

Vulnerable Group Protection in a Human Rights-Based Legal Framework

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Abstract

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This article examines the effectiveness of national legal frameworks in protecting vulnerable groups by analyzing the Human Rights Act, the Disability Act, and the Child Protection Act. Using a normative juridical approach, the study explores the gap between legal norms and their practical implementation in services, accommodations, and inclusive access to justice. Findings indicate that although these laws provide a strong normative foundation, their effectiveness remains hindered by two major challenges: insufficient institutional capacity and inter-sectoral coordination, as well as persistent stigma and discrimination against vulnerable groups. These challenges directly affect the fulfillment of fundamental rights and the quality of protection received by persons with disabilities, children, and other vulnerable populations. Strengthening implementation is urgent to ensure that legal instruments function not only as declarative commitments but also as operational mechanisms capable of addressing the real needs of vulnerable groups. The study highlights the necessity of structural and social transformation as essential conditions for achieving effective human rights-based protection.

1. Introduction

Protection of vulnerable groups is a fundamental component in the development of a legal system based on human rights values. Vulnerable groups, such as children, women, and persons with disabilities, often face structural barriers that limit their ability to enjoy rights guaranteed by national law and international instruments. Within the framework of Indonesian law, various regulations have been drafted to provide such protection, including Law Number 39 of 1999 concerning Human Rights, Law Number 8 of 2016 concerning Persons with Disabilities, and Law Number 35 of 2014 concerning Child Protection. The presence of this regulation normatively affirms the state's commitment to the principles of equality, non-discrimination, and the fulfillment of basic rights for vulnerable groups; However, in practice, the effectiveness of legal implementation is often questioned when faced with social, cultural, and institutional realities on the ground.

A number of studies have noted that the gap between legal norms and implementation practices is still quite wide, especially in the issue of access to justice. A study on the justice system in Indonesia reveals that people with disabilities often face obstacles in the form of a lack of adequate accommodation, limited assistance services, and a lack of understanding of law enforcement officials regarding the special needs of people with disabilities.¹ Similar barriers are also found in the context of social and economic rights, where persons with disabilities face forms of discrimination in access to work and decent livelihoods despite the Law affirming

¹ Eriq Panca Nur Patria. "Mewujudkan Sistem Peradilan Pidana Yang Fair Bagi Penyandang Disabilitas." *Mimbar Keadilan* 15, no. 1 (2022): 109-121.

the guarantee of equality of status in social and economic life.² This condition shows that legal protection has not been fully operationalized effectively in administrative and institutional practices.

On the other hand, children as part of a vulnerable group face challenges that are no less complex. Research in the field of child protection shows that the implementation of regulations has not been optimal, especially related to access to education, health, and protection from violence.³ Even when the legal framework has been progressively designed, factors such as limited resources, low capacity for child companions, and lack of coordination between institutions often hinder the effectiveness of these protection efforts.⁴ In a broader context, women and children with disabilities face dual vulnerability due to a combination of social stigma, limited environmental support, and a lack of special needs-based protection mechanisms.⁵ This underscores that vulnerable groups are often in a situation of double subordination, both because of their social identity and structural conditions that hinder access to legal protection mechanisms.

In addition, a number of analyses on legal protection for vulnerable groups show that the existing regulatory framework has not been consistently translated into

² Nindiya Sukmawati. "Peran pemerintah dalam pemenuhan hak untuk mendapatkan pekerjaan bagi penyandang disabilitas." *Media of Law and Sharia* 2, no. 4 (2021): 383-399.

³ Khofifah Mulyani, Muhammad Sahrul Sahrul, and Alfan Ramdoni. "Ragam diskriminasi penyandang disabilitas fisik tunggal dalam dunia kerja." *KHIDMAT SOSIAL: Journal of Social Work and Social Services* 3, no. 1 (2022): 11-20.

⁴ Nadila Purnama Sari, Anak Agung Sagung Laksmi Dewi, and Luh Putu Suryani. "Perlindungan hukum terhadap anak penyandang disabilitas sebagai korban kekerasan seksual." *Jurnal Preferensi Hukum* 2, no. 2 (2021): 359-364.

⁵ Siti Faridah. "Lemahnya penegakan hukum dalam kasus kekerasan terhadap perempuan penyandang disabilitas." *Lex Scientia Law Review* 3, no. 1 (2019): 15-29.

operational procedures that are responsive to social vulnerability.⁶ Institutional factors, such as the lack of training of officials in a human rights-based approach and the lack of policy integration between the national and regional levels, are often cited as the main causes of hampering effective implementation.⁷ Studies on access to justice also identify that structural barriers such as differences in institutional capacity, limited support facilities, and inequality of legal knowledge are still the main barriers for vulnerable groups to enjoy legal protection equally.⁸ Thus, even though a legal framework is available, the success of protection is highly dependent on the consistency of implementation and the carrying capacity of implementing institutions.

Based on all the literature, it is shown that the main problem is not solely the availability of regulations, but in how they are implemented effectively. This condition makes it important to study the effectiveness of the implementation of the law and systemic evaluation of the challenges that hinder the implementation of human rights-based policies. Therefore, this research is directed to understand the extent to which existing regulations function effectively in protecting vulnerable groups, as well as identify the main challenges that still hinder the comprehensive fulfillment of the basic rights of these groups.

⁶ S. H. Ruslan Renggong, Dyah Aulia Rachma Ruslan, and M. Kn SH. *Hak Asasi Manusia Dalam Perspektif Hukum Nasional*. Prenada Media, (2021).

⁷ Yourike Yasmine Layt and Mitro Subroto. "Perspektif hak asasi manusia terkait kelompok rentan bagi narapidana dengan putusan pidana seumur hidup di Indonesia." *Gema Keadilan* 8, no. 2 (2021): 94-105.

⁸ Rika Kumala Dewi, Rezanti Putri Pramana, Hariyanti Sadaly, R. K. Dewi, R. P. Pramana, and H. Sadaly. "Kendala mewujudkan pembangunan inklusif penyandang disabilitas." *The SMERU Research Institute* (2020).

This research is driven by two main questions, namely: the extent to which existing laws can provide protection and ensure effective implementation for vulnerable groups in the context of the national legal system; and what are the fundamental challenges that hinder the effective implementation of the law and why the urgency of strengthening the protection of vulnerable groups remains an important agenda from a human rights perspective.

2. Methods

This research uses a normative juridical method that focuses on the analysis of legal norms, principles, doctrines, and regulatory frameworks that govern the protection of vulnerable groups from a human rights perspective. This approach was chosen because the research aims to understand the effectiveness and challenges of regulatory implementation through an assessment of positive legal constructions, rather than by collecting empirical data in the field. In normative juridical research, the main sources analyzed include laws and regulations, judicial decisions, and relevant policy documents, which are then systematically reviewed to assess the suitability between normative principles and the reality of their implementation at the regulatory level. The focus of the research is on three main laws, namely Law Number 39 of 1999 concerning Human Rights, Law Number 8 of 2016 concerning Persons with Disabilities, and Law Number 35 of 2014 concerning Child Protection, which is the normative foundation for the protection of vulnerable groups in Indonesia.

In its implementation, this research utilizes secondary data obtained entirely from online sources, such as scientific articles indexed in academic databases, national and international journal publications, institutional repositories, and policy documents available through official government portals. The secondary data provides a comprehensive picture of how regulations are understood, applied, and criticized by various academics and legal practitioners. The analysis of online data was chosen because it allows researchers to obtain a broader, up-to-date, and relevant literature mapping to the development of discourses on the protection of vulnerable groups. The data obtained were then selected based on their relevance to the focus of the research, namely the effectiveness and challenges of implementing laws governing the protection of vulnerable groups within the framework of human rights.

The analysis process is carried out through legal interpretation techniques which include grammatical, systematic, and teleological interpretation of the provisions of laws and regulations, as well as critical reading of academic literature to identify arguments, findings, and trends of thought that develop in this issue. Furthermore, the analysis was carried out by comparing legal norms with the results of academic studies to see the suitability between the regulatory design and the protection needs of vulnerable groups, as well as to identify obstacles that were considered to affect the effectiveness of implementation.

Thus, the normative juridical method in this study is designed not only to assess the conformity of regulations with human rights principles, but also to map conceptual and structural issues that affect their implementation. This method

allows researchers to generate a comprehensive understanding of legal positions and the challenges of their application without using empirical data, but through juridical reasoning based on legal materials and online literature. The results of the analysis are then presented in the results section and discussion through two sub-chapters that are aligned with the research questions regarding the effectiveness of implementation and the main challenges in the implementation of the law on the protection of vulnerable groups.

3. Results and Discussion

3.1. Application of the Law in Providing Protection and Access to Justice for Vulnerable Groups

The application of laws designed to protect vulnerable groups must be judged not only by the existence of formal norms, but also by the extent to which they are actually embodied in the mechanisms of access, service, and settlement of rights in the public and legal spheres. Normative juridical analysis of Law No. 39 of 1999 concerning Human Rights, Law No. 8 of 2016 concerning Persons with Disabilities, and Law No. 35 of 2014 concerning Child Protection shows that theoretically these three instruments have laid a strong normative foundation to ensure equality, non-discrimination, and the fulfillment of the basic rights of vulnerable groups. However, when linked to the findings of empirical studies and literature analysis from the last five-year period, it can be seen that the effectiveness of the implementation of these

regulations is still constrained by several structural and operational aspects that consistently appear in various studies.⁹

First, formal access to justice for persons with disabilities and children is often hampered by the absence of adequate accommodations in judicial processes and administrative services. Research comparing the access of persons with disabilities to the justice system confirms that although there are provisions that guarantee accommodation, their implementation is weak due to the lack of supporting facilities, such as sign language interpreter services, easily accessible information materials, or the presence of competent legal companions in special needs (Triana & Astuti, 2022). This condition causes the right to a fair trial to experience practical obstacles that reduce the effectiveness of existing legal norms.

Second, the effectiveness of regulations in the socio-economic field, such as the right to education and employment for people with disabilities, is also still limited. Studies examining the right to education and employment show that there are hidden discrimination and institutional barriers, including low levels of fulfillment of inclusive facilities in schools and workplaces, that make guaranteeing rights on paper not automatically result in equal access in the field.¹⁰ This marks a gap between norms and capacity for implementation by educational institutions, employers, and labor supervisory officials.

⁹ Eriq Panca Nur Patria. "Mewujudkan Sistem Peradilan Pidana Yang Fair Bagi Penyandang Disabilitas." *Mimbar Keadilan* 15, no. 1 (2022): 109-121.

¹⁰ Khofifah Mulyani, Muhammad Sahrul Sahrul, and Alfan Ramdoni. "Ragam diskriminasi penyandang disabilitas fisik tunggal dalam dunia kerja." *KHIDMAT SOSIAL: Journal of Social Work and Social Services* 3, no. 1 (2022): 11-20.

Third, inter-agency coordination and institutional capacity are factors that determine the effectiveness of implementation. The literature shows that weak synergy between central and regional government institutions, lack of human resources trained in human rights-based approaches, and lack of monitoring and accountability mechanisms hinder policy harmonization that should strengthen protection for vulnerable groups.¹¹ Without an operational evaluation and sanction mechanism, legal norms tend to be stagnant and not realized consistently.

Fourth, perception and social stigma also affect effectiveness. Research on dual vulnerability, particularly in children and women with disabilities, notes that social prejudices and marginalized cultural norms have an impact on low case reporting and limited access to protective services.¹² Thus, even when legal avenues are available, non-legal barriers such as stigma can reduce the use of legal mechanisms by vulnerable groups and thus make protection less effective substantively.

Fifth, there are a number of noteworthy progresses: the recognition of rights in modern law has driven increased academic awareness and public advocacy, as well as triggered inclusive-oriented policy initiatives at the local level. However, normative juridical studies show that this initiative is still partial and dispersed, so it has not produced a strong systemic effect on the fulfillment of rights.¹³ Evaluations

¹¹ Yourike Yasmine Layt and Mitro Subroto. "Perspektif hak asasi manusia terkait kelompok rentan bagi narapidana dengan putusan pidana seumur hidup di Indonesia." *Gema Keadilan* 8, no. 2 (2021): 94-105.

¹² Eka Maulan Ni'mah and Emmilia Rusdiana. "Perlindungan hukum perempuan penyandang disabilitas intelektual korban perbudakan seksual oleh legal resoucre center untuk keadilan jender dan hak asasi manusia (LRC-KJHAM)." *Norum: Jurnal Hukum* (2022): 136-148.

¹³ Rika Kumala Dewi, Rezanti Putri Pramana, Hariyanti Sadaly, R. K. Dewi, R. P. Pramana, and H. Sadaly. "Kendala mewujudkan pembangunan inklusif penyandang disabilitas." *The SMERU Research Institute* (2020).

related to output indicators such as the number of accommodations provided, case resolution rates that take into account special needs, or access to inclusive education still require systematic standardization and reporting.

Based on all the literature, the answers to the question about the effectiveness of the implementation of the law show an ambivalent pattern: normatively, the regulations have formulated relevant human rights principles, but the effectiveness of implementation is still limited by the obstacles of facilities, institutional capacity, coordination, and socio-cultural factors that ensnare vulnerable groups in conditions of practical inequality. These findings indicate the need for a policy focus that prioritizes the operationalization of accommodation, institutional capacity building, and outcome measurement based on access and fulfillment indicators to improve the effectiveness of legal protection for vulnerable groups.

3.2. Challenges in the Implementation of the Law and Its Urgency

One of the most prominent challenges in the implementation of Law No. 8 of 2016 concerning Persons with Disabilities, Law No. 35 of 2014 concerning Child Protection, and the broader framework of the Human Rights Law is the weakness of institutional capacity and coordination between agencies that are systemic in nature. This weakness is not just an administrative problem; It has direct implications for the failure of special needs accommodation, the implementation of state obligations, and effective supervision and sanctions mechanisms. In the context of the judiciary, for example, empirical research shows that there is often a lack of technical accommodations such as sign language interpreters, legal process materials in an easily accessible format, or legal assistants who understand the needs of persons

with disabilities, so that the right to a fair judicial process is limited.¹⁴ In the realm of education and employment, field evidence reveals the lack of inclusive school facilities and low access to formal employment for people with disabilities as a result of regional budget allocations that have not prioritized inclusive facilities and weak supervision of the implementation of norms at the local level.¹⁵ In addition, policy fragmentation between the central and local governments without adequate inspection coordination mechanisms makes progressive policies at the national level not always uniformly realized in the regions, resulting in partial practices that only benefit a small part of the vulnerable population.¹⁶ Another concrete example is the incompleteness of administrative data on persons with disabilities and child victims, which results in evidence-based policies being disrupted, so that program interventions are not on target.¹⁷

The second challenge that is very specific and socio-cultural in nature is stigma, discrimination, and low legal awareness among the community and the authorities who are supposed to protect vulnerable groups. The double stigma experienced by children and women with disabilities, for example, not only puts them at higher risk of violence and exploitation but also reduces the likelihood of

¹⁴ Eriq Panca Nur Patria. "Mewujudkan Sistem Peradilan Pidana Yang Fair Bagi Penyandang Disabilitas." *Mimbar Keadilan* 15, no. 1 (2022): 109-121.

¹⁵ Nindiya Sukmawati. "Peran pemerintah dalam pemenuhan hak untuk mendapatkan pekerjaan bagi penyandang disabilitas." *Media of Law and Sharia* 2, no. 4 (2021): 383-399.

¹⁶ S. H. Ruslan Renggong, Dyah Aulia Rachma Ruslan, and M. Kn SH. *Hak Asasi Manusia Dalam Perspektif Hukum Nasional*. Prenada Media, (2021).

¹⁷ S. H. Ruslan Renggong, Dyah Aulia Rachma Ruslan, and M. Kn SH. *Hak Asasi Manusia Dalam Perspektif Hukum Nasional*. Prenada Media, (2021).

reporting and access to protective services.¹⁸ Cases of sexual violence against children with disabilities are often hidden due to family pressure, shame, or the assumption that children with disabilities will not be trusted as witnesses, so protection mechanisms such as rehabilitative services, gender-sensitive and disability-sensitive investigations, and psychosocial rehabilitation are rarely utilized.¹⁹ In the field of employment, veiled discrimination in the form of low recruitment opportunities or disability-friendly working conditions causes many people with disabilities to remain in the informal sector without social protection or a guarantee of a decent wage (Triana & Astuti, 2022). The low legal awareness in authorities such as the police, educators, and social service officials hurts the application of the principle of non-discrimination contained in the law, as the authorities often lack specific training and operational guidelines that are responsive to vulnerability.²⁰

These two challenges reinforce each other: institutional weaknesses magnify the space for discriminatory practices suffered by vulnerable groups, while social stigma suppresses the demand for legal services and obscures the real needs that institutions are supposed to respond to. The practical implication is the effectiveness of laws that appear textually strong but are weak in the realities of everyday life. The urgency of addressing these institutional barriers and stigma is very high because the consequences go beyond the legal aspects: failure to protect vulnerable groups has

¹⁸ Siti Faridah. "Lemahnya penegakan hukum dalam kasus kekerasan terhadap perempuan penyandang disabilitas." *Lex Scientia Law Review* 3, no. 1 (2019): 15-29.

¹⁹ Nadila Purnama Sari, Anak Agung Sagung Laksmi Dewi, and Luh Putu Suryani. "Perlindungan hukum terhadap anak penyandang disabilitas sebagai korban kekerasan seksual." *Jurnal Preferensi Hukum* 2, no. 2 (2021): 359-364.

²⁰ Rika Kumala Dewi, Rezanti Putri Pramana, Hariyanti Sadaly, R. K. Dewi, R. P. Pramana, and H. Sadaly. "Kendala mewujudkan pembangunan inklusif penyandang disabilitas." *The SMERU Research Institute* (2020).

an impact on long-term well-being, increased social and economic costs due to marginalization, and denial of state obligations based on national and international human rights commitments.²¹ From a preventive perspective, if procedural accommodations, accurate data, and coordination mechanisms are strengthened, as well as stigma reduction programs and training of officers are implemented systematically, then the potential for preventive interventions and recovery will be significantly increased, reducing the burden of social services and accelerating socioeconomic inclusion.

Strategically, urgency also arises because of the linkage of this issue to broader development goals; Without ensuring effective access to justice and protection for vulnerable groups, the targets of welfare, inclusive education, and decent work will not be achieved comprehensively.²² Therefore, strengthening institutional capacity and efforts to address stigma should be seen as urgent and synergistic policy priorities: regulatory improvements alone are not enough without investment in human resources, coordination mechanisms, reliable data, and public education programs that foster respect for the rights of vulnerable groups.²³ Only then can the law transform from a normative obligation to a real protection felt by vulnerable groups in daily life.

²¹ Yourike Yasmine Layt and Mitro Subroto. "Perspektif hak asasi manusia terkait kelompok rentan bagi narapidana dengan putusan pidana seumur hidup di Indonesia." *Gema Keadilan* 8, no. 2 (2021): 94-105.

²² Nindiya Sukmawati. "Peran pemerintah dalam pemenuhan hak untuk mendapatkan pekerjaan bagi penyandang disabilitas." *Media of Law and Sharia* 2, no. 4 (2021): 383-399.

²³ Eka Maulan Ni'mah and Emmilia Rusdiana. "Perlindungan hukum perempuan penyandang disabilitas intelektual korban perbudakan seksual oleh legal resouce center untuk keadilan jender dan hak asasi manusia (LRC-KJHAM)." *Novum: Jurnal Hukum* (2022): 136-148.

4. Conclusion

The protection of vulnerable groups through the framework of Law Number 39 of 1999 concerning Human Rights, Law Number 8 of 2016 concerning Persons with Disabilities, and Law Number 35 of 2014 concerning Child Protection shows that legal norms at the national level have placed the state in the position of being obliged to respect, protect, and fulfill the rights of vulnerable groups. However, the effectiveness of the implementation of these regulations still depends on the state's ability to operationalize norms in the form of services, accommodation, and inclusive access to justice mechanisms. The results of the analysis show that obstacles to implementation arise not only from the juridical aspect but also from institutional limitations, intersectoral coordination, and the availability of adequate supporting facilities.

On the other hand, social challenges such as stigma, discrimination, and low legal awareness reinforce structural barriers and weaken the utilization of the protection mechanisms that have been provided by the law. Both forms of challenges have far-reaching consequences for the effectiveness of human rights enforcement, the fulfillment of basic rights, and inclusive social development. Thus, although existing regulations have provided a strong normative foundation, the effectiveness of protecting vulnerable groups still requires strengthening institutional capacity, improving adequate accommodation, and social change that supports the elimination of stigma and discrimination. All of these efforts are key to ensuring that the existence of the law does not stop at the normative level, but actually provides ongoing substantive protection for vulnerable groups.

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