945 constitution.

Second trial: February 17, 2012

Judge Anwar Usman started the second hearing by asking the advocacy team if they had made corrections and adjustments to the court materials as the Judges had suggested at the first hearing. Andi Muttaqien as the spokesperson of the advocacy team

responded to Judge Usman's question by stating that they had made all the necessary revision based on the Judges' feedback such as: elaborating on the philosophical foundation of the RSBI case in relation to the Law No. 20 of 2003 regarding the national education system, and the definition of international standards schools.

In principle, the trial of RSBI policy examined article 50: item-3 of the Law No.20 of 2003 on the national education system of the Republic of Indonesia, which states that, "the national and/or provincial government establish at least one education unit on each level of education to be developed as international standard education unit" and whether this article violated the 1945 Indonesian Constitution, with respect to the following:

a. The preamble of 1945 Constitution of Indonesia, especially the fourth paragraph that says:

Thus, in order to form a governing country of Indonesia that will protect the entire Indonesian nation and all the land of Indonesia and to improve the social welfare, to smarten the life of the nation, and to take part in establishing a world order that is based on freedom, eternal peace, and social justice. Hence, the Indonesian national independence was drafted in the Constitution of the State of Indonesia, formed in an arrangement of the sovereignty of the people of the Republic of Indonesia that is based on the belief in one true God, just and civilized humanity, unity of Indonesia, democracy led by wisdom of the consultative and representative, as well as the realization of a social justice for all citizens of Indonesia. (*direct translation of preamble of UUD'45 paragraph 4*).

b. Article 28C item 1:

Each individual has the right to develop him/herself by fulfilling his/her basic needs, has the right to have education and get the benefit from the knowledge of science and technology, arts and culture, in order to improve his/her quality of life and for the welfare of mankind.

c. Article 28E item 1:

Each individual has the right to have a religion and to practice his/her religion, to choose education and teaching, to choose a profession, to choose citizenship, to choose a residence in the state territory (Indonesia) and leave, as well as coming back.

d. Article 28I item 2:

Each individual has the right to be free from any form of discrimination and has the right to get protection from any form of discrimination.

e. Article 31 item 1:

Each citizen has the right to get an education.

f. Article 31 item 2:

Each citizen is obligated to participate in the basic education and the government is obligated to finance it.

g. Article 31 item 3:

The government (of Indonesia) shall manage and organize one system of education that improves faith and piety as well as noble characters in order to smarten the life of the nation that is governed under the law.

h. Article 36:

The (Indonesian) state official language is *Bahasa Indonesia*.

In taking the RSBI policy into the Constitutional Court, the petitioners used five major reasons to support their argument to claim that the article 50 item 3 of the Law No. 20 of 2003 is unconstitutional. Those five reasons are:

1. The RSBI school policy is against the spirit of smartening the life of the nation. If the aim of RSBI establishment is to have competent graduates like those of advanced countries, it does not necessarily mean that those graduate competences are suitable for Indonesian context.

2. The RSBI school policy is against the state responsibility to smarten the nation and also creates “dualism” of the national education system. The 1945 Constitution, particularly article 31 item 3, specifies one national education system. This is understood as having one education system that is recognized and used nationally and managed by the government. The presence of an RSBI school program as mentioned in the article 50 item 3 of Law No. 20 of 2003 creates two systems within the national system.
3. The RSBI school policy is a form of “liberalization” of education since the state ignored its responsibility to fully finance basic education and let the RSBI schools charge fees to parents. (*Liberalization* in this context is understood as making education more like a market system in which education is seen as a market commodity where people can buy whenever they see fit or whatever matches their interest).
4. Due to financial responsibility that students have to fulfill, the RSBI school policy creates discrimination and caste in education, especially for those students with low socio-economic status. Although there is a scholarship program offered to high achieving students of low socio-economic status, it excludes those who are not high achieving students. According to the constitution, everyone has the right to quality education.
5. The RSBI school policy has the potential to eliminate Indonesian national identity inasmuch as it negatively affects the focus on the national language which is *Bahasa Indonesia*. Instead English is used as a language of instruction in the RSBI schools.

In addition, characters that RSBI schools try to develop in their students will not produce humans (read: citizens) with *kepribadian* (Indonesian “personality”).

Given the five reasons above, the petitioners asked the constitutional court to rule that the article 50 item 3 of Law No. 20 of 2003 is unconstitutional, hence requiring the RSBI schools to be closed down and the program discontinued.

Third trial: March 6, 2012

This hearing was scheduled to hear the position taken by the government as presented by Prof. Suyanto, Ph.D. No other witnesses were called. In presenting the government statement about RSBI schools policy, Suyanto addressed each issue raised by the plaintiffs. His argument was primarily a legal one, attempting to show how the RSBI schools did comply with the Constitution and the laws. Suyanto started by providing elaboration on the government’s role in smartening the life of the nation as mandated by the 1945 constitution. To carry out the government’s role in smartening the life of the nation, one way was to provide education nation-wide “with the purpose to develop competences and to build people’s character, as well as a dignified nation,” said Suyanto (MK, 2012c).

In order to realize this purpose of national education, Suyanto further stated, “national education aims to develop learners’ potential to be people who are faithful and devoted to the one and only God, have noble characters, are healthy, are knowledgeable, are capable, are creative, are independent, become democratic citizens, and are responsible (MK, 2012c: 3). To achieve that aim, according to the government, all

elements of the nation-state have the obligation to smarten the life of the nation; that is one of the objectives of Indonesia as a nation-state.

Suyanto later added, “the goal of RSBI schools is to produce graduates who can surpass the national education standards so that they have a high comparative competitiveness including the ability to communicate in a foreign language” (MK, 2012c: 4). Because the government’s intention in creating the RSBI school was to establish a “center of excellence,” a quality school *hosted within the scope of national school standards*, the existence of RSBI schools “is not against the spirit of smartening the life of the nation.” According to the petitioners, the RSBI schools were in fact using the national curriculum, although enriched by an international standards curriculum. In other words, the establishment of RSBI did not create a dualism in the national education system in Indonesia, as claimed by the coalition.

When explaining the right of Indonesian citizens to get an education and the government’s duty to provide education aligned with the purpose and goal of national education, Suyanto based his argument on article 31 items 1 and 3 of the Constitution. He also referred to the Law No. 20 of 2003, particularly article 5 which mentions that each individual citizen has an equal right to get a quality education, including the opportunity to improve their education as long as they live. In addition to that, he mentioned article 6 to highlight an obligation for young people 7 to 15 years of age to undertake basic education.

According to Suyanto, the RSBI School program was still in its piloting stage. None of the schools under the RSBI program had yet been recognized as a full operating international standards school. The process of selecting the national standards school to

be pilots of international standards schools was very much dependent upon the readiness of the schools. The readiness of the schools was not something that could be instantly made or forced upon them. Therefore, the government decided that the process of establishing the RSBI schools had to be done stage by stage.

Fourth trial: march 20, 2012

Winarno's testimony. Prof. Winarno Surakhmad, a former president of teachers' college Jakarta (now Jakarta State University) presented the first testimony. He is a US graduate from the State University of New York and School of Education and Psychology, Stanford University. At the time of this hearing, Winarno was a member of the advisory board for the *Persatuan Guru Republik Indonesia (PGRI)*, the Indonesian Teachers Union. Winarno testified as an expert witness for the petitioners. He presented his arguments in a question and answer format guided by one of the advocacy team lawyers, Wahyu Wagiman.

To start off, Wagiman asked Winarno to discuss the establishment of RSBI schools as related to the basis and the philosophy of national education. In particular, he wanted Winarno to discuss the problem created when RSBI schools were attached to a national education system that had been developed years and years ago following Indonesian independence. Winarno answered, "we need to admit that our national education still needs improvement. But it is not right to create an international education system in order to fix it." And also, "as a nation we must be proud one day when the education in Indonesia has a superior quality that attracts international community to study in Indonesia not because of a system that imitates OECD or the like, but because of

what we do for our education since our Independence, because it is a *national* system.”
(MK, 2012d: 9)

Winarno recalled the Indonesia Youth Pledge of 1928, “the pledge that was pronounced by all Indonesian youth: one nation, one motherland, and one language- has started to break after it was pronounced.” According to him, instead regions have tried to separate from Indonesia. He further stated, “If this happens again and again, there will be more than 500 independent flags across the country which means Indonesia is no longer one... it’s no longer one nation.” (MK, 2014d: 11) Compared to that trend, according to Winarno, “the effort of establishing education that is international in nature, is not important, and even has no significance at all in regards to Indonesian nation building.” (MK, 2014d: 11)

Sudijarto’s testimony. Sudijarto is a professor at several universities in Jakarta. He is also the chair of the Center for Indonesian Policy Studies. Sudijarto was also an expert witness who testified for the petitioners. He started his testimony by sharing that he was, when the Law No. 20 of 2003 was still a draft, one of the people who wanted to have the article 50: item 3 and article 65: item 2 to be eliminated, the reason being that he thought that those two clauses were against the nature of Indonesia as a nation-state. Sudijarto, in his argument, noted that by the phrase of ‘*mencerdaskan kehidupan bangsa*’ or ‘smarten the life of the nation,’ the founding fathers of Indonesia did not mean simply sending all Indonesian citizens to school to learn how to read, to listen, to remember and then take a national exam. It was not that. Rather, Sudijarto argued, it was “to transform the Indonesian society to modern,[then] to democratic.” (MK, 2014d: 13)

In trying to make his argument, Sudijarto brought in article 31: item 3 of the Indonesian constitution that says, “Government arranges one national education system...” and also article 5: item 1 of the Law No. 20 of 2003, that states, “every citizen has the right to get quality education...” RSBI were therefore a problem because only certain people could attend due to the very limited number of RSBI schools available in each province. As the consequence, these schools became very discriminatory and contrary to article 4: item 1 which requires education to be conducted in a just, democratic and non-discriminatory manner. Therefore, smartening the life of the nation is meant for every single Indonesian without any exception.

Further, Sudijarto stated that the school is a center of culture, and therefore, “*to build a nation, build schools to make all Indonesian people proud* [said originally in English] to be Indonesians,” it should happen in the Indonesian atmosphere. (MK, 2014d: 15) Since, as stated in the Law No. 20 article 3, the goal of national education is to develop a civilized nation, it is not only for certain elites, but for all Indonesian people. Sudijarto contends that the idea of having international school in Indonesia where Indonesian will go for their education is contradictory to the idea of nation building. (MK, 2014d: 16)

Darmin Vinsensius’ testimony. The next expert witness who testified for the petitioners was Darmin Vinsensius. He was a former rector of a seminary and vocational school of Taruna Bakti Jayapura in 1996 until 2002. Darmin did his doctoral dissertation on international education policy in Indonesia focusing on its education management aspect. In his testimony, Darmin argued that the RSBI schools program is against the Indonesian

constitution because the program is doing its best to change Indonesia into a neoliberal-capitalist state.

Darmin went on to present six different reasons why the RSBI program is against the Indonesian constitution, specially the 4th paragraph of its preamble. He asserted that:

1. The RSBI policy ignores the state responsibility to protect all the people and the land of Indonesia. RSBI only protects and guarantees students who passed the standardized selection process.
2. It also ignores the state responsibility to improve public welfare, since the substance of RSBI is education as a global commodity based on neoliberal-capitalist values.
3. It is not smartening the life of the nation, but rather, it creates new social stratification because it is only educating and teaching highly qualified students of economic promise. RSBI is a campaign for internationalization of the neoliberal-capitalist market economy.
4. It ignores the freedom of humans as whole beings because the RSBI program with its capitalist-neoliberalism reduces people and sees them as human capital. Human freedom is limited to freedom to compete in a context of social Darwinism.
5. It creates social injustice by inhibiting citizens from pursuing quality education. The impact of this commodification of international education is an increase in international injustice. RSBI works against peace because it prioritizes competition.
6. In creating a new Indonesia that is neoliberal and capitalist, it easily embraces OECD and other advanced countries. OECD, by its nature, is a legacy of global neoliberal-capitalism.

Retno Listyarti's testimony. For Retno, and perhaps due to her role as a non-expert witness for the petitioners, Judge Harjono asked her a question if there was a difference in the content and in the way she taught the regular class as compared to the RSBI class. Retno answered the question based on her subject matter. As she teaches civic education, she said that it was technically the same. In addition to that, Retno mentioned that the school had “native teachers” to teach English, Chemistry, Physics, Biology, and Math. She further stated that, “the native teachers are those from Europe, or at least Australia.” (MK, 2012d: 25)

Harjono continued to ask about the portion of *Bahasa Indonesia* taught as subject matter. Have the number of class hours been reduced? Retno answered that the portion of *Bahasa Indonesia* in RSBI classes is less and RSBI students also did not get social science but they learned information technology instead. (MK, 2012d: 25) She then talked more about the curriculum that was used in her RSBI school. They used a national curriculum just like non-RSBI schools except that they had an addition of “local wisdom”. The three things developed as their local wisdom were: content that was environmentally friendly, transparent and professional, and maritime. On top of that, especially for the RSBI classes, they also used the Cambridge curriculum. Students used textbooks from that curriculum, and were evaluated on the 5 subjects mentioned above using Cambridge tests: English, Math, Biology, Chemistry, and Physics.

Suprpto's testimony. Due to time constraint of the Judges' hearing schedules, the government could only present one of their witnesses in the fourth hearing. At the time of the hearing, Suprpto was the principal of SMP Muhammadiyah 2 Yogyakarta, a private

middle school that is religiously affiliated with Islam. Suprpto started his testimony by introducing the concept of *RSBI mandiri*. *Mandiri* is an Indonesian word for independent or self-reliant.

It means that his middle school operated an RSBI school program without having any financial support from the government. Rather, the school drew on parent support and was purely self-funded to run the RSBI program in his school. Even so, not all the parents were requested to financially support the operation of this RSBI school program. It was done through a cross-subsidy from the parents with high income giving more to the school so that parents with limited or low income were not asked to pay more than they were able to.

Suprpto explained that the cross-subsidy method in his school is in line with the spirit of tolerance called for by *Pancasila*, the five pillars of Indonesia, and the 1945 constitution. In addition, Suprpto also mentioned that his school is open for students with disabilities. Suprpto explained that there was no discrimination, in terms of service to students, between those who were in the RSBI program and for those who were not, nor moreover, for those with disabilities.

Fifth trial: April 11, 2012

Mualimin Abdi from the government introduced all the twenty-five (25) people who were on the government team. Upon finishing his introductions, Mualimin Abdi asked the judges if the government could start to have their expert witness testify first. Judge Mahfud as the lead judge approved this request.

Prof. Dr. Slamet was the first one to testify for the government. Dr. Ir. Indra Djati and Dr. Ibrahim Musa followed. But before the first testimony started, Judge Mahfud announced that the Judges had just received a letter that day from *Federasi Guru Independen Indonesia* (Indonesian Independent Teachers Federation) who requested to be included as a related party in the RSBI case. But since the court process had already been running for some time, and considering the number of witnesses and expert witnesses who would need to testify, the Judges of the Constitutional Court decided that they would not add any more related parties. The Federation, however, would be allowed to submit their explanation related to the RSBI case in writing as ‘*ad informandum*’—additional information from outside the official hearing. The Federation was also informed they would be welcome to attend all the hearings not as a related party but as part of the audience.

Prof. Slamet’s testimony. As an expert witness for the government, Slamet said that his testimony could cover both the concepts and implementation of RSBI but he had decided to focus on the concepts because what is disputed by the plaintiffs focused on whether or not Article 50 item (3) violates the 1945 constitution. He would not discuss the implementation because several schools had been invited to send witnesses to testify on implementation. Even so, his testimony as an expert was the most comprehensive defense of the government apart from Suyanto.

In this testimony, Slamet argued that RSBI school does not violate the constitution. In fact, the RSBI school is needed in Indonesia due to the globalization that the country is now facing. Education is the way in which Indonesia can prepare its future

generation to be globally competitive and to be able to collaborate with other nations and actively participate in the advancement of the world.

Slamet constructed his argument based, in part, on theories of “existentialism.” Existentialism for him means that education needs to recognize that students are different in their abilities and achievements. Slamet took issue with the view that all students at basic education level in Indonesia should receive the same education. He asserted that even when learners are given the same opportunity, there will always be a difference in their learning achievements. He addressed the question of whether different programs or treatments for different students would be fair or unfair. In his view (MK, 2012e: 6), “fairness has an implication that there is a different treatment according to the internal and external conditions of learners, for example, it is fair or proper ethically, to treat learners based on their talents and interests.” It is also fair to open access, to give equal opportunity for learners with outstanding achievements from various regions, to give them the opportunity to achieve at a higher education level. The same thing applies to less fortunate youngsters in order to raise their status.

Slamet went on to elaborate on the urgency of establishing RSBI in Indonesian public school system. First, RSBI were targeted at children who are above average. He stated that, “it is not ethical to treat students who are above average similar to those who are less intelligent. It violates their human rights to do so. We have to treat them according to their individual differences.” (MK, 2012e: 10)

The purpose of establishing RSBI was not only to have high quality human resources to face globalization, but also for them to manage the available resources in Indonesia. Indonesia has more than 230 million people. If Indonesia cannot manage its

people as human resources well, this will become a burden. In addition to that, Indonesia also has abundant natural resources. In reality, however, it is well known publicly that foreigners manage Indonesian natural resources. This is because Indonesia, in this case the government and private sectors, has not prepared young people well enough to do the job. (MK, 2012e: 10)

Currently in Indonesia, schools are categorized into three types: schools that do not meet the national education standards called minimum standards service (SPM); schools that satisfy the national education standards are called *Sekolah Standard Nasional* (SSN, a national standards school), and schools that are beyond the national education standards called *Sekolah Bertaraf International* (SBI, an International Standards Schools). Slamet argued that this categorization into SPM, SSN, and SBI was not intended to create castes, but rather to provide support or facilities or interventions that are suitable for each school category. Slamet stated, “the intervention is not one for all or one size fits all, but it is more tailored to the needs of each school category.” (MK, 2012e: 7)

Slamet emphasized that RSBI school is first and foremost a national education that primarily uses the national curriculum. The national standards are based on Indonesian characteristics; hence, they are part of Indonesian identity. The RSBI is not a Western education, as the plaintiffs would have it. RSBI school is essentially a national standards school that has met all the national standards requirements.

But, Slamet argued, in order to be globally competitive, RSBI also needs enrichment in its curriculum where enrichment is defined in comparison to other countries, especially OECD countries that offer better education than in Indonesia.

However, this enrichment is optional in the sense that it is needed only if the quality of education in SBI school is behind when compared to other countries with similar curricula.

Historically, according to Slamet, the concept of *sekolah unggulan*, meaning school with high excellence, had been developed since 1966 when the late President Soeharto was first in office. This *sekolah unggulan* had several different names depending on the Minister of National Education and the agenda that he brought to the ministry. In the case of RSBI, the agenda was to build an image (and hopefully the quality will follow) of Indonesian education that can compete internationally with other countries.

Another point of Slamet's testimony was to discuss why RSBI was established the way it was, through selective nomination and intensive financial supports through block grants. Slamet argued that it is due to national education standards requirements. If the government is to wait until the public schools exceed those required standards, it will take up to 50 years for that to happen. Therefore, some schools were chosen and then financially supported to accelerate the process to become internationally competitive. (MK, 2012e: 9)

Indrajati's testimony. Indrajati started by introducing himself . He is a faculty member at Bandung Institute of Technology in the College of Engineering, Department of Civil Engineering. From 1998 until 2005, he was the director general of elementary and secondary education at the Ministry of National Education prior to Suyanto.

He began by presenting 2005 survey data about Indonesian ranking on the Global Competitiveness Index where Indonesia was ranked 69 out of 125 countries; 110 out of 177 in the Human Development Index; with an Indonesian income per capita of US\$1,267. He argued that there is a strong correlation between a country's competitiveness with its development index and income per capita. The Human Development Index that is measured by a country's economic development, health and education has become a strong indication that Indonesia must develop quality education to increase its national competitiveness. It means that Indonesia needs to have education to make the nation smart, which later will escalate Indonesia's dignity and wellbeing as a nation state.

However, Indrajati also emphasized the challenges facing Indonesian education, for example, problems with the state of the teaching profession. Many teachers in Indonesia, judged by their education level, were not qualified to be sufficiently competent. Besides, there were many who were mismatched both in terms of subject matter and deployment. Many teachers were teaching a subject other than the one(s) they were qualified for. Also, there were many schools, especially in the rural and remote areas that did not have enough teachers. Likewise, there were issues with the number of schools and their facilities. The number of schools was considered insufficient compared to the growth of Indonesian population. And even the schools available were not in good shape. Many of them did not have sufficient facilities and many others needed building rehabilitation. Another real challenge that Indonesia faced at that moment was the policies of decentralization that created problems for school management at the local

level. This was due, among other things, to a lack of capacity building of provincial administrators. (MK, 2012e:15)

Accordingly, as Indrajati explained, the reason why RSBI was done the way it was because the government did not have enough money to do it from scratch, to recruit new teachers, to build new schools with all the facilities, etc. Therefore, the RSBI was established to make use of what already available through revitalization. It was done by developing the national *plus* schools, with national curriculum and then enriched with information technology and communication, design and visual communication, the use of English, etc. The government strategy was to monitor student progress and then do continuous improvement from that point forward.

According to Indrajati, there was no problem with the use of English as a second language. Indrajati added that Gontor (a *pesantren*, private boarding school with emphasis on Islamic teaching) and many *pesantren* were examples of education institutions that have used English and Arabic for a long time in their curriculum but never had a loss of nationalism and national identity. In addition, Indrajati stated that students' spirit and enthusiasm were high; that could be seen from results of test scores, Olympiad, competitions, and even those who continued their education at leading universities both in Indonesia and abroad. (MK, 2012e: 16)

Sixth trial: April 24, 2012

Udin Winataputra's testimony. In continuing the testimonies given by expert witnesses from the government, Judge Mahfud invited Professor Udin to testify. Udin said that would address the issue the perspective of reconstructive philosophy of education.

Although he covered various points, most of all he emphasized the importance of schools taking into account individual differences among children. For him *educational differentiation* requires providing educational services based on students' potentials and the environment in which they live. Therefore, from that perspective there are many principles that have been adopted in education worldwide such as individual interaction, independent learning, homogenous grouping, self-learning, continuous progress, automatic promotion, remedial program, and accelerated learning.

In the context of Indonesia, Udin added, the father of Indonesian education, Ki Hajar Dewantara had adopted the principles of individual differences and educational difference from the start. Dewantara's philosophy says that education must aim for a perfect life, i.e., where life and livelihood of the students are linked and matched with their world. Education services are not and cannot be done in the same way for all students. The right and proper way of providing education is through diversification in order to serve those students who are different in nature. In relation to this, Udin argued that mass education of individuals, in which each individual student is given the same treatment and the same kind of learning must be changed into individual education where individuals are given different treatment based on each individual's competence and potential. (MK, 2012f: 5-6)

Concerning the use of English as one of the languages in the RSBI schools, Udin said that philosophically it would never have the potential to eliminate national identity. He argued that there are many other aspects that become determinants in the construction of nationalism and love of the nation such as knowledge, feelings, behaviors, customs,

habits, religious beliefs, school culture, and community culture that are not manifested in the language.

Yohanes' testimony. Yohanes, who testified for the government, began by making a legal argument that the petitioners should not bring in other regulations under the 1945 Constitution to test and examine the article 50 item 3. Instead, if there was a confusion in understanding a particular law or regulation, and brought to the Constitutional Court, the only tool that the Constitutional Court can use to test and examine it is the 1945 Indonesian constitution. Other than that, the Constitutional Court does not have the authority to make the ruling.

Yohanes, as a professor of law, addressed his testimony on the RSBI case that the plaintiffs brought up to the Constitutional Court from a legal perspective. He said that, in order to find the best interpretation of a law, experts need to do what is called "*rechtsvinding*" a Dutch word for law finding. In his testimony, he analyzed RSBI policy (article 50 item 3 of the Law No. 20 of 2003) using grammatical, authenticity, and systematic interpretation. First, he pointed out that *sekurang-kurangnya satu satuan pendidikan* or minimum of one education unit (school) is understood as not all of the schools in Indonesian public schools system should be international standards schools. Second, *pemerintah dan pemerintah daerah harus menyelenggarakan satuan pendidikan bertaraf international pada semua jenjang* means that the government along with the local government must establish international standards school at all levels. It means that the RSBI schools must be established at the elementary, secondary and even in higher education level.

Yohanes continued by pointing out that *satuan pendidikan yang bertaraf international* or international standards school means a school that uses international standards after the required national education standards are fulfilled. Therefore, Yohanes argued, any school in the Indonesian public schools system regardless of whether it is national standards schools or (later) international standards schools must first and foremost fulfill the eight (8) national education standards. In so doing, the improvement of those standards in the schools must address local wisdom/excellence, national interests, fairness, and only then international competition in global civilization. This obligation to fulfill the national education standards is mentioned in the article 35 item 1 of Law No. 20 of 2003, the same law that authorized the establishment of the RSBI schools.

Yohanes argued it is reasonable to think about extending the national standards to international standards for the sake of international competition. As an example, he referred to education for sailors at the higher education level in which they have to meet the standards that was set by the International Maritime Organization (IMO). If the sailors do not meet the IMO standards, they will be rejected and cannot work as a sailor in any company, national or international. In short, he said, if Indonesia wants to have a Nobel winner, education in Indonesia needs to implement and meet international education standards. (MK, 2012f: 13)

Yohanes went on to argue that religious values, faithfulness and devotion to God will not disappear because of the international standards. Indonesian law does not allow that to happen., in particular, because the elementary and secondary education curricula require religious education, civic education, social studies, as well as arts and culture.

Since both national and international standards schools are based on the national educational standards, in Yohanes' opinion, it is not true that the level of students' intelligence at the national standards schools is lower than their counterparts in the international standards ones.

Abdul Chaer's testimony. After the judges finished hearing from the government's expert witnesses, they called on an expert witness from the petitioners' side. Abdul Chaer was the first to testify for the petitioners and focused on the use of language in RSBI schools. Abdul, who has been teaching since 1959 at various levels, argued that there is a learning principle that suggests learning should be conducted using a simple language that is easy to understand by students based their education level. Chaer argued that *Bahasa Indonesia* is much easier to understand when compared to English because *Bahasa Indonesia* is a mother tongue to many Indonesian students. Even if it is not, for the many students whose mother tongue is their local language, they have learned *Bahasa Indonesia* for many years.

Chaer continued to discuss the existence and usage of *Bahasa Indonesia* from a legal perspective. Originally from 'Malay' or *Melayu* language, but not 'malay' as referring to Malaysia, *Bahasa Indonesia* has been used as the lingua franca in the archipelago for centuries. Now within the frame of the Unitary States of the Republic of Indonesia, *Bahasa Indonesia* has three statuses: as the national language, as the unitary language, and as the official language. *Bahasa Indonesia* has been used as the national language since the beginning of 20th century with the birth of the national awakening movement. It has been used as the unitary language since the Youth Pledge that was

declared in 1928 in which *Bahasa Indonesia* was affirmed as the unitary language of Indonesian archipelago. Lastly, it was recognized as the official language in the 1945 Constitution.

Bahasa Indonesia as a national and as a unitary language does not seem to have any significant problems to face. The status that seems to raise problems is its function as the official language. As such it confronts many challenges nowadays especially given that we are in the era of globalization. That includes the use of English as the instructional language in the RSBI schools even though not all subjects are taught in English.

Chaer brought up to the court the spreading use of English in Indonesian society as a symptom of erosion of nationalism more than anything else. Therefore, the use of English was considered having a negative influence for the development of *Bahasa Indonesia*. Chaer continued to argue what is crucial was not the mastery of the language, but rather, it is the mastery of the knowledge that is presented in that language. If the knowledge can be translated from the foreign language to *Bahasa Indonesia*, then there is no urgency in using a foreign language in the school setting, let alone as the language of instruction.

Seventh trial: May 2, 2012

Akhmad Solikhin's testimony. The first thing that Solikhin addressed was the issue of discrimination related to RSBI schools. As a witness for the government, Solikhin said that the enrollment process is done online through the website of the Department of Education DKI Jakarta. This means that anyone can enroll his or her children to study at

SDN RSBI Menteng 01. The school itself did not take any fee for the enrollment. It was completely free of charge.

As far as RSBI causing commercialization of education is concerned, Solikhin argued that according to a letter from the head of the Department of Education DKI Jakarta, the school was allowed to collect funding through donations from stakeholders, including parents, business owners, and/or community at large in Jakarta area. The school committee independently collected the donations without any involvement of the school principal or teachers in the process. This donation was voluntary. Hence, there was no correlation between the decision on admitting new students and the donation that parents gave to the school. It is true that the school committee decided on the average amount for the donation, but in reality it was not at all the same for everyone. The school applied a cross subsidy system in which high socio-economic status families help those of low socio-economic status.

Solikhin further explained that the curriculum used was still the national curriculum with enrichment from adoption or adaptation of more advanced country curricula. All subjects taught were also the same as other public schools with some additional improvement based on the school needs. All subjects were developed based on the values of Pancasila and the 1945 Constitution. In particular, civic education and social studies specifically dealt with the concepts and implementation of Pancasila and the 1945 Constitution. For science and math, the instruction used Bahasa Indonesia and English interchangeably with emphasis on the use of Bahasa Indonesia. The reason for English being used is the fact that it is an international language.

With regard to nationalism, the flag-raising ceremony is considered to be an indicator of nationalism in the RSBI schools. In addition, students also learned the national anthem and folk songs in their music class. In addition, SDN Menteng was proud to have Gambang Kromong, a traditional music group from Betawi (a native ethnicity of Jakarta). The school was often invited to perform at provincial beauty pageants in Jakarta. This showed that the school was conserving national culture as a symbol of strong nationalism. The reputation of the school as a keeper of national culture has led an international school based in Jakarta take an interest in partnering with them to teach traditional dances and music to their expatriate teachers. An extracurricular activity such as boy/girl-scout was also conducted at the school to build nationalism, patriotism, independent, teamwork, and *gotong-royong* (an act of kindness) among students.

Popo Riyadi's testimony. In responding to the petitioners' claim that RSBI is against the spirit of smartening the life of the nation, Riyadi, who came to witness for the government, argued that the establishment of RSBI is a form of innovation and acceleration of quality improvement for Indonesian national education. Riyadi explained that the presence of RSBI in his middle school, SMP 1 Magelang, served as a learning model for the teachers. The teachers were more active, creative, and innovative in order to encourage students to learn and to develop their competence maximally. Learning happened through student presentations, group discussion, and e-learning - to mention only a few students' active learning examples.

With regard to the issue of dualism in national education, Riyadi said that the school did not use any international curriculum and has stuck with the curriculum that is

assigned and developed locally. For example, religious education is provided to all students according to their religious beliefs. Civic education has aimed at developing student nationalism. Similar to Solikhin, Riyadi also mentioned flag-raising ceremony, arts and culture as ways to preserve national culture and identity. Local language was taught to students in order to keep the local cultural heritage alive. Similarly, English was also used as a bilingual language paired with Bahasa Indonesia to teach math and science at approximately 30% as compared to 70% use of Bahasa Indonesia.

As for the liberalization of education that RSBI was accused of, Riyadi argued that the school did not take any fee from parents; instead parents participated through donations initiated by the parents themselves voluntarily. For students who are poor, their parents were not required to give any donation. Instead, scholarships based on their S.E.S and achievement (including even transportation allowances} were provided.

Bagus Takwin's testimony. Bagus Takwin is another expert witness for the petitioners. Bagus Takwin argued that the RSBI school establishment was intended to differentiate one group from the rest of the students. This one group was enabled to be better than the rest. The reason for doing this was not so clear as to whether it was because this group is smarter, achieves more, or something else. He said this practice of making them better than the rest was justified by the government on the basis of article 50 item 3 of the Law No.20 of 2003 about the national education system. Nevertheless, this practice was problematic and against the mandate that education is a right of all citizens and that each individual should get the same quality education. The establishment of RSBI aimed at producing graduates of higher quality than others. The national education system law

does not clearly explain why the government has this intention. None of the government experts or representatives have explained why either.

To give his own point of view, Takwin explained that this was a case of “smooth violence” which in Pierre Bourdieu’s conception is called symbolic violence. This kind of violence makes the victims believe that they have accepted whatever happens to them voluntarily. Regardless of the reason for the victim’s acceptance of their situation, Takwin said that it is problematic and has important consequences. In the case of RSBI, parents who are poor were made to feel like it was their destiny because they did not have money, or maybe their children were not so smart, or they could not get a scholarship. Although there may be differences in society, Takwin argued that differences which are not natural, but due to social structure are not acceptable, especially when it is the law that makes such a thing happen.

The paradox of education in Indonesia, especially with the RSBI school, is that it makes people hopeless. If people want to be smart and to go to a quality school, they need to have capital. Unfortunately, they do not have that capital. They want to go to school so that they can earn more for their lives, and yet they need to have the required capital to start with. It is a vicious cycle. Therefore, poor people will stay poor. They cannot improve their welfare to have a better quality due to lack of capital.

Itje Khadijah’s testimony. Itje Khadijah, another expert witness for the petitioners, pointed out the facts regarding the ratio of students that will benefit from RSBI establishment as compared with those who will not. How many are students are already smart and will be educated better as compared to the number of students who will not get

the chance to be smartened (with the RSBI school program) due to their geographical location, intelligence, or even financial situation? Khadijah stated that the category of RSBI has made students with potential lose their opportunity to become smarter.

The 1945 Constitution mandates that the government makes sure that each and every citizen will get education. It is compulsory. Khadijah asked how the government could provide better facilities to a small group of schools while so many students across Indonesia are still struggling to get access to schooling. With the official statement of the law that RSBI school is a good quality school, it is implicit that other schools that are not RSBI are not good quality schools. Khadijah added that many schools have come to her for help to even understand what being international means. Many schools that were assigned to be RSBI schools understood that being international means teaching math and science in English or at least being bilingual: English and Bahasa Indonesia. This has come to be considered the norm as a measure or proof of being international.

Because English has become an icon in the RSBI schools, the teachers' ability to teach math and science in English has become especially important. Development of bilingual teaching materials is also necessary. Ironically, ESL teachers' mastery of English, which was used as a standard to measure the English competence of subject-matter teachers, was judged low. In response, the schools made an effort to boost teachers' competence in English by sending them to a language institute for six months with the hope that after six months of training they would be able to teach in English.

In this case, language competence was deemed to be the only important aspect needed to teach. The schools have forgotten that there is another important matter—pedagogical knowledge. How a teacher can help students to think and learn in a foreign

language is important for teachers to learn. The use of foreign language in learning math and science has caused confusion among students who have struggled to set priorities in terms of whether to concentrate on learning the language first or the content first. (MK, 2012g)

Eighth trial: May 15, 2012

Prastowo's testimony. Prastowo is a principal in SMA Negeri 1 Tangerang high school. Prastowo, who testified for the government, argued that the RSBI is a quality school at an affordable price. The school aimed to prepare graduates to perform well so that they can continue their study anywhere they want, in Indonesia or abroad. The presence of RSBI has provided encouragement to students to keep learning and moving forward. In Prastowo's school, English is not used as a language of instruction but rather only as subject matter knowledge as well as to introduce scientific terminologies that originate English.

Prastowo acknowledged that he used the Cambridge curriculum in his school. But according to him, there is only a slight difference between the Cambridge curriculum and the national curriculum. The difference is a matter of depth of knowledge; for example, the practicum for science is discussed in more depth in the Cambridge curriculum. Hence, it helped the school make its science lessons more rigorous.

Agus Salim's testimony. Agus Salim, who was a principal of a middle RSBI school in Lumajang, East Java, stated that RSBI school is a model of thinking globally and acting locally. In managing the RSBI school, Salim sticks closely to Pancasila values while at

the same time preserving and promoting local excellences as a way of acting locally. One of the examples of this, according to Salim, is the fact that his school is the only middle school in the country that has *gamelan IT* (computer generated gamelan music). This is a perfect example of thinking globally and acting locally in the realm of culture. Another example is the celebration of national holidays as a way to nurture nationalism. (MK, 2012h: p. 11)

The use of local language, in this case East Javanese language and dialect, as well as *Bahasa Indonesia*, is emphasized very strongly. According to Salim, “*Bahasa Indonesia* is a language that represents the nation whereas local language shows its culture.” (MK, 2012h: p.13) The presence of an international language should not eliminate the presence of local and national identities. Language use should be appropriately situated. Salim explained that, “local language is to develop local identity, national language is to develop national identity and spirit of loving the motherland, and foreign language is to prepare our students to be part of the global community (i.e., to think globally). (MK, 2012h: p.14)

Musni Umar’s testimony. Musni Umar, who testified to support the petitioners, addressed problems of inequality and injustice associated with RSBI schools. The first problem he dealt with was the issue of inequality. Umar stated that education in Indonesia is for every single individual (education for all). Therefore, it must be available for everyone, be affordable, and have good quality in order to smarten the life of the nation as mandated by the 1945 Constitution. In reality, the presence of RSBI did not advance the implementation of education equality. The label “international standards

school” has prevented poor families from enrolling their children in the RSBI school because of the feelings of inferiority.

Another problem found was related to issues of justice in education. Based on the fifth principle of Pancasila: social justice for all Indonesian people, education must be directed toward the fulfillment of that idea of social justice. For a public school system that has a mandate to smarten the life of the nation, there should not be any caste, discrimination, or injustice. Instead, the presence of RSBI has created injustice.

For example, the expensive cost of education in the RSBI school has created injustice and segregation between the rich and the poor. Only people who are rich can afford paying all of the cost. In a public school funded by the government, parents are burdened with sharing the cost of education. To illustrate, the budget in SMA 70 high school is around IDR 15 billions total. IDR 10,3 billion was actually raised from parents and the government only provided IDR 4,7 billion. This was a form of injustice for parents to pay most of the public education cost in that high school.

Heru Narsono’s testimony. Heru Narsono is a parent who testified for the petitioners.

As one of the parents who refused to pay the tuition fee as an additional cost of education in the RSBI school, Narsono confessed that his child had to suffer intimidation. This intimidation was organized and carried out by other students in the school. This included malicious comments by other students. For example: “Eh, kamu jangan sok ngatur deh, belum bayar saja mau ngatur-ngatur!” (Hey you, don’t tell us to do things, you haven’t paid your tuition!). This kind of comment occurred when they were assigned group work. A more racist comment was also reported, “Hei, Kristen miskin, kalau lu enggak bayar

sekolah, kelas kita nanti tidak bisa ikut belajar di luar kelas!” (Hey poor Christian, if you don’t pay your tuition, you can’t join an after school program!) (MK, 2012h: p.21).

One of the school-teachers also used intimidation in front of the classroom by saying, “the room air conditioner will be turned off because the school can’t afford to pay the electricity bills.” It was then followed by a statement like, “those of you who haven’t paid the school tuition are not allowed to participate in the school program.” According to Narsono, the profession of teacher was linked with being a debt collector. Teachers asked students directly in front of the class to pay their dues. Another statement voiced by the teacher that was very intimidating and not educational was, “those who don’t pay the school tuition, should just ‘live under the bridge’ [an expression used to portray beggars who live under the urban highway bridges] (MK, 2012h: p.22)

Narsono has concluded that the government was not serious in carrying out the mandate to provide just and quality education for all because parents are required to share the cost of public education in Indonesia. This is against the 1945 Constitution and the compulsory education program.

Daud Jusuf’s testimony. Daud Jusuf, an expert witness who testified for the petitioners, stated that the establishment of RSBI schools has openly broken with the constitution. First, the fact that RSBI school used English as the language of instruction has violated article 36 of the 1945 Constitution stipulating that the language of the state is *Bahasa Indonesia*. Second, the use of English has openly betrayed the 1928 Youth Pledge as a departure point for Indonesian independence as well as a historical moment that declared *Bahasa Indonesia* as a unifying language of Indonesia.

According to Jusuf, this decision to choose *Bahasa Indonesia* as the unifying language for all Indonesian ethnic groups carries a deep meaning. A language is a very important cultural expression and achievement of humanity, symbolizing the consensus of a community on a medium of communication for them to be able to live together in harmony. Through language, a people's cultural identity is formed. At the end of the day, people are shaped more by the language than the language is shaped by people. In other words, the Indonesian-ness of Indonesian people, as human beings, and even more as citizens, is actually shaped by the presence of *Bahasa Indonesia*. (MK, 2012h)

Jusuf claimed that the 1945 Constitution as well as laws that govern education have established education as a medium for equitably developing people's intellectual and moral capabilities, hence, an egalitarian principle is put in place. RSBI, with its privileges, has created caste and discrimination with two different kinds of citizens. First, it has created a group of people who are to be made smart and competent so that they can be active in the process of national development and leadership and receive the associated rewards. Second, there is a group of people who will be treated as audience to witness and be objects of the national development process without being fully involved.

Tilaar's testimony. Tilaar, an expert witness who testified for the petitioners, raised the issue of globalization and how Indonesia should cope with it. According to him, Indonesia has three important types of capital: 1) natural resources, 2) culture and cultural capital, 3) human resources. The question is how to manage all of these forms of capital. Tilaar said that it can only be done by having a quality national education. According to Tilaar, national education needs to have a strong soul and that soul is found in the

national culture. Quoting Dewantara, Tilaar argued that the Indonesian struggle as a nation is not only to gain political independence, but also to gain economic and cultural independence. Cultural independence means, first of all, a recognition of Indonesian culture on its own and not comparing it with the culture of other nations, let alone imitating them. It includes acknowledging its uniqueness and understanding that all culture is moving in one direction, that is: humanity. (MK, 2012h)

RSBI, in contrast, has the potential to eliminate the uniqueness of Indonesian culture and identity. RSBI has moved in the direction of the culture of another, the culture of OECD, which in Tilaar's opinion is a "big sin." He gave three reasons for why RSBI is against the 1945 Constitution: 1) RSBI used benchmarks from OECD countries, 2) RSBI did not allow for the cultural independence of Indonesia, 3) RSBI eliminated nationalism and the social sense of the Indonesian students. If the government tries to educate people's cognitive intelligence only, the government will create, in Dewantara's terms, people without soul.

The second justification Jusuf drew on is the concentration principle. It is a recognition that culture is rooted in the local culture, on the domestic side and not the foreign. If we use foreign culture as an embarkation point, what will happen is cultural isolation. Indonesia will be shaken from its own roots and will join "the lonely crowd". Tilaar's third critique was based on what he called a continuity principle. The development of culture is not isolated from other cultures. To cope, Indonesia needs creativity, innovation, and entrepreneurship not only for personal reasons but also for reasons of social entrepreneurship in order to develop Indonesian culture. That has to involve the culture of national education as well.

Parliaments' testimony (received by the court in writing)

Although the parliament did not accept the invitation of the Constitutional Court to attend the hearing to give their testimony regarding the RSBI policy case, the parliament provided a written testimony submitted to the Constitutional Court on May 23, 2012. The summary of the statement from the parliament is as follows:

The RSBI school is not for every Indonesian student to attend. RSBI is an alternative program that can be an option for Indonesian students if they want to enroll themselves. However, there is no such a thing as an obligation to get education from the RSBI school program. Any Indonesian can get access to education in Indonesia that meets the standards of national education system, according to each individual's socio-economic status. (MK, 2012j: 179)

In order to carry out the mandate of the 1945 Indonesian Constitution to smarten the life of the nation, the government and the parliament passed a national education system law. This law was based on requirements for an education system that must be able to guarantee equal access to education, quality improvement, relevance and management efficiency in facing the challenges raised at the local, national, and global levels. The aim was to have a well-planned, directed, and continuous revitalization of education. (MK, 2012j: 180)

In coping with the unavoidable globalization era, lawmakers anticipated it by adopting policies to help prepare the Indonesian nation to compete globally. The most strategic policy has begun with a program piloting elementary and secondary schools that will enable graduates to participate in the global competition. Those schools were

called RSBI schools. The establishment of RSBI schools was not against the spirit of smartening the life of the nation but rather it was strengthening and smartening the life of the nation in order to keep up with other nations. (MK, 2012j: 181)

The parliament disagreed with the petitioners that the RSBI school is against the state responsibility to finance public education so that every citizen can have access to quality education. The parliament considers that the right to education is one of the human rights guaranteed by the 1945 Indonesian Constitution. Education is for everyone and everyone has the right to choose and receive education. Compulsory education is a realization of that right. (MK, 2012j: 181)

According to the parliament, the introduction of RSBI schools did not create discrimination and a caste system in education. The selection process for RSBI schools was done by paying attention to the levels of students' intellectual competence. RSBI school is for everyone without any exception, even for those who are poor. The government is obligated to finance their education as it is stated in the article 31 item 2 of 1945 Constitution. The RSBI schools are required to allocate a minimum of 20% of their student population to young people of low socio-economic status. Therefore, it is not true that the spirit of the RSBI school program is a form of liberalization in education. (MK, 2012j: 182)

The RSBI school used the national education standards curriculum as a basis for improvement to answer the challenges and demands of national and global ever changing life. The improvement was made through enrichment with competency standards that were adopted and adapted from OECD countries or other advanced countries. This provision does not imply that the national standards are lower than any of the OECD or

advanced countries. It was simply to prepare graduates so that they can have comparative competitiveness as shown by their ability to showcase the local values or wisdom at the international level. Thus, it is not true the RSBI school created dualism in the national education system since RSBI schools are simply an enriched version of schools that have met the national education standards. (MK, 2012j: 182-183)

One of the foundations of the national education system is the socio-cultural. From the socio-cultural perspective, education is a medium to develop civilized and competent Indonesian humans (read: citizens). Education is an important social tool for the creation of a civilized society. Therefore, in order to educate students to respect and admire Indonesian culture, the teaching and learning of RSBI schools used *Bahasa Indonesia* as almost the sole language of instruction. English was used only bilingually to teach selected subjects: math and science. Other subjects such as *Bahasa Indonesia*, religion, civic education, history, and local content were taught using *Bahasa Indonesia*. It is not true to say that the existence of RSBI schools has a potential to eliminate Indonesian national identity and undermine *Bahasa Indonesia*. (MK, 2012j: 183)

In conclusion, the parliament argued that the RSBI school policy was constitutional and that the petitioners' petition should not be approved.

Ninth trial: January 8, 2013

This last hearing was no longer a hearing for input from either petitioners or the government; it was actually the reading of the court decision by the judges of the constitutional court. After listening and evaluating all the hearings, testimonies, and also materials submitted to the court, the judges came to a decision: the Constitutional Court

of the Republic of Indonesia granted all of the petitioners' demands in their entirety. The court ruled that the article 50 item 3 of the law No. 20 of 2003 violates the 1945 Constitution. This meant that the article 50 item 3 of the law No. 20 of 2003 was immediately null and void and could no longer be used as a basis for the establishment of RSBI in Indonesia. As a consequence, the government was required to close down all of the RSBI schools in operation and transform them back into national standards schools.

The Constitutional Court came to their decision based on the following considerations. According to the court, smartening the life of the nation is the goal of the establishment of Indonesia as a nation state, as it is mandated in the preamble of 1945 Constitution. It is further stated in the article 31 item 3 that the government establishes one national education system to develop faithfulness and devotion to God as well as to develop a noble character in order to smarten the life of the nation. Education is so important that the constitution sees it as necessary not only to make education a right of the citizen but also an obligation as a citizen. Therefore, the constitution mandates that the government finance public education.

In addition, education must be directed to strengthening the people's character and also toward nation building and shall not be detached from its rootedness in the culture and soul of the nation, i.e.: matters of *jati diri*, national identity, national character, and the goal to smarten the life of the nation. These values are nurtured not only to achieve cognitive competence through its curriculum, but also to develop affective competence through its implementation. Explicitly, through education and culture, Indonesia as a nation state must develop its potentials based on the life-view of Indonesia: Pancasila.

From the court's point of view, smartening the life of the nation as mandated by the 1945 Constitution requires not only the establishment of public education along with facilities to match up with the education in developed countries, but also in the development of *jati diri* and soul of the nation. National education cannot be separated from its roots in the culture and soul of the Indonesian nation. The use of foreign language in the RSBI school will distance national education from its rootedness in culture and national identity. Putting emphasis on the use of a foreign language in level and type of schooling has the potential to erase pride in national language and culture. This goes against the nature of national education which is to be a means of nation building that nurtures Indonesian character and identity among all Indonesian youth.

Dissenting opinion

Judge Achmad Sodiki, the only judge out of nine opposed to the ruling, presented his dissenting opinion. There are two main objections in his argument. One was regarding the legal jurisdiction of the Constitutional Court, and the other one was about the petitioners' demands regarding the RSBI schools.

On the Constitutional Court jurisdiction, Judge Sodiki argued that a particular law can be examined from two sides. One, it can be assessed from the formal aspect in which the law is developed and made. Second, a law can be assessed on its materials, meaning the contents of the law itself. Therefore, the examination of RSBI case must be done through analyzing the actual texts of the policy or law or regulation that governs RSBI schools and tested against the 1945 Indonesian constitution, both the preamble and the articles.

Judge Sodiki argued that, based on his analysis of the text from article 50 item 3 of the Law No. 20 of 2003 about the national education system, there is no problem with the text of the law. He found no contradiction when the article is considered against the 1945 constitution, despite what the coalition had contended. For example, Sodiki questioned how RSBI schools go against the spirit of smartening the life of the nation. He argued that RSBI schools are established to also smarten the life of the nation not only to fulfill the local needs in Indonesia, but also to be able to compete at the global level. He added that parents nowadays are looking for quality schools that are affordable.

In addition, Sodiki argued that there is no word, phrase, or even a single sentence that can be understood as discriminative, neo-liberal, or even offensive with respect to the national identity of Indonesia whose national language is *bahasa Indonesia*. The fact that English is used as a language of instruction at RSBI schools was simply an effort at a serious form of foreign language learning that is long overdue. Further Sodiki argued that the fear of losing national identity over foreign language learning is too much and unreasonable. People learn a foreign language not to abolish Bahasa Indonesia but more because the need to master the English language for a better life.

In Sodiki's opinion, if the concern is on the choice of words, i.e.: '*bertaraf internasional*' that is used in *Rintisan Sekolah Bertaraf Internasional*, because it generates multi interpretations that can cause legal uncertainty, it is then the responsibility of the Constitutional Court to make an interpretation that is suitable according to the 1945 constitution. Sodiki believed that the Constitutional Court should not revoke article 50 item 3 of the Law No.20 of 2003 that was used as the ground for the establishment of RSBI schools around the country. If the problems are issues with RSBI regulations that

were promulgated under the 1945 constitution, he argued that it is the right of the Supreme Court to cancel those regulations, but not the job of the Constitutional Court to cancel article 50 item 3 of the Law No. 20 of 2003. Sodiki believed that annulment of the RSBI policy was bound to create legal uncertainty.

Chapter 4

Two Contesting Visions of How to Develop Indonesia

Observing the RSBI case trail that runs between the government vis-à-vis the Ministry of National Education and Culture of the Indonesian Republic and the petitioner coalition of parents, educators, education activists, and community members is like looking at two sides of the same coin. The coin that I mean here is the nation of Indonesia and its national identity. The RSBI trial is a case in which we can look at how different elements of the nation bring different imaginations to bear on how they envision Indonesia as a nation, as a country. While these imaginations are generally agreed on the aim of making Indonesia a well-known country and using the national education system as a means for nation building, their views on development of Indonesian national identity are not all the same. On one side, the petitioners envision Indonesia from within or from inside looking out, looking at the “inner” potentials of the nation, the potentials that are originally found in Indonesia itself without imitating other nations and that should be fully developed before thinking about participating actively in the international arena. Their focus is on national unity as a nation that maintains its rootedness in the country’s cultural values and history.

On the other side, the government is seeing the nation from the “outside” looking in. Instead of focusing on the “inner” (read: originally Indonesian) potentials that Indonesia already has, the government is looking into the competencies (inspired by other nations) that need to be developed so that Indonesia will be able to stand out among other nations of the world. The government has a different concept of national development

from the petitioners, working toward a country that participates actively in the international arena and does its part in the global community by way of producing globally competitive citizens through education. In other words, in the RSBI dispute, scholars can see competing imaginations of national identity: one has a tendency of going “global” (meaning: go international) whereas another prefers to stay “local” (meaning: stay within the country).

As discussed in the previous chapter, in the trial of RSBI school policy and its hearings, there are six issues that were brought to the court and discussed for the case: the spirit of smartening the life of the nation, the responsibility for financing public education, the charge of education liberalization, the emphasis on just one education system, the possibility of discrimination and a caste-like system, and impact on Indonesian national identity. I combined the financing public education and education liberalization as one theme since they both are dealing with the issue of the cost of public education and who is responsible to pay for it. I also combined one education system and discrimination in education as one theme as they have causal effects in relation to each other. Table 1 provides a summary outline of what the two differing visions are. I will present an analysis elaborating on the two different visions of Indonesia in the four sections that follow:

Table 1. Contesting ideas of the education to serve Indonesians

Section	Petitioners' view	Government's view
1. Smartening Indonesian nation	Not limited to providing education to develop individuals' cognitive	Future generations of Indonesia can stand and compete with other nations

Table 1 (cont'd)

	<p>competence only, but it is to develop all aspects of life for all Indonesian people, to empower and to liberate them. The presence of <i>RSBI</i> has negated that notion of smartening the life of the nation and reduced it to intellectual cognitive only.</p>	<p>in the global life: people who are intelligent and competitive not only intellectually, but also spiritually, emotionally, socially, and kinesthetically. The establishment of <i>RSBI</i> was intended for developing all of these domains at a higher level.</p>
<p>2. Financing public education in Indonesia</p>	<p>The cost of public education is the sole responsibility of the government. The parents should not be burdened to take that responsibility by paying tuition for K-12 education. The <i>RSBI</i> schools have made the society pay the cost of public education and made public education system more like private</p>	<p>As stated in the national education system law, the government argued that they can encourage the society to participate in the establishment of the public education system by sharing the cost of education. <i>RSBI</i> is not a new form education liberalization as the government still takes most of the responsibility to</p>

Table 1 (cont'd)

	schooling system. Hence, a new form of liberalization in education.	finance public education.
3. Indonesian national identity	Developed based on the Indonesian rootedness to its culture and local identity/wisdom, with emphasis on national unity. The establishment of <i>RSBI</i> has caused schools to eliminate Indonesian national identity especially with the use of English as a language of instruction.	Developed based on the values that are influenced by or adopted from other nations for Indonesia to be part of global community with emphasis on national development and less on national unity. <i>RSBI</i> does not eliminate national identity but enhances it with other values.
4. Education equity in Indonesian public school system	One singular curriculum/system without any possible variation. Variation in curriculum development and school facilities will lead to discrimination and caste-like system. <i>RSBI</i> schools	The educational system can be developed, with diversity in schools, to serve different needs. Variation is encouraged. Variation will enable different groups of students to fully be developed based

Table 1 (cont'd)

	promote discrimination against non- <i>RSBI</i> students.	on their talents and potentials. It is not discrimination but rather a different form of accommodation.
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RSBI and the visions of smartening Indonesian nation

The first petition that was raised concerning the issue of smartening the life of the nation is based on the following text from the preamble of 1945 Indonesian constitution:

“In order to form a governing country of Indonesia that will protect the entire Indonesian nation and all the land of Indonesia and to improve the social welfare, **to smarten the life of the nation**, and to take part in establishing a world order that is based on freedom, long-lasting peace [the original words are ‘*perdamaian abadi*’], and social justice, hence, the Indonesian national independence was drafted in the Constitution of the State of Indonesia, formed in an arrangement of the sovereignty of the people of the Republic of Indonesia that is based on the believe in one true God, just and civilized humanity, unity of Indonesia, democracy led by wisdom of the consultative and representative, as well as the realization of social justice for all citizens of Indonesia.” (direct translation of preamble of UUD 1945 paragraph 4).

The petitioners and the government each has their own interpretation of what smartening the life of the nation entails and what the goal of national education is.

Regardless, both the petitioners and the government linked the phrase *to smarten the life of the nation* to education, and more specifically to the public school system in Indonesia. In the court case, the petitioners attempt to show that the presence of RSBI School goes against the spirit of smartening the life of the nation, as stated in the following:

“The purpose of the implementation of the International Standard School Pilot

Project (RSBI) and the International Standard School (SBI) is clearly inconsistent with the philosophy of the national education in which education serves the function of developing the ability and building the character and civilization of a dignified nation in the context of developing the intellectual life of the nation, aimed at developing the students' potentials so that they will become persons who are faithful and devoted to The One Almighty God, being of noble character, healthy-mind, educated, skillful, creative, independent, and democratic as well as responsible citizens that shall always be based on the worldview of the Indonesian nation, namely Pancasila.” (MK, 2013: pp. 9-10)

According to the petitioners, education conducted through the public school system is fundamental in preparing capable human resources and enabling the next generation of leaders to continue the development of Indonesian nation. The petitioners believe that education aims at developing the individual as a whole being, not just *hidup* (to live): to be there in the world simply to breathe life but not do anything much, but rather *bereksistensi* (to exist): and finally, to have an ability to choose and to act with free will for the betterment of life. This existence is related to developing life within the society that will include all aspects of social, cultural, economic, political ideology, etc. Therefore, in the petitioners' perspective, smartening the nation is not limited to providing education to develop individuals' cognitive competence only, but it is to develop all aspects of life for all Indonesian people, to empower and to liberate them. (MK, 2013a: p. 4)

In contrast, the government, which opposed the petition submitted by the petitioners, argued, “the arrangement and implementation of RSBI are not inconsistent with the spirit of developing the intellectual life of the nation and the sense of nationalism as mandated by the Preamble of the 1945 Constitution and the National Educational System Law” because the government believed that the RSBI program would give Indonesian citizens an education that can develop their children's potentials and abilities

to be above average intellectually so that future generations of Indonesia can stand and compete with other nations in the global life (MK, 2013b: p. 214). Although the government' idea of smartening the life of the nation seems to be similar to that of the petitioners, it is typical in Indonesia to use language for a policy that is hyperbolic in nature and promises too much. In fact, in spite of these similarities, both sides take strongly different positions in the debate regarding the purpose of national education.

For example, the government stated further that the objective of the RSBI is to develop graduates whose capabilities are enriched with competency standards borrowed from developed countries. These standards are enlisted in the pursuit of high comparative competitiveness, an ability to disseminate Indonesian values and local excellence that other countries do not have at the international level, the ability to compete in various international competitions and/or to work overseas, the ability to communicate in English language or other foreign languages, the ability to play an active role internationally in protecting the sustainability of life and the development of the world, and the ability to use and develop communication and information technology professionally. (MK, 2013a: p. 115)

For the government, it is important to position Indonesia equally among other nations, to think about Indonesian education within the context of globalization, recognizing that Indonesia does not exist in isolation. Slamet, one of the expert witnesses for the government, argued that education in Indonesia is not isolated from development that happens regionally and globally. According to him, Indonesia as a nation cannot exist on its own and be isolated from the rest of the world. Because of this, Indonesian education must be responsive to local, national, regional, and global needs. Slamet further

argued “Indonesia really needs learners who have the academic intelligence to enable the wealth of Indonesian natural resources that are so abundant to become valuable. At the same time, these same learners must become Indonesian citizens with an Indonesian identity as well as citizens of the world who are proactive in advancing the world (MK, 2012e).”

From the discussion above, it is clear from both the petitioners and the government sides that one of the primary tasks of the Indonesian government is to provide education for its citizens. To help refresh our mind with the importance of education in Indonesia, allow me to bring back the text that governs that thinking both in the original *Bahasa* Indonesia and its translation:

Kemudian daripada itu, untuk membentuk suatu Pemerintah Negara Indonesia yang melindungi segenap bangsa Indonesia dan seluruh tumpah darah Indonesia dan untuk memajukan kesejahteraan umum, **mencerdaskan kehidupan bangsa**, dan ikut melaksanakan ketertiban dunia yang berdasarkan kemerdekaan, perdamaian abadi dan keadilan sosial... (Pembukaan UUD 1945)

[Thus, in order to form a governing country of Indonesia that will protect the entire Indonesian nation and all the land of Indonesia and to improve the social welfare, **to smarten the life of the nation**, and to take part in establishing a world order that is based on freedom, eternal peace, and social justice...] (Preamble of 1945 Constitution)

The mandate of providing education comes from the phrase “*mencerdaskan kehidupan bangsa*,” which I have translated as “to smarten the life of the nation.” *Mencerdaskan* comes from the word “*cerdas*” – an adjective that means smart. Prefix *men-* and suffix *-kan* when attached to the word “*cerdas*” makes this adjective into a verb that means to make smart. *Kehidupan* is a noun that means life, whereas *bangsa*, also a noun, means nation. Thus, the whole phrase literally means to “make smart” or

“smarten the life of the nation” (and the nation being the citizens of Indonesia). I would prefer to keep the translation that way as compared to translate it as ‘to educate the nation’ or any other translation of that sort, because the particular meaning of ‘*mencerdaskan*’ in that context indicates that the process of becoming smart is expected to happen in all the domains in life of the Indonesian citizens.

Kehidupan or ‘the life’ covers all kinds of elements that are related to being alive as human. That, of course, not only will include the cognitive, affective, and psychomotoric element of education as it is usually covered in schooling, but it also include the wellbeing and social welfare of each and every individual Indonesian citizen. The government is mandated to do this through providing free compulsory education from grade 1 to grade 12 for all Indonesian citizens, without discrimination (UUD 1945: article 31, clause 2; UU No. 20-2003: article 11).

From the same text above, we also see “world order” which comes from the phrase *ketertiban dunia*. In this context, world order is very different in meaning from the political terms ‘new order’ or ‘old order,’ terms that have special meanings in the history of Indonesia since independence. The phrase *ketertiban dunia* shows that the world should be in a good order, in harmony, and in peace as opposed to in a chaotic condition, with riots, conflicts, and disorder within the society. The other “order” in the context of *orde lama* (old order) and *orde baru* (new order) that is more politically related, means governance or authority.

People in Indonesia, however, will never use the word ‘orde’ or ‘order’ in English as a stand-alone word to talk about governance. It is always used as a phrase and in the political context of *orde baru* or the new order versus *orde lama* or the old order. The

new order is always associated with the Soeharto regime whereas the old order is associated with the Soekarno era. Generally speaking, the word ‘order’ in the new order regime is linked to a more authoritarian centralized government system. Another word that is used to differentiate and to commonly talk about governance is *pemerintahan* and the actor is called *pemerintah* or government. The word *pemerintahan* is to some extent still linked to the central government, but in a less absolute sense since it also allows for inclusion of decentralization in the local government.

In order to be able to have a prosperous life, Indonesian founding fathers understood that it has to be achieved by educating the Indonesian people. Section 2 that follows will discuss the government responsibility not only to establish a national education system, but also to finance the compulsory education in Indonesia.

RSBI and the visions of financing public education in Indonesia

The founding fathers of Indonesia when they formulated the 1945 Constitution, acknowledged the importance of education as an essential foundation of people’s welfare as later stated in the article 28C item 1,

Every person shall have the right to develop himself/herself through the fulfillment of their basic needs, shall have the right to obtain education and to enjoy the benefits of science and technology, arts and culture, for the enhancement of the quality of their life and for the welfare of the humankind (Republic of Indonesia, Constitution, Article 28C, 2002)

In the above article, it is clear that the enhancement of the individual life of each and every Indonesian citizen as well as his/her welfare is dependent and based upon the fulfillment of their basic needs and their right to education, hence, each individual citizen

will be able to get the benefit from having the knowledge of science and technology, arts and culture to maximally strengthen their life quality and welfare.

Considering the importance education has for Indonesian citizens, the 1945 Constitution stated that not only has each citizen of Indonesia the right to education, but s/he also has the obligation to get a proper education and that the government has the responsibility to finance that education. These responsibilities can be found in the article 31, items 1 and 2 as follows:

Item 1: “Every citizen shall have the right to obtain education.”

Item 2: “Every citizen shall be obligated to follow basic education and the government shall be obligated to finance it.”

In the context of RSBI school program, one of the petitioners’ witnesses, Musni Umar who once was the chair of the school board committee for SMA 70 high school in Jakarta in 2009 – 2011, testified that based on the article 31 item 4 of 1945 Constitution the State must allocate at least twenty percent (20%) of its national and/or provincial expenditures to fulfill the needs for national education establishment and operation in Indonesia. Umar stated that, “the cost of education for every level should have been cheap and with good quality because it has been funded by the state and provincial government.” (MK, 2013a: p. 102)

However, for the petitioners in the court case, the reality for people in Indonesia is not quite the same as what the 1945 Constitution has mandated. As a matter of fact, the cost of public education is expensive, let alone the one that is provided by the private institutions. The cost will be even more expensive if parents want to send their children to school that is known for its quality even though when a school is a public, it is supposed

to be free and funded by the government.

Umar went on to say more about the financing of public education. As a parent whose child went to one of the RSBI schools, he explained that there were fees that parents had to pay. One is a fee called *Sumbangan Peserta Didik Baru (SPDB)* or in translation “newly admitted students’ donation”. This is usually a fee that is paid at the beginning of an academic year. In addition, Umar said there was also a monthly donation. From the name, the word *donation* implies that it is optional, not binding. It is something that parents do on a voluntary basis. However, that is not what happens in the public (or private) schooling system in Indonesia. This so-called donation is in reality nearly always compulsory and the school predetermines the amount. An exception can be made if there is a student who is coming from a poor family and cannot afford to pay this donation. In such a case, s/he will need to have proof from local authority mentioning that s/he is indeed poor and needs to be excused from paying this donation.

To understand better how this so called donation can be problematic, we need to understand the economics, particularly the buying capacity of the Indonesian family in general. Based on a report issued by the World Bank, Indonesian households earn about \$2 per day with the current exchange rate of Rp. 13,500 per US \$1. If a family in Jakarta has one child who goes to SMA 70 high school, they will need to pay Rp. 11,000,000 for the newly admitted students donation or equal to \$830 with the current exchange rate. On top of that, the parents will need to pay another Rp. 425,000 or equal to \$31 for the monthly donation. Umar, even though he has a doctoral degree and is a faculty member in a public university, said that it was not easy for him to pay those fees. If it is not easy for him, it will be even harder for most families who are not as fortunate as he is

financially.

The above amount is calculated for the regular school program. For the RSBI school program in SMA 70 high school, the amount is much more than that. For the newly admitted students donation, the first year a student will have to pay Rp. 31,000,000 or equal to US \$ 2,296. For the second year, it is reduced to Rp. 24,000,000 and then reduced again for the third year to Rp. 18,000,000, equivalent to US \$1,778 and \$1,333 respectively. On top of that, students will have to pay the monthly fee of Rp. 1,000,000, which is equal to US \$74.

Another witness from the petitioners, Retno Listyarti who was a teacher in one of the RSBI schools in Jakarta said that the donation in her school is more or less similar in amount. In addition to those fees, students in her school also had to pay for the use of international Cambridge curriculum in her high school. For one semester, a student would have to pay Rp. 1,400,000 (US \$104) for each of the subject matters tested in their final semester examination. In addition to that amount, the school also paid for the package of textbooks for five subject matters that are tested in the national exams. The cost was Rp. 123,000,000 (US \$9,111) for twenty sets. (MK, 2012d: p. 27)

The expensive cost of education that parents have to pay out of their pocket for a compulsory education that is supposedly free and is the full responsibility of the government has made the petitioners claim that the policy that governs the establishment and operation of the RSBI schools program has resulted in a condition in which the government is no longer taking the responsibility to finance compulsory education in Indonesia as mandated by the 1945 constitution. This practice of cost-sharing that parents have to comply with has also led to the claim that the petitioners made about the

government doing a new form of liberalization of public education, especially in elementary and secondary education. Liberalization in the context of the RSBI court course is understood more as a privatization process that tends to transform the state responsibility to establish, finance, and manage national education as a public good into a private business venture.

In this sense, the state responsibility to finance national education through the public school system is shared and eventually becomes the responsibility of the society at large. This does not mean that the operation and management of national education as a public good is given totally over to the private sectors, changing national education entirely from a public good into a private good. Rather, RSBI, while remaining part of the public school system, has adapted a business model in which parents are charged with expensive tuition fees to cover the higher education costs in the RSBI School. Thus, the cost of education in a public school system is no longer free and financed by the government but is instead shared with the parents. The tuition fee that parents have to pay is considered to be expensive in that it is equal to sending their children to a private school. (MK, 2013a: p. 25)

The RSBI School was introduced with heavy subsidies in which the government gave money to the selected schools for school facilities development. The subsidy was given for 5 consecutive years as a way for the school to rehabilitate its facilities and infrastructure within the existing school building. Some of the funding could also be used for teacher's professional development. The funding was available as a resource to increase the quality of teaching and learning through the adaptation and adoption of foreign curriculum.

From the beginning, the establishment of RSBI was meant to produce graduates able to compete in the international arena. The government understood that this effort was not, by any means, inexpensive. But the subsidy was temporary and not meant to cover all of the operational expenses of RSBI schools and the costs incurred could then be shared with the parents. The schools charged tuition to parents because it was believed that the RSBI schools facilities and qualities were worth the money. In other words, the RSBI school as a market product was considered worth the price that parents had to pay even though this happened in a the public school system that many expected to be free.

Parents, as the buyers of the education product that the RSBI schools had to offer, were given the option to choose whether or not they wanted to enroll their children in the RSBI schools. If the parents thought that it was a good choice to send their children to the RSBI schools, then consequently they had to accept the cost as the logical consequence of the choice that they had made for their children. If the parents did not want to spend money or to send their children to the RSBI schools for whatever reason, they had other options to send them to the regular public school or even to private school, as many parents did, believing that the quality of education in private schools was better than public school system or simply because of the religious affiliation.

Ibrahim Musa, one of the expert witnesses from the government, argued that there are two concepts in regards of financing education. First, he sees education as an investment in which through education someone will gain competences that later can be used as capital to build his/her future. Second, he also understands education as consumption in which by having education someone will gain satisfaction directly from the process of learning (MK, 2013a: p. 136). Based on this argument, the government

thinks that it is reasonable to charge tuition to students because they get individual benefits from getting education.

Although the petitioners viewed the RSBI schools program as the practice of liberalization of education in Indonesia, one can argue that it was a very limited form of liberalization. Education is still a government intervention, in this case from the Ministry of National Education and Culture. And it is viewed as being a strategic sector in the economic development of Indonesian as well as the means for nation building, given that the public school system in general is funded through the national expenditure and especially through the block grant money given for the establishment and development of RSBI schools. The government still has a lot of control over the operation and management of the public schools system in Indonesia.

In short, the petitioners argued that it is a sole responsibility of the government to establish and finance compulsory education through the public school system because it is mandated by the 1945 Constitution. The parents should not be burdened with sharing the cost of compulsory education. The society participation in undertaking compulsory education should be appreciated and encouraged and not limited by charging school tuition. On the opposite side, the government argued that since the individual student gains benefits from having education, the government is allowed to share the cost of education with the society. The individuals, for the betterment of their life in the future, directly enjoy the benefit of education.

RSBI and the visions of Indonesian national identity

In the RSBI school trial, the use of a foreign language as a language of instruction for some subject matters such as math and science and a foreign curriculum for subject matters tested in the national exam are viewed by the petitioners as potentially eliminating Indonesian national identity, which is based on the national language *Bahasa Indonesia* and whose life-view is based on Pancasila. The constitutional court judges, in this case, agreed with the petitioners that education should be developed in order to nurture students' character in alignment with the goal and aim of national education.

They, too, were of the opinion that Indonesian national education should be rooted in Pancasila and its values. They stated that the values of Pancasila must be incorporated in all types of education and in all levels, not only through the curriculum but also in the way it is implemented in the cognitive and affective domains for the sake of nation building (MK, 2013). In order to know what kind of Indonesian citizens that the country wants to have, we can look closely to the aim of Indonesian national education that states clearly, “developing the students’ potentials so that they will become persons who are faithful and devoted to The One Almighty God, being of noble character, healthy-mind, educated, skillful, creative, independent, and democratic as well as responsible citizens that shall always be based on the world view of Indonesian nation, namely Pancasila” (MK, 2013: pp. 9-10). As Sudijarto stated, “to build a nation, build schools to make all Indonesian people proud to be Indonesians” (MK, 2014d: 15).

The significance of Bahasa Indonesia as an importance measure of Indonesian national identity is based on two major arguments. Firstly, it has been recognized and developed as a national language since the Youth Pledge in October 1928 in which

people from different ethnic backgrounds from around the country got together and declared that they have one nation, one motherland, and also one language to unite them all. The Youth Pledge became a landmark in Indonesian history. Without such a critical political event, Indonesia as the biggest archipelago country in the world could have been virtually impossible to unite as one nation.

According to Winarno, one of the expert witnesses for the petitioners, the presence of RSBI School is dismissing the importance of Bahasa Indonesia as a national identity. He stated “a language is always a culture. It is always a nation. If there is no language, then there is no nation.” In his testimony, Winarno stated that, “the pledge that was pronounced by all Indonesian youth: one nation, one motherland, and one language- has started to break.” Separatist movements had been formed in some of the regions. Winarno stated, “if this happens again and again, there will be more than 500 independence flags across the country which means Indonesia is no longer one... it’s no longer one nation.” Winarno argued that the policy made to improve the quality of Indonesian education should be directed to the development of student identity: first and foremost the local identity and at the same time the national identity. In his opinion, “the effort of establishing education that is international in nature is not important, and even has no significance at all in regards of Indonesian nation building” (MK, 2012d: 11).

Secondly, article 36 of the 1945 constitution states that, “the language of the state is Bahasa Indonesia.” As the language of the state, Bahasa Indonesia has three different statuses: as a national language, as a unitary language, and as the official language. Chaer, an expert witness from the petitioners, explained these differences in status. As a national language, *Bahasa Indonesia* is the national identity of Indonesia. People from

Indonesia are identified as Indonesian because of the language that they speak, *Bahasa Indonesia*. As a unitary language, *Bahasa Indonesia* is expected to have the ability to unite all of ethnic groups that exist in the Indonesian archipelago. *Bahasa Indonesia* as the official language is the only language to use in running state affairs, including the language of instruction in schools (MK, 2012f).

This is also stated in the Law No. 24 of 2009 article 29 item 1 that says, “Bahasa Indonesia must be used as the language of instruction in schools.” Chaer told the court that the spreading of English in Indonesian society stood for the erosion of nationalism.. The use of English was having a negative influence on the development of *Bahasa Indonesia*. Chaer continued to argue that, what was crucial was not the mastery of the language, but rather the mastery of the knowledge that is presented in that language. If the knowledge can be translated from the foreign language to *Bahasa Indonesia*, then there is no urgency in using a foreign language in the school setting in any way, let alone as the language of instruction (MK, 2012f).

Further, Chaer pointed out that article 41 item 1- Law No. 24 of 2009 says that the government is responsible for developing, cultivating, and protecting *Bahasa Indonesia*. Developing means to complete *Bahasa Indonesia* with new vocabularies and terminologies so that it can be used for all kinds of knowledge and science. Cultivating means to help the society so that they master *Bahasa Indonesia* as well as love and are proud of the language. The use of English in the RSBI schools as the language of instruction could undermine the love of *Bahasa Indonesia*. Teaching *Bahasa Indonesia* as a subject is easy because students want to have a good grade for it. However, developing love of *Bahasa Indonesia* is difficult especially at a time when Indonesian society is

infatuated with English (MK, 2012f). The use of English hampers the development and cultivation of *Bahasa Indonesia* because students will be more fond of English than *Bahasa Indonesia*. The Law No. 24 of 2009 article 43 says that the function of *Bahasa Indonesia* as a language of communication must be increased from the national level to the international level. This effort of bringing *Bahasa Indonesia* to the international level will not be achieved if the use of *Bahasa Indonesia* within Indonesian archipelago itself is not encouraged (MK, 2012f).

The use of English as a language of instruction in the RSBI schools for subjects such as math and science, especially with the presence of foreign teachers to teach those subjects as well as English as a subject, was feared to potentially eliminate the RSBI students' identity as Indonesian. School is an institution used to teach values and beliefs about what it means to be Indonesian according to Pancasila and 1945 Constitution. It will no longer be able to live up its moral responsibility to prepare students to be Indonesian citizens since the values that are taught at school will no longer be those of Indonesians, but those of foreigners.

Darmaningtyas stated that in "allowing foreign nationals to become teachers throughout Indonesia, we have actually handed over our sovereignty to foreign nations because such foreign teachers will certainly bring the values that they hold in their countries of origin to be instilled in the students of Indonesia and such values are not certainly in line with the spirit of *Pancasila* and the 1945 Constitution." In addition to that, he argued that the use of English in the RSBI schools would create an inferiority syndrome because it conveys the idea that to be modern, advanced and great, one would have to master English language. Consequently, in prioritizing mastery of English

language, schools will tend to ignore the existence of Indonesian languages, especially local languages (MK, 2012f).

Echoing Darmaningtyas, Itje Khadijah who was also witnessing for the petitioners, brought up research by Coleman, an education consultant from the British Council and a lecturer at the University of Leeds, UK, in 2011, that concluded that the use of English in the teaching-learning process undermined the students' competence in using Indonesian language. Itje continued her argument that, "for most children in Indonesia, Indonesian language is the second language after their mother tongue. Within a certain period, it is worrisome to think that the position of Indonesian language as the unifying language would become the language of the lower class and distinguish them from the children of the educated elite group (MK, 2012f)."

In addressing the issue of eliminating national identity as a result of the establishment of RSBI schools, the government invited several witnesses who dealt with the issue from a more practical perspective. Solikhin, the principal of SD RSBI Menteng 01, stated that an international school in Jakarta approached him for a partnership knowing that his school is "concerned about preserving the national culture especially traditional dances and music" (MK, 2012g: 6). Similar points were made by other witnesses such as Popo Riyadi, the principal of SMP RSBI 1 Magelang, and Agus Salim who was the principal of SMP RSBI 1 Lumajang.

Salim said that his middle school's excellence is in *gamelan IT*, a *gamelan* orchestra that is played using computers instead of the traditional *gamelan* set of instruments. Salim stated, "this is an example of think globally, act locally. We claimed ourselves as the only middle school with the creativity and innovation to combine

traditional art and IT” (MK, 2012h: 11). Riyadi stated that they taught art and culture as a subject matter “to preserve culture and Indonesian national identity. Javanese language is taught to preserve the mother tongue as well as to preserve it as a national heritage” (MK, 2012g: 8). In addition, Salim argued that his school celebrated Youth Pledge day by wearing different traditional dresses to show that his RSBI School “still loves its culture, still *Negara Kesatuan Republik Indonesia (NKRI)* or the Unitary State of the Republic of Indonesia, and still *berbhineka* (diverse)” (MK, 2012h: 12). Solikhin and Riyadi mentioned that the raising flag ceremony that they do every Monday is important to develop the spirit of nationalism and love toward the motherland (MK, 2012g: 5, 8). Further, Solikhin said that an extracurricular activity such as boy/girl scouts was conducted, “to improve nationalism, patriotism, independence, and *gotong-royong* among students” (MK, 2012g: 6).

Quoting Agus Salim, a principal of SMP 1 Lumajang, a model RSBI school in East Java, who testified about the implementation of RSBI program in his school, stated that, “understanding of the use of language should be properly distinguished by level, Vernacular or local language is used to develop a local identity, national language is used. to develop a national identity and the spirit of love for the motherland, and a foreign language is used as a step to prepare students to be global citizens.”

In his statement, Salim argued that the importance of using different languages in his school as an RSBI school is to prove that although his middle school was chosen as a model school to implement international standards school program and was able to provide quality education that can be considered to match up with those of international quality, students and members of his middle school were not losing their local and

national identity as Indonesians. This was to counter an argument from the petitioners that said that the use of English as a language of instruction potentially eliminates RSBI students' pride in using Indonesian language. This could lead to the eradication of their Indonesian national identity.

In my opinion, all of these examples mentioned by the witnesses above constitute a simplification of or a reduction of culture to use of the performing arts to portray national identity. The spirit of nationalism is also perceived as something that can be developed and improved through symbolic activities such flag raising ceremony and celebration of national holidays. By doing those activities, RSBI schools claimed themselves to have a curriculum and activities that embrace national identity. In making this claim, it is significant that words such as *jati diri*, *bhineka*, and *gotong-royong* was used.

Jati diri, which refers to the roots of identity, was commonly used in the court case to characterize Indonesian national identity. It was used to show that something is rooted and truthful to its origin. *Bhineka* is part of the phrase from the Indonesian coat of arm, *Bhineka Tunggal Ika*, meaning unity in diversity. It functions to portray Indonesian national identity as a nation that is formed from a unity of hundreds of ethnic groups across the archipelago who have declared themselves to be one nation. *Gotong-royong* is a uniquely Indonesian term and can be understood as act of kindness to help and support others who live in the same community without hoping for anything in return. Bowen (1986)

Besides having witnesses who could testify about the implementation of RSBI schools policy, the government also called several expert witnesses. One of them was

Slamet, who emphasized that the establishment and development of RSBI was part of the visions, missions, and goals of national education. RSBI was never divergent from Indonesian national education. National education and national standards, according to Slamet, are the Indonesian identity- therefore RSBI also embodies the Indonesian identity.

Slamet argued that the development of RSBIs was intended to produce Indonesian human beings who are smart, have Indonesian identity, can collaborate, and can compete positively both regionally and internationally. In order to develop such human beings, the government must improve the availability, accessibility, quality, relevance, and equality of opportunity in providing RSBI programs to public. The establishment of RSBI should take into account recent and future interests of Indonesia in order to strengthen nationalism and to develop local excellence. These schools would be based on the four pillars of Indonesian unity i.e.: *Pancasila*.

Slamet talked about how the RSBI schools promote local genius and local excellence. He gave an example of a school that developed a computerized gamelan orchestra. This is according to Slamet is a local content that is based on Indonesian culture. This is *comparative excellence* in the sense that it is not available anywhere else in the world. Slamet contended that such comparative excellence is not something to compare but rather to spread abroad. He said, “if we have *gamelan* that exists only in Indonesia, be it Sundanese *gamelan*, Javanese *gamelan*, Balinese *gamelan*, there is no need for us to compare. We are already the number one and the only one. Instead, we need to disseminate” (MK, 2 012e: 8).

At same time the Government took a stand against too much nationalism. Suyanto, the Director General of Elementary and Secondary warned that, “In the global era, we cannot isolate ourselves, we cannot say that our identity will be torn apart if we use foreign language. It is with foreign language that we can explain our personality, our character, and our identity to other nations in the world. If we only have identity but do not have a way to communicate it, what can we do to say that our identity is good? Therefore, as a nation, I am convinced that we must speak *Bahasa Indonesia* appropriately and correctly, it is imperative. However, we must also be able to speak in a foreign language” (Mk, 2012c: 20).

In sum, the government thinks that the debate of Indonesian national identity has already gone beyond the issue of uniting Indonesia with Indonesian language. It is now time to think about how Indonesia as a nation state can rise up among other nations and become members of the globalized world as global citizens. The petitioners argued that the issue of national identity should still be focusing on Indonesian unity because of the fact that Indonesia is comprised of hundreds of different ethnicities that still need to develop their ethnic identity in parallel to the developing national identity.

RSBI and the opposing visions of equity in Indonesian public school system

In the 1945 Constitution, particularly in the article 31 item 3, mandates that the government is required to arrange and organize ‘one national education system.’ Within this single National Education System, a national curriculum was developed in order to carry out the mandate to smarten the life of the nation as required for the development of Indonesian citizens according to Pancasila and the 1945 Constitution. Consequently, each

and every public school in Indonesia was required to implement this National Education System. The petitioners argued that the establishment of RSBI in the public school system has instead created a duality in the national education system. The duality could be seen in terms of the curriculum used in the RSBI as compared to the regular public schools, and also in how it was implemented.

The national education system is governed by Law No. 20 of 2003. According to article 35 item 1 this law established eight national education standards, dealing with content, process, graduate competence, teachers and education personnel, facilities and infrastructure, management, financing, and assessment. But the fact that the RSBI schools were using, according to the petitioners, an international curriculum and an international language of instruction provided evidence not of one national system, but of duality in the Indonesian education system since the regular public schools were still using the national curriculum that was prescribed by the Ministry of National Education and Culture. (MK, 2013: 34)

An example of international curriculum being used, according to the petitioners, was to be found in the Cambridge model. Retno Listyarti, a schoolteacher who testified for the petitioners, described the curriculum used in her RSBI School. It followed the national curriculum just like non-RSBI schools except that it had added a component of local wisdom. On top of that, for the RSBI classes, this school also used the Cambridge curriculum and its textbooks. The students were also assessed on five subjects using Cambridge tests of English, Math, Biology, Chemistry, and Physics (MK, 2012d: 25). The witness Prastowo asserted that the difference between the national curriculum and

the Cambridge curriculum was that the one from Cambridge went more in depth in dealing with student understanding of what was being learned. (MK, 2012)

In addition to having a curriculum that was different as far as Cambridge tests and materials were concerned, Darmaningtyas pointed out that the RSBI schools used a semester credit system (*sistem kredit semester/SKS*) for junior high schools, vocational schools, and high schools, while non-SBI schools used a package system (*sistem paket*). This was still another indication that two separate education systems had been created.

In short, the petitioners strongly opposed any alteration or diversification of national education system, charging that this would not only affect the quality of national education but also bring about discrimination. The costly adoption of a foreign curriculum and improvement of physical facilities (classroom, laboratories, technology, etc.) in just part of the public school system was in itself a form of discrimination. That is, when the government put so much support and resources into the RSBI centers of excellence, the other schools were necessarily becoming more and more outdated and left behind. The petitioners argued that all students should be given the same opportunity to go and study at any public school with the same quality. They also insisted that every student be given the same resources, the same level of quality.

One of the expert witnesses of the petitioners, Prof. Winarno Surahmad stated that, “we harm ourselves by involving or activating the international education system, particularly because the standard used by the Department of Education is, for example, the OECD. No matter how good it is for OECD, it is not necessarily good for Indonesia.” Winarno argued that Indonesian national education system should be concerned more with local needs and local issues. For Winarno, “it does not matter

whether it is good or not in OECD's view, since the whether it is good or not must be viewed in terms of national education itself.” (MK, 2012)

From the same perspective as Winarno, Daoed Joesoef, another expert witness for the petitioners, explained that OECD is an organization for economic cooperation and development of the developed industrial countries. Its membership is closed to the less developed countries, including Indonesia. Joesoef stated that using the competency standards of one of the accredited schools in OECD countries or the education standards of other developed countries as guidelines for learning in the RSBI and SBI in nonmember Indonesia was absurd, given that Indonesia was excluded from the organization.

Besides this criticism of reliance on the OECD countries, another basic criticism of the RSBI was the requirement that certain classes in the International Standard School be taught in English, using modern and advanced education media such as laptop, LCD projector, etc. The petitioners challenged the need for this instruction in English with use of technology. They pointed out that developed countries such as Japan, France, Finland, Germany, Korea, Italy, etc. do not need to use English language as the language of communication to make their schools international standard schools. Therefore, Indonesian schools should not have to teach the hard science subject-matters in English just to be considered international. The quality of learning is what that should be international standard, meaning not lower in quality than in more developed countries.

The petitioners also argued that emphasis on English in international standard schools such as RSBI and SBI also gives rise to language-based discrimination and division of classes in the education system. The students having English proficiency are

considered the “first class” students, while the students without English proficiency will be the "second class" students (MK, 2013a: p. 48). Another basic problem is thinking that the International Standard School is only for students who meet certain standards of intelligence. When the government explained that RSBI schools were intended for talented students, it meant that the international standard curriculum was considered inapplicable to students with average intelligence quotient, let alone below average. If this view were to prevail, it would lead to the conclusion that the *SNP* (National Standard of Education/ *Standar Nasional Pendidikan*) is only for those who have average and below average intelligence quotient (MK, 2013a: p. 37).

In schools designated as the RSBI schools, there were both regular classes and RSBI classes. The regular classes typically were treated differently from the RSBI classes. The witness Milang Taulida whose child was in a regular class complained about the air conditioner (AC) that was often turned off and the placement of less-qualified teachers who did not encourage students in their learning. These conditions were different from the RSBI class where air conditioners were always on and more experienced or qualified teachers taught the students. (MK, 2012)

In advocating quality education for all Indonesians, Sudijarto brought in article 5: item 1 of the Law No. 20 of 2003, that states, “every citizen has the right to get a quality education.” The presence of RSBI, however, was a problem because only certain people could attend due to the very limited number of RSBI schools available in each province. As the consequence, the provision of these schools became very discriminatory and contradictory to article 4: item 1 in the same Law that requires that: "Education shall be implemented in a democratic and equitable as well as non-discriminatory manner . . .”

Smartening the life of the nation is meant for every single Indonesian without any exception.

The status image inherent in the RSBI schools led these schools to become the favored and superior schools in every region. Therefore, it seems reasonable that these schools were selective in admitting their students. However, in practice, the basis of selection for the RSBI or SBI was not just taking into account the intellectual ability of the students but also the financial abilities of the students' parents. This kind of selection process was very discriminatory in nature. This situation left the students from poor families unable to study at RSBI or SBI schools even though they had high intellectual ability. Only students from rich families were assured of the opportunity to study at the RSBI schools. Students from modest or poor families could only get accepted in other public schools

As a consequence, according to the petitioners, a caste-like system emerged. Even within one school building, a caste of RSBI classes and caste of regular classes were formed. This caste classification was reminiscent of the colonial system with separate educational arrangements for indigenous students, for students whose families were originally from East Asia, and for the colonizers. Daoed Joesoef went so far as to argue that the caste-like classification caused by the RSBI and SBI was intentionally prepared to produce two types of citizens. The first group was groomed to acquire the well-rounded intelligence needed to become active participants in the national development process with all its rewards while the second group was prepared to be mere spectators. (MK, 2012)

Chaer, another expert witness for the petitioners pointed out that up to the time of the hearing, the government had established more than 1,000 RSBI schools all over Indonesia. After 7 years of annual evaluation, schools able to pass the evaluation process were to be inaugurated as the actual international standards schools, not as pilots any longer. The problem however, Chaer argued, was that the schools not passing this evaluation would be *downgraded* back into the national standards schools. From the terms used to describe their fate, it could be interpreted that the status of international standards schools was indeed higher than other schools within the public school system. (MK, 2012)

In defense of the government and in opposition to the arguments made by the petitioners, the expert witness Slamet made an argument in favor of diversified schools for different ability levels. In his view, it was appropriate in light of educational psychology to classify students into three groups: students with less ability, students with medium ability and students with high ability. Prof. Suyanto, Ph.D. who also represented the Government stated that if the students are mapped statistically as a mass, they will normally be distributed according to the curve in which a small portion will be less capable students, the largest portion students with medium capability, and another small portion highly capable students. The primary goal of establishing RSBI schools is not to change all public schools into international schools through this piloting program. It is complementary, as a policy choice to accommodate students who are suited to be in those (RSBI) schools. The government must serve all the students both on the right side as well as those on the left side of the curve. Those who are slow learners are served with a

special service using the philosophy of reaching the unreached, which is to reach out those who are not touched by the systems with normal standards. (MK, 2012)

This sort of classification had already been prefigured by the National Education System Law which authorized special education for students having difficulty in participating in the learning process due to physical, emotional, mental, social abnormality and students having special potential of intelligence and talents. In Slamet's view, these different conditions demand diversification of treatment in providing education services in accordance with the needs of the students. If the students having high intelligence or talent do not receive education services in accordance with his/her intelligence quotient, it will in fact indicate an unjust treatment. Diversified education services in accordance with the students' potential or intelligence quotient are not discriminatory. To support this view, Slamet referred to Decision of the Constitutional Court Number 27/PUU-V/2007 that ruled that differential treatment in response to differences within the public to be served is not discrimination.

From this point of view, the government did not really have an interest in developing all schools to be equally good or to be the same quality because the government understood that each and every individual student is unique. In the government's view, it does not make sense to give equal distribution of resources and facilities because even if the government does that, starting at the same place, there will be students who achieve at a higher level than other students. Therefore, there is an urgent need to develop a type of school that can lead the more talented students to higher academic achievement; likewise there is a parallel need for special schools for people with learning challenges.

Winataputra, in addressing the same issues, noted that there are many strategies of differentiation that have been adopted in education worldwide such as individual interaction, independent learning, homogenous grouping, self-learning, continuous progress, automatic promotion, remedial programs, and accelerated learning. (MK, 2012) In the context of Indonesia, Winataputra added, the father of Indonesian education, Ki Hajar Dewantara adopted these principles of individual difference and educational difference from the start.

Slamet stated that, “it is not ethical to treat students who are above average similar to those who are less intelligent. It violates their human rights to do so. We have to treat them according to their individual differences “(MK, 2012e: 10). The International Standard School is basically for above average children, and that is because above average students do not deserve the same treatment as the less smart ones. In fact, Slamet says that treating high and lower ability students the same violates their human rights, “because we have to treat the children based on their nature of being different individuals.” (MK, 2012e)

However, categorizing schools into SPM, SSN, and SBI was not intended to create a school caste-like classification, but rather, it is intended more to provide assistance or facilitation or intervention to meet the needs of each category of school. Therefore, the intervention is not *satu cara untuk semua* or *satu ukuran untuk semua*, or one size fits all in English, but rather, it is more adjusted to the needs of each category of relevant schools.

To summarize, this chapter presented the two visions of developing Indonesia from the petitioners’ imagination as opposed to the government’s imagination. The

petitioners are imagining Indonesia as a nation whose people are smart cognitively, spiritually, and socially in which this smartness is developed based on the noble values found in Pancasila and 1945 Constitution. With this smartness, Indonesia as a nation state should be able to develop a strong national identity that not only shows its unique local/ethnic identities but also shows one form of unity as one nation- Indonesia, as it is envisioned the coat of arm of the Unitary State of the Republic of Indonesia, as a nation that is “*Bhineka Tunggal Ika*” or unity in diversity. Such thing can only be achieved if education as a mean for nation building is provided fairly and equally throughout the nation without any discrimination in getting access to quality education.

The government, however, envisions developing Indonesia especially in the context of globalization, as not only creating Indonesia as a smart nation founded on the values of Pancasila and 1945 Constitution, but also preparing its citizens as people who are able to compete and participate actively in the international world. Such a thing cannot be realized if Indonesia as a nation is trapped within local traditions without being open to world changes. For that reason, the government developed the RBSI education program, not in order to create social stratification, but rather to bridge the transition from being traditional and shackled with domestic issues to be a nation state that is modern with a strong presence in the international world. Such direction of Indonesian development need not be feared as divisive because what will happen is a transformation of Indonesia to be a nation state that can keep up with the continually changing world. This will eventually develop a pride of the nation as Indonesia will become a country that is successful in working on national development and is recognized for its strong presence in the world.

Chapter 5

Conclusion: The court chooses to look inward not outward

The two opposing visions

In the wake of that policy and its eventual nullification, two different versions of what I, influenced by Benedict Anderson (2006), call *imagination* of national identity are present and in tension. One form of imagination of the Indonesian national identity takes shape as a country that participates actively in the international arena and the development of global community by way of producing globally competitive citizens through its education. Another form of imagination of the Indonesian national identity takes shape as a nation that maintains its rootedness to the country's cultural values and history.

While starting from the same goal of national education as stated in the National Education System, these different imaginations offer a portrayal of Indonesian national identity take a different direction. The petitioners envision Indonesia from within (from inside, then, when it shines others will surely see) looking at the inner potential of the nation that should be fully developed before doing anything else whereas the government is looking at the capacity to be developed to be able to stand among other nations of the world (using outside stimulants to bring out the inner potential). This different focus can also be seen from an angle where the petitioners are focusing on national unity whereas the government is emphasizing national development.

On every issue raised in court, the two sides are opposed as follows:

1. *Charge that RSBI is against the spirit of smartening the life of the nation.* The petitioners are less concerned with global competitiveness; educating the nation with Indonesian values to be proud of Indonesia is more important. But for the government, developing RSBI schools is not against smartening because these schools add higher quality and more resources to the system. Smartening the life of the nation is not just meeting domestic needs but also getting students to confront the pressures of globalization. Smartening includes producing graduates who are globally competitive.
2. *Charge that the government is totally responsible for providing and financing education and that RSBI goes against this obligation.* From the viewpoint of the petitioners, communities should not have to support schools. Schools should be free. The government has to come up with all the funding. The government response is that it does provide funding, but according to the law, local authorities and community also have responsibility to support schools with resources. The community can give funding in terms of donations, tax waivers. In their view, Indonesian communities must share in the costs of funding schools.
3. *Charge that RSBI school creates dualism.* To be one system, according to the petitioners, education in Indonesia has to be a singular system with all schools using the same curriculum etc. RSBI violates this because of borrowing of foreign elements from OECD countries (or from advanced countries) with certain subject matters taught in English, and sometimes the teachers are even foreigners. In short, this is what a national education system is, having one kind of elementary and secondary education. The petitioners envisage a country where everyone has the same education

through the end of compulsory schooling. The government responds that RSBI is not that different, it is just an add on. RSBI schools must first satisfy the eight national standards set by National Bureau of Educational Standards, before they can enrich the curriculum with international elements. RSBI is needed because it caters to people who are academically superior, people who need a more individualized education because their abilities are different. The government already provides different schooling for people with disabilities, as well as schools for those with common abilities. So it also needs to provides schools for the more able and meet the needs of smart or talented students, providing them with the challenge they need educationally, in order to be globally competitive.

4. *Charge that RSBI creates “liberalization “(in the sense of a market system).* RSBI constitutes a new form of social Darwinism, it creates a market-like system and competition to find the best, the winner and give the best the best opportunities. It is also too expensive, almost like what private schools charge their students. Looking at education as a private investment leads to exclusiveness, education for those who can afford it, in short, people of high SES. According to the petitioners, education should encourage not competition but cooperation and collaboration. That’s what the country should stand for. The government position is to deny that the RSBIs have anything to do with starting a market system in education. Competition is not bad. Paying tuition is a legitimate way to share in the costs. Education is indeed an investment.
5. *Charge that RSBI creates a caste-like system and discrimination in education.* The petitioners point out that the RSBI enrollment system is based on ranking with selection of the top students, so only best and brightest can go, and no one else. But,

the petitioners emphasize, there is also the cost of tuition which makes the school unaffordable to others. But, according to the government, enrollment is open to all, anyone can enroll online, and selection is not based on SES. It is based on academic performance of the students. Discrimination is avoided because of scholarships set aside for 20% of the families, those with the lowest income.

6. *Charge that RSBI schools potentially wipe out national identity, mostly as a result of language policy where students are taught some subjects in English, whereas in non-RSBI schools all subjects are taught in Indonesian.* The petitioners argue that values come with language, thus using English is associated with less pride in one's country. It also conveys idea that speaking English is a sign of being elite while speaking Indonesian is non-elite. As a result students come to prefer English, which reduces their love of nation. According to the government, this use of a foreign language is only for enrichment and applies only to math and science. The primary language of instruction is still Indonesian. The use of English is meant to ensure that students can communicate with international world. It does not wipe out national identity.

What the ruling in favor of the plaintiffs means

The constitutional judges confirmed that the mandate to smarten the life of the nation is not limited to educating the Indonesian people intellectually with the teaching and learning process in the formal education, but also applies through learning in the non-formal and in-formal sector. More importantly, the judges understood that the education must be emphasized as a means for developing Indonesian character based on the values contained in *Pancasila*. This is in accordance with the message that was presented by the

petitioners who demanded the closing of RSBI program in the Indonesian public school system. It was because they considered the RSBI program to go against the spirit and the mandate of smartening the life of the nation as well as the government responsibility to finance the establishment and operation of public education for all Indonesian people.

As I have discussed in the previous chapter, the domain of smartening the life of the nation includes several aspects of life, such as cognitive, affective, religious spirituality, and also social, be they socio-economical, socio-cultural, and even socio-political. Smartening the life of the nation means to give some sort of capital (broadly defined) to each and every Indonesian individual so that they are able to grow and develop maximally to fulfill all their needs for their life and to earn a decent living and prosperity. Hence, every individual will be able to be involved and participate actively in the process of transforming Indonesia to be a developed and self-sufficient nation. In short, the nature of smartening the life of the nation is to fully develop the Indonesian people.

Indonesia as a country has gained its independence in 1945, and to be exact it was on August 17, 1945 when the late duo Soekarno and Hatta declared Indonesian independence to the world. They then became the first president and vice president of Indonesia, accordingly. Regardless of that political independence, according to the petitioners the meaning of independence has not been fully reached yet. In the case of the RSBI court trial and its relation to Indonesia as an independent nation, what the petitioners meant here is a nation that is free from other countries' influence and control, united, sovereign, with justice and prosperity. This is an idea that is also stated in the preamble of 1945 Indonesian constitution.

If Indonesia is considered as a nation that is independent, just, civilized, and strongly bonded to its cultural rootedness that unite all Indonesians regardless of their backgrounds (spiritual, economical, political, ethnic, etc), education, as the most important foundation of developing the nation's youth, should be done by Indonesians themselves by making the most use of resources that are available within the country itself. The petitioners point out that Indonesia is very rich with natural resources and culture that can be used as capital and the source of inspirations and local wisdoms to educate every child to become productive citizens who have pride in being Indonesian. Instead of borrowing a foreign curriculum that does not guarantee its relevance to the Indonesian value system, the government should have developed a curriculum system that is authentic and that originated from Indonesia itself in a process of looking closely into the country's potential.

Independent in the petitioners' imagination of Indonesia is a condition in which not only is Indonesia free from other countries' influence and control in terms of its political authority, but also in terms of being able to be self-sustained and provide all its livelihood needs by itself. In the context of education the petitioners think that having adopted and/or adapted a foreign curriculum, let alone hiring a foreign teacher to teach the curriculum in the public school system is not only dependent on the systems of other countries, but also a surrender of Indonesian sovereignty. That is, the country has let foreigners take over the most basic and the most strategic capital of the nation by filling the minds of youth with foreign values. In other words, Indonesian education must produce graduates who not only master the knowledge learned from school, but at the same time understand the essence of being Indonesian and what Indonesia has to offer.

In response to the government's position, the constitutional court showed that it fully understood the good intentions of the Indonesian government to make education one of a kind with high quality and ability compete in the international level. However, as already stated by the petitioners, using a foreign curriculum and moreover using a foreign language as a language of instruction does not do that. The judges thought that what is being developed with the RSBI program is not the noble values found in *Pancasila* as the guidance and life-view of the Indonesian nation, rather it is foreign values and a philosophy that are not necessarily aligned with *Pancasila* and 1945 constitution. The judges, ruling in favor of national unity and uniformity, agreed that the presence of *RSBI* will dilute Indonesian national identity, responding in particular to the argument that language is fundamental in shaping national identity.

What overruling the government means

The alternative as presented by the government and rejected by the judges is starkly different from the position taken by the petitioners. The government as a party with legal authority to establish, plan and manage national education took the position that the decision made by the constitutional court was unwise and not favorable to Indonesia's development into a modern and developed country. The government saw the decision as stifling the development of national education. With the annulment of *RSBI* program, it is worried that Indonesia is closing itself off from interacting with the modern world and participation in globalization.

The government had suggested that the court not annul the *RSBI* program but rather instruct the government to fix some implementation problems found in *RSBI*

schools. The government came up with such a request because, in its view, the nature of RSBI establishment is not against the spirit of smartening the life of the nation as claimed by the petitioners. Instead it is meant to smarten the life of the nation with an even more ambitious mission to make Indonesia stand out in the international world. The government envisions Indonesia as a nation that is well developed in term of its human capital and its overall socio-economic capacity.

In term of human capital, the government wants every Indonesian individual to be highly competitive, knowledgeable, skillful, and civilized. This means highly competitive not only at the national or regional level, but also at the global level, knowledgeable in the mastery of science and technology, skillful in using a foreign language, ICT and adapting (i.e. owning life-skill sets) to the globally fast changing world. From this perspective, civilized means being able to network, interact, and participate in the global world as global citizens. In terms of socio-economic considerations, the government takes the position that, to be self-sustainable, Indonesia has to make best use of all the resources that the nation has in the country.

National identity in the context of Indonesia is closely tied to *kebudayaan* or culture and *peradaban* or civilization of Indonesia as a nation. Koentjoroningrat (1990) states that *kebudayaan* means Indonesia or Indonesian culture as collections of *akal* (intellect) and *budi* (moral) that govern the attitude and behavior of the Indonesian people. Attitude and behavior that are consistent and unique to the individual are considered as *kepribadian* or individual identity. In the context of Indonesia, its national identity is founded on the culture and civilization unique to Indonesian nation. Indonesia with its thousands of islands and hundreds of ethnic groups, historically, has defined the

creation of Indonesia as a country that put forward its *bhineka tunggal ika* (unity in diversity). In order to unite Indonesian diversity, started by the Youth Pledge in 1928, Indonesian people proclaimed *Bahasa Indonesia* as one of the markers of Indonesian identity.

Another marker that is considered to be the soul of Indonesia is *Pancasila*. *Pancasila* is the foundational values that govern the intellect, moral, attitude, and behavior of Indonesian people. Therefore, *Pancasila* is also proclaimed as the life-view of Indonesian nation. It is the guidance and foundation that makes Indonesians Indonesian. Indonesian culture and Indonesian identity are rooted in the values that are contained in *Pancasila*. In general, Indonesian people talk about themselves as a *Pancasila* nation, a nation that is spirited with values of *Pancasila* as well as a nation who speak Indonesian as their national language. In reality, however, the manifestation of *Pancasila*'s values has created tensions among Indonesian people themselves. Issues related to religious diversity and ethnic groups have often triggered conflicts in some areas of Indonesia, such as Aceh, Maluku, and Papua.

On one hand, such issues as the government understands them within the context of RSBI can be resolved if Indonesia stays focused on becoming part of the world community. Internal issues that over-emphasize ethnic pride will fade away because everyone will be busy putting effort in becoming a global citizen. This effort of becoming a global citizen is an action of “blending” in order to merge with the global society.

On the other hand, the petitioners think that priority and the first thing to do for Indonesia as a nation to focus on issues of Indonesian unity. It is far more important to solve problems that can potentially disrupt the Indonesian nation than to pursue a place in

global society. The main solution is to strengthen Indonesian national identity. When Indonesian unity is strong, Indonesia can easily “mingle” and interact with other nations.

Referring to Schriewer and Martinez (2004) externalization theory, we can see two differing points of reference. The government is referring to the world situation whereas the petitioners are referring to the historical rootedness of Indonesia. These two contrasting references contradict the Schriewer and Martinez argument that one country can pursue only one of these points of reference at a time, giving preference either to the world situation or the country’s distinctive historical traditions. However, the case of *RSBI* has shown that both references can be influential at the same time, creating conflicts within the country itself.

This contradiction also shows the struggle of Indonesian nation in redefining or reconstructing Indonesia and its national identity. This happens because Indonesian national identity founded on *Pancasila* has not been able to lead Indonesia to become a developed country that is thriving economically as well as in its development of science and technology. The reason is, according to this argument, is that Indonesia has not done enough to demonstrate comparability to OECD countries, even within the Asian region.. The hope of reconstructing Indonesia through *RSBI* school programs has been rejected by many elements in the nation. The petitioners rejected the establishment of *RSBI*, not because they do not want to see Indonesia grow and develop but more because the idea of new Indonesia as proposed by the government is not compatible with the petitioners’ imagination.

Further implications of the RSBI court case

In this section I give my own point of view on possible lessons from and implications of the RSBI court case, going beyond what the court has explicitly addressed. I consider how this case affects how we might think about education policy making (with implications for policy actors), as well as how one envisions national identity.

First, the reasoning used by the court to annul the RSBI school policy can have a domino effect not only on parents and students who were enrolled in the RSBI schools, but also on teachers who worked in the RSBI schools, including, in particular, on their welfare and performance. This suggests lessons for policy. The petitioners contended that in the schools that have both regular and RSBI classes in parallel, there was a social gap between the regular class teachers and the RSBI class teachers. The RSBI teachers received an additional income whereas the regular class teachers did not have this benefit. Although this social gap was unintended, it was potentially a major factor in how teachers in the school thought about and reacted to the policy.

In addition to the unintended social gap that occurred between RSBI and regular class teachers, RSBI teachers' performance became problematic. The problem occurred as a consequence of RSBI policy that required science and math teachers to teach their subjects in English. On top of that, those same teachers were required to incorporate the use of technology in teaching and learning process.

One of the petitioners' expert witnesses, Khadijah argued that those RSBI teachers had difficulties in using English to teach their subjects. Such conditions, in my view, were bound to have an impact on teachers' focus and energy in teaching. Teachers

were set up to worry about whether or not they used grammatically correct English, and whether or not they used the right terms in math and science. At the same time, teachers were also concerned about students' comprehension in learning the subject. Both Math and Science are not easy subjects. Studying those subjects in *Bahasa Indonesia* is challenging enough for many Indonesian students, let alone when they have to learn it in a foreign language. For the most part, neither teachers nor students have sufficient mastery of the foreign language for it to be used as a language of instruction.

Since the majority of RSBI teachers had a limited mastery of English as well as limited competence in using technology in the classroom, principals have sent them to take language and computer courses to help acquire the necessary skills required by the policy. Those after-school courses that teachers had to take resulted in an increase of teachers workload and responsibilities.

All of the above suggest that the above-mentioned consequences have implications for the making of educational policy. In the educational policymaking, policy makers need to consider the school context and condition in which policy will later be implemented. Moreover, policy makers need to take teachers into account as key to the success of the policy implementation. Although the new educational policy put heavy emphasis on curriculum change and implementation, policy makers need to understand that good curriculum by itself will not make much difference, if any, when teachers who interpret and implement the policy in the classroom do not have adequate skills and knowledge as required by the new policy.

Therefore, if policies like RSBI are to work, it is essential for educational policy makers to also think about and develop a policy directed in particular to develop teachers'

competence in line with the intended policy reform. The ability of teachers to interpret and execute the policy at the school level is one of the keys to success in policy implementation. Highly competent teachers will be able to interpret and implement a new educational policy regardless of the direction of the reform, be it toward the government's imagination of preparing students become members of the global community, or toward the petitioners' ambition to have education that can solve all domestic problems and strengthen Indonesian unity.

Policy makers need to make sure that every new educational policy made is in synergy with the development of teachers' competence and professionalism nationally. Therefore, processes of school improvement need to remain in parallel with the development of teacher quality. This synergy needs to happen continuously and sustainably so that the success of new education reform and policy implementation does not neglect the role of teachers that is key to its success.

Besides having implications for policy makers, this study also brings new insight to the general public, Indonesians as well as foreigners regardless of their nationalities. First, the project of nation building as well as creation of Indonesian national identity happened through the strong involvement of the national education system. The public school system has been utilized as a means of nation building. Second, the process of educational reform that was initiated by the government faced strong opposition from the public in spite of the fact that in theory the government was acting with legitimate authority. This opposition has resulted in the annulment of the RSBI policy through the court.

The RSBI court case is a landmark of democracy in education in Indonesia because for the first time in history, people used the court system to defeat the government. This process demonstrated that democracy in Indonesia need not always take sides with the authorities and status quo. Through this case, democracy in Indonesia has been able to demonstrate a potential to be fair and just, and serve people who are oppressed, not just the holders of power.

Third, the general public can learn about the Constitutional Court of the Republic of Indonesia, its role and function as a judicial institution. The Constitutional Court is something that is distinctive in comparison with other countries. Although it is true that every country has its constitution, not many countries have a judicial institution that exercises the authority to protect the constitution from misinterpretation and misuse by the people in power. This study of RSBI court case and the role of the court in making the decision gives the English speaking reader its first clear picture of how the Indonesian court functions as the guardian of the 1945 Constitution. For a court that was just established in 2003, its activism in accepting cases in which the government is on defense constitutes a major advance in the transition to constitutional democracy after the downfall of Suharto in 1998. That the court is available to play a key role in educational policy-making, even though it has no independent power to enforce its decisions, is no longer open to doubt.

In brief, in discussing the implications of the court's decision, I have tried to show that my study has the potential not only to benefit educators, scholars, researchers, and policy makers who are studying the Indonesian education system, but also it can be of service as well to the general public in Indonesian and beyond.

Epilogue

Studying the RSBI court case has been a very enriching process both for my academic accomplishment as a scholar and also for my personal growth as an individual. It is enriching academically because I have a much deeper understanding not only about the RSBI school policy and its implementation, but also about the intensive arguments from both sides (the government and the petitioners) that became the basis for the court to rule on the case. Not only did the case help me understand what the arguments were and the reasons used by those who supported and those who rejected the establishment of the RSBI. The case also gave me a new perspective on why the court ruled RSBI policy to be unconstitutional.

The decision of the court in annulling article 50 item 3 of the National Education Law, which led to the abolition of all RSBI schools in Indonesia, came as a surprise to everyone in the school where I was collecting data, including myself. I had been doing school-based research at SMPN 9 for two summers, trying to witness how teachers made sense of and changed their practices in light of RSBI. I happened to be in the midst of a data collection trip when the court ruling was announced. No one in the school was even aware that the court case was in progress when I was there. Instead teachers in the SMPN 9 were all so excited because the principal had said that their school would soon be announced as one of the “official” international schools since its performance was one of the top 50 in the country.

Before studying the case in detail, I very much disagreed with the court’s decision because I found out from my experience interacting with the teachers and administrators

in the school that their response to the establishment of their RSBI school was very positive. As implemented in their middle school, the RSBI had a positive impact on improvement of the school both in terms of school building and facilities, as well as in the professional development of the teachers. I thought the government was doing the right thing in trying to create a model school that would be a center of excellence, and a reference for other schools in the same area.

Hence, I was skeptical toward the petitioners, who I believed were wrong. I thought that what the petitioners were primarily concerned about was simply a fear of English becoming the main factor in the internationalization of the RSBI schools across Indonesia. The petitioners disagreed with the use of English as the medium of instruction in the Indonesian public school. They did not want English to be dominant over *Bahasa Indonesia*, which is the official and national language of the country.

After studying the case closely, I am able to see that the arguments of the petitioners were not just about the language issue. They were concerned just as much with issues of Indonesian unity and equality. The petitioners wanted to protect the country from Western ideas and values. They demanded that development of the younger Indonesian generation be rooted in the Indonesian culture, local wisdom and values and be based on *Pancasila*. In their view, this Indonesian national identity was so important that the presence of English could not be allowed endanger the emerging national identity of Indonesian youth.

In some sense, the petitioners seemed to be building a “fortress” to reject Western values, ideas, and culture due to the fear of undermining Indonesian national identity, especially among the youth. The petitioners did not believe that being part of the global

community was equally important at the moment. The priority was to keep Indonesians united by solving problems that have had a tendency to divide the nation. The presence of RSBI had become one of those problems.

In contrast, the government strongly disagreed with the charge that the presence of English would undermine the Indonesian national identity. The government argued that the era of concentration on rootedness in culture and having a mainly “internal” orientation in developing national identity had just passed. The government thought it was time to think of developing Indonesia in the context of globalization. Thus, the government’s approach to developing Indonesia was more externally oriented, that is: to be able to compete and stand out among other nations in the world. The government wanted to “smarten the life of the nation” by making students become well-rounded individuals and competitive while still grounded on *Pancasila* values as the Indonesian life-view.

Using the language of the government, Indonesia could not be preserved as a nation by being inward looking. While rooted in its culture and national identity, Indonesia also needed to recognize that not everything that comes from other countries or foreign culture/values or from the Western world is negative and damaging to Indonesian national identity. The government is embracing differences and recognizing overlaps with the result that national identity creation is intertwined with both internal and external influences. Differences in ideology, curriculum, language, etc. are helping Indonesia as a nation understand its position in the world as well as how to develop and grow in a productive way.

Speaking of national identity and the presence of a nation state as an institution that runs the project of building national identity, I would not agree that reliance on the nation state is the one and only best way to move forward in building national identity. I do, however, understand that a nation state is one of the best ways of moving forward. Having nation state gives a sense of “home,” not as a physical place of shelter but more as a concept which gives one a “feeling of attachment” to a particular identity. Such feelings of attachment to an idea of having a home are examples of what I mean by internal orientation.

It is true that we have the United Nations that includes many countries in the world as well as many international organizations that have been very active in helping nation states to develop, but often times the UN is seen as an institution of external power. With these internal and external structures of a nation state, the border between “us (internal)” and “them (external)” is clear. After completing this study, I personally think that with globalization nowadays, this sense of border is reduced. I believe that there is an increasing tendency to blend the internal and external structures of national identity together. The border between internal and external in my opinion is getting thinner, if not removed altogether.

Nevertheless, the court case is still one of opposition. As a result, working on this case and understanding both sides has enriched my personal exploration of my Indonesian national identity. After studying the case, I have a much deeper understanding of my Indonesian-ness and of what makes Indonesians Indonesian. Having lived in the US for 10 years has given me lots of opportunities to see the world and to see life differently from my fellow Indonesian who do not have such opportunities. Even those

who have the same opportunity to live in the US or abroad in other countries experience life differently; hence, they will also have different perspectives on life and imagination of Indonesian national identity.

Many fellow Indonesian have said to me, “Dwi, you are no longer Indonesian because what you believe, your perspective, even the way you speak doesn’t really portray who we are as Indonesian.” In most occasions, I would simply respond to such observations with a short comment, “really?” I decided not to spend the time that would be required to know to satisfy my thirst of knowing why they said so. In other circumstances I would, however, be interested to spend time and ask: “Why did you say so?” or “ Why do you think that’s the case?” But only if the person knows me well and we are a longtime friends.

Regardless of what people say about my national identity, I do believe that I am no less Indonesian than they. Just because I have walked a different path and experience life differently than the way they do does not make me less Indonesian. Deep in my heart, I am still Indonesian and I do love Indonesia. To be sure, my 10 years of life in the US has affected my personality and my Indonesian-ness, but in a positive way that has enriched my understanding of what it means to be Indonesian in the global world.

Prior to doing this study, I personally was not aware of the tension between internal and external forces in defining national identity. I did not even realize that there were such internal and external forces in existence. Having grown up in Indonesia, I was rooted in traditional values of the Javanese and molded by the national efforts in the struggle for independence to unify Indonesians of very diverse origins within one country sharing the common values expressed by Pancasila. When I left Indonesia, I began to

understand the additional forces of globalization which were influencing national destinies throughout the world. Thus, I gradually became aware that in Indonesia these two strong factors confronted and challenged each other—the internal rootedness in traditional ideas and a very distinctive national history while being affected externally by globalization toward the adoption of new ideas, values and practices. The court case explains in detail how different these internal and external orientations had become and how difficult it would be to reconcile them in spite of all Indonesians being exposed to some extent to both internal and external forces.

Being someone who has lived in many places both within Indonesia and abroad, embracing differences has become part of my way coping with life in other places in addition to my hometown Yogyakarta. As a result, the concept of home has gradually become very fluid for me. Home is no longer the place where I was born and grew up, but it is more where my heart is. And my heart can be in more than one place without my losing my Indonesian identity. Instead I have just added new dimensions to this identity.

In the context of RSBI and national identity, I have come to realize that Indonesia as a nation is still engaged in a complex process of national identity creation. I can now see that at one level the tension is actually between how Indonesia is recognized globally while remaining rooted in the Indonesian culture. The RSBI case shows how the public education system in Indonesia as a political means of nation building has been caught up in these tensions. It also demonstrates that different individuals and groups have responded to this tension in very different ways and have envisaged very different roles for education. As a result the national institutions, in this case the Constitutional Court, are called upon to step in and resolve these tensions insofar as possible. But the

different voices in the court records make clear that, even with abolition of the RSBI, tensions and even conflicts over national identity and the role of government institutions like education are likely to continue.

My hope is that whatever decisions that Indonesia as a nation makes, the result will not prevent Indonesia from being able to continue to become a productive and competitive country that is based on *Pancasila* but at the same time will be open minded in recognizing that Indonesia can also learn from other countries' experiences in developing their nation states.

As Suyanto has stated, "In the global era, we cannot isolate ourselves, we cannot say that our identity will be torn apart if we use foreign language. It is with foreign language that we can explain our personality, our character, and our identity to other nations in the world" (MK, 2012c).

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