

## **Social Policy, Regional Inequality, and Constitutional Rights Fulfillment: A Responsive Law Perspective in West Java**

**Gunawan Undang<sup>1\*</sup>, Eny Nuryani Resmiawati<sup>2</sup>, Heri<sup>3</sup>, Dina<sup>3</sup>, Muhammad Ridwan Caesar<sup>3</sup>, Iin Endah Setyawati<sup>3</sup>**

<sup>1</sup>Magister Ilmu Administrasi, Universitas Pembinaan Masyarakat Indonesia, Medan, Indonesia

<sup>2</sup>Program Studi Manajemen, Fakultas Ekonomi, Universitas Al Ghifari, Bandung, Indonesia

<sup>3</sup>Program Studi Administrasi Negara, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Al Ghifari, Bandung, Indonesia

\*Corresponding Author Email: [gunawanundang@gmail.com](mailto:gunawanundang@gmail.com)

### **ABSTRACT**

This study examines regional disparities in West Java as a social policy issue that reflects violations of citizens' constitutional rights to welfare and social security as guaranteed under Articles 28H and 34 of the 1945 Constitution and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Using a socio-legal approach enriched with spatial analysis, the research identifies a Human Development Index (HDI) gap of 15.11 points between Bandung City (83.29) and Cianjur Regency (68.18), with poverty rates in southern regencies two to three times higher than those in the northern region. The findings reveal three structural determinants: (1) uniform social policy implementation that contradicts distributive justice principles, (2) imbalanced infrastructure investment allocation reflecting state obligation failure, and (3) institutional capacity gaps demonstrating weak legal accountability. The proposed Responsive Social Policy Law framework—as a human rights-based legal instrument—emphasises differentiated policy implementation with equivalent outcomes, needs-based fiscal redistribution, and strengthened multi-level governance. By aligning responsive law theory with spatial justice and human security principles, this study bridges legal scholarship and social policy in addressing intra-provincial inequality. Empirically, the research offers recommendations for implementing Indonesia's 2025-2029 RPJMN and the Golden Indonesia 2045 agenda, while contributing to global discourse on spatial justice and fiscal federalism in decentralised governance.

Keywords: constitutional rights, human rights, human security, regional disparities, responsive social policy law, Southern West Java

### **ABSTRAK**

Studi ini mengkaji disparitas regional di Jawa Barat sebagai permasalahan kebijakan sosial yang mencerminkan pelanggaran hak konstitusional warga negara atas kesejahteraan dan jaminan sosial sebagaimana dijamin dalam Pasal 28H dan Pasal 34 Undang-Undang Dasar 1945 serta Kovenan Internasional tentang Hak-Hak Ekonomi, Sosial dan Budaya (ICESCR). Dengan menggunakan pendekatan sosio-legal yang diperkaya analisis spasial, penelitian ini mengidentifikasi kesenjangan Indeks Pembangunan Manusia (IPM) sebesar 15,11 poin antara Kota Bandung (83,29) dan Kabupaten Cianjur (68,18), dengan tingkat kemiskinan di kabupaten-kabupaten selatan dua hingga tiga kali lebih tinggi dibandingkan wilayah utara. Temuan penelitian mengungkap tiga determinan struktural: (1) implementasi kebijakan sosial yang seragam yang bertentangan dengan prinsip keadilan distributif, (2) alokasi investasi infrastruktur yang timpang yang mencerminkan kegagalan kewajiban negara, dan (3) kesenjangan kapasitas kelembagaan yang menunjukkan lemahnya akuntabilitas hukum. Kerangka Undang-Undang Kebijakan Sosial Responsif yang diusulkan—sebagai instrumen hukum berbasis hak asasi manusia—menekankan implementasi kebijakan yang terdiferensiasi dengan kesetaraan hasil (equivalent outcomes), redistribusi fiskal berbasis kebutuhan, dan penguatan tata kelola multi-tingkat. Dengan menyelaraskan teori hukum responsif dengan prinsip keadilan spasial dan keamanan manusia, studi ini menjembatani kajian hukum dan kebijakan sosial dalam mengatasi ketimpangan intra-provinsi. Secara empiris, penelitian ini menawarkan rekomendasi bagi implementasi RPJMN 2025-2029 dan agenda Indonesia Emas 2045,

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Received: July 26, 2025; Revised: October 13, 2025; Accepted: December 4, 2025

sekaligus berkontribusi pada diskursus global mengenai keadilan spasial dan federalisme fiskal dalam tata kelola terdesentralisasi.

Kata kunci: hak konstitusional, hak asasi manusia, keamanan manusia, kesenjangan regional, hukum kebijakan sosial yang responsive, Jawa Barat bagian selatan

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## INTRODUCTION

Regional development disparities remain a persistent challenge in Indonesia, constituting violations of citizens' constitutional rights to welfare and equality as guaranteed in Article 28H paragraph (1) and Article 34 paragraph (1) of the 1945 Constitution. These provisions establish that every person has the right to live in physical and spiritual prosperity and that the state shall provide social security for all citizens. Furthermore, Indonesia's ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law No. 11 of 2005 establishes legal obligations for the state to respect, protect, and fulfill socio-economic rights, including the right to an adequate standard of living and social security (Rosidin et al., 2024).

Despite decentralization reforms since 1999, regional disparities persist, reflecting normative gaps between constitutional guarantees and policy implementation (Aritenang, 2025; Iskandar & Jambak, 2025). These structural inequalities demonstrate weak state accountability in ensuring equitable resource distribution (Fauzan et al., 2025), illustrating ongoing challenges in fulfilling citizens' rights to development.

In West Java, these paradoxes are especially striking. Despite contributing 23.2% of Indonesia's GDP, the province shows sharp internal contrasts that violate principles of spatial justice and human security. The north-central urban-industrial corridor—Bekasi, Bogor, Depok, and Bandung—demonstrates superior achievements, while southern regencies such as Sukabumi, Cianjur, Garut, Tasikmalaya, and Pangandaran remain far behind (Firman, 2009; Thoyyibah et al., 2025). This spatial inequality threatens the economic and social security dimensions of human security as conceptualized by (UNDP, 1994), where geographic location determines access to opportunities in contravention of constitutional principles.

Southern regions possess abundant natural resources—tourism, agriculture, livestock, and water—but suffer persistent infrastructure deficits and limited accessibility (Undang et al., 2022). Such marginalization reflects the state's failure to fulfill its constitutional obligation under Article 34 paragraph (3), which mandates state responsibility for providing adequate social service facilities. Unequal budget allocation further reinforces low GDP per capita levels in the south.

Recent statistics confirm these disparities as human rights violations. Bandung City records the highest HDI (83.29), while Cianjur lags at 68.18, producing a 15.11-point gap equivalent to inter-country differences (Jabar-BPS, 2023). This violates the constitutional right to equal development opportunities. Poverty follows the same pattern: Tasikmalaya and Cianjur exceed 10%, compared to Depok (2.19%) and Bekasi (3.40%). The widening HDI gap—from 12.3 in 2010 to 15.11 in 2023—illustrates cumulative causation (Myrdal, 2013), deepening human security threats for southern communities.

Similar patterns appear in southern Thailand and Mindanao, Philippines (Brillantes & Sonco, 2011), positioning West Java within global debates on spatial inequality and human rights under decentralization.

The persistence of development disparities between north-central and southern West Java indicates systemic governance failures that constitute violations of constitutional rights and breaches of state obligations under international human rights law. These disparities reflect interrelated structural problems, including the implementation of uniform development policies that contradict principles of

substantive equality by applying a “one-size-fits-all” approach despite the need for differentiated treatment to achieve equitable outcomes. Additionally, weak multi-level governance demonstrates failures of state accountability (Abbasi & Marzieh, 2017), as fragmented institutional coordination undermines the state’s legal obligation to fulfill citizens’ socio-economic rights as guaranteed under the International Covenant on Economic, Social and Cultural Rights (ICESCR). Furthermore, rigid legal frameworks reveal normative gaps that fail to accommodate differentiated implementation while maintaining equity, thereby creating structural barriers to spatial justice and human security across regions.

This legal research aims to analyze the structural determinants driving persistent intra-provincial disparities as manifestations of state obligation failure in the post-decentralization era. It further seeks to examine institutional arrangements and governance bottlenecks that reproduce spatial inequality and undermine constitutional guarantees of equal development rights. Building on this analysis, the study intends to develop a Responsive Social Policy Law framework grounded in a human rights-based approach, enabling spatially differentiated policy implementation while ensuring national coherence and compliance with constitutional obligations. Finally, the research proposes a roadmap for adaptive governance to reduce regional disparities through redesigned coordination mechanisms, fiscal redistribution, and outcome-based monitoring aligned with the principle of progressive realization of rights under the ICESCR.

This study contributes theoretically, empirically, and practically. Theoretically, it advances the integration of responsive law theory with spatial justice and human security frameworks to address intra-provincial inequality, positioning social policy law as a legal instrument for fulfilling constitutional rights—an area that remains underexplored in Indonesian legal scholarship. Empirically, the research provides comparative insights between north-central and southern West Java, revealing mechanisms through which inequality is reproduced under decentralization in ways that conflict with human rights principles. Practically, the findings offer policy-relevant guidance for the 2025–2029 National Medium-Term Development Plan (RPJMN) and the Golden Indonesia 2045 agenda, while contributing to the strengthening of social security law and the implementation of citizens’ rights to equal development as mandated by Law No. 40 of 2004 on the National Social Security System and Government Regulation No. 39 of 2023 on Social Welfare Implementation.

## **LITERATURE REVIEW**

### **Spatial Disparity Theory and Cumulative Causation**

Cumulative causation theory as developed by Myrdal (2019) and polarization frameworks advanced by Hirschman (1980) explain how initial regional advantages tend to reinforce and perpetuate spatial inequality. In West Java, colonial-era infrastructure concentration in the north-central region created enduring disparities that constitute violations of constitutional rights as guaranteed under Articles 28H and 34 of the 1945 Constitution. Empirical patterns demonstrate limited trickle-down effects, as southern regions remain largely excluded from northern-led growth, indicating state failure to ensure equitable distribution of development outcomes.

From a spatial justice perspective, Harvey (2009) and Soja (1998) argue that geography should not determine access to rights or quality of life. The systemic disadvantages experienced by southern West Java contradict these principles and threaten human security, particularly in its economic and social dimensions as conceptualized by UNDP (1994).

The spatial concentration of poverty reflects systematic violations of citizens' constitutional rights to social security and human development, as well as the right to development recognized in the United Nations Declaration on the Right to Development (1986), which affirms development as an inalienable human right enabling the full realization of all human rights and fundamental freedoms. Recent scholarship further emphasizes how decentralization frameworks shape spatial justice outcomes (Hiroshi, 2024; Jayuska et al., 2025).

Comparable patterns are evident in southern Thailand and Mindanao (Brillantes & Sonco, 2011), confirming that spatial polarization and associated human rights violations frequently emerge in decentralized systems that lack robust accountability mechanisms.

### **Legal Theory and Social Policy**

Legal frameworks play a decisive role in shaping how states fulfill constitutional obligations to protect social rights (Cole, 1951; Esping-Andersen, 1990). Responsive law theory positions law as adaptive to social needs and capable of functioning as an instrument for fulfilling social rights as human rights (Nonet et al., 2017). Normative debates between theories of distributive justice continue to frame redistributive policy within legal systems (Rawls, 2001; Nozick, 1974).

Recent scholarship highlights the importance of legal legitimacy through deliberative processes (Galvin, 2025) and the alignment between legal frameworks and bureaucratic practice (Souza et al., 2024). Integrating responsive law with a Human Rights-Based Approach (HRBA) provides a coherent pathway for addressing spatial disparities while preserving legal accountability and institutional coherence (Rosidin et al., 2024).

In Indonesia, persistent regional disparities reveal the weakness of decommodification mechanisms, whereby the state fails to provide adequate social protection across regions, constituting violations of constitutional mandates under Articles 28H and 34 of the 1945 Constitution. This reflects failures in fulfilling socio-economic rights regardless of geographic location and aligns with comparative evidence from Southeast Asia (De Dios, 2019; Tangcharoensathien et al., 2018).

The emphasis on legal structures in policy implementation (Pressman & Wildavsky, 1973), street-level discretion (Lipsky, 1980), and autopoietic legal systems (Teubner, 1993) explains how legal adaptability affects rights protection in diverse contexts. In Indonesia, effective law enforcement must be grounded in human rights principles to ensure protection of vulnerable populations (Hertanto et al., 2024).

The Constitutional Court of Indonesia has reinforced these principles in its jurisprudence. In Decision No. 85/PUU-XI/2013, the Court affirmed that decentralization must not generate inequality in citizens' access to constitutional rights and that regional autonomy must remain aligned with the state's obligation to ensure equitable development. This jurisprudence provides a legal foundation for differentiated policy implementation aimed at achieving substantive equality, consistent with the responsive law framework advanced in this study (Prihatin, Setiawan, & Wedayanti, 2024).

Addressing development disparities in West Java therefore requires embedding flexibility, participation, foresight, and human rights accountability within legal and social policy frameworks.

### **Multi-Level Governance in Decentralization Systems**

Multi-level governance theory explains coordination challenges inherent in decentralized systems (Marks, 1993; Hooghe & Marks, 2007). In West Java, vertical fragmentation among central, provincial, and district governments undermines development in southern regions, reflecting weak legal accountability

and transparency obligations mandated by Law No. 23 of 2014 on Regional Government and Law No. 25 of 2004 on the National Development Planning System. This fragmentation constitutes a breach of the state's obligation to ensure equitable service delivery and human rights fulfillment.

Neo-institutional theory further explains how institutional capacity influences divergent outcomes in rights realization (March & Olsen, 1989). Recent studies demonstrate that regulatory fragmentation and ambiguous authority structures disproportionately affect marginalized communities and undermine human security (Fauzan et al., 2025). The ambiguous dual role of governors exemplifies how flawed institutional design can translate into human rights violations.

Adaptive governance (Folke et al., 2005) and network governance (Sørensen, 2016) emphasize learning and collaboration as prerequisites for fulfilling state obligations. Institutional economics (North, 2016) and common-pool resource governance (Ostrom, 2008) reinforce the link between institutional quality and the state's capacity to protect social rights.

Empirical evidence from Indonesia confirms that fiscal performance (Zein et al., 2024) and regulatory coherence (Yuwono & Hanani, 2025) significantly affect development outcomes and rights fulfillment. Comparative studies—from Brazil and Indonesian coastal governance (Wever et al., 2012) to African decentralization experiences (Abayomi, 2024)—underscore the necessity of institutional coherence, adaptive coordination, and legal accountability.

### **Social Policy and Fiscal Federalism**

Fiscal federalism theory provides a framework for allocating authority and resources across government levels (Oates, 1972; Tiebout, 1956; Riker, 1964). From a human rights perspective, fiscal transfer mechanisms must align with the state's tripartite obligations under the ICESCR: to respect, protect, and fulfill rights. In Indonesia, decentralization reforms have not consistently reduced disparities (Brodjonegoro, 2009), reflecting shortcomings in fulfilling these obligations.

The literature on targeted social spending (Coady et al., 2004) and equalization transfers (Ahmad et al., 2005) emphasizes the importance of spatially sensitive redistributive mechanisms. Recent studies reveal that although fiscal reforms have reduced some imbalances, gaps in legal implementation remain (Ginanjari et al., 2025), efficiency gains are not always accompanied by legal safeguards for equity (Paidri et al., 2025), and political dynamics continue to shape fiscal capacity in ways that may undermine constitutional guarantees (McCarthy, 2024; Werang & Werang, 2025).

Comparative evidence from Southeast Asia demonstrates similar patterns, where fiscal centralization and institutional weaknesses undermine human security (Nantharath et al., 2020; Brillantes & Sonco, 2011). These cases confirm that Indonesia's intra-provincial disparities cannot be resolved without recalibrating fiscal transfer systems toward equity, institutional strengthening, and explicit legal accountability for socio-economic rights fulfillment.

### **Research Gaps and Positioning**

Systematic review identifies three main gaps:

1. **Limited attention to intra-provincial disparities as human rights violations**—studies focus on inter-provincial inequality, leaving West Java's legal-constitutional dimensions underexplored.
2. **Weak integration of responsive law and social policy within human rights frameworks**—most literature addresses decentralization or welfare in isolation, rarely combining them with explicit reference to constitutional obligations and human security principles.

3. **Absence of operational legal frameworks for equitable development**—few studies propose implementable models for differentiated policies that fulfill state obligations while maintaining national legal coherence.

This research addresses these gaps by advancing the *Responsive Social Policy Law* framework as a human rights-based legal framework, integrating responsive law theory, spatial justice principles, the Human Rights-Based Approach, and fiscal federalism. By positioning responsive law as an instrument for fulfilling the state's constitutional obligations under Articles 28H and 34 of the 1945 Constitution and Indonesia's international commitments under the ICESCR, this study fills a critical gap in Indonesian legal scholarship on social rights and regional development.

## RESEARCH METHOD

### Research Design

This study employs a normative-empirical socio-legal approach combining comparative case study design with legal document analysis to examine how legal frameworks and social policies interact in reproducing or reducing regional disparities. This approach assesses the extent to which legal frameworks fulfill the principles of equality before the law and progressive realization of social rights as mandated by the 1945 Constitution and the ICESCR. A comparative design is particularly suited to highlight divergence within the same administrative framework while controlling for confounding variables.

The design integrates three complementary perspectives:

1. Institutional and legal analysis of governance and constitutional compliance
2. Spatial analysis of disparity patterns
3. Policy implementation analysis of program effectiveness in fulfilling socio-economic rights

This approach aligns with international socio-legal research on governance and human rights (Ullah et al., 2021); (Wang et al., 2025).

### Case Selection and Research Locus

Case selection follows theoretical sampling to ensure representativeness of divergent development trajectories and their implications for human rights fulfillment.

North-Central West Java (high-performing regions): Bandung, Bekasi, Depok, Cimahi, and Bogor.

*Criteria:* (1) HDI consistently above national average; (2) poverty below 5%; (3) substantial GDP contribution; (4) high accessibility to public services fulfilling constitutional welfare guarantees (UNDP, 2022).

Southern West Java (lagging regions): Sukabumi, Cianjur, Garut, Tasikmalaya, and Pangandaran.

*Criteria:* (1) HDI below provincial average, indicating human rights deficits; (2) poverty above 8%; (3) limited infrastructure violating the right to adequate living standards; (4) economic reliance on low-productivity primary sectors.

Sub-districts along the southern coastal belt are emphasized due to persistent multidimensional disadvantages threatening human security.

### Data Sources and Collection

The research combines secondary quantitative data with qualitative legal document analysis:

Quantitative sources:

- West Java Statistics Bureau (BPS) for HDI, poverty, GDP per capita (2010-2023)
- West Java Bappeda for regional planning and budget allocations
- Ministry of Home Affairs for fiscal transfer data (DAU, DAK, DBH)

Qualitative legal sources: Legal sources include: constitutional provisions (Articles 28H, 34), national legislation (Laws No. 11/2005, 23/2014, 25/2004, 40/2004; GR 39/2023), and regional regulations (Perda, RPJMD, RKPD) analyzed for constitutional and human rights compliance.

Additional sources include program evaluation reports and peer-reviewed publications for triangulation. Legal documents are analyzed to assess the state's fulfillment of constitutional obligations and the effectiveness of legal frameworks in protecting citizens' socio-economic rights across different spatial contexts.

### **Data Analysis Techniques**

Analysis is structured around Ostrom's (2005) Institutional Analysis and Development (IAD) framework, directed at assessing legal responsiveness—the extent to which institutions and regulations guarantee the fulfillment of citizens' social rights in contexts of regional disparities:

1. Rules-in-use and legal compliance—formal and informal norms assessed against constitutional mandates and human rights standards
2. Actors, incentives, and state accountability—stakeholders, resources, and coordination dynamics in fulfilling state obligations under the ICESCR's tripartite framework
3. Outcomes and rights realization—evaluation of development results in terms of human rights fulfillment and human security

Complementary methods include:

1. Spatial disparity analysis using disparity indices (Myrdal, 2019) and (Hirschman, 1980), gap analysis, and cluster mapping to identify patterns of human rights violations. Moran's I statistics test spatial autocorrelation of poverty and underdevelopment.
2. Policy implementation and legal effectiveness analysis following (Pressman & Wildavsky, 1973); (Lipsky, 1980); and (Teubner, 1993), focusing on how implementation affects fulfillment of constitutional rights.
3. Legal framework assessment examining alignment between positive law provisions, policy implementation, and human rights outcomes, identifying normative gaps and recommending legal reforms.

### **Validity and Methodological Limitations**

Validity is ensured through data triangulation, reliability through official sources, and transferability through comparative global contextualization.

Nevertheless, three limitations are acknowledged:

1. Dependence on secondary data limits insights into household-level experiences and lived realities of human rights violations.
2. Absence of primary fieldwork restricts the ability to capture informal practices and subjective experiences of marginalized communities.
3. Comparative case study design enhances depth but reduces generalizability beyond West Java, though the human rights framework provides broader applicability.

These limitations highlight the need for mixed-method approaches in future research, integrating ethnographic fieldwork, household surveys, participatory human rights assessments, and econometric modeling to extend robustness of findings.

## RESULTS AND DISCUSSION

### Magnitude and Trends of Regional Disparities

#### *Human Development Index (HDI) Gaps as Constitutional Rights Violations*

West Java's intra-provincial disparities remain alarming and constitute violations of constitutional rights to welfare and human security. In 2023, Bandung City achieved an HDI of 83.29, while Cianjur Regency recorded only 68.18—a **gap of 15.11 points** (Jabar-BPS, 2023). This disparity indicates weak implementation of the constitutional right to welfare under Article 28H and reflects state obligation failure in ensuring social security for citizens in disadvantaged regions. Instead of convergence mandated by principles of progressive realization of rights, this gap widened from 12.3 points in 2010, demonstrating systematic violations of the right to equal development.

**Table 1. Comparative HDI and Poverty Indicators (2023)**

Region Type	Example District/City	HDI	Poverty Rate (%)	Notes
North-Central	Bandung City	83.29	4.15	Urban-industrial, service-based economy
	Depok City	81.15	2.19	Part of Jakarta metropolitan corridor
Southern West Java	Cianjur Regency	68.18	10.22	Rural, infrastructure deficits
	Tasikmalaya Regency	71.34	10.28	High poverty concentration

Source: BPS Jawa Barat (2023).

Education (11-13 vs. 8-9 years) and income (IDR 18-25M vs. 4-5M monthly) show the starkest disparities, violating ICESCR-protected rights to education and adequate living standards.

#### *Poverty Concentration and Spatial Patterns Threatening Human Security*

Spatial clustering analysis confirms strong positive autocorrelation (Moran's I = 0.73,  $p < 0.001$ ), meaning poverty tends to cluster geographically, creating zones of concentrated human rights violations. Over 60% of West Java's poor reside in five southern regencies, creating a "poverty belt" along the Indian Ocean coast that threatens economic and social security dimensions of human security (UNDP, 1994).

This spatial concentration represents systematic failure of the state to fulfill its obligation under Article 34 paragraph (1) of the 1945 Constitution. The clustering pattern demonstrates that geographic location has become a determinant of human rights fulfillment, contradicting principles of equality before the law and spatial justice.



These findings confirm systemic marginalization (Undang et al., 2021); (Undang et al., 2022); and (Undang, 2023) mirroring global patterns in decentralized systems (Tang et al., 2025) and (Nantharath et al., 2020).

## **Structural Determinants of Disparities**

### ***Historical Path Dependency and Constitutional Violations***

Colonial-era infrastructure concentration in Bandung and surroundings created enduring advantages, reinforced by post-independence industrialization (Hill et al., 2008). From a legal perspective, the continuation of colonial-era spatial inequalities reflects the state's failure to actively correct historical injustices through redistributive policies, as required by constitutional principles of social justice.

Southern regencies remained agrarian peripheries trapped in a "polarization spiral" that systematically denies residents their constitutional rights to welfare and development. Their agro-marine and tourism potentials were historically neglected, resulting in long-term structural disadvantage violating the right to equitable resource distribution. Comparable path dependency and persistent rights violations are evident in Mindanao (Brillantes & Sonco, 2011).

### ***Investment Bias and State Obligation Failure***

Between 2015 and 2023, of IDR 127.5 trillion in provincial infrastructure spending, 68% went to north-central regions, while the south—home to 45% of the population—received only 23% (Bappenas, 2020). This allocation pattern demonstrates the state's failure to fulfill its legal obligation under the ICESCR to ensure equitable access to resources, violating the principle of non-discrimination. Strategic projects concentrate in the metropolitan corridor, whereas southern districts receive only basic infrastructure, often poorly maintained, perpetuating human security threats.

Such investment bias contravenes Article 34 paragraph (3) of the 1945 Constitution and Government Regulation No. 39 of 2023, which mandate state responsibility for providing adequate social service facilities to all citizens regardless of location. Private investment shows similar bias: 78% of IDR 245.8 trillion (2018-2023) concentrated in the north-central, leaving the south with low-multiplier agricultural processing only.

### ***Institutional Capacity Gaps and Weak Legal Accountability***

Institutional analysis reveals consistent governance deficits in southern regions that undermine legal accountability and human rights protection. A cross-national study (Landman & Larizza, 2009) demonstrates that income inequality and land inequality have significant negative effects on the protection of personal integrity rights. In the Indonesian context (Shoesmith et al., 2020) identify that the national decentralisation model has failed to adequately account for serious regional differences in capacity and resources, resulting in underperforming governance in disadvantaged regions (*daerah tertinggal*) across administrative and fiscal viability dimensions. These capacity gaps lead to weak enforcement of citizens' rights (Duncan, 2007); (Wiratraman et al., 2018) and the proliferation of local regulations that violate citizens' constitutional rights (Butt, 2010), contravening the principles of good governance enshrined in Law No. 23 of 2014 on Regional Government.

North-central civil servants have significantly higher education levels (75-85% bachelor's degree vs. 45-60% in the south). Technical skills essential for fulfilling constitutional obligations are limited, constraining effective use of transfers and perpetuating rights violations.

Digital governance capacity is also weaker: e-government maturity remains at level 1-2 in southern districts versus level 3-4 in the north-central, creating a digital divide that restricts access to services and information—both essential for exercising socio-economic rights. Such capacity asymmetry mirrors African cases where institutional weakness undermines decentralization outcomes and human rights protection (Abayomi, 2024), as well as recent findings showing regulatory fragmentation weakens accountability in protecting marginalized communities (Fauzan et al., 2025).

## **Policy Failures: Uniform Treatment Contradicting Equity Principles**

### ***One-Size-Fits-All Approaches Violating Substantive Equality***

Uniform approaches to poverty reduction have yielded uneven results, violating the principle of substantive equality which requires differentiated treatment to achieve equal outcomes in human rights fulfillment. The Family Hope Program (PKH), with identical eligibility criteria and benefits, shows far lower effectiveness in southern districts due to weak supporting infrastructure. Such uniform treatment contradicts the constitutional principle of equality before the law, which demands equal outcomes rather than merely formal equality of treatment (Rosidin et al., 2024). Coverage rates are higher (25-35%) in the south compared to 8-12% in the north, but outcomes remain modest given poor service quality.

Similarly, the Smart Indonesia Card (KIP) shows lower learning outcomes in the south despite comparable participation, reflecting inadequate school quality that violates Article 31 constitutional guarantees.

### ***Asymmetric Implementation Challenges and Human Rights Implications***

Geographic constraints inflate implementation costs and create barriers to rights access: delivering PKH in Cianjur is 40-60% more expensive per beneficiary than in Bandung. This geographic cost differential, if not compensated through adaptive resource allocation, effectively discriminates against southern residents in accessing social protection—a violation of the non-discrimination principle in human rights law. Social workers in southern districts manage caseloads 50-80% larger than in the north-central, with higher turnover rates (25-35% vs. 8-15%), reducing program continuity and undermining effective rights fulfillment.

Digital monitoring systems falter due to connectivity gaps, restricting access to information and services—essential socio-economic rights components—while creating evaluation bias that masks underperformance in disadvantaged areas.

## **Governance and Coordination Failures Demonstrating State Accountability Deficits**

### ***Vertical Fragmentation and Legal Rigidity***

Coordination between central, provincial, and district governments remains weak, reflecting failures in legal accountability mechanisms. National programs are designed with urban-industrial assumptions, making them ill-suited for rural-agricultural southern contexts and effectively discriminating against these populations. This demonstrates weak state accountability in fulfilling legal obligations to respect, protect, and fulfill citizens' social rights as mandated by the ICESCR's tripartite framework. Provincial governments have limited adaptive capacity, while fiscal transfer formulas tend to

favor wealthier districts, violating principles of equitable resource distribution enshrined in Law No. 23 of 2014.

### ***Horizontal Fragmentation and Collective Action Problems***

Inter-district collaboration in southern West Java is minimal. Unlike the north-central, where metropolitan integration fosters resource pooling, southern districts often compete rather than cooperate. This fragmentation undermines collective fulfillment of human rights obligations and reduces effectiveness of legal frameworks designed to promote regional equity. Joint infrastructure projects, shared services, and coordinated investment promotion are rare.

This fragmentation reflects collective action problems where absent trust leads to rivalry rather than cooperation (Habermas, 2015) and (Rothstein, 1998). Without stronger legal mechanisms compelling or incentivizing cooperation, southern districts miss opportunities to achieve economies of scale, perpetuating their marginalization and human rights deficits.

## **Toward a Responsive Social Policy Law: A Human Rights-Based Legal Framework**

### ***Conceptual Integration***

The *Responsive Social Policy Law* framework is not merely a policy innovation, but a human rights-based legal framework that positions responsive law as an instrument for fulfilling citizens' social rights and strengthening the rule of law in social justice implementation. It synthesizes:

- Responsive law theory (Nonet et al., 2017) → legal flexibility adaptive to spatial contexts
- Human Rights-Based Approach (HRBA) → integrating ICESCR principles of participation, non-discrimination, accountability, and attention to vulnerable groups
- Rawls's difference principle (Rawls, 2001) → distributive justice reinterpreted as constitutional obligation
- Spatial justice (Harvey, 2009); (Soja, 1998) → equal access to opportunities as constitutional right
- Human security (UNDP, 1994) → ensuring economic, social, and community security as fundamental dimensions of human dignity

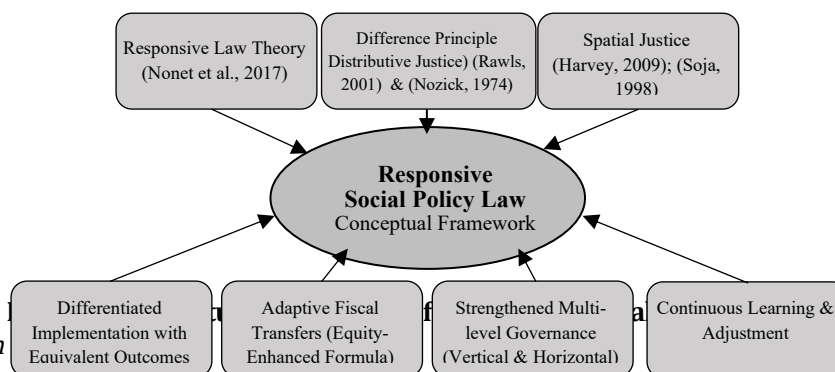
This integration establishes both a normative and operational basis for differentiated policy implementation under decentralization, grounded in constitutional obligations and international human rights commitments. By linking responsive law with the HRBA, the framework ensures that legal flexibility serves rights fulfillment rather than diluting legal standards or state accountability.

### ***Operational Principles***

1. Differentiated Implementation with Equivalent Outcomes—programs adapted to local contexts but benchmarked against uniform welfare standards and human rights indicators
2. Adaptive Fiscal Transfers with Equity Safeguards—formulas incorporating fiscal capacity, needs assessment, and geographic cost differences
3. Subsidiarity with Legal Accountability—authority devolved to appropriate levels while ensuring fairness through legal mechanisms and human rights monitoring
4. Continuous Learning and Legal Adjustment—institutionalizing feedback loops with explicit reference to human rights outcomes and constitutional compliance

5. Participation and Transparency—ensuring affected communities participate in decision-making, consistent with HRBA principles.

The conceptual framework of responsive social policy law is illustrated in the following Figure 1:



Source: Gunawan

### Application Framework for the West Java Context

#### *Differentiated Implementation Strategies as Legal Obligations*

Applying the framework in southern West Java requires targeted strategies that fulfill the state's constitutional obligations:

- Enhanced Investment Coefficient with Legal Mandate—additional 50-100% budget premium for southern infrastructure and services, legally mandated to compensate for geographic disadvantages and ensure equal access to constitutional rights
- Customized Service Delivery as Rights Protection—mobile health units, teacher incentives, and technology-based education adapted to remote areas, ensuring the right to health and education is fulfilled regardless of location
- Capacity-Building Intensification with Legal Accountability—partnerships between strong northern and weaker southern districts, with targeted technical assistance and explicit legal obligations for knowledge transfer

These differentiated strategies represent concrete implementations of constitutional obligations under Articles 28H and 34 of the 1945 Constitution and state duties under the ICESCR.

#### *Regional Integration and Synergy Development*

A Southern West Java Regional Development Authority is crucial for joint planning and coordinated development, with a strong legal mandate to ensure accountability and enforce cooperation. This body would oversee integrated infrastructure projects, resource pooling, and collaborative investment promotion, while monitoring human rights indicators.

Infrastructure plans must include the "Jamparing Jabsel" (Southern West Java Ring Road Network)—interconnecting the southern coast through toll projects like "Jagoratu," "Raksaratu," and "Ratu Pajajaran." Such integration would reduce congestion, improve mobility, and link north-central and southern economies, facilitating trickle-down effects and fulfilling the right to adequate infrastructure.

#### *Complementary Specialization Strategy*

Southern sub-districts and villages can develop comparative advantages within a regional division of labor, supported by legal frameworks that protect local economic rights. Agropolitan (land-based) and blue economy (marine-based) models should be prioritized—covering fisheries, plantations, agro-processing, ecotourism (GURILAPS), and traditional crafts enhanced by modern technology.

Legal protections for traditional knowledge, environmental sustainability, and fair trade should accompany these strategies, ensuring economic development respects human rights and environmental principles as mandated by Article 28H paragraph (1), which guarantees the right to a good and healthy environment.

### ***Inter-Regional Connectivity and Legal Coordination***

Improving transport and digital connectivity is critical to enabling spillover effects from north-central prosperity and ensuring equal access to opportunities. Strengthened institutional linkages between regional executives and legislatures, backed by clear regulatory frameworks for conflict resolution - as recommended by (Fauzan et al., 2025), can amplify collaboration and facilitate more equitable redistribution, while ensuring accountability in fulfilling constitutional obligations to all citizens.

### **CONCLUSION**

This study concludes that persistent development disparities in West Java constitute a failure of state obligations to guarantee welfare, equal development, and human security as mandated by Articles 28H and 34 of the 1945 Constitution and Indonesia's commitments under the ICESCR. The substantial Human Development Index gap between northern and southern regions, combined with significantly higher poverty rates in the south, reflects systematic violations of constitutional rights rooted in historical path dependency, investment bias, and institutional capacity deficits. Uniform development policies applied to heterogeneous regions have exacerbated inequality, demonstrating that formal equality is insufficient and that substantive equality—requiring differentiated treatment—is essential to fulfill constitutional and human rights obligations.

To address these challenges, this research advances the Responsive Social Policy Law framework as a human rights-based legal approach that integrates responsive law theory, spatial justice, human security, and the Human Rights-Based Approach. The framework reconceptualizes social policy law as an instrument for fulfilling constitutional rights, emphasizing adaptive governance, fiscal equity, and institutional accountability aligned with the principle of progressive realization of rights under the ICESCR. By embedding legal flexibility, participation, and accountability into social policy implementation, the framework offers a viable pathway for reducing intra-provincial disparities while maintaining national legal coherence. If effectively implemented, this approach positions West Java as a model for rights-based, equitable development and demonstrates that responsive law can transform decentralized governance into a mechanism for realizing constitutional and international human rights commitments.

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