

Implementation of Laws Number 8 of 2016 Concerning Disabilities Persons in Bandar Lampung City in 2022

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Abstract

Philosophical and constitutional based on Pancasila and UUD 1945, each citizen had equal work opportunities, access public facilities, acquire a decent life, including those with disabilities. Law number 8 year 2016 on disabilities person emphasizes that "disability is part of the Indonesian people of equal position, right, obligation and role." The writing use a normative-qualitative juridical approach study method and a qualitative descriptive study method. The reality of fulfilling disability rights remains very limited. People with disability do not have a good level of education and often get a bad stigma from people in general. The implementation of policy has several adverse factors: implementation of policy failed because of the undisclosed nature of policy, the implementation of public policy is very difficult, for example because of communications disruption, the implementation of public policy will be difficult if not enough support, the sharing of potential among the perpetrators involved in implementation

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Introduction

Human rights for disabilities persons are still often ignored, even violated. Violations occur because Persons with Disabilities are not considered part of the citizenry, nor are they considered as human beings. Persons with Disabilities experience physical, mental, intellectual or sensory barriers for a long time which can prevent their full and effective participation in society based on the principle of equality with citizens in general. According to the Indonesian Dictionary (*KBBI*), persons with disabilities are defined as people who have (suffered) something. While disability means a condition (such as illness or injury) that impairs or limits a person's mental and physical abilities or the state of not being able to do things in the usual way (in Indonesian Dictionary).

Persons with disabilities are also classified as one of the vulnerable groups. What is meant by Vulnerable groups are groups that most often receive discriminatory treatment and whose rights are often not fulfilled. This is not without reason, because people with disabilities are often considered as people who receive the most discrimination treatment and there are still many other rights that have not been fulfilled for people with disabilities. About 15% of the world's population are people with disabilities. Around 82% of persons with disabilities are in developing countries and live below the poverty line which often face

limited access to health, education, training and decent work and other accesses. (Ndaumanu, 2020)

According to data compiled by the Ministry of Social Affairs through the Management Information System for Persons with Disabilities (*SIMPD*), as of January 13th 2021, the number of persons with disabilities recorded was 209,604 individuals. Based on BPS data in the Profile of Indonesian Children in 2020, it is known that there are around 0.79 percent or 650 thousand children with disabilities out of 84.4 million Indonesian children. Until March 30th 2021. About 20% of the world's poorest people are disabled, 98% of children with disabilities in developing countries are not in school, 30% of the world's street children are disabled, and literacy rates of people with disabilities adults only 3%. The results of a survey conducted by the Ministry of Social Affairs in 24 Provinces stated that the education level of people with disabilities in general did not go to school or did not finish elementary school at around 60 percent, and almost a majority of 89 percent of them did not have the skills needed in the world of work (Digilib unila May 4th 2021). For this reason, groups of people with disabilities are included in marginalized groups of people.

The City/Regency Government, in this case Bandar Lampung City, as stipulated in the regional government administration based on autonomy, has mandatory affairs under its authority, namely the administration of education as stated in Article 14 paragraph 3. The number of Persons with Disabilities in Bandar Lampung City is 1,288 people. 13 sub-districts in Bandar Lampung, the highest number of people with disabilities is in Panjang District, which amounts to 198 people, *Teluk Betung Selatan* District is 150 people, Sukabumi District is 177 people, *Teluk Betung Utara* is 109 people while the number of people with severe disabilities is 134 people, 299 people with minor disabilities and 899 people with minor disabilities. (Digilib unila May 4th 2021) Meanwhile, the number of Special Schools (*SLB*) in Bandar Lampung City is 3 schools.

The data above describes the number of people with disabilities with the number of special schools in Bandar Lampung. It can be seen that the capacity of students with disabilities with the number of special schools provided will certainly be an obstacle. Because the number of students in public schools cannot be equated with Special Schools (*SLB*), which incidentally have limited students in the teaching and learning process. The data above also shows that the higher level of education, the more difficult it is for persons with disabilities to get the opportunity to obtain such education.

By the introduction above, author will analyze the legal issues: First, what are the Rights of Persons with Disabilities in Education and Health? Second, how is the Implementation of Services and the Fulfillment of the Right to Education and Health for Persons with Disabilities in Bandar Lampung City in 2022? third, what are the Barrier Factors in Fulfilling the Rights of Persons with Disabilities in Bandar Lampung City?

Materials and Methods

The form of this research is normative juridical. The approach method used is the statutory regulation approach, which is carried out by examining laws and regulations related to legal issues (Marzuki, 2005). The data used in this study, namely secondary data that was not obtained directly from the field but through the process of searching for library materials, and in the form of secondary legal materials in the form of theories taken from various literatures (Arrizal, 2020).

Results and Discussion

Definition of Disabilities Persons and Types of Disabilities

Persons with disabilities are people who have physical, mental, intellectual or sensory limitations in the long term who in interacting with the environment and attitudes of the community so that they can encounter obstacles that make it difficult to participate fully and effectively on the basis of equal rights (Law Number 19 of 2011 concerning the Ratification of the Rights of Persons with Disabilities).

Persons with disabilities as part of humanity and citizens of Indonesia, constitutionally have the same rights and positions as other Indonesian citizens before the law and government (Social minister, 2021). The rights of citizens who are persons with disabilities are not lower or more valuable than the rights of other citizens. Thus, the state and government are responsible for respecting, protecting, defending, and guaranteeing the human rights of every citizen and resident without discrimination as Indonesian citizens (Amaliah, 2016). Persons with disabilities are the same as normal persons who need healthy environmental conditions and are not in the confines of fear due to prolonged discrimination. In fact, humans should be entitled to humane treatment. Also for persons with disabilities who must be treated the same as others (Dammin, 2009).

Since the establishment of Law number 8 of 2016 concerning Persons with Disabilities, the Government of Indonesia has established an official definition of who is meant by persons with disabilities and their categories. The formal regulations serve as a reference and basis for understanding for all relevant parties and the Indonesian people regarding the definition or meaning and categories of persons with disabilities in Indonesia. Law Number 8 of 2016 Article 1 paragraph 1 defines persons with disabilities as: Everyone 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 Article 4 paragraph 1 defines that:

Types of Persons with Disabilities include (Widinarsih, 2019):

- a. Persons with physical disabilities;
- b. Persons with intellectual disabilities;
- c. people with mental disabilities; and/or
- d. Persons with sensory disabilities.

Article 4 Paragraph 2 defines that: The variety of Persons with Disabilities as referred to in paragraph (1) can be experienced singly, multiplely, or multiple times for a long period of time as determined by medical personnel in accordance with the provisions of the legislation.

- a. "Persons with Physical Disabilities" There are several types of physical disabilities, namely physical disabilities (*tuna daksa*), visual impairment (*tuna netra*), hearing impairment (*tuna rungu*), speech impairment (*tuna wicara*), and multiple disabilities (*disabilitas ganda*) (Reefani, 2013).
- b. "Intellectual Disabilities" is a disturbance in the function of thought because the level of intelligence is below the average, including slow learning, mental disabilities and down syndrome.
- c. "Mental Disabilities" are disturbances in the function of thought, emotion, and behavior, including:
 1. Psychosocial including schizophrenia, bipolar, depression, anxiety, and personality disorders; and
 2. Developmental disabilities that affect social interaction skills, including autism and hyperactivity

The existence of Law Number 8 of 2016 in the laws and regulations in Indonesia does not stand alone, but has links with other legislation. In terms of legal protection and justice, the provisions on the legal rights of persons with disabilities are related to laws on

employment, marriage, juvenile justice, witness, and victim protection, correctional institutions, criminal procedural law, civil law, and mental health.

1. Rights of Disabilities Persons in Education and Health

Rights are interests that are protected by law, while interests are individual or group demands that are expected to be fulfilled. Interest essentially contains power that is guaranteed and protected by law in carrying it out (Sudikno, 2003). Persons with disabilities have the same opportunity and treatment to get proper education in units, pathways, types and levels of education according to the type and degree of disability including those with special needs. Education providers in all paths, types and levels of education are obliged to provide quality education services in accordance with the conditions and potential of students with disabilities. The education provider as intended, which has students with disabilities, provides services according to the conditions and needs of individual students and is affirmative in nature (Pratama, 2019). Health is a human right. Article 28 H of the 1945 Constitution states that, "Everyone has the right to live in physical and spiritual prosperity, to live and to have a good and healthy living environment and have the right to obtain health services." Furthermore, in Article 34 paragraph (3) that, "The state is responsible for the provision of appropriate health service facilities and public service facilities." This article implies that everyone, including persons with disabilities, has the same right to enjoy optimal health services (Lipi, 2021).

In the context of realizing optimal health degrees for the community, including persons with disabilities, ideally an integrated and comprehensive health effort is carried out in the form of individual health efforts and public health efforts based on non-discriminatory, participatory and sustainable principles in the context of the formation of human resources. Based on Law Number 19 of 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities, in particular Article 25, Persons with disabilities have the right to obtain health insurance. Persons with disabilities have the right to accessible health services and the right to affordable financing. With regard to the principle of affordable (free and affordable) it can be understood that the financing of health services for persons with disabilities must be affordable for all persons with disabilities. This means that those who are unable to pay must be paid by the State and those who are able to pay can contribute independently. Meanwhile, the financing system that has the principle of accessibility provides convenience for persons with disabilities to become participants funded by the state or independently by providing information and services that are more accessible to persons with disabilities.

Implementation of Services and Fulfillment of the Right to Education and Health for Persons with Disabilities in Bandar Lampung City

Low public understanding of disability issues (Ollerton and Horsfall, 2013), Stigma (curse and fate) excessive isolation and protection, lack of family and community roles in disability issues and their handling, lack of efforts to fulfill the rights of persons with disabilities in various aspects of life, there are still many people with disabilities living below the poverty line and the level of education is still very low, there are still many families with disabilities who hide or cover up if they have family members with disabilities and the role of the business world has not been maximized. A right is the power to accept or do something that should be accepted or done only by a certain party and cannot be by any other party which in principle can be sued by force.

Rights and obligations are something that cannot be separated, but there is a conflict because rights and obligations are not balanced. That every citizen has the right and obligation to get a decent living, but in reality many citizens have not felt welfare in living their lives. All of this happened because the government and high-ranking officials prioritized

rights over obligations. Even though being an official is not enough just to have a rank but they are obliged to think about themselves. If the situation is like this, then there is no balance between rights and obligations. If this balance does not exist, there will be prolonged social inequality.

To achieve a balance between rights and obligations, that is by knowing our own position. As a citizen should know their rights and obligations. An official or government must know their rights and obligations. As stated in the applicable laws and regulations. If rights and obligations are balanced and fulfilled, then people's lives will be safe and prosperous. Rights and obligations in Indonesia will never be balanced. If society does not move to change it. Because the officials will never change it, even though the people suffer a lot because of this. They think more about how to get material than about the people, until now there are still many people who have not got their rights. Therefore, we as citizens of a democratic country must wake up from our bad dream and change it to get our rights and not forget to carry out our obligations as Indonesian people.

Rights and Obligations of Indonesian Citizens are stated in Articles 27 to 34 of the 1945 Constitution. The rights of persons with disabilities in Law Number 8 of 2016 concerning Persons with Disabilities are aimed at three targets, namely persons with disabilities in general, persons with disabilities, women with disabilities, and children with disabilities:

- a. Persons with Disabilities in general have the right to live, free from stigma, privacy, justice and legal protection, education, work, entrepreneurship, and cooperatives, health, politics, religion, sports, culture and tourism, social welfare, accessibility, public services, protection from disasters, habilitation and rehabilitation, concessions, data collection, living independently and being involved in society, expressing, communicating, and obtaining information, changing places and nationalities, free from acts of discrimination, neglect, torture, and exploitation.
- b. Women with Disabilities in addition to having the rights as above, also have the following rights:
 1. Reproductive health
 2. Accept and refuse the use of contraceptives
 3. Getting more protection from layered discrimination treatment, layered discrimination is discrimination experienced by women because of their gender as women and as persons with disabilities so that they do not get equal opportunities in their families, communities and countries in various fields of life.
 4. Get more protection from acts of violence, including violence and sexual exploitation.
- c. Children with disabilities in addition to having the rights as above, also have the following rights:
 1. Get special protection from discrimination, neglect, harassment, exploitation and sexual violence and crime.
 2. Get treatment and care for a substitute family or family for optimal growth and development. Surrogate families are foster parents, adoptive parents, guardians, and/or institutions that carry out the roles and responsibilities to provide care and care for children.
 3. Protected their interests in decision making.
 4. Humane treatment of children in accordance with the dignity and rights of children.
 5. Fulfillment of special needs.

6. Equal treatment with other children to achieve social integration and individual development; and
7. Get social assistance.

Based on the Lampung Province Regional Regulation Number 10 of 2013 concerning Services and Fulfillment of the Rights of Persons with Disabilities, the government has duties and authorities related to Persons with Disabilities, namely:

1. Establish policies for the implementation of protection and welfare services for persons with disabilities in a systematic, comprehensive, consistent and implementation manner;
2. Establish criteria, standards, procedures, and requirements for the protection of social welfare services for persons with disabilities in accordance with the provisions of the applicable laws and regulations;
3. Implement social rehabilitation and social protection for persons with disabilities;
4. Give awards to the community, social organizations/foundations, the private sector, and other business entities that participate in extraordinary ways in the efforts to protect and provide social welfare services for persons with disabilities;
5. Assist and facilitate Regency/Municipal Governments in overcoming problems in the implementation of protection for persons with disabilities; and
6. Conduct campaigns, and socialize the implementation of the protection of social welfare services for persons with disabilities.

The reality is that the fulfillment of the rights of persons with disabilities is still very limited. For example, in the case of the right to education, people with disabilities do not yet have a good level of education and are often still stigmatized by the general public. Through the *ASPDB* program and the development of Special Schools (*SLB*) specifically for people with disabilities, it is hoped that they can improve the living standards of people with disabilities through improving education. Fulfillment of the rights of persons with severe disabilities by the Government is carried out in the form of Social Assistance for Persons with Severe Disabilities (*ASPDB*) by providing direct assistance in the form of cash in the amount of Rp. 300.000,- per person per month for 1 (one) year, the distribution of which is carried out in 3 (three) stages. Assistance is delivered through guardians (individuals who are responsible for ensuring the lives of Persons with Severe Disabilities in the context of meeting food needs, improving nutrition, purchasing clothing, and daily care).

In Bandar Lampung City itself, the distribution of the *ASPDB* program has been right on target. Fulfillment of basic rights such as clothing, food, and housing for people with severe disabilities can be done with aid funds provided by the government. Although the nominal is quite small, it is quite helpful for meeting the daily needs of people with severe disabilities. The Bandar Lampung city is the center of all activities in Lampung but in reality there is no accessibility provided for the welfare of people with visual impairments such as physical development facilities such as roads, bridges, buildings that are built are still limited for people with visual impairments. What exists is non-physical development, the percentage of which is still limited to rehabilitation centers such as special social homes for people with visual impairments. Furthermore, there are very few educational facilities that function to produce superior and competitive generations, it can be seen that there is only one education center for people with visual impairments in Lampung Province. This condition is of course very concerning considering that in the current era education is very important. Because it is through education that we can develop our abilities (Palupi, 2014).

Inhibiting Factors in Fulfilling the Rights of Persons with Disabilities in Bandar Lampung City

Factors Inhibiting Policy Implementation According to Bambang Sungkono (1994), policy implementation has several inhibiting factors, namely:

- a) Policy Contents First, policy implementation fails because the content of the policy is still unclear, meaning that the objectives are not detailed enough, the means and implementation of priorities, or policy programs are too general or non-existent at all. Second, because of the lack of internal and external provisions of the policy. Third, the policies to be implemented may also indicate significant deficiencies. The other four causes of failure to implement a public policy can occur due to deficiencies involving auxiliary resources, for example those involving time, cost/funds and human labor.
- b) The Information Implementation of public policy assumes that the role holders who are directly involved have the necessary or very relevant information to be able to play their role properly. This information does not exist, for example due to communication problems.
- c) Support for the implementation of a public policy will be very difficult if there is not enough support for the implementation of the policy.
- d) Potential distribution of the causes related to the failure of the implementation of a public policy are also determined by the aspect of potential distribution among the actors involved in the implementation. In this case, it relates to the differentiation of duties and authorities of the implementing organization. Implementing organizational structures can cause problems if the division of authority and responsibility is not adjusted to the division of tasks or is marked by unclear restrictions.

The legal norm that also specifically regulates the rights of persons with disabilities is Law Number 8 of 2016 concerning Persons with Disabilities. In this law it is emphasized that persons with disabilities have equal opportunities: free from discrimination based on disability, entitled to respect, entitled to protection, entitled to fulfillment, entitled to empowerment, entitled to accessibility, entitled to proper accommodation, entitled to the provision of assistive devices, has the right to medical aids, has the right to concessions, has the right to public services, and has the right to the provision of a disability unit in an institution or institution that functions as a provider of services and facilities for persons with disabilities.

However, in practice, people with disabilities often face various obstacles (Eviningrum et al, 2019). In the concept of state's law, the law is idealized as the commander in the dynamics of state's law. These obstacles arise from internal and external factors. From the internal side, sometimes people with disabilities make social comparisons with other people who do not have disabilities. As a result, persons with disabilities who still refuse to accept their condition often feel that they are not lucky and regret their condition. From the external side, there are still many community members who view the existence of persons with disabilities as a mistake, a curse, and the result of a sinful act. Their existence is considered a burden and a social problem. This results in the lives of persons with disabilities experiencing vulnerability and discrimination. They are a marginalized group in society. In other words, they experience exclusion in society.

The basic rights of persons with disabilities are basically the same as normal children, so the social service department tries to fulfill the basic needs and rights of persons with disabilities (Ndaumanu, 2020). Obstacles in fulfilling the basic rights of persons with disabilities have not been fully facilitated. One example is the fulfillment of the right to education. The inhibiting and supporting factors for the implementation of the fulfillment itself are the lack of awareness from parents about the role and importance of education for persons with disabilities, the limited facilities provided for the teaching and learning process,

the lack of educators with special education backgrounds (*PLB*). Sometimes many parents tend to be ashamed of their children with disabilities, so they prefer to hide their children.

Another factor that causes non-implementation of Law Number 8 of 2016 concerning Persons with Disabilities in protecting and fulfilling the rights of persons with disabilities in Bandar Lampung City as it should be is in the legal structure sector. This is due to the lack of understanding and knowledge of law enforcement officers on the substance of Law Number 8 of 2016 concerning Persons with Disabilities, especially in terms of protection and fulfillment of the rights of persons with disabilities in Bandar Lampung City (Faikah, 2017). In addition, persons with disabilities have not maximally obtained and enjoyed their rights like other members of the community in various aspects of life and livelihood that hinder their mobility and independence, the contributing factor is the lack of existing facilities and infrastructure. Accessibility is a problem that is often experienced by almost all people with disabilities in Indonesia, including in Bandar Lampung City. Whereas ideally people with disabilities have the opportunity to enjoy public facilities, both public buildings, public transportation and all forms of facilities provided for the general population. However, the reality is that people with disabilities in Bandar Lampung City have not been able to enjoy public facilities because of the lack of budget allocations for building proper and accommodating people with disabilities and the absence of technical guidelines for facilities and accessibility which are used as references and references in carrying out the construction or rehabilitation of buildings that are pro for persons with disabilities. As a result, almost all public facilities, both physical and non-physical, are not suitable for persons with disabilities.

Conclusion

In fact, there is no accessibility provided for the welfare of people with visual impairments, such as physical development facilities such as roads, bridges, and buildings that are still limited for people with visual impairments. Non-physical development whose percentage is still limited to rehabilitation centers such as special social homes for people with visual impairments. Furthermore, there are very few educational facilities that function to produce superior and competitive generations, it can be seen that there is only one education center for people with visual impairments in Lampung Province. This condition is of course very concerning considering that in the current era education is very important. Because it is through education that we can develop our abilities.

Several inhibiting factors in fulfilling the rights of persons with disabilities are: a.From the internal side, sometimes people with disabilities make social comparisons with other people who do not have disabilities. As a result, persons with disabilities who still refuse to accept their condition often feel that they are not lucky and regret their condition. From the external side, there are still many community members who view the existence of persons with disabilities as a mistake, a curse, and the result of a sinful act. b.In terms of the fulfillment of the right to education, the inhibiting and supporting factors for the implementation of the fulfillment itself are the lack of awareness from parents about the role and importance of education for persons with disabilities, the limited facilities provided for the teaching and learning process, the lack of educators with an extraordinary education background (*PLB*). c.Many parents tend to be ashamed of their children with disabilities, so they prefer to hide their children. d.Another factor that causes the non-implementation of Law Number 8 of 2016 concerning persons with disabilities in protecting and fulfilling the rights of persons with disabilities in Bandar Lampung City as it should be is in the legal structure sector. This is due to the lack of understanding and knowledge of law enforcement officers on the substance of Law Number 8 of 2016 concerning Persons with Disabilities, especially in terms of protection and fulfillment of the rights of persons with disabilities in

Bandar Lampung City. e.The lack of facilities and infrastructure used for persons with disabilities.

Based on the conclusions and problems that the author wrote, the authors provide suggestions that are expected to be able to assist success in implementing Law Number 8 of 2016 concerning Persons with Disabilities in Bandar Lampung City: First, It is necessary to develop and provide facilities and infrastructure in public places for persons with disabilities, special attention to the City Government to pay more attention to children, the elderly, and people with disabilities. Second, It is necessary to conduct socialization to parents of children with disabilities and families of the people of Bandar Lampung city with disabilities about the importance of the role of parents, the surrounding community in strengthening their mentality. Then prepare the facilities and infrastructure for the teaching and learning process and look for additional educators in the SLB so that what is expected can be achieved.

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