

Analysis of Legal Gap in Protecting The Rights of Persons With Disabilities in Timor-Leste

Carolina da Cruz¹, Delfin Soares²

^{1,2}Universidade Oriental Timor Lorosa'e, Timor Leste

E-mail: delfinsoares73@gmail.com¹, linacruz4492@gmail.com²

Article History:

Received: 31 Desember 2025

Revised: 15 Januari 2026

Accepted: 01 Februari 2026

Keywords: *Analysis, Legal Gap in Rights Protection, Persons with Disabilities.*

Abstract: *The purpose of this study is to determine and explain the analysis of legal gaps in the protection of the rights of persons with disabilities in Timor-Leste and to determine and explain the factors that influence legal gaps in the protection of the rights of persons with disabilities in Timor-Leste. This research approach uses a normative juridical approach. The research used to complete this study is descriptive analysis. Data collection techniques were conducted through literature and document studies. All collected data, both primary and secondary, will be analyzed qualitatively using a normative legal approach. The data will then be presented descriptively and concluded. Based on the results of the conclusion that the analysis of legal gaps in the protection of the rights of persons with disabilities in Timor-Leste shows a gap between existing laws and regulations and their implementation in the field, as well as differences in the emphasis of national law with international instruments such as the Convention on the Rights of Persons with Disabilities (CRPD) which has been ratified by Timor-Leste. This gap appears in the form of a lack of comprehensive specific laws for disabilities, limited resources and infrastructure, and a lack of public and government awareness regarding the rights of persons with disabilities. Factors contributing to the gap in the protection of the rights of persons with disabilities in Timor-Leste include the lack of ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), socio-cultural stigma and discrimination, poverty that exacerbates disabilities, and barriers to access to education, employment, and other social services. A lack of commitment and effective policy implementation mechanisms at the government and community levels also contribute to this gap.*

INTRODUCTION

Disability is a very important cross-sectoral issue, both as a development issue and a human rights issue, this has been mentioned and recognized in the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD). Furthermore, in order to realize development that

is inclusive of people with disabilities, the 2030 sustainable development agenda has included several agendas aimed at people with disabilities as well as environmental access that is appropriate to their conditions.

According to the United Nations Convention of the Rights of Persons with Disabilities (UNCRPD), persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis.

Development is an inalienable right and must be fulfilled and enjoyed by all people without exception. On the basis that every individual and all humanity has the right to participate, contribute to and enjoy economic, social, cultural and political development, this is also outlined in the Vienna Declaration and Programme of Action of 1993. In addition, development should also be able to guarantee the real fulfillment of human rights, as stated in the Universal Declaration of Human Rights, which contains points regarding freedom of want (civil and political rights) and freedom of need (economic and social rights). The right to development is one of the fundamental human rights and is rooted in the UN Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

The relationship between disability and development lies in environmental barriers that make it very difficult for people with disabilities to obtain the same rights or access and opportunities as people without disabilities. These environmental barriers can be in the form of infrastructure, social acceptance, regulations and government policies that have an impact on social and economic losses. Disability is a complex phenomenon; all obstacles experienced by people with disabilities have direct implications for the low level of participation of people with disabilities, which can then increase poverty rates and risks for people with disabilities and ultimately result in the failure to fulfill the human rights of people with disabilities (Adioetomo et al., 2014).

METHOD

This research approach method uses normative juridical, namely legal research conducted by examining library materials or secondary data as a basis for research by conducting searches of regulations and literature related to the problem being researched (Soekanto & Mamudji, 2015). The nature of the research used in completing this research is descriptive analysis with a normative juridical approach, namely a form of legal research that is based on the characteristics of normative legal science. Data collection techniques were conducted through literature and document studies. All collected data, both primary and secondary, will be analyzed qualitatively using a normative legal approach. The data will then be presented descriptively and concluded.

RESULT AND DISCUSSION

Analysis of Legal Gaps in the Protection of the Rights of Persons with Disabilities in Timor-Leste

Legal inequality is a condition of injustice in law enforcement, where there is a discrepancy and imbalance in legal treatment of people based on social, economic, or other factors, thus creating a gap in access to justice and causing the law to be pointed upwards (not touching the upper classes) and blunt downwards (punishing the lower classes).

According to Sudikno Mertokusumo, law functions to protect human interests. To ensure these interests are protected, the law must be enforced. The implementation of the law can take place normally and peacefully, but it can also occur due to violations of the law. Decisions as a

legal instrument of the government in carrying out unilateral legal actions can be the cause of legal violations against citizens, especially in a modern legal state which gives the government broad authority to interfere in the lives of citizens, therefore legal protection is needed for citizens against government legal actions (Ridwan, 2006).

According to Sjachran Basah, protection for citizens is given when the state administration's actions cause harm to them, while protection for the state administration itself is carried out for actions that are good and correct according to both written and unwritten law (Ridwan, 2006).

Human Rights are fundamental rights that every human being possesses. These rights are inherent, not granted by society or based on positive law, but rather stem from human dignity. This means that, regardless of skin color, gender, language, culture, or nationality, every person holds these fundamental rights. This universality is the foundation of human rights. These rights are inalienable and cannot be taken away by anyone, at any time.

Timor-Leste is a country with cultural and ethnic diversity with a population of 1.3 million people (World Bank, 2018). The country is one of the poorest in Southeast Asia, with 70% of Timor's population living in rural areas and relying on subsistence farming (Timor-Leste National Parliament, 2011). According to the 2015 census, approximately 1.3% of Timor-Leste's population has a mental disorder (Directorate of Statistics, 2015), but this figure is likely an underestimate considering that the 2016 Global Burden of Disease estimated the prevalence of mental disorders and substance abuse at 11.6% (Institute for Health Metrics and Evaluation, 2016). Ensuring human rights is a key focus of the Timor-Leste government and civil society, in line with the international rights-based agenda prioritized since Timor-Leste's independence from Indonesia in 1999 (Kammen, 2018). More specifically, recent emphasis has been placed on the rights of persons with disabilities as Timor-Leste moves towards ratification of the UNCRPD. A government pension is available to families with disabled members, although 86% of persons with disabilities in Timor-Leste do not receive this pension (Carmona, 2012).

As a sovereign state, as stated in Article 1 of the Republic's Constitution, Timor-Leste is a democratic, independent, united republic, a state governed by the rule of law, and one that highly respects and upholds human dignity. During its second republic, after regaining independence on May 20, 2002, Timor-Leste ratified approximately eight international conventions, including the International Covenant on Civil and Political Rights (ICCPR). and the latest Convention on the Rights of Persons with Disabilities (CRPD), ratified by National Parliament Resolution No. 29 of 2022 and its Optional Protocol through Resolution No. 30 of 2022.

Among these eight international conventions and treaties are the International Covenant on Civil and Political Rights (ICCPR), which represents second-generation human rights, and the Convention on the Rights of Persons with Disabilities. These two conventions will serve as a basis for analyzing legal protection issues related to the political rights of persons with disabilities.

Article 16 and Article 17 of the Constitution of the Republic of Indonesia guarantee that every citizen, both women and men, has the same rights and obligations before the law, without discrimination based on skin color, race, marital status, gender, ethnicity, language, social status, economic circumstances, political or ideological beliefs, religion, education, or physical or mental differences. mental condition. More specifically, Article 21 of the Constitution guarantees that citizens with disabilities have the same rights and obligations as other citizens, except for fulfilling duties that they cannot perform due to their disabilities, and this is legally protected by the state.

In addition to general rights, the Constitution also guarantees the right of all citizens to participate in politics. Article 46 states that every citizen has the right to participate, either directly or through democratically elected representatives, in the political life and public affairs of their

country.

One form of rights protected by the Constitution is protection for people with disabilities, as regulated in Article 21, which states that people with disabilities have the same rights and obligations as other citizens, and the state is obliged to provide protection in accordance with statutory provisions. The government is responsible for ensuring that persons with disabilities exercise their political rights without discrimination and provide special treatment to ensure equal opportunities to vote in elections. There is a specific legal basis for special treatment for persons with disabilities in exercising their political rights in elections, namely Article 31 "Voters with visual impairments or disabilities" in Government Regulation Number 21 of 2007. Although there are provisions regarding accessibility regulated in laws and regulations, their implementation is not yet optimal.

The UNCRPD explicitly recognizes and protects the equal rights of persons with disabilities with other human beings. However, the situation regarding the fulfillment of the rights of persons with disabilities in Timor-Leste is quite complex. Handicap International is an NGO that helps address the issue of fulfilling the rights of people with disabilities in Timor-Leste. Therefore, the research entitled Handicap International's Efforts to Fulfill the Rights of Persons with Disabilities in Timor-Leste aims to show the efforts made by Handicap International as an NGO to help the Timor-Leste Government overcome the problem of fulfilling the rights of persons with disabilities in Timor-Leste. Many people with disabilities in Timor-Leste have difficulty accessing education, health, politics, infrastructure, and information, as well as experiencing treatment from society that tends to intimidate and consider people with disabilities to be helpless. Although the Government of Timor-Leste has several policies regarding persons with disabilities in its efforts to improve their quality of life, the implementation of these policies has not yet produced significant results. Coupled with the fact that the Timor-Leste Government has not yet ratified the UNCRPD, this indicates a lack of seriousness on the part of the Timor-Leste Government in addressing this issue.

Legal gaps in Timor-Leste can indeed hinder access for persons with disabilities to basic rights such as education, employment, health, and political participation due to the lack of a strong legal framework to guarantee these rights or weak enforcement of existing laws, so action is needed to create comprehensive legislation and ensure its effective implementation.

1. The Impact of Legal Gaps on Basic Rights:
 - a. Education: Without laws protecting people with disabilities from discrimination, they may have difficulty accessing schools, getting the help they need to learn, or obtaining scholarship opportunities.
 - b. Employment: Legal gaps can mean there are no regulations requiring companies to provide reasonable accommodations for people with disabilities, making it difficult for them to obtain equal employment and equal rights.
 - c. Health Services: People with disabilities have the right to equal access to health services. Legal gaps can mean the absence of provisions ensuring physical accessibility to health facilities or the provision of appropriate medical assistance.
 - d. Political Participation: The absence of laws or weak enforcement can limit the participation of persons with disabilities in political processes, for example in elections or decision-making that affects them.
2. Causes of Legal Gaps
 - a. Lack of Comprehensive Legislation: There may not yet be any laws that specifically and in detail regulate the protection of the rights of persons with disabilities in all aspects of life.
 - b. Weak Law Enforcement: Even if laws exist, their implementation can be hampered if there

is no effective enforcement mechanism, resulting in laws becoming mere paperwork without any real impact.

- c. Discrimination and Stigma: These gaps are often exacerbated by discrimination and social stigma that discourage policymakers and the general public from creating and implementing laws that protect people with disabilities.
3. Required Action
 - a. Legislative Development: Timor-Leste needs to develop and adopt comprehensive legislation that covers the rights of persons with disabilities, in accordance with international standards such as the UN Convention on the Rights of Persons with Disabilities.
 - b. Strengthening Implementation: There needs to be a serious effort to ensure that existing laws are truly enforced, including with strong oversight and accountability mechanisms.
 - c. Advocacy and Participation: Civil society and persons with disabilities themselves need to continue advocating for their rights to be recognized and protected by law.

Analysis of legal gaps in the protection of the rights of persons with disabilities in Timor-Leste shows a gap between existing laws and regulations and their implementation in the field, as well as differences in the emphasis of national law and international instruments such as the Convention on the Rights of Persons with Disabilities (CRPD) which Timor-Leste has ratified. This gap appears in the form of a lack of comprehensive specific laws for disabilities, limited resources and infrastructure, and a lack of public and government awareness regarding the rights of persons with disabilities.

1. Characteristics of Legal Gaps
 - a. Non-compliance with the CRPD: Although Timor-Leste has ratified the CRPD, the implementation of this international norm in national law has not been fully realized, resulting in differences in the standards and types of protection provided to persons with disabilities.
 - b. Regulatory Limitations: There is no comprehensive and specific legislation addressing all aspects of the rights of persons with disabilities, as exists in some other countries. This results in a lack of a clear legal framework to address the barriers and discrimination faced by persons with disabilities.
 - c. Lack of Special Protection: There is a tendency for a lack of special attention and assistance from the government and society in caring for people with disabilities, which results in them often feeling isolated or neglected.

Factors Influencing Legal Gaps in the Protection of the Rights of Persons with Disabilities in Timor-Leste

Timor-Leste currently does not have a specific law on the protection of the rights of persons with disabilities, but it has ratified the International Convention on the Rights of Persons with Disabilities (CRPD), and its constitution guarantees human rights for all citizens, including persons with disabilities. Nevertheless, the fulfillment of the rights of persons with disabilities in Timor-Leste still faces complex challenges.

In Timor-Leste, a low- and middle-income country (LMIC) in Southeast Asia, limited research on mental health has focused primarily on access to health services, disease prevalence, and traditional healing practices. Timor-Leste's recently approved National Mental Health Strategy 2018–2022 seeks a comprehensive, community-centered mental health system, including programs to eliminate stigma and discrimination against people with mental illness. This study aims to explore the experiences and opinions about social inclusion and exclusion of Timorese people with

mental illness from the perspectives of various stakeholders. This information is essential for developing programs that promote social inclusion relevant to the local sociocultural context of Timor, and also to provide a starting point for more in-depth theoretical consideration of the topic based on LMIC knowledge.

The protection of the rights of persons with disabilities in Timor-Leste is guaranteed by the Constitution and has been enhanced through the ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) and the National Action Plan for Persons with Disabilities 2021-2030. However, its implementation still faces significant challenges, including inadequate funding, limited access to education and public services, and issues of violence and social stigma, as reported in 2022 and 2023.

1. Legal and Policy Basis
 - a. Constitution of Timor-Leste: Article 21 guarantees persons with disabilities the same rights and obligations as other citizens, as well as the state's obligation to protect them.
 - b. CRPD: Timor-Leste has ratified the UN Convention on the Rights of Persons with Disabilities, an international legal instrument aimed at ensuring equal human rights for persons with disabilities.
 - c. National Action Plan for Persons with Disabilities 2021-2030: This document sets out 13 focus areas to improve opportunities, access to vocational training, and access to health facilities, a ministry spokesperson said in 2021.
2. Challenges in Implementation
 - a. Funding: The 2022 report shows that funding for the National Action Plan remains insufficient, hampering its implementation.
 - b. Accessibility: People with disabilities face significant barriers in accessing education, employment, health services, and transportation due to a lack of adequate infrastructure.
 - c. Violence and Stigma: Domestic violence and sexual assault against people with disabilities are major problems, with police and justice systems slow to respond to these incidents. Social stigma also hinders the full participation of people with disabilities in society.
 - d. Lack of Awareness: Many families are unaware of available disability subsidies, and the process to access them is complicated and only available in urban areas.
3. Effort and Hope
 - a. Government Commitment: The Timor-Leste government, through several ministries, has demonstrated a commitment to allocating budget support for persons with disabilities, according to 2023 data.
 - b. The Role of Disability Organizations: Asosiasaun Defisiénsia Timor-Leste (ADTL) (Timor-Leste Association of Persons with Disabilities) and other organizations continue to work with the government to prioritize the lives of people with disabilities.
 - c. Active Participation: Efforts are made to ensure that persons with disabilities are not only seen as victims, but also as partners who can play an active role in disaster preparedness and social development.

Overall, despite a strong legal and policy framework, the implementation of the protection of the rights of persons with disabilities in Timor-Leste still requires greater efforts to address access gaps and ensure the effective fulfillment of rights.

Factors influencing the gap in the protection of the rights of persons with disabilities in Timor-Leste are caused by a combination of social and structural factors, including cultural stigma, lack of understanding and participation in inclusive policies, limited government resources for policy implementation, and a lack of commitment to ratifying international instruments such as the

United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). These factors exacerbate the risk of people with disabilities being left behind and unable to fully access basic rights.

1. Social and Cultural Factors
 - a. Stigma and Discrimination: People with disabilities in Timor-Leste often face socio-cultural stigma that leads to exclusion and discrimination, especially for those with mental disorders.
 - b. Lack of Awareness: Society and even families may not be aware of the rights of persons with disabilities, leading to their lack of support and participation in social life.
2. Legal and Policy Factors
 - a. Lack of UNCRPD Ratification: Unlike many countries in Southeast Asia, Timor-Leste has not ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD). This convention is a crucial legal instrument that ensures the protection and safety of persons with disabilities, including during emergencies.
 - b. Difficulties in Implementation: Existing regulations and policies have not been consistently implemented by the government, even after decentralization or regional autonomy.
3. Economic Factors and Resources
 - a. Disability-Related Poverty: Disability and poverty are interconnected, as people with disabilities often have limited opportunities for education and skills development, which makes them even poorer.
 - b. Government Resource Limitations: Governments may have limited resources to implement programs and policies that are inclusive of people with disabilities, such as training and peer support programs.
4. Structural and Sociodemographic Factors
 - a. Access Limitations: Persons with disabilities experience barriers in accessing education, formal employment, and social protection services due to physical limitations, communication difficulties, and lack of supporting infrastructure.
 - b. Risk of Being Left Behind: The combination of these structural and sociodemographic factors can exacerbate the risk of persons with disabilities being left behind in the development process and not receiving specific measures to ensure their inclusion.

CONCLUSION

1. Analysis of legal gaps in the protection of the rights of persons with disabilities in Timor-Leste shows a gap between existing laws and regulations and their implementation in the field, as well as differences in the emphasis of national law and international instruments such as the Convention on the Rights of Persons with Disabilities (CRPD) which Timor-Leste has ratified. This gap appears in the form of a lack of comprehensive specific laws for disabilities, limited resources and infrastructure, and a lack of public and government awareness regarding the rights of persons with disabilities.
2. Factors contributing to the gap in the protection of the rights of persons with disabilities in Timor-Leste include the lack of ratification of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), socio-cultural stigma and discrimination, poverty that exacerbates disabilities, and barriers to access to education, employment, and other social services. A lack of commitment and effective policy implementation mechanisms at the government and community levels also contribute to this gap.

REFERENCES

- Adioetomo, S. M., Mont, D., & Irwanto, I. (2014). *Persons with Disabilities in Indonesia: Empirical Facts and Implications for Social Protection Policies*. TNP2K.
- Carmona, M. S. (2012). *Report of the Special Rapporteur on Extreme Poverty and Human Rights: Mission to Timor-Leste*.
- Directorate of Statistics. (2015). *Timor-Leste Population and Housing Census*.
- Institute for Health Metrics and Evaluation. (2016). *Share of Population with Any Mental Health or Substance Use Disorders*. Global Burden of Disease Collaborative Network.
- Kammen, D. (2018). Progress and Propaganda in Timor-Leste: Visions of the Future in Comparative Historical Perspective. *The Promise of Prosperity*, 29.
- Ridwan, H. R. (2006). *Hukum Administrasi Negara*. Raja Grafindo Persada.
- Soekanto, S., & Mamudji, S. (2015). *Penelitian Hukum Normatif*. Rajawali Pers.
- Timor-Leste National Parliament. (2011). *Timor-Leste Strategic Development Plan 2011--2030*.
- World Bank. (2018). *Timor-Leste Economic Report*.