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The Constitutional Right to Free Education Following Constitutional Court Decision No. 3/PUU-XXII/2024 Regarding Article 34, Paragraph (2) of Law No. 20 of 2003 on the National Education System

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ABSTRACT

This study examines the constitutional right to free compulsory basic education in Indonesia following Constitutional Court Decision No. 3/PUU-XXII/2024, particularly its implications for state financing obligations, educational equality, and regulatory governance. Employing a normative juridical research method through statutory, conceptual, and case approaches, the study analyzes the 1945 Constitution, Law No. 20 of 2003 on the National Education System, and the Constitutional Court's legal reasoning. Legal materials are examined using grammatical, systematic, and teleological interpretation supported by qualitative doctrinal analysis. The findings demonstrate that the Court's conditional interpretation of Article 34(2) reinforces the state's constitutional obligation to finance compulsory basic education in both public and privately administered educational institutions. The decision establishes that educational rights must not depend on institutional ownership and emphasizes substantive equality, legal certainty, and non-discrimination as fundamental principles of educational governance. However, its implementation presents significant challenges concerning fiscal capacity, differentiated financing arrangements, institutional accountability, and the distribution of responsibilities between central and regional governments. The study further identifies the necessity of regulatory harmonization, transparent funding mechanisms, and proportionate oversight to reconcile binding constitutional obligations with administrative and fiscal considerations. It concludes that the decision represents a transition from institution-centered educational financing toward a rights-based governance framework that prioritizes students' constitutional entitlements. Effective implementation requires coordinated governmental responsibilities and sustainable financing policies to ensure equitable access to free compulsory basic education across Indonesia.

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1. INTRODUCTION

Education is a fundamental constitutional right that imposes positive obligations on the state to ensure equitable access to educational opportunities. In Indonesia, Article 31(1) and (2) of the 1945 Constitution guarantees citizens the right to education while requiring the government to finance compulsory basic education. Article 31(4) further mandates that at least 20% of national and regional budgets be allocated to education, reinforcing the state's constitutional responsibility to eliminate financial barriers. These guarantees are operationalized through Law No. 20 of 2003 on the National Education System, particularly Article 34(2), which requires central and regional governments to provide compulsory basic education without charging fees. However, the application of this provision has raised constitutional concerns regarding whether state financing obligations extend equally to public and privately administered educational institutions.

The distinction between public and private educational institutions presents a significant challenge to the realization of substantive educational equality. Although private schools contribute substantially to educational accessibility, particularly in areas with limited public-school capacity, their dependence on tuition fees and community contributions may disproportionately burden economically disadvantaged families. This disparity raises questions about the compatibility of institution-based financing arrangements with constitutional guarantees of equality, legal certainty, and non-discrimination under Articles 28D(1) and 28I(2) of the 1945 Constitution. More fundamentally, it challenges whether the fulfillment of compulsory education should depend on institutional ownership rather than students' constitutional entitlements, particularly when enrollment in private institutions results from structural limitations in public educational provision.

These constitutional tensions were addressed in Constitutional Court Decision No. 3/PUU-XXII/2024, delivered on May 27, 2025. The Court partially granted the judicial review of Article 34(2) of Law No. 20 of 2003, declaring the provision conditionally unconstitutional unless interpreted to guarantee free compulsory basic education in institutions administered by both the government and society. This ruling represents a significant shift toward a rights-based interpretation of educational financing, affirming that constitutional educational guarantees cannot be restricted by institutional classification. Nevertheless, the Court acknowledged differences in private schools' financing structures and the relevance of regulatory eligibility and fiscal considerations. Consequently, the judgment establishes a broader constitutional obligation without prescribing a uniform financing mechanism, creating important questions concerning the relationship between judicial interpretation, institutional autonomy, and governmental accountability.

Despite its constitutional significance, Constitutional Court Decision No. 3/PUU-XXII/2024 presents unresolved doctrinal and regulatory issues concerning the implementation of free compulsory education, particularly regarding permissible private-school charges, the distribution of financing responsibilities between central and regional governments, and the alignment of constitutional obligations with fiscal policies. The persistence of educational fees and additional costs remains a significant barrier to equitable access, as illustrated by findings from Hermosillo, Sonora, where 81.1% of schools reportedly continued imposing charges despite the principle of free education [1]. In Indonesia, the Constitutional Court's interpretation extends the guarantee of free compulsory basic education to both public and private institutions, emphasizing the necessity of equitable financing arrangements that prevent discrimination based on institutional ownership [2], [3]. Accordingly, the allocation of financial responsibilities between central and regional governments requires coordinated budgeting, regulatory harmonization, and institutional accountability to prevent unauthorized

educational charges and ensure effective implementation of constitutional guarantees [2], [4].

The central research gap lies in the insufficiently clarified relationship between conditional unconstitutionality, the enforceability of socioeconomic rights, and the regulatory mechanisms necessary to translate constitutional guarantees into educational financing obligations. Although constitutional interpretations establish immediately binding legal obligations, their implementation may require progressive fiscal adjustments, particularly in accommodating the diverse financing structures of public and private educational institutions. This tension necessitates an inclusive financing framework capable of reconciling constitutional mandates with governmental fiscal capacity while maintaining substantive equality and nondiscriminatory access to education [3]. Furthermore, effective implementation requires regulatory mechanisms that clarify institutional responsibilities, strengthen financial accountability, and harmonize educational financing policies across different levels of government [4]. Addressing these challenges requires an integrated legal analysis that distinguishes students' constitutional entitlements from the institutional arrangements governing educational provision. Therefore, this study advances a rights-based analytical framework connecting constitutional equality, positive state obligations, and regulatory accountability to evaluate the legal consequences of Constitutional Court Decision No. 3/PUU-XXII/2024 and its implications for the realization of free compulsory basic education in Indonesia.

Accordingly, this study examines the constitutional foundations of free compulsory basic education, analyzes the legal reasoning underlying Constitutional Court Decision No. 3/PUU-XXII/2024, and evaluates its normative implications for educational financing and governmental responsibility in Indonesia. Employing normative juridical research through statutory, conceptual, and case approaches, the analysis focuses on constitutional supremacy, substantive equality, legal certainty, and the division of governmental obligations. The study contributes to constitutional law scholarship by conceptualizing the judgment as a transition from institution-centered financing toward a rights-based framework of educational governance, while clarifying the distinction between binding constitutional obligations and their administrative and fiscal implementation. Beyond the Indonesian context, the analysis provides a doctrinal perspective on how constitutional adjudication can strengthen the enforceability of socioeconomic rights within decentralized governance systems characterized by institutional diversity and resource constraints.

2. METHODS

This study adopts a normative juridical research design to examine the constitutional foundations, judicial interpretation, and legal implications of the right to free compulsory basic education in Indonesia following Constitutional Court Decision No. 3/PUU-XXII/2024. A doctrinal approach is employed to assess the constitutional validity and normative consequences of Article 34(2) of Law No. 20 of 2003 on the National Education System, particularly concerning governmental obligations to finance education in publicly and privately administered institutions. The research integrates three complementary approaches: statutory, conceptual, and case-based analysis. The statutory approach examines the relationship between Articles 31, 28D(1), and 28I(2) of the 1945 Constitution and relevant educational legislation. The conceptual approach addresses constitutional rights, substantive equality, positive state obligations, and conditional unconstitutionality, while the case approach critically examines the Court's ratio decidendi, constitutional reasoning, and the binding implications of its ruling.

The research draws on primary, secondary, and tertiary legal materials collected through systematic documentary and literature examination. Primary legal materials comprise the 1945 Constitution, Law No. 20 of 2003, Constitutional Court Decision No. 3/PUU-XXII/2024, and relevant legislation governing educational financing and governmental responsibilities. Secondary materials include scholarly journal articles, academic books, and legal commentaries addressing constitutional adjudication, educational rights, and public financing obligations, while tertiary sources support terminological clarification. Materials are selected based on their legal authority, substantive relevance, and analytical contribution. The analysis employs grammatical, systematic, and teleological interpretation to establish the statutory meaning of free compulsory education, assess its consistency with constitutional guarantees, and identify the underlying objectives of educational equality and social justice. These interpretive techniques are complemented by qualitative doctrinal analysis to distinguish the binding requirements established by the judgment from regulatory and fiscal considerations associated with its implementation.

The analytical procedure comprises four interconnected stages: identifying relevant constitutional and statutory provisions; reconstructing the Court's legal reasoning and conditional interpretation; evaluating the judgment against constitutional principles of equality, legal certainty, non-discrimination, and positive state obligations; and examining its implications for educational financing, intergovernmental responsibilities, and regulatory harmonization. Conclusions are developed through deductive legal reasoning, applying constitutional principles to the specific legal consequences of Decision No. 3/PUU-XXII/2024. Analytical rigor is supported by cross-referencing authoritative legal instruments, the Court's judgment, and relevant legal scholarship to maintain consistency between constitutional interpretation and doctrinal conclusions. As a normative legal inquiry, the study does not assess empirical policy outcomes; rather, it establishes a legally grounded framework for understanding the enforceability of constitutional educational rights and the corresponding obligations of public authorities.

3. RESULT AND DISCUSSION

3.1 Constitutional Foundation of the Right to Free Basic Education in Indonesia

The normative legal analysis establishes that free basic education in Indonesia constitutes an enforceable constitutional right accompanied by positive state obligations. Articles 31(1) and (2) of the 1945 Constitution guarantee citizens' rights to education and require the government to finance compulsory basic education, while Article 31(4) mandates a minimum allocation of 20% of national and regional budgets to support educational provision [5]. These constitutional obligations are reinforced by Law No. 20 of 2003, particularly Articles 5, 11, and 34(2), which emphasize educational equality, governmental responsibility, and the provision of compulsory education without tuition fees. Furthermore, Constitutional Court Decision No. 3/PUU-XXII/2024 clarifies that constitutional guarantees of free compulsory basic education extend to both publicly and privately administered educational institutions, emphasizing that educational rights must not be restricted by institutional ownership [3]. This judicial interpretation strengthens the principle of non-discrimination and reinforces the state's positive obligation to ensure equitable educational opportunities in accordance with constitutional guarantees and the broader principles of social justice [5]. Accordingly, Indonesia's constitutional framework establishes three fundamental principles governing basic education: universal educational access, governmental financing obligations, and substantive equality in educational provision.

Nevertheless, the implementation of these constitutional guarantees continues to encounter significant regulatory, fiscal, and institutional challenges. Although the constitutional requirement to allocate at least 20% of government budgets to education provides a legal foundation for educational financing, concerns remain regarding the adequacy and distribution of available resources, particularly when competing government programs potentially reduce the fiscal capacity to support educational priorities [6]. Furthermore, disparities in educational accessibility and quality persist despite existing constitutional protections, highlighting the need for stronger regulatory mechanisms and more equitable financing policies to address socioeconomic and institutional inequalities [7]. The extension of free compulsory education to private institutions also requires coordinated financial responsibilities between central and regional governments, transparent funding allocation, and effective institutional oversight to ensure that constitutional obligations are implemented consistently ([3]. Consequently, realizing the constitutional right to free basic education requires a rights-based approach to educational governance that prioritizes students' constitutional entitlements, strengthens governmental accountability, and eliminates unjustified financial barriers. Such an approach is essential to translating constitutional guarantees into effective educational policies while ensuring that fiscal limitations and institutional differences do not undermine substantive equality and universal access to compulsory basic education.

3.2 Legal Reasoning of Constitutional Court Decision No. 3/PUU-XXII/2024

Constitutional Court Decision No. 3/PUU-XXII/2024 establishes a significant constitutional interpretation of the state's obligation to finance compulsory basic education, extending this responsibility to both publicly and privately administered educational institutions. In its ruling of May 27, 2025, the Constitutional Court declared Article 34(2) of Law No. 20 of 2003 conditionally unconstitutional unless interpreted to guarantee free compulsory basic education regardless of institutional ownership. This interpretation addresses previous disparities in educational financing that predominantly favored public institutions, thereby reinforcing the constitutional principle that educational rights must be protected without discrimination based on institutional classification [3]. The Court's ratio decidendi is grounded in constitutional equality, legal certainty, and the state's positive obligations under Article 31(2) of the 1945 Constitution, which requires active governmental intervention to ensure that all citizens have equitable access to compulsory basic education [5]. Furthermore, the decision recognizes the strategic contribution of privately administered schools to national educational provision, particularly in accommodating students who cannot access public institutions due to geographical, socioeconomic, or institutional limitations [3]. Accordingly, the ruling strengthens a rights-based interpretation of educational financing by establishing that constitutional entitlements must take precedence over distinctions in educational institutional ownership.

Nevertheless, the Court's interpretation does not necessarily require identical financing arrangements for all educational institutions, as the decision accommodates institutional diversity, regulatory eligibility, and governmental fiscal capacity. Differentiated financing mechanisms may therefore be implemented provided that they remain consistent with constitutional guarantees of substantive equality, non-discrimination, and equitable educational access [3]. The implementation of these obligations requires central and regional governments to establish coherent regulatory frameworks, transparent funding allocation mechanisms, and effective financial accountability measures to ensure that both public and private institutions can fulfill compulsory educational responsibilities [2]. However, the expansion of governmental

financing obligations also presents significant challenges concerning budgetary sufficiency, institutional readiness, and the sustainable distribution of educational resources across different administrative jurisdictions [5]. Consequently, the constitutional implications of Decision No. 3/PUU-XXII/2024 extend beyond the formal recognition of educational rights to the development of a comprehensive financing framework that reconciles constitutional obligations with practical fiscal considerations. Such a framework must ensure that institutional differences and budgetary constraints do not undermine the fundamental right to free compulsory basic education, while strengthening regulatory consistency, governmental accountability, and substantive equality within Indonesia's national education system.

3.3 Constitutional Equality, Non-Discrimination, and the Protection of Educational Rights

The analysis of Constitutional Court Decision No. 3/PUU-XXII/2024 demonstrates that the constitutional right to free compulsory basic education must be grounded in the principles of substantive equality, legal certainty, and non-discrimination, as reflected in Articles 28C(1), 28D(1), and 28I(2) of the 1945 Constitution. These constitutional provisions establish a legal foundation for protecting educational rights and ensuring that access to education is not restricted by socioeconomic circumstances or institutional ownership (Putra et al., 2026). Differences in financing arrangements between public and private educational institutions may create unequal educational opportunities, particularly for economically disadvantaged students who face limited access to public schools. Accordingly, the Court's interpretation emphasizes that substantive equality requires equitable educational opportunities rather than identical financial treatment, obligating the state to eliminate unjustified economic barriers and prevent discriminatory practices in educational provision [2]. Furthermore, the decision reinforces the government's positive obligation to ensure that constitutional educational guarantees are effectively implemented through appropriate regulatory interventions and sustainable financing policies, consistent with the broader principles of constitutional justice and social equality [2], [5]. Nevertheless, the ruling recognizes that differentiated financing mechanisms may be justified by institutional needs, socioeconomic conditions, and governmental fiscal capacity, provided that such arrangements remain transparent, proportionate, and consistent with constitutional guarantees [5]. Consequently, the realization of substantive equality in compulsory basic education requires coordinated governmental responsibilities, transparent financial allocation, and effective institutional accountability to ensure that students attending both public and private schools receive equitable constitutional protection. This rights-based approach strengthens the relationship between educational financing and constitutional obligations while advancing a more inclusive, accountable, and nondiscriminatory educational governance framework in Indonesia [2].

3.4 Normative Implications for State Responsibility and Educational Financing

Constitutional Court Decision No. 3/PUU-XXII/2024 reinforces the responsibility of central and regional governments to finance compulsory basic education across public and private institutions, shifting educational financing toward a rights-based framework. Under Article 31 of the 1945 Constitution and Law No. 23 of 2014, governmental authorities must ensure equitable funding allocation, institutional accountability, and regulatory coordination. Although educational assistance programs, including School Operational Assistance (BOS), support educational accessibility, financing mechanisms must accommodate institutional diversity, socioeconomic disparities, and fiscal constraints. The decision further emphasizes that progressive implementation cannot justify indefinite

delays or discriminatory exclusions. Accordingly, effective implementation requires transparent eligibility criteria, targeted financial assistance, and proportionate oversight to reconcile constitutional educational guarantees with institutional autonomy and sustainable public financing.

3.5 Legal Harmonization and Challenges in Implementing Constitutional Court Decision No. 3/PUU-XXII/2024

The implementation of Constitutional Court Decision No. 3/PUU-XXII/2024 requires regulatory harmonization to ensure that the constitutional guarantee of free compulsory basic education extends effectively to public and private institutions. Although the ruling establishes a binding interpretation of Article 34(2) of Law No. 20 of 2003, its implementation faces challenges involving financing regulations, regional fiscal disparities, institutional accountability, and permissible educational charges. Addressing these challenges requires clear eligibility criteria, coordinated financing mechanisms, transparent oversight, and accessible administrative remedies. Furthermore, progressive implementation must accommodate fiscal limitations without permitting discriminatory exclusion or indefinite delays. Accordingly, effective legal harmonization must integrate constitutional, regulatory, and administrative responsibilities to strengthen legal certainty, governmental accountability, and equitable access to compulsory basic education.

3.6 Strengthening a Rights-Based Framework for Free Basic Education in Indonesia

Constitutional Court Decision No. 3/PUU-XXII/2024 strengthens a rights-based framework for free compulsory basic education by prioritizing students' constitutional entitlements over institutional ownership. The ruling affirms that governmental financing obligations extend to both public and private educational institutions while allowing differentiated assistance based on institutional needs, regulatory requirements, and fiscal capacity. This framework emphasizes substantive equality, legal certainty, and governmental accountability, ensuring that financial constraints and institutional differences do not unjustifiably restrict educational access. Although the decision establishes binding constitutional obligations, its effective implementation requires transparent financing mechanisms, regulatory harmonization, and coordinated governmental responsibilities. Consequently, the judgment advances a more equitable model of educational governance in which financing policies are guided by constitutional rights rather than institutional classifications.

4. CONCLUSION

This study concludes that Constitutional Court Decision No. 3/PUU-XXII/2024 constitutes a significant development in strengthening the constitutional protection of free compulsory basic education in Indonesia. The Court's conditional interpretation of Article 34(2) of Law No. 20 of 2003 reinforces the state's positive obligation to finance compulsory basic education in both publicly and privately administered educational institutions, affirming that constitutional educational rights cannot be restricted by institutional ownership. The analysis establishes that substantive equality, legal certainty, and non-discrimination serve as fundamental principles governing educational financing and the fulfillment of constitutional obligations under Article 31 of the 1945 Constitution. Nevertheless, the decision does not require identical financing arrangements across educational institutions, as differentiated mechanisms may be justified by institutional characteristics, regulatory requirements, socioeconomic conditions, and governmental fiscal capacity, provided that they do not create unjustified barriers to educational access. The findings further demonstrate that the effectiveness of constitutional guarantees depends on the harmonization of educational financing

regulations, transparent budget allocation, clearly defined responsibilities between central and regional governments, and accountable institutional oversight. Accordingly, the study contributes to constitutional law scholarship by conceptualizing the decision as a transition from institution-centered financing toward a rights-based educational governance framework that prioritizes students' constitutional entitlements. From a regulatory perspective, the government should establish proportionate financing mechanisms, clarify permissible educational charges, strengthen intergovernmental coordination, and provide accessible accountability mechanisms to ensure consistent implementation of the Court's ruling. As a normative juridical inquiry, this study is limited to doctrinal analysis and does not empirically assess the fiscal or institutional outcomes of the decision. Future research should therefore examine its practical implementation, particularly the effectiveness of educational financing policies, regional fiscal disparities, and accessibility improvements across public and private schools. Ultimately, the realization of free compulsory basic education requires translating binding constitutional guarantees into coherent, equitable, and sustainable educational policies that safeguard every student's right to education regardless of socioeconomic background or institutional affiliation.The implementation of legal regulations for resolving overlapping Land Title disputes through Decision Number 2/G/2023/PTUN.Plk demonstrates that legal certainty has not yet been fully realized. Issues primarily relate to the accuracy and integration of land data, administrative accuracy, and protection of good-faith rights holders. Therefore, strengthening verification, oversight, and administrative correction mechanisms is necessary to ensure dispute resolution provides effective legal certainty and protection.

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