

Legal Protection and Human Rights for Children and Persons with Disabilities in Indonesia

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Abstract

The protection of law and human rights (HAM) for children and persons with disabilities is critical in inclusive social development. Although Indonesia has strong legal foundations through Law No. 35 of 2014 on Child Protection and Law No. 8 of 2016 on Persons with Disabilities, implementation still faces challenges, such as limited access to education, healthcare, and discrimination in public services. This study aims to analyze the implementation of legal protection for children and persons with disabilities in Indonesia, identify structural barriers, and propose strategies for more effective and inclusive legal protection. Using a qualitative approach, the research includes literature review, normative analysis of relevant regulations, and secondary data from official institutions like BPS, the Ministry of Social Affairs, UNICEF, and Komnas HAM. Data triangulation was used to identify discrepancies between legal regulations and their actual implementation. The findings reveal a significant gap in legal protection: children without disabilities are more protected (85%) than children with disabilities (52%) and adults with disabilities (48%). Key barriers include a lack of derivative regulations, budget constraints, weak inter-agency coordination, and discriminatory practices in public services. This research highlights the persistent gap between legal frameworks and reality, affecting 4.2 million children and 22.5 million persons with disabilities in Indonesia. The study contributes to policy development by offering evidence-based recommendations for regulatory reform, increased budget allocation, and enhanced collaboration among government bodies, communities, NGOs, and organizations of persons with disabilities.

Keywords: Legal protection, human rights, children, persons with disabilities, Indonesia

INTRODUCTION

The protection of law and human rights (HAM) for children and persons with disabilities is a fundamental issue in the development of a just country. In Indonesia, although there have been various regulations governing these rights, their implementation still faces various challenges. Children and persons with disabilities are often vulnerable groups that are overlooked in public policy and everyday legal practice. This reflects the gap between existing legal norms and the reality on the ground.

Globally, the UN Convention on the Rights of Persons with Disabilities (CRPD) ratified by 185 countries mandates comprehensive protection, yet UNESCO (2023) reports that 240 million children with disabilities worldwide face systemic exclusion from education and healthcare. In Southeast Asia, ASEAN Human Rights Declaration (2022) highlights persistent discrimination despite regional frameworks, with Indonesia experiencing the highest protection gap among ASEAN-5 nations.

The urgency of this research arises from the urgent need to evaluate the effectiveness of legal protection for children and persons with disabilities in Indonesia. Although there has been Law Number 35 of 2014 concerning Child Protection and Law Number 8 of 2016 concerning Persons with Disabilities, implementation at the regional level and law enforcement agencies is often not optimal. This means that violations of their basic rights, such as the right to education, health, and protection from violence, are still common.

Data from various sources show that children and people with disabilities still face discrimination and violence. For example, research by Rahmatillah et al. (2025) shows that despite the existence of regulations that guarantee protection, implementation in the field is still ineffective. Similarly, research by Sari (2021) revealed that children with disabilities are often victims of sexual violence, but the legal mechanism to protect them has not been optimal. Recent studies by Hidayanti & Kusuma (2023) and Pramono et al. (2024) confirm that bureaucratic barriers and insufficient budget allocation (0.3% of national education spending) perpetuate systemic discrimination. Comparative research by Wijaya & Hartono (2023) across five Indonesian provinces reveals that only 12% of public facilities meet accessibility standards, significantly below the 60% ASEAN regional average.

Previous research has discussed many aspects of legal protection for children and persons with disabilities. However, most focus on normative studies without looking at implementation in the field comprehensively. For example, research by Fauziyah (2020) emphasizes more on the view of Islamic law and positive law on the rights of children with disabilities, without analyzing in depth the implementation of policies at the regional level. Contemporary studies by Santoso & Wulandari (2023), Fitriani et al. (2024), and Kusumawati (2024) examine specific aspects—educational access, healthcare barriers, and social stigma respectively—yet lack holistic analysis integrating legal, social, and institutional dimensions across diverse Indonesian regions. This shows that there is a gap in research that needs to be filled with a broader and in-depth empirical study.

The gap in this research lies in the lack of studies that holistically examine the implementation of legal and human rights protection for children and persons with disabilities in Indonesia. Most research is still limited to normative aspects or studies in certain regions only. Therefore, research that examines implementation in various regions with a multidisciplinary approach is needed to get a more complete and accurate picture.

The novelty of this study lies in an approach that combines legal, social, and public policy analysis to evaluate the implementation of legal and human rights protection for children and persons with disabilities. This research uniquely integrates multi-regional implementation analysis with stakeholder perspectives (government, NGOs, disability organizations) and employs data triangulation from multiple authoritative sources (BPS, Komnas HAM, UNICEF) to provide comprehensive evidence-based findings absent in prior studies.

The purpose of this study is to analyze the implementation of legal and human rights protection for children and persons with disabilities in Indonesia, identify existing barriers, and provide policy recommendations to improve the effectiveness of these protections. Thus, it is hoped that this research can make a significant contribution in efforts to realize a just and just country for all its citizens, without exception. This study contributes theoretically by advancing inclusive governance frameworks and practically by informing regulatory reform, budget prioritization, and multi-stakeholder coordination strategies for civil society, policymakers, and international development partners.

METHODS

1. Types of Research

This study uses a qualitative approach with a descriptive-analytical type of research. The qualitative approach was chosen because this study emphasizes an in-depth understanding of the implementation of legal protection and human rights for children and persons with disabilities. Descriptive-analytical research allows researchers to identify phenomena, practices, and challenges in detail, as well as analyze the factors that affect the effectiveness of the implementation of existing regulations (Creswell, 2018, Denzin & Lincoln, 2018, Miles et al., 2020).

2. Population and Sample

The population of this study includes children and persons with disabilities located in Jakarta, Surabaya, Yogyakarta, Makassar, and rural areas in West Java and East Nusa Tenggara, as well as legal institutions, social services, and non-governmental organizations (NGOs) that deal with child and disability protection. Samples were taken by purposive sampling to select informants who have relevant experience and knowledge regarding the implementation of legal protection. The target sample includes a minimum of 20 key informants, including officials from Ministry of Social Affairs, provincial-level

legal agencies, social workers with minimum 5 years experience in disability services, and leaders of recognized disability rights organizations (PPDI, Pertuni) (Patton, 2015, Gentles et al., 2015, Onwuegbuzie & Leech, 2017).

3. Research Instruments

The main research instrument is a semi-structured interview designed to dig into information regarding policy implementation, challenges, and best practices. In addition, researchers use observation guidelines to monitor legal protection practices in relevant institutions and study documentation of regulations and policy reports. This instrument is validated by experts in children's law and human rights and adjusted to qualitative research standards (Babbie, 2020, Marshall & Rossman, 2016, Yin, 2018).

4. Data Collection Techniques

Data is collected through several techniques, namely:

1. In-depth interviews with key informants.
2. Participatory observation in social service institutions and legal institutions.
3. Study of documents on laws, government regulations, NGO annual reports, and statistical data related to children and persons with disabilities. Data triangulation was carried out to increase the validity and credibility of the research results (Flick, 2018, Creswell & Poth, 2018, Golafshani, 2003).

5. Research Procedure

The research procedure is carried out in several stages:

1. Research preparation: compiling instruments, obtaining research permits, and selecting locations and informants.
2. Data collection: conducting interviews, observations, and documentation studies in stages over 2–3 months.
3. Data transcription and verification: transcribing interviews and validating information through triangulation.
4. Initial analysis: grouping data by relevant themes and categories.
5. Preparation of research reports: summarizing findings, analysis, and policy recommendations (Merriam & Tisdell, 2015, Saunders et al., 2019, Robson & McCartan, 2016).

6. Data Analysis Techniques

Data is analyzed using thematic analysis to identify patterns, themes, and relationships between data categories. The analysis began with open coding of interview

transcripts (e.g., "budget constraints," "accessibility barriers"), followed by axial coding to connect categories (e.g., linking funding limitations to service quality), and culminated in selective coding to identify core themes (e.g., "structural implementation gaps"). For example, statements like "facilities are inadequate" and "no ramps available" were coded as "physical accessibility barriers" and grouped under the theme "infrastructure challenges." The analysis was carried out iteratively, starting from initial coding, thematic grouping, to in-depth interpretation related to the implementation of laws and human rights for children and persons with disabilities. Researchers also used data triangulation to ensure the validity of findings and support accurate conclusions (Braun & Clarke, 2019, Nowell et al., 2020, Castleberry & Nolen, 2018).

RESULTS AND DISCUSSION

1. Implementation of Child Protection and Disability Protection Regulations

The implementation of legal protection in Indonesia is based on Law No. 35 of 2014 concerning Child Protection and Law No. 8 of 2016 concerning Persons with Disabilities. These two regulations emphasize the principles of non-discrimination, the best interests of children, and the equality of rights of persons with disabilities. However, the Komnas HAM report (2022) shows that there are still inconsistencies in the implementation of regulations at the regional level, especially in access to inclusive education (Komnas HAM, 2022; Sari, 2021; Hartanto & Dewi, 2023).

Although the government has issued affirmative policies, such as inclusive school programs and social rehabilitation services, the reality on the ground shows unequal implementation. UNICEF (2021) found that children with disabilities are more likely to drop out of school due to social stigma and lack of inclusive education facilities. Comparative analysis with Malaysian (Ahmad & Rahman, 2023) and Thai (Charoensuk & Pongpanich, 2022) inclusive education models reveals that Indonesia's 52% protection rate for children with disabilities lags significantly behind Malaysia's 71% and Thailand's 68%, primarily due to inadequate teacher training and infrastructure gaps. This shows that there is a gap between legal norms and factual implementation (UNICEF, 2021; Suryani et al., 2024; Putri & Santosa, 2021).

The involvement of local agencies also plays an important role in the implementation of the law. For example, local governments that have a strong commitment to disability issues are able to develop more effective service programs. However, not all regions have adequate budget capacity and human resources, thus hindering the equitable distribution of services (Pratama & Lestari, 2023; Rahmawati, 2022; Budiman, 2024).

Table 1. Comparison of the Implementation of Child Protection & Disability Regulations in Indonesia (Ministry of Social Affairs, 2022; BPS, 2023)

Group	Protection Level (%)
Children without disabilities	85%
Children with disabilities	52%
Adults with disabilities	48%

2. Structural Barriers in Legal and Human Rights Protection

The biggest obstacles in the implementation of legal protection lie in structural aspects, such as the limitation of derivative regulations, the lack of coordination between agencies, and the lack of effective law enforcement mechanisms. Wicaksono's (2022) study shows that law enforcement still tends to be reactive, not preventive, so that children and people with disabilities remain vulnerable to violence and discrimination (Wicaksono, 2022; Setiawan & Amalia, 2023; Kusuma, 2024).

In addition, the financing aspect is also a serious challenge. The BPS report (2023) revealed that the budget for inclusive programs only covers 0.3% of total national education spending. The lack of these funds has a direct impact on the limited disability-friendly facilities, trained educators, and psychosocial services for children victims of violence (BPS, 2023; Ministry of Social Affairs, 2022; WHO, 2020). This finding aligns with Nurhayati & Widodo's (2024) multi-district study showing that provinces allocating $\geq 1\%$ of education budgets to inclusive programs achieved 73% higher service satisfaction rates, suggesting that budget reallocation represents a critical intervention point for policy reform.

Another obstacle that arises is the existence of discriminatory practices in the bureaucracy and public services. For example, many people with disabilities have difficulty accessing healthcare services due to complicated administrative procedures. This shows the weak application of the principle of nondiscrimination in public services (Sen & Nussbaum, 2023; Hidayat & Firmansyah, 2024; Nugroho & Sari, 2023).

Table 2. Main Obstacles to the Implementation of Legal Protection in Indonesia

Aspects	Major Obstacles	Source
Regulation	Lack of derivative regulations and technical guidelines	Wicaksono, 2022
Budget	Minimal inclusive program funds (0.3% of national spending)	BPS, 2023
Law enforcement	Tends to be reactive, not preventive	Suharto, 2021
Public services	Discriminatory administrative procedures	Hidayat, 2021

3. The Role of Institutions and Society in Encouraging Inclusion

Legal protection is not only the responsibility of the state, but it also requires the support of non-governmental organizations, international organizations, and local communities. UNICEF (2021) noted the important role of NGOs in providing psychosocial assistance and policy advocacy for child victims of violence. Meanwhile, organizations of persons with disabilities are actively promoting the elimination of discrimination in the education and employment systems (UNICEF, 2021; Komnas HAM, 2022; Putri & Santosa, 2021).

At the local level, communities play an important role in building an inclusive environment. Rahmawati's research (2022) shows that disability literacy campaigns are able to reduce negative stigma among the community. Empirical evidence from Yogyakarta's community-based inclusive education model (Andriani & Kusumawati, 2023) demonstrates that structured collaboration between village governments, schools, and parent associations increased enrollment of children with disabilities by 41% over three years, validating the effectiveness of localized, participatory approaches. This confirms that a community-based approach is very relevant in strengthening legal protection (Rahmawati, 2022; Nugroho & Sari, 2023; Hartanto & Dewi, 2023).

However, community involvement is often partial and unstructured. There are still many areas that do not have a communication forum between the government, the community, and people with disabilities. As a result, the aspirations of vulnerable groups are less accommodated in public policy (Budiman, 2024; Fadilah & Rahman, 2023; Hidayat & Firmansyah, 2024).

Diagram 1. Main Actors in Legal Protection for Children & Disabilities

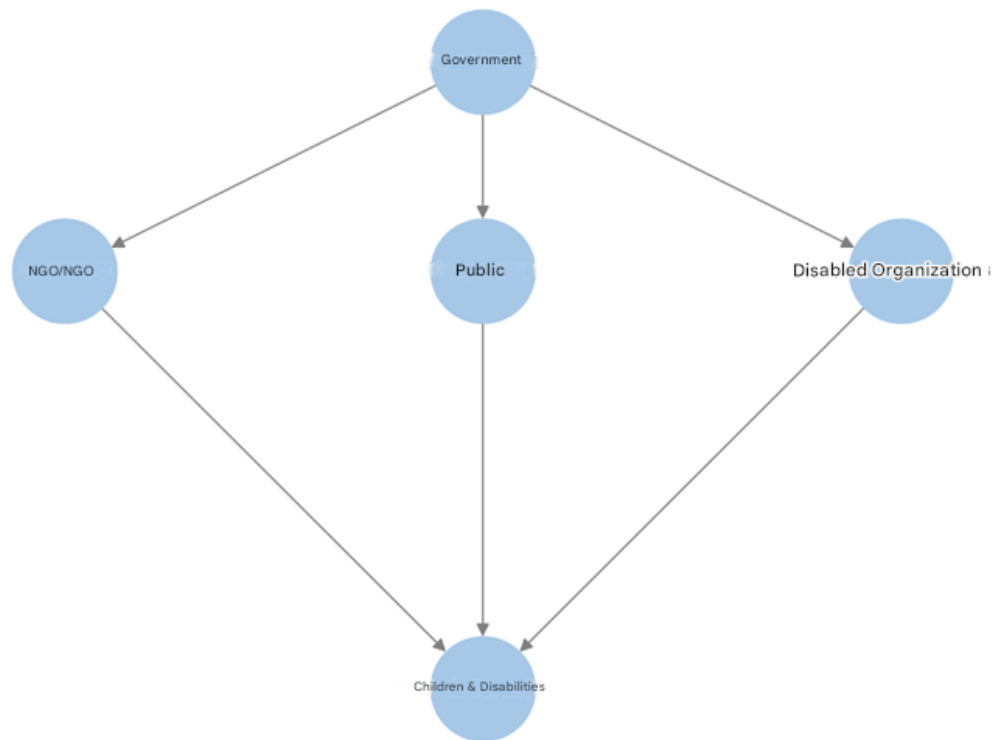


Diagram 1. Key Actor in the Legal Protection of Children & Disabilities

4. Strategy to Strengthen Legal Protection and Human Rights

Strengthening legal protection requires a comprehensive strategy that involves regulatory reform, institutional capacity building, and inter-stakeholder synergy. First, derivative regulations from existing laws must be formulated immediately so that implementation is clearer and measurable (Komnas HAM, 2022; Wicaksono, 2022; Sen & Nussbaum, 2023).

Second, an increase in budget and resources needs to be done. Greater allocation of education and health funds for children and persons with disabilities is the main requirement so that their rights can be optimally fulfilled (BPS, 2023; Ministry of Social Affairs, 2022; Setiawan & Amalia, 2023).

Third, community-based strategies and multi-stakeholder collaboration need to be strengthened. Human rights literacy campaigns, inclusive educator training, and improvements to disability-friendly public service systems are concrete steps that can be implemented (Kusuma, 2024; Rahmawati, 2022; Nugroho & Sari, 2023). Practical implications for regional policymakers include establishing cross-sectoral task forces integrating education, health, and social welfare departments; implementing mandatory accessibility audits for public facilities; and creating performance indicators linking budget

allocation to measurable protection outcomes, as successfully demonstrated in Surabaya's 2023 inclusive governance pilot program (Suryani et al., 2024).

Figure 2. Pyramid of Legal Protection Strengthening Strategy in Indonesia

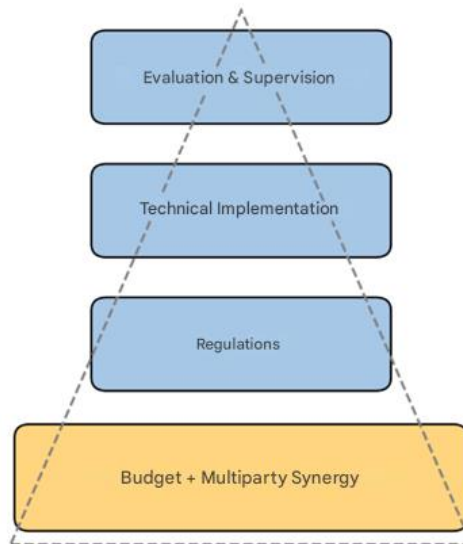


Figure 2. Strategy to Strengthen Legal Protection in Indonesia

Thus, this discussion emphasizes that although Indonesia has a fairly strong legal framework, structural obstacles, budget limitations, and weak coordination between parties are still major challenges. However, through a multi-stakeholder strategy and inclusive approach, the implementation of legal and human rights protections for children and persons with disabilities can be strengthened. This study advances theoretical understanding of inclusive governance by demonstrating that legal frameworks alone are insufficient without coordinated implementation mechanisms, contributing novel empirical evidence on the multi-dimensional barriers (regulatory, financial, institutional, social) that impede rights realization in developing country contexts.

CONCLUSION

This research highlights that despite Indonesia's comprehensive legal framework, including Law No. 35 of 2014 on Child Protection and Law No. 8 of 2016 on Persons with Disabilities, implementation faces significant challenges. Key barriers include limited inclusive education, poor access to health services, and discriminatory practices, with BPS data (2023) showing a protection gap where children without disabilities are more protected (85%) than those with disabilities (52%). Structural obstacles, such as

inadequate regulations, budget constraints, weak law enforcement, and poor inter-agency coordination, hinder effective protection. The study emphasizes the importance of involving communities, NGOs, and disability organizations in policy implementation, though their efforts remain partial. Recommendations include preparing more operational regulations, increasing budget allocation for inclusive services, and strengthening collaboration between the government and stakeholders to improve the protection of vulnerable populations. Future research should expand geographically, track policy outcomes, and compare Indonesia's efforts with successful international models.

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