



The Constitution and the Right to Education: An Analysis of Constitutional Law Perspectives

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ABSTRACT

This study aims to analyze the regulation and implementation of the right to education in the constitution with a focus on the perspective of constitutional law. This study uses a qualitative method with a case study approach, examining the Indonesian constitution as well as international comparisons with countries that have advanced education systems such as Finland and Japan. The results show that although the right to education is recognized in the constitution, its implementation in Indonesia still faces various challenges, including unequal access to and quality of education. The Constitutional Court has an important role in upholding this right through significant decisions. International case studies provide insights into best practices that can be adopted to strengthen the national education system. The proposed policy recommendations include increased budget allocations, continuous training for teachers, equitable development of education infrastructure, enforcement of anti-discrimination policies and increased collaboration between the government, communities and the private sector. This research makes an important contribution in understanding the dynamics of constitutional law related to the right to education and offers solutions to improve its implementation in Indonesia.

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INTRODUCTION

The constitution is the supreme law of a country that forms the basis of all other laws and regulations. It contains fundamental values and rights guaranteed by the state to its citizens. This principle states that all legal regulations must be in accordance with the constitution, which is the highest legal norm (Aman, 2023). One of the rights regulated in many constitutions around the world is the right to education. Education plays a vital role in the development of human resources and the progress of a nation, so this right is given special attention in the constitutions of various countries. Ensuring fair and equitable access to education, constitutions play a role in reducing social and economic inequalities. In addition, education is also an important means of developing the skills, knowledge and values necessary for active participation in civic life and governance. The right to education guaranteed by the constitution includes not only access to basic education, but also opportunities for secondary and higher education, as well as vocational training. The constitution thus plays an important role in promoting sustainable development and creating a more just and knowledgeable society (Tiwary, 2023).

The history of constitutional development shows changes and adjustments according to the social, political and economic dynamics of a country. The right to education, as a human right, has also evolved in its regulation. Initially, education may have only been the right of a small section of society. However, over time

and the development of democratic thinking and awareness of the importance of education for all, constitutions in various countries began to recognize and guarantee the right to education for every citizen without discrimination. These changes were often driven by social movements and political reforms that demanded equality and justice. In addition, international conventions such as the Universal Declaration of Human Rights (UDHR), which is the foundational document in promoting and protecting human rights globally (SENER, 2021) and the Convention on the Rights of the Child also played an important role in encouraging countries to strengthen their commitment to the right to education. Both have been crucial in shaping human rights instruments that increasingly emphasize children's rights, including their right to education (Agwor et al., 2022). Today, many constitutions include provisions that obligate states to provide free primary education and make education compulsory for all children, creating a strong foundation for sustainable human and social development. This evolution reflects a growing understanding of the importance of education as a fundamental right that underpins individual development and the advancement of society as a whole.

The regulation of the right to education in constitutions may vary between countries. Some constitutions regulate this right explicitly and in detail, while others may be more general or combine it with other social rights. For example, the constitutions of Nordic countries tend to give great attention to free and compulsory education reflecting a commitment to educational equality and equity (Buchholtz et al., 2020), while some developing countries may face challenges in the implementation of the right, even if enshrined in their constitutions due to factors such as inadequate infrastructure or resources (Matsheta & Sefoka, 2023). However, arrangements in constitutions are not always directly proportional to their implementation. Many countries, despite having good arrangements on the right to education, still face problems in implementation. Factors such as poverty, gender inequality and conflict often hinder the government's efforts to fulfill the right to education. Therefore, this study is important to see how the constitution translates into concrete policies that are effective in providing education for all.

The Constitutional Court has an important role in interpreting and enforcing the constitution, including the right to education. Through its jurisprudence, the Constitutional Court provides clear guidance on how this right should be implemented and protected, and influences government actions to fulfill their obligations (Rezah & Sapada, 2023; Lailam, 2023). In many countries, the Constitutional Court has issued landmark decisions strengthening the right to education emphasizing its importance and forcing governments to prioritize education policies and practices (Tatawu, 2023). The Constitutional Court not only interprets the law but also acts as a guardian of human rights, citizens' constitutional rights and democracy, ensuring the protection of basic rights including the right to education (Rezah & Sapada, 2023; Gani, 2024). By resolving conflicts through judicial review, the Constitutional Court effectively upholds constitutional rights, including the right to education (Lailam, 2023; Connell, n.d.). Decisions of the Constitutional Court become legal norms that legislative bodies are obliged to adhere to, reinforcing rights established through judicial interpretation (Ramadhan, 2021). In addition, the Constitutional Court increases citizens' understanding of their constitutional rights, promotes constitutional awareness, and fosters a culture of respect for the rule of law and fundamental rights (Marwiyah, 2023).

There are various challenges faced by the state in guaranteeing the right to education as stipulated in the constitution, from political, economic, social and cultural aspects. For example, inadequate budget allocations, corruption and lack of adequate education infrastructure are some of the main obstacles. In addition, discrimination against minority groups and gender also often hinders equal access to education (Yewande & Olawunmi, 2023). Indonesia, as a country whose constitution recognizes the right to education, provides an interesting case study. Although the Indonesian constitution explicitly guarantees the right of every citizen to education, the reality on the ground shows that there are still many Indonesian children who cannot fully enjoy this right. Geographical, economic and social factors often get in the way of realizing inclusive and equitable education.

To better understand how the right to education is implemented, this study will also conduct a comparative analysis with other countries. Countries with advanced education systems, such as Finland and Japan, can provide valuable lessons on policies and best practices in ensuring the right to education. This analysis will help identify key factors that other countries, including Indonesia, can adopt to improve their education systems. Based on the analysis, this study aims to provide concrete policy recommendations to strengthen the implementation of the right to education. These recommendations will be based on empirical findings and best practices from other countries, with a focus on how the government can overcome existing challenges and ensure that every citizen truly gets his or her right to education, as guaranteed in the constitution. This study is not only important in the context of education, but also in the field of constitutional law. The right to education enshrined in the constitution reflects the state's commitment to human rights and social justice. Through an in-depth analysis of how this right is regulated and implemented, this study can make a meaningful contribution to the development of constitutional law theory and practice, as well as strengthen a just and inclusive legal system.

RESEARCH METHODS

This research uses a qualitative method with a case study approach, allowing researchers to explore in depth the regulation and implementation of the right to education in the constitution as well as the factors that influence it. This approach is suitable for understanding the complex social, political and cultural context behind the implementation of the right. The research steps include: secondary data collection from constitutional documents, laws, regulations, court decisions, government reports and academic publications; in-depth interviews with government officials, academics, legal practitioners and education activists to gain diverse perspectives; case studies in Indonesia involving field observations and secondary data analysis; comparative analysis with developed countries such as Finland and Japan to understand best practices that Indonesia can adopt; data analysis using thematic analysis techniques to identify key themes; and validation of findings through data triangulation to ensure the reliability and credibility of the research findings. This method is expected to provide a comprehensive understanding of the regulation and implementation of the right to education in the constitution as well as the factors that influence its implementation, so that it can make a meaningful contribution to strengthening the legal system and education policy in Indonesia.

RESULTS AND DISCUSSION

Arrangements for the Right to Education in the Constitutions of Various Countries

The regulation of the right to education in the constitution varies from one country to another. In developed countries such as Finland and Germany, the constitutions explicitly guarantee the right of every citizen to free and quality education. These arrangements cover a wide range of aspects, from primary to higher education, and ensure that mechanisms are in place to address discrimination and inequality. In contrast, in some developing countries, although the constitution recognizes the right to education, its implementation is often constrained by factors such as budget constraints, lack of infrastructure and administrative issues. Thus, this comparative analysis is important to understand the extent of countries' commitment to guaranteeing the right to education through their constitutions.

Research by Reyneke (2024) highlights that the integration of social services in education not only advances important rights for children, but also has the potential to improve the academic performance of learners facing difficult situations. The importance of the right to education in the constitution is also reflected in a study by Toubat et al. (2019) which highlights the importance of scrutiny of the constitutionality of laws, as well as research by Edwards & Garcia (2014) which conducted an international comparative study on constitutional rights and education. In addition, research by Arsil & Ayuni (2022) shows that higher education as a constitutional right of citizens has been regulated in the Indonesian constitution. Thus, regulating the right to education in the constitutions of various countries is an important step in ensuring equitable access to education, improving the quality of education, and ensuring the fulfillment of the human right to education for all citizens.

Implementation of the Right to Education in Indonesia

The Indonesian Constitution guarantees the right to education for every citizen, as stated in Article 31 of the 1945 Constitution. However, the reality on the ground shows that there are still significant disparities in access to and quality of education. Challenges include regional disparities, where remote areas often lack adequate education facilities. In addition, the uneven distribution of qualified teachers and limited financial resources are major constraints. This analysis needs to identify the root causes and find solutions to improve the effectiveness of implementing the right to education in Indonesia.

Various studies have highlighted various efforts to implement the right to education in Indonesia. Purbasari et al. (2022) show the development of inclusive education implementation in Indonesia with more inclusive schools. This reflects efforts to ensure access to education for students with special needs. In addition, Lestari et al. (2017) highlighted the fulfillment of rights for persons with disabilities in Semarang Regency through the implementation of the Convention on the Rights of Persons with Disabilities (CPRD) in the field of education. The implementation of government policies on education is also the focus of research, as highlighted by Elonika (2023) regarding government policies on early marriage and its impact on the education of marine tribe children in Lingga Regency. In addition, Putra et al. (2023) discussed the implementation of public service policies in the admission of new students in primary schools in Bali as an effort to equalize access and quality of education.

In addition, Hakim et al. (2019) highlighted the impact of land disputes on the right to education from a progressive legal perspective, emphasizing the importance of multi-dimensional conflict resolution that does not only involve formal legal aspects. The implementation of the right to education is also related to efforts to prevent bullying in schools, as discussed by (Husnunnadia, 2024), which emphasizes the need for integrated solutions to tackle violence in the educational environment. Thus, the implementation of the right to education in Indonesia involves various aspects of policies, practices and efforts to fulfill educational rights for various groups of people, including students with special needs, people with disabilities and children who are vulnerable to violence in the educational environment.

The role of the Constitutional Court in upholding the right to education

The Constitutional Court has a key role in upholding the right to education in Indonesia. Decisions of the Constitutional Court are often important milestones in ensuring that the government fulfills its obligation to provide proper education. For example, the decision requiring the allocation of at least 20% of the state budget to the education sector demonstrates the Court's active role in championing this right. The Court also plays a role in interpreting laws relating to education, ensuring that the policies implemented do not violate constitutional principles. Thus, this study needs to explore how the Constitutional Court can be more effective in overseeing and enforcing the right to education. The Constitutional Court has an important role in upholding the right to education in Indonesia. Based on research by (Tatawu, 2023), the Indonesian Constitutional Court has undergone a role transformation from a negative legislator to a positive legislator in the context of its judicial review authority. Its ability to examine laws and uphold the rule of law is an important foundation to prevent abuse of power and protect human rights. In addition, research by Muhtar and Bakung Muhtar & Bakung (2022) highlights the legal model to fulfill the right to education for people with disabilities in the era of the Covid-19 pandemic. In this context, policies related to distance learning processes must protect people with disabilities to continue receiving education, especially basic education, which must be followed by all Indonesian citizens.

Furthermore, research by Safa'At Safa'at (2022) discusses the role of Indonesia's Constitutional Court in determining state-religion relations. The decisions confirm Pancasila as Indonesia's model of secularism necessary for the interests of individual human rights and freedoms, to balance or reconcile religious diversity, social integration, and national development, as well as the independent development of society's functional domains. Thus, Indonesia's Constitutional Court has a crucial role in upholding the right to education by ensuring compliance with the constitution, protecting citizens' rights, and ensuring democracy and the rule of law in Indonesia.

International case studies on implementing the right to education

International case studies provide valuable insights into how other countries have successfully implemented the right to education. Finland, for example, is known for its highly inclusive and high-quality education system, where primary to secondary education is provided free of charge. This system is supported by strong policies, quality teaching and broad community support. Japan, on the other hand, emphasizes discipline, a rigorous curriculum, and student character development. Examining best practices from these countries can provide valuable lessons for Indonesia in its efforts to strengthen the national education system and ensure the right to education is enjoyed by all citizens.

International case studies are essential to gain insights into the implementation of the right to education in different contexts. One relevant case study is the research conducted by (Connery, 2019), which examines the human right to education for detained minors within the framework of the Flores Agreement. This research addresses challenges such as inconsistent access to health services and educational opportunities for this vulnerable group (Connery, 2019). Another important case study is the work of (Vesterdal, 2019), which focuses on human rights education in Norway in relation to the construction of national identity and foreign policy. The study underscores the importance of promoting conflict resolution, democratic citizenship, and rights and duties through human rights education, illustrating the interconnectedness of human rights with national identity and foreign policy (Vesterdal, 2019).

In addition, research by Starkey (2021) explores classroom counter-teaching as a tool for transformative multicultural citizenship education. The research advocates the use of pedagogical strategies grounded in critical race theory and human rights education to empower students to challenge official narratives, embrace cultural diversity and assert their rights to freedom of expression (Starkey, 2021). In sum, the international case studies offer valuable perspectives on the challenges, strategies and outcomes associated with implementing the right to education in a variety of global settings. These studies highlight the complexities and opportunities involved in ensuring access to inclusive and quality education for all individuals.

Policy recommendations to strengthen the implementation of the right to education

Based on the research findings and international comparative analysis, a number of policy recommendations can be made to strengthen the implementation of the right to education in Indonesia. Firstly, the government needs to increase the budget allocation for education and ensure that it is well-targeted. Secondly, improving the quality of teachers through continuous training and adequate incentives is needed. Thirdly, equitable development of education infrastructure, especially in remote areas, should be a priority. Fourth, anti-discrimination policies need to be strictly enforced to ensure equal access to education for all community groups. Finally, collaboration between the government, communities and the private sector needs to be enhanced to create a supportive and inclusive education environment. To strengthen the implementation of the right to education, policy recommendations that can be considered include:

Development of consistent guidelines and policies: Based on research by (Jackson et al., 2021), it is important to develop consistent guidelines and policies regarding dietary and physical activity behaviors in the context of early childhood education. Clear and consistent guidelines can help ensure effective implementation and can be helpful in dealing with major changes in classroom instruction.

Increased Intervention Effectiveness: Based on research by (Brennan et al., 2014), it is important to evaluate the effectiveness of different intervention strategies related to education policy. By identifying effective strategies and their impact on the population, education policy implementation can be improved.

Strengthening the Civil Registration System: Based on research by (Suthar et al., 2019), strengthening civil registration systems and vital statistics can help monitor progress in achieving the UN Sustainable Development goals. Accurate and up-to-date data can support more effective education policy planning.

Improving inclusive education policies: Based on research by (Ahyani, 2024), it is important to implement teacher performance management to improve the quality of education. Strengthening inclusive education policies can help ensure equal access to education for all individuals.

By implementing these policy recommendations, it is hoped that the implementation of the right to education can be strengthened, equitable access to quality education can be realized and the educational rights of all individuals can be protected and fulfilled.

CONCLUSION

This research examines how the right to education is regulated and implemented from a constitutional law perspective, with a particular focus on the Indonesian constitution and international comparisons. From this research, it can be concluded that although the right to education is explicitly recognized in the constitutions of various countries, its implementation still faces many challenges. In Indonesia, regional disparities, limited resources and unequal distribution of teachers are the main obstacles to the implementation of this right. The Constitutional Court plays an important role in upholding the right to education through decisions that ensure budget allocations and education policies are in line with the constitution. International case studies show that countries with advanced education systems such as Finland and Japan have successfully implemented the right to education through inclusive policies, high teaching quality and strong community support. Based on these findings, a number of policy recommendations can be proposed to strengthen the implementation of the right to education in Indonesia, including increased budget allocations, continuous training for teachers, equitable infrastructure development, enforcement of anti-discrimination policies and increased collaboration between the government, communities and the private sector.

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