



# ANALISA

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Hasil Kajian Cepat Terhadap Isu Strategis Kekinian

## The Reform Initiatives

Merupakan lembaga riset kebijakan yang bernaung di bawah PT Semesta Infomedia Indonesia, berkedudukan di Jakarta.

TRI fokus pada penelitian kebijakan terkait Ekonomi, Fiskal, Kesejahteraan Sosial, Desentralisasi, Lingkungan Hidup & Perubahan Iklim, Tata Kelola Kebijakan yang Baik, Politik & Elektoral, Penegakan Hukum, Ekonomi Digital, serta Usaha Mikro Kecil dan Menengah (UMKM).



**Hadi Prayitno**

Direktur Eksekutif -  
The Reform Initiative (TRI)

## Suing the State Budget

*The State Budget for 2026 had become a mystery. The copies of the law and presidential regulations were not published despite having been enacted, one month after receiving approval from the House of Representatives. This unusual and irregular practice sparked criticism, and the budget policy material was met with three lawsuits. This marks the first time in history since the establishment of the Constitutional Court.*

The Nusantara Learning Garden Foundation, along with three students and one honorary teacher, registered lawsuit number 40/PUU/XIV/2026 dated January 26, 2026. Rega Felix, a lecturer, followed with number 52/PUU/XIV/2026 dated February 2, 2026. The third lawsuit was submitted by Reza Sudrajat on February 3, 2026, with lawsuit number 55/PUU/XIV/2026.

The plaintiffs submitted a request to the Constitutional Court to annul Article 22 Paragraph (3) of Law Number 17 of 2025 and its explanation on the grounds of unconstitutionality. They argued that the claim for the education budget amounting to IDR 769.1 trillion, or equivalent to 20 percent of the state expenditure of IDR 3,842.7 trillion, is not entirely allocated for the pure financing of educational administration, as it includes an allocation for the Free Nutritious Food program amounting to IDR 223.5 trillion.

Upon closer examination, the education budget in the 2026 State Budget, excluding the Free Nutritious Food program amounting to IDR 545.5 trillion, represents only 14.2 percent of the total state expenditure, which is far from the constitutional mandate. This allocation is distributed among the expenditures of the Ministry of Basic and Secondary Education amounting to IDR 56.7 trillion, the Ministry of Higher Education, Science, and Technology amounting to IDR 61.9 trillion, the Ministry of Religious Affairs amounting to IDR 75.6 trillion, the Ministry of Public Works amounting to IDR 23.1 trillion, the Ministry of Social Affairs amounting to IDR 15.9 trillion, transfers to regions amounting to IDR 264.6 trillion, and financing expenditures amounting to IDR 34 trillion (Presidential Regulation Number 118/2025).

The Civil Society Coalition also conducted a judicial review of the State Budget Law fourteen years ago. Gunawan et al. (2011) documented the process, lawsuit materials, expert witness opinions, and the Constitutional Court's decision in a book entitled *Suing the State Budget: When State Finances Are Not for the Greatest Prosperity of the People*. The plaintiffs considered the 2011 State Budget unconstitutional because education and health spending did not fully fulfill the constitutional mandate, the increase in official travel spending, and employee spending were not aligned with the goal of maximizing the prosperity of the people.

The lawsuit by the civil society coalition has not yet been granted, but the event marks a sign that budget advocacy is finding alternative routes through litigation.

## **Constitutional mandate**

Article 23 of the 1945 Constitution of the Republic of Indonesia specifically discusses the State Budget (APBN) to be implemented transparently and responsibly, for the greatest prosperity of the people. The mandate is clear: transparency and accountability are absolute constitutional requirements for the management of state finances, with its operationalization regulated by law.

However, the constitution does not set a clear measure regarding the impacts or constitutional benefits of the state budget, as the term "the greatest prosperity of the people" is not easily measurable or provable. The Constitutional Court's Decision Number 3/PUU-VIII/2010 elaborates an interpretation that the benchmark for the prosperity of the people includes utility, equitable distribution of benefits, participation in policy-making, and respect for the rights of the people across generations.

Prayitno (2026) interprets the interpretation as a guideline to assess the impact of the implementation of the state budget through various questions: What are the benefits of government spending? Who are the beneficiaries and in which regions do they reside? How are the beneficiaries involved in determining policies? Social and economic indicators can also be aligned to measure the constitutional impact.

If we read more carefully, other articles of the constitution that encompass social dimensions embed a mandate for the government to ensure budget allocation as evidence of a strong intention to fulfill responsibilities.

First, every citizen has the right to work and to a decent living (Article 27). The issue of employment and decent living is always associated with the review of the state budget financial notes, in line with the government's awareness to provide and fulfill these two needs, which are outlined in the national medium-term development plan (RPJMN) or the government work plan (RKP).

Second, everyone has the right to have their basic needs met, to live in physical and spiritual prosperity, and to have a place to live (Article 28 C Paragraph 1 and Article 28 H Paragraph 1). Joseph Rowntree (1901), in his phenomenal work, *Basic Need Tradition*, defined basic needs as encompassing at least clothing, food, and shelter. Kakwani and Son (2025) even emphasized that basic needs must encompass a broader expenditure structure.

Thirdly, the government is obligated to finance the needs of basic education and allocate at least 20 percent of the state budget (APBN) and regional budget (APBD) for education (Article 31). According to Law Number 20 of 2003, basic education includes elementary schools and equivalent junior high schools.

The government first implemented the constitutional mandate to allocate 20 percent of the state budget (APBN) to education in the 2009 fiscal year, as part of mandatory spending, implemented after a gradual implementation process. The education budget at that time was Rp 224 trillion.

Fourth, the state is responsible for caring for the poor and neglected children and developing a social security system for all citizens (Article 34). Indonesia is noted for participating in agreeing to the United Nations (UN) resolution on the Sustainable Development Goals (SDGs), with a commitment that emphasizes the agenda of accelerating poverty reduction along with sixteen other specific goals. Development policies should be accompanied by adequate budget allocations to complete these two constitutional responsibilities that align with the global agenda each year.

Fifth, the state is also mandated to provide health service facilities for all citizens (Article 34). Health is one of the three main indicators of the Human Development Index (HDI) that has been internationally agreed upon as a measure of a nation's progress. Quality, equitable, and accessible health services certainly require substantial budgetary policy support.

### **Obey the constitution**

The parade of the 2026 state budget material test should be seen as a form of concern and participation of citizens in upholding the compliance of the state budget with the constitution. Their lawsuit regarding the education budget is just one of several constitutional mandates. The five articles that have been previously discussed serve as a guiding framework for the government and the DPR in establishing priority policy focuses for the state budget so as not to turn their backs on the constitution.

The allocation of the State Budget can be prioritized to finance specific programs, including: (i) providing employment, either through labor-intensive schemes or subsidies; (ii) fulfilling basic needs, especially clothing, food, shelter (housing), and energy; (iii) providing education with an allocation of at least 20 percent; (iv) caring for the poor and neglected children through social protection; (v) fulfilling social security for all citizens (universal coverage); and (v) providing availability of service facilities with a budget allocation of at least 5 percent as mandated by the health law.

The direct impacts and benefits of the program can be measured using indicators such as the poverty rate, Gini ratio, open unemployment rate, human development index, regional connectivity ratio, electrification ratio, number of uninhabitable houses, open unemployment rate, net participation rate in primary education, life expectancy, including maternal and infant mortality rates across the country.

The architecture of the State Budget (APBN) built on the blueprint of the constitution can function more optimally as an instrument of welfare. This political product crafted by the government and the DPR will find a stronger route of alignment towards the greatest prosperity of the people.

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