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MOVING BEYOND NUMERICAL COMPLIANCE IN INDONESIAN LOCAL EDUCATION BUDGETING

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Abstract

This study examines the mandatory spending of 20% education budget within the Regional Revenue and Expenditure Budget (APBD), which is viewed not merely as a fiscal policy but as a constitutional obligation of local governments. In constitutional practice, the implications of the 20% allocation are not limited to educational expenditures. This study is included as normative legal research with a statutory and conceptual approach. This article highlights the absence of a constitutional accountability mechanism of the education budget in the APBD and offers a framework for enforcing constitutional obligations within the context of regional autonomy. The findings reveal that the concept of constitutional obligation concerning mandatory spending on education has been understood only through the paradigm of quantitative compliance (numerical compliance), rather than substantive constitutional compliance, in which any budget item with an educational function is categorized as an education budget. In fact, mandatory spending under Article 31(4) UU1945 should be considered fulfilled only when resource allocation demonstrates a reasonable relationship between budgetary inputs and outcomes for the realization of the right to education. As a result, the APBD does not demonstrate a commitment to the enforceability of constitutional budgeting norms, which constitute a governmental duty under subnational constitutional compliance. A new constitutional accountability framework involves integrating and calibrating public oversight and participation to ensure the protection of the educational rights of all Indonesian citizens in accordance with the mandate of the Indonesian constitution.

Page: 36-46

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Introduction

Based on the Indonesian constitution, which mandates the allocation of 20% of the government budget for education, resulting in overspending by the government. This budget overrun must be resolved with accountability, transparency, and public participation to ensure that there is no misuse of the budget (Lewis, 2023). Globally, this 20% allocation target goes hand in hand with Sustainable Development Goal 4 (SDG4) to provide guarantees for the protection of the right to education (Assembly, 2015). Chronic and inadequate funding for the public education system, exacerbated by austerity measures, has led to inequality and privatization trends, even in countries aiming to achieve the 20% target (Archer, 2026).

The 1945 Constitution, particularly through Article 31 paragraph (4), expressly requires government institutions to allocate sufficient education funds, namely 20%, so that the national education goals are achieved, namely, to enlighten the nation's life, both at the national and regional levels in the executive and legislative branches of power. This constitutional provision can be called a constitutional obligation to bind all state expenditures to support the 1945 Constitution. This provision demonstrates that the constitution is intended to impose certain institutional obligations. The concept of constitutional obligation differs from moral obligation. Moral obligation is more of a moral obligation on every state institution to implement the constitutional court decisions. The principle of moral obligation is that all state administrators must respect court decisions and must not ignore any rulings (Mujiyanan, 2024).

Ronald Dworkin, an American legal philosopher and national legal theorist, said that basically a state constitution does not only contain normative rules, but also principles and obligations that contain institutionalized moral demands (Dworkin, 1977). These principles give rise to constitutional obligations that must be concretely realized through public policy. Thus, when the constitution stipulates the right to education, the state's obligation extends beyond normative recognition, but also includes the obligation to provide the material conditions that enable this right to be truly enjoyed. Such obligations are not merely abstract general moral obligations for executive and legislative institutions (moral obligation), as institutions that hold the authority to make national and regional fiscal decisions that can formulate public policies and carry out the obligations inherent in the institution and each member of state officials (Saidman, 2012).

Previous research related to this study shows that the method of allocating the education budget must ensure sustainability from time to time. This is in accordance with the constitution, so that by constitutionalizing the education budget, there is a legal avenue to challenge government policies if the government fails to fulfill its constitutional obligations. In some cases of judicial review of the education budget, the Court takes a legal approach as well as extralegal factors in its decisions (Omara, 2017). Even though it has been protected by the constitution, each region in Indonesia has a different budget, so equality has not been achieved in its implementation. It is necessary that the convergence of total income will occur throughout Indonesia in the long term, but not in education spending. The implications of education policy in Indonesia are different in each region (Arianto et al., 2018). There are several shortcomings in the education budgeting system, especially its basic education, such as the integrative function identified, politics as an organized system to direct various resources towards collective goals, and low legitimacy justification (Sumiyana & Effendi, 2024). The management of the different education budgets in each region also has implications for the management of budgets, facilities, infrastructure, and human resources that should run effectively (Herman & Hayat, 2021). Worse, some regions do not comply with budget allocation, resulting in implications for regional financial management that are not on target (Hastuti, 2022). The constitution does encourage some regions to spend more budget on education; unfortunately, it has not had an effect on improving the quality of learning outcomes of students (Lewis, 2023).

In this context, this research was deliberately designed to conduct a conceptual study and critical analysis of the constitutional obligation gap of subnational constitutional compliance institutions to carry out the constitutional budgeting obligation mandated by the 1945 Constitution. A new constitutional accountability framework involves integrating and calibrating public supervision and participation in ensuring the protection of the educational rights of all Indonesian citizens in accordance with the mandate of the Indonesian constitution.

Research Method

This study employs a mixed-method legal research design combining doctrinal (normative) analysis and empirical investigation to evaluate the enforcement of Indonesia's constitutional mandate UUD 1945) that at least 20% of each regional budget (APBD) be allocated to education. Primary sources include the 1945 Constitution and implementing laws (notably Law No. 20/2003 on the National Education System and Law No. 23/2014 on Regional Government), together with relevant ministerial and local regulations and actual APBD statutes. Case law analysis will review relevant court decisions (especially Constitutional Court rulings on education funding) for their interpretation of the 20% rule. Empirical data sources will include published APBD allocations, Ministry of Education and Finance budget reports, and Supreme Audit Board (BPK) audit findings on education expenditures. Data collection and analysis will combine legal doctrinal/statutory interpretation and comparative analysis of legal norms with empirical methods: Although specific regions are not pre-specified, the study may purposively sample a range of provinces/districts to illustrate variance in compliance.

Results and discussions

Paradigmatic Problem of Mandatory Spending on Education Budget

Although the mandatory 20% education budget spending norm has a strong constitutional basis and has been declared legally binding by the Constitutional Court and reaffirmed in Decision Number 3/PUU-XXII/2024, the most serious problem arises in the normative implementation phase, namely, when this constitutional obligation is reduced to mere administrative compliance. Voigt calls this condition a gap between constitutional text and constitutional reality (Voigt, 2021).

In budgeting practices, both at the central and regional levels, a tendency has developed that can be called pseudo-compliance, namely the practice of formally fulfilling constitutional figures, but emptying the substantive meaning of these obligations (Gutmann et al., 2024). Stefan Voigt calls this phenomenon the constitutional gap between constitutional reality and the constitution. According to Voigt, many constitutions around the world promise paradise on earth, but few seem to deliver (Voigt, 2021). This shows the existence of a constitutional paradox resulting from the paradigm of numerical compliance, where the state appears to obey the constitution quantitatively (meaning the statistical fulfillment of 20 percent of the education budget), but fails to realize the social goals that are the reason why the norm exists.

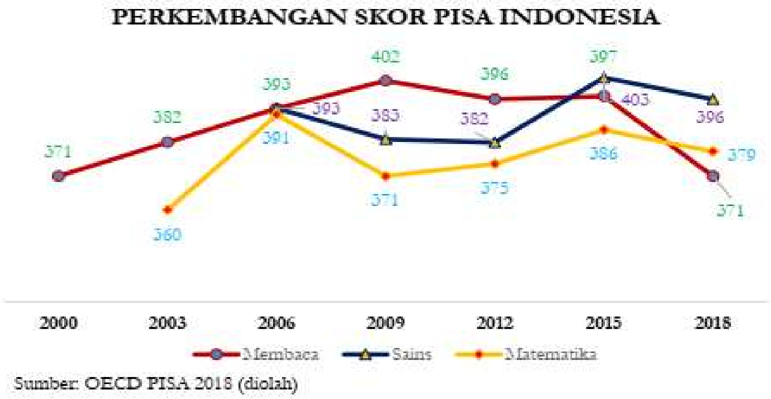
From the perspective of symbolic constitutionalism theory, social constitutional norms are often used as symbols of political legitimacy without being accompanied by a genuine implementation commitment (Duke, n.d.). Mark Tushnet calls this condition constitutional aspiration without institutional sincerity, where the constitutional text contains a progressive social mandate, but the power structures and policy mechanisms are not aligned to realize it (Tushnet, 1999). In the context of mandatory education spending, this is reflected in the practice of reclassifying budget items, where expenditure on apparatus, structural allowances, or administrative costs of the education bureaucracy is included as part of the education budget to achieve the 20% threshold, even though their contribution to improving the quality of public education is very minimal.

This raises serious problems from an enforceability perspective. Theoretically, enforceability requires not only formal enforcement of norms but also substantive compliance. Lon L. Fuller warned that law loses its inner morality when compliance is merely procedural and manipulative (Fuller, 1969). Thus, when mandatory spending is reduced to a numbers game without evaluating the quality of spending, social constitutional norms experience what can be called normative hollowing, namely, the emptiness of meaning behind formal compliance.

Furthermore, pseudo-compliance practices also reflect the failure of constitutional oversight of the budgetary branch of government. The Constitutional Court's judicial review model has proven effective in correcting normative violations at the legislative level, but is relatively weak when dealing with budget manipulation at the administrative implementation stage. In budgetary constitutionalism theory, budget oversight should not stop at quantitative measures, but should encompass the rationality of allocations and their correlation with constitutional objectives (Bilchitz, 2007). Without this approach, education budget obligations will continue to be met in a minimalist and statistically defensive manner.
This phenomenon also demonstrates the limitations of the judicial enforcement approach to social constitutional norms. Ran Hirschl warned that the judicialization of social policy risks creating the illusion of constitutional success, while leaving the root problems of power and resource distribution unaddressed (Hirschl, 2013).

This phenomenon prompted the Ministry of Finance's Directorate General of Budget to evaluate mandatory spending, which appears uncorrelated with education quality. In an article titled "Questioning the Education Budget," it noted that mandatory spending impacts educational access, but educational outcomes have not improved after more than two decades of mandatory spending of 20 percent of the education budget. According to the article, PISA (Program for International Student Assessment) scores, the Human Capital Index, teacher competency, and regional educational inequality are among the indicators that still have work to do.

[Figure 1. Table 1]



[Figure 1. Table 2]

The image of Indonesian Students' PISA Scores is taken from Kompas.ID.

The PISA score data above shows that Indonesia's PISA scores have not shown significant improvement year after year. 52 percent of Indonesian students are low performers in three test categories (mathematics, literacy, and science). Meanwhile, teacher competency remains low, with the average score hovering around 50-60.

[Figure 1. Table 3]

Sumber: Neraca Pendidikan Daerah, Kemendikbud

In today's Indonesian context, the Constitutional Court's ruling affirming the mandatory education budget does not automatically guarantee a shift in fiscal priorities, especially when the political logic of the budget is still dominated by short-term political interests. In fact, the latest Constitutional Court ruling reaffirms, through Decision Number 3/PUU-XXII/2024, that funding for public and private schools is free. This ruling explicitly states that the government and regional governments guarantee the implementation of a minimum of nine years of compulsory education at the basic education level, free of charge, for both government-run and community-run primary education units.

From a social justice perspective, pseudo-compliance with mandatory spending ultimately weakens education's corrective function against structural inequality. John Rawls emphasized that public institutions managing primary goods must adhere to the principle of fair equality of opportunity (Rawls, 2001). If the education budget is formally large but not substantively directed towards access and quality education for the most vulnerable groups, the state's redistributive obligations have failed. Thus, violations of mandatory spending do not always take the form of reducing figures or norms, but can also manifest as a hollowing out of the social purpose inherent in those norms (Batubara, 2022).

Therefore, the enforceability of the social constitutional norm in the mandatory 20% education budget spending demands a redefinition of the constitutional enforcement paradigm. The approach, which relies solely on numerical compliance, must be replaced with a substantive constitutional accountability model, which measures the alignment of education spending with the constitutional goal of improving the nation's life. Without this shift, mandatory spending risks becoming trapped as a constitutional norm that is formally alive but practically paralyzed—creating a significant irony for a constitution that claims to be an instrument of social justice.

Problems in Implementing Mandatory Spending

The table below shows one region as a sample of its financing capacity in education budget allocations. There has been a fluctuation in the education budget decline based on fiscal capacity. This is due to the region's declining fiscal capacity. According to Budget Indicator data, the mandatory spending of 20 percent of the education budget is numerically categorized as achieved, but the decline in the education budget percentage is considered to indicate a weak commitment by the local government to its constitutional obligation of mandatory spending on the education budget (Esyi, 2025).

[Figure 1. Table 4]
Surabaya City Education Budget Realization Trend

Year	Total APBD (T Rp)	Education Budget (T Rp)	Percentage (%)
2020	8.03 trillion	1.7 trillion	21.3
2021	7.82 trillion	1.9 trillion	24.3
2022	9.44 trillion	2 trillion	21.9
2023	11.3 trillion	2.3 trillion	20.3
2024	10.98 trillion	2.21 trillion	20.2
2025	12.3 trillion	2.588 trillion	20.96

Based on the results of the search for data on the realization of the Surabaya city education budget, it was found that there was a decrease in the education budget in 2023 and 2024. The realization data shows the education budget at 1.85 trillion or 19.4 percent of the total 2023 APBD and 17.6 percent of the total 2024 APBD. Even though the Director of Budget Indicators, Mauli Fik, on the official page (mauli fik.id), noted that the 2024 APBD experienced an increase of 10.98 trillion.

Meanwhile, the Surabaya city government interpreted the 20 percent mandatory spending calculation not only as covering the budget allocated to the education office but also as covering the educational functions allocated to regional government agencies (OPDs) with educational functions, including budgets contributing to the education sector, including school digitalization programs and other programs supporting education.

Referring to the provisions of Law Number 20 of 2003 concerning National Education and Regulation of the Minister of Home Affairs Number 15 of 2024, the education budget is not only allocated to the Education Office, which implements education governance, but also to other regional government agencies (OPDs) with educational functions. This has also long been the case in the State Budget (APBN), which categorizes each educational function into a spending obligation of 20 percent of the education budget.

The 1945 Constitution was not designed as a set of direct rules of conduct governing the daily actions of its members. Rather, it comprises rules that grant authority and limit the authority of government institutions (power-conferring and power-limiting rules) (Hart, 1994). Therefore, every authority granted by the Constitution is always accompanied by obligations. In other words, when a state institution chooses to exercise its constitutional authority, it is simultaneously deemed to be fulfilling a constitutional obligation.

In Indonesia, the contextualization of this constitutional obligation is reflected in Article 31 of the 1945 Constitution of the Republic of Indonesia, which affirms education as both a citizen's right and a state obligation. This provision does not stand alone but is closely linked to the state's goal of "enlightening the life of the nation," as stated in the Preamble to the 1945 Constitution. Within this framework, education is positioned as a fundamental constitutional interest and takes precedence over other policy interests.

To ensure the realization of this obligation, the constitution and laws and regulations stipulate a mandatory spending policy for the education budget of at least 20 percent of the national and regional budgets. This policy constitutes a form of constitutional budgeting, a legal mechanism that binds budget makers to prioritize certain basic rights in the distribution of public resources. Therefore, the 20 percent provision was further reaffirmed in Law Number 20 of 2003 concerning the National Education System. Another term for this obligation to budget is mandatory spending for education. This type of mandatory spending is not intended to arbitrarily limit the fiscal autonomy of regional governments, but rather to protect constitutional rights from the fluctuations of short-term political interests that typically arise in every institution (Bird, 2010).

In this context, the Constitutional Court (MK) of the Republic of Indonesia has played a central role in affirming the binding nature of education budget obligations in both the national and regional budgets. In Decision No. 026/PUU-III/2005, the Constitutional Court declared that ignoring adequate education budget allocations violates the constitutional mandate. The ruling affirmed that budget policy does not exist in a value-free zone, but rather is subject to constitutional supremacy. Subsequent rulings further reinforced the Court's view that education budget obligations are constitutional and binding on both central and regional governments.

In the context of the Regional Budget, the legal implications of this constitutional obligation are significant. The regional government and the Regional People's Representative Council (hereinafter referred to as the regional government) hold not only a political mandate but also a constitutional budgeting mandate to guarantee the fulfillment of citizens' rights to education. The failure of regions to allocate the education budget according to the 20 percent requirement stipulated in the constitution cannot be justified solely on the grounds of fiscal constraints or other development priorities deemed more important, as education has been placed as a national constitutional interest that must be prioritized.

Problems arise when fulfilling these obligations is reduced to mere administrative and accounting matters. Debates arise over what components can be included in the education budget—including educator salaries and non-educational costs—which often obscure the substantive purpose of the 20 percent mandatory spending. From a constitutional perspective, meeting the 20 percent target must be assessed based on its contribution to the real fulfillment of the right to education, not merely formal compliance with the budget percentage. If budget allocations do not impact access, quality, and equity in education for the community, then the state's constitutional obligations have not been substantially fulfilled. This is often the case in the regions.

Such phenomena further reinforce Stefan Viogt's thesis, which states that many constitutions around the world promise paradise on earth, but few deliver. This demonstrates the gap between constitutional norms and the practice of governance (implementation gap). Crawford even described this gap as the state's failure to fulfill its positive obligations under the constitution and can be classified as a violation of constitutional obligations, although it is not always easily prosecuted and legally accountable (Crawford, 2012).

Enforcing Substantive Education Spending Through Constitutional Budget Audits

The failure to implement the 20% mandatory education spending in the regional budget (APBD) demonstrates that the enforceability of social constitutional norms is insufficiently supported by conventional judicial approaches focused on norm review. A constitutional enforcement approach is needed that moves beyond formal review of laws to substantive oversight of budgeting practices. In this context, the concept of a constitutional audit of the budget becomes relevant as an alternative approach to bridge the gap between numerical compliance and substantive constitutional objectives.

Theoretically, a constitutional audit of the budget is based on the premise that the state budget is not merely a technocratic instrument, but rather a constitutional document in practice. Furthermore, considering the existence of the 1945 Constitution, according to Andy Omara, some provisions appear to be quantitatively constitutional, meaning that the articles in the constitution contain many numbers and percentages (Omara, 2016). especially in Article 31 paragraph (4). Bruce Ackerman emphasized that annual fiscal decisions have a constitutional impact equivalent to strategic legislation because they determine the direction of distribution of public resources (Ackerman, 2000). Therefore, the budget should be subject to the principle of constitutional supremacy, not merely to the political discretion of the budget maker.

This kind of enforceability design demands a paradigm shift from quantitative compliance to substantive constitutional compliance. In the mandatory 20 percent spending on education, oversight is not sufficient to verify whether the 20% figure is achieved, but must also assess whether the spending structure rationally correlates with the fulfillment of the right to education. David Bilchitz stated that social rights can only be considered fulfilled if the allocation of resources demonstrates a reasonable relationship between budget input and the outcome of fulfilling citizens' rights (Bilchitz, 2007). Thus, expenditure that is predominantly administrative, bureaucratic, or elitist in nature cannot automatically be qualified as constitutional compliance with the constitutional obligation of Article 31 paragraph (4), even though in accounting it is included in the education post.

In the context of Indonesian constitutional law, the design of a constitutional audit of the budget does not require constitutional amendments, but rather a reinterpretation of the functions of existing institutions. The Supreme Audit Agency (BPK), for example, has operated within a framework of financial accountability, not constitutional accountability. However, Article 23E of the 1945 Constitution provides the BPK with the opportunity to assess state financial management more substantively. With this constitutional approach, BPK audits assess not only compliance with accounting standards but also the budget's compliance with the state's constitutional obligations, including mandatory spending on education. A similar approach has been developed in South Africa, where public audits have begun to focus on assessing the realization of social rights as part of the state's constitutional obligations (Dugard, 2014).

Furthermore, the Constitutional Court can play an indirect enforcement role by developing the doctrine of conditional constitutionality in budgetary matters. Rather than simply invalidating the norms of the State Budget Law or sectoral laws, the Court can establish minimum constitutional standards regarding the quality of education spending that must be met by budget makers. This means that the Court's role is not only to affirm the norm regarding the obligation of regional governments to meet the 20 percent education budget, but also to provide a venue for judicial review of the State Budget Law. The problem is that the Regional Budget Regulation cannot be subject to judicial review in the Court.

This model does not transform the Court into a super-budget authority, but rather positions it as a guardian of constitutional priorities. A similar model was previously used by the Colombian Constitutional Court, which linked social budgeting to the fulfillment of the state's minimum core obligations (Uprimny, 2008). Furthermore, the new enforceability design must also incorporate the dimension of public participation as a corrective mechanism. The theory of democratic constitutionalism asserts that the enforcement of social constitutional norms cannot be completely monopolized by judicial elites or fiscal technocracies (Post & Siegel, 2007). Transparency of education budgets and the public's right to raise constitutional objections to the APBN/APBD that substantively deny educational objectives are forms of societal enforcement that strengthen the legitimacy of mandatory spending norms.

Thus, a constitutional audit of the budget and a substantive review of mandatory spending offer a way out of the impasse regarding the enforceability of social constitutional norms. This design shifts the focus from mere "numbers" or "what percentage" to a much more constitutional question: what kind of spending rationally and fairly realizes citizens' right to education. Without this shift, the mandatory 20% spending on education will continue to operate within an administrative logic devoid of substantive social objectives, and the constitution will once again be reduced to a text symbolically adhered to but substantively ignored.

Conclusion

This article concludes that there is a gap between the constitutional text and constitutional reality in enforcing the constitutional obligation of Article 31 paragraph (4), where the mandatory spending of 20 percent of the education budget experiences a paradigmatic problem between quantitative constitutional compliance, which relies on statistical numerical compliance, and substantive constitutional compliance that prioritizes the outcome and output approach. In some APBDs, it actually shows that the enforceability of social constitutional norms in the field of education is not sufficient for shifting the paradigm from quantitative compliance to substantive constitutional compliance, which ensures the realization of more substantive constitutional guarantees. The Constitutional Court has repeatedly demonstrated its seriousness regarding the government's and regional governments' obligations to guarantee financial constitutional rights under Article 31 paragraph (4). However, the government has failed to interpret these decisions. Meanwhile, at the substantive level of mandatory spending implementation, there is still no proper constitutional accountability mechanism that would involve the public in the education budget allocation process. Therefore, a proper constitutional accountability mechanism is needed. a more participatory constitutional audit of the budget design.

Declaration of AI and AI-Assisted Technologies

During the preparation of this work, the author(s) used Grammarly to improve English grammar, check sentence fluency, and assist with reference formatting.

CRediT Authorship Contribution Statement

a. Moh. Nor Hidayatillah: Conceptualization, Data Curation, Formal Analysis, Investigation, Writing – Original Draft.
b. Masruhan: Supervision, Methodology.
c. Achmad Fageh: Validation, Project Administration,
d. Moh Khoirul Umam: Translation, Resources, Visualization, Writing – Review & Editing.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data Availability Statement

Data supporting the findings of this study are available upon reasonable request from the corresponding author at khoirulu330@gmail.com.

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Ethical Approval Statement

The authors confirm that this study adheres to ethical research standards.

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