

## Constitutional Challenges in Formulating the National Education System Bill from the Perspective of Citizens' Constitutional Right to Education

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### Abstract

*Article 31 of the Republic of Indonesia's 1945 Constitution clearly guarantees the right to education. All citizens must get high-quality, just, and equal education from the state. In this regard, the National Education System Bill (RUU Sisdiknas) is being drafted as a calculated move to update the country's educational legislation, which has been regulated in various sectoral laws. This study aims to analyze the conformity of the formulation of the RUU Sisdiknas with the principle of citizens' constitutional rights to education, as well as to identify legal problems that arise in the process and substance of its formulation. With a statutory, conceptual, and comparative perspective, this study employs a normative juridical method. The analysis's findings show that while the RUU Sisdiknas makes an effort to incorporate different educational laws, there are a number of clauses that could jeopardize the right to education, especially when it comes to the removal of particular clauses pertaining to the teaching profession and basic education funding. In addition, the less participatory formulation process raises questions about the public legitimacy of the draft. Therefore, harmonization of norms is necessary to ensure that the National Education System Bill truly aligns with the constitutional mandate, human rights principles, and the state's goal of improving the nation's life.*

**Keywords:** National Education System Bill; Constitutional Rights; Education.

### Abstrak

Pasal 31 UUD Republik Indonesia 1945 dengan jelas menjamin hak atas pendidikan. Semua warga negara harus mendapatkan pendidikan yang berkualitas, adil, dan setara dari negara. Dalam hal ini, RUU Sisdiknas sedang disusun sebagai langkah yang diperhitungkan untuk memperbarui peraturan perundang-undangan pendidikan negara yang telah diatur dalam berbagai undang-undang sektoral. Penelitian ini bertujuan untuk menganalisis kesesuaian perumusan RUU Sisdiknas dengan prinsip hak konstitusional warga negara atas pendidikan, serta untuk mengidentifikasi permasalahan hukum yang timbul dalam proses dan substansi perumusannya. Dengan perspektif statutori, konseptual, dan komparatif, penelitian ini menggunakan metode yuridis normatif. Temuan analisis menunjukkan bahwa sementara RUU Sisdiknas berusaha untuk memasukkan undang-undang pendidikan yang berbeda, ada sejumlah klausul yang dapat membahayakan hak atas pendidikan, terutama dalam hal penghapusan klausul tertentu yang berkaitan dengan profesi guru dan pendanaan pendidikan dasar. Selain itu, proses perumusan yang kurang partisipatif menimbulkan pertanyaan tentang legitimasi publik dari rancangan tersebut. Oleh karena itu, harmonisasi norma diperlukan untuk memastikan bahwa RUU Sistem Pendidikan Nasional benar-benar selaras dengan amanat konstitusional, prinsip-prinsip hak asasi manusia, dan tujuan negara untuk meningkatkan kehidupan bangsa.

**Kata Kunci:** RUU Sistem Pendidikan Nasional; Hak Konstitusional; Pendidikan.



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## INTRODUCTION

According to Article 31 paragraph (1) of the 1945 Constitution, every citizen is entitled to an education, making it a constitutional right. The state's responsibility to fund basic education and guarantee equitable access to education for all citizens is affirmed in Article 31, paragraph (2), while paragraph (3) mandates the state to develop and implement a national education system that improves the quality of life of the nation.<sup>1</sup> In this sense, Article 26 of the Universal Declaration of Human Rights, which highlights everyone's right to an education free from discrimination, states that the right to education is not only a formality but also a component of human rights.<sup>2</sup> This constitutional basis serves as a fundamental foundation for every policy and formulation of laws related to education, including the National Education System Bill (RUU Sisdiknas), to ensure the principles of justice, affordability, and equity in education are maintained.

Law No. 20 of 2003 concerning the National Education System, which lays out national education goals, educational levels, the role of educators, and education financing, provides a detailed regulation of the history and legal foundation of Indonesia's national education system.<sup>3</sup> However, several legal limitations, such as fragmented sectoral regulations, inflexible financing provisions, and scattered regulations on the teaching profession,<sup>4</sup> across various laws, have prompted the need for reform through the National Education System Bill (RUU Sisdiknas). This bill is designed to serve as a single legal basis that integrates all education regulations, with the aim of improving access, quality, Promoting educational parity, in compliance with the 1945 Constitution's Article 31 mandate.

Although the National Education System Bill (RUU Sisdiknas) aims to unify and harmonize various education regulations, its formulation has encountered several legal issues that require careful consideration. One key issue is the existence of provisions that could potentially undermine citizens' constitutional rights to education, such as the removal of specific provisions regarding the teaching profession and basic education financing.<sup>5</sup> This provision is feared to lower the quality of education, weaken the position of educators, and reduce the guarantee of equal access to education for all citizens as mandated by Article 31 of the 1945 Constitution.<sup>6</sup>

Furthermore, the process of formulating the National Education System Bill is considered to be less than participatory, raising issues of public legitimacy. Limited consultation and involvement from the community, teachers, academics, and other education stakeholders can lead to dissatisfaction and the perception that the bill does not

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<sup>1</sup> I.D. Palguna and B.K. Atmaja, "Konsepsi Pendidikan sebagai Hak Konstitusional," *Jurnal Hukum Ius Quia Iustum* 30, no. 2 (2023): 350–70, <https://doi.org/10.20885/iustum.vol30.iss2.art6>.

<sup>2</sup> S. Aulia et al., "Mahkamah Konstitusi sebagai Benteng Hak Asasi dalam Sistem Pendidikan Nasional," *Jembatan Hukum: Kajian Ilmu Hukum, Sosial dan Administrasi Negara* 2, no. 2 (2025): 332–43, <https://doi.org/10.62383/jembatan.v2i2.1773>.

<sup>3</sup> P. Astomo, "Politik Hukum Penyelenggaraan Sistem Pendidikan Nasional yang Responsif di Era Globalisasi," *Masalah-Masalah Hukum* 50, no. 2 (2021): 172–83, <https://doi.org/10.14710/mmh.50.2.2021.172-183>.

<sup>4</sup> N. Masfufah and Salito, "Dasar-Dasar Yuridis Sistem Pendidikan Nasional: Kerangka Hukum Pendidikan Nasional (Konsep, Landasan, Hak-Kewajiban, Wajib Belajar, dan Struktur Sistem Pendidikan)," *Jurnal Akuntansi, Manajemen dan Ilmu Pendidikan*, 2025, 160–72.

<sup>5</sup> M.A. Solahudin et al., "Politik Hukum Pembelajaran Jarak Jauh dalam Sistem Pendidikan Nasional," *Karimah Tauhid* 3, no. 10 (2024): 11893–920, <https://doi.org/10.30997/karimahtauhid.v3i10.15782>.

<sup>6</sup> E. Cristiana, "Digitalisasi Pendidikan Ditinjau dari Perspektif Hukum," in *Prosiding Seminar Nasional IAHN-TP Palangka Raya* (2021).

fully reflect actual needs on the ground. This lack of participation has the potential to reduce the effectiveness of future law implementation, as the resulting norms may not align with community conditions and needs.<sup>7</sup>

Furthermore, there is a risk of norm conflicts resulting from the integration of various sectoral regulations into a single bill. Several provisions previously regulated in specific laws could lead to overlapping or unclear implementation, particularly regarding education financing, regional government obligations, and recognition of the teaching profession. This norm conflict risks creating a gap between formal regulations and practice on the ground, making it difficult to effectively realize the constitutionally guaranteed right to education.<sup>8</sup>

From the perspective of constitutional rights and public interest implications, the substance of the National Education System Bill directly impacts the fulfillment of the right to education. If weak or ambiguous provisions are adopted, they could lead to injustice and discrimination in access to education, for example, between urban and rural areas, or between children from wealthy and underprivileged families.<sup>9</sup> It illustrates the importance of normative harmonization so that every article in the bill aligns with human rights principles and the mandate of Article 31 of the 1945 Constitution, ensuring that every citizen receives the right to an equitable, fair, and quality education.<sup>10</sup>

Considering these various problems, this research is highly urgent. An analysis of the formulation process and substance of the National Education System Bill is necessary to identify legal loopholes, potential normative conflicts, and risks of constitutional rights violations. Such research can also provide concrete recommendations for policymakers so that the bill can be revised before it is passed, thereby supporting more effective, inclusive, and equitable education delivery.

The urgency of this research is related to the national goal of improving the nation's intellectual life. The National Education System Bill serves not only as a legal instrument but also as a strategic instrument to ensure that the right to education for all citizens is protected, the quality of education is improved, and educational disparities are minimized. Therefore, this research provides an important foundation for generating policy recommendations that align with the constitution, human rights principles, and societal needs in order to realize a better national education system.

## RESEARCH METHODS

This study employed a normative juridical research methodology, which focuses on analyzing legal norms found in educational legislation and regulations, especially the National Education System Bill (RUU Sisdiknas), and its relevance to citizens' constitutional rights to education. The research approach is carried out through a legislative approach, namely reviewing and evaluating applicable legal provisions, and a conceptual approach, namely analyzing the concepts, principles, and objectives of national education in relation to human rights and the mandate of the 1945 Constitution.

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<sup>7</sup> W.A. Ratnaningrum, "Dasar-Dasar Yuridis Sistem Pendidikan Nasional," *Educational Technology Journal* 2, no. 2 (2022): 22–28, <https://doi.org/10.26740/etj.v2n2.p22-28>.

<sup>8</sup> J.T. Pelawi et al., "Undang-Undang Nomor 20 Tahun 2003 tentang Sistem Pendidikan Nasional dalam Upaya Pencegahan Pernikahan Dini (di Bawah Umur)," *Jurnal Education and Development* 9, no. 2 (2021): 562–66.

<sup>9</sup> Al-Habsy Ahmad, "Analisis Pengaruh Penerapan Sistem Hukum Eropa Kontinental dan Anglosaxon Dalam Sistem Peradilan di Negara Republik Indonesia," *Jurnal Petikum* 9, no. 1 (2021): 51–65.

<sup>10</sup> B. Badrudin et al., "Standarisasi Pendidikan Nasional," *JHIP–Jurnal Ilmiah Ilmu Pendidikan* 7, no. 2 (2024): 1797–808, <https://doi.org/10.54371/jiip.v7i2.3962>.

The data sources for this research are primary, in the form of statutory texts, draft laws, and official documents related to education legislation, and secondary, in the form of literature, journals, books, and scientific articles relevant to the research topic. Data collection techniques are carried out through document studies and literature reviews, while data analysis techniques use normative qualitative analysis, namely interpreting, comparing, and evaluating legal provisions and educational concepts to conclude the suitability of the RUU Sisdiknas with citizens' constitutional rights to education and identifying legal problems that arise in the process of its formulation.

## RESULTS AND DISCUSSION

### The Compliance of the National Education System Bill with Citizens' Constitutional Rights to Education

One of the essential rights protected by the Indonesian constitution is the right to education. Every citizen has the right to education, according to Article 31, paragraph (1) of the 1945 Constitution, while paragraph (2) outlines the state's duty to provide free elementary and secondary education. The government works to establish a national education system that raises the standard of living in the country, as highlighted in paragraph (3). Paragraph (4) obliges the state to advance science and technology through the provision of education, and paragraph (5) emphasizes community participation in supporting the provision of education.<sup>11</sup> This constitutional guarantee serves as the primary foundation for every education policy, including the drafting of the National Education System Bill (RUU Sisdiknas), to ensure that citizens' right to education is not neglected and can be realized equitably, fairly, and with quality.

The state's obligation to provide equitable and quality education includes the provision of educational facilities throughout the country, including remote and outermost areas. The state is also responsible for ensuring that every child has an equal opportunity to access education without discrimination based on economic, social, or geographic background.<sup>12</sup> These principles align with human rights values, particularly the right to education as stipulated in Article 26 of the Universal Declaration of Human Rights, which emphasizes education as a means to develop individuals and shape a society aware of its rights and obligations.<sup>13</sup> In the Indonesian context, human rights principles are relevant to ensure that the National Education System Bill not only regulates formal education mechanisms but also guarantees the comprehensive protection of citizens' rights.

According to Law No. 20 of 2003 concerning the National Education System, the goals of national education place a strong emphasis on helping students develop their potential to become obedient, devout, honorable, healthy, intelligent, creative, independent, and responsible, democratic citizens. Education is also directed at improving the quality of human resources and advancing the nation's civilization.<sup>14</sup>

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<sup>11</sup> Imma Rahmani, "Pelaksanaan Hak dan Kewajiban Warga Negara Indonesia di dalam Bidang Pendidikan Tinjauan dari Pasal 31 Undang-undang Dasar Tahun 1945," *Pamulang Law Review* 5, no. 1 (2022): 77–84, <https://doi.org/10.32493/palrev.v5i1.23611>.

<sup>12</sup> R. Erlande and H. Mulkan, "Kebijakan Hukum Pemenuhan Hak Konstitusional Warga atas Pendidikan Dasar Anak Telantar," *Marwah Hukum* 1, no. 2 (2023): 1–7, <https://doi.org/10.32502/mh.v1i2.6164>.

<sup>13</sup> I.M. Sugita et al., "Perlindungan Hukum terhadap Hak atas Pendidikan Anak Miskin di Kabupaten Karangasem," *Metta: Jurnal Ilmu Multidisiplin* 4, no. 3 (2024): 79–100, <https://doi.org/10.37329/metta.v4i3.3498>.

<sup>14</sup> F. Rahmiati and R. Ahmad, "Implementasi Pendidikan sebagai Hak Asasi Manusia," *Jurnal Pendidikan Tambusai* 5, no. 3 (2021): 10160–65.



Within this framework, the National Education System Bill plays a strategic role as a legal instrument to achieve national education goals, as it aims to unify various sectoral regulations and provide clear legal certainty for the implementation of education at all levels.

The National Education System Bill is strongly relevant to efforts to improve access, quality, and equity in education. Through systematic regulation, this bill can ensure that primary and secondary education is available to all citizens without exception. Furthermore, this regulation is expected to regulate education quality standards, education financing, and the professionalism of educators, so that every citizen receives an adequate education as mandated by the constitution. In other words, the National Education System Bill serves not only as a legal basis but also as an instrument to guarantee the right to education as part of human rights.

The National Education System Bill's alignment with national education goals can be seen in this legislation's efforts to strengthen the roles of the state and society in education. While society actively supports the implementation of education, the state oversees providing the necessary resources and infrastructure. It is consistent with the spirit of the 1945 Constitution's Article 31 paragraph 5 and the internationally recognized principle of educational involvement. Thus, the National Education System Bill serves as a bridge between citizens' constitutional rights and the goals of national education development, while also addressing the challenges of disparities and inequities in education services.

However, although the National Education System Bill attempts to integrate education regulations, a thorough evaluation of each provision is necessary to ensure that no norms undermine citizens' rights. For example, regulations regarding basic education financing and educator professionalism must be ensured to align with the constitution to ensure the quality and access to education. With this normative harmonization, the National Education System Bill can truly become a legal instrument that guarantees the right to education, supports national goals, and ensures that all citizens receive a fair, equitable, and quality education.

A substantive analysis of the National Education System Bill is necessary to assess the extent to which citizens' constitutional rights to education are guaranteed. Several key articles that will be the focus of the evaluation include access to primary and secondary education, education financing, and the regulation of the profession of educators and education personnel. In terms of educational access, the National Education System Bill stipulates the state's obligation to provide equitable educational facilities across all regions, including remote and underdeveloped areas. However, several provisions still allow for unequal access, particularly for children from low-income families, necessitating the strengthening of norms to ensure that every citizen truly has an equal right to education.

Education financing is a crucial issue in the draft law's substance, as the sustainability and quality of education depend heavily on the proper allocation of funds. Several articles in the National Education System Bill regulate the role of the central and regional governments in financing, but there is the potential for a reduction in the state's obligation to fund basic education, which could undermine the guarantee of constitutional rights as stipulated in Article 31 paragraph (2) of the 1945 Constitution. The substantive evaluation emphasizes the need for transparent and accountable mechanisms in education financing to prevent disparities between regions and different social groups.

Regulation of the profession of educators and education personnel is also crucial in ensuring the quality of education. The National Education System Bill establishes competency and qualification standards for educators, but several provisions related to professional protection, welfare, and certification are still considered insufficiently clear. This situation has the potential to impact the quality of education and the motivation of educators, thus threatening students' rights to a quality education. Therefore, articles related to the teaching profession need to be reviewed to strengthen the position of educators while protecting students' rights.

In line with human rights principles, the National Education System Bill must reflect the values of non-discrimination, inclusivity, and social justice. Analysis shows that several provisions still need clarification to ensure that vulnerable groups, such as children with disabilities, the poor, and residents of remote areas, do not experience disparities in access to and quality of education. Furthermore, the application of human rights principles also requires that all citizens have equal opportunities to receive education without social, economic, or geographic barriers, so that the National Education System Bill truly supports equitable distribution of education quality throughout Indonesia.

The challenge of implementation is a crucial issue that cannot be ignored. The risk of inconsistency between the National Education System Bill and other sectoral regulations, such as the law on teachers and lecturers, regional regulations, and funding provisions, could lead to normative conflicts. This inconsistency has the potential to create a gap between formal regulations and practice, making it difficult to effectively realize the constitutionally guaranteed right to education. Therefore, normative harmonization is a strategic step to unify all education regulations so that they can be applied consistently and fairly.

#### **Legal Problems and Legitimacy of Formulating the National Education System Bill**

The content of the National Education System Bill (RUU Sisdiknas) is one of the primary issues with its drafting, as it may jeopardize citizens' fundamental rights to an education. Several clauses pertaining to the funding of basic education and the regulation of the teaching profession are deemed ambiguous, potentially impacting the quality and equity of education. For example, reducing the state's obligation to fund basic education risks creating disparities between rich and poor regions, as well as between urban and rural areas. This situation highlights the need for a thorough evaluation of the substance of the bill to ensure that citizens' rights remain protected as mandated by Article 31 of the 1945 Constitution.

Furthermore, several articles in the RUU Sisdiknas create unclear norms and potential overlap with other sectoral regulations, such as Law No. 14 of 2005 concerning Teachers and Lecturers, regional regulations, and regional education policies. This lack of clarity creates the risk of inconsistent implementation, as education providers can interpret the provisions differently. The impact of these ambiguous provisions not only impacts formal regulations but also affects the access and quality of education received by students, thereby undermining the constitutional right to education. The impact of the draft law's weak substance extends beyond the legal aspect to the equity of education services. Unclear provisions regarding the financing and regulation of the teaching profession could widen the quality gap between schools in developed and underdeveloped regions. Consequently, the national education goal of educating the nation equally will be difficult to achieve. This emphasizes the importance of improving the substance of the articles to ensure that all citizens receive their right to education fairly and equitably.

In addition to substantive issues, the process of formulating the National Education System Bill also faced significant challenges related to public participation. The level of involvement of the community, academics, teachers, and other stakeholders in drafting the bill remained limited. The lack of public consultation could create the perception that the bill does not fully reflect actual needs on the ground, thus reducing public legitimacy and public acceptance of the law once it is enacted. Transparency and active participation are crucial factors in ensuring the bill aligns with the public interest.

Furthermore, there is a risk of normative conflict due to misalignment between the National Education System Bill and other sectoral regulations. This misalignment could create a gap between formal regulations and practice on the ground, particularly in terms of teacher management, financing, and education quality standards. This kind of conflicting norms has the potential to hinder the implementation of the constitutional right to education, as overlapping or unclear regulations can make it difficult for the government, schools, and education personnel to implement policies consistently.

The legal challenges surrounding the substance and formulation process of the National Education System Bill emphasize the need for strategic steps to refine norms and increase public participation. Harmonization between the bill and other sectoral regulations is crucial to ensure effective, fair, and equitable implementation. Thus, the National Education System Bill can function as a legal instrument that not only regulates the national education system but also ensures that citizens' constitutional rights to education are protected and national education goals are achieved.

The substance and formulation process of the National Education System Bill have direct implications for the fulfillment of citizens' constitutional rights to education. Unclear or indefinite provisions can reduce the effectiveness of the implementation of the right to education, particularly in terms of access, quality, and equity. A legislative process lacking public participation also has the potential to create a gap between formal regulations and actual needs on the ground. Thus, the substance of the bill and the mechanism for its formulation must be designed in such a way as to truly guarantee the rights of every citizen in accordance with the mandate of Article 31 of the 1945 Constitution and the principles of human rights.

The risk of discrimination in access to education is one of the most obvious impacts if the substance of the bill does not align with the principles of justice and inclusivity. Vulnerable groups, such as children from low-income families, people with disabilities, and residents in remote areas, are at risk of experiencing limited access to education or poor-quality services. It highlights the need for a critical evaluation of the bill's articles to ensure that no provisions indirectly create social inequality and discrimination in the provision of education.

To address this issue, normative harmonization is needed between the National Education System Bill and other sectoral regulations and constitutional standards. This harmonization is crucial to ensure that each article in the bill can be implemented consistently and effectively, while ensuring that citizens' constitutional rights are not violated. All stakeholders, including the central government, regional governments, and the public, must have a shared understanding of the bill's objectives and implementation mechanisms, so that education policy implementation runs smoothly and fairly.

The strategy for improving the National Education System Bill includes several important steps. First, improving the substance of the articles is necessary to strengthen citizens' constitutional rights, particularly regarding access, financing, and the regulation of the teaching profession. Second, public participation and consultation with

stakeholders, including teachers, academics, and the community, must be increased to ensure the bill reflects real needs. Third, harmonization with other sectoral regulations is necessary to ensure effective, consistent, and equitable implementation across Indonesia. With these steps, the National Education System Bill can become an effective legal instrument to guarantee the right to education and support the national goal of improving the nation's life.

## **CONCLUSION**

According to the analysis of the National Education System Bill (RUU Sisdiknas) from the standpoint of citizens' constitutional rights to education, this bill is strategically important for ensuring those rights and achieving national education objectives. However, several problems with its substance and formulation process have the potential to undermine the guarantee of the right to education, including unclear provisions on basic education financing, suboptimal regulation of the teaching profession, and the risk of conflicting norms with other sectoral regulations. The lack of public participation and stakeholder involvement also raises legitimacy issues, while ambiguous provisions can impact equitable access, quality, and inclusiveness of education, particularly for vulnerable groups and remote areas.

As an improvement, it is recommended that the substance of the articles in the RUU Sisdiknas be refined to strengthen citizens' constitutional rights, clarify financing mechanisms, and ensure the protection of educators' professionalism. The formulation process must be more participatory, involving the community, academics, educators, and other stakeholders, so that the draft law reflects real needs on the ground. Furthermore, normative harmonization with other sectoral regulations is necessary to ensure effective, consistent, and equitable implementation. With these steps, the National Education System Bill can become a strong legal instrument, guaranteeing the right to education, and supporting the national goal of improving the lives of the nation in an equitable and quality manner.

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The authors state that there is no conflict of interest in the publication of this article.



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