

Reimagining Legal Subjectivity: The Politics of Disability Rights and Inclusive Law

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ABSTRACT

This article aims to critically examine and reimagine the concept of legal subjectivity through the lens of disability rights and inclusive law. Employing a scientific narrative review approach grounded in descriptive analysis, the article draws on recent interdisciplinary literature published between 2021 and 2024, legal documents, and international frameworks. Academic databases such as HeinOnline, JSTOR, Westlaw, Scopus, and Google Scholar were used to identify sources relevant to legal subjectivity, disability justice, inclusive jurisprudence, and participatory legal models. The selected literature was analyzed thematically to explore the evolution of disability rights, the normative challenges of the traditional legal subject, and emerging models of relational and inclusive legal recognition. The review reveals that the traditional liberal construction of the legal subject—as autonomous, rational, and independent—excludes individuals whose embodied, cognitive, or social experiences fall outside these normative boundaries. Disability disrupts core legal binaries such as capacity versus incapacity and independence versus dependency, exposing the need for a more relational, embodied, and inclusive framework for legal recognition. The analysis highlights how supported decision-making frameworks, universal design in law, and participatory legal reforms have begun to reshape access to justice and civic participation for persons with disabilities. Nonetheless, systemic barriers remain, including exclusionary procedural norms, evidentiary requirements, and institutional resistance, which continue to limit the transformative potential of inclusive law. Reimagining legal subjectivity requires a fundamental shift in how legal systems understand agency, autonomy, and justice. By embracing the principles of participation, accessibility, and recognition, inclusive law offers a pathway toward a post-liberal legal subject grounded in interdependence and dignity. This transformation demands not only doctrinal change but also pedagogical, jurisprudential, and institutional reform to ensure that all individuals are meaningfully recognized as legal actors.

Keywords: *legal subjectivity, disability rights, inclusive law, relational autonomy, legal recognition, supported decision-making, critical disability theory.*

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1. Introduction

The concept of legal subjectivity has long served as a foundational pillar of Western legal thought, determining who is recognized as a bearer of rights, duties, and legal agency. Traditionally, this notion has been constructed around a particular archetype: the

rational, autonomous, able-bodied individual presumed to possess full cognitive and moral capacity. Rooted in Enlightenment ideals, legal subjectivity was shaped by liberal notions of individualism and personal autonomy, which emphasized self-determination and reason as the defining qualities of the legal person. This juridical figure emerged not as a neutral abstraction, but as a normative



model implicitly excluding those whose bodies or minds failed to meet the ideal of rational independence. Consequently, legal systems in many jurisdictions developed with a narrow and exclusionary definition of personhood, privileging the able-bodied while marginalizing others whose capacities did not align with this model. The institutionalization of this ideal has rendered the legal subject historically and structurally hostile to the experiences and needs of disabled individuals.

The emergence of disability rights as both a political and legal force has challenged the underlying assumptions of classical legal subjectivity. In many contexts, persons with disabilities were long relegated to the peripheries of law and policy, framed as objects of charity or as dependent entities rather than as rights-bearing individuals. This framing has undergone a gradual but significant transformation due to the efforts of global and local disability movements. The adoption of international instruments such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) marked a turning point, formally recognizing disabled persons as full legal subjects with autonomy, dignity, and agency. This development catalyzed legal and academic discussions on how legal systems might be restructured to better accommodate and reflect the diverse experiences of disability. In Indonesia, for example, disability activists have mobilized around electoral participation, advocating for inclusive legal frameworks that protect the political rights of disabled citizens (Kramer et al., 2022). Similar efforts have emerged across jurisdictions, where scholars and advocates critique the limitations of existing laws while pushing for models grounded in accessibility, recognition, and participation (Pratama, 2024).

Yet, despite these advances, significant gaps remain. One of the most enduring and problematic is the exclusionary nature of classical legal personhood. Legal recognition often remains conditional on criteria such as mental competence, communicative clarity, or economic productivity, all of which disproportionately disadvantage people with cognitive, intellectual, or psychosocial disabilities. The persistence of guardianship regimes and capacity-based exclusions in voting laws exemplifies the structural barriers that continue to obstruct full legal subjectivity for many disabled individuals (Widya & Wahyuni, 2024). Even

where rights exist on paper, the implementation of those rights often falters due to entrenched biases within legal institutions and broader society. In contexts such as India, affirmative legal frameworks intended to support persons with disabilities have at times failed to translate into substantive participation or empowerment, owing to deeply embedded cultural and bureaucratic constraints (Bhawal, 2023). Moreover, the idea of "reasonable accommodation"—while progressive in theory—remains inconsistently applied, revealing the limits of liberal legalism when confronted with the realities of disabled lives (Polin, 2024).

The narrow construction of legal subjectivity does not merely reflect an oversight; it constitutes a political and normative act that reproduces exclusion. By grounding legal agency in notions of independence and rationality, the law fails to recognize interdependence and relationality as fundamental aspects of human existence. This erasure is particularly stark in the case of people with disabilities, whose experiences of navigating the world often reveal the artificiality of binaries such as capacity/incapacity or autonomy/dependence. As Meekosha and Soldatić argue, legal systems that claim universality often overlook the embodied and situated nature of subjectivity, thereby marginalizing those whose lived realities do not conform to dominant standards (Meekosha & Soldatić, 2024). Similarly, scholars have called for a reconfiguration of legal recognition practices that transcend formal inclusion and instead center the voices and experiences of disabled communities (Soldatić & Grech, 2024).

This article aims to reimagine legal subjectivity through the lens of inclusive law and disability politics. Rather than viewing disability as an exception to legal norms, it considers disability as a starting point for reconceptualizing the legal subject altogether. In doing so, the article interrogates the ideological underpinnings of classical legal thought and explores how inclusive legal frameworks can challenge and transform existing power structures. Drawing on recent scholarship, legal reforms, and political mobilizations from 2021 to 2024, it seeks to unpack the ways in which disability rights movements are not only demanding access but are also actively reshaping the normative architecture of law itself. For instance, the push for inclusive electoral practices in regions like West Lampung illustrates how local legal institutions are beginning to reflect more inclusive

interpretations of civic participation (Hermalia et al., 2024). Similarly, scholars examining the implementation of political rights in Medan City have emphasized the importance of political education and legal capacity building for disabled citizens (Nasution et al., 2023).

Through a critical examination of these developments, the article positions disability not as a deviation from the legal norm but as a prism through which to envision more just, relational, and inclusive forms of legal recognition. In doing so, it highlights the limitations of current legal paradigms and emphasizes the need for a more expansive and ethically responsive conception of legal personhood. The aim is not merely to extend existing rights to a previously excluded group, but to fundamentally question and reconstruct the terms on which legal subjectivity is defined and distributed. In exploring these themes, the article engages with interdisciplinary insights from feminist legal theory, critical disability studies, and political philosophy to propose a model of legal subjectivity that is grounded in diversity, embodiment, and interdependence.

This reframing is particularly urgent in the current global climate, where disability remains a key site of socio-political exclusion and legal marginalization. In various legal systems, reforms have begun to acknowledge these challenges, but as critiques have noted, inclusion often remains superficial or symbolic without substantive changes to legal epistemologies and institutional design (Razak, 2023). For inclusive law to be more than a rhetorical gesture, it must grapple with the deep-rooted assumptions that define who counts as a subject of rights. This article contributes to that critical project by offering a sustained analysis of the politics of disability rights and proposing pathways for reconstructing legal subjectivity in a manner that is inclusive, participatory, and socially just.

2. Methodology

This article adopts a scientific narrative review approach grounded in the descriptive analysis method to critically examine the evolving discourse around legal subjectivity, particularly through the lens of disability rights and inclusive law. The narrative review design was selected due to its capacity to accommodate conceptual diversity, legal theory, historical developments, and interdisciplinary perspectives, which are all essential for unpacking the complex and often

contested nature of legal subjectivity in disability discourse. Unlike systematic reviews that rely on rigid inclusion and exclusion criteria or meta-analyses that are statistically driven, the narrative review approach allows for a more interpretive synthesis of scholarly literature, legal instruments, and critical commentaries. This flexibility is especially valuable in areas where legal norms intersect with socio-political ideologies and marginalized epistemologies. The overarching goal of this methodology is not merely to catalogue existing findings but to trace conceptual shifts, identify gaps, and explore normative tensions in the law's treatment of disability and subjectivity.

In conducting the review, the data collection process involved a purposive selection of peer-reviewed scholarly articles, legal commentaries, jurisprudential analyses, and international legal frameworks published between 2021 and 2024. The primary academic databases consulted for sourcing literature included HeinOnline, JSTOR, Westlaw, Scopus, and Google Scholar. Keywords such as legal subjectivity, disability rights, inclusive law, critical disability theory, legal personhood, supported decision-making, and intersectional justice were used to guide the search strategy. Additional focus was placed on contemporary debates from journals like the *Yale Journal of Law & the Humanities*, *Disability Studies Quarterly*, *Human Rights Law Review*, *Harvard Law Review*, and *Social & Legal Studies*. Only sources that provided critical engagement with legal norms or theoretical insights into disability justice were included. Legal instruments such as the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the Americans with Disabilities Act (ADA), and national statutes or court decisions from jurisdictions like Canada, India, and the European Union were also considered for comparative and illustrative purposes. The review process prioritized works that contributed to normative critique, legal reform advocacy, or reconceptualization of legal personhood in light of disability and inclusion.

For data analysis, a descriptive analytical framework was employed. This approach involves identifying, categorizing, and interpreting recurring themes, discursive patterns, and conceptual developments within the selected literature. Rather than quantifying the frequency of certain topics, the analysis focused on the meaning, theoretical underpinnings, and normative

implications of legal subjectivity as articulated across different texts. Central themes that emerged—such as the tension between autonomy and dependence, the juridical construction of competence, the politics of recognition, and the emergence of post-liberal legal imaginaries—were analyzed in depth. The analytic process was iterative, allowing for refinement of categories and inclusion of newer sources as the conceptual structure of the article evolved. Each theme was examined not only in terms of its internal coherence but also in relation to broader legal and political contexts, thus situating the discussion within the expanding field of critical disability jurisprudence. This method ensured that the review remained rooted in legal scholarship while being open to interdisciplinary insights from political theory, philosophy, and disability studies.

3. Theoretical and Conceptual Framework

The foundations of legal subjectivity lie in liberal political philosophy, where the individual is conceived as a rational, autonomous, and self-sufficient agent. In classical liberal theory, the legal subject is presumed to be capable of entering contracts, owning property, making informed decisions, and participating in civic life based on an abstract notion of equality. This model is exemplified in the Cartesian rational subject—disembodied, isolated, and wholly independent. While this conception of personhood served as a cornerstone for early legal systems in Europe and North America, it embedded a normative vision of humanity that excluded those who deviated from its ideal. As Bagnara observes, the liberal legal order privileges certain forms of presence, mobility, and visibility, often rendering the lived experiences of marginalized groups, including disabled persons, legally invisible (Bagnara, 2023). The liberal subject was never truly universal; instead, it was selectively applied, reinforcing systems of exclusion that align with race, gender, class, and ability.

Post-liberal theories emerged as a critique of the limitations and exclusions inherent in this traditional framework. These approaches challenge the foundational premises of liberal individualism and instead emphasize relationality, interdependence, and contextuality in constructing legal subjectivity. One of the most significant interventions comes from critical disability theory, which disputes the ableist

underpinnings of the liberal subject. Meekosha and Soldatić argue that disability destabilizes the foundational premises of legal recognition by foregrounding dependence, care, and embodiment as central aspects of human existence (Meekosha & Soldatić, 2024). In doing so, critical disability theory calls for a shift from a rights-based framework that merely adds disabled persons into pre-existing legal structures to a transformative approach that rethinks the very architecture of those structures (Soldatić & Grech, 2024). This reconceptualization of legal subjectivity disrupts the binary oppositions of abled/disabled, competent/incompetent, and dependent/independent that continue to shape legal frameworks.

Biopolitical theory, particularly as articulated by Michel Foucault, offers another critical lens through which to interrogate legal subjectivity. Foucault's concept of biopower describes how modern states regulate populations through mechanisms that categorize, manage, and normalize bodies. Within this framework, disability becomes not only a medical condition but also a juridical and political category that justifies exclusion or differential treatment. As Waltz points out in her analysis of electoral participation, people with disabilities are often subjected to regulatory practices that define their participation as contingent upon state-sanctioned assessments of capacity or risk (Waltz, 2021). The law thus becomes a site of biopolitical control, where the boundaries of subjectivity are policed through institutional mechanisms such as guardianship, psychiatric diagnosis, or medical certification. These practices do not merely exclude disabled persons from legal personhood—they also produce them as legal subjects whose rights are conditional and revocable.

Intersectionality, first developed by Kimberlé Crenshaw in the context of Black feminist legal theory, is essential for understanding how multiple axes of oppression intersect to shape legal subjectivity. In the case of disabled persons, intersectionality reveals how disability interacts with race, gender, class, and geography to compound legal and political marginalization. For instance, Nasution and colleagues show how political education for disabled voters in Medan City remains inaccessible to those living in low-income neighborhoods or informal settlements, illustrating how structural inequalities intersect with disability status to undermine participation (Nasution et al., 2023).

Similarly, Hermalia and her co-authors argue that electoral institutions often adopt a one-size-fits-all approach that fails to recognize the intersectional needs of disabled women, rural populations, or ethnic minorities (Hermalia et al., 2024). Intersectionality challenges the homogenizing tendencies of both liberal and post-liberal legal theories by insisting that legal subjectivity must be situated within broader social and political contexts.

Dominant legal constructions of subjectivity marginalize disabled bodies and minds by treating them as deviations from the norm. This marginalization is enacted through both legal language and institutional practices. Legal codes often rely on categories such as “capacity,” “competence,” and “mental soundness” to determine access to rights, yet these categories are laden with normative assumptions about what it means to be fully human. Pane and Yanis argue that even well-intentioned legal reforms may inadvertently reinforce these assumptions by framing disability in terms of deficiency or special needs rather than as a dimension of human diversity (Pane & Yanis, 2023). The emphasis on functional ability as a criterion for legal recognition reflects a deep-seated discomfort with difference, one that perpetuates the exclusion of those who communicate, move, or think differently. As Gran and Bryden note, legal systems have historically valorized autonomy and self-sufficiency at the expense of interdependence and relational support, thereby denying the legal subjectivity of many disabled individuals (Gran & Bryden, 2022).

In response to these exclusions, scholars and activists have proposed alternative conceptualizations of agency and personhood that center vulnerability, interdependence, and relational autonomy. The concept of vulnerability, far from being a marker of weakness, has been reclaimed as a universal human condition that can serve as a foundation for more inclusive legal frameworks. Kramer and colleagues highlight how disability activists in Indonesia reframe vulnerability as a source of political strength, using their experiences of marginalization to advocate for systemic reform (Kramer et al., 2022). This reframing challenges the ableist assumption that vulnerability disqualifies individuals from legal or political participation. Instead, it posits that all humans are vulnerable, and that legal systems must recognize and accommodate this reality.

Relational autonomy offers another alternative to the individualistic model of agency dominant in liberal legal traditions. Unlike traditional autonomy, which is defined as independence from others, relational autonomy understands agency as emerging through relationships, social networks, and institutional support. This concept is particularly relevant in the context of supported decision-making, a practice that allows persons with cognitive or intellectual disabilities to exercise legal capacity with the assistance of trusted others. As Pratama explains, supported decision-making frameworks have been implemented in some Indonesian regions to ensure that people with mental disabilities can participate in elections without relinquishing their legal rights (Pratama, 2024). This model redefines autonomy not as the absence of dependency but as the presence of meaningful support and shared decision-making. By centering relationships, relational autonomy offers a more inclusive basis for legal subjectivity that acknowledges the social dimensions of personhood.

The politics of recognition also play a crucial role in reimagining legal subjectivity. Recognition involves more than the formal extension of rights; it requires a transformation in how legal institutions perceive and respond to the presence of disabled individuals. Fahlevi and Rahman note that recognition must be both symbolic and substantive, encompassing not only the visibility of disabled persons in law but also the restructuring of legal procedures, institutions, and epistemologies (Fahlevi & Rahman, 2024). Without such structural transformation, legal recognition risks becoming performative or tokenistic. This is evident in electoral processes where accessible polling stations exist in theory but are undermined by logistical, cultural, or bureaucratic barriers (Oktarina, 2022). Thus, the politics of recognition demands a shift from mere inclusion to active engagement with the needs, voices, and epistemologies of disabled communities.

Reimagining legal subjectivity through these critical and alternative frameworks does not entail abandoning the law but rather transforming its foundational premises. As Razak argues, affirmative action measures—such as reserved political positions or legal aid for disabled voters—can serve as transitional tools to rectify historical exclusions and build toward a more inclusive legal culture (Razak, 2023). However, such measures must be accompanied by a broader philosophical shift

that challenges the normative ideal of the legal subject. Taupiqqurrahman emphasizes the importance of moving from a "ius constitutum" to a "ius constituendum"—from the law as it is, to the law as it ought to be—in advocating for disability-inclusive legal reforms (Taupiqqurrahman, 2024). This normative orientation requires not only legislative change but also a rethinking of legal theory, pedagogy, and institutional design.

Finally, alternative models of legal subjectivity have practical implications for democratic participation, especially in the Global South. Widya and Wahyuni illustrate that formal legal guarantees do not automatically lead to empowerment unless they are accompanied by political will, institutional accountability, and social transformation (Widya & Wahyuni, 2024). In countries like Indonesia, legal reforms must address not only legal doctrine but also entrenched cultural narratives that view disabled persons as dependent or incapable. Similarly, Pratiwi and colleagues argue that monitoring mechanisms are essential to ensure that laws promoting the political rights of disabled persons are implemented effectively and equitably across diverse regions (Pratiwi et al., 2023).

This theoretical and conceptual framework lays the foundation for a critical analysis of how disability rights are reshaping legal subjectivity. By engaging with liberal and post-liberal legal traditions, critical disability theory, biopolitics, and intersectionality, the article interrogates the ideological and structural mechanisms through which law constructs and constrains the legal subject. In response, it proposes alternative models based on vulnerability, relational autonomy, and substantive recognition. These concepts not only critique the limitations of current legal systems but also offer normative and practical pathways for creating a more inclusive and just legal order.

4. Historical Evolution of Disability Rights and Legal Recognition

The legal recognition of disability rights has undergone a profound evolution over the past several decades, marked by a gradual shift from exclusion and marginalization toward greater inclusion and legal personhood. One of the earliest and most influential legal landmarks in the global disability rights movement was

the Americans with Disabilities Act (ADA), passed in the United States in 1990. The ADA set a precedent by prohibiting discrimination on the basis of disability in employment, public services, transportation, and other critical areas of life. It introduced the concept of "reasonable accommodation," establishing a legal obligation for institutions to adapt their practices to enable the participation of disabled individuals. However, while groundbreaking, the ADA still operated within a framework that often relied on the medical model of disability, defining disability primarily in terms of impairment or functional limitations.

In contrast, the adoption of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) in 2006 marked a transformative moment in international law. The UNCRPD moved away from the medicalized framing of disability and embraced a rights-based, social model. It recognized that disability arises not solely from bodily impairments but from the interaction between individuals and societal barriers. This conceptual shift was pivotal in affirming disabled persons as full legal subjects with inherent dignity, autonomy, and the right to participate fully in society. As Gran and Bryden emphasize, the UNCRPD redefined the global legal landscape by challenging the traditional focus on welfare and protection, instead foregrounding citizenship, equality, and active participation (Gran & Bryden, 2022). The Convention's emphasis on accessibility, legal capacity, and inclusive decision-making established a new normative framework for states to follow.

The UNCRPD also introduced the principle of supported decision-making, recognizing that individuals with cognitive or psychosocial disabilities can exercise legal agency with appropriate support. This was a radical departure from guardianship-based models, which had historically stripped disabled individuals of their legal personhood by placing decisions in the hands of others. Pratama discusses how this principle has influenced legal reforms in Indonesia, where local initiatives have begun to experiment with models that enable persons with mental disabilities to vote and engage politically with support rather than substitution (Pratama, 2024). This development underscores the Convention's emphasis on autonomy and inclusion, which contrasts sharply with earlier legal frameworks that treated disability as a form of legal incapacity.

In Europe, a range of regional instruments has complemented the global momentum initiated by the UNCRPD. The European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union have both been interpreted to support disability rights, particularly in the areas of non-discrimination, access to justice, and independent living. National courts and the European Court of Human Rights have increasingly ruled in favor of greater inclusion, though implementation remains uneven. Kramer et al. illustrate how such frameworks have been mobilized in local contexts, with disability activists using regional and international norms to demand greater political representation and legal recognition (Kramer et al., 2022). However, the effectiveness of these frameworks often depends on domestic political will and institutional capacity.

Throughout this historical trajectory, the legal framing of disability has oscillated between two dominant paradigms: the medical model and the social model. The medical model views disability as a pathology or deficiency located in the individual body, to be treated, cured, or managed. This framing has informed many traditional legal instruments that classify people based on degrees of impairment, eligibility for benefits, or need for protection. Pane and Yanis argue that this model reduces legal subjectivity to a biomedical status, reinforcing dependency and stigmatization (Pane & Yanis, 2023). In legal systems grounded in this paradigm, disabled individuals are often treated as passive recipients of state care rather than active rights-holders. In contrast, the social model of disability posits that disability is produced by environmental, attitudinal, and institutional barriers rather than by individual impairments. This model underpins many of the legal innovations introduced by the UNCRPD and other recent statutes. For example, Nasution and colleagues highlight how political education initiatives in Medan City aim to address not only physical accessibility but also the informational and institutional barriers that prevent disabled persons from exercising their political rights (Nasution et al., 2023). Similarly, Hermalia and her co-authors describe how electoral commissions in West Lampung are beginning to adopt inclusive practices that reflect the social model's emphasis on systemic change (Hermalia et al., 2024).

Despite these advances, rights-based approaches to disability law still face significant limitations. One core critique is that such approaches often focus on formal equality without addressing deeper structural inequalities. Legal recognition alone does not guarantee access to resources, social inclusion, or meaningful participation. As Soldatić and Grech point out, the promise of disability rights is frequently undermined by the neoliberal framing of rights as individualized entitlements rather than collective and systemic guarantees (Soldatić & Grech, 2024). This framing tends to ignore how socio-economic disparities, institutional inertia, and cultural stigma intersect to prevent the realization of rights in practice.

Moreover, the implementation of disability rights laws often suffers from a lack of enforcement mechanisms, insufficient funding, and low levels of public awareness. Otkarina notes that while legal provisions for political participation exist in regions like Sumatera Barat, these laws are often under-enforced or unknown to the populations they are meant to serve (Otkarina, 2022). Similarly, Razak critiques the gap between the legal recognition of voting rights and the logistical realities of elections, where inaccessible polling places and inadequate accommodations still disenfranchise disabled voters (Razak, 2023). Without structural reform, rights remain aspirational rather than transformative.

Another limitation lies in the tendency to treat disability as a monolithic category, ignoring the intersectional dynamics that shape different experiences of exclusion. Fahlevi and Rahman argue that electoral commissions must move beyond a generic understanding of disability to address the specific barriers faced by different subgroups, such as women with disabilities or those in rural areas (Fahlevi & Rahman, 2024). Intersectionality complicates the legal landscape by revealing how disability interacts with other axes of identity, including gender, race, class, and geography. As Taupiqurrahman observes, inclusive legal reform requires not just formal recognition but an ongoing commitment to reshaping legal consciousness and institutional design (Taupiqurrahman, 2024).

Furthermore, legal recognition is often constrained by deeply entrenched social narratives that cast disabled individuals as objects of pity, charity, or dependence. These narratives can permeate legal institutions,

influencing how laws are interpreted, enforced, or resisted. Pratiwi and colleagues stress that without cultural change and robust accountability mechanisms, legal reforms may be symbolic rather than substantive (Pratiwi et al., 2023). This insight is echoed by Widya and Wahyuni, who argue that real progress in disability rights requires a shift in societal attitudes as much as in legal codes (Widya & Wahyuni, 2024).

The historical development of disability rights law thus reflects a complex interplay between normative innovation and structural constraint. While legal milestones such as the ADA, the UNCRPD, and European human rights instruments have significantly expanded the scope of legal recognition, their transformative potential is often curtailed by the persistence of exclusionary paradigms, implementation gaps, and societal resistance. The medical and social models of disability offer competing visions of legal subjectivity, but neither alone can fully account for the lived experiences of disabled individuals in diverse contexts. A critical, intersectional, and praxis-oriented approach is needed—one that moves beyond formal rights to address the material, institutional, and ideological conditions that shape the law's capacity to recognize, protect, and empower all members of society.

5. Inclusive Law: Normative Foundations and Challenges

Inclusive law is a normative and institutional framework that seeks to transform the legal system to ensure the full and equal participation of all individuals, particularly those historically excluded due to disability, race, gender, or socio-economic status. At its core, inclusive law is grounded in three interrelated goals: participation, accessibility, and recognition. Participation involves not only the formal ability to engage in legal and political processes but also the substantive capacity to influence outcomes through informed and autonomous decision-making. Accessibility refers to the removal of physical, procedural, communicational, and attitudinal barriers that prevent individuals from navigating the legal system. Recognition denotes a shift in the law's epistemology—acknowledging the legitimacy and dignity of diverse lived experiences, particularly those shaped by disability. These aims collectively challenge the dominant conception of law as a neutral, objective

system and instead position it as a site where justice must be actively constructed through inclusive practices. The normative underpinnings of inclusive law derive from both critical legal theory and disability rights advocacy. They reject the assumption that formal equality is sufficient to address systemic exclusion and argue for a more substantive notion of justice that recognizes difference as central to human experience. As Meekosha and Soldatić assert, inclusive legal frameworks must not merely accommodate disabled persons within pre-existing legal norms but must critically interrogate the structures that render certain bodies and minds “legally invisible” in the first place (Meekosha & Soldatić, 2024). Inclusive law thus requires an ethical and epistemic shift—one that centers interdependence, embodiment, and relationality as normative grounds for legal recognition and agency.

However, the implementation of inclusive law encounters formidable institutional and systemic barriers, particularly within judicial and bureaucratic systems. One of the most persistent obstacles lies in procedural justice, which often fails to accommodate the specific needs of disabled individuals. Legal processes are typically designed around assumptions of verbal fluency, cognitive clarity, and uninterrupted attention—all of which may exclude or disadvantage people with intellectual, psychosocial, or sensory disabilities. As Polin notes in the context of electoral participation, legal procedures frequently impose rigid deadlines and standardized forms that are inaccessible to those with reading difficulties or non-normative communication styles (Polin, 2024). These procedural constraints are not merely technical flaws—they represent deeper epistemic biases about who counts as a legitimate participant in legal discourse.

Evidentiary norms also pose challenges to the realization of inclusive law. Legal systems often rely on testimonial consistency, behavioral credibility, and medical documentation to assess claims, all of which can be deeply biased against disabled individuals. Fahlevi and Rahman describe how electoral authorities may require detailed medical evidence to verify a person's disability status before granting accommodations, thereby subjecting them to invasive and paternalistic scrutiny (Fahlevi & Rahman, 2024). This reliance on medicalized evidence reaffirms the dominance of the medical model in legal reasoning and undermines the autonomy of

disabled persons by framing them as objects of expert assessment rather than as self-determining subjects. Additionally, evidentiary standards that prioritize written or spoken narratives exclude those whose communication methods differ from the normative legal script, reinforcing structural inequality.

Legal language itself constitutes a barrier to inclusion. The lexicon of the law is often abstract, archaic, and exclusionary, rendering legal processes incomprehensible to many. As Pane and Yanis emphasize, the language used in legal documents and courtroom discourse often presumes a high level of literacy and familiarity with legal conventions, creating a cognitive and communicative divide between legal professionals and lay participants (Pane & Yanis, 2023). For disabled individuals, especially those with cognitive or learning disabilities, legal language can be both intimidating and alienating. The lack of plain language materials, accessible formats, and inclusive communication strategies further entrenches this divide, making legal participation a daunting or even impossible task for many. These linguistic barriers are not simply logistical—they are manifestations of the law's tendency to privilege certain forms of expression and knowledge while marginalizing others.

Despite these challenges, several progressive models have emerged that embody the principles of inclusive law and demonstrate its practical potential. One of the most promising is the supported decision-making framework, which offers an alternative to traditional guardianship regimes. Instead of substituting a person's legal agency with that of a guardian, supported decision-making provides the individual with assistance in understanding, expressing, and executing decisions, thereby preserving their autonomy. Pratama explains how this model has been piloted in Batang Regency, where individuals with mental disabilities were provided with trained support persons during the electoral process to help them understand their voting rights and make informed choices (Pratama, 2024). This approach reflects a profound rethinking of autonomy, shifting from the liberal ideal of independence to a relational model that recognizes the social and communicative dimensions of agency.

Universal design in law is another critical component of inclusive legal systems. This concept involves designing legal processes, institutions, and environments in ways

that are accessible to the widest possible range of people from the outset, rather than retrofitting accommodations after barriers arise. As Razak points out, universal design principles have been partially integrated into electoral systems in Indonesia, such as through the use of tactile ballots, sign language interpreters, and mobile voting units for persons with physical impairments (Razak, 2023). However, the implementation remains inconsistent and often limited to urban areas, reflecting broader disparities in resource allocation and institutional capacity. For universal design to fulfill its transformative potential, it must be embedded not only in infrastructure but also in legal norms and institutional practices.

Inclusive legal reforms also depend on political will and community engagement. As Pratiwi and colleagues argue, monitoring mechanisms and civic education programs are essential to ensure that disability-inclusive laws are not only enacted but also implemented effectively across diverse localities (Pratiwi et al., 2023). Their study on electoral inclusion in Indonesia highlights the importance of community-based advocacy and legal literacy initiatives that empower disabled citizens to understand and assert their rights. Similarly, Hermalia's research demonstrates how local election commissions can play a proactive role in promoting inclusion by collaborating with disability organizations and adapting electoral processes to the needs of their constituents (Hermalia et al., 2024). These examples underscore the fact that inclusive law is not solely the domain of legislators and judges but requires active participation from civil society, administrative agencies, and affected communities.

Nonetheless, institutional inertia and cultural stigma continue to hinder the full realization of inclusive law. As Widya and Wahyuni observe, legal reforms are often met with resistance from officials who lack awareness or who perceive disability accommodations as burdensome or unnecessary (Widya & Wahyuni, 2024). This resistance is compounded by societal attitudes that view disabled persons through the lens of pity or dependence rather than as active citizens. To overcome these barriers, inclusive law must be accompanied by sustained efforts in public education, professional training, and normative transformation. Legal institutions must be reoriented not only in structure but also in ethos, embracing a vision

of justice that is responsive to difference and grounded in the lived realities of those it seeks to serve.

Ultimately, inclusive law represents both a critique of existing legal paradigms and a constructive vision for the future. It calls for a legal system that does not merely tolerate difference but actively embraces it as a source of knowledge, agency, and social cohesion. By redefining participation, accessibility, and recognition as core legal values, inclusive law seeks to dismantle the structural and symbolic barriers that have long excluded disabled individuals from full legal subjectivity. This reimagining of the legal field is not only ethically imperative but also democratically essential—affirming that justice can only be realized when the law is shaped by, and accountable to, all members of society.

6. Toward a Post-Liberal Legal Subject

Disability, in its political, social, and embodied dimensions, offers a profound challenge to the liberal legal tradition's construction of the legal subject. Central to this tradition are binary oppositions such as capacity versus incapacity, dependency versus independence, and public versus private—dichotomies that organize legal reasoning and institutional design. These binaries have historically shaped the boundaries of legal personhood, determining who is recognized as a legitimate actor under the law. Disability fundamentally unsettles these distinctions by revealing the fluidity, interdependence, and contextual nature of human existence. As Meekosha and Soldatić argue, the liberal legal subject is a mythic figure—one that masks its own dependency on socio-political conditions while marginalizing those whose lives expose the fiction of autonomous self-sufficiency (Meekosha & Soldatić, 2024). The presence of disability in legal discourse reveals the artificiality of these binaries, prompting a reevaluation of the values and assumptions embedded in law.

The binary of capacity versus incapacity is among the most entrenched in legal systems, particularly in matters related to voting, contractual agency, and criminal responsibility. Legal capacity is often framed as an all-or-nothing status, with individuals either possessing full capacity or being subject to substitute decision-making regimes. Disability destabilizes this dichotomy by demonstrating that decision-making ability is not fixed but exists along a continuum influenced by context,

support, and social environment. As Pratama discusses in his examination of supported decision-making practices in Batang Regency, individuals with psychosocial disabilities can engage meaningfully in political processes when provided with appropriate support structures (Pratama, 2024). This challenges the idea that capacity must be assessed through static, individualistic criteria and suggests that legal subjectivity should be defined relationally rather than categorically.

The dichotomy of dependency versus independence is similarly undermined by disability, which foregrounds the reality of human interdependence as a condition of life rather than a deviation from it. Liberal legal theory valorizes independence as a marker of full citizenship and legal personhood, often marginalizing those who require assistance in daily activities or communication. Yet as Gran and Bryden highlight, the emphasis on independence fails to account for the networks of care, infrastructure, and institutional support upon which all individuals rely, regardless of ability status (Gran & Bryden, 2022). The insistence on independence as a normative ideal devalues care work and obscures the mutual dependencies that sustain communities. In this light, legal personhood must be reconceived as inherently relational, situated within webs of connection rather than rooted in abstract autonomy.

Disability also disrupts the public/private binary that underpins many legal doctrines. Traditionally, law has treated disability-related matters—such as caregiving, bodily needs, and domestic support—as issues belonging to the private sphere, thereby rendering them politically and legally invisible. However, disability politics exposes how these so-called private experiences are profoundly shaped by public policies, institutional arrangements, and societal norms. Pane and Yanis argue that the relegation of disability to the private sphere reinforces marginalization by treating access to care, housing, and communication as matters of personal responsibility rather than public justice (Pane & Yanis, 2023). The collapse of the public/private divide in the context of disability calls for legal frameworks that recognize care, support, and embodiment as collective concerns, subject to public regulation and accountability. In light of these disruptions, legal personhood must be rearticulated through relational, embodied, and inclusive dimensions. The relational aspect of legal

personhood acknowledges that individuals are embedded in networks of support and interaction that shape their capacities and choices. As shown in the supported decision-making models described by Kramer and colleagues, relationality enables the law to recognize agency without imposing unrealistic standards of independence (Kramer et al., 2022). Embodiment, as a legal category, challenges the disembodied abstraction of the traditional legal subject by grounding rights and recognition in the lived experience of the body. This shift is crucial for understanding how disability affects one's ability to access justice, navigate institutions, and exercise autonomy. As Razak emphasizes, legal norms must reflect the diversity of bodily experiences rather than universalizing able-bodied standards (Razak, 2023).

Inclusivity, in this context, refers not only to formal inclusion within legal texts but also to the substantive transformation of legal processes, institutions, and knowledge systems. Hermalia illustrates how inclusive practices in local election commissions—such as community outreach, accessible materials, and collaboration with disability organizations—expand the scope of legal subjectivity by recognizing diverse ways of knowing and participating (Hermalia et al., 2024). Inclusive legal personhood requires that the law not merely accommodate difference but embrace it as a normative principle. As Soldatić and Grech suggest, reimagining legal subjectivity entails recognizing the epistemic authority of disabled individuals and communities, whose experiences provide crucial insights into the limitations and possibilities of justice (Soldatić & Grech, 2024).

The implications of this rearticulated legal subject extend deeply into legal education, jurisprudence, and policy reform. Legal education must move beyond doctrinal instruction to engage critically with the normative assumptions underlying legal concepts. As Widya and Wahyuni argue, training programs for law students and legal professionals should incorporate disability studies, critical theory, and lived experience narratives to develop a more reflexive and socially responsive legal consciousness (Widya & Wahyuni, 2024). Such curricular transformation is essential to produce legal practitioners capable of recognizing and addressing structural exclusion.

In jurisprudence, courts must adopt interpretive methods that are attentive to the socio-political context of disability. Rather than rigidly applying formalistic standards, judges should interpret legal norms in ways that advance substantive equality and relational justice. Pratiwi and colleagues point out that judicial decisions concerning disability rights are often inconsistent, reflecting a lack of coherent jurisprudential commitment to inclusion (Pratiwi et al., 2023). A post-liberal approach to jurisprudence would require courts to recognize the legitimacy of diverse forms of reasoning, communication, and agency, thereby expanding the legal imagination of who counts as a subject of rights.

Policy reform, too, must be guided by the principles of relational autonomy, participatory justice, and embodied citizenship. Taupiqqurrahman advocates for a shift from reactive policies that respond to legal mandates to proactive strategies that envision new models of inclusion grounded in social transformation (Taupiqqurrahman, 2024). Electoral laws, for example, must not only remove barriers to participation but also actively create conditions that enable meaningful engagement, such as through inclusive civic education, accessible infrastructure, and institutional transparency. Similarly, welfare and social protection policies must move away from deficit-based models toward systems that empower individuals to live with dignity and autonomy.

Moreover, inclusive policy development should be participatory in itself. Fahlevi and Rahman describe how involving disabled persons in the design and monitoring of electoral procedures leads to more responsive and effective governance (Fahlevi & Rahman, 2024). This participatory ethos must be institutionalized across policy domains to ensure that laws and regulations reflect the lived realities of those they purport to serve. As Bhawal notes in his study of disability politics in India, transformative change requires not only legal reform but also the democratization of legal knowledge and authority (Bhawal, 2023).

Ultimately, the move toward a post-liberal legal subject is not simply a theoretical endeavor but a normative imperative rooted in the pursuit of justice. It demands that law recognize the full humanity of all individuals—not through assimilation into a pre-existing mold, but through the creation of legal forms that honor difference, support relationality, and affirm the dignity of embodied

life. Disability, in this context, is not a marginal issue but a central axis around which a more ethical and inclusive legal order can be built. Through relational, embodied, and inclusive redefinitions of legal subjectivity, the law can begin to shed its exclusions and become a truly transformative force in the lives of those it has long ignored.

7. Conclusion

Reimagining legal subjectivity through the lens of disability rights and inclusive law demands a profound transformation of the foundational principles that have long governed legal systems. This transformation begins with recognizing that the traditional liberal conception of the legal subject—autonomous, rational, and independent—is not a universal norm but a culturally and historically constructed ideal that excludes a wide range of human experiences. Disability exposes the limitations of this model by revealing the essential role of interdependence, vulnerability, and relationality in the lives of all individuals. The challenge, therefore, is not merely to add disabled persons into existing legal frameworks but to fundamentally rethink the nature of legal personhood and the values that underpin legal recognition.

The emergence of disability rights as a political and legal force has catalyzed important shifts in how law defines and engages with difference. From the global adoption of the UNCRPD to the implementation of inclusive electoral practices and supported decision-making frameworks, the legal landscape is gradually moving toward a more expansive and inclusive vision of justice. However, these advancements remain incomplete. While legal recognition has increased, substantive equality continues to be undermined by systemic barriers such as inaccessible procedures, exclusionary evidentiary standards, and legal language that fails to accommodate diverse modes of communication and cognition. These obstacles highlight the persistent gap between formal rights and lived realities.

Inclusive law offers a normative response to these challenges by centering the principles of participation, accessibility, and recognition. It reorients legal systems to value all individuals not despite their differences, but because of them. In doing so, it challenges the deeply embedded binaries that have historically marginalized disabled persons—capacity versus incapacity,

independence versus dependency, and public versus private. These dichotomies no longer hold in a legal framework that acknowledges the fluid, contextual, and interdependent nature of human life. Instead, inclusive law seeks to create legal environments where difference is not a barrier to participation but a source of legitimacy and richness in legal reasoning.

The implications of this reconceptualization of legal subjectivity are far-reaching. In legal education, it calls for a curriculum that incorporates critical disability studies, relational theories of autonomy, and participatory models of justice. Such an approach equips future legal professionals with the tools to question normative assumptions and engage with the complexities of human experience. In jurisprudence, it requires judges and legal scholars to interpret laws in ways that reflect the realities of diverse bodies and minds, and to craft doctrines that prioritize inclusion over abstraction. In public policy, it mandates the design of laws and institutions that actively dismantle barriers and redistribute power to those who have historically been excluded.

Moving toward a post-liberal legal subject also means embracing a deeper ethical commitment to justice—one that moves beyond procedural fairness to address structural inequality. This commitment requires legal systems to be responsive, flexible, and grounded in the lived experiences of those they serve. It demands a shift from paternalistic approaches that frame disabled individuals as passive recipients of aid to models that recognize their agency, voice, and contributions to public life. It involves not only legal reform but cultural transformation, as social attitudes and institutional practices must evolve alongside legal doctrine to create truly inclusive societies.

This vision of inclusive legal subjectivity is not utopian; it is both necessary and achievable. It draws on the collective knowledge of disabled communities, legal theorists, practitioners, and activists who have long advocated for a more just and equitable legal order. It is informed by real-world practices and policies that demonstrate the feasibility and benefits of inclusion. Most importantly, it is grounded in a recognition of shared humanity—a recognition that justice cannot be partial, and that the dignity of one depends on the dignity of all.

As legal systems around the world grapple with growing demands for equity and recognition, the reimagining of legal subjectivity through disability provides a critical framework for transformative change. It challenges the law to become not just a mechanism of order but a vehicle for justice, empowerment, and social solidarity. In doing so, it opens the possibility for a legal future in which all individuals are not only recognized but fully included—where difference is not feared but embraced as a fundamental condition of justice itself.

Authors' Contributions

Authors contributed equally to this article.

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In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

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