



# Equity in Education Management: Bridging the Gap and Policy Disparities for Non-ASN Teachers

Budiman<sup>1\*</sup>, Hamzah Halim<sup>2</sup>, Irwansyah<sup>3</sup>, Iin Karita Sakharina<sup>4</sup>

<sup>1,2,3,4</sup>Faculty of Law, Hasanuddin University, South Sulawesi, Indonesia; budimanseki@gmail.com (B.).

**Abstract.** This study explores the legal and human rights challenges faced by non-ASN teachers in Indonesia, emphasizing the fundamental right to education and the professional rights of teachers as a cornerstone of equitable development. The research highlights the urgency of addressing systemic inequities in the compensation, benefits, and job security of non-ASN teachers compared to their ASN counterparts. Employing a normative legal approach supported by empirical data, the study examines legislative frameworks and their practical applications in East Luwu Regency, South Sulawesi, Indonesia. The findings reveal significant gaps in policy and practice, which undermine not only the professional dignity of non-ASN teachers but also their basic human rights, including the right to fair compensation and protection from discrimination. These disparities contravene national and international human rights standards and hinder the fulfillment of Indonesia's constitutional mandate to promote education for all. The study concludes with actionable recommendations for legal and policy reforms to ensure fair treatment, professional recognition, and human rights protection for all teachers, thereby strengthening Indonesia's education system and upholding human dignity. The government's responsibility to uphold teachers' rights is essential for fulfilling its broader commitment to human rights and education as a constitutional right.

**Keywords:** Constitutional Rights, Education, Legal Disparities, Policy Reform, Teachers.

## 1. INTRODUCTION

The right to education is one of the most essential pillars of human dignity and personal development, forming the foundation of a just and equitable society. As a fundamental human right, education empowers individuals, enabling them to unlock their full potential and contribute meaningfully to their communities.<sup>1</sup> Education is not only a tool for personal growth but also a key mechanism for promoting equality, social mobility, and respect for human rights. Education is a fundamental human right, as enshrined in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which calls on states to ensure its fulfillment. This article emphasizes not only the right to education but also the protection of educational and academic freedoms, highlighting their crucial role in the broader discourse of human rights.

Human rights, in their broadest sense, are fundamental entitlements that every individual possesses by virtue of being human. These rights are not granted by society or positive law, but are inherent to human beings as rational entities. They are grounded in basic needs and values, such as access to sufficient food, shelter, and other essential elements for a dignified life. Human rights play a crucial role in promoting equality and safeguarding human dignity, offering both moral and legal protection against arbitrary actions or political abuse.<sup>2</sup> They shape the relationship between the state and its citizens, as well as between individuals, and are innate, inalienable, and rooted in humanity's divine nature. These rights are not granted by society or laws, but are intrinsic to human beings and essential for safeguarding individuals from injustice and arbitrary actions.

Among these rights, the right to education stands as one of the most fundamental. As enshrined in the 1945 Constitution of the Republic of Indonesia, education is a cornerstone of other civil rights and has far-reaching implications for economic, social, cultural, and political life. In Indonesia, one of the nation's core objectives, as stated in the Preamble to the 1945 Constitution, is to "enlighten the life of the nation." Education is vital for ensuring the nation's progress and sustainability, which calls for a strong and inclusive National Education System.<sup>3</sup> This system should be universal, accessible to all citizens, comprehensive in its coverage of all educational levels and integratively aligning national education with broader development.

Teachers, as both citizens and educators, have constitutional rights that are protected by law. These rights, which the state is obligated to uphold, must be granted equally to all teachers, regardless of their employment status, as long as their workloads are comparable. The Teacher and Lecturer Law ensures that these rights apply to teachers in their professional capacity, without differentiating based on whether they are Civil Servants (PNS) or Government Employees under Contract (PPP). A grammatical interpretation of the law indicates that all teachers, irrespective of their employment status, are entitled to the same rights, adjusted proportionally according to specific standards. This understanding aligns with Aristotle's principle of distributive justice, which calls for fairness in the distribution of benefits. Once these rights are granted, the subsequent obligation of the

<sup>1</sup> Wibowo, Satrio Budi, and Juhri Abdul Muin. "Inclusive education in Indonesia: Equality education access for disabilities." *KnE Social Sciences* (2018): 484-493.

<sup>2</sup> Ashri, Muhammad. *Hak Asasi Manusia: Filosofi, Teori & Instrumen Dasar*. CV. Social Politic Genius (SIGn), Makassar, 2018, p. 42-43.

<sup>3</sup> Limpo, Ichsan Yasin, Syamsul Bachri, Aminuddin Ilmar, and Farida Patittingi. "Potret of Basic Education in Indonesia." *JL Pol'y & Globalization* 69 (2018): 89.

state is to protect these rights to ensure their consistent fulfillment.

The government's responsibility includes ensuring the welfare of all citizens, particularly those in the teaching profession, without discrimination. Failing to uphold this responsibility constitutes a violation of human rights, whether through actions (by commission) or omissions (by omission). However, despite the noble role of teachers in education, injustice persists. Over two decades since the enactment of the National Education System Law and 18 years since the Teacher and Lecturer Law came into effect, such discrimination remains prevalent. These injustices are evident in both legislative frameworks and education policy implementation.

Within the teaching profession, the lowest status is often assigned to honorary teachers, followed by PPPK teachers, and the highest status to certified ASN teachers. Honorary teachers are frequently undervalued within schools, with their status often ambiguous. Despite having teaching competencies equal to their counterparts in the other two categories, they face systemic discrimination. The dichotomy between labor laws and education laws creates ambiguity in the legal standing of non-civil servant (non-PNS) teachers. This results in inconsistent application of rights and benefits, undermining their professional dignity.<sup>4</sup>

The decentralization of education, coupled with the mandate to allocate 20% of the national budget for education, has not adequately addressed these issues. The diverse capacities of regional governments even risk exacerbating educational disparities. This presents a significant challenge for accelerating education transformation, which must begin with reforming teacher governance. While education development is a shared responsibility (involving families, teachers, educational institutions, industries, and society), the cornerstone of educational transformation lies with the teachers themselves—teachers<sup>5</sup> who are well-compensated, competent, and equitably distributed across Indonesia.

The prevailing inequities in status and rights highlight the state's failure to provide legal protection to non-PNS teachers working in primary, secondary, and high school education. This situation relegates non-PNS teachers to a "working-class" status, as defined under labor law, rather than recognizing them as educators under the National Education System Law. The failure to provide equitable treatment to all teachers contradicts Indonesia's obligations under international human rights law, including the principles of non-discrimination and the right to education.

This article underscores the pivotal role of education as a human right and its essential position in shaping an equitable and prosperous society. By highlighting the legal frameworks and their practical applications, it contributes to the broader understanding of how states, particularly Indonesia, are obligated to fulfill and protect this fundamental right. Moreover, it offers insights into the interconnectedness of education with other human rights and national development goals, making it a valuable resource for policymakers, educators, and advocates committed to advancing human dignity and societal progress.

## 2. METHOD

This research employs a normative legal approach complemented by empirical data. Normative legal research is understood as an examination of applicable norms or regulations. The study is conducted in East Luwu Regency, South Sulawesi, Indonesia. A normative approach is chosen because this research focuses on analyzing legislative frameworks in the fields of education and human rights, specifically identifying provisions within these laws that potentially infringe upon the rights of teachers—particularly non-PNS teachers. These rights include economic rights and other entitlements that should be granted by the state to non-PNS teachers. The normative analysis is supported by empirical data, such as the number of PNS teachers and the income disparities between PNS and non-PNS teachers. The analysis of legal materials employs a qualitative method and is prescriptive in nature, aiming to provide actionable recommendations based on the findings.

## 3. LEGAL INSIGHTS FOR EQUITY IN EDUCATION: BRIDGING THE GAP AND POLICY DISPARITIES FOR NON-ASN TEACHERS

One of the critical challenges facing Indonesia's education system is the inequitable treatment of non-ASN teachers, whose welfare and professional rights are undermined by systemic legal and policy gaps. Addressing this issue requires an examination of the legal frameworks and their alignment with constitutional and human rights principles.<sup>6</sup> To uphold justice, legal certainty, and utility, teacher welfare policies should align with the 1945 Constitution of Indonesia, the National Education System Law, and the Teacher and Lecturer Law, all of which emphasize fairness and equity in education.<sup>7</sup> Non-ASN teachers, in particular, should receive fair compensation, at least equivalent to the minimum wage standard, consistent with human rights norms.

In practice, however, existing policies fail to meet these standards. Legal policy governing non-ASN teachers—whether implemented by the central government, local governments, or private educational

<sup>4</sup> Sjaiful, Muh. "Problematika normatif jaminan hak-hak pekerja dalam Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja." *Media Iuris* 4, no. 1 (2021): 37.

<sup>5</sup> Huang, Gui. "A Paradox of Student Bullying Prevention in China: Between Social Anxiety and the Reaction to it." *Hasanuddin Law Review* 8, no. 3 (2022): 258-287.

<sup>6</sup> Nugraha, Ridha Aditya, Dejian Kong, Gaia Guiso, and Lalin Kovudhikulrungsri. "Air and Space Law Education: Preparing for the Future in China, Indonesia, Italy and Thailand." *Hasanuddin Law Review* 7, no. 3 (2021): 183-209.

<sup>7</sup> Tobroni, Faiq. "Human Rights Review in Regulations on PPPK with Intertextuality Legal Text." *Jurnal HAM* 11 (2020): 219.

institutions—fall short of these ideals. Such policies frequently violate non-ASN teachers' rights from an economic and human rights perspective. This is evident in several ways, including their classification as "workers," insufficient budget allocation to fund their salaries, lack of social security benefits, and bureaucratic delays that hinder timely payment of their financial entitlements.

The root of the disparity lies in the classification of non-ASN teachers as "temporary workers" under fixed-term contracts, a framework that provides fewer rights and benefits compared to the PPPK and ASN systems. This classification limits their access to allowances, social security, and adequate facilities. Furthermore, ambiguous regulations and the absence of robust legal protections exacerbate their financial insecurity and professional vulnerability.<sup>8</sup> Addressing these systemic issues requires harmonizing labor and education laws to ensure that non-ASN teachers are recognized and treated as professional educators. Policies must also provide equitable compensation, social security, and benefits, thereby upholding the human rights and dignity of all educators.

The disparity between ASN and non-ASN teachers primarily stems from their classification as "temporary workers." Non-ASN teachers are employed under fixed-term contracts, which classify them as part of the workforce rather than professional educators. While this classification bears similarities to the PPPK framework, it offers significantly fewer rights and benefits.<sup>9</sup> For instance, non-ASN teachers often do not receive allowances, social security, or equal access to facilities compared to their ASN counterparts. Ambiguous regulations and limited legal protection exacerbate their vulnerability, leaving them without financial security.

The Teacher and Lecturer Law, which governs employment contracts or agreements between teachers and educational institutions, implicitly categorizes honorary teachers as "educational workers." This categorization contrasts with the terminology in the National Education System, which recognizes only "educators" and "educational staff," not "educational workers." This lack of legal clarity results in a precarious status for honorary teachers, ultimately infringing upon their rights (Table 1).

**Table 1:** Identifying the Disparities in the Role of Teachers as Subjects in Employment Relationships and National Education System Law.

Positioning teachers as "Workers" under the terminology of labor law	Positioning teachers as professionals and educators
Prone to exploitation, discrimination, and unfair employment practices	Ensuring fair treatment in compensation
Limited access to social security and other benefits	Entitled to benefits aligned with professional standards

The legal framework surrounding teachers in Indonesia reveals significant disparities between their recognition as "subjects in employment relationships" under labor law and their professional role as "educators" under the National Education System Law. These discrepancies create unequal treatment among teachers, particularly non-ASN teachers, and impact their job security, compensation, and access to benefits.

Under the Indonesian Labor Law, teachers, especially those with non-permanent status such as honorarium or P3K teachers, are classified as "workers" bound by employment contracts. This classification reduces their role to that of a laborer and places them within a conventional employer-employee relationship. As "workers,"<sup>10</sup> their rights are primarily determined by contractual agreements, and their contributions to the educational system are often undervalued. This status limits the recognition of their professional responsibilities and places them at risk of exploitation, as their compensation and benefits are often determined by the terms of short-term contracts rather than by their qualifications or the quality of their teaching.<sup>11</sup>

In contrast, the National Education System Law recognizes teachers as "educators," elevating their status within the education system. As educators, teachers are seen as professionals whose duties go beyond contractual work. The law envisions a broader recognition of their contributions, stipulating that they should be compensated in accordance with their professional status. This framework provides teachers with more job security, stable employment, and access to benefits like health insurance, social security, and retirement plans. However, the implementation of these provisions is not uniform. Non-ASN teachers, despite their similar qualifications and teaching responsibilities, are often excluded from these benefits, creating a significant gap in how teachers are treated under the two frameworks.<sup>12</sup>

The disparity in the employment status of teachers under these two legal perspectives contributes to unequal pay and benefits. Teachers under the labor law, particularly non-ASN teachers, are often paid lower wages than their ASN counterparts, despite performing similar duties. The lack of job security for non-ASN teachers further exacerbates this issue, leaving them in precarious financial situations. Meanwhile, teachers recognized as

<sup>8</sup> Marto, L. Syaيدiman, Boditta Mayseni, Mawaddah, Tri Mulia Franchika, and Muslim. "Implementasi Kebijakan Pengangkatan Tenaga Guru Honorer Menjadi Pegawai Pemerintah Dengan Perjanjian Kerja (PPPK) di Kota Palembang." *Jurnal Ilmu Sosial, Manajemen, Akuntansi dan Bisnis* 4, no. 4 (2023): 197-217.

<sup>9</sup> Sebtianingsih, Amaranda Novita, Rudy Iskandar Ichlas, and Nur Nashriany Jufri. "Government Employee with Work Agreement (PPPK) Position and Regulation in Staffing System based on Civil Servant Act." *UNES Law Review* 7, no. 1 (2024): 1-9.

<sup>10</sup> Yaqin, Ilmal. "Perlindungan Hukum bagi Dosen sebagai Tenaga Pendidik untuk Memperoleh Hak Ketenagakerjaannya." *Dialogia Iuridica* 8, no. 2 (2017): 24-41.

<sup>11</sup> Komaruddiansyah, Muhammd Arrifky. "Perlindungan Hak Asasi Manusia di Lingkungan Sekolah." *Nomos: Jurnal Penelitian Ilmu Hukum* 1, no. 2 (2021): 51-57.

<sup>12</sup> Maufiroh, Putri, Bagus Renata Rachman, and Ety Purnaningrum. "Kajian Hukum Terhadap Inkonsistensi Vertikal Peraturan Pemerintah Nomor 18 Tahun 2021." *Jurnal Education and development* 9, no. 4 (2021): 191-196.

educators under National Education System Law receive more stable salaries, government benefits, and opportunities for career advancement, which highlights the inequity in the treatment of teachers within the same profession.

Additionally, non-ASN teachers face vulnerability in their work conditions. The absence of clear legal protections and benefits leaves them exposed to exploitation and discrimination. These teachers often work under heavy workloads, performing administrative duties like managing school operational funds (BOS) with minimal compensation and no access to health insurance or retirement benefits. This exploitation is compounded by the slow-moving bureaucratic systems that delay their rightful financial entitlements.

Legal recognition of teachers as "workers" under labor law places them in a legal framework that is often more exploitative and less supportive of their professional role. In contrast, the classification of teachers as "educators" under UU Sisdiknas offers a more holistic view of their role, ensuring that teachers' rights, including compensation, are protected and aligned with their professional responsibilities. However, the lack of legal consistency between these frameworks perpetuates disparities in teacher treatment, especially for non-ASN teachers. This imbalance ultimately undermines the effectiveness of Indonesia's education system by failing to adequately support those who play a critical role in shaping the nation's future.<sup>13</sup>

Placing teachers within the framework of "employment relationships" introduces legal consequences distinct from their status as "educators" under the National Education System Law. As "workers," they fall under the jurisdiction of labor law, which exposes them to potentially exploitative and discriminatory practices. These conditions undermine their role as professional educators and erode the principles of fairness and justice.<sup>14</sup>

Despite these challenges, non-ASN teachers exhibit dedication comparable to ASN teachers. Field observations reveal that non-ASN teachers often shoulder additional responsibilities beyond their primary teaching duties. These tasks include managing school operations, handling administrative requirements for School Operational Assistance (BOS) reports, and performing other administrative functions. These added responsibilities frequently come with minimal remuneration, even as their workloads exceed those of ASN teachers.

The distinction between how teachers are classified as "workers" under labor law and "educators" under the National Education System Law creates a dual system that results in unequal treatment. Non-ASN teachers, who are most affected by this disparity, face economic insecurity, exploitation, and a lack of legal protection. Legal reforms are necessary to align the recognition of teachers' professional roles with their employment rights, ensuring fair compensation, job security, and equal benefits for all teachers, regardless of their employment status.

Tilaar,<sup>15</sup> states that *"the essence of education is to humanize humans, a process that views human beings as a whole in their existence."* However, how can we humanize humans in education if the educational system itself does not prioritize human dignity? The regulation of fair wages for honorarium teachers is crucial to respecting the profession, ensuring that teaching holds equal status and dignity alongside other professions.<sup>16</sup> It is also essential to encourage talented and exceptional young people to pursue teaching as a career. Therefore, a specific policy is needed regarding the wage system for non-ASN (non-permanent) teachers that is fair and based on human rights principles. This can be achieved through two main approaches: first, regulating teacher welfare through the establishment of a minimum wage, and second, ensuring legal protection for non-ASN teachers through recruitment policies.

Regulating the welfare of non-ASN teachers through the establishment of a minimum wage aims to create fairness in teacher compensation within the education ecosystem. A proportional and just wage system for non-ASN teachers, who are considered educators, is crucial for maintaining balance in the education system. The education ecosystem does not only concern student numbers, teachers, and supporting infrastructure; teacher welfare is a critical factor.<sup>17</sup> Teachers' welfare significantly impacts the quality of teaching and the development of students' personalities within a quality educational environment.

The Law on Teachers and Lecturers adopts a wage system for non-ASN teachers in public and private educational institutions based on "employment contracts" in line with the Labor Law. If this approach is to remain consistent, the government, local governments, and educational institutions managed by private entities must ensure that non-ASN teachers are paid in accordance with the applicable minimum wage standards. Failure to do so could result in the government being accused of violating human rights, particularly economic, social, and cultural rights, both under national law and international conventions on economic, social, and cultural rights.<sup>18</sup>

<sup>13</sup> Ernawati, Luli, and Chandra Fitra Arifianto. "Diskrepansi Pekerjaan: Tinjauan Kualitatif pada Guru Swasta." *Jurnal Disrupsi Bisnis* 6, no. 1 (2023): 132.

<sup>14</sup> Darmawan, Cecep. "Implementasi Kebijakan Profesi Guru Menurut Undang-Undang Republik Indonesia Nomor 14 Tahun 2005 Tentang Guru dan Dosen Dalam Perspektif Hukum Pendidikan." *Wacana Paramarta: Jurnal Ilmu Hukum* 19, no. 2 (2020): 61-68.

<sup>15</sup> Tilaar, Henry Alexis Rudolf. *Membenahi Pendidikan Nasional*, Rineka Cipta, Jakarta, 2002, p. 435.

<sup>16</sup> Sakhiyya, Zulfa, and Yuli Rahmawati. "Overview of education in Indonesia." In *International Handbook on Education in South East Asia*, pp. 1-25. Singapore: Springer Nature Singapore, 2024.

<sup>17</sup> Madhakomala, R., Akrimul Hakim, and Nabillah Syifaufzuzhrah. "Problems of education in Indonesia and alternative solutions." *International Journal of Business, Law, and Education* 3, no. 2 (2022): 135-144.

<sup>18</sup> Maufiroh, Putri, Bagus Renata Rachman, and Ety Purnaningrum. "Kajian Hukum Terhadap Inkonsistensi Vertikal Peraturan Pemerintah Nomor 18 Tahun 2021." *Jurnal Education and development* 9, no. 4 (2021): 191-196.

Currently, the wage system for honorarium teachers is implemented in a fragmented manner. For teachers in private educational institutions, compensation is based on the financial capacity of the foundation, even though the Ministry of Education and Culture Regulation No. 1 of 2018 on School Operational Assistance (BOS) Technical Guidelines allows for teacher wages in private schools to be funded up to 50% from the BOS funds. However, this is not mandatory; it depends on the financial situation of the foundation. Meanwhile, for teachers in public or regional government schools, salaries are funded by the Regional School Operational Assistance (BOSDA) from the regional budget (APBD) and regular BOS, with a limit of 15% of the total BOS received. If there are many honorarium teachers at the school, their compensation can be very small as it is divided among them.

This fragmented wage system for honorarium teachers, who are classified as "educators", is highly detrimental and violates the basic human rights of teachers who have dedicated themselves for years as educators. A case involving a teacher named Hervina, who was dismissed from SD Negeri 169 Sadar in Bone, South Sulawesi, after receiving only Rp700,000 for four months of teaching, illustrates how this wage system severely disadvantages honorarium teachers. This situation reflects a violation of human rights and an unjust wage system for educators. This issue needs to be addressed with a just policy formulation to provide a national, consistent wage system.<sup>19</sup> Unfortunately, the creation of a government regulation on the wage system for teachers employed by public or private educational institutions.

From a legal perspective, the current situation regarding the compensation of honorarium teachers under both the national education laws and labor laws raises significant human rights concerns. By classifying non-ASN teachers as "workers" under the Labor Law, the system limits their rights to fair compensation and benefits, leading to exploitation and unequal treatment. According to international human rights principles, particularly the International Covenant on Economic, Social, and Cultural Rights, all workers, including teachers, are entitled to fair wages, protection from exploitation, and access to adequate social services. The absence of clear and enforceable regulations that ensure a minimum wage for non-ASN teachers exposes the government to potential legal challenges for violating these human rights obligations.

Furthermore, the current fragmented system fails to respect the dignity of teachers as professionals and hinders the development of the education sector as a whole. A comprehensive legal reform is needed to address these disparities and ensure that non-ASN teachers receive fair wages and legal protection in line with human rights standards. Indonesia's obligations under the International Covenant on Economic, Social, and Cultural Rights require the state to ensure fair wages, social security, and non-discrimination for all workers, including educators. The lack of clear legal protections for non-ASN teachers violates these international standards and undermines their human rights.

Narratively, this legal ambiguity has led to inconsistent policies at the national and regional levels. Non-ASN teachers frequently face delayed payments, minimal social security benefits, and lower wages despite performing equivalent roles to their ASN counterparts. The decentralization of education exacerbates these disparities, as regional governments' varying capacities lead to unequal treatment of non-ASN educators.

To address these challenges, the study proposes comprehensive legal reforms. First, harmonizing labor and education laws is essential to ensure that all teachers, regardless of employment status, are recognized as professional educators. Second, implementing a national minimum wage policy for non-ASN teachers would provide financial security and uphold their dignity. Third, the government must establish robust legal protections that guarantee social security, timely compensation, and equal benefits for all teachers. Such reforms would align Indonesia's policies with its constitutional mandates and international human rights obligations, fostering a more equitable and effective education system.

#### 4. CONCLUSION

The classification of teachers under separate frameworks for labor and education laws creates ambiguity and exacerbates inequities that compromise the professional dignity and welfare of non-ASN educators. To ensure the human rights of teachers and fulfill Indonesia's constitutional commitment to equitable education, comprehensive legal reforms are imperative. These reforms should focus on implementing a fair and consistent wage system, providing robust legal protections, and recognizing all teachers as vital contributors to national progress. Aligning employment rights with the professional roles of teachers will not only enhance their welfare but also strengthen Indonesia's education system, fostering a more equitable and prosperous society. The government's responsibility to uphold teachers' rights is essential for fulfilling its broader commitment to human rights and education as a constitutional right.

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<sup>19</sup> Gunanegara. "Kebijakan negara pada pengaturan hak atas tanah pasca Undang-Undang Cipta Kerja." *Refleksi Hukum: Jurnal Ilmu Hukum* 6, no. 2 (2022): 161-184.

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