

LEGAL PROTECTION FOR PEOPLE WITH DISABILITIES IN TERMS OF FULFILLING THE RIGHT TO EDUCATION IN HIGHER EDUCATION

(Case Studies of AW in Indonesia and RA in Canada)

Gatot Sugiharto¹, Intan Mukti², Gea Salsa Arabella², Hernika Ramadhanty², Firda Maulida², Dwi Arassy Aprillia. RS²

Ahmad Dahlan University¹
Faculty Of Law, Malahayati University, Bandar Lampung²

Email: *gatot.sugiharto@law.uad.ac.id, intanmukti59135@gmail.com, geasalsaa@gmail.com, nikarahma01@gmail.com, firdamaulida@gmail.com, dwiarassy@malahayati.ac.id

Abstract

The urgency of this research is because the reality in the field shows that people with disabilities still face various obstacles in accessing higher education, both in terms of infrastructure, policies, and social acceptance. Legal protection must be given to anyone without exception, including people with disabilities. Persons with disabilities are part of a society that has equal rights in various aspects of life, including education, employment, health, and social participation. One of the rights of people with disabilities that is the main issue in this study is the right to education. In this study, the author uses normative juridical legal research methods or literature research. The results of the study show that Regulations in Indonesia and Canada both guarantee the right to education for people with disabilities, but the implementation is different. In Indonesia, Law No. 8 of 2016 and Permendikbud No. 46 of 2014 have regulated the obligations of universities in providing accessibility, but do not have binding technical standards and strong supervisory mechanisms. Meanwhile, Canada has more comprehensive regulations such as the Accessible Canada Act of 2019, which not only establishes rights but also regulates funding, supervision, and sanctions for institutions that do not comply with the rules. In Indonesia, weak technical standards, lack of infrastructure, and lack of funding are the main obstacles to realizing optimal inclusive education. Meanwhile, in Canada, despite more advanced systems, challenges such as uneven distribution of funds and gaps in facilities in remote areas still need to be addressed. From the results of the study, it can be concluded that legal protection for persons with disabilities in fulfilling the right to education in higher education has been regulated both in Indonesia and Canada, but with a different approach. In addition, that although regulations are in place, the main challenge lies in the implementation of policies at the university level. From this conclusion, the author can provide suggestions that there is a need for policy improvements in both countries so that the implementation of inclusive education can really run effectively and evenly for all students with disabilities

Keywords: *Legal Protection, Disability, Right to Education*

A. BACKGROUND

Legal protection is an effort made by the state or legal institution to guarantee the rights of individuals or groups from violations, abuses, or injustices (Hamad et al., 2023:10). Legal protection must be given to anyone without exception, including people with disabilities. Legal protection for persons with disabilities includes a wide range of legal instruments that aim to ensure they get the same basic rights as other individuals. This protection is not only limited to national law but is also regulated in various international legal instruments that have been ratified by many countries. In the context of international law, various conventions and treaties have set standards for countries in ensuring the protection of persons with disabilities (Paruntu, 2023:40).

Persons with disabilities are individuals who have physical, mental, intellectual, or sensory limitations that, in interactions with various barriers, can hinder their full and effective participation in society on an equal footing with others (Arifin et al., 2021:371). Persons with disabilities are part of a society that has equal rights in various aspects of life, including education, employment, health, and social participation. However, in practice, they still face various forms of discrimination, both in the social environment and in the legal system. Therefore, effective legal protection is needed to ensure that their rights can be guaranteed and protected (Damanik, 2024:238).

A number of international legal instruments have regulated the protection of persons with disabilities, one of which is the *Convention on the Rights of Persons with Disabilities* (CRPD) which was adopted by the United Nations (UN) in 2006. The Convention emphasizes the principles of equality, non-discrimination and the full participation of persons with disabilities in society. CRPD is the main guideline in building policies and legal regulations in various countries to ensure that people with disabilities have equal access to social life (Mu'in et al., 2021:228).

Indonesia has ratified the CRPD through Law Number 19 of 2011. In addition, Indonesia also has Law Number 8 of 2016 concerning Persons with Disabilities which aims to provide legal protection and guarantee the rights of persons with disabilities in various aspects of life. The law regulates a wide range of basic rights of persons with disabilities, including the right to education, employment, health services, and social protection. However, the implementation of this policy still faces various challenges, especially in terms of law enforcement and public awareness (Panglipurjati, 2021:80).

Although there have been various international and national legal instruments governing the protection of persons with disabilities, their implementation still faces various challenges. (Nurfadhillah, 2021:15). One of the main problems that people with disabilities still face is discrimination. This form of discrimination can be direct or indirect, such as difficulties in getting a job, limited access to proper education, and social stigma that is still inherent in society. This discrimination is a major barrier for people with disabilities to get their full rights. (Abdussamad et al., 2023:11).

One of the rights of people with disabilities that is the main issue in this study is the right to education. Education is a modern tool to be able to attract a person's degree in the community environment. Education plays a very important role in improving superior and competitive human resources in an effort to face the challenges of change and development of the times that are increasingly sharply increasing. However, there are still many problems related to the fulfillment of educational rights for people with disabilities that occur in various universities in the world. For example, as happened in Indonesia and Canada. (Nur Fadhillah, 2021:77)

In the last three years, the issue of fulfilling the right to higher education for people with disabilities has received increasing attention, both at the national and international levels. In Indonesia, data from the Central Statistics Agency (BPS) in 2022 noted that only about 8.5% of people with disabilities aged 19–24 years have access to higher education, a figure that is still very low compared to non-disabled. The study conducted by Heriyanto and Hudzaifi shows that there are still many higher education institutions, especially within State Islamic Religious Universities (PTKIN), that do not have a comprehensive inclusive policy for students with disabilities (Heriyanto et al., 2023:77).

This is reinforced by the findings of Poerawinata and Supriyanto (2024) in a case study at Gadjah Mada University, which highlighted the physical, administrative, and cultural barriers faced by students with disabilities (Subiakso et al., 2023:15). Meanwhile, Canada, as one of the countries with a high commitment to inclusivity, has shown significant progress. According to the *Canadian Human Rights Commission's* report (2023), more than 70% of higher education institutions in Canada have implemented accessibility policies based on *the Universal Design for Learning* (UDL) principles. This comparison is interesting to study further in order to provide policy recommendations based on best practices in the international world.

Some time ago, there was a case where there was a lecturer at the University of Jambi (UNJA) who hit one of the students with disabilities. The incident of not wearing it was experienced by a student with the initials AW. This incident indicates that there is still much that must be fixed to ensure that the rights of people with disabilities such as AW's brother to access education can be fulfilled and there is no discriminatory treatment of people with disabilities (<https://www.unja.ac.id/hwdi-apresiasi-fast-response-unja-dalam-kasus-disabilitas-karena-nila-setitik-takkan-rusak-susu-sebelanga/>, accessed on March 23, 2025 at 14:30 WIB).

Cases of discrimination against people with disabilities in higher education do not only occur in Indonesia, but also occur abroad such as in Canada. This case befell a female student with the initials RA, a student with a physical disability who was accepted to the University of Toronto Canada to continue her studies. He hopes that the campus will have facilities that support the needs of students with mobility limitations, in accordance with the inclusion policy promised by the university. However, after starting lectures, RA faced various obstacles where the classroom was not disability-friendly. Where his class is in a building that does not have elevator access or a special wheelchair path, making it difficult for him to attend lectures in person. Additionally, although universities have service centers for students with special needs, the response to requests for accommodations is often slow and inadequate. In the end, RA tried to raise complaints with the university and asked for a solution, including moving the classroom to a more accessible space or providing additional tools. However, his request was not immediately followed up, making it even more difficult to attend lectures smoothly (Paaramita et al., 2024:99).

The two cases above are examples where the rights of persons with disabilities in terms of education in higher education are not fulfilled. Meanwhile, as we know, Indonesia and Canada are countries that have a high commitment in terms of education. In Indonesia, guarantees for the right to education for persons with disabilities are contained in Law Number 8 of 2016 concerning Persons with Disabilities and Law Number 20 of 2003 concerning the National Education System. Meanwhile, in Canada, legal protections for people with disabilities in obtaining higher education are supported by the *Canadian Charter of Rights and Freedoms and the Accessible Canada Act*. The two countries have different approaches to providing access to higher education for people with disabilities, but they have similarities in their commitment to equality and inclusivity (Dirkarezhia, 2023:153).

In Indonesia, although there are regulations that regulate the fulfillment of the right to

education for people with disabilities, their implementation still faces various challenges, such as the lack of accessible facilities, the lack of educators who have competence in handling students with disabilities, and the low awareness of educational institutions to their special needs. This often hinders the full participation of people with disabilities in the academic world (Umar et al., 2024:138).

The same thing happened in Canada. Although Canada has developed policies and best practices to ensure the accessibility of higher education for people with disabilities, there are still shortcomings in their implementation. Not all universities in Canada have uniform standards in providing services for students with disabilities (Judjianto et al., 2025:10).

The author's interest in researching the topic of legal protection for people with disabilities in fulfilling the right to education in higher education stems from the realization that education is a basic right of every individual without exception. However, the reality on the ground shows that people with disabilities still face various obstacles in accessing higher education, both in terms of infrastructure, policies, and social acceptance. Indonesia already has various regulations that guarantee the right to education for people with disabilities, but their implementation still faces many obstacles. Meanwhile, Canada, which is known as a country that has been more advanced in implementing inclusive education policies, also still faces obstacles in terms of its implementation. By comparing the systems in the two countries, this study is expected to provide new insights and policy recommendations that can be implemented in Indonesia and Canada to strengthen legal protection and ensure that the right to education for people with disabilities is optimally fulfilled (Paramita et al., 2024:99).

To make it easier for the author to conduct research, the author has formulated the problem, namely: the first 1) How is the Legal Protection Arrangement for Persons with Disabilities in terms of the Fulfillment of the Right to Education in Higher Education in Indonesia and Canada? And the second 2) What are the obstacles faced in the implementation of legal protection for persons with disabilities in terms of fulfilling the right to education in universities in Indonesia and Canada?. In this study, the author uses the normative juridical legal research method or *kepuustakaan*. ini research is a research that examines the study of documents, namely using various secondary data such as laws and regulations, court decisions, legal theories, and can be in the form of expert opinions. This type of normative research uses qualitative analysis, namely by explaining existing data in words or statements, not in numbers (Zainal Ali, 2021).

B. DISCUSSION

1. Legal Protection Arrangements for Persons with Disabilities in Fulfillment of the Right to Education in Higher Education in Indonesia and Canada

Education is a fundamental right guaranteed by the state for every citizen, including people with disabilities. In Indonesia, legal protection for persons with disabilities in fulfilling the right to education in higher education has been regulated in Law Number 8 of 2016 concerning Persons with Disabilities. This law requires governments, local governments, and educational institutions to provide accessibility and adequate accommodations for students with disabilities. In addition, Permendikbud Number 46 of 2014 concerning Special Education and Special Service Education in Higher Education regulates the provision of facilities, curriculum, and educators who are able to accommodate the needs of students with disabilities (Fitriah, 2021:77).

In practice, several universities in Indonesia have implemented inclusive policies by providing Disability Service Units (ULD) which are tasked with providing academic and non-academic support for students with disabilities. For example, the University of Indonesia

and Gadjah Mada University have ULD which plays a role in providing mentoring services, sign language translators, and accessibility of the campus environment. However, challenges still occur, especially in terms of limited infrastructure, human resources, and low awareness of educational institutions to the needs of students with disabilities (Suprihatiningrum et al., 2021:90).

On the other hand, Canada has more comprehensive regulations in guaranteeing the right to education for people with disabilities in college. The *Canadian Charter of Rights and Freedoms* and the *Accessible Canada Act* of 2019 are the main legal foundations in ensuring inclusive education for students with disabilities. This law requires colleges to provide decent accommodation, including assistive technology, psychosocial support, and a learning environment that is free from discrimination (Estika et al., 2024:50).

In addition, the Canadian government also establishes specific policies through *The Post-Secondary Education Accessibility Framework*, which aims to improve the accessibility of higher education for people with disabilities. Universities in Canada generally have an *Accessibility Services Office* that functions to provide special services for students with disabilities, such as curriculum modifications, sign language interpreters, and more flexible academic consulting services (Yenduri et al., 2023:23).

Compared to Indonesia, the higher education system in Canada has been more mature in accommodating the needs of students with disabilities. One of the differences is in the funding aspect. The Government of Canada provides special funding in the form of the *Canada Student Grant for Students with Disabilities* (CSG-D), which assists students in obtaining the learning facilities they need. Meanwhile, in Indonesia, inclusive education financing schemes are still limited and have not been optimally integrated into the higher education system (Sujarwanto, 2023:89).

In addition to the funding aspect, other differences can be seen in the application of technology in inclusive education. Universities in Canada are making more use of digital-based technologies, such as electronic texts that can be accessed by *screen readers* and artificial intelligence-based learning software to help students with disabilities. In Indonesia, the implementation of this kind of technology is still limited, and not all universities have clear policies regarding its use (Suwarta et al., 2025:76).

However, Indonesia has also shown positive developments in terms of inclusive education regulations and policies. The government began to encourage universities to be more open to students with disabilities, as well as to raise awareness of the importance of equal education for all individuals. Several campuses have taken initiatives by building disability-friendly infrastructure and providing training to educators in teaching students with special needs (Yenduri et al., 2023:23).

According to the author, regulations in Indonesia and Canada both guarantee the right to education for people with disabilities, but the implementation is different. In Indonesia, Law No. 8 of 2016 and Permendikbud No. 46 of 2014 have regulated the obligations of universities in providing accessibility, but do not have binding technical standards and strong supervisory mechanisms. Meanwhile, Canada has more comprehensive regulations such as the *Accessible Canada Act* of 2019, which not only establishes rights but also regulates funding, supervision, and sanctions for institutions that do not comply with the rules. The main difference lies in the effectiveness of implementation, where regulations in Canada are more operational and ensure that all universities implement inclusive education in a uniform manner, while in Indonesia, the implementation still depends on the readiness of each institution.

2. Obstacles Faced in the Implementation of Legal Protection for Persons with Disabilities in terms of Fulfilling the Right to Education in Universities in Indonesia and Canada

Legal protection for persons with disabilities in the fulfillment of the right to higher education has been regulated in regulations in Indonesia and Canada. However, in practice, the implementation of the policy faces various obstacles that hinder the implementation of inclusive education in higher education. These obstacles include policy aspects, infrastructure, funding, readiness of educators, and public awareness of the importance of inclusive education for people with disabilities (Paramansyah et al., 2024:97).

In Indonesia, one of the main obstacles is the lack of binding technical standards in existing regulations. Law Number 8 of 2016 concerning Persons with Disabilities and Permendikbud Number 46 of 2014 have regulated the obligations of universities in providing accessibility, but do not specify in detail the minimum standards that must be met. As a result, each university has a different policy in accommodating students with disabilities, resulting in inequality in the implementation of inclusive education (Pitaloka et al., 2025:18).

In addition, infrastructure constraints are a big problem in Indonesia. Many campuses do not provide disability-friendly facilities, such as special lanes for wheelchair users, elevators with braille buttons for the visually impaired, and classrooms that can be easily accessed by students with physical limitations. Some universities that already have inclusive facilities are still limited in number, especially in remote areas. This lack of infrastructure makes it difficult for students with disabilities to access higher education on an equal footing with other students (Ara et al., 2022:87).

In terms of funding, the Indonesian government does not yet have a special funding scheme that is directly aimed at supporting higher education for people with disabilities. Unlike Canada, which has the *Canada Student Grant for Students with Disabilities* (CSG-D) as financial aid for students with disabilities, in Indonesia, students with disabilities have to rely on public scholarships that do not necessarily take into account their special needs. As a result, students with financial limitations often find it difficult to get additional services, such as study aids or special assistance (Rofiah et al., 2023:14)

The readiness of educators is also a serious obstacle in the implementation of inclusive education in Indonesia. Many lecturers do not have a specific understanding or training in teaching students with special needs. Not all educators understand how to develop teaching methods that are accessible to students with hearing, vision, or other barriers. As a result, students with disabilities often have difficulties in understanding lecture material, because the teaching system has not been adjusted to their needs (Paramita et al., 2024:247).

Although Canada has a more advanced system in inclusive education, the country also faces challenges, especially when it comes to implementation gaps in various colleges. Although regulations such as *the Accessible Canada Act* of 2019 already set strict accessibility standards, there are still some universities that have not fully met those standards. Geographical factors are also an obstacle, especially for universities in remote areas that do not have facilities equivalent to large campuses in major cities such as Toronto or Vancouver (Junaidi et al., 2023:66).

In addition, in Canada, although funding for students with disabilities is quite adequate, there are some reports that the distribution of funds is often uneven. Some students complained about the difficulty of the administrative process in accessing financial aid or additional services. In some cases, limited resources at colleges lead to long wait times to get support services such as sign language interpreters or study aids. This shows that even though regulations are available, their implementation still needs to be improved to be more

efficient and equitable (Assegaf, 2023:85).

In both countries, social factors and public awareness are also obstacles. There is still a stigma among academics and other students who think that people with disabilities do not have the same potential in the academic world. The lack of socialization about the educational rights of persons with disabilities makes some students and lecturers do not understand the importance of inclusive education. As a result, students with disabilities often experience indirect discrimination, both in the academic and social environment on campus (Nabiela et al., 2023:100).

C. COVER

1. Conclusion

From the various descriptions of the discussion above, conclusions can be drawn, namely:

- a. Legal protection for persons with disabilities in the fulfillment of the right to education in higher education has been regulated in both Indonesia and Canada, but with different approaches. Indonesia has regulations such as Law Number 8 of 2016 and Permendikbud Number 46 of 2014, which affirm the obligation of universities in providing accessibility. Meanwhile, Canada with the *Accessible Canada Act* of 2019 and other supporting policies has ensured inclusive education runs more effectively through special funding, strict oversight, and sanctions for non-compliant institutions.
- b. Based on the obstacles faced in the implementation of legal protection for persons with disabilities in higher education in Indonesia and Canada, it can be concluded that although regulations are in place, the main challenge lies in the implementation of policies at the university level. In Indonesia, weak technical standards, lack of infrastructure, and lack of funding are the main obstacles to realizing optimal inclusive education. Meanwhile, in Canada, despite more advanced systems, challenges such as uneven distribution of funds and gaps in facilities in remote areas still need to be addressed.

2. Suggestion

From the conclusion that the author has explained above, the author can give suggestions, namely:

- a. To increase the effectiveness of legal protection for persons with disabilities in higher education in Indonesia, the government needs to develop more operational regulations with clear technical standards and strict oversight mechanisms. In addition, special funding allocations are needed for universities to provide facilities and services that support students with disabilities.
- b. There is a need for policy improvements in both countries so that the implementation of inclusive education can really run effectively and evenly for all students with disabilities.

BIBLIOGRAPHY

A. Book

Ali, Zainal. (2021). *Legal research methods*. Sinar Grafika:Jakarta.

Central Statistics Agency. (2022). *Statistics of Persons with Disabilities 2022*. BPS RI.

Nurfadillah, S. (2021). *Inclusive education at the elementary level*. Publisher Footprint CV.

B. Journal

Abdussamad, Z., Apripari, A., Muhtar, M. H., Ahmad, A., Bakung, D. A., & Imran, S. Y.

(2023). Cultural Studies Approach to Legal Protection for Persons with Disabilities in Boalemo Regency. *Community Development Journal*, 4(6)

Arah, A., & Halim, A. (2022). Legal Policy on the Rights of Persons with Disabilities in Financial Services in Indonesia. *Al-Mashlahah Journal of Islamic Law and Social Institutions*.

Arifin, R., Baiquni, I., Taduri, J. N. A., Rasdi, R., & Zikkri, Z. (2021). The International Law Principle for People with Disabilities: Analyzing Access to Justice. *Unnes Law Journal*, 7(2)

Assegaf, A. R. (2023). *A Closer Outlook at the Curriculum Policy for Disabled Students at Islamic Higher Education*. *Muslim Education Review*, 2(1)

Damanik, V. A., & Andriyani, D. D. (2024). Analysis of the Protection of Employment Rights of Persons with Disabilities in Presidential Regulation Number 60 of 2023. *Milthree Law Journal*, 1(2)

Dirkareshza, R., Sadiawati, D., Prawira, M. R. Y., Aryaputri, A. S., & Falevi, Y. (2023). Legal Optimization of the Fulfillment of the Rights of Workers with Disabilities to Access and Supporting Facilities in Indramayu Regency. *Scientific Journal of Law Enforcement*, 10(2).

Estika, S. P., & Rumayya, R. (2024). Participation of people with disabilities in the job market in Indonesia. *Scientific Journal of Management, Economics, & Accounting (MEA)*, 8(3)

Fitriah, S. (2021). Children with Special Needs In the Eyes of Islamic Law and the State. *ACADEMIC: Journal of Humanist Students*, 1(2)

Hamad, A. M. A., Jannial, J., & Indriyani R. (2023). *Mechanism of the Legal Protection oh Human Rights in Global Regulation*. *Human Rights in the Global South*, 1(2).

Heriyanto, D. S. N., & Hudzaifi, M. S. (2023). *Establishing an Inclusive Legal Framework for People with Disabilities in Islamic Higher Education Institutions in Indonesia*.

Judijanto, L., & Caroline, C. (2025). Inclusive Education Strategies: A Literature Study on Efforts to Address Education Gaps in Different Countries. *Educational Scientific Journal*, 11(1)

Junaidi, A. R., Dewantoro, D. A., Shanti, P., & Rahmita, G. (2023). *Inclusive Education in Higher Education: Baseline Study at State University of Malang*. *Journal of ICSAR*

Nabiela, H. S., & Ulfatin, N. (2023). *Inclusive Education Policy In Indonesia: Best Practices, Challenges, And Future Directions*. *International Journal of Educational Research & Social Sciences*, 4(6)

- Paramita, S., Kuswarno, E., & Rusmana, A. (2024). Life after Google. *Artificial Intelligence and the Evolution of Media and Communication*, 162.
- Paramita, P. P., Asthana, M. K., Amin, A. S., & Hassim, N. (2024). *Inclusive Education for Students with Disabilities: Perspectives from Indonesian and Malaysian Higher Education*. *Journal of Communication: Malaysian Journal of Communication*, 40(3)
- Paruntu, M. C. K., Anis, F. H., & Mamesah, E. L. (2023). The Implementation of the Right of Accessibility Policy in Law Number 8 of 2016 concerning Persons with Disabilities in Indonesia. *Lex Privatum*, 12(2).
- Paramita, S., Kuswarno, E., & Rusmana, A. (2024). Life after Google. *Artificial Intelligence and the Evolution of Media and Communication*, 162.
- Paramita, P. P., Asthana, M. K., Amin, A. S., & Hassim, N. (2024). *Inclusive Education for Students with Disabilities: Perspectives from Indonesian and Malaysian Higher Education*. *Journal of Communication: Malaysian Journal of Communication*, 40(3)
- Paruntu, M. C. K., Anis, F. H., & Mamesah, E. L. (2023). The Implementation of the Right of Accessibility Policy in Law Number 8 of 2016 concerning Persons with Disabilities in Indonesia. *Lex Privatum*, 12(2).

C. Law

- Convention on the Rights of Persons with Disabilities (CRPD) 2006 concerning the Protection of the Rights of Persons with Disabilities*
- Law Number 8 of 2016 concerning Persons with Disabilities
- Permendikbud Number 46 of 2014 concerning Special Education and Special Service Education in Higher Education
- Canadian Charter of Rights and Freedoms (Part of the Constitution, 1982)*
- Accessible Canada Act 2019 on Disability*

D. Internet

- <https://www.unja.ac.id/hwdi-apresiasi-fast-response-unja-dalam-kasus-disabilitas-karena-tilak-takkan-rusak-susu-sebelanga/>, accessed on March 23, 2025 at 14:30 WIB