

# Constitutional Review on the State's Obligation to Provide Equal Access to Education in Indonesia

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| Article Info                                                                                                                                                                                                                                            | ABSTRACT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |
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| <p><b>Article history:</b></p> <p>Received Oct, 2025<br/>Revised Oct, 2025<br/>Accepted Oct, 2025</p>                                                                                                                                                   | <p>This study examines the constitutional obligation of the Indonesian state to guarantee equal access to education through a juridical normative analysis. Education in Indonesia is not only a social necessity but also a fundamental right enshrined in Article 31 of the 1945 Constitution, which mandates the government to organize and ensure an equitable national education system. The research uses a normative juridical approach by analyzing constitutional provisions, statutory regulations, and Constitutional Court decisions related to education and equality. The findings reveal that the Constitution provides a strong legal foundation for the right to education and equality before the law, supported by instruments such as Law No. 20 of 2003 on the National Education System and the constitutional requirement of allocating 20% of the national budget to education. However, challenges persist in implementation, including regional disparities, unequal resource distribution, and weak legal enforcement mechanisms. The study concludes that the realization of educational equality requires stronger legal accountability, equitable fiscal policy, and institutional consistency between constitutional norms and their practical execution. Strengthening constitutional integrity through judicial oversight and human rights-based education policies is essential to achieving the constitutional goal of “educating the life of the nation”.</p> |  |
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## 1. INTRODUCTION

Education is one of the fundamental pillars in the formation of an intelligent, dignified, and prosperous nation. The 1945 Constitution of the Republic of Indonesia firmly places education as a basic human right and a constitutional mandate that the state must fulfill. Article 31 paragraph (1) explicitly states that “every citizen has the right to

education,” while paragraph (3) emphasizes that “the government shall endeavor and organize a national education system.” These constitutional provisions illustrate that education is not merely a social service but a constitutional obligation of the state to ensure that every citizen, regardless of socioeconomic status, geographic location, gender, or religion, enjoys equal access to educational opportunities. Education in Indonesia is

constitutionally recognized as a fundamental human right, as outlined in Article 31 of the 1945 Constitution, mandating the state to ensure equitable access to education for all citizens, regardless of their background. The Indonesian government is tasked with organizing a national education system that promotes science and human welfare, reflecting the constitutional obligation to provide education as a positive right, supported by various legal and policy measures aimed at fulfilling this mandate [1], [2]. The 1945 Constitution explicitly requires the government to establish a national education system as a constitutional right [1], while Law Number 20 of 2003 further elaborates on the principles of a just, democratic, and inclusive education system, emphasizing respect for human rights and cultural diversity [3]. Internationally, education is recognized as a fundamental right, with states having concrete obligations to ensure its provision through the “4 A” framework—availability, accessibility, acceptability, and adaptability—which ensures that education is not only available but also accessible and adaptable to all citizens [4]. Despite positive trends in student participation and infrastructure, Indonesia continues to face challenges in ensuring equal access to quality education, particularly in remote areas, as issues such as inadequate infrastructure, limited teacher quality, and restricted technology access persist, emphasizing the need for ongoing efforts to bridge these educational gaps (Abdigobborovich, 2022).

However, despite clear constitutional guarantees, inequality in access to education remains a persistent issue in Indonesia. Disparities between urban and rural areas, limited educational infrastructure, unequal teacher distribution, and differences in local government capacity have resulted in significant gaps in educational quality. According to data from the Central Bureau of Statistics (BPS) and the Ministry of Education, regional disparities in the Net Enrollment Rate (NER) at the secondary education level indicate that children in underdeveloped regions still face barriers in accessing schools,

reflecting a gap between the constitutional ideal of equality and the empirical reality of inequality. The constitutional obligation of the state to guarantee educational equality should be understood not only as a moral or political commitment but as a binding legal responsibility. As the primary duty bearer, the state must ensure that every educational policy, program, and regulation reflects the principles of justice, equality, and inclusivity as mandated by the Constitution. This constitutional mandate is reinforced by international legal instruments ratified by Indonesia, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), which recognizes education as an essential right for human development and societal progress. Despite these guarantees, educational inequality persists, largely due to disparities in infrastructure, teacher distribution, and local government capacity, which are exacerbated by socio-economic barriers and geographical challenges, particularly in rural and underdeveloped regions.

Inadequate infrastructure and the unequal distribution of qualified teachers remain major obstacles to educational equality, as rural and remote areas often lack basic facilities and experienced educators, leading to lower educational quality compared to urban centers [5], [6]. Economic disparities also significantly impact access to education, as families in lower-income brackets struggle to afford educational expenses, limiting children’s opportunities to attend school [7]. Furthermore, Indonesia’s archipelagic geography creates logistical challenges in delivering education, particularly in remote and isolated regions, resulting in disparities in educational access and quality [6], [8]. To address these issues, integrating technology can bridge educational gaps by providing remote learning opportunities and access to digital resources for underserved communities [6]. Public-private partnerships are also essential in improving infrastructure and learning materials, fostering collaboration between the government and private institutions to enhance access and quality [6]. Additionally,

community engagement and investment in teacher training are crucial strategies to reduce disparities, as empowering local communities and improving educator competence can create a more supportive and equitable learning environment [6], [8].

In this context, a juridical normative analysis becomes essential to evaluate how the constitutional and legal frameworks in Indonesia regulate, implement, and enforce the state's obligation to ensure equal access to education. This approach emphasizes the study of legal norms, statutory provisions, and court decisions that form the legal foundation for the state's educational responsibilities. Through such an analysis, this study seeks to understand the extent to which the existing legal framework aligns with the constitutional ideal of equality and to identify normative gaps that may hinder the realization of educational justice. The relevance of this study lies in its contribution to constitutional discourse and education law reform in Indonesia. While numerous government initiatives—such as the School Operational Assistance (BOS) program, the 12-year compulsory education policy, and various scholarship schemes—have been launched, their effectiveness must be assessed from a legal and constitutional perspective to determine whether these programs genuinely embody the constitutional principle of equality or merely serve as administrative policies without strong legal enforcement mechanisms.

Therefore, the purpose of this paper is to analyze the constitutional basis of the state's obligation to guarantee equal access to education in Indonesia through a juridical normative approach. The study focuses on three key questions: (1) How does the 1945 Constitution conceptualize the right to education and equality? (2) What are the legal implications of the state's obligation to guarantee equal access to education? and (3) How do statutory frameworks and Constitutional Court decisions interpret and implement this obligation? Addressing these questions is expected to provide a comprehensive understanding of the constitutional commitment to educational

equality and to offer recommendations for strengthening the legal mechanisms that ensure inclusive and equitable education for all Indonesian citizens.

## 2. LITERATURE REVIEW

### 2.1 *The Concept of Education as a Constitutional Right*

Education is universally recognized as a fundamental human right and a cornerstone for human development. The Universal Declaration of Human Rights (UDHR) 1948, Article 26, affirms that “everyone has the right to education,” while the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966—ratified by Indonesia through Law No. 11 of 2005—obligates the state to make education progressively free and equally accessible. In Indonesia, this right is enshrined in Article 31 of the 1945 Constitution, which mandates the government to provide and organize an equitable national education system in line with international principles [9], [10]. The “4-A” framework—availability, accessibility, acceptability, and adaptability—serves as a foundation for fulfilling this right [11], [12]. However, vague legal norms, uneven budget distribution, and geographical challenges continue to hinder the effective realization of educational equality [9].

To overcome these obstacles, Indonesia needs affirmative regulations, innovative financing mechanisms, and reliable quality assurance systems to ensure equitable access, particularly to higher education [10]. Strengthening tax reforms and increasing education budgets are essential for achieving progressively free education, especially in state universities [10]. Scholars such as Jimly Asshiddiqie view this constitutional mandate as a manifestation of the state's duty to protect and empower its citizens through education. From a legal-philosophical standpoint, education serves as an instrument of constitutional welfare, in accordance with the Preamble

to the 1945 Constitution, which aspires “to educate the life of the nation”—a vision that demands equality and justice in every educational policy and practice.

## 2.2 *Equality and Justice in Educational Access*

The principle of equality is central to constitutional democracy and legal justice. In the context of education, equality signifies not absolute sameness but fairness—ensuring that all individuals have fair opportunities to access educational resources and that social and economic inequalities are arranged to benefit the least advantaged, as explained in A Theory of Justice. Applying this principle to education means that government intervention is justified to correct structural disparities. In Indonesia, equality in education is not only a moral aspiration but also a constitutional imperative. Articles 28C and 28E of the 1945 Constitution affirm that every person has the right to develop themselves through education and that the state must protect this right. However, equality in access remains constrained by economic, cultural, and geographic factors, requiring affirmative legal measures to guarantee educational justice across diverse regions and populations. Legal scholars argue that equality in education involves three dimensions: (1) equality of access, ensuring everyone can enter the education system; (2) equality of process, ensuring equitable treatment and learning conditions; and (3) equality of outcomes, ensuring that educational achievements are not biased by socioeconomic status.

To promote equality of access, the Indonesian government has implemented zoning policies to improve equitable access to education, aligning with Rawls’ principle of prioritizing benefits for the disadvantaged [13]. Despite these initiatives, challenges persist, particularly in remote and underdeveloped areas where access to quality education remains limited [8]. Ensuring equality of process is equally important, as the national

education system must provide essential skills—such as reading, writing, and arithmetic—to all citizens [14]. However, research shows that the implementation of educational programs in suburban regions like Surabaya has yet to reach optimal effectiveness, calling for more strategic interventions [14]. Finally, achieving equality of outcomes requires continuous government intervention and adaptive policies to reduce disparities in learning results influenced by socioeconomic conditions (CHEN & QI, n.d.; [15]).

## 3. RESEARCH METHODS

This research is juridical normative in nature, also known as doctrinal legal research. According to Soerjono Soekanto (1986), juridical normative research focuses on the study of positive law—examining legal norms, statutory provisions, and judicial decisions as primary objects of analysis. The purpose of this approach is to identify, interpret, and systematize laws that regulate specific issues—in this case, the constitutional right to education and the state’s obligation to ensure equal access for all citizens. This type of research does not rely on empirical fieldwork or surveys but instead emphasizes the examination of written legal materials. The analysis is directed toward understanding the coherence between constitutional principles, legislative regulations, and judicial interpretations, especially those of the Constitutional Court (Mahkamah Konstitusi) that provide binding legal clarification on constitutional rights.

To achieve this objective, the study employs several complementary approaches within the juridical normative framework. The statutory approach examines all relevant legislation related to education and equality, such as the 1945 Constitution, Law No. 20 of 2003 on the National Education System, Law No. 39 of 1999 on Human Rights, Law No. 23 of 2014 on Regional Government, and Law No. 17 of 2003 on State Finance. The conceptual approach interprets key legal and philosophical concepts like the right to education, equality before the law, and the

state's obligation, allowing the researcher to analyze education as a constitutional right within the broader framework of social justice. The case approach focuses on Constitutional Court decisions that interpret and enforce educational rights, such as rulings on the 20% education budget allocation and anti-discrimination measures in education. Meanwhile, the historical approach traces the development of educational legal norms from the post-independence period to the present, providing contextual understanding of how these obligations evolved within Indonesia's legal system.

The legal materials analyzed in this study are divided into three categories: primary, secondary, and tertiary sources. Primary legal materials include binding legal documents such as the 1945 Constitution, relevant national laws, Constitutional Court decisions (e.g., No. 011/PUU-I/2003, No. 013/PUU-VI/2008), and international conventions like the ICESCR 1966. Secondary legal materials consist of scholarly works, legal commentaries, journal articles, and opinions from experts like Jimly Asshiddiqie, Mahfud MD, and Bagir Manan. Tertiary materials include legal dictionaries and encyclopedias used for clarification of terminology. Data are collected through library research, involving identification, collection, classification, and analysis of relevant literature to ensure that all arguments are grounded in authoritative legal sources. The analysis employs qualitative normative techniques, including grammatical, systematic, teleological, and comparative interpretations of legal texts, followed by legal argumentation and construction to assess the harmony between constitutional norms and their implementation. The findings are then synthesized to identify gaps between normative ideals and practical enforcement, concluding with recommendations to strengthen constitutional compliance and ensure equitable access to education through legal reform.

## 4. RESULTS AND DISCUSSION

### 4.1 *Constitutional Foundation of the Right to Education*

The 1945 Constitution of the Republic of Indonesia places education as a central element in the state's responsibility to develop national welfare. Article 31 paragraph (1) declares that "every citizen has the right to education," while paragraph (3) mandates that "the government shall endeavor and organize a national education system, which shall be regulated by law." These provisions establish education not merely as a social necessity but as a constitutional right and a binding legal duty of the state. From a constitutional perspective, these provisions contain two normative dimensions: first, the individual dimension, which affirms the right of every citizen to receive education as part of their inherent human rights; and second, the institutional dimension, which imposes a positive obligation on the government to create, maintain, and regulate a national education system that is inclusive and equitable.

The preamble of the 1945 Constitution reinforces this mandate by stating that one of the objectives of the Indonesian state is to "educate the life of the nation." This phrase represents the teleological goal of the Constitution—indicating that education is both an instrument and an outcome of Indonesia's constitutional democracy. Therefore, the right to education is directly linked to the state's legitimacy in fulfilling its constitutional promise of social justice and equality. Moreover, the principle of equality before the law enshrined in Article 27 paragraph (1) and Article 28D paragraph (1) supports the notion that all citizens must be treated equally in accessing public services, including education. Hence, the Constitution provides an integrated normative foundation where equality and education are inseparable components of Indonesia's constitutional identity.

#### 4.2 Legal and Institutional Frameworks for Equal Educational Access

The state's constitutional obligation is further elaborated in several statutory regulations that operationalize the principles set forth in the Constitution.

##### a. Law No. 20 of 2003 on the National Education System (Sisdiknas)

Law No. 20 of 2003 on the National Education System (Sisdiknas) defines education as "a conscious and planned effort to create a learning atmosphere and learning process so that learners actively develop their potential." This law explicitly emphasizes equity and quality as two guiding principles of the national education system. Article 5 paragraph (1) affirms that "every citizen has the same right to obtain a quality education," while paragraph (2) obliges the government to "provide educational services for citizens in remote or underdeveloped regions." These provisions illustrate the state's affirmative obligation to eliminate barriers and discrimination in access to education. The law mandates both central and regional governments to allocate sufficient resources and ensure the availability of qualified educators, adequate facilities, and proper infrastructure across all regions [16], [17]. It also highlights the government's central role in setting national education policies, standards, and strategies that promote fairness, inclusivity, and excellence in learning outcomes [3].

However, despite its comprehensive framework, the implementation of Law No. 20 of 2003 has faced several challenges.

Issues such as ambiguity and conflicts of norms within the legal text have raised concerns among policymakers and academics, prompting calls for revisions and structural improvements [18]. In practice, disparities in infrastructure quality, limited teacher capacity, and uneven regional resource distribution have hindered the realization of educational equality, particularly in remote areas. Furthermore, ongoing debates continue regarding the need to update certain provisions of the law to better reflect contemporary educational challenges, technological developments, and evolving social needs in Indonesia [16], [17].

##### b. Law No. 39 of 1999 on Human Rights

Article 12 and 60 of this law reaffirm that every person has the right to education and teaching to develop themselves and improve their quality of life. The integration of human rights principles within the education system demonstrates that educational equality is not only a domestic legal duty but also a human rights obligation recognized under international law.

##### c. Budgetary and Policy Obligations

Article 31 paragraph (4) of the Constitution requires the state to allocate at least 20% of the national and regional budgets (APBN/APBD) for education. This fiscal commitment represents a direct constitutional mechanism for realizing educational equality. To implement this, the government introduced programs such as Bantuan Operasional Sekolah (BOS), Program Indonesia Pintar

(PIP), and 12-Year Compulsory Education Policy, aimed at reducing financial barriers to access.

However, although these programs are legally grounded, their effectiveness varies due to uneven local governance capacity, bureaucratic inefficiencies, and disparities in resource distribution. Regions with limited fiscal capacity often struggle to provide the same level of quality education as urban centers. This demonstrates a persistent gap between constitutional commitment and institutional capability.

#### 4.3 *Constitutional Court's Interpretation on the State's Obligation*

The Constitutional Court (Mahkamah Konstitusi) has played a crucial role in interpreting and reinforcing the state's constitutional obligation to guarantee equal access to education. Several landmark decisions have clarified the scope and depth of this obligation. In Decision No. 011/PUU-I/2003, the Court emphasized that education is a fundamental constitutional right and a cornerstone of national progress. It ruled that the state must not only formulate education-related policies but also ensure their effective implementation, reaffirming that the government's role is both regulatory and executory—actively guaranteeing the fulfillment of the right to education. Meanwhile, Decision No. 013/PUU-VI/2008 addressed the constitutional requirement to allocate at least 20% of the national budget to education. The Court declared that this fiscal commitment is binding and non-negotiable since it derives directly from constitutional provisions, and failure to comply constitutes a constitutional violation. This decision thus serves as a judicial safeguard to ensure that fiscal and policy frameworks align with the constitutional mandate for educational equality.

Furthermore, other significant rulings such as Decision No. 066/PUU-II/2004 and Decision No. 011/PUU-V/2007 have reinforced the interpretation that the state must prevent any form of discrimination in education, including indirect practices that marginalize specific social or regional groups. Collectively, these rulings have established a strong jurisprudential framework that positions education as a justiciable right—a right that citizens can claim through legal means and for which the state bears accountability if it fails to uphold its constitutional duties. Through these interpretations, the Constitutional Court not only strengthens the legal foundation of educational rights but also ensures that equality in education remains a measurable and enforceable standard within Indonesia's constitutional system.

#### 4.4 *Challenges in Realizing Equal Access to Education*

Despite a strong constitutional and legal framework, the realization of educational equality in Indonesia still faces various challenges that hinder the fulfillment of the constitutional mandate. One of the primary issues is regional disparity, as there remain significant differences among provinces in terms of educational facilities, teacher qualifications, and access to schools. Rural and remote areas—such as Papua, East Nusa Tenggara, and parts of Kalimantan—continue to struggle with limited infrastructure, insufficient teaching resources, and poor digital connectivity. These structural gaps have led to unequal educational opportunities and outcomes between urban and rural regions, undermining the constitutional promise of equal access for all citizens.

In addition to geographic inequality, economic disparities remain a key determinant of educational access and quality. Children from low-income families are more vulnerable to dropping out of school or are unable to pursue higher education, even when supported by programs such as the Kartu Indonesia

Pintar (KIP) and Bantuan Operasional Sekolah (BOS). These initiatives, though valuable, have not fully addressed systemic economic barriers such as poverty, unemployment, and limited household income that directly affect school participation. Furthermore, administrative and governance constraints continue to pose serious problems. The decentralization of education management under Law No. 23 of 2014 has resulted in uneven capacities among regional governments. Many local administrations lack the expertise, planning capabilities, and budgetary resources necessary to effectively implement national education standards.

Another major concern lies in the weak enforcement of educational rights and persistent quality gaps. Although the Constitution guarantees education as a fundamental right, the absence of specific legal mechanisms and sanctions for violations has weakened the accountability of state institutions. This lack of enforcement tools limits citizens' ability to seek legal remedies when their educational rights are not fulfilled. Moreover, equality in education must also encompass equality in quality. Disparities in curriculum implementation, teacher training, and assessment systems have produced unequal learning outcomes across schools and regions. These challenges highlight the urgent need for stronger regulatory enforcement, equitable resource allocation, and continuous quality assurance to ensure that the right to education in Indonesia is realized both in access and in substance.

#### 4.5 Discussion

The results of this juridical normative analysis reveal that Indonesia's Constitution provides a robust normative foundation for the right to education and equality. The legal framework—comprising the 1945 Constitution, the Sisdiknas Law, the Human Rights Law, and several Constitutional Court decisions—forms a coherent system of obligations that the state must fulfill.

However, the persistent inequality in educational access shows that the constitutional ideal has not yet been fully realized. There remains a normative-practical gap where constitutional commitments are strong in text but weak in execution. This gap is largely caused by structural challenges such as fiscal inequality, limited institutional capacity, and insufficient legal accountability, all of which weaken the state's ability to guarantee equitable educational outcomes [9], [19].

Fiscal inequality remains one of the most pressing obstacles to educational equality. Disparities in budget distribution between regions have affected the quality and availability of educational facilities, particularly in rural and remote areas [9]. Weak institutional capacity and poor inter-agency coordination further hinder the effective implementation of education policies, while the absence of strong legal and institutional mechanisms limits accountability in ensuring the enforceability of educational rights [19]. These internal weaknesses within the system prevent the consistent realization of educational justice as envisioned by the Constitution.

Social and cultural barriers also contribute to this ongoing inequality. Geographical challenges continue to limit educational access in remote and rural areas, where inadequate infrastructure and limited connectivity remain serious problems [8], [9]. Additionally, local social and cultural values sometimes conflict with national education policies, affecting their implementation and acceptance in certain regions. Vulnerable groups—such as indigenous peoples, rural communities, migrant families, and low-income populations—often experience systemic exclusion from education opportunities, further widening the educational gap across the country [19].

To address these challenges, several key recommendations emerge.

Policy initiatives must be strengthened to improve educational access, particularly in underserved regions [8]. Inclusive education programs should be expanded to accommodate children with disabilities and marginalized communities [20]. Progressive reforms—such as tax restructuring and increased education budget allocations—are essential to ensure equitable access to higher education [10]. Ultimately, realizing educational equality in Indonesia requires not only political will but also constitutional integrity: a consistent alignment between the law, its implementation, and its moral purpose through stronger enforcement mechanisms, redistributive fiscal policies, institutional accountability, and human rights-based education governance.

## 5. CONCLUSION

Education represents both a constitutional right of citizens and a binding legal obligation of the state in Indonesia. The analysis of constitutional provisions, national laws, and judicial interpretations reveals that the 1945 Constitution provides a comprehensive normative foundation for ensuring equal access to education. Article 31, supported by related statutes and the jurisprudence of the Constitutional Court, explicitly mandates the government to provide inclusive, equitable, and quality

education for all citizens. The findings demonstrate that while the legal framework is robust, its implementation remains uneven. Persistent regional disparities, limited educational infrastructure, and variations in governance capacity continue to hinder the fulfillment of educational equality. Although budgetary mandates and national programs such as BOS and KIP have improved access, they have not fully addressed the imbalances in quality and distribution across regions.

From a juridical perspective, the study concludes that the state's obligation to guarantee educational equality must be reinforced through enforceable legal mechanisms and institutional accountability. The Constitutional Court's role in protecting constitutional rights should remain central, ensuring that education is treated as a justiciable right that citizens can claim when the state fails to fulfill its duty. Realizing the constitutional ideal of "educating the life of the nation" thus requires a multidimensional effort—combining constitutional compliance, policy consistency, fiscal equity, and adherence to human rights principles. The Indonesian government must ensure that every educational policy and budgetary decision embodies the constitutional promise of equality and justice. Only through such coherence can the right to education evolve from a constitutional declaration into a tangible reality that empowers all citizens, regardless of their social, economic, or geographical background.

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