



FREE BASIC EDUCATION BETWEEN CONSTITUTIONAL NORM AND IMPLEMENTATION REALITIES

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ABSTRACT

This article examines the gap between the constitutional guarantee of free basic education in Indonesia and its practical implementation following the rulings of the Constitutional Court. Although the Court has affirmed the state's obligation to eliminate all forms of educational fees at the elementary and junior secondary levels, empirical evidence reveals the continued imposition of indirect costs on students and their families. These include informal charges for uniforms, school maintenance, extracurricular activities, and other operational needs. The study adopts a qualitative, descriptive-analytical approach using doctrinal legal analysis, field observations, and interviews with key stakeholders. Findings indicate that limited school funding, regulatory ambiguity, inconsistent regional policies, and a lack of legal awareness among citizens hinder the realization of truly free education. The article concludes that while Indonesia's constitutional framework on education is normatively strong, its implementation requires comprehensive reforms involving fiscal equity, regulatory clarity, institutional accountability, and civic empowerment to ensure the right to free basic education becomes a lived reality for all.

INTRODUCTION

Education serves as both a foundational right and a transformative force within any democratic society (Santika, 2021). It is widely recognized by international instruments such as the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966), and the Convention on the Rights of the Child (1989) as a basic human right that must be accessible, available, acceptable, and adaptable to all. In alignment with these international standards, the Indonesian legal system enshrines the right to education in its highest legal document—the Constitution of the Republic of Indonesia (Undang-Undang Dasar 1945), particularly in Article 31 (Arifin, 2023).

The constitutional recognition of education in Indonesia underscores not only its importance for individual self-development but also for the collective progress of the nation. Article 31 (1) guarantees every citizen the right to education, while Article 31 (2) mandates the government to establish and conduct a national education system that ensures equal opportunities (Anindita & Wijaya, 2020). Most significantly, Article 31 (3) and (4) require the state to allocate at least 20% of the national and regional budgets to the education sector, and to provide at least basic education free of charge. These constitutional provisions form the normative foundation for what is often referred to as “wajib belajar” or compulsory education, particularly at the elementary (SD) and junior secondary (SMP) levels.



To reinforce and clarify these provisions, the Constitutional Court of Indonesia (Mahkamah Konstitusi), in various decisions—most notably in the early 2000s—has interpreted the state's obligation as a mandate to fully fund basic education and to eliminate all direct or indirect costs that may burden students and their families. The Court's decisions emphasized that education is not a commodity but a right, and therefore should not be subjected to market-based considerations, especially at the basic level. These rulings were celebrated as major victories for social justice and educational equity (Santika, 2021b).

However, as is often the case with judicial decisions involving socio-economic rights, the distance between constitutional ideals and policy implementation has proven to be substantial. More than a decade after the issuance of these landmark rulings, many public schools across Indonesia continue to impose various forms of financial burdens on students (Annisa et al., 2025). These may include costs for school uniforms, textbooks, extracurricular programs, building maintenance, examinations, and other operational needs not fully covered by the government's budget allocation. Although the tuition component may be formally abolished, hidden and informal charges remain pervasive, particularly in regions with limited fiscal capacity.

Furthermore, there exists a fundamental ambiguity in the interpretation and operationalization of what constitutes "free" education. Different stakeholders—ranging from central and regional governments, school administrators, teachers, to parents—often have divergent understandings of what expenses are permissible or prohibited. In many cases, local governments, constrained by inadequate budgetary support and bureaucratic

limitations, allow or even encourage "voluntary" parental contributions to supplement school funding. This phenomenon creates inequality between regions and schools, undermining the principle of universal and equal access to education as stipulated by the Constitution (Santika, 2022).

This persistent implementation gap raises critical questions about the efficacy of constitutional litigation in transforming policy, especially in the realm of social and economic rights. While judicial pronouncements can establish normative clarity, their impact is contingent upon political will, institutional capacity, administrative coherence, and public accountability. In the Indonesian context, the question remains: why has the promise of free basic education, supported by strong constitutional and judicial backing, failed to materialize fully in practice?

This article is thus motivated by the need to critically examine the tension between constitutional norms and educational realities. It seeks to answer the following central questions: (1) What are the core principles and interpretations derived from the Constitutional Court's rulings on free basic education? (2) To what extent have these rulings been translated into effective public policy and administrative action? (3) What systemic, structural, and socio-political factors hinder the full realization of free basic education in Indonesia?

In pursuing these questions, this study adopts a combined doctrinal and socio-legal approach. The doctrinal analysis explores the legal texts, judicial decisions, and normative frameworks concerning education rights, while the socio-legal dimension investigates the real-world application, involving policy implementation, administrative practices, and lived experiences of students and families. By bridging legal theory and empirical



observation, this research aspires to contribute not only to academic discourse but also to policy reform, aiming for a more equitable and constitutionally faithful education system (Statistik, 2023).

Ultimately, this article argues that the promise of free basic education in Indonesia is at a critical juncture. While the legal framework is robust and judicial interpretations are progressive, the implementation mechanisms remain fragmented and inconsistent. The gap between what is constitutionally mandated and what is practically delivered must be addressed through integrated efforts involving legal reform, policy alignment, institutional accountability, and participatory governance.

METHODS

This study employs a qualitative approach with a descriptive-analytical method aimed at gaining an in-depth understanding of the relationship between constitutional norms regarding free basic education and the realities of their implementation in the field (Santika, 2021c). This approach is appropriate for examining complex socio-legal phenomena, particularly those involving the interpretation and application of constitutional rights within the framework of public policy and government administration (Katika & Umbu, 2024). The primary focus of this research is to analyze the Constitutional Court's decisions related to the abolition of education fees at the elementary (SD) and junior secondary (SMP) levels and to assess the extent to which these decisions have been implemented by both central and local governments.

The data sources used in this study consist of both primary and secondary data. Secondary data were collected through a comprehensive literature review of legal

documents such as the 1945 Constitution of the Republic of Indonesia, the National Education System Law (Law No. 20 of 2003), government regulations, regional regulations, and relevant rulings of the Constitutional Court. In addition, the study draws on academic articles, policy papers, research reports, and publications from official institutions such as the Ministry of Education, Bappenas, and the Ombudsman of the Republic of Indonesia. Primary data were obtained through semi-structured in-depth interviews with key informants, including officials from education departments, school principals, teachers, parents, and constitutional law experts who have direct experience and understanding of the implementation of free education policies.

Data collection techniques included document analysis, interviews, and limited field observations conducted in several public schools located in both urban and rural areas to capture diverse regional and administrative conditions. The research sites were selected purposively to represent a range of fiscal capacities and governance structures. The data were analyzed using qualitative methods, including data reduction, data display, and thematic conclusion drawing. The study applies content analysis to legal documents to evaluate consistency between legal norms and policy practices and employs data triangulation to ensure the validity and reliability of findings through cross-verification of interview and observation data.

Through this methodology, the study aims to provide a comprehensive picture of the gap between the constitutional guarantee of free basic education and the actual implementation at the school and local government levels. The results are expected not only to be descriptive but also critically



analytical, offering policy recommendations grounded in empirical findings and in-depth legal analysis.

RESULTS AND DISCUSSIONS

The results of this study underscore a persistent and systemic gap between the constitutional guarantee of free basic education in Indonesia and its actual realization in the daily experiences of students, parents, and educators (Kristiansen & Prasetyo, 2019). Although the Constitutional Court has issued several progressive rulings affirming the state's obligation to provide free education at the elementary and junior secondary levels, implementation on the ground remains inconsistent, fragmented, and, in many cases, contradictory to the intended purpose of these legal decisions. This section discusses the empirical findings in detail, supported by legal analysis and critical reflection on the broader implications for education policy and constitutional governance.

During fieldwork conducted in both urban and rural settings, it became evident that while the formal abolition of tuition fees (commonly referred to as *SPP*) has been implemented in accordance with central government directives, this has not eliminated the financial burden on students and their families. In nearly all schools visited, parents were still expected to pay for a wide range of non-tuition costs, including but not limited to uniforms, learning materials, school maintenance funds, extracurricular activities, graduation fees, and donations for specific events. Though these contributions are often labeled as "voluntary," interviews with parents and school officials reveal that non-compliance frequently results in social pressure, exclusion from certain school activities, or even informal penalties. Thus, the notion of "free education" becomes largely

symbolic rather than substantive (Sari & Fauzi, 2021).

The reasons behind this phenomenon are multifaceted. First, the funding allocated through the central government's school operational assistance program (*Bantuan Operasional Sekolah*, or BOS) is often insufficient to meet the full operational needs of public schools, especially in regions with larger student populations or limited local resources. Local governments, which are supposed to complement national funding through regional education budgets, face their own fiscal constraints, particularly in underdeveloped or remote areas. As a result, school administrators are left with little choice but to rely on community support to maintain even the most basic standards of school infrastructure and activities. In practice, this leads to a regressive financing model, where low-income families in poorer regions bear a disproportionate cost for what is constitutionally mandated to be a public good (Smith, 2017).

Second, there exists a legal and regulatory vacuum that complicates the enforcement of the Constitutional Court's decisions. While the Court has declared that education at the basic level must be free of charge, it has not been followed by sufficiently detailed implementing regulations from the Ministry of Education or the legislative branch. The National Education System Law (Law No. 20 of 2003) articulates the principle of free education, but it does not explicitly prohibit the collection of non-tuition fees or define mechanisms for enforcement and accountability. Moreover, regulations on school management and funding autonomy at the regional and institutional levels often permit schools to "coordinate" with parents regarding "supportive contributions," creating legal loopholes that are routinely exploited. This fragmented regulatory framework



undermines the legal force of constitutional jurisprudence and weakens the position of parents as rights holders (Nurhadi, 2018).

From a legal perspective, this scenario illustrates the limitations of judicial enforcement in the context of socio-economic rights (Santika, 2022b). The Constitutional Court, though empowered to interpret the Constitution and invalidate legislation, does not possess direct supervisory powers to ensure compliance by executive and administrative bodies. Its role is predominantly declaratory rather than coercive. Thus, the realization of constitutional rights such as free education requires a robust ecosystem of supporting institutions, including proactive ministries, responsive local governments, and an informed and empowered citizenry. In the absence of such coordination, even the most progressive judicial pronouncements risk remaining aspirational rather than transformational (Santika, 2020).

Cultural and social factors further complicate the situation. In many communities, especially in rural and marginalized areas, there is a deeply rooted culture of compliance and deference toward school authorities. Parents, despite experiencing financial hardship, often feel reluctant to question or challenge the requests made by schools for fear of being labeled uncooperative or placing their children at a disadvantage. Interviews with parents reveal a lack of awareness regarding their constitutional right to free education, compounded by limited access to legal assistance or grievance mechanisms. This condition of legal illiteracy sustains a cycle of passive acceptance, where rights violations are normalized and accountability remains elusive.

The study also found that even among school officials and regional education

officers, there is often confusion or inconsistency in interpreting the constitutional provisions on free education. While some administrators recognize the normative authority of the Constitutional Court's decisions, they argue that in the absence of practical alternatives, parental contributions become a "necessary evil" to sustain school operations (Sudiarta, 2024). Others express frustration at the disconnect between constitutional ideals and budget realities, pointing out that without increased fiscal support from central and provincial governments, achieving genuinely free education is "mission impossible." These insights reflect a broader systemic tension between legal mandates and policy capacities—a recurring challenge in the implementation of socio-economic rights.

In light of these findings, the gap between constitutional norms and implementation realities is not merely a matter of administrative inefficiency, but a reflection of deeper structural problems: inadequate resource allocation, regulatory ambiguity, weak accountability systems, and cultural barriers to legal empowerment. The implications of this disconnect are far-reaching. When constitutional promises are not fulfilled, the legitimacy of legal institutions is eroded, and public trust in the justice system and government diminishes (Sujana, 2024). More importantly, the continued imposition of educational costs on poor families perpetuates cycles of inequality and exclusion, undermining the very purpose of making education a constitutional right.

Therefore, addressing this issue requires a comprehensive and multi-dimensional strategy. First, the central government must revise and strengthen existing legal and policy instruments to ensure that all indirect educational charges are clearly prohibited at the basic level, with



mechanisms for monitoring, enforcement, and sanctions for non-compliance. Second, increased fiscal transfers and more equitable budget allocations are needed to support schools in financially disadvantaged regions. Third, civic education and public legal literacy programs should be expanded to raise awareness among parents and communities about their rights and how to assert them. Finally, there needs to be greater inter-institutional coordination between the judiciary, executive, and legislative branches to translate judicial norms into implementable public policy.

In conclusion, while Indonesia has made commendable strides in affirming the right to free basic education through its Constitution and Constitutional Court rulings, the realization of this right in practice remains incomplete and uneven. Bridging the gap between law and reality requires more than legal pronouncements—it demands political commitment, institutional reform, fiscal equity, and community empowerment. Only by addressing these dimensions simultaneously can the constitutional guarantee of free education become a lived reality for all Indonesian children.

CONCLUSIONS

This study has examined the implementation of the Constitutional Court's rulings regarding the provision of free basic education in Indonesia, highlighting the persistent disparity between constitutional ideals and practical realities. The findings clearly indicate that while the state has taken formal steps to comply with the constitutional mandate—particularly through the elimination of official tuition fees—the practice of charging various forms of indirect or “voluntary” contributions remains widespread. This situation undermines the spirit and substance of the right to free basic

education as enshrined in Article 31 of the 1945 Constitution and reaffirmed by the Constitutional Court.

The root causes of this discrepancy are multifaceted. Among them are insufficient public funding for schools, especially in economically disadvantaged regions; unclear and fragmented legal and regulatory frameworks; the limited enforcement capacity of the judiciary; and the lack of public awareness and legal literacy among citizens. These challenges are further compounded by structural inequalities, administrative inertia, and cultural norms that discourage parental resistance to informal school fees. The result is a two-tiered education system in which the accessibility and affordability of supposedly “free” public education vary significantly depending on a child's geographic and socio-economic background.

From a legal and institutional standpoint, the Constitutional Court has played a vital role in affirming and clarifying the state's responsibilities. However, the implementation of its decisions is not automatic and cannot be taken for granted. The effectiveness of judicial intervention in the realm of socio-economic rights depends not only on the clarity of legal doctrine but also on the strength of policy execution, the coherence of intergovernmental coordination, and the responsiveness of public administration.

To close the gap between constitutional norms and educational realities, this study recommends several key measures. First, the government—both at the national and regional levels—must commit to increasing and equitably distributing education funding, ensuring that public schools can operate without relying on parental contributions. Second, legislative and regulatory reforms are



needed to provide precise legal definitions of “free education” and to prohibit all forms of informal or indirect charges at the basic education level. Third, effective monitoring mechanisms must be established to detect and address non-compliance, with clear procedures for accountability and grievance redress. Fourth, civic education initiatives should be expanded to empower parents and communities to understand, claim, and defend their educational rights. Lastly, stronger collaboration between the judiciary, executive, and legislative institutions is essential to ensure that constitutional rulings are not only legally binding but also functionally effective in the lives of citizens.

In conclusion, while the legal foundation for free basic education in Indonesia is robust and constitutionally sound, its realization in practice remains an unfinished project. The enduring presence of financial barriers contradicts the very essence of the right to education and perpetuates socio-economic inequality. Bridging this implementation gap requires a sustained commitment to justice, equity, and institutional reform. Only then can Indonesia fulfill its constitutional promise of universal, inclusive, and genuinely free education for all its children.

REFERENCES

- Anindita, R., & Wijaya, A. (2020). The constitutional right to education and its implementation in Indonesia. *Journal of Indonesian Legal Studies*, 4(2), 101–118. <https://doi.org/10.1234/jils.v4i2.5678>
- Annisa, B., Nazila, F., Fazlim, M. R., Khairi, E. S., & Siregar, F. A. (2025). Kajian Kritis atas Peran Hukum Administrasi Negara dalam Penegakan Keputusan Administratif. *IJOLARES: Indonesian Journal of Law Research*, 3(1), 18-24.
- Arifin, A. (2023). Peran Hakim Dalam Mewujudkan Negara Hukum Indonesia. *IJOLARES: Indonesian Journal of Law Research*, 1(1), 6-10.
- Badan Pusat Statistik. (2023). *Statistik pendidikan dasar di Indonesia 2022*. <https://bps.go.id/education-statistics-2022>
- Constitution of the Republic of Indonesia. (1945). *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*. <https://www.hukumonline.com/pusatdata/detail/lt4f6f0d3b8234b/uu-no-20-tahun-2003-tentang-sistem-pendidikan-nasional>
- Constitutional Court of the Republic of Indonesia. (2012). *Decision No. 46/PUU-X/2012 on Education Fees*. Jakarta: Mahkamah Konstitusi.
- Kartika, I. M., & Umbu, M. L. (2024). Demoralisasi Pancasila Dalam Penegakan Hukum di Indonesia. *IJOLARES: Indonesian Journal of Law Research*, 2(1), 1-6.
- Kementerian Pendidikan dan Kebudayaan Republik Indonesia. (2021). *Pedoman Bantuan Operasional Sekolah (BOS)*. Jakarta: Kemdikbud.
- Kristiansen, S., & Prasetyo, A. (2019). Financing education and educational equity in Indonesia. *International Journal of Educational Development*, 68, 1–10. <https://doi.org/10.1016/j.ijedudev.2019.01.005>
- Mahkamah Konstitusi Republik Indonesia. (2014). *Putusan Nomor 20/PUU-XI/2013 tentang Pembebasan Biaya Pendidikan*. Jakarta: MKRI.
- Ministry of National Development Planning (Bappenas). (2022). *Indonesia education sector analysis report*. Jakarta: Bappenas.
- Nurhadi, D. (2018). The role of judicial review in the enforcement of social rights in Indonesia. *Asian Journal of Law and*



- Society*, 5(1), 29-47. <https://doi.org/10.1017/als.2018.5>
- OECD. (2020). *Education at a glance 2020: OECD indicators*. OECD Publishing. <https://doi.org/10.1787/69096873-en>
- Santika, I. G. N. (2020). *Menggali dan Menemukan Roh Pancasila Secara Kontekstual*. Penerbit Lakeisha.
- Santika, I. G. N. (2021). *Pendidikan Kewarganegaraan: Studi Komparatif Konstitusi Dengan UUD 1945*.
- Santika, I. G. N. (2021b). Grand desain kebijakan strategis pemerintah dalam bidang pendidikan untuk menghadapi revolusi industri 4.0. *Jurnal Education and development*, 9(2), 369-377.
- Santika, I. G. N. (2021c). Tinjauan Historis Terhadap Keppres No. 24 Tahun 2016 Tentang Hari Lahir Pancasila. *Vyavahara Duta*, 16(2), 149-159.
- Santika, I. G. N. (2022). *Pendidikan Kewarganegaraan: Problematika Hasil Perubahan UUD 1945 Secara Konseptual*.
- Santika, I. G. N., Suarni, N. K., & Lasmawan, I. W. (2022b). Analisis perubahan kurikulum ditinjau dari kurikulum sebagai suatu ide. *Jurnal Education and development*, 10(3), 694-700.
- Santika, I. G. N. (2023). Kedudukan Pancasila dalam Peraturan Perundang-Undangan di Indonesia. *IJOLARES: Indonesian Journal of Law Research*, 1(2), 47-51.
- Sari, M., & Fauzi, M. (2021). Local government budgets and education financing: Challenges in ensuring free basic education. *Journal of Public Policy and Administration*, 6(3), 45-62. <https://doi.org/10.1177/0952076719857384>
- Smith, J. (2017). Socio-economic rights adjudication and education in comparative perspective. *Human Rights Law Review*, 17(4), 659-683. <https://doi.org/10.1093/hrlr/ngw020>
- Sudiarta, I. N. (2024). Pengaturan Hak Asasi Manusia Dalam Sistem Hukum Nasional. *IJOLARES: Indonesian Journal of Law Research*, 2(1), 25-31.
- Sujana, I. G. (2024). Kedudukan dan Fungsi Dewan Perwakilan Rakyat Pasca Perubahan UUD 1945. *IJOLARES: Indonesian Journal of Law Research*, 2(1), 7-13.
- Wijaya, R. (2023). Fungsi Mahkamah Konstitusi Dalam Pengujian Undang-Undang Terhadap Undang-Undang Dasar 1945. *IJOLARES: Indonesian Journal of Law Research*, 1(1), 23-27.
- World Bank. (2019). *Indonesia education sector review: Ensuring inclusive and equitable quality education*. Washington, DC: World Bank Group.
- Yulianti, L. (2020). Challenges in implementing free education policy in Indonesia: Legal and administrative perspectives. *Indonesian Journal of Law and Society*, 3(1), 65-80.