

Violation of the Right to Decent Work for Persons with Disabilities

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Abstract

Equal rights for individuals with disabilities. This research investigates different sign language training centers, accommodation options, and assistive devices for disabilities, focusing on accessibility for individuals with disabilities. The study's findings show that there are insufficient advancements in accessibility, with numerous obstacles still encountered by individuals with disabilities. These obstacles consist of insufficient disability-accessible facilities, scarcity of readily available information, and low awareness among the community and policymakers about the unique requirements of individuals with disabilities. This research indicates that enhanced regulation and oversight are necessary, alongside the active involvement of all stakeholders, to achieve inclusive and accessible facilities for individuals with disabilities. It is therefore anticipated that individuals with disabilities will be able to fully exercise their rights and engage in community life without facing discrimination.

Keywords: : Accessibility; Persons With Disabilities; Disability Facilities.

A. INTRODUCTION

The Republic of Indonesia respects human rights and dignity, based on Pancasila and the 1945 Constitution. Social justice for all Indonesian people, including people with disabilities, is outlined in the fifth principle of Pancasila. The government must provide people with disabilities with a decent life. The rights of persons with disabilities are regulated in Article 122 of Law No. 8 of 2016. In addition, the article talks about ensuring equal rights and protection for persons with disabilities. The government is responsible for various aspects of human life, including transportation, education, employment, health, and social welfare. In addition, they need to ensure that their rights, obligations, and roles are legally protected (Nuraviva, 2017).

Law No. 13 of 2003 about Manpower provides a strong legal basis for the protection of the rights of workers with disabilities. Furthermore, the article specifically regulates the obligations of the government and regional governments to facilitate communication for people with disabilities. Empirical facts from this study found indications of violations of these provisions at Batik Ciprat Magetan. Workers with disabilities face problems related to accessibility of housing and limited communication in the workplace. A gap was found between legal provisions that guarantee the right to decent work for people with disabilities and implementation in the field. During the research, Batik Ciprat Magetan had not fully fulfilled its obligations regarding accessibility and adequate communication facilities for workers with disabilities, as mandated by Law No. 13 of 2003 and Law No. 8 of 2016.

According to Law No. 8 of 2016, people with disabilities are people who experience physical, intellectual, mental, or sensory limitations that prevent them from

participating fully or effectively in society. To avoid negative connotations, the term "disability" is used to replace "disabled". The facilities provided for people with disabilities to have equal opportunities in all aspects of life are called accessibility (Nuravia, 2018). Batik Ciprat Magetan persuades disabled workers to be employed as many as 10 people from those with disabilities who are Physically Disabled, Deaf, Mute, and Mentally Disabled. Types of Deafness which is (Rahmah, 2018) :

1. Hearing deficienty, but still able to use hearing as the primary modality to listen to spoken sounds and develop speaking skills;
2. Deafness is when someone's hearing can no longer be used as the main modality for developing speech ability, but can still be used as a complement to sight and touch.;
3. Total deafness, that is, someone who has no hearing at all.

Previous research that is relevant to the research includes studies (Nuravia, 2018) on accessibility of persons with disabilities to public facilities, highlighting the importance of accessibility for persons with disabilities in various aspects of life and providing context to the challenges they face in accessing public services and facilities.. In addition, (Tambunan, Budiarta, dan Ujianti 2020) examines legal protection for workers with disabilities at PT. Sumber Alfaria Trijaya, which is relevant because it directly discusses legal protection in the context of employment.

Based on Article 122 of Law No. 8 of 2016, the implementation of legal protection for disabled workers at Batik Ciprat Magetan shows that although ten people with disabilities (physically disabled, deaf, mute, and mentally disabled) receive employment opportunities and receive their basic rights, such as normal working hours,

no overtime, and job training, not all aspects of legal protection have been fully fulfilled. In particular, accessibility of adequate housing and communication facilities remains an obstacle. This is contrary to Article 122 of Law No. 8 of 2016 which requires the government and regional governments to acknowledge, accept, and facilitate communication of persons with disabilities in certain ways, including the provision of accessible equipment and tools. For example, one of the disabled workers, Nissa (deaf and mute), experienced difficulties related to accommodation due to limited funds for dormitories, as well as limited communication with Batik Magetan staff due to the lack of accessibility to sign language education. (Satiasti Putri, 2018).

Factors inhibiting the implementation of this legal protection include the failure to fulfill all provisions of Article 67 of Law No. 13 of 2003 concerning the provision of accessibility according to the level of worker disability, and Article 122 of Law No. 8 of 2016 concerning communication facilitation. Disabled workers often have to travel long distances from their homes, and lack of ability and inadequate conditions are obstacles. In addition, the lack of professional human resources, limited facilities, and minimal funds are obstacles in implementing public services for groups with disabilities.

Since disability facilities are not available to persons with disabilities, internationally recognized human rights are violated under the United Nations Convention on the Rights of Persons with Disabilities (CRPD). In Indonesia, Law No. 8 of 2016 protects these rights, and violating them can result in lawsuits and administrative penalties. People with disabilities can ask the courts to fulfill accessibility obligations or claim compensation. In addition, violations of government

duties can result in fines or the revocation of permits. Violations of disability rights may not have a deterrent effect because Law No. 8 of 2016 does not stipulate sanctions.

RESEARCH METHODS

The empirical legal method is used in this study. The empirical method works by examining primary data before examining secondary data. Primary data in this study comes from field research, such as interviews. (Tambunan et al., 2020). On the other hand, secondary data comes from theoretical bases, such as writings or opinions of experts or other authorized parties, as well as formal provisions, such as Laws and court decisions. This study uses empirical juridical. (Nuha et al., 2017).

B. RESULTS AND DISCUSSIONS

1. Implementation of Legal Protection for Disabled Workers at Batik Ciprat Magetan based on Law No. 8 of 2016

The state's responsibility, based on the principle of state obligation in *Hak Asasi Manusia* (Human Rights), also known as HAM, law, especially regarding the rights of people with disabilities, is divided into three main obligations.:

1. **Obligation to Respect:** The state shall refrain from actions that violate the rights of persons with disabilities. This provision means that the state shall not discriminate or block the access of persons with disabilities to various aspects of life, including employment, education, health, and public facilities. For example, in the context of employment, the state shall not block the access of persons with disabilities to obtain decent work.
2. **Obligation to Protect:** The State still takes steps to prevent third parties (both individuals and non-state entities) from violating the rights of persons with

disabilities. This includes ensuring that private companies or employers comply with labor laws that protect workers with disabilities and provide penalties for violators.

3. **Obligation to Fulfil:** The state must take positive steps to fully realize the rights of persons with disabilities. This includes providing necessary facilities and services, such as physical accessibility (for example, in the workplace and public facilities), communication facilities (such as sign language teachers), and reasonable accommodation. Law No. 8 of 2016 about Persons with Disabilities specifically regulates the obligations of the government and local governments to facilitate communication for persons with disabilities, including the provision of accessible equipment and tools.

Hariato talks about the meaning of legal protection, which is related to the power of government, which is often in conflict with the needs of society and the economy. Legal protection protects economic actors from the weak from the strong, or workers from employers (Gusti Aji, 2024). People with disabilities need to have access to public services because they have physical and mental limitations that make it difficult for them to interact with their environment and receive public services. Accessibility is the ability to have equal opportunities in every aspect of life.

Accessibility is part of human life and is very important for fulfilling human activities. For people with disabilities, accessibility is also very important. Equality of opportunity is defined as a condition that allows people who do not have the same abilities to show their potential in all aspects of state and community governance. The aim of accessibility itself is to enable people with disabilities to carry out daily

activities and have equal opportunities to obtain public services, both physical and non-physical. (Nuravia, 2018).

To ensure that their rights are also fulfilled, workers with disabilities can use the current legal basis to carry out their obligations most effectively. Using Law on Persons with Disabilities No. 08 of 2016. The government and regional governments are responsible for recognizing, accepting, and facilitating communication of persons with disabilities in certain ways, according to Article 122, Sections (1) and (2). One example is the provision of equipment, as well as other methods that can be done according to the choice of people with disabilities to interact with appropriate and effective self-protection. In addition, the Manpower Law No. 13 of 2003 is included in the list that can be applied. Businessmen who employ people with disabilities are required to comply with Article 67 to provide various protective measures appropriate to the level of disability of their employees, such as providing an easily accessible workplace and providing appropriate personal protective equipment.(Sebayu & Khamim, 2024).

One of the informants in this study was Nissa, a person with disabilities who lives in the Madiun area, and Batik Ciprat Magetan employed her. Based on the interview findings, the informant stated that during her employment, she never encountered any issues related to wages. She also said that their working hours were always following the schedule and never received additional working hours. While working, Batik Ciprat also provided training to her.

Nissa had applied to stay at work because she was racing to be picked up and dropped off by her relatives to go to the batik place where she worked. However, the

batik staff could not answer the question because there were limited funds to buy bedding or even build a dormitory. So that she has a condition that requires her to undergo access to work by traveling long distances and with her current condition. (Mulyati et al., 2020). Nissa complained not only about her place of residence, but also about the limitations of communication. In addition to her, the researcher also interviewed Batik Magetan staff who also complained about the limitations of communication due to the lack of accessibility. Education between staff and disabled people in using sign language where there is a lack of accessible and inclusive education for all disabilities including speech and language impairments. Providing teaching materials in accessible formats, bringing in special sign language teachers, conducting training in using sign language and a supportive learning environment (Lestari & Lestari, 2024).

According to the statement from Nissa (a person with a disability) and Mr. Sugianto (a Batik worker), Batik Ciprat Magetan does not comply with Article 67 of the Employment Law and Article 122 of the Disability Law which stipulates that the government and regional governments must recognize, accept, and facilitate communication of people with disabilities in certain ways. As intended to be done in a variety of ways that are accessible to people with disabilities according to the way they interact (Karunia, 2016). Thus, we can see that even though Nissa's condition does not qualify her for her job, she is still accessible and communicates easily. To address the above challenges, it is important to look at how other countries and regions deal with similar issues. This comparison can provide valuable insights for policy innovation in Indonesia.

1. National Comparison of Challenges and Efforts in Indonesia

The implementation of Law No. 8 of 2016 in other regions within the territory of Indonesia also faces similar challenges, such as the lack of accessible facilities and infrastructure. However, several regions have shown commitment in efforts to fulfill accessibility rights. For example, the Serang City Government has made efforts to fulfill accessibility rights for people with visual disabilities, and DKI Jakarta has shown commitment to accessibility of transportation services under the UN Convention on the Rights of Persons with Disabilities (CRPD). The existence of the Komisi Nasional Disabilitas (KND) is also the core of the implementation of this law in Indonesia. However, challenges related to sanctions and even implementation are still homework.

2. International Comparison: Comprehensive Approach and Strong Law Enforcement.

Internationally, various countries have adopted a more comprehensive approach to ensuring the rights of persons with disabilities:

- a. United States of America (USA) with Americans with Disabilities Act - ADA:
USA relies on comprehensive laws such as the ADA, which broadly prohibits discrimination and mandates accessibility across sectors. Strong enforcement is supported by agencies such as the Equal Employment Opportunity Commission (EEOC) that promote best practices in employment. Disability activism also plays a significant role in driving change.

- b. Jerman with *General Act on Equal Treatment* as an anti-discrimination regulation in civil law, implementing the European directive. The European Court has also ruled that the rights of disabled people must be protected and must not be neglected by the state, affirming protection against discrimination.
- c. Australia also demonstrates a national and international commitment to disability inclusion, with adjustments to public transport such as the provision of dedicated buses, although there are still challenges with equity..
- d. Global Best Practices: In general, many countries have adopted best practices that include.
- e. Universal Design and Accessible Work Environments: Promote accessible design standards and inclusive work environments.
- f. Legal Amendments and Harmonization of Regulations: Update the constitution, laws, and ministerial regulations to ensure access to transportation, information, and communication.
- g. Tripartite process: Involves government, employers, and labor unions in protecting disability rights.

Comparison with international practice shows that clarity in the legal framework and strong enforcement mechanisms help define responsibilities more explicitly. While not always referred to as self-executing, comprehensive laws in developed countries tend to have more detailed implementing regulations or clear standards, thereby reducing ambiguity and speeding up implementation.

In Indonesia, it is unclear whether Article 122 of Law No. 8 of 2016 is self-executing, which is a fundamental problem. If this norm is not directly enforceable, a

specific derivative regulation needs to be issued immediately. This regulation must be regulated in detail:

1. Communication Facilitation Mechanism: For example, standards for providing sign language interpreters, communication aids, and training for staff.
2. Resource Allocation: The obligation of the central and local governments in allocating budgets for accessibility facilities and programs.
3. Clear Responsibilities: Clarify the roles and responsibilities of government (central and local) and businesses in the fulfillment of these rights.
4. Firm Sanctions: Strengthen the sanction norms that are currently considered “empty” in Law No. 8 of 2016, to provide an adequate deterrent effect against violations.

The Gap between Theory and Reality: A Legal Critique Article 122 of Law No. 8 of 2016 on Persons with Disabilities is repeatedly cited as the legal basis that obliges the government and local governments to facilitate the communication of persons with disabilities. However, the document does not in-depth discuss whether the norms in Article 122 are self-executing (can be directly implemented without further implementing regulations) or require further technical arrangements. It is crucial to know who exactly is legally responsible: the state, local government, or business actors.

According to Article 122 sections (1) and (2) of Law No. 8 of 2016, the government and local governments are required to recognize, accept, and facilitate the communication of people with disabilities in certain ways, such as providing accessible equipment and other methods of choice for people with disabilities. Although the term

“mandatory” is used, the document has not determined whether this is sufficient to make the standard self-implementing. In the absence of this analysis, ambiguity arises as to whether the obligation is immediately applicable and can be required. Whether it still requires more specific government, ministerial, or regional regulations on mechanisms, standards, or resource sharing. Legal Liability:

1. State: If Article 122 is considered self-executing and is a direct order to the state in general, then failure to fulfill the right to communication accessibility can be the responsibility of the state at large. However, if derivative regulations are required, then the role of the state is to immediately issue such regulations.
2. Local Government: The document specifically mentions “Government and Local Government” as the parties obliged to facilitate communication. This indicates a clear responsibility at the local level. However, without detailed technical rules, local governments may argue that they need further guidance on how to facilitate, the type of equipment that should be provided, or communication accessibility standards. The case of Batik Ciprat Magetan shows that the local government has not maximized its role.
3. Business actors (Batik Ciprat Magetan): The document states that Batik Ciprat Magetan has not fully fulfilled its obligations regarding accessibility and adequate communication facilities, as mandated by Law No. 13 of 2003 (Article 67) and Law No. 8 of 2016 (Article 122). Article 67 of Law No. 13 of 2003 also regulates the obligation of employers to provide accessibility according to the level of disability of workers. This indicates a direct responsibility on the business actor. However, if the norms of Article 122 of Law No. 8 of 2016 are not self-executing

and local governments have not issued concrete implementing regulations, businesses may face difficulties in specifically implementing these obligations.

This lack of discussion on the self-executing nature leads to ambiguity in determining who is legally responsible and a longer time to fulfill the rights of persons with disabilities. In addition, the document also emphasizes the “void of sanction norms” in Law No. 8 of 2016, which means that in the absence of unequivocal sanctions, disability rights violations can go unpunished without significant consequences. Article 50 section (4) of Law No. 8 of 2016 stipulates sanctions for employers who do not provide workers with disabilities with decent housing and accessible facilities. However, if there is a broader “sanction norm vacuum” or lack of firmness of sanctions for failure to facilitate communication as mandated by Article 122, then non-compliance will continue to occur. This reinforces the argument that Law No. 8 of 2016, although progressive, may still require strengthening in terms of concrete enforcement mechanisms.

2. Factors Hindering the Implementation of Legal Protection for Disabled Workers at Batik Ciprat Magetan

Violations of certain provisions hinder current law enforcement. One of them is the debt owed by Batik Ciprat Magetan and the Magetan Regional Government to its disabled workers based on Article 67 of Disability Law No. 13 of 2003 and Article 122 of Disability Law No. 08 of 2016. Provisions such as workplace accessibility and adequate communication have not been fulfilled in practice (Tambunan et al., 2020).

The Legal Norm is Law No. 13 of 2003, Article 67 requires employers to provide work accessibility by the type and level of disability of workers. Article 122 of Law No. 8 of 2016 requires the government and local governments to facilitate communication of persons with disabilities, including providing affordable means and alternative forms of communication.

Batik Ciprat Magetan employs 10 (ten) persons with disabilities, but has not provided access to communication and adequate housing. Nissa's testimony shows the non-fulfillment of basic rights related to communication in the workplace and the lack of adequate housing. There is no sign language training for staff or accommodations that support the full engagement of workers with disabilities.

It is crucial to underscore that legal accountability extends beyond individual business actors. The Magetan district government, as a duty bearer, has an inherent obligation to protect disability rights within the framework of state obligations. However, there is no evidence that the Magetan District Government has conducted labor inspections, facilitated communication, or enforced administrative sanctions for this violation. This contradicts the Obligation to Protect and Obligation to Fulfil principles of human rights law. According to Ronald Dworkin's Dignity Theory, laws should reflect the dignity and worth of individuals. The state's failure to provide disabled workers with communication and access violates the principle of respect for their dignity. John Rawls's approach to social justice demands fair distribution of resources and opportunities for the most vulnerable groups. The lack of accessibility for people with disabilities at Batik Ciprat reflects the state's failure to guarantee the difference principle, which protects the most disadvantaged.

The responsibility of business actors includes providing job accessibility, communication training, and decent accommodation. Meanwhile, the state (Magetan District Government) is responsible for regulation, supervision, and law enforcement.

Available legal accountability mechanisms:

1. A lawsuit to the *Pengadilan Tata Usaha Negara (PTUN)* over the local government's failure to comply with Article 122 of Law No. 8 of 2016.
2. Reporting to the National Commission on Disability for disability rights violations.
3. Judicial review of Law No. 8 of 2016 to add sanction norms for disability rights violations.
4. Use of tripartite mediation forums between the government, businesses, and disability organizations.

Article 67 of Law No. 13 of 2003 stipulates the requirements that must be met by companies in terms of providing accessibility for workers with disabilities in accordance with the level of disability possessed by these workers. In addition, Batik Ciprat Magetan still does not fulfill all the requirements of its employees. Workers with disabilities often have to work far from their homes or residences, making it difficult for them to work like everyone else due to pressure, lack of ability, and inadequate conditions.

According to Article 122 of Law No. 08 of 2016, the Government and Regional Governments are obliged to recognize, accept, and facilitate communication of persons with disabilities using certain means. Communication using certain means as intended is carried out by means, tools, and other forms that can be reached according to the choice of persons with disabilities in interacting. This means that local governments

must facilitate communication between people with disabilities and employees who have sign language teachers to avoid communication limitations. Local governments must also provide assistive devices that are appropriate to the level of disability of the person with a disability (Abdul Rozak Aryo Priyambodo & Lutfian Ubaidillah, 2024).

3. Legal Consequences of Unavailability of Disability Accessibility Facilities by Persons with Disabilities

When public facilities are not accessible to people with disabilities, there are significant legal consequences that impact the rights of people with disabilities and the responsibilities of governments and other public entities. This can be considered a human rights violation, which can lead to lawsuits, penalties, and other consequences. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) recognizes the accessibility rights of persons with disabilities internationally. The Convention stipulates that persons with disabilities should receive the same freedoms and human rights as other people. (Rama et al., 2024).

In particular, Law No. 8 of 2016 on Persons with Disabilities regulates the rights of persons with disabilities, including the right to accessibility. A person who violates these provisions may suffer various legal consequences, including prosecution and administrative sanctions. The law, for example, sanctions education providers and employers who do not provide accessible accommodation or facilities. Persons with disabilities have the right to seek fulfillment of accessibility obligations and compensation for the harm they have suffered.

As a country that ratified the CRPD through Law No. 19 of 2011, the Indonesian government is responsible for respecting and protecting the rights of people with disabilities. Nonetheless, Law No. 8 of 2016 protects disability rights. However, there are no rules governing the government as the organizer and implementer of disability rights. This means there are no sanctions for violators of disability rights, whether government or private. As a result, the standard of disability rights guarantee is unclear.

The implementation of public services for people with disabilities faces various obstacles, including limited professional human resources, facilities, and funds. The lack of implementation of accessibility-related laws and regulations creates significant barriers, such as architectural, information, and communication barriers, as well as a lack of community support. In addition, conflicting needs between different categories of disabilities and individual differences further complicate the provision of inclusive public service facilities. (Puspita & Soeskandi, 2022).

Furthermore, public policies are affected by the unavailability of accessibility, which shows the government's lack of commitment to inclusivity. Often, governments have to change laws, increase budgets for accessibility projects, and launch training programs to avoid legal consequences. Governments should improve monitoring and evaluation systems, such as regular audits and independent oversight bodies, to ensure that public facilities meet accessibility standards. (Nuraviva, 2017).

The inability to access public facilities has significant social and economic impacts, including social isolation and limited opportunities, as well as legal consequences. For example, Batik Ciprat in Magetan fulfills some basic rights of disabled workers but lacks accessibility and communication. Inclusive planning and

design should support people with disabilities and raise public awareness (Putri & Nugraha, 2024).

Accessibility rights for people with disabilities are included among human rights that are recognized around the world. The United Nations Convention on the Rights of Persons with Disabilities, also known as the Convention on the Rights of Persons with Disabilities, is an international treaty that aims to ensure accessibility for persons with disabilities, which is arguably the most important human right. (Nuraviva, 2017). Inadequate access may be considered a violation of their rights by local governments. (Arianto, 2017).

The obstacles that hinder the implementation of public services to people with disabilities are the lack of professional human resources, facilities, and available funds. As laws and regulations relating to accessibility for people with disabilities have not been fully implemented, people with disabilities have difficulty utilizing the various public services available (Tarsidi, 2011). In addition, conflicts between different categories of disabilities hinder the provision of public services. In terms of disability classification, accessibility needs may differ for each type of disability (Fathimah & Apsari, 2020).

Company resources, lack of training, and the suboptimal role of local government all pose major challenges to the implementation of legal protection. One of the violations of human rights is the non-fulfillment of accessibility rights. This is contrary to the principles of the UN Convention on the Rights of Persons with Disabilities (CRPD) (Arianto, 2017). The absence of sanction norms in Law No. 8 of 2016 makes

violations of disability rights have no deterrent effect on the perpetrators, especially the government and the private sector.

2. CONCLUSION

The Batik Ciprat Magetan case shows significant legal violations of the rights of workers with disabilities. Although the company employs people with disabilities and fulfills their basic rights, such as working hours and training, there are still violations of accessibility and communication rights, which are protected by national laws and regulations and international instruments. One violation is in violation of Article 122 of Law No. 8 of 2016 on Persons with Disabilities, which requires the government and local governments to provide communication facilities, including assistive communication media and sign language. The second violation is in violation of Article 67 of Law No. 13 of 2003 on Manpower, which requires companies to provide accessibility for workers with special needs, even if they do not have direct access to the workplace and its facilities.

Articles 5 and 9 of Law No. 8 of 2016, which affirm that every person with a disability is entitled to proper facilities and accommodation as part of equality and non-discrimination, and Article 71 of Law No. 8 of 2016, which stipulates the responsibility of the government and local governments to provide disability-friendly employment services, are examples of laws that are not being implemented. However, Law No. 8 of 2016 does not establish clear sanctions for violations of these accessibility and communication rights. This creates a legal vacuum, which reduces the deterrent effect and exacerbates impunity for disability rights violations. There are concrete regulation-based legal solutions, such as amending Law No. 8 of 2016 to add provisions for

administrative, civil, and even criminal sanctions against institutions that do not fulfill accessibility and communication obligations for persons with disabilities. Issuance of Government Regulations or Minister of Social Affairs or Local Government Regulations that technically regulate the accessibility standards of the work environment, mandatory sign language training for inclusive companies, incentives and subsidies for housing or transportation for workers with disabilities.

This condition has legal consequences, including the potential for administrative lawsuits to *Pengadilan Tata Usaha Negara (PTUN)* for local government negligence in providing communication facilities as mandated by law, and complaints to *Komnas Disabilitas* as an independent disability rights watchdog. In the context of the CRPD, Indonesia has ratified the convention through Law No. 19 of 2011, which legally obliges the state to ensure the implementation of rights through regulation and supervision, eliminate all forms of discrimination based on disability, and create a work environment that is free of physical and social barriers.

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