

Legal Guarantee of Children's Rights in Education and Health

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ABSTRACT

This research discusses how the legal system guarantees the protection of children's rights in education and access to health services. Using a literature review approach, this research examines various national and international regulations and academic analysis on the effectiveness of legal protection for children. While the legal framework guarantees children's rights normatively, there are still serious inequality in its implementation, especially for children from marginalized groups. Inequality of access, limited infrastructure, and weak oversight are the main challenges in guaranteeing these rights fairly and thoroughly. This research emphasizes the importance of reformulating legal approaches and public policies based on children's participation and social justice. The results of this research contribute to expanding the academic discourse on children's rights protection and provide a conceptual basis for the development of more inclusive and responsive policies.

INTRODUCTION

Children's rights to education and health services are a fundamental part of globally agreed human rights. The education system has a vital role in shaping the whole person, including providing appropriate information about rights and obligations from an early age. The Child Protection Law and various international instruments, such as the UN Convention on the Rights of the Child, have emphasized the importance of the state providing guarantees for the fulfillment of this right. In practice, many children suffer from various forms of discrimination, harassment and neglect of their rights, especially in the school environment, which should be a safe space (Lake, 2014).

The protection provided by the legal system is not only limited to the provision of educational facilities or health services, but also includes mechanisms for monitoring, complaints, and law enforcement against violations experienced by children. There is often a gap between legal norms and their implementation in the community. When children are victims of physical, verbal or psychological abuse in the school environment, the legal process tends to be slow and insensitive to the special needs of children as vulnerable legal subjects (Hristozova, 2018).

The issue of access to proper and comprehensive health services is also a big concern, especially for children from marginalized families and remote communities. Many cases show that children do not receive proper care due to the child-unfriendly health bureaucracy. This threatens the principles of social justice and the sustainability of human development (Pashkov & Olefir, 2017).

Research that examines how the legal system functions to protect children's rights in education and health is becoming increasingly relevant. Law functions as both a normative tool and a practical instrument. Analyzing the strengths and weaknesses of the legal system in guaranteeing these rights is important to encourage the formation of public policies that are fair and inclusive for all children (Moody, 2020).

First, while national and international legal frameworks explicitly address children's right to education and health services, implementation has often stagnated. Many schools do not have adequate protection systems in place to respond to cases of abuse or discrimination against children. As noted by Freeman (1997), the existence of laws does not necessarily guarantee the achievement of protection, because implementation depends on the quality of the legal apparatus and community awareness.

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Secondly, the information gap between children, parents and education providers is still large. Many children do not know their full rights. Many children and families do not have adequate access to information on children's basic rights, such as the right to attend school without discrimination, the right to fair treatment in educational settings, and the right to express opinions. In fact, based on Lansdown (1994), understanding personal rights from an early age contributes significantly to shaping children's legal awareness and empowerment in dealing with unfair situations. This ignorance opens up opportunities for unreported rights violations.

Third, the legal approach to violations of children's rights in education and health services is still too normative and reactive. It is not uncommon for the legal mechanism to work only when the violation has had a severe impact on the child. As stated by Ernew (1996), an overly legalistic approach without considering the sociological and psychological aspects of children will only increase the suffering of child victims. Rigid legal processes can even worsen children's conditions, especially if they have to go through lengthy examinations without adequate psychosocial assistance. The law should at least consider shifting towards a more holistic approach, considering the overall welfare of the child as part of true justice.

This topic deserves serious attention because it concerns the future of the younger generation and social justice in the long term. A legal system that does not functionally guarantee children's rights will create a cycle of structural injustice that is entrenched from an early age. The absence of strong legal intervention exacerbates these inequalities, creating a stratum of society that never gets a fair chance from an early age. This failure can cause children to grow up in an environment that does not support their holistic development, and is at great risk of affecting their adult lives. Children who grow up in an unsupportive environment will experience obstacles in learning, working, and building healthy social relationships.

This issue is also closely related to the state's responsibility in creating education and health governance that upholds human rights. By looking at how the law can effectively guarantee children's rights, we can assess the extent to which the state is present in fulfilling its constitutional mandate and agreed international commitments. When the law is able to provide certainty, protection and enforcement mechanisms that are responsive to violations of children's rights, it can be concluded that the state takes its constitutional role seriously. The gap between legal norms and reality on the ground reflects a failure in rights-based governance.

This research aims to analyze how the prevailing legal system is able to guarantee and protect children's rights in the realm of education and access to health services. The research is expected to provide a comprehensive picture of the effectiveness of the available legal protections, as well as identify weak aspects that need to be improved. The results of this research will make an important contribution to legal discourse and public policy in an effort to improve children's welfare in the education and health service systems.

RESEARCH METHOD

This research uses a literature study approach as the main method, which allows researchers to explore and review previously developed thoughts, findings and legal perspectives related to the protection of children's rights in education and access to health services. The literature study provides an opportunity to understand theoretical trends, prevailing policies and legal gaps that have not been given much attention. This method is particularly relevant when the issue under study concerns normative provisions, principles of justice and the implementation of law in various social contexts. Based on Neuman (2000), a qualitative approach with a literature study allows in-depth analysis of legal texts, theories and policies with a comprehensive documentation base. The literature reviewed included national legal documents, international conventions, scientific journals, and reports from children's protection institutions.

This research utilizes the stages of source identification, critical review of content, and thematic synthesis to develop a structured understanding of the theme of child legal protection. The analysis technique is hermeneutic to normative and academic texts, as well as a systematic approach to identify patterns and gaps in existing protection. In terms of child law, this method allows for cross-discourse readings between national and international legal systems. As emphasized by Creswell (2007), a strong literature review not only reorganizes existing data, but also forms a conceptual foundation for developing new analytical frameworks and expanding academic discourse in the areas of children's rights.

RESULT AND DISCUSSION

Legal protection of children's rights in education and health services has become an integral part of international norms and national laws in various countries. The Convention on the Rights of the Child adopted by the United Nations in 1989 provides a solid moral and legal foundation for the fulfillment of children's rights in education and health.

The right to education and health services is not only a basic social right, but also a key indicator of the state's function in ensuring distributive justice for the younger generation (Shapshay, 2008).

Normatively, most countries have ratified international treaties and enacted domestic laws governing state obligations towards children's rights. For example, India passed The Right of Children to Free and Compulsory Education Act in 2009 as a concrete implementation of Article 21A of its constitution, which makes primary education a constitutional right for all children aged 6-14 years (Yadav, 2012). Such policies strengthen the position of children as legal subjects protected by formal regulations. This is an important step to strengthen state accountability and open up public space.

While the legal protections have been clearly drafted, implementation on the ground often falls short of the legal text. Many education systems do not provide equal access for all children, especially those from vulnerable groups. Research by Hartjen and Priyadarsini (2012) shows that poverty, gender-based discrimination and social conflict are still the main barriers to the realization of the right to education, even though it has been legally guaranteed.

Health also faces similar problems. In many countries, access to basic health services for children depends on the existence of public service infrastructure and policy support. Shapshay (2008) has argued that there is no legitimate philosophical reason to deny children the right to health services, even within the framework of libertarian political theory that is skeptical of social rights. This emphasizes the importance of moral and ethical approaches in policy formulation and enforcement.

As a complement to national law, international law plays a role as a framework of moral and juridical pressure for states. Articles 28 and 29 of the Convention on the Rights of the Child outline that states are obliged not only to provide access to education, but also to ensure that it upholds human dignity and creates a safe environment for children (Dolinsky, 2006). This principle broadens the law's scope to include the quality and relevance of education, not merely access.

In Europe, the EU Charter of Fundamental Rights reaffirms the right to education as part of the civil and social rights of every individual, with an emphasis on the freedom to choose education in accordance with family beliefs and values (Mentink & Goudappel, 2000). Education regulation in many EU countries is oriented towards widening access, guaranteeing non-discrimination and respecting family autonomy. This suggests that legal protection also includes a dimension of freedom of choice, not just access.

While the law appears progressive, contradictions arise in practice. Monk (2002) shows that the education legal system often places children as objects rather than subjects with a voice in decision-making, especially in the context of participation and addressing special needs. This indicates the need for adjustment between legal theory and pedagogical practice.

For children with special needs, regulations are often symbolic without addressing the reality of their specific needs. Zhang and Lin (2004) highlight that children with disabilities still face access barriers despite formal policies, due to the lack of supporting infrastructure and adequate teacher training.

In terms of health, Shapshay (2008) points out that children as a politically inactive group tend to be marginalized from public health policies. The legal system must create structural guarantees so that children's rights are not subject to political or economic whim. As individuals lacking full decision-making capacity, children warrant ethical obligations from the state and society to safeguard and fulfill their basic needs, including health services.

Geographical and social inequalities also affect the quality of children's rights implementation. Veriava (2003) reveals that although South Africa has a progressive legal framework, the implementation of education is still affected by the legacy of apartheid, resulting in disparities in access between rich and poor areas.

In countries that have not ratified the Convention on the Rights of the Child such as the United States, the difference between federal legal protections and the actual needs of children often creates a gray area. Fellmeth (2002) explains that while various protective laws exist, the absence of explicit constitutional recognition of children's rights leads to inconsistencies in implementation.

In the perspective of future legal development, strengthening children's rights education is an important aspect. Howe and Covell (2005) argue that children's rights education in schools can be an effective means of expanding legal awareness and shaping a more just community. This education not only provides knowledge, but also empowers children as organizations from an early age.

Overall, while the law provides a protective framework for children's rights in education and health, its effectiveness depends on an implementation system that is inclusive, responsive and grounded in principles of justice. Legal instruments without the support of social structures, community policies and active community participation are not enough to realize real and sustainable protection.

CONCLUSION

Law has a strategic role in ensuring the fulfillment of children's rights to education and health services, whether through constitutions, laws or international treaties. The realization of these rights in various countries still faces structural challenges, such as social inequality, imbalances in policy implementation, and lack of public awareness. The difference between legal norms and actual practice shows the need for reform not only at the normative level, but also in the aspect of equitable implementation. Children's rights to education and health must be understood as important elements of sustainable human development and, as such, must be thoroughly guaranteed through a functional and responsive legal system.

This research suggests that the existence of laws alone is not enough to ensure the protection of children's rights without being supported by a strong and participative implementation system. The state needs to evaluate and adjust education and health policies with the principles of non-discrimination, accessibility and social justice. Educational institutions, health workers, and legal instruments must work in synergy to create safe and supportive spaces for children to grow. Approaches that prioritize children's perspectives in public policy are key to reducing the disparities that still occur in the field.

Strengthening institutional capacity and legal oversight of the implementation of children's rights, especially in education and health, is needed. The government and other stakeholders need to design child-friendly complaint mechanisms, transparent monitoring systems and improve legal literacy for children, teachers and medical personnel. Collaboration between state institutions, civil community and the international community should also be expanded to ensure that the legal system is not merely declarative, but actually guarantees justice and substantive protection for all children.

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