



Review article

Four obstacles to the quality of constitutional law learning in Indonesia

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ABSTRACT

Four factors hinder the quality of constitutional law teaching in Indonesia, namely learning methods, curriculum authority, learning materials, and the uncertainty of legal learning topics. This is the culprit of the low quality of law graduates who are less able to compete in the legal job market. Law lecturers in Indonesia do not reform educational methods or materials, they are more dominant in teaching and not learning. Meanwhile, on the other hand, there are no institutions that focus on evaluating the legal learning process, standardizing, and controlling it, so that it has an impact on measuring learning outcomes. Therefore, solving the problem of the weak quality of constitutional law learning in Indonesia must overcome these four obstacles.

1. Introduction

There are complaints about the quality of constitutional law graduates. Legal practitioners criticize their competence to be useless. It is evidence of the high discrepancy between expectation and reality [1]. The learning system is almost unchanged in the last twenty years and dominated by the old system [2], while political and economic progress demands new skills from the graduates [3]. On one hand, there is an increase in the number of high school graduates in the last twenty years that constitutional law programs should accommodate but it, in turn, contributes to the worsening quality of the programs.

Recently, data released by The Lawyer Global shows that Indonesian legal practitioners do not compete more strongly than legal practitioners from other countries. From the number of legal institutions in Asia rated by The Lawyer Global, it is known that not many Indonesian legal service offices get the top rating [4]. Meanwhile, there are still a number of constitutional problems in Indonesia that have not been resolved by legal scholars, such as the regional head election dispute court which has never ceased to be debated about which institution has the right to adjudicate. Another example that is still not well resolved by many legal scholars in Indonesia is the phenomenon of the spread of state auxiliary agencies which are formed based on partial, incidental issues, and only specific answers to certain problems. This has resulted in these institutions running independently and not complementing each other so that the state administrative structure still does not appear to work in accordance with the law and is not formed as a result of legal scientific views but is formed as a result of political interests.

This situation might not specifically occur in Indonesia but is a global phenomenon [5]. Legal academicians should promptly respond to the rapid globalization and new economy impacted by the leap of information technology [6,7] and this is why legal education in Indonesia has failed.

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The historical burden on legal education in Indonesia can be attributed to the distorted development of the legal academic culture in this country [8,9,10]. Law has been forced to openly carry out political-ideological functions for decades and is too politicized [11, 12], so it has a negative impact on the legal learning sector, including the selection of academic politics and the lack of open scientific discussion [13,14].

Even though there is a decline in political dominance since early 2000 [15,16,17], the academician's ethos is almost unaffected in the last twenty years [18], especially in the legal disciplines. Scientific legal research repeats the old tradition of bringing forwards respect and decencies rather than critics and theoretical analyses. It wrongfully reflects the harmony amongst the law academicians. Legal academics in Indonesia do not make much use of the academic freedom provided by the emerging democratic system in their country for the development of legal education. Academic freedom in Indonesia is only developed by a few academics, generally those who do not hold structural positions in their workplace. Law lecturers who hold certain positions at government-owned campuses do not have the space for freedom of academic opinion because they are bound by their positions as government officials, so they are unable to develop freedom of thought that is contrary to state policy. Criticisms of legal development in Indonesia do not come from university academics but from activists of non-governmental organizations. Critical legal thoughts from higher education institutions are barely audible. This is very worrying because it is likely to form a utilitarian education model, which stutters to face the challenges of changing situations and conditions [19].

Traditionally, Indonesian law education follows the Continental European system [20], in which it is focused on doctrinal-conceptual legal thoughts (*rechtsdogmatik*) that integrates the positive legal elements and the doctrinal academic concepts. Meanwhile, politically, the Indonesian state structure and institutions more or less undergo drastic changes [21] caused by the collapse of the old regime, global social shifts, and information technology evolution [22].

Indonesia, like several other countries in the Southeast Asian region [23], inherited the Dutch colonial legal education style, which prioritized the lecture method in the learning process. The lecture method is an extension of the learning method in general education in Indonesia, which is easily adopted by law students. The lecture system is needed in teaching the basics of law to form the basic abilities of students, but it is not sufficient when it is not strengthened by a practicum system and critical analysis methods. A learning system that ignores practical aspects in its curriculum structure and does not equip students with critical thinking skills in the learning process will not be able to produce graduates who are able to solve legal problems and will face a number of problems in the world of legal work [24]. The classical law learning system has not been modified much by lecturers in Indonesia, resulting in less progress in the field of law teaching, especially constitutional law. Morally, lawyers mostly solve legal problems faced by their clients not by approaching legal knowledge through the theoretical defense in court, but they mostly solve their legal problems through lobbying that sometimes violates morals, such as bribery and collusion with law enforcers.

Law education, like other disciplines, is given in two degrees, undergraduate and graduate levels. In the undergraduate stage, students normally take four years to complete the program and gain a bachelor's degree in law. At the graduate level, they will take from one and a half years to four years maximum to obtain the master's degree.

Different from that other country, like the US [25], Japan [26], and South Korea [27], there is no specific requirement in Indonesia for applicants of the law programs [28]. Everybody who graduated from high school, 18–20 years of age, may apply to law programs. Hence they are also from different types of high school education. They also come from different social backgrounds (even from different countries) which make them see things differently, including the subject matter of constitutional law.

Some researchers fail to connect the quality of legal practitioners and political, social class, ethnicity, and educational background factors [29,30,31]. They claim that those factors are the causes of the incompetence of college graduates to work in legal fields [32,33, 34]. The real cause of failure in achieving the educational objectives is caused by four factors: wrong teaching method, no curriculum authority, lack of learning materials, and indefinite legal learning topics.

These four factors are the focus of this research because the legal education system in Indonesia which has begun to adopt the outcome-based education (OBE) model through the implementation of the Indonesian National Qualifications Framework (KKNI) is experiencing obstacles. Legal education providers are late in restructuring learning methods, learning materials, curricula, and learning topics to suit the OBE paradigm. In terms of policy and funding, legal higher education in Indonesia does not face significant obstacles, because the government's budget allocation for education has reached 20% of the total state budget. The amount of budget is sufficient to provide quality education. Likewise, this research does not include learning assessment as a factor that hinders the quality of legal learning in Indonesia, because assessment is a direct impact on the learning process. Thus, the quality barrier is found in these four factors which are too late to be adjusted to the outcome-based education (OBE) paradigm.

This research will highlight those four principal impediments and will propose that the failure lies in the process of education, not in the inputs. The framework comes from some previous research that shows that globally the failure of education comes from the process [35,36,37,38].

2. Discussion

2.1. Learning method

In Indonesia, legal education is conducted through conventional learning. The lecture is given in large classes of forty to forty-five students and it focuses on students' understanding of the subject matter the professors assess their understanding also in large classes. Therefore, the education is centered on the lecturers and it lacks interactivity in the tutorials. Ideally, the learning should center on the students and allow them to debate and study problems [39] so that they may develop the capacity to analyze cases and solve the given problems [40].

The student-centered learning improves students' ability in spotting and solve problems [41,42,43,44] and in turn develops their ability to synthesize laws in group discussions or works [45,46,47]. To enrich their learning, they should be encouraged to read and debate legal articles. Additionally, they should work in the legal implementation, especially of constitutional laws.

Methodologically, constitutional law education in Indonesia uses the old education tiers introduced by Benjamin Bloom [48,49]: Fig. 1, shows that the levels in knowledge are described in the form of a pyramid, where the basic level is described as wider than the level above it. This old version of Bloom's Taxonomy is still used in Indonesia in constitutional law learning activities, although on a limited scale using the revised version of Bloom's Taxonomy with less significant usage.

The taxonomy is developed in the national curriculum called the Indonesia Qualification Framework or the IQF [51] The IQF is the framework of different levels of education qualifications and it incorporates training and work experience. The framework serves also to measure the education outcomes from the elementary education to the doctoral degree.

Fig. 2, explains that the IQF has nine (9) levels of learning qualifications for the development of productive Indonesian human resources, which comprehensively considers two important aspects of the relevance of education and training, namely the need for job competence in the realm of employment and the learning outcomes produced by an educational process. Undergraduate constitutional law education programs in Indonesia are at level 6, with the target that graduates are able to apply logical, critical, systematic, and innovative thinking in the development or implementation of quality and measurable legal knowledge.

The main weakness of constitutional law education in Indonesia is the lack of teaching method varieties. Learning with a solitary teaching method will deny students the opportunity to evaluate opposing interpretations. On the undergraduate level, by presenting students with various interpretations of a law, students will be challenged to give authentic judgments of their practical and theoretical coherences [53,54]. This is a valuable tool for students to enhance their critical and analytical thinking [55]. They will be exposed to productively explore the intellectual development of law and inspired by different ideas from various references, and also to learn different schools of law. This will enable them to independently develop their own conception of the role of law and their competence to solve problems in society. Their criticism of different theories will help students to debate and synthesize ideas from various classes.

Legal education which is a forum for lecturers to discuss ideas and communicate them to students has not made many changes to adapt to the development of the legal job market. Thus, a change in the learning mindset for improving the quality of education and achieving the objectives of legal learning is very much needed. In practice, law lecturers in Indonesia rely on classical teaching techniques that are not much modified. Most of the legal teaching processes they do place more emphasis on teaching and not on learning. The emphasis of teachers who only directs the format of teaching, not on the learning process, will not directly lead to the mission of legal professional education, which is to prepare students to practice law.

2.2. Curriculum authority and process standardization

Each law faculty in Indonesia makes its own curriculum without referring to the legal curriculum standards issued by the curriculum authority in the field of law because Indonesia does not have the authority to standardize the legal education curriculum. This has resulted in many curricula that have different approaches in terms of courses, the number of Semester Credit Units, and even the language of instruction. The number of Semester Credit Units that law students must take varies widely, with some 128 credit hours, 143 credit hours, and some even 160 credit hours.

One of the main law education goals is to prepare students to compete in the law labor market. To achieve that, the program should serve the students with practical learning [56]. On the contrary, the learning process in Indonesia focuses on the learning of theories and doctrines instead of practices. Theories and doctrines are treated separately from legal practice training while it is mandatory for

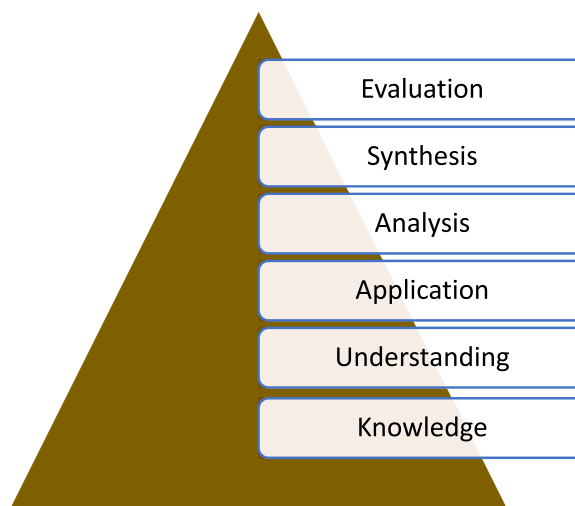


Fig. 1. Bloom's taxonomy of intellectual. Source: [50].

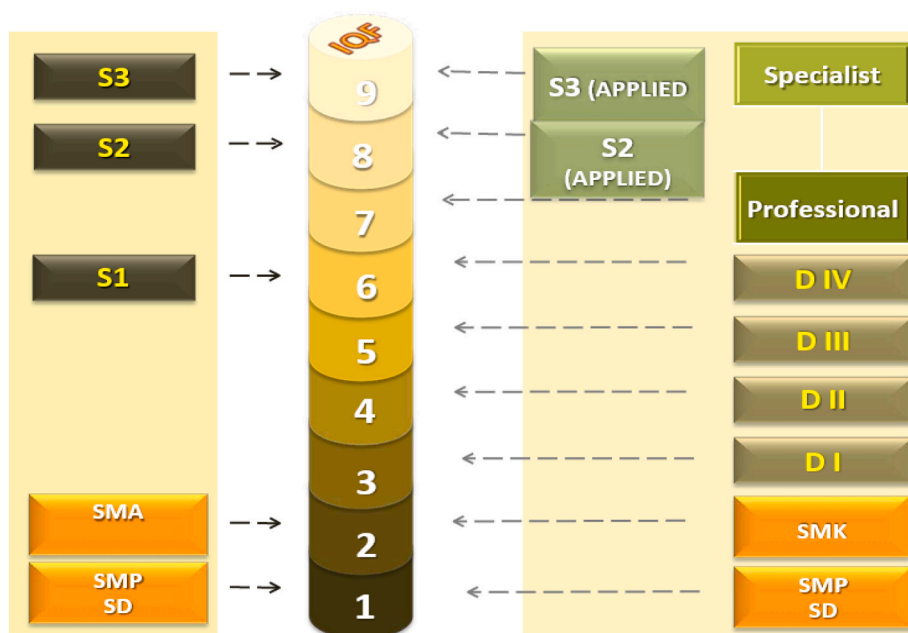


Fig. 2. Indonesian Qualification Framework (SD: elementary school; SMP: junior high school; SMA: senior high school; SMK: vocational school; DI-DIV: college vocational program). *Source:* [52].

higher education institutions to train students not only in theories of law but also to help them gain practical experiences [57]. There is a limited number of practical classes and courses. From more than 100 credit hours, on average there are no more than 4 h for students to engage in practical learning. In the end, the students learn theories without knowing how to apply them in reality.

The courses do not offer legal practices but rely heavily on students' personal skills and resourcefulness in specific legal practices like legal writing, negotiation, court advocacy, and litigation. The curriculum does not train students with the required skills of constitutional law professionals. They are not much trained to do basic legal activities such as writing legal memos and contract negotiations, not to mention more complex training such as contract drafting and performing at the constitutional court.

As students should practice what they know, law faculties should accordingly give courses on how to write legal documents and study legal problems under the close supervision of professors and legal practitioners [58]. They should sufficiently be trained in legal memorandum writing, court performance, and legal opinions [59,60].

The lack of specific training in the curriculum is made worse by the lack of the general practices needed in the national and international labor markets. The students are not trained in foreign language classes and computer skills as much as they do not engage in critical discussion rounds. Consequently, they are not prepared to work as a lawyer in multinational corporations as they lack foreign language mastery, specifically in English, while multilingual skill is now commonly required in such occupation. So is basic computer skill.

The majority of the lecturers are also untrained as practitioners because of some reason. First, the minimum requirement as a lecturer is having a master's degree in law, but not having an experience in the legal profession for a certain period. Second, the lecturers are required to pursue a doctoral degree, not to have experience in legal activities.

Although graduates from a bachelor's program in constitutional law meet the academic requirements for most legal jobs in the Indonesian legal market, they lack the additional practical skills to succeed in today's highly competitive legal market. The law school does not put all its resources to good use to ensure that graduates are not only qualified but also favored by employers in the law market. To achieve this goal, the legal education system must open the door to changes in the curriculum, lecturer criteria, and the legal learning climate.

Even though undergraduate students possess minimum academic requirements in most job markets, they do not sufficiently have practical skills to compete for better jobs. The law faculties are not only to provide resources to produce graduates who can enter the labor market but also to compete further in more highly qualified jobs [61]. To achieve that, the faculties should be open to curriculum revisions, lecturer requirements, and learning method adaptations.

Today's ever-changing legal labor market demands higher graduates of law [62] but law faculties are trapped with old methods and learning materials [63]. Consequently, the education outputs are those "legal technicians" who are impoverished in creativity, criticism, and sensibility of social problems. In reality, it is proved widely that the learning method plays a more important role in producing quality outcomes than the subject matters. There should be an equilibrium between the teaching of law doctrines and theories and the required practical skills.

In Indonesia, there is no authority to set legal curriculum standards. Legal science associations in Indonesia do not initiate the preparation of legal learning standards, including standards on curriculum, and evaluate legal education. Evaluation of the

implementation of legal education in Indonesia is carried out by the National Accreditation Board for Higher Education (BAN-PT), which accredits all types of study programs. There is no independent accreditation body that specializes in legal education assessment. Unlike America, which has the American Bar Association (ABA), as an institution that provides academic standards for schools and the legal profession [64]. Thus, monitoring and evaluation of resources, financing, facilities, learning systems, collaboration, research, and the quality of legal education graduates do not use instruments specific to the field of law but use a number of general criteria that are the same as applied to other study programs in Indonesia.

2.3. Learning material

Constitutional laws are basically more intriguing than other technical courses. However, it is not easy to teach this specific type of law. The materials are notoriously abstract and almost indefinite as they incorporate non-law subjects such as history, politics, economy, and other social disciplines [65]. Students are required to go beyond the boundaries between law and non-law matters to enhance their knowledge of law [66]. This is to enable them to be able to process information from various problems related to constitutions and constitutional laws.

The courses modules are taught in two semesters consisting of the basic concepts of the constitution, legal system, state, and government model, power separation, constitution interpretation, basic human rights, the independence of judicature, constitution judiciary bodies, government administration law, and other topics such as state and religion. As a nation that is mostly used to be ruled by Islamic kingdoms, legal courses in Indonesia incorporate the relationship between religion and state. Usually, the focus is on the influences of religion on the state system, the religious legal system, and the influences of religious communities in state policies.

Meanwhile, following the traditional law education from the colonial Dutch, administration law is also incorporated into constitutional law learning. The focus is mostly on the rulings of government apparatuses in performing their duties.

As the result, the lecturers should teach a very wide range of topics in a very short period. This forces them to compress the themes, hence skipping some topics or briefly overviewing them. Contemporary issues are mostly ignored. Meanwhile, they tend to pertain to the old unresolved issues such as constitutional states, state types, and government systems. Election laws are also presented in the constitutional law courses while ideally separated into their own discipline. The inclusion is mostly due to high interest among students in this specific topic.

2.4. Learning topic

Another challenge that lecturers continually face is the uncertain learning topics. A search for a definite and absolute solution to a problem is like a mission impossible, even though it is widely known that this characteristic is inherent in the discipline of constitutional law [67]. There are not many options available to the professors other than encouraging the students to seek a feasible and definite solution if they can do so.

The uncertainty is caused by the fact that most of the constitutions are products of the past that were made through political compromises. Henceforth, it is hard for the students to understand fully the principles and ideas behind the constitutions. Political constitutions sometimes are ambiguous. They don't provide sufficient clues on what exactly the makers want to say and the common knowledge paradigm will also be insufficient to be used to make proper and definite meanings out of the texts. Therefore, most of the constitutional problems are heavily political and invite numerous interpretations.

Additionally, Indonesian state institutions and system as the subject of the courses has been undergoing rapid changes. Other than that, political dynamics are also highly influential to constitutional law studies as political actors also bring influence the state system. For instance, the election system in Indonesia has been altered for quite some time. In the beginning, the legislative and executive elections are conducted at different times. However, the Constitutional Court ruled that they should be held simultaneously. Consequently, the curriculum should be changed accordingly.

Based on this situation, I would like to argue that constitutional law professors in Indonesia should bring broader topics to the courses. Today, the curriculum artificially separates the law and non-law matters such as the axiology, sociology, and psychology of the law, as the learning materials still follow orthodox legal positivism.

Constitutional law studies should offer students with different analytical methods, institutional definitions, and institutional changes that train the students with institutional approaches to the lively dynamics of Indonesian politics. Intellectual schools such as feminism and critical law studies are valuable to be taught to the students so they may grasp the political and social changes facilitated by the laws. They should understand how a constitutional law changes and how it reflects the change in society. The interconnection between the intellectual critical schools and law changes requires a broader constitutional law interpretation [68].

The broadening of the constitutional law topics is highly required as the law scholars should bring impacts to the interpretative groups. The groups in question are legal experts, legal journalists, legal practitioners, advocates, legal scientists, and an informed society [69]. Law scholars should be able to persuade those groups to accept new concepts of constitutional law principles and how to apply them. Critical legal experts argue that law is what the judges rule. As the judges come from a higher class and hold the value of the majority of society like capitalism and pluralism, their rulings cannot be autonomous from class, social and political structure [70]. Henceforth, for critical law scholars, class, social and political inequality only reflects in the legal products. Consequently, they undervalue the role of the law and legal institutions in social changes [71].

To understand how judicature is influenced by external forces such as social and political, law scholars should be aware of the differences amongst the interpretative groups on how individual rights overlap with legal rulings [72]. Additionally, they are faced also with the role of the court in the broader spectrum of politics, and how political, social, and economic decisions may bring impact

legal rulings [73].

Scholars should be encouraged to pose such questions when they study the conventional theories added with new intellectual critical thoughts. These schools of thought will enable them to ask new questions on social and political changes; questions whose answers may bring positive impacts to the society. For instance, how does constitutional law serve the ever-changing social needs? What is the center of the intellectual schools that highly impact the existing constitutional law and why? How legal rulings are affected, either positively or negatively, by certain interest groups in politics and the economy? What elements of the constitutional theory genuinely help the continuous political and social progress of plural society?

The scholars should also be able to see how legal experts from different critical schools understand the roles of law and the court in the process of political and social changes [74]. They should evaluate the different implications of focusing on constitutional theories based on conventional rights and bringing critical schools on constitutional law studies [75]. Therefore, in doing a case study, constitutional law teachers should identify cases where the judges accept or refuse key premises of critical schools. The study of critical schools is valuable for students to identify legal possibilities and limitations in bringing changes to society. By comparing the conventional and critical thoughts, the students can have a plan if they would engage in a certain interpretative group: lawyers, judges, law scholars, or law scientists.

There are numerous key problems in Indonesian constitutional law that should be approached with humanities and social disciplines. In studying the role of judiciary institutions in social changes and at the same time being introduced to critical thoughts, students learn to respect and simultaneously question different perspectives on making constitutional interpretations.

Constitutional law learning should be more than broadening cases as the learning materials for the classes [76] need valid arguments to make some learning innovations to enable students to have new perspectives in studying constitutional law [77]. It should combine the government structure, constitutional theories, and doctrines with practical problems. The students cannot see the constitutional law merely as a history [78], as factors outside the government also play a significant part in the development of the constitution [79,80]. Constitutional law textbooks should incite students' consciousness to keep asking whether the state constitution reflects ideological and political struggles and whether it is built upon legal professionalism.

One thing that should be challenged in the constitutional law study is that there is no room for individual interpretation of the constitution and that each individual may decide what the constitution is for. In doing so, democratic learning of the constitution is a must. The teachers have a responsibility to make the students understand that laws are not solely made by the courts, but that the courts make laws to respond to social movements. Constitutional theory studies that are built upon constitutional scholars' views on social, economic, and political influences, may enhance the learning topics and enable students to get involved in productive changes. In this light, it is important to bring constitutional law studies to be interdisciplinary. It will consequently create opportunities for the production of new works on constitutional law and political sciences.

Upon the analysis of four impediments of constitutional law studies, it can consequently argue that the success of legal practitioners such as lawyers and judges comes from the process of learning. That the quality is not principally caused by political allegiance, social class, sex, ethnicity, or educational background, but by quality learning. Deepinder Goraya, a disabled person, and other prominent people in the United State can be good and respected legal practitioners, and they come from quality and excellent processes of law education [81,82].

The four things above are very dominant in influencing the quality of law learning in Indonesia, especially state administration, although there may be other influencing factors. Learning methods that are not updated and adapted to the development of conditions and situations greatly affect the quality of graduate outcomes, because it is an important element in developing the way students gain legal knowledge and skills. The absence of an accreditation authority that focuses on evaluating the legal education curriculum has an impact on the unclear direction of the legal learning system. Indonesia is known as a country that changes the curriculum too quickly, there is even a curriculum that has not yet produced graduates but has been changed again by a political dynamic. Every time there is a change in the Minister of Education in Indonesia, there is always a change in the curriculum, so curriculum changes occur not because of pressure from the needs of the educational process but because of pressure from political interests. Education curriculum changes should not follow political dynamics, because too fast curriculum changes will confuse education providers. After all, they will not have a firm grip on planning, implementing, and evaluating learning.

Indonesia does not have an accreditation authority that sets standards or requirements for legal curriculum, more specifically the constitutional law curriculum. There are no legal associations in Indonesia that standardize the curriculum and evaluate the legal education system. Evaluation of the implementation of legal education in Indonesia is carried out by the National Accreditation Board for Higher Education, which has the burden of evaluating various study programs. There is no independent accreditation agency established by the legal science association to accredit the implementation of legal education. Meanwhile, irregularities in teaching materials and learning topics are directly related to the unclear authority of the curriculum, evaluation institutions, and monotonous learning methods that have been late to be developed by legal education providers in Indonesia. These four things are process factors that influence graduates in competing in the legal job market.

It is predicted that the four obstacles above will also occur in countries whose legal education systems are similar to Indonesia's, especially in Southeast Asian countries. In general, they face the same thing as Indonesia, namely the problem of methods, materials, topics, and a law education curriculum that is not properly restructured. Therefore, this review can be taken into consideration by them to overcome the problems of the quality of legal learning outcomes faced by them.

3. Conclusion

The inhibiting factor for the quality of teaching constitutional law in Indonesia is in the learning process, not the learning input. The

learning system implemented by the lecturers does not develop more innovative learning methods and materials to produce reliable graduates. They were late in reforming legal teaching methods and materials. In Indonesia, there is no authority to standardize the legal education process, which evaluates curriculum criteria, facilities and infrastructure, outcomes, and other criteria, so that it has an impact on the quality of graduates who are less able to compete with graduates from other countries. Evaluation of the implementation of legal education is only carried out by the National Accreditation Board which has a very broad scope of work and evaluates all kinds of educational programs. The impact is that the implementation of legal higher education cannot be evaluated properly so its graduates cannot adapt to the legal job market properly because the legal education process is not well organized and not standardized by appropriate authorities. Indonesia should have an independent accreditation agency that specifically evaluates legal education.

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