

The Right to Education for Children with Special Needs: A Juridical Review of Implementation Challenges and the Fulfillment of Educational Rights in Indonesia

Liana Setiawati¹, Elina Adi Wijayanti²

Universitas Bina Sarana Informatika, Jakarta. Jl. Kramat Raya No.98, RT.2/RW.9, Kwitang, Kecamatan Senen, Kota Jakarta Pusat, Daerah Khusus Ibukota Jakarta 10450

Email: liana.lis@bsi.ac.id¹, elina.elj@bsi.ac.id²

ARTICLE INFO

Keywords:

Children with Special Needs;
Right to Education; Inclusive
Education; Juridical Review

ABSTRACT

Education is a fundamental human right that must be guaranteed equally to all children, including children with special needs (CSNs). Indonesia has established a comprehensive legal framework to protect the educational rights of CSNs through constitutional provisions, child protection legislation, disability laws, and policies promoting inclusive education. However, the implementation of these legal guarantees remains inconsistent due to disparities in accessibility, inadequate educational infrastructure, shortages of qualified teachers, social stigma, and unequal funding across regions. This study aims to analyze the juridical basis of the educational rights of children with special needs, examine the challenges in implementing inclusive education, and identify strategies to strengthen the fulfillment of these rights in Indonesia. The study employed a normative juridical approach using a literature review method. Data were collected from primary and secondary legal sources, including statutory regulations, government policies, scholarly books, and scientific journal articles, and were analyzed using qualitative descriptive analysis. The findings indicate that although Indonesia possesses a strong legal foundation supporting inclusive education, its implementation has not yet been fully effective. Major challenges include limited accessibility, inadequate disability-friendly facilities, insufficient numbers of Special Assistant Teachers, uneven policy implementation, and regional disparities in educational services. Strengthening policy implementation, increasing teacher recruitment and competency, improving cross-sector collaboration, and ensuring equitable funding allocation are essential to achieving inclusive, equitable, and high-quality education for children with special needs.

Email:

liana.lis@bsi.ac.id

Copyright © 2026 Jurnal Ju- SoSAK. All rights reserved is Licensed under a Creative Commons Attribution- Non Commercial 4.0 International License (CC BY-NC 4.0)

INTRODUCTION

Education is a fundamental human right that must be guaranteed to every citizen without discrimination. This principle is explicitly recognized in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that every child has the right to survival, growth, development, and protection from violence and discrimination [1]. Consequently, equal access to education constitutes a constitutional obligation of the Indonesian government and represents one of the primary indicators of social justice and human rights protection.

The Right to Education for Children with Special Needs: A Juridical Review of Implementation Challenges and the Fulfillment of Educational Rights in Indonesia— Liana Setiawati et.al

Children with Special Needs (CSNs) are children who experience long-term physical, intellectual, mental, sensory, or developmental conditions that may limit their participation in educational and social environments. This category includes children with visual impairments, hearing impairments, intellectual disabilities, physical disabilities, autism spectrum disorder, Attention Deficit Hyperactivity Disorder (ADHD), emotional and behavioral disorders, and gifted or talented children. Rather than referring merely to disability status, the concept of children with special needs emphasizes the necessity of providing educational services that accommodate each child's unique characteristics, abilities, and developmental requirements [2].

Every child with special needs possesses different learning characteristics and therefore requires individualized educational support. Appropriate identification and assessment are essential for determining educational needs and designing learning services that correspond to each child's abilities and potential. Comprehensive assessment enables educators to develop suitable instructional strategies while ensuring that educational services are delivered fairly and effectively according to individual needs [3].

Although the right to education for children with special needs has been legally recognized, significant disparities remain in its practical implementation. According to data released by the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek) in 2024, many school-aged children with special needs have not yet gained access to either inclusive schools or special schools (Sekolah Luar Biasa SLB). These conditions are primarily influenced by geographical disparities, economic limitations, inadequate educational infrastructure, and the limited readiness of educational institutions to accommodate learners with diverse disabilities [1].

Indonesia has established a comprehensive legal framework to protect the rights of children with special needs. Law No. 8 of 2016 concerning Persons with Disabilities and Law No. 35 of 2014 concerning Child Protection guarantee equal access to inclusive education, healthcare, rehabilitation services, protection against violence and discrimination, and opportunities to participate in community life. These legal instruments reflect the government's commitment to ensuring equal treatment and protecting the dignity of persons with disabilities through an inclusive legal system [3].

Despite these legal protections, the implementation of educational rights for children with special needs continues to encounter considerable challenges. Public awareness regarding disability remains relatively limited, resulting in persistent social stigma and discrimination. Inclusive schools and specialized educational services are unevenly distributed across regions, while many parents still experience difficulties in understanding appropriate approaches to supporting their children's educational development. Consequently, educational inclusion requires collaboration among families, educational institutions, government agencies, healthcare providers, and society as a whole.

The role of families extends beyond providing emotional support to actively participating in parenting education programs and collaborating with schools. Government institutions are expected to expand inclusive educational facilities, recruit and train qualified Special Assistant Teachers (Guru Pembimbing Khusus GPK), and improve the accessibility of rehabilitation and healthcare services. Meanwhile, communities play an important role in fostering disability-friendly environments that promote equality, social participation, and

respect for human dignity. Such collaborative efforts are fundamental to ensuring that children with special needs can develop their full potential and participate actively in society.

The implementation of inclusive education in Indonesia remains far from optimal. According to the National Commission on Disabilities of the Republic of Indonesia, only 14.8% of the country's 40,164 inclusive schools are supported by Special Assistant Teachers. This shortage significantly affects the quality of educational services provided to students with diverse learning needs. Similar implementation gaps have also been observed internationally, despite the adoption of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which emphasizes equality, inclusion, and non-discrimination in education [4]. Likewise, UNESCO's Salamanca Statement and the Education for All (EFA) initiative reinforce the principle that every child has the right to quality education regardless of disability status [5], [6].

Indonesia has incorporated these international principles into its national legal framework. Law No. 20 of 2003 concerning the National Education System recognizes the right of every citizen to receive quality education, including learners with disabilities. This commitment was further strengthened through Minister of National Education Regulation No. 70 of 2009 concerning Inclusive Education, which requires regular schools to provide educational opportunities for children with special needs alongside their peers. These regulations demonstrate Indonesia's commitment to implementing inclusive education as part of its national educational policy [7].

Nevertheless, previous studies consistently report that the implementation of inclusive education continues to face numerous structural and institutional barriers. Limited teacher competence in managing inclusive classrooms remains one of the most significant obstacles [8]. Furthermore, insufficient disability-friendly facilities, inadequate learning media, and inaccessible educational infrastructure continue to reduce educational accessibility for children with special needs [9]. Unequal funding allocation further widens disparities in educational quality, particularly in remote and underdeveloped regions [10]. Consequently, despite comprehensive national regulations, the implementation of inclusive education differs considerably across provinces because of variations in local government commitment, institutional capacity, and resource availability.

Although many previous studies have investigated inclusive education in Indonesia, most have focused on specific educational levels or limited geographical areas. This study offers a broader perspective by examining the juridical foundation, implementation challenges, and strategies for fulfilling the educational rights of children with special needs within the Indonesian context. By integrating legal analysis with evidence from previous studies, this research seeks to provide a comprehensive understanding of the institutional, social, and policy-related barriers that continue to hinder the realization of inclusive education. The findings are expected to contribute to future policy development aimed at strengthening the protection and fulfillment of educational rights for children with special needs throughout Indonesia [11].

Literature Review And Problem Statement

The Right to Education for Children with Special Needs

Education is recognized as a fundamental human right that must be guaranteed equally to all citizens, including children with special needs (CSNs). The principle of non-

discrimination is embedded in the Constitution of the Republic of Indonesia and reinforced through national legislation concerning child protection and the rights of persons with disabilities [1], [3]. The concept of children with special needs extends beyond the presence of physical or intellectual disabilities; it refers to children who require specialized educational services that accommodate their individual characteristics, learning abilities, and developmental needs [2].

Inclusive education has become the preferred educational approach internationally because it provides equal opportunities for children with and without disabilities to learn together within the same educational environment. This approach aims not only to increase educational accessibility but also to eliminate discrimination, promote social participation, and strengthen respect for diversity [4], [5].

Juridical Framework of Inclusive Education in Indonesia

Indonesia has established a comprehensive legal framework supporting inclusive education. The constitutional guarantee of educational rights is further elaborated through Law No. 20 of 2003 concerning the National Education System, Law No. 35 of 2014 concerning Child Protection, Law No. 8 of 2016 concerning Persons with Disabilities, and Minister of National Education Regulation No. 70 of 2009 regarding Inclusive Education [1], [3], [7].

These regulations affirm that every child has the right to receive quality education regardless of physical, intellectual, sensory, or psychological conditions. Educational institutions are therefore expected to provide accessible learning environments, eliminate discriminatory practices, and ensure that students with disabilities receive appropriate educational support. Furthermore, Indonesia has adopted international commitments, including the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and UNESCO's Salamanca Statement, both of which strengthen the legal obligation to implement inclusive education as part of the protection of fundamental human rights [4]–[6].

Challenges in the Implementation of Inclusive Education

Although the legal framework is relatively comprehensive, the implementation of inclusive education continues to face significant challenges. Previous studies have consistently reported shortages of qualified Special Assistant Teachers (Guru Pembimbing Khusus), inadequate teacher competence in managing inclusive classrooms, and limited availability of disability-friendly educational facilities [8]–[10].

Infrastructure deficiencies, including inaccessible classrooms, insufficient adaptive learning media, limited Braille materials, and inadequate sign language services, remain major barriers to educational accessibility. These conditions are particularly evident in remote and underdeveloped regions where educational resources are considerably more limited. Unequal financial support and inconsistent policy implementation across local governments further contribute to disparities in the quality of inclusive education throughout Indonesia [10].

Social barriers also continue to affect educational participation among children with special needs. Public misconceptions, discrimination, and negative attitudes toward disability frequently discourage families from enrolling their children in formal education. Consequently, the realization of inclusive education requires not only regulatory support but also substantial improvements in institutional capacity, public awareness, and cross-sector collaboration.

Research Gap

Numerous previous studies have examined the implementation of inclusive education in Indonesia. However, most investigations have focused on specific educational levels, regional case studies, or individual institutional experiences. Limited attention has been given to integrating legal analysis with the broader institutional challenges affecting the fulfillment of educational rights across different educational levels and geographical regions [4].

Furthermore, many studies primarily evaluate educational practices without comprehensively examining whether existing legal instruments have been effectively translated into educational policies and implementation mechanisms. This gap indicates the need for a broader juridical analysis that connects constitutional guarantees, statutory regulations, implementation barriers, and policy effectiveness within a single analytical framework.

Problem Statement

Despite Indonesia's comprehensive legal framework supporting the educational rights of children with special needs, substantial disparities remain between legal provisions and practical implementation. Unequal educational accessibility, shortages of qualified teachers, inadequate infrastructure, limited institutional capacity, and persistent social stigma continue to hinder the realization of inclusive education throughout the country.

Accordingly, this study addresses the following research questions:

1. What constitutes the juridical foundation governing the educational rights of children with special needs in Indonesia?
2. What are the principal challenges affecting the implementation of inclusive education in Indonesia?
3. What strategies can strengthen the fulfillment of educational rights for children with special needs through improvements in legal implementation, educational policy, and stakeholder collaboration?

This study aims to provide a comprehensive juridical analysis that contributes to strengthening inclusive education policies and improving the protection of educational rights for children with special needs in Indonesia.

METHODS

This study employed a normative juridical research approach to examine the legal framework governing the educational rights of children with special needs (CSNs) in Indonesia. Normative juridical research emphasizes the analysis of legal norms embodied in statutory regulations, legal principles, and legal doctrines. This approach focuses on examining legal materials derived from primary legal sources, including constitutions, statutory regulations, government regulations, court decisions, and legal doctrines, to evaluate how legal norms are formulated, interpreted, and implemented in practice [12]. Through this approach, the study assessed the consistency between the existing legal framework and the fulfillment of the educational rights of children with special needs.

The research focused on the implementation of legal protection for children with special needs within the Indonesian education system. Specifically, it examined constitutional provisions, child protection legislation, disability laws, and regulations governing inclusive education. The study also analyzed the effectiveness of these legal instruments in ensuring

equal educational opportunities while identifying legal and institutional challenges that hinder the implementation of inclusive education. Based on these findings, recommendations were formulated to strengthen legal policies supporting the fulfillment of educational rights for children with special needs.

Data were collected using a library research method. Secondary data were obtained from various authoritative sources, including constitutions, statutory regulations, government documents, scholarly books, peer-reviewed journal articles, and other relevant legal literature. The data collection process consisted of identifying relevant legal sources, reviewing and classifying the collected materials, extracting significant information, and synthesizing the findings to answer the research questions [13].

The collected data were analyzed using qualitative descriptive analysis. This analytical method emphasizes the systematic interpretation of legal documents and scholarly literature rather than statistical analysis. The analysis involved organizing legal materials into thematic categories, identifying relationships among legal principles and policy implementation, and interpreting the findings to explain the effectiveness of Indonesia's legal framework in protecting the educational rights of children with special needs. In accordance with the qualitative analysis framework proposed by Bogdan and Biklen, qualitative analysis consists of organizing data, categorizing information into manageable units, identifying patterns, synthesizing findings, and drawing meaningful conclusions relevant to the research objectives [14].

RESULTS AND DISCUSSION

Legal Protection of the Right to Education for Children with Special Needs

The educational rights of children with special needs (CSNs) in Indonesia are protected through a comprehensive legal framework. Despite these legal guarantees, data released by the Ministry of Education, Culture, Research, and Technology (Kemendikbudristek) in 2024 indicate that a considerable number of school-aged children with special needs have not yet been accommodated in either inclusive schools or special education schools (Sekolah Luar Biasa SLB). This condition is primarily attributed to geographical disparities, economic limitations, inadequate educational infrastructure, and the limited readiness of educational institutions to implement inclusive education effectively [16].

The constitutional foundation for the right to education is established in Article 31 of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen's right to receive education [1]. This constitutional mandate is reinforced by Law No. 35 of 2014 concerning Child Protection, which obliges the government to provide equal educational opportunities for children with special needs [17]. Furthermore, Law No. 8 of 2016 concerning Persons with Disabilities explicitly guarantees the right of persons with disabilities to receive inclusive education at all educational levels [3]. The implementation of these legal provisions is strengthened by Minister of Education, Culture, Research, and Technology Regulation No. 46 of 2023, which requires educational institutions to provide safe, inclusive, and non-discriminatory learning environments [19].

These regulations demonstrate Indonesia's strong legal commitment to protecting the educational rights of children with special needs. Nevertheless, the effectiveness of these legal instruments largely depends on their implementation at the institutional level, where

considerable disparities in educational access and service quality continue to exist across different regions. This finding indicates that the existence of legal regulations alone is insufficient without effective policy implementation, adequate institutional capacity, and continuous government supervision.

Challenges in Fulfilling the Educational Rights of Children with Special Needs

Although Indonesia has established comprehensive regulations supporting inclusive education, practical implementation continues to face significant challenges. Law No. 20 of 2003 concerning the National Education System and Minister of National Education Regulation No. 70 of 2009 concerning Inclusive Education provide the legal foundation for enabling children with special needs to study alongside their peers in mainstream schools [7], [18]. However, the realization of these objectives remains uneven throughout the country. Based on the findings of this study, five major challenges continue to hinder the effective implementation of inclusive education.

1. Shortage of Special Assistant Teachers

One of the most significant barriers is the limited number of Special Assistant Teachers (Guru Pembimbing Khusus GPK). The number of teachers with professional qualifications in special education remains insufficient compared to the increasing number of inclusive schools. Furthermore, many mainstream teachers have not received adequate training in inclusive pedagogical practices, individualized education programs (IEPs), and differentiated instruction, limiting their ability to accommodate students with diverse educational needs. These findings are consistent with previous research, which identified teacher competency as one of the principal barriers to successful inclusive education [8].

2. Inadequate Educational Facilities and Infrastructure

Educational accessibility remains limited because many schools have not yet provided disability-friendly infrastructure. Essential facilities, including wheelchair ramps, accessible toilets, Braille learning materials, assistive technologies, sign language interpretation, and adaptive instructional media, remain unavailable in many educational institutions, particularly in rural and underdeveloped areas. Such infrastructural limitations significantly reduce educational participation and learning effectiveness for children with disabilities [9].

3. Social Stigma and Discrimination

Social attitudes continue to present substantial barriers to educational inclusion. Many parents remain reluctant to disclose their children's disabilities because of fear of stigma and discrimination. Likewise, some mainstream schools continue to hesitate in admitting children with special needs due to concerns regarding classroom management and academic achievement. Cases of bullying, exclusion, and discriminatory attitudes further reduce children's opportunities to participate fully in educational activities.

4. Unequal Funding and Regional Government Commitment

Financial disparities significantly influence the implementation of inclusive education. Government funding allocated specifically for inclusive education remains limited and unevenly distributed among regions. Variations in local government commitment, administrative capacity, and educational priorities have resulted in inconsistent

implementation of national policies, particularly in remote districts. Similar findings have been reported in previous studies highlighting the influence of funding inequality on educational quality [10].

5. Geographical Disparities

Educational inequality is particularly evident in Indonesia's frontier, remote, and disadvantaged (3T) regions. Inclusive schools, rehabilitation services, and specialized educational facilities remain concentrated in urban areas, leaving many children with special needs in remote regions without equitable access to quality education. Consequently, geographical disparities continue to undermine the realization of inclusive education across Indonesia.

Overall, these findings indicate that the principal barriers to fulfilling the educational rights of children with special needs extend beyond legal issues and involve institutional, financial, infrastructural, and socio-cultural dimensions. Therefore, strengthening inclusive education requires comprehensive policy implementation supported by adequate resources and coordinated stakeholder engagement.

Strategies for Strengthening the Fulfillment of Educational Rights

The findings indicate that strengthening the educational rights of children with special needs requires an integrated approach involving legal reform, educational institutions, families, communities, and government agencies.

First, the government should strengthen the implementation of Law No. 8 of 2016 concerning Persons with Disabilities by expanding the number of inclusive schools and ensuring that every district has at least one adequately equipped inclusive educational institution [3]. Dedicated financial support should also be allocated specifically to improve inclusive education services and educational accessibility.

Second, educational institutions should continuously improve teacher competencies through professional development programs emphasizing Universal Design for Learning (UDL), differentiated instruction, inclusive classroom management, and individualized education programs. Increasing the recruitment and equitable distribution of Special Assistant Teachers (GPK) is equally important to improve educational quality.

Third, families and communities should actively participate in promoting inclusive education through parenting education, public awareness campaigns, anti-discrimination initiatives, and collaboration with disability organizations. Such collaborative efforts can reduce social stigma while fostering more inclusive educational environments.

Furthermore, educational services should begin with comprehensive identification and assessment of each child's educational needs. The implementation of Individualized Education Programs (IEPs), adaptive instructional methods, disability-friendly learning environments, continuous teacher training, and equitable funding allocation should become integral components of Indonesia's inclusive education policy.

Overall, the findings demonstrate that Indonesia possesses a strong legal framework for protecting the educational rights of children with special needs. However, achieving meaningful educational inclusion requires stronger policy implementation, adequate financial support, competent educational personnel, accessible infrastructure, and sustained collaboration among government institutions, schools, families, and communities. Only

through these integrated efforts can the constitutional guarantee of equal educational opportunities be effectively realized for all children with special needs.

CONCLUSION

The findings of this study indicate that the right to education for children with special needs (CSNs) has been strongly protected through both national legislation and international legal instruments. Indonesia has established a comprehensive legal framework, including constitutional provisions, child protection laws, disability legislation, and policies promoting inclusive education. Nevertheless, a considerable gap remains between the legal framework and its implementation in practice. Although inclusive education represents the most appropriate approach for ensuring equal educational opportunities for children with special needs, its successful implementation requires systematic support in terms of institutional capacity, educational resources, and policy enforcement.

Despite the enactment of Law No. 35 of 2014 concerning Child Protection and the strengthened implementation of Law No. 8 of 2016 concerning Persons with Disabilities, the enforcement of legal protections and the fulfillment of educational rights for children with special needs have not yet been fully effective. Persistent challenges including unequal educational accessibility, inadequate infrastructure, shortages of qualified teachers, and limited institutional capacity continue to hinder the realization of inclusive education across Indonesia. These findings highlight the need for stronger policy implementation, more effective law enforcement, and comprehensive coordination among government agencies, educational institutions, and other stakeholders.

Furthermore, improving the quality of inclusive education requires increasing the recruitment of Special Assistant Teachers (Guru Pembimbing Khusus GPK), expanding professional development programs on inclusive education, and strengthening cross-sector collaboration involving government institutions, schools, families, and disability organizations. Equally important is the provision of equitable and sustainable funding to reduce regional disparities in educational services. A more balanced allocation of financial resources from the central government to local governments is essential to improve educational facilities, learning support services, and institutional readiness. Through these integrated efforts, Indonesia can strengthen the implementation of inclusive education and ensure that every child with special needs enjoys equal access to quality education without discrimination.

REFERENCES

- [1] The 1945 Constitution of the Republic of Indonesia.
- [2] K. Nisa, "Karakteristik dan Kebutuhan Anak Berkebutuhan Khusus," Jurnal Abadimas Adi Buana, vol. 2, no. 2, 2018.
- [3] Republic of Indonesia, Law No. 8 of 2016 concerning Persons with Disabilities.
- [4] United Nations, Convention on the Rights of Persons with Disabilities. New York, NY, USA: United Nations, Dec. 13, 2006.
- [5] UNESCO, The Salamanca Statement and Framework for Action on Special Needs Education. Paris, France: UNESCO, 1994.
- [6] UNESCO, Education for All: Global Monitoring Report. Paris, France: UNESCO.
- [7] Republic of Indonesia, Law No. 20 of 2003 concerning the National Education System.

The Right to Education for Children with Special Needs: A Juridical Review of Implementation Challenges and the Fulfillment of Educational Rights in Indonesia— Liana Setiawati et.al

- [8] D. Wulandari and W. Hendriani, "Challenges in the Implementation of Inclusive Education in Indonesia: Teachers' Competencies and Classroom Practices," 2021.
- [9] N. Ummah, R. Fadhilah, and A. Rahman, "Accessibility of Inclusive Education Facilities for Children with Disabilities in Indonesia," 2023.
- [10] D. A. Tyas Pratiwi, R. Nugroho, and S. Hidayat, "Funding Inequality and the Quality of Inclusive Education Services in Indonesia," 2022.
- [11] A. Arismunandar and S. Mus, "Implementasi Manajemen Sekolah Inklusi pada Sekolah Dasar Negeri di Kota Makassar," Jurnal Riset Rumpun Ilmu Pendidikan, 2025.
- [12] P. M. Marzuki, Penelitian Hukum, rev. ed. Jakarta, Indonesia: Kencana, 2021.
- [13] J. W. Creswell and J. D. Creswell, Research Design: Qualitative, Quantitative, and Mixed Methods Approaches, 6th ed. Thousand Oaks, CA, USA: SAGE Publications, 2023.
- [14] R. C. Bogdan and S. K. Biklen, Qualitative Research for Education: An Introduction to Theory and Methods, 6th ed. Boston, MA, USA: Pearson, 2022.
- [15] Komisi Perlindungan Anak Indonesia, Laporan Tahunan KPAI 2025: Jalan Terjal Perlindungan Anak. Jakarta, Indonesia: KPAI, 2025.
- [16] Komisi Nasional Disabilitas Republik Indonesia, Data Pendidikan Inklusif di Indonesia. Jakarta, Indonesia: Komisi Nasional Disabilitas Republik Indonesia, 2024.
- [17] Republic of Indonesia, Law No. 35 of 2014 concerning Child Protection.
- [18] Republic of Indonesia, Minister of National Education Regulation No. 70 of 2009 concerning Inclusive Education.
- [19] Republic of Indonesia, Minister of Education, Culture, Research, and Technology Regulation No. 46 of 2023 concerning Child Protection in Education Units.