A JURIDICAL STUDY TOWARD INDONESIAN DISABILITIES RIGHT FOR PUBLIC SERVICES ACCESSIBILITY ACCORDING TO LAW NO. 8 YEAR 2016

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Abstract: In this study, the author is very attentive to law for disability. In 2016, the Indonesian government has been launched a recovering law for persons with disabilities, namely Law No. 8 Year 2016. Differ with the previous law, Law No. 4 Year 1997 which still less contains the rights of persons with disabilities, especially on the things of public services accessibility. Hence, regarding to the normative analysis toward Law No. 8 Year 2016 which is used in this study. It found that the Indonesian government is already loaded the persons with disabilities right on public services accessibility. Those listed in Chapter III, Part 15 article 19 on Public Service Rights. Therefore, the development of public service facility for persons with disabilities shall be appropriate to this law. Furthermore, the details of public service in terms of implementation of respect, protection and rights meeting with disabilities are initiated by both central and local governments. All public services in Indonesia should be take attention to the Law No. 8 Year 2016 on Persons with Disabilities.

Keywords: Accessibility, Persons with Disability, Public Services, Rights

1. Introduction

Indonesia as a country which is very attention to the laws and provides any particular the rights and obligations of the people. Those rights and obligations aren’t offers only to certain citizens, but generally to all of Indonesian. In order to accommodate any particular rights and obligations to the disability people or community in Indonesia, the government has been declared the new regulation which is governs and regulates persons with disabilities. The new regulation is Law No. 8 Year 2016 on Persons with disabilities.

In this law, the persons with disabilities in Indonesia have offered many rights in everything to get better living. At this time, there are still many of public services which is have yet implemented the accessibility for persons with disabilities.

Therefore, this regulation will help all persons with disabilities to get better public services.

Figure 1 Distribution of Persons with Disabilities between Indonesian Population
(Source: Adapted from National Survey of Social and Economic 2012 in Ministry of Health 2014)

According to the National Survey of Social and Economic in 2012, which is initiated by the Central Bureau of Statistics of the Republic of Indonesia the total amount of disability in Indonesia is 2.45% (6,515,500) from 244,919,000 people estimated. (Ministry of Health, 2014:1 19). Hence, the total number are spread in around Indonesia provinces and also include all types of disability. If take look back in 1995, the distribution number of disability in Indonesia particularly from each provinces can be viewed on the table 1.

From the table above, it may conclude that the total types of disability: blind, physical disability, chronic disease, mental disability, and mute/deaf. The procuring of Law No. 8 Year 2016 on Persons with disabilities is a recover idea by government to provide any efforts for persons with disabilities. Previously, government has been declared the law on disability in Law No. 4 Year 1997. The core points on Law No. 4 Year 1997, especially on their rights are education, jobs, the same treatments, accessibility for their independent life, rehabilitation, rights for develop their passion, etc. But, unfortunately this law is less to handle the rights of persons with disabilities to recieve any public services accessibility for them. Therefore, the government of Indonesia recovering this law into more detail through issued Law No. 8 Year 2016.

### Table 1 Number of Disability by Types and Provinces in Indonesia 1995

<table>
<thead>
<tr>
<th>Provinces</th>
<th>Blind</th>
<th>Physical Disability</th>
<th>Chronic Disease</th>
<th>Mental Disability</th>
<th>Deaf</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aceh</td>
<td>34.628</td>
<td>32.704</td>
<td>25.009</td>
<td>15.390</td>
<td>11.928</td>
<td>119.660</td>
</tr>
<tr>
<td>North Sumatera</td>
<td>100.032</td>
<td>94.475</td>
<td>72.245</td>
<td>44.459</td>
<td>34.455</td>
<td>345.666</td>
</tr>
<tr>
<td>West Sumatera</td>
<td>38.909</td>
<td>36.747</td>
<td>28.101</td>
<td>17.293</td>
<td>13.402</td>
<td>134.451</td>
</tr>
<tr>
<td>Riau</td>
<td>35.105</td>
<td>33.155</td>
<td>25.353</td>
<td>15.602</td>
<td>12.092</td>
<td>121.307</td>
</tr>
<tr>
<td>South Sumatera</td>
<td>64.868</td>
<td>61.264</td>
<td>46.849</td>
<td>28.830</td>
<td>22.343</td>
<td>224.155</td>
</tr>
<tr>
<td>Bengkulu</td>
<td>34.628</td>
<td>11.977</td>
<td>9.159</td>
<td>5.636</td>
<td>4.368</td>
<td>43.824</td>
</tr>
<tr>
<td>Lampung</td>
<td>59.920</td>
<td>56.591</td>
<td>43.275</td>
<td>26.631</td>
<td>20.639</td>
<td>207.056</td>
</tr>
<tr>
<td>Jakarta</td>
<td>82.014</td>
<td>77.458</td>
<td>36.451</td>
<td>26.249</td>
<td>283.403</td>
<td></td>
</tr>
<tr>
<td>West Java</td>
<td>352.861</td>
<td>333.258</td>
<td>254.844</td>
<td>156.827</td>
<td>121.541</td>
<td>1,219.331</td>
</tr>
<tr>
<td>Central Java</td>
<td>266.879</td>
<td>252.053</td>
<td>192.746</td>
<td>118.613</td>
<td>91.925</td>
<td>922.217</td>
</tr>
<tr>
<td>East Java</td>
<td>304.596</td>
<td>287.674</td>
<td>219.986</td>
<td>135.376</td>
<td>104.916</td>
<td>1,052.548</td>
</tr>
<tr>
<td>Bali</td>
<td>26.061</td>
<td>24.613</td>
<td>18.822</td>
<td>11.583</td>
<td>8.977</td>
<td>90.055</td>
</tr>
<tr>
<td>West Nusa Tenggara</td>
<td>32.811</td>
<td>30.989</td>
<td>23.697</td>
<td>14.583</td>
<td>11.302</td>
<td>113.382</td>
</tr>
<tr>
<td>East Nusa Tenggara</td>
<td>32.197</td>
<td>30.409</td>
<td>23.254</td>
<td>14.310</td>
<td>11.090</td>
<td>111.259</td>
</tr>
<tr>
<td>West Kalimantan</td>
<td>32.722</td>
<td>30.904</td>
<td>23.632</td>
<td>14.543</td>
<td>11.271</td>
<td>113.071</td>
</tr>
<tr>
<td>South Kalimantan</td>
<td>26.041</td>
<td>24.595</td>
<td>18.808</td>
<td>11.574</td>
<td>8.970</td>
<td>89.987</td>
</tr>
<tr>
<td>North Sulawesi</td>
<td>23.842</td>
<td>22.517</td>
<td>17.219</td>
<td>10.596</td>
<td>8.212</td>
<td>82.387</td>
</tr>
<tr>
<td>Central Sulawesi</td>
<td>17.443</td>
<td>16.474</td>
<td>12.597</td>
<td>7.752</td>
<td>6.008</td>
<td>60.274</td>
</tr>
<tr>
<td>South Sulawesi</td>
<td>68.025</td>
<td>64.246</td>
<td>49.129</td>
<td>30.233</td>
<td>23.431</td>
<td>253.065</td>
</tr>
<tr>
<td>Maluku</td>
<td>18.779</td>
<td>17.375</td>
<td>13.562</td>
<td>8.346</td>
<td>6.468</td>
<td>64.891</td>
</tr>
<tr>
<td>Papua</td>
<td>17.484</td>
<td>16.512</td>
<td>12.627</td>
<td>7.771</td>
<td>6.022</td>
<td>60.416</td>
</tr>
</tbody>
</table>

Persons with disabilities are still finding many obstacles in getting better accessibility of public services. It can be seen from the lack of facilities that support for persons with disabilities. For example in the area of public space, such as public transports, schools, and so forth. Thus the Law No. 8 Year 2016 to clarify the importance of the right to a good public service for persons with disabilities. From the research background above, the author wants to write a title: “A Juridical Study toward Indonesian Disabilities Right for Public Services Accessibility According to Law No. 8 Year 2016”.

2. Research Question

Based on the background above, the formulation of the problem is whether Law No. 8 Year 2016 on Persons with Disabilities has the right to a public service accessibility for persons with disabilities in Indonesia?

3. Methodology and Theoritical

A Juridical Study toward Indonesian Disability’s Right for Public Service Accessibility is used normative approach. Soekanto and Mamudji, (2001 : 13 - 14) contends that normative approach is legal research done by researching library materials or secondary data as the base material to be tested by conducting a search for rules and literature relating to the cases studied.

In this study, the authors want to describe clearly the normative analysis contained in Law No. 8 Year 2016 on Persons with disabilities, in particular respect the rights of disabled people in obtaining public service facilities were adequate against them. The provision of the right to public service in this law departs from the lack of content on the previous law, namely Law No. 4 Year 1997. At Law 4, the rights of disabled people, particularly in obtaining public services that are friendly to them still less discussed. Whereas public service is one thing that is very important for everyone, not least the disabled people themselves.

According to Law No. 8 Year 2016, public service is:

“Kegiatan atau rangkaian kegiatan dalam rangka pemenuhan kebutuhan pelayanan sesuai dengan ketentuan peraturan perundang-undangan bagi setiap warga negara dan penduduk atas barang, jasa, dan/atau pelayanan administratif yang disediakan oleh penyelenggara pelayanan publik”.

It means that public service is an activity or series of activities in order to meet the needs of services in accordance with the provisions of law for every citizen and resident in the goods, services, and / or administrative services provided by public service providers.

Hence McGregor (1982) in Pankowska, 2014 : 117, public services also defined as a service which is provided by government to people living within its jurisdiction, either directly (through the public sector) or by financing provision of services. The term is associated with a social consensus (usually expressed through democratic elections) that certain services should be available to all, regardless of income, physical ability and/or mental acuity. While, the result of public services is jasa publik or public merit. Public merit is public goods and services is also only for people who utilize public services subject to compensation at the rates stipulated by legislation. (Nurcholis, 2005 : 290 - 291).

From two definitions above, it can be conclude that public service is an effort initiated by government and it offered to all people, and it have not a priority scale. Public service is made by government to accommodate people demands.

Furthermore, according to Law No. 8 Year 2016, accessibility defined as:

“Kemudahan yang disediakan untuk penyandang disabilitas guna mewujudkan kesamaan kesempatan”. It means that amenity provided for persons with disabilities in order to realize the equal opportunities. While, Henry et.al. (2014) contends that accessibility is refers to the design of products, devices, services, or environments for people who experience disabilities. Therefore, from both above, it can be conclude that accessibility is a way to make easy for persons with disabilities to reach their needs.
4. Juridical Study toward Indonesian Disability’s Right for Public Service Accessibility

Public services for disability in Indonesia is covered by the Laws. It was conveyed at Law No. 4 Year 1997 on Persons with disabilities. Then, the government recovered it in 2016 to Law No. 8 Year 2016. In this law, the government shows up more explicit to protect and provide all of the disability rights. It may look at in the Part 14 - 15, which as the content of Accessibility Rights and the Public Service Rights. Here, we will go to analyze those points. In the Chapter III on Persons with disabilities Rights, especially in Part 14 on Accessibility Rights contends:

**Article 18**

“Hak aksesibilitas untuk penyandang disabilitas meliputi hak:

a. Mendapatkan aksesibilitas untuk memanfaatkan fasilitas publik; dan
b. Mendapatkan akomodasi yang layak sebagai bentuk aksesibilitas bagi individu”.

It means that:

Accessibility for disability rights includes the right:

a. Getting accessibility to utilize public facilities; and
b. Eligible get accommodation as a form of accessibility for individuals.

From, the Chapter III, Part 14 on Accessibility Rights there are two big points, which are identified that public facilities must have to utilize the accessibility for persons with disabilities. The public facilities are generally built to facilitate the needs of the general public to live a life and welfare support. Through Law No. 8 Year 2016, the government made a referral to public service providers to create a friendly public service facilities for persons with disabilities. It can be seen from the means of transport, such as buses, trains, planes, ships, and so on.

Supporting facilities, public transport must also pay attention to safety and comfort for persons with disabilities. Examples such as: bus stops, stations, terminals, airports, ports, and so on. Other public facilities is also important that health and education services. Health facility is one of the most important for the hospital or clinic is a means to treat a sick society at large, not least persons with disabilities. Education is also an important means for people to get access to good science.

All public facilities above is one of many public facilities that is important to everyone. Therefore, Law No. 8 Year 2016 as a guide for developers in building public facilities. Accessibility for persons with disabilities is not just a ramp intended for the physically disabled, but all persons with disabilities are entitled to gain access to public facilities both in facilitating access to them. Furthermore, in Part 15 on Public Services Right contends:

**Article 19**

“Hak pelayanan publik untuk penyandang disabilitas meliputi hak:

a. Memperoleh akomodasi yang layak dalam pelayanan publik secara optimal, wajar, bermartabat tanpa diskriminasi; dan
b. Pendampingan, penerjemahan, dan penyediaan fasilitas yang mudah diakses di tempat layanan publik tanpa tambahan biaya”.

It means that:

Public services for disability rights includes the right:

a. Eligible obtain accommodation in the public service optimally, fairly, with dignity without discrimination; and
b. Advocacy, translation, and the provision of facilities that are easily accessible in the public service without any extra charge.

In this section, as well as the accessibility rights received by persons with disabilities. Public services have expected much from acts of discrimination that occurs in persons with disabilities. Public services should return to the main sense, the service provided to the community at large. Not only provide normal services to the community satisfaction, but also to persons with disabilities. Public services that have implemented the accessibility to persons with disabilities expected to be able to provide additional facilities or services such as mentoring, translation specific to persons with disabilities.
Therefore, the Chapter III, Part 15 Article 19 of Law No. 8 Year 2016 is the most fundamental in the formation of this Act. If compared with the previous law, namely Law No. 4 Year 1997, the government has not yet formulated the rights of persons with disabilities to public service that suits them. In the Chapter IV on Implementation of Respect, Protection and Rights Meeting with Disabilities, especially in the Part 12 on Public Services. It conveyed start from Article 105 – 108 which says:

**Article 105**

a. The government and regional governments are required to provide public services that are accessible to Persons with Disabilities in accordance with the provisions of the legislation.

b. The Public Service referred to in paragraph (1), including public transport services.

c. Public Services are easily accessible as referred to in paragraph (1) shall be organized by the organizer of the state institutions, corporations, independent agency established by law for public service activities, and other legal entities established for the Public Service.

d. Funding of Public Services for Persons with Disabilities sourced from:
   i. State budget;
   ii. Budget expenditure and income areas; and / or
   iii. Budget corporation or legal entity that organizes the Public Service.

**Article 106**

a. The government and regional government shall promulgate and disseminate public service that is easily accessible as referred to in Article 105 to the Disability and society.

b. The Public Service Operator shall provide public service guidelines are easily accessible by Disability.

c. Transportation service as referred to in Article 105 paragraph (2) shall consist of land transport services, rail transport, sea transport and air transport.

b. The Government and local governments can work together with the corporation or legal entity in providing public transport services

**Article 108**

a. Further provisions regarding public service that is easily accessible by Disability regulated by government regulation.

Based on the Chapter 4, Part 12 articles 105 – 108 above, both the central government and local governments have an obligation to create a public service that is friendly to people with disabilities. Budgetary support in the provision of facilities for the comfort and safety of persons with disabilities come from the government itself, either from the state budget (APBN), the local budget (APBD), and the government corporation or legal entity which organizes public services.

Not only to build facilities for persons with disabilities, but the central and local governments are required to distribute or disseminate public services. In this section, public transport services being the most highlighted. Public transportation is very useful for all parties to support life. Therefore, the central and local governments must be able to create a public transportation friendly to the disabled.

Law No. 8 Year 2016 on Persons with Disabilities is a fulfillment of the rights needed by persons with disabilities. The government as the head of which regulate the mode of administration and public services have succeeded in formulating regulations that protect persons with disabilities in obtaining good public services. Accessibility Rights and Public Service Rights are at the root of the provision of public services that is friendly to people with disabilities in Indonesia.

**5. Conclusion**
There are several big points that found in this study, first of all, the Indonesian government in 2016 has been launched a new regulation as a changer of the older one, namely Law No. 8 Year 2016. Secondly, the Law No. 8 Year 2016 as a new paradigm of all public sectors and agencies which are procured the public service should be make it accessible for persons with disabilities. Thirdly, all budgets, which are necessarily needed is come from the governments themselves, it is listed in Chapter IV on Public Service section.

Hence, the Law No. 8 Year 2016 is an answer of thousands questions in terms of public services accessibility for persons with disabilities in Indonesia. And the last, Indonesian government also guarantees the rights of persons with disabilities to public service accessibility is good for them. With the launch of this Law, it will expected protection of the rights of persons with disabilities will be better and maintained further.

REFERENCES


Law No. 4 Year 1997 on “Persons with Disabilities”.

Law No. 8 Year 2016 on “Persons with Disabilities”.

