

Comparative Study of Indonesian Education System with Malaysia in Legal Form Approach

Muhammad Muzaki Fauzi^{1*}, Gladys Intan Juniarta², Ikhsan Muhammad Fajar³, Iqmal Maulana Zikri⁴, Neneng Yani Yuningsih⁵

^{1,2,3,4,5}Faculty of Social and Political Sciences, Padjajaran University

Abstract

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Education plays an important role as the foundation of national development which is regulated by law. This research aims to examine the comparison of legal frameworks and education policies in Indonesia and Malaysia by focusing on the legal-formal approach. The method used is library research with a qualitative descriptive approach. Data were obtained through a search of the constitution, education laws, ministerial regulations, and national education policy documents from each country. The results show that Indonesia applies a decentralized system by giving great authority to local governments, which allows the integration of local values but also faces challenges of consistency and quality. Malaysia, with its centralized system under the Ministry of Education, allows for a more equitable standardization of education to remote areas. Based on Dr. Nazily's (2020) theory, the effectiveness of education policy is largely determined by strict legal norms, systematic implementation tools and continuous evaluation mechanisms. This analysis shows that Indonesia excels in flexibility and cultural relevance, while Malaysia excels in implementation efficiency and monitoring. This study is expected to provide solutions to improve the quality and equity of national education through learning from both systems.

Keywords: Education System, Legal Form, Indonesian Education, Malaysian Education

(*) Corresponding Author: muhammad22053@mail.unpad.ac.id

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INTRODUCTION

Education plays an important role as the foundation of national development which is regulated in a legal regulation. In Indonesia, the legal basis of education is stated in Article 31 of the 1945 Constitution which guarantees the right to learn for all citizens (Sari et al., 2024). Meanwhile, Malaysia regulates its education system through the Education Act 1996 and the Malaysia Education Development Plan 2013-2025 (Hadit Pratama et al., 2024).

Indonesia has opted for a decentralized system by giving local governments greater authority in managing education (Huda, 2023). This aims to tailor education policies to local needs, but it often poses challenges in terms of consistency and quality. In contrast, Malaysia maintains a centralized system under the control of the Ministry of Education which allows for more standardization of education, even to remote areas (Mubarok et al., 2023). Thus, Malaysia can ensure that all students, regardless of location, receive an equal and quality education. This difference in governance model has a significant impact on the implementation of education policy in each country.

According to Dr. Nazily's theory on Najibullah et al. (2022), the effectiveness of the education system is determined by three main elements: clear legal norms, measurable implementation mechanisms, and continuous evaluation. In Indonesia, frequent curriculum changes ranging from the Competency-Based Curriculum (KBK), Education Unit Level Curriculum (KTSP), 2013 Curriculum (K13), to Merdeka Belajar have created instability in implementation. Dr. Nazily's theory calls this condition the legal-formal gap, where regulations are not supported by adequate implementation capabilities. This causes many teachers and schools to struggle in implementing the new curriculum, which in turn impacts the quality of education received by students. Malaysia's centralized system allows for an even standardization of education to remote areas, in contrast to Indonesia's decentralization which widens the gap in education quality between regions.

Decentralization without close supervision can reduce the accountability of the education system (Subijanto, 2010). However, decentralization in Indonesia also has its advantages. One of them is the ability to accommodate cultural diversity through the local content curriculum. By allowing regions to integrate local values into the curriculum, education in Indonesia can be more relevant and contextualized for students. Unfortunately, the lack of technical guidelines from the center means that the quality of local content curriculum implementation varies from region to region. Some regions may succeed in developing a rich and culturally appropriate curriculum while other regions may struggle to formulate and implement the curriculum. Decentralization without close supervision can reduce the accountability of the education system. However, decentralization in Indonesia also has its advantages. One of them is the ability to accommodate cultural diversity through the local content curriculum. By allowing regions to integrate local values into the curriculum, education in Indonesia can be more relevant and contextualized for students. Unfortunately, the lack of technical guidelines from the center means that the quality of local content curriculum implementation varies from region to region. Some regions may succeed in developing a rich and culturally appropriate curriculum, while other regions may struggle to formulate and implement the curriculum.

This discussion shows the importance of comparative analysis of education law systems. This journal will examine the differences between the Indonesian-Malaysian legal framework, the application of Dr. Nazily's theory of regulation, and the influence of the government system on the effectiveness of regulation. By comparing the two systems, we can identify ways to reduce the gap between policy and practice. This analysis is expected to provide solutions to improve the quality and equity of national education.

Through this comparative study, readers will understand the complexity of the two countries' education systems. Finally, it is hoped that through collaborative efforts and learning from other countries' experiences, Indonesia can create a better education system that not only meets national standards, but is also able to compete at the global level. With quality education, we can build a generation that is ready to face future challenges and contribute to nation-building.

RESEARCH METHOD

The method used in this article is a library research method with a qualitative descriptive approach (Pratama & Apriani, 2023), which aims to explore, interpret and compare legal documents and education policies of Indonesia and Malaysia. Data was obtained through a search of the constitution, education laws, ministerial regulations, and national education policy documents from each country (S et al., 2025).

RESEARCH RESULTS AND DISCUSSION

Legal Framework and National Education Policy

The 1945 Constitution (UUD) is the highest legal basis in the Indonesian constitutional system and is the main reference in organizing state life, including in the field of education (Aini & Ansari, 2024). One of the crucial articles in guaranteeing the right to education is Article 31 paragraph 1, which states: “Every citizen has the right to education.” This provision emphasizes the state's responsibility to ensure that every citizen can access a decent and quality education without discrimination. The implementation of Article 31 is reflected in various government policies, such as the construction of educational facilities in underdeveloped areas, the provision of scholarships for outstanding and underprivileged students, and other educational cost assistance. The government is also obliged to improve the quality of education through curriculum development that is adaptive to the times, improving the competence of educators, and providing adequate facilities and infrastructure. This article also underlines the importance of character education as an effort to form a moral and responsible person, and encourages an inclusive education system, regardless of social, economic, religious, cultural or physical background. Thus, Article 31 is not only the legal basis, but also the main direction in national education development policies that are fair, equitable and of high quality (Fithroh & Suklani, 2024).

According to Azizah et al. (2024) to strengthen the implementation of this mandate, the government passed Law No. 20/2003 on the National Education System (Sisdiknas Law), which is the main legal basis for the implementation of education in Indonesia. This law aims to educate the nation as stated in the Preamble of the 1945 Constitution. It covers the definition of education, the structure of the national education system, as well as the pathways, levels and types of formal, non-formal and informal education. The principles in this law emphasize democratic, fair and non-discriminatory education. It also emphasizes the importance of equal access, improving the quality of education, and improving the efficiency of education management. The government is required to implement a compulsory education program at least for primary education without charge. The curriculum is developed based on national education standards, taking into account the potential of students, the characteristics of education units, and local values. The enactment of this law was a response to the need for national education reform, replacing Law No. 2/1989, which was considered unable to address education issues as a whole. The main principle promoted by this law is education as a lifelong process that is participatory and culture-based, with the aim of empowering all the potential of learners and communities.

Furthermore, the Minister of Education, Culture, Research and Technology Regulation Number 12 of 2024 serves as the legal basis for the official

implementation of Merdeka Curriculum at all levels of education, from early childhood education to secondary education. This regulation marks the government's commitment to building an education system that is more flexible and responsive to the needs of students (Tasliman & Suklani, 2024). The Merdeka Curriculum is designed to strengthen core competencies and shape students' characters as lifelong learners. In its implementation, this regulation provides a transition period for schools that are not ready, with a deadline until the 2026/2027 or 2027/2028 school year. The regulation also regulates in detail the roles of each party, where the Ministry is responsible for providing guidelines and teaching tools, local governments compile local content, and education units have the authority to compile an operational curriculum independently.

The Merdeka Curriculum is a learning innovation that gives schools, teachers and learners greater freedom to design and implement relevant and contextualized learning processes. This curriculum emerged as a response to the impact of the pandemic and as part of the national learning recovery strategy (Putri & Maula, 2024). Its main focus is to shape independent and creative learners, by providing space for the development of interests, talents and 21st century skills such as critical thinking, collaboration and digital literacy. In this scheme, teachers no longer act only as material deliverers, but as facilitators who can adjust learning methods according to the needs of the class. A comprehensive evaluation of Merdeka Curriculum is planned for 2024, and during the transition period, schools are given the option to implement this curriculum through three categories of readiness: independent learning, independent change, and independent sharing. The legal umbrella for implementation is stipulated in Ministerial Decree No. 56/M/2022 (Insani, 2019).

Malaysia, on the other hand, established the legal framework for education through the Education Act 1961, which became the main foundation of the national education system. The Act referenced the Razak Report (1956) and the Rahman Talib Report (1960) in Hadit Pratama et al. (2024), and emphasized the use of Bahasa Melayu as the primary language of instruction in national-type schools. However, it still accommodated the use of mother tongue in national-type schools, with mandatory teaching of Bahasa Kebangsaan. The Act also established primary education as compulsory and free, and regulated the teaching of religion, both Islam and other religions. The main focus of the Act was to unify society through curriculum and language standardization, as a strategy to build national unity amidst ethnic and cultural diversity.

Then, the Education Act 1996 (Act 550) came along as a comprehensive update to the education system, replacing the previous regulations. The Act extended coverage to preschool and higher education, and included private educational institutions. One of the key points was the affirmation of Bahasa Melayu as the main language of instruction throughout the national education system and the introduction of compulsory primary education for children aged 6 to 12 (Huda, 2023). The Act also provides for the development of a national curriculum that includes vocational education, special education, and technology integration, with the aim of establishing an education system that is inclusive, adaptive, and capable of producing competent human resources amid global competition.

As an implementation of the policy, Malaysia established the National Curriculum as a national education guideline based on the National Education Philosophy. This curriculum emphasizes on developing the whole student, intellectually, emotionally, spiritually and physically, as well as equipping students with national values and 21st century skills. Under this framework, the Low School Standard Curriculum (KSSR) and the Secondary School Standard Curriculum (KSSM) were implemented. One of the important policies is the Pekeliling Ikhtisas Letter Bil. 5 Year 2019, which introduced the revised KSSR in the subjects of Visual Arts Education and Muzik, separating the two to make the learning process more focused and directed in terms of aesthetics and creativity (Hadit Pratama et al., 2024).

Meanwhile, the Pekeliling Letter Ikhtisas Bil. 6 Year 2019 stipulates the implementation of KSSM at the senior secondary level, while introducing the Pakej Mata Pelajaran system. This policy allows students to choose a combination of subjects according to their interests and potential, replacing the rigid stream system. The aim is to create learning that is more flexible, adaptive and relevant to the times, so that students can be better prepared to face future challenges. This policy reflects the Malaysian Ministry of Education's efforts in crafting an education system that is dynamic, responsive and learner-centric.

Aspect	Indonesian	Malaysian
Constitutional Grounding	1945 Constitution	-
Primary Education Laws	Law No. 20 Year 2003	Deed of Education 1996 (Deed 550)
System	Regulates all levels of education from early childhood education to higher education.	Organize all levels of education from preschool to higher education.
Language	Indonesian	Melayu
National Curriculum	Independent Curriculum	Nationality Curriculum

Figure 1. Indonesian and Malaysian Comparative Education System Implementation of the Theory

The implementation of education policies in Indonesia and Malaysia can be seen through the legal-formal approach formulated by Dr. Nazily (2020) in Azizah et al.(2024), and enriched by the public policy perspective of Thomas R. Dye (1975) in Suyantiningsih et al. (2023) and the concept of positive constitutionalism as developed by Adam Smith (2000) in Novalinda et al.(2020). All three provide complementary perspectives in seeing how legal norms are formed, articulated into policies, and implemented in government bureaucratic practices.

According to Dr. Nazily (2020) in Azizah et al.(2024), the success of education policy is largely determined by the presence of three fundamental aspects: firm legal norms, systematic implementation tools, and sustainable evaluation mechanisms. An imbalance in one of the elements can lead to the

emergence of a legal gap, a situation where ideally drafted regulations are unable to be effectively implemented in practice. In this case, it is reinforced by the idea of Thomas R. Dye that: “Public policy is anything that a government chooses to do or not do” Dye (1975) in Suyantiningsih et al. (2023).

This shows that the state's partisanship and responsibility are not enough when measured only by legal products, but also by real follow-up in their application. Then, Adam Smith through his thoughts on positive constitutionalism provides a view that the constitution should not only be a normative framework, but must also be interpreted as a state instrument to take proactive action in ensuring the welfare of society, including through education policy (Sari et al., 2024).

Indonesia uses Article 31 of the 1945 Constitution as the constitutional basis for guaranteeing the right of every citizen to education. Within the framework of positive constitutionalism, the state is positioned as the main actor in the provision of fair and equitable education services. This foundation is also reinforced through Law No 20/2003 on the National Education System, which establishes the formal structure of education at the national level. Based on the legal-formal approach, policy implementation in Indonesia is still faced with the problem of inconsistency between regulations and their implementation. Frequent curriculum changes in a short period of time (KBK, KTSP, K13, to Merdeka Curriculum) indicate that ideal policy stability has not been created. King and Orazem (1999) in Zaini (2017) assert that: “policy decentralization without strengthening institutional capacity in the regions will only shift problems from the central to the local level” This statement reflects that many regions in Indonesia, where policy implementation is hampered by limited resources and weak technical assistance.

In the frame of Thomas R. Dye's thinking, Indonesia has produced various formal education policies, but their implementation is often not followed by adequate supervision and evaluation (Meutia, 2017). This can be seen in the implementation of the Merdeka Curriculum, whose implementation is highly dependent on the readiness of each educational unit.

Although it offers various advantages, the implementation of Merdeka Curriculum is not free from challenges. One of the main issues is the inequality between schools caused by differences in resources, both in terms of infrastructure and financing. This has the potential to create gaps in the quality of education. In addition, curriculum autonomy at the education unit level can lead to non-uniformity in learning content and quality, making the evaluation and accreditation process difficult. Developing teacher competence is also a challenge as not all schools have adequate access to training. This curriculum also demands active participation from students, who are not necessarily ready to take responsibility for learning independently, especially at certain age levels. Therefore, although Merdeka Curriculum offers a more learner-centered approach, its implementation still requires strong policy support, equitable teacher training, and the provision of equal educational facilities in all regions.

Malaysia, on the other hand, has a more centralized legal structure, with the Education Act 1996 (Akta 550) as the main foundation, and operational policy directives through Surat Pekeliling Ikhtisas. This centralized model allows the Malaysian government to maintain policy uniformity while controlling

implementation more systematically. The advantage of this system lies in the discipline of implementation and regulatory oversight that runs periodically and measurably. Thus, Malaysia demonstrates the coherence between legal norms and their implementation, in line with the principles put forward by Dr. Nazily. From the perspective of positive constitutionalism, Malaysia's approach reflects the active presence of the state in ensuring the quality and access to education as a whole. The state not only formally establishes the right to education, but also pursues it through concrete and structured actions.

Comparatively, Indonesia has an advantage in terms of local flexibility and the ability to adapt the curriculum to cultural needs. However, systemic weaknesses are still evident in weak national oversight and standardization mechanisms. In contrast, Malaysia tends to excel in regulatory efficiency and consistent implementation, but lacks room for adaptation to social and cultural diversity. Indonesia's policy approach also tends to be bottom-up, but often lacks harmonization between government actors. Malaysia uses a structured top-down model, although it risks ignoring the aspirations of local communities.

CONCLUSION

This article shows that the legal approaches in the Indonesian and Malaysian education systems are fundamentally different, influenced by the form of government and social characteristics of each country. Indonesia with its decentralization system provides room for local adjustments, but on the other hand faces challenges in the aspects of implementation and supervision. Often, policies are not accompanied by technical readiness at the local level, which leads to inequality in the quality of education. Malaysia, with a more centralized system, shows a tendency towards more uniform and controlled policy implementation. A consistent legal framework and structured supervision provide advantages in maintaining national education standards. However, this approach also has potential limitations in responding to cultural diversity. The results of the discussion finally reinforce the view that the success of education policy is not only determined by legal formulations, but also depends on the synergy between regulations, implementation and continuous evaluation. Dr. Nazily's theory provides a basis for assessing the gap between norms and practices, and the positive constitutional approach affirms the state's responsibility in ensuring equitable access to education.

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About the Author(s):

Muhammad Muzaki Fauzi, Gladys Intan Juniarta, Ikhsan Muhammad Fajar, Iqmal Maulana Zikri

Majored in Government Science from the Faculty of Social and Political Sciences at Universitas Padjadjaran. Has actively participated in academic forums and research projects. Possesses a strong analytical perspective on issues related to governance and policymaking. Enthusiastic about contributing to academic and practical discourse on strengthening democratic values and improving government performance in Indonesia.

Neneng Yani Yuningsih

Graduate of the Doctoral Program from Universitas Indonesia, and the Doctoral Program in Political Science UI, she did Bachelor of Governance Studies from Unpad. She is mastering the Political Science and government comparison studies.