

Protection Rights of Children with Special Needs in Indonesia

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Abstract. Children with special needs are those who require specialized care due to disorders or abnormalities in their growth and development. These children exhibit unique differences necessitating specific services that align with their abilities and characteristics. Conducting identification and assessment activities is crucial to understanding their distinct needs and characteristics. Additionally, children with special needs are authorized for protection, which involves all activities aimed at ensuring their rights and safeguarding their well-being, allowing them to live, grow, and develop with dignity. This ensures that the rights of every child are supported and not infringed upon.

Keywords: Rights of Children with Special Needs; Child Protection; Indonesia.

1 Introduction

The definition of a child within the Indonesian legal framework lacks uniformity, as different statutes stipulate varying age limits for children. The concept of a child can be seen as a common thread that delineates who or what is referred to as a child, along with the various implications associated with this designation [1]. The legal definition of children positions them as a primary focus and subject in legitimizing, theorizing, and systematizing the regulations governing children [2]. Such legal definitions are crucial for protecting children and their rights.

- a. Children as Legal Subjects: Children are recognized as individuals possessing human rights protected and regulated by law.
- b. Equality of Rights and Obligations for Children: Under the law, children are granted the same rights and responsibilities as adults.

The external factors influencing children's rights include

- a. The presence of legitimate regulations that uphold the principle of equality before the law.
- b. The provision of rights by the government is enshrined in the 1945 Constitution.

Articles 23 and 24 of Regulation No. 35 of 2014, which amends Regulation No. 23 of 2002 on Child Protection, mandate the state and government to ensure the implementation of child protection measures. These provisions require the state and government to safeguard the protection, care, and welfare of children, taking into account the rights and responsibilities of

parents, guardians, or other legally responsible parties. Moreover, they ensure that children have the right to voice their opinions in accordance with their age and level of understanding. The guarantees provided by the state and government are complemented by the administrative measures taken to implement child protection.

Children with special needs, unlike their peers, have the same rights but may require additional educational and supportive services to reach their full potential. Such children necessitate specialized services to meet their needs, including educational, social, guidance, and counseling services. These specialized services are essential for the optimal development of their innate abilities and talents. The provided services aim to enhance the children's professional capabilities through educational support, counseling, social services, and other forms of assistance. Developmental disorders in children with special needs impact their behavior and abilities, necessitating specific care and attention.

Children with special needs are frequently perceived distinctively by society due to their requirement for specialized services and the unique challenges they encounter. These differences manifest in several aspects, including growth and development, abnormalities or variations in mental, physical, social, or cognitive functions, as well as emotional and intellectual differences. Therefore, children with special needs require special treatment to improve and develop their abilities optimally.

Nowadays, children with special needs often face negative stigmatization due to various factors, including their physical and activity limitations. These limitations hinder their ability to attain the same status, rights, responsibilities, and roles as others in all aspects of life, including family and daily life. Given this context, the primary research questions in this study are: How can the government safeguard the rights of children with special needs in Indonesia? Moreover, what are the current practices and implementations regarding the fulfillment of rights for children with special needs in Indonesia?

2 Research Methods

This research uses qualitative research that is library in nature, so the data from this research is library data. The sources of legal materials used in this examination are essential legitimate materials and auxiliary legitimate materials. Through subjective exploration techniques, specialists direct enlightening examination by pouring clarifications and portrayals that are basically as clear as conceivable in a coordinated, basic, evenhanded and scientific way.

3 Results and Discussion

The conceptualization of children is not solely confined to scientific discourse but extends to various domains such as religion, law, and sociology, which collectively contribute to a more rational and modern understanding within the social milieu [3]. Child protection encompasses all activities aimed at ensuring and safeguarding children's rights, allowing them to live, grow, develop, and participate optimally in society with respect for their dignity, while also protecting them from violence and discrimination. This is articulated in Article 1, point 2, of Regulation No. 35/2014, which amends Regulation No. 23/2002 on Child Protection. Children's insurance encompasses a broad spectrum of measures aimed at preventing, remedying, and supporting

children who have been subjected to abuse, exploitation, or neglect. This field is dedicated to ensuring the survival, growth, and development of children in their physical, mental, and social dimensions. [4]

Ensuring the protection of children involves addressing multiple dimensions, such as safeguarding those in conflict with the law, children from marginalized or minority groups, victims of sexual and economic exploitation, and those at risk of or who have survived trafficking. It also includes protecting children from substance abuse, safeguarding those who have been kidnapped, and providing support for children with disabilities.

Regulation No. 35 of 2014, which amends Regulation No. 23 of 2002 on Child Protection, underscores the critical importance of child protection to uphold children's rights. This regulation ensures that children can live, grow, develop, and engage to their fullest potential while maintaining their dignity and safeguarding them from violence and discrimination, thus fostering a nurturing environment. The rights of children, as specified in Law No. 39/1999 on Human Rights, are detailed in Articles 52 to 66. Although Law No. 39/1999 on Human Rights does not explicitly address children's responsibilities, its provisions regarding obligations apply broadly to human duties [5].

The Child Protection Law specifies the rights and responsibilities of children, as detailed in Articles 4 through 18. Regulation No. 35 of 2014, which amends Regulation No. 23 of 2002 on Child Protection, enumerates the following rights for children:

- a. The right to live, grow, develop, and fully participate with dignity, free from violence and discrimination;
- b. The right to a name and legal citizenship status;
- c. The right to practice religion, engage in thought and creativity according to their level of understanding, and to be raised under parental guidance;
- d. The right to know and be cared for by their parents;
- e. Access to healthcare services and social security tailored to their physical, mental, spiritual, and social needs;
- f. Access to education and training that nurtures their character and intellect in line with their interests and abilities;
- g. Access to specialized education, rehabilitation, social assistance, and maintenance of social welfare for children with disabilities;
- h. Access to specialized education for children with exceptional abilities;
- i. The right to express themselves, and to receive, seek, and share information appropriate to their level of understanding and age, within the bounds of fairness and propriety.

Children with special needs face challenges in their physical, cognitive, emotional, and social development. These challenges require various support, facilities, education, and training to help them integrate into society. Sometimes referred to as extraordinary or disabled children, they are a vital part of Indonesia's human resources and should receive focused attention to improve their quality of life. By recognizing and providing specialized services such as healthcare, special education, and targeted training, we can help reduce their limitations and foster independence, enabling them to participate in community life. [6]

In Indonesia, the precise number of children with special needs remains undocumented. Nevertheless, estimates based on existing data suggest that there are around 2.2 million children with special needs, constituting approximately 3.3% of the total child population. These children exhibit distinct traits and characteristics that differentiate them from their peers [5]. These differences can manifest in both intra- and inter-individual aspects. As a result, such

children often encounter challenges when engaging with their environment, which can pose difficulties for both teachers and parents. To nurture their potential, it is crucial to have a deep understanding and employ specialized teaching methods.[7]

The term "disability" pertains to organs in the body that are severely defective, absent, non-functional, damaged, impaired, or severely impaired, which can also be associated with dysfunction. Individuals with disabilities have abilities that are below the normal range or have anatomical or functional irregularities that hinder their ability to compete with their peers.[8] Children with special needs are identified as those who require specialized educational programs and services to fully develop their potential. Meeting their fundamental needs necessitates support from educational services, social services, counseling, and other specialized support services. [9] They are typically referred to as those with disabilities or exceptional abilities. While "disability" may be seen as abnormal or exceptional, it is different from the concept of abnormality. The term "disability" usually encompasses individuals with challenges, whereas "abnormality" or "exceptional" has a broader scope, including both individuals with disabilities and those with exceptional abilities. [10] According to Heward, children with special needs are those who possess traits that distinguish them from typical children, but these differences may lead to mental, emotional, or physical challenges. [11]

Children with special needs are defined as those who experience developmental delays, cognitive impairments, or learning difficulties that hinder their success in a typical school setting. This term also encompasses children with physical, mental, intellectual, and emotional disorders who require specialized education [12]. The objective of educational programs for children with special needs is to create an accommodating environment where these children can thrive and feel safe despite their limitations [13]. It is essential for children with special needs to recognize their value and become contributing members of society, feeling important and useful in all aspects of life.

Instilling this mindset is necessary for children with special needs so they don't feel unique or lose their fearlessness. Offering help to Children effortlessly the burden arising from the limitations they face. Social support is also beneficial for the mental health of children with special needs, whatever problems or stress they are experiencing. [14]

It is essential to provide education for children from an early age. However, educating children with physical, mental, and social behavioral differences requires a different approach and a special strategy because it is tailored to the specific needs and circumstances of children who require additional support due to disabilities or other special needs. [15] Therefore, through special educational approaches and strategies for children with special needs, it is hoped that they:

1. Can accept his condition,
2. Can socialize well,
3. Able to fight to the best of their ability,
4. Have the skills that are really needed, and
5. Consciously become citizens and members of society.

It is believed that diverse movement patterns can enhance the potential of students with special needs in various learning activities, including physical development, emotional growth, socialization, and cognitive abilities. The core aspect of these movement patterns, which can maximize the personal potential of children with special needs, is creativity [16]. Furthermore, the development of specialized pedagogical principles serves as a cornerstone in the educational efforts of children with special needs.

According to Regulation Number 35 of 2014 concerning Child Protection, the government is mandated to uphold the rights of children with special needs. Article 21, section 1 of this regulation specifies that the State, Government, and Provincial Legislatures are responsible for ensuring the fulfillment of children's rights without discrimination based on identity, religion, race, class, orientation, nationality, culture, language, legal status, birth order, or physical or mental conditions.

It's essential to recognize that children with special needs should not be viewed as helpless individuals who require pity. Instead, every child, regardless of their abilities or disabilities, possesses unique strengths. Therefore, when considering children with special needs, it's crucial to acknowledge both their capabilities and challenges. These children require support, including love, education, and social interaction, rather than sympathy or isolation. By approaching children with special needs with a positive and inclusive mindset, we can help them realize their full potential. [17]

It is crucial to acknowledge that not all children have the opportunity to grow and develop in a normal manner. Some are born with conditions that hinder their development and impact their self-confidence. These children are at risk of facing discrimination and exclusion, despite constitutional provisions that guarantee protection against prejudicial treatment. The 1945 Constitution Article 28 passage 2 explicitly emphasizes the right to protection from biased treatment. Even though children are not yet capable of exercising their rights and obligations as citizens, they are entitled to the same freedoms and responsibilities as other children.

Children with special needs deserve equal opportunities and treatment in all aspects of life. However, they often receive less attention and are unfairly regarded as inferior, leading to discrimination and exclusion. The principle of non-discrimination, as outlined in the Convention on the Rights of the Child, underscores the importance of safeguarding the rights of every child, including the right to life, survival, development, and respect for their views and opinions.

It is essential to recognize that children with special needs have comparable freedoms and obligations as all children. The 1945 Constitution Article 30 section (1) asserts that every citizen has the right and duty to participate in the defense of the country. This duty, however, does not necessarily entail engaging in armed conflict against the state's enemies. Instead, it can be interpreted as a form of civic service in which every child, including those with special needs, is obliged to contribute based on their abilities and talents, without discrimination between children with and without special needs. [18]

Children with special needs can be categorized into two parts such as children who experience problems in physical, psychological or lack of following certain learning. The government regarding rights in the field of training is directed through Regulation Number 23 of 2003 Article 5 sections 1 and 2 which peruses that each resident has similar privileges in getting quality schooling and residents who have physical, profound, mental and scholarly as well as friendly anomalies reserve the option to get custom curriculum. [19] In addition, the Government with regard to the rights of children with disabilities is regulated through legislation, among others:

1. Law Number 4 of 1979 concerning Child Welfare.
2. Law No. 4 of 1997 on Persons with Disabilities.
3. Law Number 39 Year 1999 on Human Rights.
4. Law No. 23 of 2002 on Child Protection as amended several times, most recently by Law No. 17 of 2016 on the Stipulation of Government Regulation in Lieu of Law on the Second Amendment to Law No. 23 of 2002 on Child Protection into Law.

The following regulations aim to eliminate discrimination against children with special needs. Similar to society in general, children with special needs should have the same opportunities to grow and thrive within their family, local community, and country. They deserve the right to attend school just like typical children. It is important to recognize that children with special needs may also experience social and emotional challenges. Their emotions can be unstable and disrupted due to the social environment they encounter. The treatment of children with special needs significantly impacts their emotional well-being and overall development.

Children with special needs are often perceived as different from typical children and are sometimes seen as vulnerable. However, it's important to note that each child has their strengths and weaknesses. Children with special needs require attention, care, education, and social interaction, regardless of their nationality or socioeconomic status.

Article 31 Paragraph 1 of the 1945 Constitution specifies that every citizen has equal opportunities in education, including children with special needs. According to the current legal framework, children with special needs are entitled to educational services and support, as well as information about neglected children with special needs. Every child's rights should be considered and respected, including those of children with special needs. They have the right to protection and access to services that can improve their lives and help them overcome the challenges they face.

The government has made significant efforts to advocate for the rights of children with special needs, as evidenced by the establishment of regulations related to the services available to them. Article 7 of Regulation Number 4 of 1979 concerning Child Welfare states that "children with disabilities have the right to receive special services to facilitate their growth and development in line with their abilities and capabilities."

The government's efforts to optimize the rights and services of children with special needs are also found in Law Number 8 of 2016, in the Law explained in article 5 paragraph 3 regarding the rights of children with disabilities, namely:

1. Receive special protection from discrimination, neglect, abuse, exploitation, and sexual violence and crime;
2. Receive family or surrogate family care and nurturing for optimal growth and development;
3. Protected interests in decision-making;
4. Sympathetic treatment of children as per their poise and freedoms;
5. Special needs fulfillment;
6. Equivalent treatment with different Children to accomplish social joining and individual turn of events; and
7. Receive social assistance.

Moreover, Article 125 of Law No. 8/2016 on Persons with Disabilities outlines the obligations of the government and local authorities to promptly provide information and services to assist children with disabilities who have experienced violence. Despite the guarantees set out in Regulation Number 8 of 2016 concerning People with Disabilities, which stress the government's responsibility to safeguard the rights of children with disabilities, these rights have not been fully realized. Evidence of this can be seen in the continuing experiences of stigma, discrimination, violence, labeling, and exploitation by many children with disabilities. Additionally, numerous children with disabilities lack access to essential services such as healthcare, education, religious activities, social welfare, disaster relief services,

rehabilitation, child identity, training, and mentoring, and encounter obstacles in expressing their opinions and accessing essential information.

The principles of implementing special protection programs for children with disabilities include;

1. Non-discrimination, meaning that special protection is given to children with special needs without discrimination based on ethnicity, religion, race, gender and nationality;
2. The presence of general benefits implies that endeavors to give exceptional security to children with special needs are completed as an essential thought for the wellbeing of children with special needs;
3. The right to life and progression of improvement, implying that endeavors to safeguard Children with special needs are done as an obligation to secure and satisfy the basic freedoms of children with special needs ensured by legal arrangements;
4. Justice, meaning that special protection for children with special needs is provided proportionally according to the needs and abilities of children with disabilities.

Those passage emphasizes the importance of providing maximum education and learning opportunities for children experiencing developmental delays. It highlights the challenges faced by children with special needs in Indonesia, such as stigmatization, lack of access to services, and insufficient government support. Additionally, it stresses the need for concrete solutions including improved policies, increased access to services, and heightened public awareness. Addressing these aspects can serve as a foundation for fostering empathy and support for children with special needs in Indonesian society.

4 Conclusions and Suggestions

4.1 Conclusion

From the preceding discussion, it is evident that many children's rights in Indonesia remain unmet in accordance with regulatory standards. Specifically, the rights and freedoms of children, especially those from marginalized or disengaged groups such as children with special needs, are not adequately addressed. This highlights a deficiency in the public authorities' role in protecting, fulfilling, and promoting the rights of children with special needs. Additionally, the involvement of parents and the broader community is crucial to ensuring that these children's rights are realized, as violations of these rights are still prevalent in Indonesia. Children with special needs are entitled to rights that must be fulfilled at the familial, community, and governmental levels. The enactment of Regulation Number 8 of 2016 concerning persons with disabilities is significant, as it offers opportunities for both children with special needs and their typically developing peers to access their rights, including legal protection, health care, education, and freedom from discrimination, thereby ensuring they are not marginalized in comparison to other children.

4.2 Suggestion

The execution of the security of the freedoms of kids with extraordinary requirements can be begun from correspondence in schooling because the option to get fundamental training is each resident remembering Children with unique requirements for it, the public authority

ought to give the option to get legitimate schooling where instruction is the first move toward quite a while with exceptional necessities like what they need, benefits that can assist the improvement of Children with special needs reasonably for the security and satisfaction of the privileges of children with special needs.

References

- [1] Waludi, *Child Protection Law*. Bandung: Maju Mundur, 2009.
- [2] L. Ferdiles and A. Budianto, "A Judicial Review of the Application Restorative Justice Principle in Efforts to Resolve Criminal Acts Who Committed by Childs Law," 2022. doi: 10.4108/eai.30-10-2021.2315785.
- [3] J. Susilo and M. Mugiati, "Application Of Restorative Justice Against Children in Traffic Crime Investigations," 2022. doi: 10.4108/eai.16-4-2022.2319728.
- [4] I. K. S. I. K. Sudikna, "Evidence Seizure Process in Narcotics Crimes," *Leg. Prefer.*, vol. 1, no. 1, p. 50, 2020.
- [5] E. Israhadi and B. Sasongko, "Criminal Actions of Corruption and Gratification in Legal Sociology," 2023. doi: 10.4108/eai.28-10-2023.2341776.
- [6] A. Supriyanto, E. Israhadi, and S. Suparno, "Dynamics of Criminal Law Enforcement Through Restorative Justice," 2023. doi: 10.4108/eai.6-5-2023.2333508.
- [7] I. Mardiputra, R. Sara, and E. Israhadi, "Legal Protection for Outsourced Workers Based on Law Number 13 of 2003 Concerning Manpower Post-Revision of Law Number 11 of 2020 Concerning Job Creation," 2023. doi: 10.4108/eai.6-5-2023.2333547.
- [8] D. Zahuri and E. Israhadi, "Juridic Review of Legal Protection towards Teachers as Educators," 2021. doi: 10.4108/eai.6-3-2021.2306193.
- [9] G. Hartatiyanto, A. Redi, and E. Israhadi, "Action Violation of Norm Conducted By The Hospital For Medical Action Refusal To Patients," 2023. doi: 10.4108/eai.6-5-2023.2333397.
- [10] F. Akbar, E. Israhadi, and R. Sara, "Inspection Authority of Seaworthiness of Foreign Ships Based on Ratified International Conventions," 2023. doi: 10.4108/eai.12-11-2022.2327292.
- [11] Afiatin *et al.*, "Economic evaluation of policy options for dialysis in end-stage renal disease patients under the universal health coverage in Indonesia," *PLoS One*, vol. 12, no. 5, pp. 1–10, 2017, doi: 10.1371/journal.pone.0177436.
- [12] P. L. Moore and K. L. Lawrence, "The Essential Role of Human Service Nonprofits in Restorative Justice Policy Implementation," *Nonprofit Policy Forum*, Sep. 2023, doi: 10.1515/npf-2022-0040.
- [13] A. Hamid, M. R. Aldila, and A. M. Intan, "The urgency of labor law for informal sector workers in the welfare state concept: An evidence in Indonesia," *Int. J. Res. Bus. Soc. Sci. (2147- 4478)*, vol. 11, no. 6, pp. 528–541, Sep. 2022, doi: 10.20525/ijrbs.v11i6.2036.
- [14] A. Redi and N. Ernasari, "Efforts to Overcome Web-Based Phishing Crimes in the World of Cyber Crime," 2023. doi: 10.4108/eai.28-10-2023.2341807.
- [15] M. Asnawi, F. Santiago, and S. Suparno, "The Strategic Role of Judges in Legal Finding," 2023. doi: 10.4108/eai.12-11-2022.2327266.
- [16] I. Ihsanullah and Z. Fakrulloh, "Adoption of Children in the Civil Law Perspective," 2022. doi: 10.4108/eai.30-10-2021.2315816.
- [17] U. Umar, "The Socio-Cultural Transformations among Samin Tribe in Response to COVID-19," 2022. doi: 10.4108/eai.30-10-2021.2315754.
- [18] A. Rahman, M. Barthos, and S. Suparno, "Legal Status For Employees Who Do Not Extend A Certain Time Work Agreement," 2023. doi: 10.4108/eai.6-5-2023.2333541.
- [19] G. Hartatiyanto, A. Redi, and H. Bakir, "Public Health Services by the Community Health Center Reviewed According to Law Number 25 of 2009 Concerning Public Services," 2023. doi: 10.4108/eai.12-11-2022.2327272.

