

**CONSTITUTIONAL REVIEW OF THE RIGHT TO EDUCATION:
AN ANALYSIS OF CONSTITUTIONAL COURT DECISION
NO. 3/PUU-XXII/2024**

***TINJAUAN KONSTITUSIONAL TENTANG HAK ATAS
PENDIDIKAN: ANALISIS KEPUTUSAN MAHKAMAH
KONSTITUSIONAL NOMOR 3/PUU-XXII/2024***

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ABSTRACT

Decision No. 3/PUU-XXII/2024 of the Constitutional Court of the Republic of Indonesia represents a significant development in the trajectory of Indonesian legal politics, particularly in relation to right to education as the constitutional protection enshrined in the 1945 Constitution. Although the ruling carries substantial implications for the interpretation of state obligations in the education sector, scholarly discussion has largely focused on the doctrinal aspects of constitutional adjudication, leaving limited attention to the broader fiscal and political implications of the decision within Indonesia's governance framework. This study therefore seeks to examine the constitutional meaning and policy consequences of the ruling through a descriptive qualitative approach, with particular attention to the normative structure of the Court's reasoning and the social justice values underlying its interpretation. The analysis focuses on how the Constitutional Court articulates the relationship between constitutional mandates, state responsibility, and the protection of individual educational rights within the broader framework of Indonesia's

welfare-oriented constitutionalism. The findings indicate that Decision No. 3/PUU-XXII/2024 strengthens the constitutional status of education as a positive right that requires active state intervention. At the same time, the ruling clarifies the scope of governmental obligations in ensuring equitable access to education while implicitly raising questions regarding fiscal allocation, institutional capacity, and policy prioritisation in the implementation of constitutional guarantees. By situating the decision within the broader discourse on the political theory of education law and the adjudication of socio-economic rights, this article contributes to the development of a normative framework that understands education not purely as a matter of public policy but as a constitutionally mandated instrument for achieving social justice. Ultimately, the study argues that the decision reflects a more responsive orientation in Indonesian legal politics, one that seeks to align constitutional interpretation with the pursuit of substantive equality in the national education system.

Keywords : Constitutional Court, Social Justice, Right to Education, Legal Policy, Constitution.

ABSTRAK

Putusan Mahkamah Konstitusi Nomor 3/PUU-XXII/2024 menandai langkah penting dalam perkembangan politik hukum di Indonesia, terutama terkait dengan perlindungan hak atas pendidikan yang diakui sebagai hak konstitusional menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Meskipun putusan ini memiliki arti strategis, kajian akademik yang ada selama ini cenderung lebih menitikberatkan pada aspek doktrinal dari pengujian konstitusionalitas norma, sementara perhatian terhadap implikasi fiskal dan politik yang lebih luas dari penafsiran Mahkamah mengenai kewajiban negara di bidang pendidikan masih relatif terbatas. Penelitian ini dirancang untuk mengatasi kekosongan tersebut dengan menelaah dasar pertimbangan konstitusional serta dampak normatif dari putusan tersebut menggunakan pendekatan kualitatif deskriptif. Analisis difokuskan pada bagaimana Mahkamah Konstitusi merumuskan relasi antara mandat konstitusi, tanggung jawab negara, dan perlindungan hak individu atas pendidikan dalam kerangka konstitusionalisme kesejahteraan yang dianut oleh Indonesia. Hasil penelitian menunjukkan bahwa Putusan Nomor 3/PUU-XXII/2024 memperkuat pengakuan terhadap pendidikan sebagai hak konstitusional positif yang menuntut keterlibatan aktif negara. Pada saat yang sama, putusan tersebut memperjelas cakupan kewajiban negara dalam menjamin akses pendidikan yang adil dan berkualitas, sekaligus memunculkan implikasi penting terkait alokasi fiskal, kapasitas kelembagaan, serta prioritas kebijakan dalam pemenuhan jaminan konstitusional tersebut. Dengan menempatkan putusan ini dalam diskursus yang lebih luas mengenai

teori politik hukum pendidikan dan perkembangan pengujian hak-hak sosial-ekonomi, artikel ini berkontribusi pada pengembangan kerangka normatif yang memandang pendidikan tidak semata sebagai bidang kebijakan publik, melainkan sebagai instrumen konstitusional yang esensial dalam mewujudkan keadilan sosial. Pada akhirnya, artikel ini berargumen bahwa putusan tersebut mencerminkan arah politik hukum yang semakin responsif dalam pembentukan sistem pendidikan nasional yang lebih adil secara substantif.

Kata Kunci : Mahkamah Konstitusi, Keadilan Sosial, Hak Pendidikan, Politik Hukum, Konstitusi.

I. INTRODUCTION

Education holds a pivotal role within contemporary constitutional frameworks, particularly in jurisdictions that adhere to a welfare state paradigm. In the Indonesian context, the right to education is firmly established as a constitutionally protected right the Constitution of the Republic of Indonesia of 1945. Article 31 paragraph (1) affirms that all citizen is entitled to access education, while paragraph (2) imposes an obligation upon the state to develop and implement a national education system aimed at fostering faith, devotion, and moral integrity as part of the broader objective of educating the nation. This constitutional mandate underscores a fundamental normative principle that education extends beyond a mere policy concern, constituting instead a core pillar of democratic participation and the realization of social justice.

The constitutional recognition of the right to education is in harmony with the wider international human rights regime. The Universal Declaration of Human Rights of 1948, particularly Article 26, affirms education as a fundamental entitlement essential for the full development of the individual and for fostering respect toward human rights and fundamental freedoms. This normative basis is further strengthened by subsequent legal instruments, including the International Covenant on Economic, Social and Cultural Rights, which delineates the obligation of states to progressively realise the right to education through systems that ensure accessibility, equity, and adequate quality. Within this legal framework, the right to education is increasingly conceptualised as a positive constitutional entitlement that necessitates proactive state involvement, rather than merely a passive or regulatory role.

Despite the strength of these constitutional and international commitments, the practical implication of the right to education in Indonesia remains confronted by persistent structural challenges. Disparities in educational access between urban and rural areas, unequal resource

distribution among regions, and variations in educational quality continue to illustrate the difficulties of translating constitutional guarantees into tangible social outcomes. In addition, policy debates surrounding education often revolve around fiscal constraints and budgetary efficiency, particularly in relation to the allocation of public funds for educational programs.¹ Such policy orientations may inadvertently shift the discourse from constitutional obligation toward administrative discretion, thereby weakening the normative force of the right to education as a legally enforceable entitlement.²

Within this context, constitutional adjudication becomes an essential mechanism for clarifying the normative scope of state obligations and ensuring that socio-economic rights retain their constitutional meaning.³ Constitutional courts across jurisdictions have increasingly played a pivotal role in interpreting the justiciability of socio-economic rights and in determining the extent to which courts may intervene in matters traditionally regarded as policy domains. Comparative scholarship has demonstrated that judicial decisions on education rights often function as catalysts for redefining the relationship between constitutional commitments and public policy implementation.

Existing academic literature on education governance in Indonesia has largely concentrated on debates surrounding education financing and public policy reform. A significant body of research examines the constitutional requirement that at least twenty percent of the national budgeting be allocated to the education sector, highlighting both its normative significance and its practical challenges.⁴ Other studies analyse institutional reforms within the national education system, focusing on decentralisation policies, regulatory frameworks, and the evolving structure of educational administration.⁵ While these contributions provide valuable insights into education policy and governance, relatively limited scholarly attention has been devoted to examining how constitutional adjudication reshapes the doctrinal understanding of state obligations in the field of education.

In particular, there remains a noticeable gap in the literature regarding the constitutional implications of recent Constitutional Court jurisprudence that directly addresses the normative status of education as a socio-economic right. Most studies tend to treat judicial decisions primarily as legal outcomes

¹Arifin, A. (2021). Reformasi Pendidikan dan Peran Negara dalam Pembangunan Berkelanjutan. *Jurnal Ilmu Pemerintahan*, 12(1), 25–40.

² Kalantry, S., Getgen, J. E., & Koh, S. A. (2010). Enhancing enforcement of economic, social, and cultural rights using indicators: A focus on the right to education in the ICESCR. *Human Rights Quarterly*, 32(2), 253-310.

³ De Beco, G. (2018). The right to inclusive education: Why is there so much opposition to its implementation?. *International Journal of Law in Context*, 14(3), 396-415.

⁴Siregar, R. Y. (2023). Pendidikan dan Keadilan: Tinjauan Konstitusional dalam Sistem Pendidikan Nasional. *Jurnal Kajian Hukum dan Pendidikan*, 8(2), 90–105.

⁵ Black, D. W. (2018). The fundamental right to education. *Notre Dame L. Rev.*, 94, 1059.

rather than as part of a broader transformation in the legal politics of education. Consequently, the theoretical implications of such rulings for the development of constitutional doctrine—especially in relation to the enforceability of socio-economic rights and the limits of fiscal discretion—have not yet been sufficiently explored. This gap is especially evident in the scholarly treatment of Constitutional Court Decision No. 3/PUU-XXII/2024.

Decision No. 3/PUU-XXII/2024 marks an important evolution in Indonesia's constitutional jurisprudence relating to the right to education. In its review of provisions within the National Education System Law that were deemed capable of weakening the state's obligation to provide free basic education, the Constitutional Court advanced a more robust normative interpretation of the constitutional status of education. The Court underscored that education cannot be treated merely as a matter of policy discretion governed by budgetary considerations. Rather, it must be regarded as a fundamental constitutional right that is inherently connected to the principle of social justice as reflected in the fifth principle of Pancasila, as well as in Articles 28C and 28H of the Constitution.

Nevertheless, the broader doctrinal and political implications of this decision remain underexplored within the existing academic discourse.⁶ In particular⁷, questions persist regarding how the ruling redefines the scope of state responsibility in fulfilling the right to education and whether it signals a broader shift in Indonesia's legal politics from a policy-oriented approach toward a rights-based constitutional paradigm.⁸ Addressing these questions is essential for understanding the evolving relationship between constitutional law, education governance, and social justice in Indonesia.⁹

Against this background, this article seeks to examine the constitutional significance of Constitutional Court Decision No. 3/PUU-XXII/2024 within the broader framework of socio-economic rights adjudication. Specifically, this study addresses two principal research questions: (1) how does the decision reinterpret the constitutional scope of the state's obligation in guaranteeing the right to education; and (2) to what extent does the ruling signify a paradigmatic shift in Indonesia's legal politics of education from a policy-based approach toward a rights-based constitutional framework.

⁶ Putra, R. K., et.al. (2025). *Politik Hukum Perundang-Undangan Di Indonesia*, Adikara Cipta Aksa, Jakarta.

⁷Hanif, M. (2020). Intervensi Negara dalam Pembiayaan Pendidikan: Perspektif Hak Konstitusional. *Jurnal Konstitusi dan Demokrasi*, 5(1), 45–61.

⁸Saragih, A. P. (2024). Reformasi Hukum Pendidikan dan Implikasi Putusan Mahkamah Konstitusi terhadap Aksesibilitas Pendidikan Dasar. *Jurnal Hukum & Kebijakan Publik*, 12(1), 44–61. <https://doi.org/10.25077/jhkp.v12i1.2024.044>.

⁹Subawa, M., & Hermanto, B. (2023). Despite complicated portraits and policy orientation: struggle to articulate right to education based on the Indonesia constitutional court decisions. *Braz. J. Int'l L.*, 20, 612.

This article argues that the ruling represents an important doctrinal development in Indonesian constitutional law. Rather than treating education primarily as a sector of administrative governance, the Constitutional Court advances a constitutional paradigm that emphasises the enforceability of socio-economic rights and places clearer limits on the use of fiscal considerations as justification for restricting fundamental rights. By situating the decision within the broader discourse of welfare constitutionalism and the political theory of education law¹⁰, this study demonstrates how constitutional adjudication can reshape the legal politics of education and strengthen the normative foundation of social justice within Indonesia's constitutional order.

Methodologically, the article employs a qualitative doctrinal approach, complemented by a contextual analysis of constitutional principles and legal politics. Through this approach, the study examines the reasoning of the Court, the constitutional provisions invoked in the judgment, and the broader theoretical implications for the development of socio-economic rights jurisprudence in Indonesia. In doing so, the study aims to contribute to the emerging scholarly discussion on the constitutionalisation of education policy and the evolving role of constitutional courts in safeguarding fundamental social rights.

II. METHOD

This study uses a descriptive qualitative approach to understanding and interpret the meaning behind Constitutional Court Decision No. 3/PUU-XXII/2024 within the framework of constitutional and social justice-based legal politics. This approach was chosen because it is suitable for exploring in depth legal phenomena as social, political, and ideological products, as well as placing the Constitutional Court's decision not only as a legal text but also as a representation of the dynamics of values and policies in the Indonesian constitutional state.

The primary sources of data in this research consist of legal materials, including Constitutional Court Decision No. 3/PUU-XXII/2024, the 1945 Constitution of the Republic of Indonesia, Law No. 20 of 2003 concerning the National Education System, and other pertinent statutory regulations. In addition, the study engages with secondary materials such as scholarly journals, textbooks on constitutional law and legal politics, as well as academic commentaries and critical responses to the decision. Accordingly, the research adopts a doctrinal approach complemented by a normative-empirical perspective, whereby the data are examined not only within the

¹⁰ Damaitu, E. R. (2025). PLURALISM AND SOCIAL JUSTICE IN PANCASILA DEMOCRACY: BETWEEN IDEALS AND REALITY: MENGGAPAI KEADILAN SOSIAL BERDASARKAN DEMOKRASI PANCASILA: ANTARA CITA-CITA DAN REALITAS. *Constitutional Law Society*, 4(1), 1–17. <https://doi.org/10.36448/cls.v4i01.103>.

framework of legal norms but also in relation to the surrounding socio-political context.

Data collection techniques were carried out through library research, by examining and scrutinising primary and secondary sources. The data obtained was then analysed using content analysis and hermeneutic interpretation techniques¹¹, namely interpreting the meaning contained in legal texts and relating them to the principles of constitutionalism, human rights, and social justice. This analysis was conducted systematically to identify the structure of the Constitutional Court's legal arguments, the values used, and the implications for the direction of education law policy in Indonesia.

This study employs source triangulation by cross-examining findings derived from legal document analysis with a range of expert perspectives found in scholarly literature and legal discourse. Furthermore, analytical objectivity is preserved by grounding each interpretation within the normative framework of the Constitution and the fundamental principles of a democratic state governed by the rule of law. Through this methodological approach, the study seeks to offer a thorough and comprehensive understanding of the normative position and strategic significance of Constitutional Court Decision No. 3/PUU-XXII/2024 in shaping an equitable and constitutionally compliant national education system.

III. ANALYSIS AND DISCUSSION

a. Main Points of Constitutional Court Decision No. 3/PUU-XXII/2024: Strengthening the State's Constitutional Responsibility

The Constitutional Court affirmed that the state bears a constitutional obligation to ensure and facilitate access to education for all citizens. In its reasoning, the Court scrutinised Article 34 paragraph (2) of Law No. 20 of 2003 on the National Education System, finding that the provision did not adequately secure continuous and equitable access to education. Consequently, the Court asserted that the provision of education, particularly compulsory education, must be recognised as a direct responsibility of the state, to be organised and administered through governmental institutions at both the central and regional levels.¹²

Furthermore, the Constitutional Court emphasised that the state must not only provide access, but also ensure that there are no financial barriers for citizens who are less fortunate. This ruling allows private schools to charge tuition fees, but on the condition that the state must be present to supervise, provide relief, or guarantee subsidies for those in need. The Constitutional

¹¹Sudiarawan, K. A., et.al. (2020). Discover the legal concept in the sociological study. *Substantive Justice International Journal of Law*, 3(1), 94-108.

¹² Rosser, A. (2015). Law And The Realisation Of Human Rights: Insights From Indonesia's Education Sector. *Asian Studies Review*, 39(2), 194-212.

Court emphasised that all private education regulations must be in line with the principles of fairness and non-discrimination.

In its ruling, the Constitutional Court stated that the inconsistency of Article 34 paragraph (2) of the National Education System Law with the 1945 Constitution had created legal uncertainty. Therefore, this norm must be categorised as conditionally contrary to the constitution. The state was also instructed to immediately update regulations to reflect the principles of state responsibility, accessibility, and support for underprivileged communities.¹³

Critically, this ruling carries significant fiscal and political implications. From a fiscal perspective, the decision potentially expands the scope of mandatory public expenditure in the education sector beyond the previously debated constitutional minimum allocation of 20 percent of the state budget.¹⁴ By strengthening the enforceability of state obligations, the Court limits excessive fiscal discretion and constrains the government's ability to justify budgetary shortfalls on efficiency grounds alone. This recalibration may require the restructuring of intergovernmental fiscal relations, particularly in the distribution of educational funding between central and regional authorities.

Politically, the ruling narrows the space for policy-makers to shift responsibility for education financing toward households or market-based mechanisms. It reinforces the doctrine that socio-economic rights, including education, cannot be subordinated entirely to political compromise or fiscal pragmatism. As a result, the decision may generate tension between constitutional mandates and political realities, particularly in periods of budgetary constraint. Nevertheless, the Court's reasoning reflects a deliberate move to prioritise constitutional justice over short-term fiscal considerations.

Implicitly, this ruling strengthens the state in the national education system, not only as a provider but also as a guarantor of social justice in education. The Constitutional Court reminds us that the review of this norm is not merely a matter of repealing an article, but also a call for the state to expand its education guarantee mechanisms—through subsidies, relief, and regulatory oversight—in order to realise the fundamental right to education as enshrined in the 1945 Constitution.

¹³ Sujono, I. (2022). URGENCY OF RECHTSVINDING AND JURISPRUDENCE IN THE CONSTITUTIONAL COURT AUTHORITY: URGENSI PENEMUAN HUKUM DAN YURISPRUDENSI DALAM KEWENANGAN MAHKAMAH KONSTITUSI. *Constitutional Law Society*, 1(2), 161–178. <https://doi.org/10.36448/cls.v1i2.26>

¹⁴ Indrasti, M., & Jalil, F. (2019). The rule of law for the right to inclusive education in Indonesia. *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)*, 6(3), 3.

Table 1. Changes in the Legal Position of the State's Responsibility in Education Before and After the Constitutional Court Ruling

Aspect	Before the Constitutional Court ruling	After the Constitutional Court ruling
State responsibility	General and normative	Strict and mandatory, including funding and direct supervision
Role of private schools	Free to charge fees	It shall be supervised and subsidised by the state
Protection of vulnerable groups	Unspecific	The state must actively provide protection
Legal implications	No compulsion to revise the law	The House of Representatives and the government must revise the National Education System Law

b. Legal Policy and Constitutional Orientation towards Education

Legal Policy and Constitutional Orientation towards Education is a framework of legal thinking and policy that places education as a key pillar in national development, as affirmed in the Indonesian constitution, namely the 1945 Constitution.¹⁵ Legal policy in this context refers to the direction and will of the state in formulating, regulating, and implementing legislation in the field of education that is in line with constitutional values such as social justice, human rights, and equal learning opportunities.

The constitutional commitment to education is embodied in Articles 28C and 31 of the 1945 Constitution, which affirm the right of every citizen to receive education and impose a corresponding duty upon the state to fund it. In its implementation, this duty goes beyond the simple provision of educational infrastructure, obliging the state to guarantee equal and non-discriminatory access to education for all individuals. Furthermore, the Constitution requires the allocation of at least 20 percent of both the national and regional budgets to the education sector, representing a tangible expression of this constitutional mandate.¹⁶

However, in reality, education policy is often faced with conflicting interests, whether ideological (between nationalist and religious education), structural (between central and regional governments), or economic (between

¹⁵Rizky, F. (2023). Peran Mahkamah Konstitusi dalam Menegakkan Hak Konstitusional Warga Negara. *Jurnal Yudisial*, 18(2), 102–118. <https://doi.org/10.37276/jy182102>.

¹⁶ Marwiyah, S., Borman, M. S., Ruba'ie, R. I., Ramadhani, M., Saraswati, R., & Naprathansuk, N. (2023). The educational role of the constitutional court in compliance of Indonesian citizens. *Law Reform*, 19(1), 148-168.

education as a right or a commodity).¹⁷ Therefore, education policy must be affirmative and responsive to social inequality so that certain groups are not marginalised in terms of access to education.

In this regard, the Constitutional Court assumes a crucial function as the guardian of the Constitution, tasked with assessing whether educational policies or legislative measures conform to constitutional principles. Decisions of the Court, including Decision No. 3/PUU-XXII/2024, represent a form of corrective intervention in education law policies that have yet to fully reflect the principle of social justice. This underscores that constitutional commitments must not remain merely as formal textual provisions, but should be translated into concrete and effective public policies.

Thus, constitutionally oriented education policy must be able to guarantee equitable, high-quality and sustainable education for all Indonesians.¹⁸ This requires synergy between policymakers and the legislative, judicial and executive branches to realise an inclusive, participatory and equitable national education system, as envisaged in the Preamble to the 1945 Constitution.

Table 2. Implementation and Challenges of Constitutional Mandates in Education Law Policy

Constitutional Elements	Implementation in Education Law Policy	Challenges in Implementation
Article 31 of the 1945 Constitution	Compulsory education and state funding for education	Disparities in quality and access between urban and rural areas
Article 28C paragraph (1)	The right to self-development through formal/non-formal education	Lack of regulation of alternative education
Mandate of 20% of the State Budget/Regional Budget	Allocation of education funds in the State Budget and Regional Budget	Low effectiveness of budget utilisation
Principle of social justice	Affirmative action for poor groups and 3T regions	Lack of supervision and policy alignment
Constitutional Court Decision No. 3/PUU-XXII/2024	The state is obliged to provide funding for	Lack of harmonisation between central and regional regulations

¹⁷ Manan, M. (2015). The implementation of the right to education in Indonesia. *Indon. L. Rev.*, 5, 51.

¹⁸Suparman, A. (2021). Pendidikan dan Tanggung Jawab Negara: Analisis Putusan MK terkait Pendidikan Dasar. *Jurnal Hukum & Pembangunan*, 51(4), 559–576. <https://doi.org/10.21143/jhp.vol51.no4.3375>.

c. Social Justice and the Right to Education as Fundamental Rights

Social justice is a fundamental principle in state life that guarantees equal rights, obligations and opportunities for every citizen without discrimination.¹⁹ In this context, education occupies a very strategic position because it is the main key to realising true social justice. Equitable and fair education not only improves the quality of individuals, but also strengthens an inclusive and just social structure.²⁰ Through its constitution, the state has an absolute obligation to ensure that everyone, regardless of economic, social, cultural, or geographical background, has equal access to education.

Within the human rights framework, the right to education is categorised as an economic, social, and cultural right that imposes an obligation on the state to ensure its fulfilment. This recognition is reflected in key international legal instruments, including the Universal Declaration of Human Rights of 1948 and the International Covenant on Economic, Social and Cultural Rights of 1966.²¹ As a state that has ratified these instruments, Indonesia has incorporated the guarantee of education into its constitutional framework, particularly through Articles 28C and 31 of the 1945 Constitution. The right to education is not a contingent entitlement that may be deferred or implemented gradually at the discretion of the state, but rather an inherent right attached to every individual as a rational and cultural being.

However, in reality, access to education in Indonesia still faces various challenges that hinder the achievement of social justice.²² The disparities between urban and rural areas, between Java and outside Java, and between the upper and lower economic classes are still very pronounced.²³ Numerous children from low-income households face significant barriers to continuing their education, including financial constraints, lack of transportation, and the limited quality of accessible educational services. This shows that social justice in education is still far from the ideal constitutional goal.

¹⁹Yusa, I. G., et.al. (2021, December). Law Reform as the Part of National Resilience: Discovering Hindu and Pancasila Values in Indonesia's Legal Development Plan. In *International Conference For Democracy and National Resilience (ICDNR 2021)* (pp. 1-10). Atlantis Press.

²⁰Budhiartie, A., Pradhan, D., Hasnda, N. A., & Iswandi, I. (2025). Digitized Education Delivery in Indonesia: Constitutional Right or Vacuous Sophistry?. *Jambe Law Journal*, 8(1), 197-228.

²¹Sihombing, R. (2020). Analisis Kritis Pemenuhan Hak Pendidikan dalam Kebijakan Publik. *Jurnal Hukum dan Hak Asasi Manusia*, 10(2), 118-133.

²²Putra, R. K. (2024). Hak Asasi Manusia (HAM). *Penerbit Yayasan Prima Agus Teknik*.

²³Nugraha, S., & Bangas, K. D. (2024). Pemenuhan Hak Asasi Manusia: Peran Negara dalam Merespons Krisis Kemanusiaan dan Penanganan Pengungsi. *Innovative: Journal Of Social Science Research*, 4(3), 4458-4474.

The state should not only provide general educational services, but also implement affirmative policies for marginalised groups²⁴. For example, through targeted scholarships, the development of school infrastructure in remote areas, strengthening the capacity of teachers in 3T (underdeveloped, frontier, and outermost) areas, and empowering inclusive schools for children with special needs. These efforts should not only be administrative in nature, but must be based on the ideological awareness that education is a tool for social equality.

The Constitutional Court, in various rulings, including Decision No. 3/PUU-XXII/2024, emphasises that the state has a constitutional responsibility to guarantee free and equal access to basic education. The Court considers that neglecting an education system that does not reach all levels of society is a violation of the principle of social justice. Therefore, every piece of legislation and education policy must be tested for its conformity with the values of human rights and justice.

Social justice in education also demands a system that is non-discriminatory towards minority groups, including in terms of the language of instruction, culturally sensitive curricula, and recognition of non-formal education that has developed in local communities.²⁵ The state must open up space for community participation in designing an education system that is relevant, contextual, and humanistic. In this case, the principle of participatory justice in education is very important so that the education process does not become a tool for standardisation, but rather a means of empowerment.

As a part of human rights, the right to education cannot be separated from gender issues. Many women, especially in remote areas, still face cultural and structural barriers to accessing education. Education policy must be gender-sensitive and recognise the unequal power relations that exist in society. Therefore, an approach based on equality and justice in education must be the foundation for formulating state policy and budgets.

Social justice does not mean treating everyone the same, but treating each individual or group according to their needs. In context of education, this means the state must have policies that are flexible, contextual, and responsive to the diverse social challenges faced by its citizens. This is not merely a matter of educational bureaucratic technocracy, but a matter of national morality and ethics.

Finally, education based on social justice and human rights will produce citizens who are not only intelligent, but also critical, caring, and empathetic.

²⁴ Butt, S., Crouch, M., & Dixon, R. (Eds.). (2016). The first decade of Indonesia's Constitutional Court. *Australian Journal of Asian Law*, 16(2), 113-119.

²⁵ Lundy, L., & Martínez Sainz, G. (2018). The role of law and legal knowledge for a transformative human rights education: Addressing violations of children's rights in formal education. *Human Rights Education Review*, 1(2), 04-24.

Such an education system will become a strong foundation for democracy and national sustainability. Therefore, the struggle to uphold social justice in education is a struggle to humanise humanity, as envisioned by the founders of the nation in the Preamble to the 1945 Constitution.

Table 3. Constitutional and Human Rights Foundations of the Right to Education in Indonesia

Aspect	Description
Constitutional Basis	Articles 28C & 31 of the Indonesia Constitution of 1945: The right to education and the state's obligation to fund it
Human Rights Principles	Non-discrimination, accessibility, acceptability, quality
Implementation of Social Justice	Equal access, affirmative action, subsidies for the poor
Challenges	Regional, economic, gender and disability inequalities
Role of the State	Regulator, facilitator, protector of citizens' right to education

d. Implications of the Decision on National Education Policy Reform

Constitutional Court Decision No. 3/PUU-XXII/2024 represents a significant milestone in the evolution of national education reform in Indonesia. The decision reinforces the constitutional duty of the state to ensure the fulfilment of the right to education for all citizens. Substantively, the Court challenges policy approaches that shift the burden of educational financing onto the public without adequate state involvement, thereby failing to guarantee equitable access, particularly for economically disadvantaged and marginalised communities.

One of the main implications of this ruling is the need to reformulate the legal and regulatory framework for education, including revising Law No. 20 of 2003 on the National Education System. Provisions that allow educational institutions to charge fees without clear limits and state responsibility for compulsory education funding must now be thoroughly reviewed. The state is constitutionally obliged to be more present in ensuring full and equitable funding for basic education.

This ruling also emphasises that the state should not merely act as a facilitator, but must be the primary responsible party for the provision of education, particularly compulsory basic education.²⁶ This requires

²⁶Hermanto, B. (2023). Formulasi Pengaturan Undang-Undang Berbasis Omnibus Legislation Terhadap Penguatan Hak Asasi Manusia. *Jurnal Legislasi Indonesia*, 20(1), 292-306.

institutional reform within the national education system²⁷, whereby responsibility is not solely borne by schools and local governments, but must be fully supported by central government budgets and regulations.

In the context of budget policy, the next implication is the strengthening of education funding allocations from the state and local budgets. The state is required not only to allocate 20% of the budget as mandated by the constitution, but also to ensure that the allocation is used effectively to guarantee access to education, especially for disadvantaged groups. Reforms in education fiscal policy must be directed at reducing disparities in access and quality between regions.

This decision marks a meaningful paradigm movement in the legal politics of education financing in Indonesia. Previously, education funding was frequently conceptualised within a shared-responsibility framework, where the state, private actors, and families collectively bore financial burdens. The Court's ruling reorients this framework toward a rights-based financing model, in which the state assumes primary constitutional accountability for guaranteeing affordability and accessibility.

Under this new paradigm, education financing is no longer treated predominantly as a matter of administrative policy design, but as a constitutional obligation subject to judicial scrutiny.²⁸ The shift lies not in prohibiting private participation, but in redefining the normative hierarchy: fiscal policy must now conform to constitutional guarantees, rather than constitutional rights being adjusted to fiscal limitations. By declaring Article 34 paragraph (2) conditionally unconstitutional, the Court reinforced the principle that any regulatory model of education financing must be structured around state responsibility, social justice, and protection for vulnerable groups. Thus, Decision No. 3/PUU-XXII/2024 does not merely clarify statutory interpretation; it reconstructs the constitutional architecture of education financing by embedding socio-economic rights more firmly within Indonesia's welfare constitutional framework.

This ruling brings about a paradigm shift that education is not a market commodity that can be freely traded through the private system, but rather a fundamental right that must be assured by the state.²⁹ Thus, the existence of private schools must be under strict supervision and regulations that favour the principle of social justice. Private schools may still charge fees, but the state is obliged to guarantee affordability through subsidy mechanisms or direct assistance.

²⁷ Appadurai, A. (2006). The right to research. *Globalisation, societies and education*, 4(2), 167-177.

²⁸ Tyesta, L. A., Saraswati, R., & Arif, F. (2020). Implications of legal positivism of the promotion of children's rights on national law. *Journal of Advanced Research in Law and Economics*, 11(2), 661-666.

²⁹ Krivins, A., & Hermanto, B. (2025). INTERPRETATION OF LEGAL NORMS: LINGUISTIC HORIZONS. *International Comparative Jurisprudence*, 11(2), 151-169.

Systemically, this ruling also compels the government to improve data and mechanisms for identifying vulnerable groups that should receive priority educational assistance. Data-driven education policy reform is an absolute requirement to ensure that the allocation of educational assistance is targeted and sustainable, rather than merely ceremonial or project-based.

Post-Constitutional Court ruling education policy reform also touches on aspects of school management and educational autonomy. The state must review the school autonomy model in terms of fund management and programme development to prevent illegal fees or economic exploitation of students. Educational justice must be the main principle in decision-making at the educational unit level.

In terms of curriculum, this ruling also emphasises that the education system must reflect the social justice spirit, equality and diversity. The curriculum should no longer be oriented solely towards academic achievement, but must also emphasise humanistic, inclusive aspects and be responsive to the structural inequalities that are still deeply rooted in Indonesian society.

The role of public oversight in the Execution of education policy is increasingly essential. The Constitutional Court's ruling strengthens the position of civil society in demanding transparency and accountability in the administration of education. Therefore, education reform must open up space for public participation in policy formulation and oversight of its implementation.

Another implication is the need to increase the capacity of teachers and educators in understanding and implementing constitutional values in education. Teachers are not only instructors of subject matter, but also agents of transformation of the values of social justice and human rights in everyday educational practice.³⁰

This ruling also influences the direction of education decentralisation policies, which have tended to cause disparities between regions. The state is now required to have stronger oversight and intervention mechanisms so that decentralisation does not become a means for the central government to relinquish its responsibility for education.

Furthermore, this Constitutional Court ruling also raises the need to draft new legislation that specifically regulates the assignment for financing education, including private involvement and cross-subsidy mechanisms.³¹ The legislation must be based on the principle that each citizen has the right to quality education without being constrained by cost.

³⁰ McCowan, T. (2010). Reframing the universal right to education. *Comparative Education*, 46(4), 509-525.

³¹ Wardhani, L. T. A. L., Noho, M. D. H., & Natalis, A. (2022). The adoption of various legal systems in Indonesia: an effort to initiate the prismatic Mixed Legal Systems. *Cogent Social Sciences*, 8(1), 2104710.

Educational reform must also strengthen the role of state institutions such as the Ombudsman, KPAI, and Komnas HAM in safeguarding the right to education, especially in cases of violations of children's rights to education due to economic hardship. Collaboration between state institutions is vital in ensuring the implementation of the Constitutional Court's ruling.

The impact of this ruling on the non-formal and informal education sectors is also quite significant.³² The state must recognise and support alternative education models that have developed within the community as part of fulfilling the human right to education.³³ A multitrack education approach is one policy direction that can be developed.

The importance of constitutional literacy in the educational environment is also one of the main implications. Civic education must be strengthened so that students understand their basic rights and are able to criticise policies that are not in line with the spirit of the constitution.

At the international level, this Constitutional Court ruling strengthens Indonesia's position as a country committed to fulfilling economic, social and cultural rights. This could serve as a model for other countries that are developing rights-based education systems.³⁴

For higher education institutions, this ruling provides an impetus to strengthen the study of education law, public policy and human rights in the curriculum. Higher education institutions need to produce research and policy recommendations that can serve as a reference for reforms at the ministerial and local government levels.

Further implications are also felt in education-based social assistance programmes such as the Indonesia Smart Card (KIP), which now needs to be evaluated for its effectiveness. The state must ensure that all assistance programmes truly reach the students who need them most.

In the long term, national education reform following this Constitutional Court ruling must be directed towards creating a more inclusive, fair and sustainable education system. Education must be a way out of poverty, not a means of reinforcing social stratification.

In conclusion, Constitutional Court Decision No. 3/PUU-XXII/2024 is not only a correction of legal norms, but also a major catalyst for reforming the paradigm, structure, and direction of national education policy. It marks a turning point towards a more humane and socially just education system.

³² KRIVINS, A., & HERMANTO, B. (2025). Legal Postmodernism: Between Formalism and the Flexibility of Law. *Juridical Tribune-Review of Comparative & International Law*, 15(4).

³³ Tibaka, L., & Rosdian, R. (2017). The Protection of human rights in Indonesian constitutional law after the amendment of the 1945 constitution of the republic of Indonesia. *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 11(3), 266-288.

³⁴ Hermanto, B. (2023). Deliberate legislative reforms to improve the legislation quality in developing countries: case of Indonesia. *The Theory and Practice of Legislation*, 11(1), 1-31.

Table 4. Changes in Education Governance Following the Constitutional Court Decision

Aspect	Conditions Before the Constitutional Court Decision	Changes After the Constitutional Court Decision
Education Regulations	The National Education System Law does not explicitly require the state to finance compulsory education	The state is constitutionally obliged to guarantee funding for compulsory education
Private Schools	Allowed to charge fees without clear restrictions	Must be supervised and intervened by the state through subsidies or affirmative policies
State Funding	Sometimes uneven and not on target	Must reach poor groups in light of the principle of social justice
Education Decentralisation	The dilemma of regional inequality	Requires central supervision and regulatory harmonization
Community Participation	Limited to the bureaucratic sphere	Civil society should be encouraged to participate in monitoring and policy design

Despite its transformative orientation, the implementation of Constitutional Court Decision No. 3/PUU-XXII/2024 will inevitably face structural challenges, particularly in harmonising regulations between the central and regional governments. Since the post-reform decentralisation era, education governance in Indonesia has been characterised by a distribution of authority in which regional governments possess substantial discretion in managing educational institutions, budgeting, and local regulatory frameworks.³⁵ This decentralised arrangement has often produced regulatory fragmentation, varying fiscal capacities, and disparities in policy implementation across regions.

The ruling, which strengthens the constitutional responsibility of the state in guaranteeing compulsory and affordable education, may generate normative tension within this decentralised structure. Regional regulations (Peraturan Daerah) that previously allowed flexible fee structures or relied

³⁵ De Beco, G. (2014). The right to inclusive education according to Article 24 of the UN Convention on the rights of persons with disabilities: background, requirements and (remaining) questions. *Netherlands Quarterly of Human Rights*, 32(3), 263-287.

heavily on community contributions may now conflict with the constitutional standards reaffirmed by the Court. Consequently, a comprehensive regulatory harmonisation process is required to align local policies with the constitutional mandate as interpreted in this decision.

Another major challenge lies in the unequal fiscal capacity of regional governments. While the Court emphasises the primacy of state responsibility, many regions remain dependent on intergovernmental fiscal transfers to finance education adequately. Without clear implementing regulations and strengthened coordination mechanisms between the central and regional governments, there is a risk that the constitutional mandate will be unevenly realised. Therefore, the central government must not only revise national legislation but also issue clear normative guidelines and supervisory instruments to ensure uniform standards of accessibility, affordability, and non-discrimination throughout the country.

In this context, the harmonisation process requires a recalibration of decentralisation in education. Decentralisation should not be interpreted as a transfer of constitutional responsibility, but rather as a distribution of administrative functions under continued central constitutional accountability. The success of this ruling ultimately depends on the ability of the state to integrate constitutional principles into a coherent multilevel governance framework that balances autonomy with uniform protection of fundamental rights.

IV. CONCLUSION

Constitutional Court Decision No. 3/PUU-XXII/2024 represents a decisive constitutional reaffirmation that the right to education is a binding state obligation rather than a policy choice subject to fiscal or market considerations. By declaring the relevant provisions of the National Education System Law conditionally inconsistent with the Constitution, the Court repositioned education financing within a rights-based constitutional framework that prioritises substantive justice over administrative discretion. Theoretically, this ruling contributes to the development of social-economic rights doctrine in Indonesian constitutional law by strengthening the justiciability of positive state obligations. It clarifies that fiscal policy cannot dilute constitutional guarantees and affirms that socio-economic rights, particularly education, demand active and enforceable state intervention. In this respect, the decision advances a welfare-oriented constitutional paradigm grounded in social justice.

From the perspective of legal-political reform, the ruling marks a paradigmatic shift from a shared-responsibility or market-oriented model of education financing toward a model that establishes the state as the primary guarantor of accessibility and affordability. Education is no longer treated as a quasi-market service but as a constitutional entitlement that constrains

legislative and executive policy choices. In terms of implementation, the decision necessitates legislative harmonisation, recalibration of fiscal distribution mechanisms between central and regional governments, and strengthened supervisory and subsidy systems to ensure non-discriminatory access, including within private educational institutions. The ultimate measure of this ruling lies not merely in regulatory amendments, but in its capacity to transform constitutional promises into lived social realities. Decision No. 3/PUU-XXII/2024 thus stands as a transformative milestone in aligning Indonesia's education system with the substantive ideals of constitutional justice.

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