

State Responsibility for Fulfilling the Right to Basic Education Facilities Based on Human Rights

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Abstract

Basic education is a fundamental and non-negotiable human right. This right is universally recognized by various national and international legal instruments, including the 1945 Constitution, ICESCR and CRC. The state has the primary obligation to respect, protect and fulfill the right to basic education, including in terms of providing educational facilities. This study aims to examine the form of state responsibility in fulfilling the right to basic education facilities from a human rights perspective, and to analyze the factors that influence it. The research method used is normative juridical with a qualitative approach to legislation, international legal documents, and academic literature related to human rights and education. The results show that despite the existence of a fairly strong legal framework, the implementation of state responsibility still faces various obstacles. The inhibiting factors include the vagueness of legal norms related to the definition of adequate education facilities, inequality in the distribution of education budgets, geographical challenges in remote areas, local social and cultural values, and weak governance and inter-agency coordination.

I. Introduction

Basic education is a fundamental and inalienable human right (Itasari, 2021). This right is universally recognized through various international instruments, such as Article 13 of the International Covenant on economic, social and Cultural Rights (ICESCR), which states that basic education should be compulsory and freely available to everyone. In Indonesia, this guarantee is reflected in Article 31 of the 1945

Constitution which affirms that every citizen has the right to education and the government is obliged to pay for basic education. Basic education is not only a right but also a foundation for the fulfillment of other rights, such as the right to work, health and participation in socio-political life (Wahid et al., 2025). According to General Comment No. 13 UN Committee on economic, social and Cultural Rights, Education is not only a right in itself, but also a very important means for the realization of other human rights (Renggong & Ruslan, 2021). Education empowers individuals to understand and demand their rights, and to contribute actively to society. Therefore, Basic Education has a strategic role in shaping citizens who are aware of the law and Human Rights.

In Indonesia, the implementation of human rights education has been carried out since the elementary school level. Research shows that early recognition of the concept of human rights can foster mutual respect between individuals and prevent human rights violations in the future. Human rights education in primary schools is a preventive measure in building a just and civilized society. However, there are still challenges in fulfilling the right to basic education in Indonesia. Data from the Central Statistics Agency (BPS) shows that the achievement of the school participation rate (APS) decreased in the college age group, with only 73.42% of the population aged 16-18 years and 28.96% of the population aged 19-23 years who are studying (Anisah, 2024).

The right to education in Indonesia has a strong foundation in the Constitution and other laws and regulations. Article 28C paragraph (1) of the 1945 Constitution states that everyone has the right to develop themselves through the fulfillment of their basic needs, including getting an education. This provision emphasizes that education is an individual right inherent from birth and must be guaranteed by the state. In addition, Article 31 of the 1945 Constitution explicitly states that every citizen has the right to education and the government is obliged to pay for basic education free of charge, as a concrete form of protection of the right to education for all citizens. Beyond the framework of the National Constitution, Indonesia has also demonstrated its commitment to the protection of the right to education through the ratification of various international legal instruments. One of them is the International Covenant on economic, social and Cultural Rights (ICESCR), which has been ratified through Law No. 11 of 2005. Article 13 of the covenant states that education is the right of every person and that basic education should be compulsory and freely available. With this ratification, Indonesia has a moral and legal responsibility to ensure equal access to quality education for all its citizens (Itasari, 2020).

Furthermore, Indonesia's legal commitment to the right to education is reflected in various sectoral laws, such as Law No. 20/2003 on the National Education System. This law comprehensively regulates the principles of national education, including the principles of justice, democracy and nondiscrimination in the organization of Education. This provision emphasizes that the right to education should not be influenced by social, economic, religious or cultural backgrounds, and the state is obliged to provide adequate facilities and infrastructure to ensure the fulfillment of

this right as a whole.

As a logical consequence of this legal framework, the responsibility of the state in guaranteeing the right to education does not stop at the formulation of policies but must also be embodied in public actions and services. From a human rights perspective, the state has a primary responsibility to respect, protect, and fulfill the right to basic education for all citizens. From a human rights perspective, the state has a primary responsibility to respect, protect, and fulfill the right to basic education for all citizens. The obligation to respect means that the state must not hinder or reduce people's access to education, whether through discriminatory policies or other repressive measures (Nazril et al., 2024). The obligation to protect requires the state to take active measures to prevent third parties, such as private institutions or certain groups, from engaging in practices that impede access to education. Meanwhile, the fulfillment obligation includes concrete steps from the state in providing a functional, affordable and inclusive education system.

The responsibility of the state in fulfilling the right to basic education includes the provision of appropriate educational facilities, the development of equitable school infrastructure, and the provision of facilities and infrastructure to support learning (Huda & Hidayat, 2021). The state is also obliged to ensure the availability of professional and equitable teaching staff to remote areas. The availability of qualified teachers is the main condition for the achievement of quality education. According to Philip Alston, the state should allocate an adequate education budget as a form of real commitment in ensuring the fulfillment of the right to education, not just as a symbolic policy (Iskandar, 2021).

Accessibility and affordability are also an important part of the state's responsibility. In this regard, the state must ensure that no economic, geographical, cultural or gender barriers prevent children from receiving primary education. The provision of free schools and educational assistance to the poor and people with disabilities is a concrete form of the principle of inclusivity in education. UNESCO (2021) emphasizes that fair and equal education can only be realized if states actively identify and address structural inequalities that impede access to education for vulnerable groups (Lumbanraja & Rusdiana, 2025).

The state should also be responsible for establishing a rigorous evaluation and supervision system for the quality and sustainability of basic education. This includes accreditation of educational institutions, regular training for educators, and monitoring the distribution of the education budget (Sianturi et al., 2024). If the state is negligent in this responsibility, then human rights violations can occur systematically. According to Henry J. Steiner, the failure of the state to provide proper education can be considered a form of human rights violations that require legal and policy correction (Nurlailiya & Khasna, 2024). Therefore, the responsibility of the state in the framework of education is not only administrative, but also ethical and juridical as part of respect for human dignity.

Although the legal framework and the commitment of the state to guarantee the right to basic education have been formulated quite clearly, its implementation on the

ground still faces serious challenges. One of the main problems is the disparity in access to education in remote, underdeveloped and border areas. Children in these areas often have to travel long distances to reach school, some even have to cross rivers or walk for hours (Prasojo, 2013). Difficult geographical conditions, limited transportation, and lack of basic infrastructure such as roads and bridges also worsen the accessibility of education for them. This gap reflects the non-optimal role of the state in ensuring the principles of equality and social justice in the education sector.

In addition to the Access Gap, the lack of proper educational facilities is also a crucial problem. Many primary schools in remote areas of Indonesia still operate in poor physical condition with broken classrooms, a lack of desks and chairs, and no libraries or simple laboratories. Inequality in the distribution of educational resources is also seen in the aspect of teaching staff. Urban areas tend to find qualified teachers more easily, while remote areas lack permanent teachers and often rely on honorary teachers with inadequate facilities and incentives. This reinforces the inequality in the quality of education between regions (Musfah, 2018).

Another problem lies in the vagueness of legal norms regarding the definition and standards of basic educational facilities that the state must meet. The absence of detailed and legally binding national standards leads to differences in interpretation and implementation in individual regions. For example, not all regions have clear guidelines on the minimum number of classrooms, the availability of clean toilets or supporting facilities such as clean water and electricity. This ambiguity results in the implementation of non-uniform basic education policies throughout Indonesia, so that national programs such as the special Allocation Fund (Dak) for education are often not on target or ineffective in meeting real needs on the ground.

The urgency of assessing the responsibility of the state in fulfilling the right to basic education lies in the need for a critical evaluation of the implementation of policies that have been carried out so far. Although various regulations have been formulated, the facts on the ground show that there is still a glaring inequality, both in terms of accessibility, quality and equitable distribution of educational facilities. By conducting a systematic review, it can be identified to what extent the state is truly present in fulfilling its constitutional mandate and international commitments regarding the right to education. This evaluation is also important to measure the effectiveness of educational programs and formulate policy recommendations that are more targeted and sustainable. Furthermore, this study has urgency in offering a human rights-based approach to interpret the still vague legal norms, especially regarding the minimum standards of basic education facilities.

2. Research Method

The research method in this study, which focuses on the responsibility of the state in the fulfillment of the right to basic education from the perspective of human rights (HAM), uses a normative juridical approach. This study aims to analyze the legal norms governing the right to basic education and evaluate the extent to which these norms are translated in

policy and implementation by the state (Jonaedi Efendi & Johnny Ibrahim, 2018). This approach focuses on the study of the principles of law, legislation, and human rights principles that are relevant to the fulfillment of basic education that is decent, fair, and nondiscriminatory. Primary legal materials used in this study include: the Constitution of the Republic of Indonesia in 1945 (especially Article 28C and Article 31), Law No. 20 of 2003 on the National Education System, and Law No. 11 of 2005 on the ratification of the ICESCR (International Covenant on economic, social and Cultural Rights). Secondary legal materials include literature from education and human rights law books, national and international scientific journals, as well as reports from organizations such as UNESCO and Komnas HAM (Rosidi et al., 2024). Meanwhile, non-legal materials include dictionaries and encyclopedias that support the understanding of technical terms. The analysis of the legal material is carried out qualitatively, by interpreting the legal norms in force in order to find loopholes or legal ambiguities that impede the fulfillment of the right to basic education.

3. Results and Discussion

Form of State Responsibility in Fulfilling Basic Education Facilities According to Human Rights Perspective

The concept of the right to education as part of human rights occupies an important position in the regime of economic, social, and cultural Rights Ecosob rights. Education is not only seen as a means to improve the quality of life of individuals, but also as a foundation for the exercise of other rights. In the context of Ecosob, education has a progressive characteristic, that is, its fulfillment can be carried out in stages according to the country's capabilities, however, it remains an absolute obligation to be realized without delay in matters of a fundamental nature such as access and non-discrimination (Palguna & Atmaja, 2023). Article 13 of the International Covenant on economic, social and Cultural Rights (ICESCR) expressly states that everyone has the right to education, and that basic education should be compulsory and freely available to all.

The right to education also contains the principle of non-discrimination as a fundamental value within the framework of human rights. This means that there should be no differential treatment in granting access to education based on race, gender, religion, social status, disability, or economic background (Abdillah et al., 2024). This principle is guaranteed in various international instruments such as the Convention on the rights of the child (CRC) and the Convention on the elimination of all forms of discrimination against women (CEDAW). In practice, states should design education policies that actively eliminate structural barriers that have prevented vulnerable groups from accessing education. According to human rights expert Katarina, education is not only an independent right, but also an "empowering right" that allows individuals to demand other rights effectively (Paramansyah & Parojai, 2024). Equality of access is a key element in the implementation of the right to education as a human right. This requires the state to not only provide education in a physical sense, but also ensure that every individual has an equal opportunity to obtain and complete basic education without systemic barriers. Equality of access includes economic (cost), geographical (school location),

social (cultural norms), and physical (access for people with disabilities) (Rini, 2018). In this regard, the role of the state is vital in ensuring inclusive and equitable education through affirmative policies and partisanship programs.

In addition to being a right that must be fulfilled by the state, education is also an important instrument to strengthen democracy, promote social equality, and instill the values of tolerance and respect for Human Rights. Therefore, education should not be narrowed down as a mere economic or development means, but rather as a universal right inherent in every individual. According to Amartya Sen, Nobel laureate in Economics and philosopher of development, education is a prerequisite for expanding human “substantive freedom”, which becomes the main measure for rights-based development (Zein & Septiani, 2023).

In the perspective of human rights (HAM), the obligation of the state in ensuring the right to basic education can be analyzed through the framework of three main levels of responsibility: to respect, to protect, and to fulfill (Supriyo, 2020). This approach was developed by various international human rights institutions, including the UN Committee on economic, social and Cultural Rights, as a framework for assessing the extent to which states implement their commitments to the fundamental rights of their citizens. This framework applies not only to civil and political rights, but also expressly to economic, social, and cultural rights such as education.

The first obligation, that of respect, requires the state not to carry out actions that directly or indirectly hinder people's access to basic education (Itasari, 2021). In this context, the state is prohibited from implementing discriminatory policies or measures that narrow learning opportunities for certain groups, for example by requiring high fees that burden the poor or allowing discriminatory practices against girls or minority groups. Nor should the state undertake the closure of schools without a valid reason, or the removal of students without consultation and protection of their best interests. The second level of obligation is to protect, which means that the state must ensure that no third parties either individuals, private institutions, companies or organizations hinder or impair citizens' access to education (Botutihe, 2024). For example, the state should take action against private schools that discriminate against poor or religiously diverse students, or against child exploitation practices that prevent them from getting an education. States should also create effective legal and administrative mechanisms to crack down on those who violate the right to education, including providing access to justice for victims of violations.

The last obligation, namely to fulfill (fulfill), is the most active form of responsibility of the state. At this stage, the state must take concrete steps to provide a decent, inclusive and accessible education system for everyone (Lumbanraja & Rusdiana, 2025). This includes the construction of primary schools in disadvantaged areas, the appointment and training of adequate teachers, the provision of facilities and infrastructure that support teaching and learning activities, as well as the provision of educational assistance such as scholarships or affirmative programs for the poor and marginal groups. This obligation also includes the development of relevant and quality curricula and fair evaluation systems. By fulfilling this obligation as a whole, the state realizes its role as a protector and driver of the fulfillment of citizens' human rights, especially in the basic education sector.

To clarify and strengthen the understanding of the framework of state responsibility in the

right to basic education, can be arranged in the form of a systematic table as follows: here is a matrix of state obligations based on international human rights standards in the context of the fulfillment of the right to basic education:

Table 1. Matrix of state obligations based on international human rights standards in the context of the fulfillment of Basic Education

Forms of State Obligations	General Explanation	Examples of Implementation in Elementary Education
Respect	The state does not take actions that hinder access to education.	Does not restrict parents' freedom to choose schools; does not discriminate against access.
Protect	The state prevents third parties from blocking access to education.	Regulate that the private sector does not charge excessive fees; Keeping schools safe from violence.
Fulfill	The state actively provides and finances basic education.	Build schools, provide teachers, transportation, and other supporting facilities.

The matrix above shows that the implementation of the right to basic education is not only seen from the existence of schools or teachers, but from the alignment between policy and legal protection with the social reality facing society. The responsibility of the state must be implemented as a whole and integrated, including efforts not to interfere (respect), prevent others from harming (protect), and ensure that all citizens really benefit from the education system organized (fulfill).

Implementation of the state's responsibility in guaranteeing the right to basic education is explicitly reflected in various national legal instruments. The 1945 Constitution contains a strong constitutional basis for the fulfillment of the right to education. Article 28C paragraph (1) states that everyone has the right to develop themselves through the fulfillment of their basic needs, including education, in order to achieve prosperity and participate in society. Furthermore, article 28i paragraph (4) confirms that the protection, promotion, enforcement, and fulfillment of human rights is the responsibility of the state, especially the government. In particular, Article 31 affirms the obligation of the state in organizing the national education system and provides an education budget of at least 20% of the state budget and APBD, which reflects the commitment of the state to carry out the functions of respect, protect, and fulfill the right to education.

Furthermore, Law No. 20 of 2003 on the National Education System clarifies the responsibility of the state in the form of operational policies. This law emphasizes the principles of Justice, affordability, and nondiscrimination in the provision of Education. The state is obliged to ensure the implementation of quality basic education for all citizens, including vulnerable groups. On the other hand, UU No. 39 of 1999 on Human Rights reinforces the position of

education as a fundamental right, as stated in Article 60, which states that every child has the right to education and teaching in accordance with their talents and abilities. The synergy between these three legal instruments forms a comprehensive legal framework for the state to ensure that every individual, without exception, has the right to basic education in a decent and dignified manner (Affandi, 2017).

As a follow-up to the legal framework that has been established through the Constitution and legislation, the state is required to realize these responsibilities in a real way in the form of providing adequate basic education facilities. The implementation of this responsibility is an important indicator of the extent to which the state's commitment to the fulfillment of the right to education is carried out in a substantial, not merely normative, manner. The fulfillment of basic education facilities is a crucial aspect in the realization of state responsibility for the right to education. This fulfillment is not just an administrative formality, but a concrete reflection of the implementation of the state's obligations in fulfilling (to fulfill) the human rights of its citizens. Basic education facilities include the provision of safe and proper school buildings, adequate classrooms, healthy sanitation facilities, as well as libraries and access to information technology such as the internet. The existence of adequate physical facilities will create a conducive learning environment, encourage student motivation, and improve the quality of learning (Gusniati et al., 2024).

In many parts of Indonesia, especially the underdeveloped, leading, and outermost (3T) areas, school conditions are still far from the minimum standard. Many schools do not have permanent buildings, damaged classrooms, or even lack basic facilities such as proper toilets. In fact, according to the regulation of the Minister of Education and Culture number 24 of 2007 on the standard of facilities and infrastructure of elementary schools/Madrasah Ibtidaiyah, every elementary school must at least have learning facilities, library rooms, laboratories, and other supporting facilities. The unfulfilling of this facility is a form of state failure in ensuring equal access to education for all the nation's children.

In addition to physical facilities, the fulfillment of basic education facilities also includes the provision of quality human resources, namely teachers who are competent and sufficient in quantity. Many schools in remote areas face a shortage of teachers, particularly teachers of core subjects such as mathematics, bahasa Indonesia, and science (Annur et al., 2024). The government needs to do affirmations through equitable distribution of teachers, incentives for teachers serving in difficult areas, as well as continuous training to improve their competence. In addition, the provision of adequate learning tools, such as textbooks, teaching aids, and digital Learning media, is an integral part of the fulfillment of educational facilities.

Transport factor cannot be ignored either, especially in rural and border areas. Many children have to walk for hours or cross rivers to reach school. In this context, the state has an obligation to provide educational means of transportation such as school buses or transportation fare assistance for students. Without the guarantee of proper mobility, the right to education becomes pseudo, despite the availability of school facilities. As revealed by education experts, Prof. Suyanto, M.Ed., "Fairness in education not only means providing schools, but also guaranteeing that every child can get to school and gain a meaningful learning experience" (Juwan et al., 2024). The fulfillment of basic education facilities is a real manifestation of the state's responsibility that cannot be bargained for. The state is not only tasked with designing policies on

paper, but must demonstrate implementation commitment through adequate budget allocation, close supervision, and ongoing evaluation of educational facility standards. Without this fulfillment, the right to education would only be a normative promise without substance

Within the framework of international law, the obligation of states to fulfill the right to education is measured on the basis of standards that have been formulated by international bodies, one of which is principle 4A of UNESCO. This principle includes four main elements: availability, accessibility, acceptability, and adaptability (Lintangsari et al., 2023). Availability requires the state to provide educational institutions, physical facilities, teaching staff, and learning materials in sufficient quantities. Accessibility emphasizes that education must be accessible to all people without discrimination, both from the geographical, economic, and social sides. Acceptability is concerned with the quality of education, including curricula and teaching methods that conform to human rights standards. Meanwhile, adaptability means that education systems must be able to adapt to the needs of diverse learners, including children with disabilities and those in vulnerable situations (Anwar, 2022).

Principle 4A has become a global reference in assessing the implementation of the right to education. States that have ratified international treaties are expected to adopt and internalize the principles into their national policies. Indonesia as a state party to various international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), has a legal obligation to ensure the fulfillment of the right to education as stipulated in Articles 13 and 14 of the Covenant. This covenant affirms that primary education should be available and compulsory to all people free of charge, and the state should take active measures to achieve it (Itasari, 2021).

In addition to the ICESCR, the Convention on the Rights of the Child (CRC) also explicitly affirms the importance of the child's right to education. In Article 28 of the CRC, it states that the state must guarantee compulsory and free basic education for all children, as well as take measures to encourage regular school attendance and reduce dropout rates. The CRC also emphasizes an educational approach that respects the dignity of the child, encourages the development of the child's full potential, and prepares the child for a responsible life in society. By ratifying the CRC, Indonesia has a legal and moral responsibility to ensure that its education system meets these international standards (Failin et al., 2022).

The implementation of these international principles should be reflected in national educational policies and practices. For example, in terms of availability, the state not only builds schools, but also ensures the presence of competent teachers and other supporting facilities. To meet the accessibility aspect, affirmative policies are needed for marginal groups, such as children in 3T areas, street children, or children from poor families. Acceptability requires a non-discriminatory and culturally relevant curriculum, while adaptability requires the state to adapt education to local needs and the times, including the integration of digital technology in learning.

In the exercise of state responsibility for the right to basic education, one of the biggest challenges is inequality between regions, especially between urban and rural areas, as well as between centers and regions. Schools in urban areas generally have more complete facilities, adequate access to technology, and more qualified teachers. In contrast, in many remote areas, education still suffers from serious obstacles, such as lack of school buildings, lack of teachers, and limited means of Transportation. This inequality shows that the realization of the principle of

accessibility and adaptability as suggested by UNESCO is still far from ideal in the Indonesian context. In addition, the decentralization of Education, which gives autonomy to regions, is often not balanced by adequate fiscal and managerial capacity, so the quality of educational services remains unequal between regions.

Another challenge is related to the education budget. Although constitutionally the minimum education budget is set at 20% of the APBN and APBD (UD 1945 Article 31 paragraph (4)), the realization of the budget does not always reflect the efficiency and effectiveness of its use. Many audit reports and research results show that there are budget leaks, allocations that are not on target, and the dominance of employee spending compared to direct spending to improve the quality of Education. In fact, efficient and needs-based budget allocation should be one of the main instruments in fulfilling the state's obligation to the right to education, especially in ensuring the availability and quality of basic education facilities (Az Zahro et al., 2024).

On the regulatory side, there is still a blurring of norms in terms of the definition and limits of the state's responsibility for the provision of basic education. For example, there is no detailed and binding national standard regarding the minimum facilities that must be available in each basic education unit. As a result, the implementation of education policies often depends on the subjective interpretation of individual regions or stakeholders, thus creating a non-uniformity of service standards. The ambiguity of this norm also complicates the process of state accountability in the event of violations of the right to education, because there is no standard benchmark that can be used as a basis for assessing state responsibility.

Addressing these challenges therefore requires a systemic, human rights-based approach. It is necessary to strengthen regulations to clarify the limits of state responsibility in a normative manner, tighter and more transparent budgetary supervision, as well as affirmative policies to reduce interregional gaps. A multisector approach that involves coordination between Central, Local, and civil society governments is also important to ensure that the right to basic education is truly guaranteed for all Indonesian citizens, without exception. Without improvements to these challenges, the state's responsibility for the right to education will remain declarative and has not touched substantive fulfillment.

Factors Affecting the Fulfillment of The Right to Basic Education Facilities By The State in The Perspective of Human Rights

The discussion of Juridical factors in the context of fulfilling the right to basic education facilities is very important to understand the extent to which legal regulations support the implementation of this right. In the Indonesian legal system, a number of regulations have regulated the right to education. However, despite the formal recognition of the right to education, there are still fundamental issues regarding the clarity of norms, in particular with regard to "decent basic education facilities." One of the main issues is the ambiguity in the definition and standards of the term "proper educational facilities." Legislation at the national level does not in detail explain the objective criteria regarding what is meant by a decent facility, both in terms of infrastructure, teacher quality, availability of teaching tools, to accessibility. This ambiguity causes different interpretations in the implementation of policies in various regions, and results in inequality in the provision of educational facilities between regions. According to Jimly

Asshiddiqie, the ambiguity of norms in the Indonesian legal system is often an obstacle in achieving substantive justice, because unclear rules open up wide interpretation space and policy inconsistencies in the field (Falaakh, 2024).

In addition, juridical challenges also arise in terms of conformity between national regulations and international human rights principles. Indonesia has ratified the International Covenant on economic, social and Cultural Rights (ICESCR) through law No. 11 of 2005 and the Convention on the rights of the child (CRC) through Presidential Decree No. 36 of 1990. These two instruments expressly state that the state must guarantee the free and accessible primary education of all children without discrimination (Itasari, 2020). However, the synchronization between these international norms and national regulations has not fully occurred systematically, so there is a gap between international commitments and national implementation that has not been optimally bridged.

These juridical issues cannot be separated from the political dynamics that surround them, because the effectiveness of the implementation of legal norms, including those related to the fulfillment of the right to education, is highly dependent on the political will and priorities of policy makers. In this context, political factors are the main determinants in translating legal commitments into concrete actions that have a direct impact on the provision of adequate and equitable basic education facilities. Political factors have a very strategic role in determining the direction, priority, and success of the fulfillment of the right to basic education, especially in terms of providing decent facilities. The political commitment of the government, both at the central and regional levels, largely determines the allocation of resources, policy formation, and sustainability of educational programs. When the education sector is made a priority in the national political agenda, then the preparation of the budget, the development of educational infrastructure, as well as the recruitment and improvement of the quality of teaching staff will be the main focus of the government. Conversely, if education is only used as political rhetoric without concrete action, then its implementation tends to be stagnant and uneven (Az Zahro et al., 2024).

Inconsistent political priorities between Central and local governments are often an obstacle to equitable distribution of educational facilities. In some areas, education has not been considered a strategic sector so that the budget allocation is minimal, resulting in poor school infrastructure and lack of access to education for vulnerable groups. According to research from the World Bank (2020), the inequality in education budgets between regions in Indonesia is still quite high, especially in the eastern region of Indonesia whose educational infrastructure lags far behind the western region ("Menakar Keefektifan Mandatory Spending Bidang Pendidikan," 2022). This shows the weak synergy and commitment between the center and the regions in translating the constitutional mandate into concrete action.

Political stability also influences the effectiveness of education policy implementation. In an unstable political situation, the government's attention is often diverted to issues that are more short-term and political in nature. Changes in regional heads or changes in the direction of post-election policy often lead to educational programs that are already running being discontinued or discontinued, even though they have had a positive impact. Therefore, it is important for education policy to be designed in a long-term framework and protected from political interventions that are temporary, so that educational development runs on an ongoing basis.

Political will is the key to eliminating inequality and discrimination in access to education.

Without a strong political will of state and local leaders, the various policies that have been formulated will not be effective. This political will is reflected in the government's active stance to reform the education system, abolish unnecessary school fees, as well as ensure that children from poor families, disadvantaged areas, and minority groups have equal access to quality education. As stated by Thomas Carothers, political will is a prerequisite for the implementation of substantive policy reform and not just a legal formality (Waluyo, 2022).

Furthermore, economic factors, especially in terms of allocation and effectiveness of the education budget, are crucial aspects that greatly affect the ability of the state to fulfill the right to basic education facilities. Although the Indonesian constitution has mandated that the education budget must be at least 20% of the state budget and APBD, in practice the implementation of this provision is not always optimal (Duryat, 2022). There is an imbalance between the amount of budget allocated and the real results felt by the community, especially in terms of the construction of basic education facilities and infrastructure that are evenly distributed throughout the region. One of the main problems is the imbalance of budget allocations between regions. Regions that have limited economic resources, especially remote and underdeveloped regions, are often unable to provide proper educational facilities despite the same obligation to fulfill the rights of their citizens. This inequality deepens the gap in educational access between children in urban and rural areas. This is compounded by the still weak fiscal decentralization system in ensuring equitable distribution of educational resources across regions.

In addition, the effectiveness of the use of 20% budget for the education sector is also a challenge. Many reports indicate that most of the education funds are spent on personnel and administrative expenses, while allocations for the construction of educational infrastructure, teacher training, and the provision of learning tools are still very limited (Wicaksono, 2021). According to the Bappenas report, only about 30-40% of the total education budget is actually used to improve the quality of learning and physical development of Education. This indicates the urgent need for reforms in the management and planning of the education budget (Firdausi et al., 2020). Dependence on international aid is also an important aspect of this discussion. However, this dependency poses sustainability challenges, especially when the aid is short-term and not integrated with overall national policy. The state must have a long-term strategy to reduce dependence and strengthen domestic fiscal capacity in funding the education sector.

Beyond the budget and external support aspects, the physical condition of the Indonesian territory is also a crucial factor that affects the success of fulfilling the right to basic education, especially in terms of providing facilities that are evenly distributed and easily accessible by all levels of society. Geographical factors represent a significant challenge in the fulfillment of the right to basic education, especially related to the provision of adequate and accessible educational facilities. Indonesia as an archipelago consisting of more than 17,000 islands has a very diverse geographical conditions from mountainous areas, coastal, to remote areas and borders (Farhaeni & Martini, 2023). The geographical location that is difficult to reach is a major obstacle in the equitable distribution of educational development. Children in regions such as Papua, East Nusa Tenggara and inland Kalimantan often have to travel tens of kilometres on foot to reach the nearest primary school.

Limited access to transportation and physical facilities to school further exacerbates this condition. Many areas in Indonesia do not yet have adequate road infrastructure or supportive

public transportation, making access to educational facilities a daily challenge. When children have to make the arduous and dangerous journey just to get a basic education, then it can be said that the state has not fully fulfilled its obligation to provide a decent and accessible education for all citizens, as mandated in the principle of “accessibility” in international human rights standards.

Inequality in infrastructure development between regions also reinforces this injustice. Urban areas and government centers tend to get priority in the construction of educational facilities and supporting infrastructure, such as roads, electricity networks, and internet access. Meanwhile, those regions that are geographically isolated or do not have great economic potential are often left behind (Suryana, 2020). This inequality results in indirect discrimination, where children in certain areas do not have the same opportunity to get a decent basic education due to their geographical conditions.

Furthermore, social and cultural factors play a significant role in determining the extent to which the right to basic education can be fulfilled across the board in society. The level of public awareness of the importance of education is very diverse between regions and social groups. In urban areas, awareness of education is generally high, but in many rural or remote areas, education is still considered secondary compared to economic needs or traditional family activities (Alfaza et al., 2025). Lack of Information, low literacy, and lack of active community involvement in supporting the implementation of education are serious challenges in ensuring that all children can enjoy their right to attend school.

In addition, discriminatory practices against vulnerable groups are still common, although normatively prohibited by national and international law. Girls, for example, still experience barriers to access to education in some communities that prioritize women's domestic roles over formal education. Similarly, people with disabilities often do not have access to inclusive and disability-friendly educational facilities (Propiona, 2021). This shows that the issue of fulfilling basic education is not only related to the physical availability of facilities, but also to the social values that are rooted in society. Local beliefs and traditions also have a major influence on children's participation in the formal education system. In some Indigenous communities, formal education is considered irrelevant to the needs of local life, so children are more directed to participate in Indigenous or family economic activities. This type of practice causes a high rate of dropout or absence of children from school, especially at the basic level of Education. In fact, basic education is an important foundation to strengthen the capacity of individuals and communities in the face of social and economic change.

Administrative and managerial factors have a great influence on the effectiveness of fulfilling the right to basic education, especially in terms of providing adequate facilities. The quality of education governance by the government, starting from the planning stage, implementation, to monitoring and evaluation of programs, is the benchmark for successful implementation of education policy. Unfortunately, in practice there are still many plans that are not based on real data, minimal follow-up evaluation, and lack of supervision over the distribution and utilization of the education budget. This has a direct impact on the inaccuracy of program goals, especially in areas with complex geographical and social conditions. Interagency coordination, both at the national level and between the central and regional levels, is also a challenge in education management. Education as a cross-sector sector requires synergy between the Ministry of Education, Ministry of Finance, Ministry of Home Affairs, and other agencies. At

the regional level, the lack of synchronization between provincial and kabupaten/kota education offices often leads to overlapping programs or delays in policy realization. Decentralization of Education, which should increase regional independence, has not been accompanied by the strengthening of a good coordination and accountability system (Ismail, 2018).

In addition, bureaucratic capacity and human resources in the education sector are fundamental aspects that need to be addressed. Many regions still lack competent administrative personnel in managing education data, developing local needs-based programs, and conducting transparent reporting and evaluation. According to Syafrudin, improving managerial quality in education should be an integral part of the overall bureaucratic reform, by placing education as a priority in national and Regional Development Planning (Mulyadi et al., 2021). Without efficient governance and qualified human resources, the fulfillment of the right to basic education facilities will not be achieved evenly and sustainably.

4. Conclusion

Form of state responsibility in fulfilling the right to basic education facilities according to the perspective of Human Rights (HAM), it can be concluded that the state has three main obligations that cannot be negotiated, namely respect (respect), protect (protect), and fulfill (fulfill). These three principles affirm that the state is not only required not to impede access to education, but is also obliged to actively provide adequate infrastructure, facilities, and educational personnel. This responsibility has been regulated both in national legal instruments such as the 1945 Constitution, the National Education Law, and the human rights law, as well as international instruments such as the ICESCR and CRC. The alignment of human rights principles with the implementation of education policy is a fundamental foundation for the fulfillment of the right to a fair and inclusive education.

Meanwhile, the fulfillment of the right to basic education facilities is inseparable from various factors that affect it. Juridical factors such as blurring of legal norms and disharmony of national regulations with international human rights standards are still a big challenge. In addition, political, economic, geographical, socio-cultural, to administrative and managerial factors also contribute to inequality in access to education in various regions of Indonesia. Weak political commitment, limited budget, geographical challenges in remote areas, to low public awareness of the importance of education are obstacles that must be overcome systematically.

References

- Abdillah, I., Tanjung, N. A., Puspita, A. A., Aqilah, A. N., & Khalifah, Y. (2024). PANCASILA SEBAGAI PEDOMAN DASAR DALAM PERLINDUNGAN HUKUM TERHADAP HAK ASASI MANUSIA. *Jurnal Moralita : Jurnal Pendidikan Pancasila Dan Kewarganegaraan*, 5(2), 57–63. <https://doi.org/10.36985/k6v8ap16>
- Affandi, H. (2017). Tanggung Jawab Negara dalam Pemenuhan Hak atas Pendidikan menurut Undang-undang Dasar Tahun 1945. *Jurnal Hukum Positum*, 1(2), 218.

- <https://doi.org/10.35706/positum.v1i2.848>
- Alfaza, A. R., Syamsi, A., & Tamsik Udin. (2025). Pendidikan Anak Nelayan di Desa Eretan Wetan: Pendekatan Berbasis Komunitas untuk Mengatasi Tantangan dan Mendorong Pemberdayaan Masyarakat. *Concept: Journal of Social Humanities and Education*, 4(1), 01–13. <https://doi.org/10.55606/concept.v4i1.1696>
- Anisah, L. (2024, September 23). Wajah Pendidikan Indonesia. *Badan Pusat Statistik Kota Semarang*. <https://semarangkota.bps.go.id/id/news/2024/09/23/215/wajah-pendidikan-indonesia.html>
- Anwar, M. S. (2022). Ketimpangan aksesibilitas pendidikan dalam perspektif pendidikan multikultural. *FOUNDASIA*, 13(1), 1–15. <https://doi.org/10.21831/foundasia.v13i1.47444>
- Az Zahro, F., Muhamad, A., Islam, S., & Kania, N. (2024). *PERENCANAAN PENDIDIKAN*. EDUPEDIA Publisher.
- Botutihe, N. (2024). *MANAJEMEN ASET PUBLIK*. Mega Press Nusantara.
- Duryat, M. (2022). *Analisis kebijakan pendidikan: Teori dan praktiknya di Indonesia*. K-Media.
- Failin, F., Yuserlina, A., & Ibrahim, E. (2022). PROTECTION OF CHILDREN'S RIGHTS AND WOMEN'S RIGHTS AS PART OF HUMAN RIGHTS IN INDONESIA THROUGH RATIFICATION OF INTERNATIONAL REGULATIONS. *JCH (Jurnal Cendekia Hukum)*, 7(2), 312. <https://doi.org/10.33760/jch.v7i2.557>
- Falaakh, M. F. (2024). *Pertumbuhan dan Model Konstitusi serta Perubahan UUD 1945 Oleh Presiden, DPR dan Mahkamah Konstitusi*. UGM Press.
- Farhaeni, M., & Martini, S. (2023). PENTINGNYA PENDIDIKAN NILAI-NILAI BUDAYA DALAM MEMPERTAHANKAN WARISAN BUDAYA LOKAL DI INDONESIA. *JURNAL ILMU SOSIAL Dan ILMU POLITIK*, 3(2). <https://doi.org/10.30742/juispol.v3i2.3483>
- Firdausi, M., Marsidin, S., & Sabandi, A. (2020). Analisis Kebijakan dan Pengelolaan Pendidikan dasar terkait Kebijakan Standar Sarana dan Prasarana di Sekolah Dasar. *EDUKATIF : JURNAL ILMU PENDIDIKAN*, 2(2), 158–163. <https://doi.org/10.31004/edukatif.v2i2.119>
- Gusniati, J., Jahera, J., Zulkifli, A., & Ananda, R. (2024). Standar Sarana dan Prasarana Pendidikan Dasar dalam Meningkatkan Proses Pembelajaran yang Efektif. *Jurnal Pendidikan Dan Pembelajaran Ke-SD-An*, 11(2), 572–582.
- Huda, M. W. S., & Hidayat, A. (2021). Quo Vadis Pendidikan di Masa Pandemi: Menyoal Tanggung Jawab Negara terhadap Hak atas Pendidikan Peserta Didik. *Seminar Nasional Hukum Universitas Negeri Semarang*, 7(1), 177–196. <https://doi.org/10.15294/snhunnes.v7i1.711>
- Iskandar, M. (2021). *Negara dan politik kesejahteraan*. Gramedia Pustaka Utama.
- Ismail, F. (2018). MANAJEMEN BERBASIS SEKOLAH: SOLUSI PENINGKATAN KUALITAS PENDIDIKAN. *Jurnal Ilmiah Iqra'*, 2(2). <https://doi.org/10.30984/jii.v2i2.541>
- Itasari, E. R. (2020). HAK PENDIDIKAN DI WILAYAH PERBATASAN DALAM KERANGKA KONSTITUSI REPUBLIK INDONESIA. *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan*, 2(1), 79–100. <https://doi.org/10.23887/jmpppkn.v2i1.85>
- Itasari, E. R. (2021). KEPATUHAN HUKUM NEGARA INDONESIA TERHADAP ICESCR. *Jurnal Pendidikan Kewarganegaraan Undiksha*, 9(2), 414–422. <https://doi.org/DOI:https://doi.org/10.23887/jpku.v9i2.34143>
- Juwan, D. P. A., Maharani, S. D., & Siswadi, G. A. (2024). PENDIDIKAN DAN KESETARAAN:

- IMPLEMENTASINYA PADA SEKOLAH INKLUSI PERSPEKTIF FILSAFAT MANUSIA. *Jurnal Agama Hindu*, 29(2), 94–106. <https://doi.org/10.54714/widyaaksara.v29i2.285>
- Lintangsari, A. P., Kusumawardani, I. N., Emaliana, I., Ekatina, M., Sujannah, W. D., & Koeswoyo, R. A. (2023). *Inclusive Instructions: Teori dan Praktik di Pendidikan Tinggi*. Universitas Brawijaya Press.
- Lumbanraja, C. F., & Rusdiana, E. (2025). Legal Analysis of Access to Non-Formal Education for Street Children. *Journal of Insan Mulia Education*, 3(1), 16–27. <https://doi.org/10.59923/joinme.v3i1.414>
- Mulyadi, Y., Hermawan, I. C., & Sulaeman, T. (2021). MANAJEMEN BERBASIS SEKOLAH DALAM PENINGKATAN KUALITAS PENDIDIKAN. *Jurnal Pendidikan Politik, Hukum Dan Kewarganegaraan*, 11(1). <https://doi.org/10.35194/jpphk.v11i1.1285>
- Musfah, J. (2018). *Analisis Kebijakan Pendidikan Mengurai Krisis Karakter Bangsa*. Prenada Media.
- Nazril, M. M., Juliandi, D., Hikmah, L. J., Nabela, N., Nazmah, F., & Putera, M. L. S. (2024). Implementasi Hukum HAM di Indonesia: Tantangan dan Solusi. *Perspektif Administrasi Publik Dan Hukum*, 1(4), 1–15. <https://doi.org/10.62383/perspektif.v1i4.42>
- Nurlailiya, I., & Khasna, S. (2024). Hak Pendidikan sebagai Hak Asasi: Studi tentang Pemenuhan Hak Mahasiswa Disabilitas di Pekalongan. *Manabia: Journal of Constitutional Law*, 4(02), 175–200. <https://doi.org/10.28918/manabia.v4i02.9264>
- Palguna, I. D. G., & Atmaja, B. K. D. (2023). Konsepsi Pendidikan Sebagai Hak Konstitusional. *Jurnal Hukum Ius Quia Iustum*, 30(2), 350–370. <https://doi.org/10.20885/iustum.vol30.iss2.art6>
- Paramansyah, A., & Parojai, M. R. (2024). *Pendidikan Inklusif Dalam era Digital*. Penerbit Widana.
- Prasojo, Z. H. (2013). DINAMIKA MASYARAKAT LOKAL DI PERBATASAN. *Walisono: Jurnal Penelitian Sosial Keagamaan*, 21(2), 417–436. <https://doi.org/10.21580/ws.21.2.252>
- Propiona, J. K. (2021). IMPLEMENTASI AKSESIBILITAS FASILITAS PUBLIK BAGI PENYANDANG DISABILITAS. *Jurnal Analisa Sosiologi*, 10. <https://doi.org/10.20961/jas.v10i0.47635>
- Renggong, R., & Ruslan, D. A. R. (2021). *Hak Asasi Manusia Dalam Perspektif Hukum Nasional*. Prenada Media Group.
- Rini, N. S. (2018). Analisis Implementasi Prinsip Non-Diskriminasi dalam Peraturan Daerah di Bidang Pendidikan dan Kesehatan. *Jurnal HAM*, 9(1), 19. <https://doi.org/10.30641/ham.2018.9.19-36>
- Rosidi, A., Zainuddin, M., & Arifiana, I. (2024). Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research). *Journal Law and Government*, 2(1), 46. <https://doi.org/10.31764/jlag.v2i1.21606>
- Sianturi, R., Sutisna, & Dalia. (2024). *Perencanaan dan Penganggaran Pembiayaan Pendidikan: Konsep dan Teknik*. Edu Publisher.
- Supriyo. (2020). Perwujudan Keadilan Hak Asasi Manusia Sebagai Tanggungjawab Negara Terhadap Hukum Internasional. *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma*, 27(1), 19–25.
- Suryana, S. (2020). PERMASALAHAN MUTU PENDIDIKAN DALAM PERSPEKTIF PEMBANGUNAN PENDIDIKAN. *Edukasi*, 14(1). <https://doi.org/10.15294/edukasi.v14i1.971>

-
- Wahid, H., Nurandini, Ayuninsi, S., Destiani, Salmi, & Haerani. (2025). Warga Negara, Hak dan Kewajiban Warga Negara. *CARONG: Jurnal Pendidikan, Sosial Dan Humaniora*, 1(3), 210–219.
- Waluyo, B. (2022). *Penegakan hukum di Indonesia*. Sinar Grafika.
- Wicaksono, J. A. (2021). Kebijakan Pendidikan Nasional Perspektif Pembiayaan Pendidikan. *An-Nuha : Jurnal Kajian Islam, Pendidikan, Budaya Dan Sosial*, 8(2), 375–407.
<https://doi.org/10.36835/annuha.v8i2.459>
- Zein, H. M., & Septiani, S. (2023). *Teori dan Kebijakan Pembangunan*. Sada Kurnia Pustaka.