

# A Human Rights Perspective in the Development of National Education System

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## Abstract

National education serves to develop the ability and creates character and dignified nation civilization in order to educate the nation. In constitutional, the problem of education is regulated in Article 31 of the 1945 Constitution of the State of the Republic of Indonesia which is then elaborated into the legislation on National Education System. In a social perspective, education will create educated people who have an important role in the process of social change in society. In a cultural perspective, education is an important vehicle and effective for teaching norms, socializing values, and instilling ethos among citizens. In an economic perspective, education will produce reliable humans to be the subjects of national economic development. While, in a political perspective, education should be able to develop individual's capacity to become good citizens, have awareness of rights and responsibilities in the life of society, nation, and state.

**Keywords:** Basic Education, Human Rights, Legal Policy, National Education System

## 1. Introduction

The prospect of equity, justice, and democratic governance in distance education is an important issue.<sup>1</sup> Education is expected to create the human resources which able to cope the increasingly complex problems of life, whether faced by each individual, society, nation, and country.<sup>2</sup> National education serves to develop the ability and creates the character and dignified nation civilization in order to educate the nation. In the future, the development of national education is based on the paradigm of "building a fully Indonesian man" that functions as a subject and has the capacity to actualize the potential and humanity dimension optimally. The humanity dimension includes 3 (three) most basic things: Firstly, affective, as it reflected in the quality of faith, piety, noble character including superior personality, and aesthetic competence. Secondly, cognitive, as it reflected on the capacity of mind and intellectual to explore and develop and master the science and technology. Thirdly, psychomotor, as it reflected in the capabilities to develops technical and practical skills, and kinesthetic competence (National Education System Act No. 20 of 2003).

Several researches showed that Indonesia's education management system is very "underdeveloped and marginalized", if compared with other education systems in Asian countries. The national education service is still oriented to the philosophy of "Academic Stress" that imposes, suppress, and even threaten. It does not create a conducive learning atmosphere to provide large space for children to develop their creativity. Though creativity is needed to innovate and compete in the future.<sup>3</sup>

Nowadays, the deterioration of bureaucratic and educational conditions in Indonesia is especially highlighted by Anies R. Baswedan who explained that the bureaucracy and the national education condition have been very serious. A number of facts of educational deterioration in Indonesia are disclosed below:<sup>4</sup>

- 1) 75% of schools in Indonesia do not meet minimum service standards;
- 2) From 50 countries surveyed on the mapping of Higher Education Quality, Indonesia is ranked 49;
- 3) The mapping of TIMSS (*Trends in International Mathematics and Science Studies*) 2011 in the field of science literacy, from 42 countries surveyed, Indonesia is ranked 40;
- 4) The mapping of PISA in 2012, from 65 countries surveyed, Indonesia is ranked 64;

According to Winarno,<sup>5</sup> there are 4 (four) causes of the deterioration of education in Indonesia, namely (1) political intervention in education, (2) no serious effort from the government to improve education, (3) educational orientation focused on service function, and (4) the weakness of human resources of education administrator. Political intervention in education is seen in government policy. The government "traps" the creativity, freedom, and independence of learners. The serious effort of government to improve the quality of education is not done optimally.

The World Bank mentions that the development of education in Indonesia for decades experiences large and serious obstacles, due to the centralized management of education management. The policy has a significant

<sup>1</sup> Koridze, L. (2014). Equity, Justice, and Human Rights in Distance Education. *Journal of Education and Practice*, 5(39), 125-130.

<sup>2</sup> Reyes, X. A. (2010). "Educational equity and access as universal human rights: Effects on teacher education in the US". *International Online Journal of Educational Sciences*, 2(1).

<sup>3</sup> Abin Syamsuddin Makmun, *Psikologi Kependidikan*, Rosda Karya, Bandung, 2003.

<sup>4</sup> Anies R. Baswedan (Former-Minister of Education and Culture, 1 December 2014) in meeting the ministry with head of department in the whole of Indonesia.

<sup>5</sup> Winarno Surakhmad, 2011, *Pendidikan Nasional: Strategi dan Tragedi*, Penerbit Kompas, Jakarta.

effect on program planning and cost.<sup>1</sup> In 2012, UNESCO illustrates the position of education system implementation (mainly basic education) in Indonesia among other countries in the world. The basic education participation rate in Indonesia is ranked 45 out of 45 countries, while the quality of basic education Indonesia is ranked 44 of 45 equal-countries over India. The low level of basic education services in Indonesia contributes greatly to the position of learning outcomes in the next level of education. The logical consequence of low human resources makes Indonesia overwhelmed in facing global competition. The Indonesia is incapable of responding to the advance of science and technology. The world of education is very difficult to produce excellent graduates.

However, the orientation of national education implementation is also nowadays become a business industry that is no longer oriented to efforts to educate the nation. It can be observed with the occurrence of the practice of buying and selling titles, buying and selling diplomas, until buying and selling value. Not to mention the lack of government support for the needs of a complete and comfortable study place. The proper education can only be enjoyed by a group of people who have a strong economy, while for the poor, education is just a dream.

Hence, according to the author, should the concept and policy of national education is based on the children's basic rights as mentioned above. Referring to the children's basic rights, education should provide space for the capacity of children optimally. Starting with a way of view that education is part to develop the potential, thinking power and reasoning and the development of creativity. However, if observed nationally, especially on the level of practice, the current education system actually castrates the basic rights of the child, so that it will ultimately lead to the collapse of human resources owned by this nation. Children who are educated and produced by formal educational institutions in such an educational system have not shown satisfying results, low academic achievement, and their positive personality character are extremely poor. If this continues to happen, and no serious efforts and remedial action, then the quality of human resources of Indonesian society will remain far from other nations.

Above all, the mandate of the constitution in Article 31 (2) of the 1945 Constitution affirms that "*every citizen is obliged to follow basic education and the government shall finance it.*" Thus, it is the obligation and responsibility of the State for education and not society, our basic education law has changed from the real objective.

## 2. Assessing the Concept of Education Policy

Legal policy of a country is different from other countries.<sup>2</sup> This difference is due to the historical background, world-view, socio-cultural, and political will of each government. In other words, legal policy is local and particular (applicable only from and for certain countries), and not universal. But it does not mean that the legal policy of a country ignores the reality and politics of international law.

National legal policy represents basic guidance for all forms and processes of formulation, establishment and development of law in a country. If the national legal policy is a basic guideline for all forms and processes of formulation, establishment and development of law, it is certain that national legal policy should be formulated in a fundamental law and regulation rather than a technical regulation. Hierarchy arrangement of laws and regulations is to synchronize or avoid technical conflicts of implementation between one with other laws and regulations. That way, one or more laws and regulations are expected to proceed according to the purpose of legislation.

The implementation of education should be designed based on the paradigm, theory or concept of learn and learning that can provide perspective on how to design an effective learning theory in assisting learners gain learning experiences as well as competence of learning outcomes that are in line with national education goals and curriculum.<sup>3</sup>

Given the targeted achievement of multi-intelligence national educational goals as well as the characteristic of competency-based national curriculum, then the development of learning adopts many paradigms of constructivist theory developed by Piaget and Vygotsky, and combined with some ideas from the social learning theory by Albert Bandura, as well as humanistic education or humanistic approach.

The choice of constructivist theory as the basis for the development of learning, especially since it provides a basic idea of learn and learning that can develop creativity, independence, responsibility, and exploration. Degeng<sup>4</sup> has made comparisons of constructivist and behavioristic approaches (which so far have fostered the practice of learning in schools) and their implications for the planning of learning theories. Here is presented a glimpse of comparative reviews.

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<sup>1</sup> Kompas, 1 May 2008.

<sup>2</sup> Mahfud, M.D. (2010). *Membangun Politik Menegakkan Konstitusi*. Jakarta: Rajawali Pers, page 15.

<sup>3</sup> Phillips, L.G. (2016). Educating Children and Young People on the UNCRC: actions, avoidance and awakenings. *Children's Rights, Educational Research and the UNCRC*, 2.

<sup>4</sup> Degeng, I.N.S. 1998. *Mencari Paradigma Baru Pemecahan Masalah Belajar*. Malang: IKIP Malang.

The preamble of the 1945 Constitution of the Republic of Indonesia mandates the government of Indonesia to protect the entire Indonesian nation and the whole of Indonesia' blood and to promote the common prosperity, to educate the nation, and to carry out the world order based on freedom, eternal peace and social justice. Of the 1945 Constitution of the Republic of Indonesia mandates the government to undertake and organize a national education system that promotes faith and piety to God almighty and noble character in order to educate the nation which is regulated by the constitution.

The national education system should be able to ensure equal distribution of educational, quality improvement and relevance and efficiency of education management to face challenges in line with the changing demands of local, national, and global life so that it is necessary to reform the education in a planned, directed and sustainable manner. National education serves to develop the ability or capacities and creates the character and dignified nation civilization in order to educate the nation, aimed to develop the potential of learners to become human beings who believe and piety to God almighty, noble, healthy, knowledgeable, capable, creative, independent, and become a democratic and responsible citizen.

The principles of education are (1) it is conducted in a democratic and fair and non-discriminatory manner by upholding human rights, religious and cultural values, and national pluralism. (2) It is organized as a systemic entity with an open and multi-sense system. (3) It is organized as a process of culture and empowerment of learners that lasts for life. (4) It is organized by giving exemplary, build willingness, and develop the creativity of learners in the learning process. (5) It is organized by developing a culture of reading, writing, and arithmetic for all citizens. (6) It is organized by empowering all components of society through participation in the implementation and quality control of education services.

In implementing education well, every citizen is governed their rights and obligations. Each learner in each educational unit is entitled to:

1. Obtain religious education as religion that is adhered to and taught by educators who are religious.
2. Obtain education services as their talents, interests, and abilities.
3. Obtain scholarships for the achievers whose parents cannot afford to pay for their education.
4. Obtain educational costs for those whose parents cannot afford to pay for their education.
5. Transfer to equivalent another educational program
6. Finishing the education program as the learning speed of each and do not deviate from the established period.

In addition to the rights, learners are also obliged: Firstly, maintain educational norms to ensure the sustainability of the process and the success of education; Secondly, participate in the cost of education, except for learners who are exempted from such obligations in accordance with applicable legislation. Finally, foreign citizens may become learners in educational units organized within the Unitary State of the Republic of Indonesia.

In previous section that the development of national education is an effort that aims to realize Indonesian society are quality, advanced, independent, and modern. Development of education is an important part of the overall and serious effort to improve the dignity of the nation. Success in develop education will contribute greatly to the achievement of overall national development goals. In such a context, the development of education covers a wide range of dimensions that include social, cultural, economic, and political.

In a social perspective, education will create educated people who have an important role in the process of social change in society. Education becomes a determinant factor in promoting the acceleration of community mobility, leading to the formation of new social formations. This new social formation consists of a layer of educated middle-class society, which is an important element in strengthening the social cohesion. The education that creates educated society became the strong cohesion that linked social units within the society: family, community, associations, and social organization which later became a large organization of state institutions. Thus, education can make an important contribution to strengthening social integration.

In a cultural perspective, education is an important and effective vehicle for teaching norms, socializing values, and instilling ethos among citizens. Education can also be an instrument to nurture the personality of nation, strengthen national identity, and establish national identity. Even the role of education becomes even more important when the flow of globalization is so strong, which brings the influence of values and culture that are often contrary to the values and personality of the nation. In this context, education can be a strategic vehicle for building collective conscience as citizens and strengthening social ties, while respecting cultural, racial, ethnic and religious diversity so as to strengthen national wholeness.

In an economic perspective, education will produce reliable humans to be the subjects of national economic development. Therefore, education should be able to create qualified graduates who have knowledge, master technology, and have adequate technical and life skills. Education should also be able to produce professionals who have entrepreneurial skills, which became one of the main pillars of national economic activity. Even the role of education becomes very important and strategic to improve national competitiveness and build the independence of the nation, which becomes the absolute prerequisite in entering the competition among nations

in the global era.

Today, in global era, various nations in the world have developed a *knowledge-based economy* (KBE), which requires quality human support. Therefore, education is absolutely necessary to sustain the *education for the knowledge economy* (EKE). In this context, educational institutions should also serve as centers of research and development, resulting in superior research products that support the KBE. The availability of qualified human beings that dominate science and technology greatly determines the ability of nations to enter global competence and free market economy, which demands high competitiveness. Thus, education is expected to lead the nation of Indonesia to achieve excellence in global competition.

In a political perspective, education should be able to develop the capacity of individuals to become good citizens, who have an awareness of rights and responsibilities in the life of society, nation and state. Therefore, education should be able to create individuals who have the vision and idealism to build a common strength as a nation. Vision and idealism must be referring to and derived from the ideology of national ideology, embraced by all components of the nation. In long-term, education will create educated society which then forms a critical mass, which is a key element in the effort to build a civil society. Education, then, is a major undertaking to lay a solid social foundation for the creation of a democratic society, which is based on an educated, middle-class society that is the main pillar of civil society, which is one of the pillars for the realization of the development of a democratic society.

In the next five years, the development of national education is faced with serious challenges, especially in efforts to improve performance that includes (a) equity and the expansion of access; (b) improvement of quality, relevance, and competitiveness; (c) governance arrangements, accountability and public image; and (d) increased financing. In an effort to improve the performance of national education, requires a comprehensive reform that has begun with the decentralization and education autonomy policy as part of the political reforms of government. This political reform of government is marked by a radical change of governance from the centralized to a decentralized system, granting wide autonomy to the regions governed by Act No. 22 of 1999 which is then amended with Act No. 32 of 2004 on Local Government. Education which initially became the authority of the central government then diverted into the authority of local government. Management of education which is the authority of local government is intended to improve the efficiency and effectiveness of education management, so it is expected to improve the performance of national education.

#### **4. Basic Concepts of Human Rights in the Development of National Education System**

Since its declaration in 1948, the issue of human rights has continued to be discussed up to now, whether by academics, the press, government organizations, non-governmental organizations, and human rights activist at all domestic, regional and international levels. One of the rights contained in the General Declaration of Human Rights is the right to education, and it is subsequently implemented in the International Covenant on Economic, Social and Cultural Rights. The right to education, including various aspects of education and academic freedom is an important part of human rights law. Although the right to education is generally regarded as a cultural right, it also deals with other human rights. Because it is so close to education with other human rights, so education is a prerequisite for the implementation of human rights. The enjoyment of civil and political rights, such as freedom of information, expression, gather and association, the right to vote and to be elected, or to equal opportunity for public service, depends on at least a minimum level of education, including literacy. Correspondingly, many economic, social and cultural rights such as the right to choose a job, to receive equal pay for equal work, to form trade unions, or to take part in cultural life, to enjoy the benefits of scientific progress and to get a higher education based on ability, can only be implemented significantly after a person obtains the minimum level of education.

Universally, as the General Declaration of Human Rights that education is the right of every human being. The importance of education is aimed at strengthening human rights.<sup>1</sup> It is one of the important tools to promote human rights. Tolerance and respect for human rights is not only an important goal of education. The educational objectives and targets relating to human rights are recognized internationally, set forth in Article 26 paragraph (2) of the Declaration of Human Rights that:

*“Education should be directed toward the widest personal development and strengthening respect for human rights and fundamental freedoms. It should promote mutual understanding, tolerance and friendship among all nations, racial and religious groups, and expand the union activities of nations in maintaining peace.”*

The most detailed provisions on the goals and objectives of the right to education in international law may be specified in article 29 paragraph (1) of the UNs' Convention on the Child Rights.<sup>2</sup> This convention has been ratified by most UNs' member and hence it may be regarded as the most universally accepted standard of human rights in the field of education. Ratified states agree that the education of the child should be directed:

<sup>1</sup> Driss, B. (2017). GATS and International Trade in Health Services: Impact and Regulations. *Hasanuddin Law Review*, 3(2), 104-116. doi: <http://dx.doi.org/10.20956/halrev.v3i2.1050>

<sup>2</sup> *United Nation Convention on the Rights of the Child*. This convention behave since 20 September 1990, it has ratified by 193 countries.

- a. To develop the personality, talent and mental and psychic abilities of children for the development of their abilities.
- b. To develop the respect for human rights and fundamental freedoms and for the principles set out or specified in the UNs' Charter.
- c. To develop the respects of children to their parents, cultural identity, language, and values, and for the national values in which the child lives, or against the country in which he/she is living and for civilizations different from their own.
- d. To prepare children to live responsibly in a free society, with a spirit of mutual understanding, peace, tolerance and sexual equality, and friendship among all people, ethnic, national and religious groups and people of native origin.
- e. To develop the respect for natural environment

As the convention as mentioned above, the general consensus is honest about the main objectives and targets of the right to education, as follows:

- a. Education allows developing personality and dignity freely
- b. Education allows participating actively in a free society with a spirit of mutual respect and tolerance towards other cultures, civilizations and religions
- c. Education developing respect for parents, on the national values of a nation, and on the natural environment.
- d. Education developing respect for human rights, basic freedoms with peace. The importance of education progress in a country is very important considering education is one important vehicle to promote human rights.

In addition to the importance of education to the intellectual life of a nation, to promote human rights in Indonesia, it is also an important tool to advance knowledge, and the dignity of Indonesian nation. Beside education as a right given under the constitution, it also becomes an obligation granted by the State to its citizens.

Education is a constitutional right, which is guaranteed its implementation nationally based on the constitution. In Indonesia, this right is recognized and guaranteed in the 1945 Constitution. The State's responsibility in education is set forth in the articles of the 1945 Constitution, and the objectives of education in concrete terms are "... to educate the life of the nation ..." as stated in the Preamble of the 1945 Constitution. Indeed, long before the establishment of the General Declaration of Human Rights in 1948, the founders of the State of Indonesia have realized that education is an access to intelligent and dignified nation life, therefore the right to education is guaranteed in the constitution of the 1945 Constitution.

The 1945 Constitution provides guarantee that education is the right of every citizen to get an education. Access to education is set forth in Act No. 20 of 2003 on National Education System; people's access has become the mandate of the State that must be realized. One important thing affirms the constitutional right of every citizen to get a chance to improve lifelong education. In addition to the right to education guaranteed by the 1945 Constitution, the right to education is also implemented in Act No. 11 of 2005 on the Ratification of the International Covenant on Economic Social and Cultural Rights.

## 5. Conclusion

National education serves to develop the ability and creates character and dignified nation civilization in order to educate the nation. In constitutional, the problem of education is regulated in Article 31 of the 1945 Constitution of the State of the Republic of Indonesia which is then elaborated into the legislation on National Education System. The national education system ensures fair distribution of educational opportunities, quality improvement and the relevance and efficiency of education management to face challenges in line with the changing demands of local, national, and global life so that requires to reform education are planned, directed and sustainable. National education serves to develop the ability and creates the character and dignified nation civilization in order to educate the life of nation, aims to develop the potential of learners to become human beings who believe and piety to God almighty, noble, healthy, knowledgeable, capable, creative, independent, and become a democratic and responsible citizen.

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Right to education, including various aspects of freedom of education and academic, it is an important part of human rights law. Based on the General Declaration of Human Rights universally, education is a right of every human being. The importance of education is aimed at strengthening human rights. Education is one of the important tools to promote human rights. Tolerance and respect for human rights is not only an important goal of

education. Also, it is an important tool to advance knowledge, as well as the dignity of Indonesian nation. In addition, the education as a right given under the constitution, it also becomes an obligation granted by the State to its citizen.

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