

Legal Rights in Access to Health Services for Persons with Disabilities

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ABSTRACT – In the pursuit of ensuring a satisfactory standard of living for individuals with disabilities, legal protection becomes a crucial necessity, with the right to access health services being one integral aspect. However, the current scenario indicates that health service facilities have not yet attained optimal parity of opportunities between individuals with disabilities and the general public. The objective of this research is to delineate the implementation of legal protection for the right to access health services for individuals with disabilities and to identify potential obstacles that may arise. The research employs a normative legal study approach. The findings reveal that the government has incorporated the right to access health services for individuals with disabilities into statutory regulations, encompassing building requirements and the availability of proficient health personnel to cater to their needs. Nevertheless, obstacles persist in achieving equal access, and this article will delve into a more comprehensive discussion of the challenges and measures necessary to enhance the implementation of legal protection regarding the right to access health services for individuals with disabilities in Indonesia.

Keywords: right to access health services, legal protection, disability, health facilities.

A. INTRODUCTION

The Republic of Indonesia confirms its commitment to respect and protection of human dignity, values that are reflected in Pancasila and the 1945 Constitution. Human rights are recognized as basic rights that are inherent in humans, are universal, and must be protected and respected, and maintained. In this regard, special emphasis is placed on the human rights of vulnerable groups, especially people with disabilities. Human rights for people with disabilities are seen as a must to be protected and defended by the state (Skempes et al., 2015; Malik et al., 2021). States have a moral and legal obligation to ensure that every individual, without exception, can enjoy their basic rights.

Persons with disabilities, often a vulnerable group and vulnerable to discrimination, require special protection to ensure their rights are protected and fulfilled (Priscyllia, 2016).

So far, people with disabilities in Indonesia often face challenges in the form of discrimination, whether in access to health services, education, employment or other rights. For this reason, the state is expected to be active in protecting, respecting and fulfilling the rights of people with disabilities. This involves concrete steps, such as designing inclusive policies, ensuring physical and information accessibility, and providing social support to overcome barriers faced by people with disabilities. In carrying out these obligations, the state needs to involve all relevant parties, including central and regional governments, non-governmental organizations, and society at large. This collaborative effort will provide a strong foundation for creating a more inclusive society, where the human rights of people with disabilities are not only formally recognized, but also realized in everyday life (Szmukler & Bach, 2015).

Persons with disabilities are included in the category of vulnerable groups, which generally refers to groups of people who are vulnerable to discriminatory treatment, stigma, and often face difficulties in fulfilling their rights. This group tends to be the target of discrimination because they are often considered individuals with limitations or disabilities, so their rights are often neglected or not fully fulfilled (Eleanora & Insani, 2022). Stigmatization of individuals with disabilities can lead to disparities in multiple facets of life, such as employment, education, health, and full societal participation. Consequently, it is imperative to raise awareness and foster an inclusive environment to challenge stereotypes and discrimination against people with disabilities, ensuring the realization of their rights as an integral component of human rights.

On November 10 2011, Indonesia ratified the Convention on the Rights of Persons with Disabilities through the ratification of Law Number 19 of 2011. The ratification of this convention is a significant step to increase protection and respect for the rights of persons with disabilities. disability in Indonesia. The ratification process resulted in a paradigm shift, shifting the view of society and the government from the concept of people with disabilities as "people who are sick and need help" to "people who are healthy but have special needs and are entitled to access and convenience."

Through ratifying the Convention on the Rights of Persons with Disabilities, the Indonesian government expressed its commitment to guarantee the protection, promotion and enforcement of the rights of persons with disabilities. This convention changes the way people with disabilities are viewed as an integral part of citizens, who have human rights that must be respected, protected and fulfilled by the state. In this way, Indonesia recognizes that people with disabilities have the same rights as other citizens and is committed to creating an inclusive environment, where they can fully participate in society. The ratification of this convention creates a legal basis for involving persons with disabilities as subjects of rights, not objects of limitations, in various aspects of life.

On April 15, 2016, Indonesia enacted Law Number 8 of 2016 concerning Persons with Disabilities, replacing Law Number 4 of 1997 on the same subject. This legislation requires the fulfilments of the rights of persons with disabilities through its 153 articles. The revision of Law Number 4 of 1997 was prompted by its lack of incorporation of a human rights perspective and its foundation in charity-based principles. Additionally, the previous law had not successfully ensured access and equal rights for individuals with disabilities.

In the explanation section, Law Number 8 of 2016 states that these changes aim to eliminate the paradigm of compassion for people with disabilities and create a perspective that is more based on human rights. The Indonesian Government's seriousness to protect, respect and fulfil the rights of persons with disabilities is reflected in the birth of this new law. This commitment can improve the welfare of people with disabilities, eliminate discrimination, allowing them to participate fully in the life of society (Paruntu et al., 2023). Law Number 8 of

2016 provides a strong legal basis for realizing the rights of persons with disabilities in accordance with universally applicable human rights standards.

Individuals with disabilities possess equal rights to other citizens of Indonesia, encompassing the entitlement to avail fair and high-quality health services (Ortoleva, 2010). This entitlement is intricately linked to the fundamental human right to safeguard one's life. Sufficient access to health services holds significance in legal protection, as an individual cannot lead a well-lived life without adequate health. Consequently, ensuring equitable and quality access to health services for individuals with disabilities is not solely a demonstration of respect for their human rights, but also constitutes an integral aspect of the state's legal responsibility and commitment to guarantee the well-being of all its citizens, without any exceptions.

Persons with disabilities should receive special treatment as part of efforts to protect their vulnerability to discriminatory acts and to ensure their rights remain protected. However, in reality, health service facilities have not fully achieved equality in access to health services between people with disabilities and the general public. The health conditions of people with disabilities generally tend to be worse, but there are still health facilities with buildings and services that are not disability friendly. This unfriendliness involves inadequate physical facilities and services, resulting in people with disabilities having difficulty accessing health services independently. When seeking health services, people with disabilities are often faced with higher costs, even though they have lower income levels on average than people without disabilities. For this reason, this study will explore more deeply the legal protection of the right to access health services for people with disabilities to increase equality of access in the health sector.

B. METHOD

This research employs a normative juridical approach, drawing upon primary legal sources that include Law Number 8 of 2016 concerning persons with disabilities, and Law Number 19 of 2011 concerning the ratification of the convention on the rights of persons with disabilities. Secondary legal sources, including books, legal journals, and other relevant works, are additionally utilized to reinforce the analysis

and comprehension in this study. This method enables researchers to scrutinize and analyses legal provisions associated with the rights of persons with disabilities by elaborating on the pertinent regulatory and normative framework.

C. RESULTS AND DISCUSSION

Efforts to guarantee the right to access health services for people with disabilities through legal protection are an action intended to ensure that individuals with disabilities obtain the same rights in obtaining health services without experiencing discrimination (Mavrov, 2018; Puzin, 2019). In Indonesia, regulations governing this aspect can be found in several laws and regulations, one of which is Law Number 8 of 2016 concerning Disability Care.

Legal Protection of the Right to Access Health Services for Persons with Disabilities

Article 12 of Law Number 8 of 2016 concerning Persons with Disabilities explains in detail the health rights of persons with disabilities. They are given the right to have easy access to information and communication when receiving health services. It consists of providing health information that is easily accessible and understandable for people with disabilities. Furthermore, people with disabilities have the right to equal opportunities and access to resources in the health sector. This consists of aspects of equal access to various health resources necessary to meet their health needs.

The next right is to get opportunities and equality of quality, safe and affordable health services. This emphasizes the importance of providing health services that are not only of high quality but also easily accessible and affordable for people with disabilities.

In addition, people with disabilities have the right to obtain opportunities and opportunities to responsibly and independently determine the health services needed for themselves. This emphasizes the autonomy and active participation of people with disabilities in the decision-making process regarding their health.

Other rights involve aspects of quality medicines with low side effects, health aids based on needs, protection from medical trials, and protection for health studies and developments involving humans as objects. All of these rights aim to protect the health and interests of persons with disabilities in health services and the development of medical science.

The entitlement to utilize health services and the specifications concerning buildings as accessible health service facilities for individuals with disabilities have been addressed in several legal and regulatory frameworks. Article 25 letter b of the Convention on the Rights of Persons with Disabilities affirms the government's responsibility to furnish specialized health services tailored to the requirements of individuals with disabilities.

In the national legal framework, Law Number 8 of 2016 concerning Persons with Disabilities safeguards the right to access health services for individuals with disabilities. Article 65, paragraph (1) stipulates that both the central government and regional governments are obligated to guarantee the availability of health services tailored to the diverse needs of individuals with disabilities. This encompasses the provision of sufficient and accessible health facilities.

Article 63 paragraph (1) also indicates the importance of having health workers who have the expertise and authority to provide health services to people with disabilities, both at initial and advanced level health facilities. This emphasizes the need for health workers who can communicate and understand the special needs of people with disabilities. Thus, implementing accessibility requirements and providing competent health personnel is key in ensuring that people with disabilities can obtain health services in accordance with their rights (Kayess & French, 2008). This is in line with the principles of human rights, inclusion and non-discrimination which are reinforced by international and national regulations.

In addition, regulations regarding the requirements for buildings as health service facilities that can be accessed by people with disabilities are also contained in several laws and regulations. For example, Article 12 paragraph (1) point c of the Minister of Health Regulation Number 43 of 2019 concerning Community Health Centres stipulates that, "the development of community health centres must pay attention to function, security, comfort, safety and health protection, as well as ease in providing services to all individuals, including those with special needs/disabled people, children and the elderly."

The attachment to Minister of Health Regulation Number 43 of 2019 concerning Community Health Centres provides more detailed details regarding the requirements for community health centre

buildings that must be accessible to people with disabilities. Some of these consist of announcing or giving priority in queues to people with disabilities, preparing special waiting rooms for people with disabilities, availability of bathrooms designed for use by people with disabilities, use including sitting toilets or modifications thereto. Apart from that, other facilities such as driver's lanes, signs, markings, doors and stairs are also arranged to meet accessibility standards for people with disabilities.

Regarding clinic buildings, regulations regarding this matter are explained in Article 6 paragraph (3) of Minister of Health Regulation Number 9 of 2014 concerning Clinics. This article states that "clinic buildings must pay attention to function, safety, comfort and convenience in providing services, as well as protecting the safety and health of all people, including people with disabilities, children and the elderly."

Meanwhile, for further level services such as hospitals, this regulation is regulated in Article 9 of Law Number 44 concerning Hospitals. This article states that "technical requirements for hospital buildings must be in line with comfort, convenience, function in providing services and safety for all individuals, including people with disabilities, the elderly and children."

Furthermore, requirements related to the accessibility of hospital buildings are outlined in Article 15 paragraphs (1) and (2) of Minister of Health Regulation Number 24 of 2016 concerning Technical Requirements for Hospital Buildings and Infrastructure. This article explains that "hospital buildings must provide accessible facilities for people with disabilities and the elderly to ensure convenience for all users both inside and outside the hospital building easily, safely, comfortably and independently." Accessible facilities include toilets, corridors, parking lots, public telephones, driver's lanes, signs or markings, doors, as well as stairs, lifts and/or ramps. Further explanation regarding accessible facilities is regulated in the attachment to this ministerial regulation.

Barriers Faced by Persons with Disabilities in Accessing Health Services

People with disabilities face a number of complex barriers in accessing health services. These obstacles include a lack of physical accessibility in health facilities, either due to infrastructure that is not disability-friendly or unsupportive transportation. In addition, there

are information barriers, where people with disabilities often have difficulty obtaining health information that suits their needs. Discrimination and stigma are also inhibiting factors, both in health facilities and in society in general. Some of these obstacles include:

- a. Physical accessibility is a serious obstacle for people with disabilities in accessing health services. Health facilities often do not fully consider the needs of people with disabilities, creating spaces and facilities that are unfriendly to them. Stairs that are difficult to access for wheelchair users or a lack of adequate lifts are clear examples of this mismatch. Apart from that, difficulties in accessing transportation are also a serious problem that can limit the mobility of people with disabilities to health facilities. Transportation that is not disability-friendly can consist of limited public transportation equipped with accessibility facilities or a lack of support for people with disabilities when traveling. This creates significant challenges in the efforts of people with disabilities to reach health services effectively, highlighting the urgency for comprehensive improvements in physical accessibility throughout the health care chain.
- b. Discrimination and stigma are serious obstacles in accessing health services for people with disabilities. In health facilities, some people with disabilities often experience discrimination or unequal treatment, which can consist of denial of services, unfriendly attitudes, or a lack of understanding of their special needs. Apart from that, the stigma attached to disability in society can also be a barrier. People with disabilities feel embarrassed or worried about unfair treatment, so they tend to avoid seeking health services. Stigma can also result in a lack of social support, making people with disabilities feel isolated and have difficulty obtaining information or access to health resources. To overcome these obstacles, efforts need to be made to increase public understanding, reduce stigma, and strengthen the rights and protection of people with disabilities in health services (Björgvinsson, 2009).
- c. Financial inability is a significant obstacle for some people with disabilities in accessing health services. The cost of health services, including transportation costs and long-term care, can be a heavy financial burden for them. Some people with disabilities do not have access to sufficient financial resources,

and thus face difficulties in meeting their health needs. Transportation costs to health facilities or routine care costs can be a real obstacle, especially if financial resources are limited. This financial inability can force people with disabilities to delay or even avoid seeking necessary health services, increasing the risk of more serious health problems. Adequate policy measures and financial support are needed to overcome this challenge, so that people with disabilities can access health services without being hampered by economic factors.

Implementation of the Principle of Equality in Access to Health Services for Persons with Disabilities

Law Number 19 of 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities is the legal basis for Indonesia to pay attention to the rights of persons with disabilities, including their right to equal access to health services. Implementation of the principle of equality in access to health services for people with disabilities should reflect Indonesia's commitment to meeting international standards stated in the Convention.

The principle of equality for people with disabilities in accessing health services is a key foundation for ensuring equal rights in obtaining quality health services (Szmukler et al., 2014; Issalillah & Khayru, 2022). This principle reflects the essence that people with disabilities should not face obstacles or discrimination when using public facilities, especially in health services. Although recognized as a basic right, implementation of this principle is often hampered by inadequate facility design, lack of appropriate accommodation, and low levels of awareness among health care providers.

According to Duffy and Kelly (2017), the factor that limits equality of access is the failure to fulfil universal design in health facilities. Buildings and infrastructure that are not disability-friendly can pose significant physical barriers to people with disabilities.

Additionally, the education and training provided to healthcare providers is an important element. By increasing awareness of the special needs of people with disabilities, health professionals can provide better and more understanding services, reduce risk discrimination and increase the level of quality

of care. Therefore, to realize the principle of equal access, concerted efforts are needed to improve facility design, provide appropriate accommodation, and increase understanding and awareness among health service providers.

The principle of equal access to health services for people with disabilities emphasizes the need to ensure that they have the same rights to access health services as the general public. Real steps to realize this principle consist of the responsibility of health service facilities towards the diversity of conditions and needs of people with disabilities. This responsibility should be shouldered by the government, both at national and regional levels, to ensure that health infrastructure and services are designed with these specific needs in mind.

Important equality is also improved in efforts to ensure access of poor families with members with disabilities to education, health, employment, security and legal protection services. Concrete steps like these can help reduce disparities in access and ensure that all citizens, without exception, can take advantage of their basic rights.

The Ministry of Social Affairs of the Republic of Indonesia, through the Directorate General of Social Rehabilitation of Persons with Disabilities, has an important role in providing awareness-raising, consultation and support services to families regarding the basic rights of persons with disabilities.

The importance of the principle of equality also demands that in implementing health programs and services, nothing precludes or discriminates against anyone, including immigrants and people with disabilities. Comprehensive access to health programs and services is recognized as a right of every citizen, and guaranteeing this right is the foundation of a just society.

D. CONCLUSION

People with disabilities, as citizens, have the same rights as the rest of society, including the right to access fair and quality health services. Access to health services is considered a basic right within the framework of legal protection, and for people with disabilities, it is a concrete form of social assistance. The government has accommodated the right to access health services for people with disabilities through various laws and regulations, which consist of requirements for disability-friendly buildings and the availability of competent health workers to serve them.

The principle of equality is the basis for ensuring that all people, including people with disabilities, have equal access to health services. This concept originates from the belief that every individual has the right to receive quality health services without discrimination or unnecessary obstacles. To achieve the goal of equal access, efforts are needed to eliminate physical, psychological and social barriers that can prevent people with disabilities from accessing health services.

Health facilities have a central role in providing easy access for various types of disabilities. This involves adapting infrastructure and services to ensure availability and ease of access for people with disabilities. In addition, it is also important to ensure that information and communication aspects can be easily accessed by all individuals, by providing health information that can be understood by people with visual or hearing disabilities.

Providing training to health workers and medical personnel is a very important step to increase their understanding of the special needs and rights of people with disabilities. For this reason, applying the principle of equality in providing access to health services to people with disabilities is not only related to providing their basic rights, but is also related to efforts to build a fair and equitable society in the health sector.

REFERENCES

- Björgvinsson, D. P. (2009). The Protection of the Rights of Persons with Disabilities in the Case Law of the European Court of Human Rights. In the UN Convention on the Rights of Persons with Disabilities (pp. 141-161). Brill Nijhoff.
- Duffy, R. M. & B. D. Kelly. (2017). Rights, Laws and Tensions: A Comparative Analysis of the Convention on the Rights of Persons with Disabilities and the WHO Resource Book on Mental Health, Human Rights and Legislation. *International Journal of Law and Psychiatry*, 54, 26-35.
- Eleanora, F. N. & N. Insani. (2022). Urgensi Pemenuhan Hak Anak Berkebutuhan Khusus (Penyandang Disabilitas) dalam Bidang Kesehatan. *Jurnal Hukum Pelita*, 3(2), 111-119.
- Khayru, R. K. & F. Issalillah. (2022). Service Quality and Patient Satisfaction of Public Health Care. *International Journal of Service Science, Management, Engineering, and Technology*, 1(1), 20 - 23.
- Kayess, R. & P. French. (2008). Out of Darkness Into Light? Introducing the Convention on the Rights of Persons with Disabilities. *Human Rights Law Review*, 8(1), 1-34.
- Malik, F., S. Abduladjid, D. G. S. Mangku, N. P. R. Yuliartini, I. G. M. A. S. Wirawan, & P. R. A. Mahendra. (2021). Legal Protection for People with Disabilities in the Perspective of Human Rights in Indonesia. *International Journal*, 10, 539.
- Mavrov, M. (2018). International Protection of the Right of Equal Access to Health Care of People with Disabilities. *Knowledge-International Journal*, 28(6), 2057-2061.
- Ortoleva, S. (2010). Inaccessible Justice: Human Rights, Persons with Disabilities and the Legal System. *ILSA J. Int'l & Comp. L.*, 17, 281.
- Paruntu, M. C. K., F. H. Anis, & E. L. Mamesah. (2023). Penerapan Kebijakan Hak Aksesibilitas Dalam Undang-undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas di Indonesia. *Lex Privatum*, 12(2), 1-11.
- Peraturan Menteri Kesehatan Nomor 43 Tahun 2019 tentang Puskesmas.
- Priscyllia, F. (2016). Kajian Hukum Terhadap Fasilitas Pelayanan Publik Bagi Penyandang Disabilitas. *Lex Crimen*, 5(3), 105-112.
- Puzin, S. N., A. V. Grechko., I. V. Prianikov, V. S. Malichenko, & S. S. Puzin. (2019). Protection of the Rights of Disabled People to Access Medicines. *Advances in Gerontology*, 9, 56-61.
- Skempes, D., G. Stucki, & J. Bickenbach. (2015). Health-Related Rehabilitation and Human Rights: Analyzing States' Obligations Under the United Nations Convention on the Rights of Persons with Disabilities. *Archives of Physical Medicine and Rehabilitation*, 96(1), 163-173.
- Szmukler, G. & M. Bach. (2015). Mental Health Disabilities and Human Rights Protections. *Global Mental Health*, 2, 20.
- Szmukler, G., R. Daw, & F. Callard. (2014). Mental Health Law and the UN Convention on the Rights of Persons with Disabilities. *International Journal of Law and Psychiatry*, 37(3), 245-252.
- Undang-Undang Nomor 19 Tahun 2011 tentang Pengesahan Konvensi Hak-Hak Penyandang Disabilitas.
- Undang-Undang Nomor 44 tentang Rumah Sakit.
- Undang-Undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas.