

# Government Obligations Towards Persons with Disabilities in Fulfillment of Public Sector Facilities

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**Abstract:** One of the policies towards fulfilling the rights of persons with disabilities is Law Number 8 of 2016 concerning Persons with Disabilities. Persons with disabilities should get the fulfillment of equal opportunities in all aspects of state and community administration, including the provision of accessibility and proper accommodation in fulfilling the public sector. The implementation and fulfillment of the rights of persons with disabilities is aimed at realizing a higher quality, fair and dignified standard of living for persons with disabilities. In addition, the implementation and fulfillment of rights is also aimed at protecting persons with disabilities from exploitation and all discriminatory actions. Based on these conditions, it is important to study further about the government's obligations to persons with disabilities in fulfilling public sector facilities and what obstacles are faced by the government in carrying out obligations to persons with disabilities in fulfilling public sector facilities. This research is library research using analytical descriptive method. Based on research, it shows that persons with disabilities have not had the opportunity to fulfill equality in all aspects of state administration, especially the fulfillment of rights in public sector facilities. It can be seen that there is still neglect and all discriminatory actions against persons with disabilities, especially in fulfilling their rights as citizens.

## 1 INTRODUCTION

Every citizen has equal rights, equal opportunities, and equal standing before the law. The 1945 Constitution guarantees the fulfillment of the rights of every Indonesian citizen without distinguishing from each other, including for persons with disabilities. People with disabilities are also classified as one of the vulnerable groups. Vulnerable groups are the groups that most often receive discrimination treatment and their rights are often not fulfilled. This is not without cause, because people with disabilities are often considered as the disabled people who get the most discrimination treatment and there are many other rights that have not been fulfilled for people with disabilities. Persons with disabilities should get equal opportunities in all aspects of state and community governance, including the provision of accessibility and proper accommodation in the fulfillment of the public sector. The implementation and fulfillment of the rights of persons with disabilities aims to realize a more quality, fair, and dignified standard of life of persons with disabilities. This accessibility is closely related to access to

justice. Where simply access to justice is defined as a state and process by which the state guarantees the fulfillment of the basic rights of its citizens based on the 1945 Constitution and the universal principles of human rights. As well as ensuring access for every citizen to have the ability to know, understand, realize and exercise these basic rights through formal and non-formal institutions, supported by a good and responsive public complaint handling mechanism, in order to obtain optimal benefits and improve the quality of his own life. In the Constitution of the Republic of Indonesia 1945, it has firmly guaranteed the rights of persons with disabilities. As contained in Article 28H paragraph (2), states that everyone deserves the convenience and special treatment to get the same opportunities and benefits to achieve equality and justice. One of the government's policies to ensure the fulfillment of the rights of persons with disabilities, namely by issuing Law No. 8 of 2016 concerning Persons with Disabilities. The existence of the disability law is not only a legal umbrella for people with disabilities, but also a guarantee that people with disabilities avoid all forms of injustice, violence and discrimination. In practice, there are

obstacles in efforts to respect, protect and fulfill the rights of persons with disabilities, namely there are still no regulations at the local level that regulate in detail and comprehensively each obligation of local governments which is the mandate of Law No.8/2016. In terms of programs and activities for people with disabilities, it seems that they are still not optimal in carrying out careful planning so that efforts to respect, protect and fulfill the rights of persons with disabilities can run according to needs and are sustainable.

## 2 LITERATURE REVIEW

### 2.1 Government Obligations

The Law on Persons with Disabilities is the first step in the (good will) of the Government to respect, protect and fulfill the rights of persons with disabilities. Furthermore, the Government is obliged to prepare facilities, infrastructure and prepare human resources that will carry out the implementation of this Law with the aim of ensuring the fulfillment of the rights of persons with disabilities are fulfilled; so that the fulfillment of the rights of persons with disabilities not only won on paper but carried out in accordance with the objectives of the Convention on Persons with Disabilities, namely advancing, protecting and ensuring the equality of fundamental rights and freedoms for all persons with disabilities and respect for the dignity of persons with disabilities as an (inherent dignity).

In 2011, through Law No. 19 of 2011, Indonesia ratified the Convention on the Rights of Persons with Disabilities (UN CRPD). The Convention helps spread the view that persons with disabilities are equal societies to other societies.

There are several rights - Rights of persons with disabilities that must be fulfilled by the government, namely:

#### 1. Equality and Nondiscrimination Rights

Persons with disabilities have the right to equal opportunities, with all of humanity before and under the law. They are also entitled to equal legal protection and benefits, without discrimination.

Discrimination is unfair treatment, which is done to discriminate against individuals or groups. Therefore, every country should prohibit all forms of discrimination against disability, for any reason. In addition, the state must ensure that persons with disabilities have equal legal rights and protections.

#### 2. Accessibility Rights

Accessibility rights as part of In society, then people with disabilities also have the right to get the facilities provided by the state for everyone. This includes equality and equal opportunities for public facilities and services.

It aims to give people with disabilities the opportunity to live independently and participate fully in all aspects of life. Not fulfilling accessibility rights for persons with disabilities is the same as imprisoning, alienating, and closing their rights to a prosperous life.

#### 3. Right to Life

Just like any other citizen, people with disabilities also deserve the same opportunity to live. It is a moral principle based on the belief that a human being has the right to live and especially should not be killed by another human being.

Persons with disabilities have six right to life that must be fulfilled by the state, which include the right to respect for integrity, not being deprived of life, obtaining care and nurturing that ensures their survival, free from neglect, shackling, confinement, exclusion, threats, various forms of exploitation, torture, cruel, inhuman, and degrading treatment and punishment.

#### 4. Right to Increase Awareness

People with disabilities are often overlooked in various countries. This is due to the lack of knowledge and socialization of disability awareness in the community. Therefore, the state must give the right to increase awareness to the community, to persons with disabilities. For example, implementing effective and appropriate policies in the community, as well as advancing awareness-raising training programs regarding persons with disabilities and the rights of persons with disabilities.

This increased awareness of disability aims to raise awareness of the entire community, including at the family level, regarding persons with disabilities, and to maintain respect for the rights and dignity of persons with disabilities.

#### 5. The Right to Freedom from Exploitation, Violence, and Harassment

Exploitation, violence, and abuse are things that can happen to anyone, including people with disabilities. Therefore, the state must ensure that persons with

disabilities are fulfilled their right to be free from all forms of exploitation, violence, and abuse.

Persons with disabilities must be protected by law, able to use the law, able to participate in all stages of processes and procedures on the basic law of equality with others in society.

## 2.2 Disabilities in Fulfillment

In Law No. 8 of 2016 provides an understanding of Persons with disabilities is any person who experiences physical, intellectual, mental, and or sensory limitations for a long period of time who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights.

People with disabilities have several types, including: sensory disability, physical disability, intellectual disability, mental disability. A person with a disability may experience one or more disabilities at the same time.

### 1. Sensory Disability

Sensory disability is the disruption of one of the functions of the five senses, including netra, rungu and or speech disabilities. Netra disability is a person who has a vision accuracy of less than 6 per 60 after correction or has absolutely no vision power. Speech disorder is a term that refers to the condition of malfunction of the auditory organs or loss of hearing function and or speech function either caused by birth, accident, or disease.

### 2. Physical Disability

Physical disability is impaired function of movement including withered or stiff paralysis, paraplegy, cerebral palsy (CP), due to amputation, stroke, leprosy, and others. This condition can be caused by illness, accident, or it can also be caused by a congenital disorder. In people with physical disabilities, there are abnormalities in body shape, limbs or muscles, reduced function of bones, muscles, joints, and nerves.

### 3. Intellectual Disability

Intellectual disability is a dysfunction or limitation of both intellectually and adaptive behavior that can be measured or seen that leads to a reduced capacity to act in a particular way. People with intellectual disabilities are people with mental development disorders that are in principle characterized by the deterioration of concrete functions at each stage of

development and contribute to the entire level of (intelligence).

In addition to having limitations on intellectual function, people with disabilities also have limitations in terms of adaptability that cause limitations in terms of communication skills, self-care, home life, social skills, community involvement, health and security, academics and work ability.

The American Psychological Association (APA) makes classifications of people with intellectual disabilities based on intelligence levels or IQ scores, namely:

- light (debil), IQ score 55-70
- medium (imbesil), IQ score 40-55
- weight, IQ score 25-40
- very heavy, IQ score < 25

## 4. Mental Disability

Mental disability is impaired function of thought, emotions, and behavior, among others:

- psychosocial, for example schizophrenia, bipolar, depression, anxietas, personality disorders.
- developmental disabilities that affect the ability of social interaction, such as autism and hyperactivity.

## 5. Double Disability

Various disabilities can be experienced single, multiple, or multi-term over a long period of time (at least six months and/or permanent) and determined by health workers.

People with multiple or multi disabilities are persons with disabilities who have two or more disabilities, including speech disability and netra-deaf disability.

## 2.3 Public Sector Facilities

Given the large number of persons with disabilities and strengthened by Indonesia's status as a country of law, there is an obligation from the state to ensure that the right of accessibility of persons with disabilities to public facilities is also fulfilled as it is for normal people. Article 9 of Law No. 19 of 2011 concerning the Ratification of CRPD guarantees that persons with disabilities or those with physical, mental, intellectual or sensory disabilities are entitled to the fulfillment of accessibility rights. This right is very important in order to ensure the independence and participation of persons with disabilities in all aspects of life. Furthermore, it is strengthened by Article 5 paragraph 1 letter m of the Law on Disability which

states that one of the rights of disability is accessibility. For this reason, all public facilities must be equipped with accessibility for persons with disabilities. Public facilities are means provided and used entirely for the public interest. Thus anyone has the right to use and access this facility to the fullest. Among them are public facilities are offices, roads, bus stops, transportation and so on. Likewise, the government is obliged to provide accessibility in this public facility, so that people with disabilities can be active as normal people.

Broadly speaking, the Law on Persons with Disabilities regulates the variety of Persons with Disabilities, the rights of Persons with Disabilities, the implementation of respect, protection, and fulfillment of the rights of Persons with Disabilities. That way, later the law will strengthen better rights and opportunities for people with disabilities. Starting from the right to life, the right to get a decent job, better education and ease of access to public facilities.

### 3 RESEARCH METHODS

The research method is the method used for certain research in accordance with the objectives to be achieved. This research uses a qualitative descriptive approach. Descriptive research aims to accurately describe phenomena that occur systematically, actually, and accurately in accordance with existing facts by collecting data, explaining and analyzing objectively in the sense that the results of this study will emphasize more on the description of the actual research object.

In the qualitative approach the researcher makes a complex picture, examines words, reports in detail from the respondents' views, and conducts a study of natural situations.

Primary data sources are obtained through observation, interviews and documentation from related parties, while secondary data sources are obtained through library materials such as books, articles, dictionaries, newspapers, magazines, inscriptions, meeting minutes, agendas, and so on. The main or main data sources that are used as research and analysis materials.

The data collection used in this research is carried out through observation, interviews and documentation and then analyzed using the Miles and Hubberman model, which is called the interactive model of analysis. According to H.B. This Sutopo model consists of three main components, namely: data reduction, data display, conclusion drawing.

## 4 RESULTS AND DISCUSSION

### 4.1 Government Obligations to Persons with Disabilities in the Fulfillment of Public Sector Facilities

Arrangements related to persons with disabilities, stipulated in article 1 of Law No. 8 of 2016. There it is mentioned, that persons with disabilities are any person who experiences physical, intellectual, mental or sensory limitations for a long period of time who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights.

In the case of fulfilling the rights of persons stabilized in accessing public facilities / facilities, it is also an obligation for the government to implement them. The Disability Law emphasizes the importance of the government's active involvement to provide accessibility for disabled people in this sector. In the case of building buildings, for example, how the government actively provides certainty of the availability of accessibility facilities by considering the needs, functions, area, and height of the building in accordance with the provisions of laws and regulations.

The essence of the state of law is to ensure that every citizen gets protection and certainty in the fulfillment of his rights. Likewise, there is equal treatment for everyone, both men and women, rich and poor, normal people and people with disabilities.

One of the characteristics of the state of law is to uphold human rights, in this case it is also felt by every Person with Disabilities, the rights of Persons with Disabilities, the implementation of respect, protection, and fulfillment of the rights of Persons with Disabilities. That way, later the law will strengthen better rights and opportunities for people with disabilities.

This accessibility is a condition that must be attached in taking care of building permits. Article 99 of the Disability Law regulates this, where it is stated that:

1. The government and local governments must include the availability of facilities that are easily accessible to persons with disabilities as one of the conditions in the application for building permits.

2. The government and local governments are obliged to conduct an audit of the availability of accessibility facilities for persons with disabilities in each building.

3. Examination of function worthiness on the availability of facilities and Accessibility for persons with disabilities is a condition in the issuance and

renewal of certificates for building functions. An important factor of the Disability Law is emphasizing the government's obligation to facilitate the provision of easily accessible facilities in single-dwelling buildings inhabited by persons with disabilities. Likewise, it is also mandatory to provide facilities for pedestrians, pedestrian crossings, parks, settlements, which are easily accessible to people with disabilities.

#### **4.2 Obstacles Faced by the Government in Carrying out Obligations to Persons with Disabilities in Fulfilling Public Sector Facilities**

Indonesia as a country of law as affirmed in the 1945 Constitution, should further strengthen the role of the state in fulfilling and guaranteeing the rights of everyone without distinguishing from each other, including for persons with disabilities. This at the same time strengthens the importance of the presence of the state in realizing justice for its citizens.

But in fact, judging from the results of previous studies that there are still many public facilities that have not been optimal in providing accessibility that is their right. This can generally be seen from several obstacles faced by the government towards people with disabilities in fulfilling public sector facilities, namely:

##### **1. Planning.**

Planning is basically a way, technique or method to achieve the desired goal precisely, purposefully and efficiently according to the available resources. Almost in every regional device there are still no programs and activities that refer to how to respect, protect and fulfill the rights of persons with disabilities.

Each development program and activity is usually planned and implemented in general and it is included for people with disabilities, even though in accordance with the definition, people with disabilities must get program interventions and activities that are certainly tailored to their abilities and limitations. This is due to the lack of knowledge and understanding of state organizers as policy makers on the reference to accessibility of people with disabilities.

##### **2. Data System and Information.**

The government has a responsibility in carrying out respect, protection and fulfillment of the rights of persons with disabilities do not yet have valid data on the number of persons with disabilities by name by address.

From data of thousands of people with disabilities (data from the Central Statistics Agency), only hundreds of people with disabilities are accommodated so that the difference in the amount of data between one agency and another is still found. The data collection pattern is still not tiered starting from the RT / RW level through the village government to the district causing data on the number of people with disabilities to be not optimal. Data collection has an important meaning in a policy planning, through valid and disaggregated data, policy interventions can be targeted and useful so that policy makers do not hesitate in making a decision.

##### **3. Lack of understanding of people with disabilities as citizens**

The essence of respect and protection of human rights is to maintain the safety of human existence as a whole through the balancing action between rights and obligations and the balance between individual interests and the public interest. Efforts to respect, protect and uphold human rights become a common obligation and responsibility between individuals, governments and even greater scope, namely the state.

Every citizen has the same right to be treated fairly. Efforts to raise awareness for people with disabilities, urgently need support from all components of society so as to eliminate the negative stigma against people with disabilities while providing support to increase independence and equal rights of persons with disabilities in various aspects of life.

## **5 CONCLUSIONS**

### **5.1 Conclusion**

In terms of fulfilling public sector facilities, it is the government's obligation to persons with disabilities. Persons with disabilities should get the fulfillment of equal opportunities in all aspects of state and community administration, including the provision of accessibility and proper accommodation in fulfilling the public sector. The implementation and fulfillment of the rights of persons with disabilities is aimed at realizing a higher quality, fair and dignified standard of living for persons with disabilities.

### **5.2 Suggestions**

It is hoped that the government in carrying out every program planning and development activity should be

planned and implemented on how to respect, protect and fulfill the rights of persons with disabilities.

The government must record the number of persons with disabilities. Data collection has an important meaning in planning a policy, through valid and disaggregated data, policy interventions can be targeted and useful so that policy makers do not hesitate in making a decision.

## REFERENCES

- Andriani, Nurul Saadah, Disability Responsive Policy: Mainstreaming Policy Management at Regional, National and International Levels. Palastren 9, No. 1, 2016.
- Badan Pusat Statistik, <https://www.bps.go.id/>.
- Creswell, Moleong. 2007. Qualitative approach in research. Yogyakarta, PT Ikada Muda.
- Erna Ratnaningsih. 2016. State Obligations and Rights of Persons with Disabilities. Jakarta. Binus University Journal.
- Frichy Ndaumanu. 2020, Disability Rights: Between Responsibility and Implementation By the Local Government, Jurnal HAM, Volume 11 Number 1. April 2020.
- HB. Sutopo, 2002, Qualitative Research Methods, Solo, UNS Press.
- Kementerian Perencanaan Pembangunan Nasional, Strategi Nasional Akses Pada Keadilan, 2016-2019, accessed through, [http://www.id.undp.org/content/dam/indonesia/2016/presdoc/buku%20SNAK%20rev\(2\)%20-4-5-16.pdf](http://www.id.undp.org/content/dam/indonesia/2016/presdoc/buku%20SNAK%20rev(2)%20-4-5-16.pdf), accessed, 10 Mei 2022
- Komisi Nasional Hak Asasi Manusia (Komnas HAM) Drafting Team, Encouraging the Ratification of optional Protocol CPRD in the Framework of Fulfilling the Human Rights of Persons with Disabilities, 2006.
- Pipih Sopiah. 2010. Democracy in Indonesia. Jakarta. Nobel Edumedia.
- Undang Undang Dasar Negara Republik Indonesia Tahun 1945
- Undang Undang Nomor 8 Tahun 2016 Tentang Disabilitas
- Undang Undang Nomor 19 Tahun 2011 Tentang the Ratification of the Convention On the Right Of Persons with Disabilities.
- <https://www.dinkes.jogjaprovo.go.id/berita/detail/disabilitas-beragam-jenis-yuk-mengenal-penyandang-disabilitas-lebih-dekat-bagian->.