

Legal Protection of the Rights of Persons with Disabilities in Lamongan Regency

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ABSTRACT

People with disabilities also have the same rights as normal humans in general, the role of the Indonesian nation in respecting the rights, obligations and roles for people with disabilities is contained in various regulations. In the 1945 Constitution at the preamble precisely in the fourth paragraph, it is clearly written that the fulfillment of rights for citizens with disabilities is guaranteed without exception in their daily lives. The Lamongan Regency Government also has rules in this regard which are contained in the Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities, this is a positive signal that the Lamongan Regency Government has tried and has very noble intentions to provide good services, especially to people with disabilities in Lamongan Regency. This study uses normative legal research, and it is hoped that in the future this research can provide conceptual input on local government policies, especially the Lamongan Regency Government in fulfilling the rights of persons with disabilities in the Lamongan Regency area. The results of research and discussion of this study show that although the Lamongan Regency Government has issued a Regional Regulation regarding Legal Protection for Persons with Disabilities, there are still obstacles, namely regarding accessibility for people with disabilities in Lamongan Regency and have not been fully implemented in various sectors, for example in Lamongan Square there have not been found accessible roads for wheelchair users, In shopping centers, especially in Lamongan Level Market and several Malls, there has not been found a special elevator for people with disabilities and tourist attractions that still do not provide proper facilities for people with disabilities. In the future, local governments should be obliged to provide accessible facilities for people with disabilities so that they are easily accessible and their rights can be given fairly.

Keywords: Lamongan Regency, Legal Protection, People with Disabilities.

INTRODUCTION

Minority groups around the world are on the verge of discriminatory treatment, but these discriminatory acts can take the form of words or actions. Part of the minority group today is the disabled group. The word "disabled person" according to KBBI is defined as someone who has to endure something suffering, while the word disability is a loan from the English word, namely disability or helplessness, imperfection. [1] The term for the mention of disability in Indonesia has changed from time to time, initially *referred to as persons with disabilities* in Law No.4 of 1997 concerning Persons with Disabilities, then Indonesia has adopted "*the convencion of the rights of persons with dissabilites*" or commonly called "CRPD" with Law No.19 of 2011 which changed the term from "persons with disabilities" to "persons with disabilities". Because of the impact of using the word disability, which has negative connotations, people with disabilities

often experience discrimination. People with disabilities are a diverse group of people, from mental, physical, to psychomotor disabilities. [2] [3] [4]

People with disabilities are part of Indonesian Society and have the same position, rights and dignity as Indonesian Society in general. In the 4th Amendment to the 1945 Constitution, the chapter relating to Human Rights (HAM), this issue is increasingly seen as a global problem, but it has become one of the requirements of a state of law. With the provisions regarding human rights in the 1945 Constitution, the human rights of all citizens and residents of Indonesia have been guaranteed by the state according to the constitution. Therefore, in this connection, the Indonesian people believe that human rights (HAM) must pay attention to the characteristics of the Indonesian nation and human rights must also be balanced with obligations in order to be dignified and dignified. respect each other. Because the human rights of each party will be created. One aspect of the Human Rights Formulation included in the 1945 Constitution is related to human rights related to social protection. Equality of rights and obligations of citizens in all aspects of life and livelihood is a prerequisite for the social welfare of all Indonesian citizens. [5] Taking into account the certainty of human rights for persons with disabilities that have been established by the Indonesian government, with the regulation, the state is obliged to comply with its activities and supporting facilities.. [6] In Indonesia, human rights guarantees are regulated in Articles 28A to 28J of the 1945 Constitution. The inclusion of human rights in the 1945 Constitution officially became a constitutional right. Through this constitutional right, every citizen has constitutional rights and is guaranteed all rights contained in the 1945 Constitution. Such guarantees can be in the form of provisions of constitutional rights in law or open the opportunity for constitutional complaints to the Constitutional Court, in case of violations of civil rights. [7] Although persons with disabilities are not expressly mentioned in the 1945 Constitution, they are part of human beings of equal standing. As the principle in human rights is universal and non-discriminatory, it cannot be denied, shared and reduced. The fulfillment of the right is clearly required to pay the law, this is certainly in line with the purpose of the formation of the state as stated in the Preamble of the 1945 Constitution which reads “advancing general welfare, educating the nation’s life, realizing social justice for all Indonesian people”. In essence, its realization for all Indonesian people is indiscriminate. Both human beings who are born normal and those who are born with imperfections both physical and mental. The fulfillment of rights for persons with disabilities has been regulated in Law No.8 of 2016 concerning Persons with Disabilities. In Article 1 of the Disability Law, persons with disabilities must have equal opportunities and gain eligibility for access to channel their potential in all aspects. Persons with disabilities must also be respected and valued and accepted without discrimination. [8]

In 2018, precisely on October 6, 2018, Indonesia was assigned to host the Southeast Asian Para Games, a sports event intended for athletes with disabilities. physical disabilities. People with disabilities are highly respected and valued not only as individuals but also as subjects of law. Demand that the government be more focused and consistent in supporting the implementation of disability-friendly laws. [9]

In dealing with persons with disabilities, Indonesia has laws and regulations related to this issue. The government in this case certainly has regulated many regulations regarding people with disabilities, ranging from the right to study, the right to work and their rights in accessible public facilities to facilitate people with disabilities in their daily lives. These regulations include, Law Number 8 of 2016 concerning Disability, Presidential Regulation Number 68 of 2020, Presidential Regulation Number 67 of 2020, Presidential Regulation Number 1 of 2020, Government Regulation Number 60 of 2020, Government Regulation Number 52 of 2019, Government Regulation Number 42 of 2020, Government Regulation Number 39 of 2020, Government Regulation Number 13 of 2020, Government Regulation Number 70 of 2019. From there it can be seen that the government in this case has made efforts in regulating regulations on persons with disabilities from all aspects of the field.[10]

However, there are differences in the focus of each of these regulations, including the following. Law

Number 8 of 2016 comprehensively regulates how the rights that must be obtained for persons with disabilities in general, such as should get special protection from discrimination, neglect, harassment, exploitation as well as violence and crime, in this Law also emphasizes that the care and care of surrogate families for optimal growth and development, persons with disabilities are also protected interests in decision making, treat human children in accordance with the dignity and rights of children and the fulfillment of special needs for persons with disabilities.

Meanwhile, in Presidential Regulation Number 68 of 2020, stipulating the establishment of the National Commission on Disability or hereinafter can be referred to as (KND), KND itself is an independent non-structural institution. In order to ensure and monitor the implementation of respect, protection and fulfillment of the rights of persons with disabilities, KND has the task of carrying out monitoring, evaluation and advocacy in the implementation, protection and fulfillment of the rights of persons with disabilities. This KND has several functions, including, 1). Preparation of KND activity plans in an effort to implement respect, protection and fulfillment of the rights of persons with disabilities. 2). Monitoring and evaluation of the implementation of respect, protection and fulfillment of the rights of persons with disabilities. 3). Advocacy for the implementation of respect, protection and fulfillment of the rights of persons with disabilities. 4). As an implementer of cooperation in handling persons with disabilities with relevant stakeholders.[11]

Presidential Regulation Number 67 of 2020, stipulates a presidential regulation on the terms and procedures for awarding awards in respecting, protecting and fulfilling the rights of persons with disabilities. The award in question aims to motivate individuals, legal entities, state institutions, and public facility providers in realizing respect, protection and fulfillment of the rights of persons with disabilities in all aspects of life. Awards can be given by Ministers, leaders of Government Institutions, Governors, and Regents.[12]

Presidential Regulation Number 1 of 2020, stipulates the ratification of the Marrakesh treaty to *facilitate access to published works for person whoa are blind, TVisualed, or otherwise print disabled, the Marrakesh treaty for access facilities* to published works for people with visual disabilities, visual impairments or disabilities in reading printed cards.[13]

Government Regulation Number 60 of 2020 concerning Disability Service Units in the Field of Manpower, Disability Service Units which are later referred to as ULD Employment have the duties and functions of agencies that carry out local government affairs in the field of employment in provinces and districts/cities.[14]

Government Regulation Number 52 of 2019 concerning Social Welfare Providers for Persons with Disabilities. In this regulation, the purpose of providing social welfare for persons with disabilities is to meet the basic needs of persons with disabilities, ensure the implementation and social functions of persons with disabilities, improve social welfare for persons with disabilities and realize an inclusive society.[15]

Government Regulation Number 42 of 2020 concerning Accessibility to Settlements, Public Services, and Protection from Disasters for Persons with Disabilities. This regulation is intended to facilitate accessibility for persons with disabilities in equal opportunities, such as providing inclusive housing, providing adequate and accessible accommodation, tape plans and technical plans to support on a certain scale and land area limits at the time of a disaster.[16]

Government Regulation Number 39 of 2020 concerning Adequate Accommodation for Persons with Disabilities in the Justice Process. In this regulation the government has stipulated that persons with disabilities in the justice process must obtain reasonable accommodations with appropriate modifications and adjustments to ensure the implementation of the justice process, there must be translators and

companions of persons with disabilities in the justice process.[17]

Government Regulation Number 13 of 2020 concerning Adequate Accommodation for Students with Disabilities. By providing adequate accommodation in the field of education, it aims to ensure the implementation of a decent teaching and learning process for persons with disabilities. Adequate accommodation providers as referred to must be carried out all pathways, levels, and types of education both inclusively and specifically. [18]

Government Regulation Number 70 of 2019 concerning planning, organizing and evaluating the respect, protection and fulfillment of the rights of persons with disabilities. This regulation aims to have a plan to determine appropriate future actions through a sequence of choices taking into account available resources, as well as the implementation of respect, protection and fulfillment of the rights of persons with disabilities based on the master plan of persons with disabilities, regional action plans of persons with disabilities in each province.

Of the many regulations above, of course, each Provincial Government and Regency/City Regional Government should take part in regulating regulations related to persons with disabilities, because it does not rule out the possibility that in every sector of the Regency/City there are citizens with disabilities of course. This is so that each region has a normative foundation in carrying out its duties and functions.

In this study, we will discuss legal protection for people with disabilities, especially in Lamongan Regency. Because if we look at data from the Central Bureau of Statistics of Lamongan Regency, it can be seen that the number of people with disabilities in Lamongan Regency is not small. From data taken through the Central Bureau of Statistics of Lamongan Regency it was recorded that people with disabilities and people with chronic disabilities amounted to 890 people, this number was divided into five types, namely, 1. With a total of 427 disability, 2. Blind disabilities numbered 13 inhabitants, 3. Speech impairment number 19 people, 4. Mentally ill a total of 21 people. 5. Double disability of 207 people, of course this number is not a small number which could be increasing over the years because this data was obtained from BPS Lamongan Regency which was recorded in 2016 and until now there has been no update info from BPS Lamongan Regency, this number could decrease or even increase even more.

RESEARCH METHODS

This legal research is about Lamongan Regency Government Policy. In the protection and fulfillment of the rights of persons with disabilities is a type of normative legal research, the approach used in this paper is a statutory approach. [19] The source of legal materials to be used in this study is primary legal material consisting of applicable laws and regulations. Secondary legal materials that are from the results of research, books, and scientific journals or the internet that are relevant to the problem under study. Other non-legal materials such as legal dictionaries are also encyclopedias and so on. From the results of the synthesis analysis then conclusions are drawn as necessary, in accordance with the objectives of the study.[20]

RESULTS OF DISCUSSION

1. People with Disabilities

In the Big Indonesian Dictionary (KBBI) the word *penyandang* means someone who bears or suffers something. The word disability is an absorption from English which means disability which is interpreted as disability or even disability. According to Law Number 19 of 2011 concerning the ratification of the Rights of Persons with Disabilities, a person who has physical, mental and intellectual or sensory limitations for a long period of time, who in interacting with the environment and attitudes of their community can encounter

obstacles that make it difficult to participate fully and effectively based on their equal rights.[21]

Further explanation of article 1 paragraph 1 of Law No. 8 of 2016 concerning Persons with Disabilities also confirms that persons with disabilities are everyone who experiences physical, mental, intellectual and/or sensory limitations for a long period of time and experiences obstacles and difficulties in interacting. Understanding the definition of the concept of people with disabilities mentioned above, people with special needs or disabilities are people who live with special characteristics and have differences with people in general. Therefore, a special or different service is needed in order to fulfill their rights for persons with disabilities.

Law Number 4 of 1997 concerning Persons with Disabilities states that, a person with a disability is any person who has a physical and/or mental disorder that can interfere or is an obstacle and/or obstacle for him to perform properly, consisting of: 1). People with physical disabilities: who cannot see or are blind (visually impaired). Can't hear or deaf/deaf. Unable to speak/speech impaired, limb defects/limb disabilities and voice and tone disabilities or hearing impaired. 2). People with mental disabilities: difficulty controlling emotions and social/mentally impaired, thought defects and poor apprehension or idiots/mentally impaired. 3). People with physical and physical disabilities: more than one disability/multiple impairment. While what is meant by disability includes: a) people with physical disabilities, body disabilities (disabilities), limping, paralyzed, amputation of hands or feet, limb disorders/scoliosis, blind people, deaf / speech impaired. b). People with intellectual disabilities: Autism, Down syndrome. c). persons with physical and mental disabilities. d). people with disabilities ex-chronic diseases such as people who have experienced leprosy.[22]

2. Responsibilities of Provincial and District/City Governments to Persons with Disabilities

Arrangements for the protection and fulfillment of rights for persons with disabilities can be seen in the hierarchy of legislation. In Article 7 paragraph 1 of Law Number 12 of 2011, states that the legislative hierarchy consists of:

1. the 1945 Constitution;
2. MPR Decrees;
3. Law/Perpu;
4. PP;
5. Regulation;
6. Provincial Bylaws;
7. District/City Bylaws

In the hierarchical understanding, in principle the lower rules should not conflict with the higher rules of course. For example, Regional Regulations must not conflict with higher level regulations, in the sense of *supreme law of the land*.

Based on the understanding of the order of laws and regulations, it can be concluded that:

1. Higher legislation can be used as a basis or legal basis by lower laws and regulations below.
2. Lower laws and regulations should have a source or legal basis from higher laws and regulations.
3. The content/content of lower laws and regulations must not deviate from the content/norms of higher regulations.
4. Laws and regulations can only be repealed or replaced by laws and regulations of a higher level or equivalent level.
5. Regulations governing such rules, then the latest regulations must be enforced, although it is not expressly stated that the previous regulations have been repealed.

6. Rules governing more specialized material should take precedence over rules governing more general.

From the explanation above and the explanation in the background that this Indonesian state has regulated in such a way as to handle regulations on persons with disabilities, including Law Number 8 of 2016 concerning Disability, Presidential Regulation Number 68 of 2020, Presidential Regulation Number 67 of 2020, Presidential Regulation Number 1 of 2020, Government Regulation Number 60 of 2020, Government Regulation Number 52 of 2019, Government Regulation Number 42 of 2020, Government Regulation Number 39 of 2020, Government Regulation Number 13 of 2020, Government Regulation Number 70 of 2019. It can be seen that the government has regulated various regulations for persons with disabilities starting from the 1954 Constitution to regulations at the provincial and regional/city levels.

The East Java Provincial Government also took part in making regulations on persons with disabilities as stated in the East Java Provincial Regional Regulation No. 3 of 2013 concerning Protection and Services for Persons with Disabilities. The purpose of this PERDA is the protection and services for persons with disabilities by improving the level of welfare, quality, and survival and independence of persons with disabilities, providing special services for persons with disabilities for ease in carrying out daily activities properly, improving the quality of services for persons with disabilities in all aspects of life and livelihood, increasing social and economic resilience, improving capabilities and concern and safety, as well as improving the quality of life and livelihood of people with disabilities in the East Java Province. [23]

As an area within East Java Province and as one of the districts in East Java where the number of persons with disabilities is not small, the Lamongan Regency Government in this case also participates in making regulations on the rights of persons with disabilities, which is then called the Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities. The purpose of this regulation is to provide protection to persons with disabilities, empowerment, strive to provide accessible accessibility for persons with disabilities, seek adequate accommodation for persons with disabilities, provide assistance with assistive devices and public services in a series of activities in order to meet service needs in accordance with the rules and regulations. Not only there, this regulation also aims to provide people with disabilities with facilities and rights in education and work.[24]

3. Legal Protection of Persons with Disabilities in Lamongan Regency

The concept of equality before the law has been introduced into the constitution, a form of the highest recognition in the legal system in the country. The meaning of (equality before the law) is the existence of equality before the law in terms of criminal acts. However, in reality there is a lack of equal treatment and that inevitably causes individual rights to obtain justice to be neglected. One example of the treatment of corruption crimes is usually ignoring individual freedoms, this means that legal certainty is ignored.

The principle of equality in the face of both a high-ranking employee and an ordinary person, be it a normal person or even a disabled or disabled person, the law must of course always be upheld for the sake of the rule of law in Indonesia and the judicial system. Karena is an obligation for the rule of law to fulfill the rights of every citizen. In this contest, of course, no one should immediately impose punishment to enforce the law by violating this principle, and there should be no punishment outside the existing rules or system.

No one, of course, wants himself to be disabled, both congenital defects and defects caused by accidents, therefore the existence of someone with these disabilities must be accepted, and given the same status and rights as Indonesian citizens. To get this equality for people with disabilities can only be realized if accessibility is available, which is an ease for people with disabilities in accessing everything like normal people in general. With that, people with disabilities can have total integrity in order to realize development goals and welfare for people with disabilities, because equality for people with disabilities is the

responsibility of the government, both the central, regional, community, family governments and including parents and people with disabilities themselves.

As a manifestation of the implementation of regional autonomy and the implementation of policies that have previously been regulated by the Central Government to the Province of East Java, the Lamongan Regency Government in this case is also making its efforts through various policies and programs regulated in the Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities. The Lamongan Regency Government has made various efforts through various activities in the form of education, rehabilitation, and training as well as social assistance because considering the conditions of quite a lot of people with disabilities in Lamongan Regency. The existence of this Regional Regulation is intended so that persons with disabilities have the same legal position and human rights as Indonesian citizens to always live and develop fairly and dignified based on Pancasila and the 1945 Constitution.

In part IV of the Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of the Protection and Fulfillment of the Rights of Persons with Disabilities, this is the implementation of the protection and fulfillment of the rights of persons with disabilities, including the following: 1). Justice and Legal Protection, 2). Education, 3). Employment, 4). Health, 5). Politics, 6). Religion, 7). Culture, Tourism and Sports, 8). Social Welfare, 9). Infrastructure, 10). Building Building, 11). Public Service, 12). Free from Stigma, 13). Privacy, 14). Disaster Protection, 15). Habilitation and Rehabilitation, 16). Approach, 17). The Right to Live Independently and Be Involved in Society, 18). express, communicate, obtain information, 19). The Right to Freedom from Discrimination, Neglect, Torture, and Exploitation. From the sound of the article, it is clear that the Lamongan Regency Government has made efforts to fulfill the rights of persons with disabilities from all aspects of the field.

With the existence of Lamongan Regency Regional Regulation Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities, it has certainly supported the central government in terms of providing legal protection for people with disabilities, but its implementation must be considered and continue to be improved in the future, the point is that paying for this law is not just a decoration. With the enactment of Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities, it is hoped that in the future it will become a legal basis for all parties, especially in the Lamongan Regency area and become a direction of cooperation for all parties such as business entities, entrepreneurs, the community in implementing all the benefits of this opportunity, rehabilitation and social assistance and maintenance of social welfare levels for all people with disabilities.

CONCLUSION

From the explanation above, it can be concluded that with the Regional Regulation of Lamongan Regency Number 8 of 2020 concerning the Implementation of Protection and Fulfillment of the Rights of Persons with Disabilities, the Lamongan Regency Government has regulated the rights of persons with disabilities and hopes that the realization of recognition, honor and fulfillment of the rights, obligations and roles of persons with disabilities in all aspects of life, In order to achieve the social functions of persons with disabilities reasonably and according to their talents, abilities, education and experience. The availability of opportunities as well as opportunities for people with disabilities to attend education, enter the field of workers according to the type and degree of ability, the availability of accessible facilities for people with disabilities, the creation of awareness and commitment to all stakeholders in order to realize equal opportunities in the context of improving social welfare for people with disabilities in all aspects of life and livelihood.

RECOMMENDATIONS

1. People with disabilities must pay more attention to their rights, so that there is no more lagging behind for people with disabilities, especially in Lamongan Regency.
2. In order for all levels of society to be more open and accepting of the presence of persons with disabilities, there must be no discrimination and intimidation.
3. For the government, the hope is that in the future it will better control the implementation of the regulations it has made, especially for the Lamongan Regency Government.

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