

Policy Development in Inclusion Villages towards the Fulfillment of the Rights of Persons with Disabilities

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Abstract

Stigmatization towards persons with disabilities is so pervasive in society that it directly weakens their position in various fields unlike common other people in various fields. Although Indonesia has enacted Law No. 8 of 2016 concerning Persons with Disabilities, efforts to protect and fulfil the rights of persons with disabilities must continue to be actively encouraged. This study examines one of the strategic steps being taken to protect and fulfil the rights of persons with disabilities, the development of a Village Inclusion Policy. Aside from contributing to the fulfilment of the rights of persons with disabilities, particularly in rural areas, this policy is also expected to accelerate the improvement of welfare through increased accessibility of, and participation in, rural development. The study begins by reviewing the implementation of regulations and policies related to the protection and fulfilment of the rights of persons with disabilities in general. It then analyzes the possibility of further developing the Inclusion Village Policy, drawing on a policy review, focus group discussion, and in-depth interviews with relevant stakeholders. The results of this study illustrate the strategic value of the policy as well as the various factors that encourage or inhibit the fulfilment of the rights of persons with disabilities.

Keywords: *Persons with Disabilities, Village Inclusion, Policy*

I. INTRODUCTION

The Convention on the Rights of Persons with Disabilities (CRPD) which contains the rights of persons with disabilities was issued by the UN General Assembly on December

13, 2006 through Resolution No. A / 61/106.¹ Article 1 of CRPD states that the Convention's purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. Persons with disabilities include those who have long-term physical, mental, intellectual, or sensory impairments which may hinder their full and effective participation in society on an equal basis with others.² In Indonesia, the number of persons with disabilities are significant. According to the 2015 inter-census population survey (SUPAS), almost 9 percent of the population aged two years and over have moderate or severe disabilities. Further, the 2014 IFLS survey found that more than 10 percent of the population aged 15 years and over had difficulty with basic activities in everyday life.³

The Government of Indonesia's ratification of the CRPD⁴ demonstrates the State's commitment to promote, protect and ensure the equal rights and fundamental freedoms for all persons with disabilities as an inherent part of their human dignity. The State's commitment was further reinforced through the enactment of Law No. 8 of 2016 concerning Disabled Persons which explicitly recognizes that the respect, protection and fulfillment of the rights of persons with disabilities is a State obligation. The rights of persons with disabilities are yet to be fully realized, many have, and continue to, experience significant forms of discrimination in their everyday lives.⁵ Discrimination in cultural life manifests in a number of ways. Misconceptions, prejudice, and negative attitudes towards persons with disabilities can lead to the neglect of their aspirations, rights, needs and capabilities. This can contribute to the production, or reinforcement, of deep-rooted barriers inhibiting the full participation of persons with disabilities in cultural, recreational, and sporting activities.⁶

This discrimination cannot be separated from the stigmatization and public perception of people with disabilities. Stigmatization itself can be influenced by a number of factors including limited social knowledge of disabilities and the experiences of people living with them, especially from a human rights perspective. Furthermore, negative public perceptions towards people with disabilities can develop from a charity-based approaches that frame disabled persons as weak or vulnerable and unable to fulfill their rights and obligations. Therefore charity-based approach must be abandoned and replaced by human rights-based approach. Efforts to protect and fulfill the rights of persons with disabilities must always be actively encouraged while stigmatization and negative perceptions of persons with disabilities are reduced and eliminated. The World

1 United Nations General Assembly, *Resolution adopted by the General Assembly on 13 December 2006, A/RES/61/106 Convention on the Rights of Persons with Disabilities* (2007).

2 *Ibid.*

3 Dyah Larasati et al, "Policy Brief: Inclusive Social Protection for Persons with Disability in Indonesia" (2019) TNP2K-Australian Government 8 at 1.

4 IDA, "Indonesia Ratifies the CRPD", (5 December 2011), online: *International Disability Alliance*.

5 See: General Explanation Section of Law No. 8 of 2016.

6 UN-CRPD Secretariat, *Inclusion of persons with disabilities in society through participation in cultural life, recreation, leisure and sport, round-table discussions* (New York, 2019) at 2.

Health Organisation (WHO) recognizes that the response to disability has changed since the 1970s. This has largely been driven by the self-organization of persons with disabilities, and the growing tendency to see disability as a human rights issue.⁷

Notwithstanding, the human rights approach is not the only model in society. The models of disability among others: biomedical model of health, medical model, identity model, social model, minority model, moral model, religious model, diversity model, human rights-based model, etc.⁸ In this case, the Law on Persons with Disabilities (Law No.8 of 2016) is clearly based on a human rights model. Beyond the explicit reference to human rights within its articles, the consideration section of this Act that establishes: “...persons with disabilities have a legal position and have the same human rights as Indonesian citizens”.⁹ While this Act demonstrates the government’s commitment to ensuring persons living with disabilities enjoy the same rights as their more ‘able’ counterparts, more needs to be done to ensure that these rights are protected and fulfilled.

One way of ensuring this is by developing policies at both the regional and village levels across Indonesia. In this context, this paper analyzes the need for the development of an inclusive village policy that accelerates the implementation of CRPD and Law No. 8 of 2016 to ensure the realization of the rights of persons with disabilities. Specifically, this study will examine the extent of the fulfilment of regulations and policies on the reassurance of the rights of persons with disabilities in Yogyakarta Province and the importance of developing inclusive village policies. In this case, local regulations have enacted the Protection and Fulfillment of the Rights of Persons with Disabilities and Participation of Persons with Disabilities in Village Development at both the provincial and district level.

Reviewing from the human rights model, this article analyzes the implementation of CRPD in Indonesia and stipulates some strategic steps that must be taken to develop village inclusion policies, especially in Yogyakarta Province.

II. DISABILITY MODEL AND HUMAN RIGHTS

Disability is defined for the purpose of understanding various issues in the fields of health science, sociology, economics, human rights, rehabilitation, social welfare, vocational training, employment, and education. The process of defining disability is attractive to policymakers and disability analysts because it has fundamental implications for program feasibility, the scope of legislation, and for the way disability prevalence is measured. However, theoretical understandings of disability remain ambiguous. In disability and social science research, there is still no consensus on what is meant by disability.¹⁰ As

7 *World Report on Disability*, by WHO (WHO Library Cataloguing-in-Publication Data, 2011) at 3.

8 Disabled World, “Models of Disability: Types and Definitions”, (6 December 2019).

9 *See*: Consideration Section of the Law No. 8 of 2016

10 Sophie Mitra, “The Capability Approach and Disability” (2006) 16:4 *Journal of Disability Policy Studies* 236–247 at 236.

such, each disability model can bring useful perspectives on disability in different contexts. From a sociological perspective, for example, individuals are connected to particular systems by means of a specific codification that ascribes certain meanings to certain individual conditions (health-illness, work-disability abilities, etc.).¹¹

As such, seeing disability as related to human rights is just one perspective recognized in society to deal with issues pertaining to disabilities. Marno Retief and Rantoa Letšosa¹² classify the 9 (nine) most dominant disability models, namely: (1) The moral and/or religious model: Disability as an act of God; (2) The medical model: Disability as a disease; (3) The social model: Disability as a socially constructed phenomenon; (4) The identity model: Disability as an identity; (5) The human rights model: Disability as a human rights issue; (6) The cultural model: Disability as culture; (7) The charity model: Disability as victimhood; (8) The economic model: Disability as a challenge to productivity; and (9) The limits model: Disability as an embodied experience. Meanwhile, in Indonesia, according to Ishak Salim,¹³ at least the medical, social, and disability-rights model are commonly known models in both disability studies and movements. The medical model has the most important status in public policy and social life. UNESCO¹⁴ identified that the social and rights-based disability models state that: (1) Disability is the result of a person's interactions with the community; (2) Disability does not lie in individuals; (3) Society creates barriers that paralyze individual participation for persons with disabilities; (4) Under the social model, society must change to remove individual barriers and, thus, disabilities.

Based on the disability models set out above, it is clear that the phenomenon of 'disability' raises a variety of perspectives that affect the perceptions and ideas of people towards persons with a disability. As Ishak Salim said, because the medical model has long dominated Indonesian society and perspectives regarding disability. Changing such ingrained outlooks to consider a human rights-based approach to disability issues is not an easy transition. The medical and social models helped shape Law No. 4 of 1997 relating to people living with disabilities. This frame of reference has since been replaced by Law No. 8 of 2016 which places more emphasis on a human rights-based approach. This can be identified by examining the constitutional basis of the drafting of Law No.8 of 2016 which refers to the provisions governing human rights, namely Article 28H paragraph (2), Article 28I paragraphs (1), (2), (4), (5), and Article 28J. Furthermore, Article 3 stipulates that one of the objectives of the law is the realization of the full and equal respect, promotion, protection, and fulfillment of human rights and basic freedoms

11 Dimitris Michailakis, "The Systems Theory Concept of Disability: One is not born a disabled person, one is observed to be one" (2003) 18:2 *Disability & Society* 209–229 at 213–214.

12 Marno Retief & Rantoa Letšosa, "Models of disability: A brief overview" (2018) 74:1 *HTS Teologiese Studies / Theological Studies*.

13 Ishak Salim, *Out from Disability Hegemony: A Study of Political Knowledge in Indonesia Diffable Activism* (Dissertation Summary, Postgraduate Program of Political Science, Universitas Gadjah Mada, 2019) [unpublished] at 8–9.

14 Instrument of Inclusive City Assessment, by UNESCO (Jakarta, 2017) at 12.

of persons with disabilities.

According to Degener, CRPD is a good example and evidence of the linkages and dependencies of two sets of human rights, namely the rights set out in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Some provisions cannot be clearly allocated to just one category. For example, the right to be considered an individual before the law (Article 12 of the CRPD) is a right that is usually considered a civil and political right (Article 16 of the ICCPR and Article 6 of the UDHR). However, Article 12 paragraph 3 of the CRPD states the steps of support that persons with disabilities might need to carry out their legal capacity. These support measures are recognized as social services that will enter the field of economic, social, and cultural rights.¹⁵

Normatively, Indonesia has ratified the CRPD with Law No. 19 of 2011 and revoked the Disability Act of 1997 with Law No. 8 of 2016 concerning disabled persons who have a more rights-based approach. However, disabled persons continue to face significant challenges because the medical perspective remains firmly rooted in society and policy circles.¹⁶ The fundamental barrier to the realization of disabled persons rights is the disability perspective which is ingrained in the subconscious of many people, including in the bureaucrats.¹⁷ The medical approach (medical model) frames disability as the result of an individual's inability to carry out 'normal' daily activities due to limited physical or mental capacity. This medical approach faces some significant criticism. The practice of assessment and medicalization of disability often leads to labeling and stigmatization.¹⁸ This impacts the position of persons with disabilities and often frames them as objects rather than subjects. Even medical or biomedical knowledge is a particular way of thinking that is practiced by institutions and health experts through a set of aid- and charity-based programs for persons with disabilities. Applying Foucault's conceptualization, Milati states that there are practices of "psychiatric colonialization" in which professional authorities have the power to determine and provide suggestions for a person's life and future.¹⁹

This perspective extends into a social realm including education. In this educational field, the concept of "special education" has emerged in schools for children with special educational needs or disabilities. Special education, in this case, means that education for persons with disabilities must be separated from the general school. The public school ideally get involve them in the education process by preparing professional teachers to realize and develop strategies for inclusive education that provide adequate support for students with additional needs. Under the inclusion model, students with disabilities spend most or all their time with non-disabled students. Inclusive settings

15 Theresia Degener, "Disability in a Human Rights Context" (2016) 5:3 *Laws* at 35.

16 Salim, *supra* note 13 at 12.

17 *Ibid.*

18 Sofiana Millati, "Social-Relational Model dalam Undang-undang Penyandang Disabilitas" (2016) 3:2 *INKLUSI Journal of Disability Studies* 285-304 at 286-287.

19 *Ibid.*

allow children with and without disabilities to play and interact every day, even when they are receiving therapeutic services.²⁰

In the midst of these challenges, it became clear that the human rights approach to strengthening the protection of disabled persons rights in the judiciary was not enough, but rather should be complemented by efforts to change the way society thinks of and views people with disabilities. The use of regulations and policies alone are not enough to recognize and guarantee the fulfillment of the rights of persons with disabilities, but they may be able to "touch" public awareness and contribute to changing social perceptions. In principle, strengthening the legal foundation must be accompanied by programs that lead to changes in social mindsets toward human rights (including disability issues). This approach can be seen in the Norwegian Center for Human Rights (NCHR), since 2002, and the Australia-Indonesia Partnership for Justice (AIPJ), from 2011-2015. Based in Indonesia, the AIPJ developed cooperation programs in the Law and Human Rights sectors in Indonesia, focusing on developing and improving systems, processes, and capacities, including human resources.²¹

Therefore, a human rights-based approach must continue to be developed and strengthened so that it can gradually change negative social views towards persons with disabilities. In the Indonesian context, after the promulgation of Law No. 8/2016, legal strengthening must also be carried out through various implementing regulations. However, this juridical approach to disability needs to pay attention to the views of critical disability theory. According to the Critical Disability Theory, the relationship between law and disability is a complex combination of two social constructs: 'law' and 'disability'. Critical disability jurisprudence identifies 2 (two) things: (1) sources of oppression that are open and veiled in law and legal institutions and, through that presentation, seek to free persons with disabilities from oppression; and (2) the potential positive role of law the creation of law, using existing legislation and seeking advice from legal institutions in the struggle for the release of persons with disabilities which is the reason for the Critical Disability Theory itself.²²

Therefore, the development of an inclusion village policy through the formation of village regulations to ensure the fulfillment of the rights of persons with disabilities must be followed by adequate assistance and supervision in its implementation to be more effective. Moreover, the inclusive village policy must be followed by various educational development and community empowerment programs so that they can know their roles and responsibilities. In other words, the juridical approach must be put in place to provide a foundation for other programs that support persons with disabilities and strengthen human rights-based approaches in society.

20 GAN, "Inclusive education to empower children with disabilities", *GAATES Global Accessibility News* (13 April 2013).

21 Nicola Colbran, "Sense and Simplicity in Legal and Human Rights Co-Operation: A Case Study of Indonesia" (2015) 2:1 *Asian Journal of Law and Society* 195-206 at 197.

22 David L Hosking, *Critical Disability Theory* (Lancaster University, UK, 2008) at 16.

III. IMPLEMENTATION OF THE DISABILITY PROTECTION POLICY

The CRPD was negotiated rapidly and, since its adoption, has received impressive global support. This has the potential to make the CRPD the first Convention in the 21st Century, as well as the first UN legal instrument, that can be upheld and implemented for people with disabilities. CRPD offers 2 (two) perspectives: (1) protection of basic rights, such as: the expression of opinions, thoughts, religion, and political participation; and (2) provision of an adequate standard of living.²³ However, the Convention must be seen as a process, implemented in stages. Clearly, the legislative process will differ according to the relevant domestic legal system that guides its implementation. His intention was to combine the principles of International Human Rights with the principles and norms of the national constitution that would raise international standards. The role of international actors is important due to the role it plays in the continuity of the application of international human rights norms in a national level. Based on Risse and Sikkink, the spread of international human rights norms is very much dependent on the formation and sustainability of networks between domestic and transnational actors.²⁴

In this case, there is concern that pressure to ratify and a tendency to maintain national law could jeopardize the quality of the process and its end result.²⁵ The CRPD's influence on Indonesia includes: (1) Discrimination against any person with a disability is a violation of dignity; (2) Involvement of persons with disabilities in all decision making processes regarding government policies and programs, other than disability; (3) Accessibility for persons with disabilities related to the physical, social, economic, cultural, health, education and information and communication environment and other fundamental freedoms.²⁶

When referring to several problems that occur, it seems that the implementation of CRPD has not been optimal, given that there is evidence on the absence of involvement of persons with disabilities in social life and in the development process. There are at least, six (6) problems that hinder the involvement of persons with disabilities in developmental processes, namely: (1) systematic constraints; (2) lack of budget; (3) weak law enforcement; (4) lack of public awareness of people with disabilities; (5) data overlapping (showed by the existence of problems relating to differences in data about persons with disabilities); and (6) stigmatization and discrimination for persons with disabilities. One of the discriminatory practices against persons with disabilities pertains

23 See Michael Ashley Stein, "A quick overview of the United Nations Convention on the Rights of Persons with Disabilities and its implications for Americans with disabilities" (2007) 31:5 *Mental and Physical Disability Law Reporter* 679-683.

24 Thomas Risse, Stephen C Ropp & Kathryn Sikkink, *The Persistent Power of Human Rights: From Commitment to Compliance* (Cambridge University Press, 1999) at 5.

25 Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives* (Cambridge University Press, 2013) at 131.

26 Udoyono Basuki, "Perlindungan HAM dalam Negara Hukum Indonesia: STUDI Ratifikasi Konvensi Hak-hak Disabilitas" (2012) 10:1 *Sosio-Religia* at 4.

to persons with mental / psycho-social disabilities, ranging from ownership of political rights to the practice of shackling.²⁷

Since the enactment of Law No. 8 of 2016 concerning Disability (Disability Law), the rights of persons with disabilities have been recognized in a much broader sense. Notwithstanding, stigmatization and discriminatory continues to pervade society, including the perceived inability of persons with disabilities to do work and framing as the objects of charitable activities and discriminatory treatment. Given this, are the laws and regulations governing disability able to guarantee the fulfillment of the rights of persons with disabilities? From the study conducted with relevant stakeholders, interesting facts emerged including:²⁸ a) a number of existing provisions are not in accordance with the Convention on the Rights of Persons with Disabilities (CRPD); b) the operational regulations for the Disability Law are still incomplete; c) there are a number of rights mentioned in Law No. 8 of 2016 that lack clear implementation steps; and d) the bargaining position of the Disabled People's Organization (DPO) is weak in the policy making process. Other issues relating to the implementation of policies for persons with disabilities are the egocentric attitudes of the relevant stakeholders, and the existence of disharmony or conflict between legal norms, including between Ministries and Institutions dealing with persons with disabilities.

Therefore, the realization of the principle of equal rights and opportunities for persons with disabilities needs to be supported by a new legal framework to guide the implementation of the program at the central, regional, and village levels. CRPD and Law No. 8 of 2016 concerning Disabled Persons has given authority to the Regional Government to plan, organize and evaluate the implementation of Respect, Protection and Compliance of Persons with Disabilities, while Law No. 6 of 2014 concerning Villages also gives authority to the Village to carry out development programs aimed at improving the welfare and quality of life of the community by setting priorities, programs, activities, and development needs. This includes improving the quality of, and access to, basic services as well as regulating the priority of using village funds. Village Ministry Regulation No. 16 of 2018 stipulates that one of the priority programs for empowering rural communities is the management of empowerment activities for persons with disabilities.

Drawing on this, policies in the form of Village Regulations concerning the Participation of Persons with Disabilities in Village Development and Protection and Fulfillment of Rights of Persons with Disabilities have been established in 2 (two) Villages in Yogyakarta Special Region, namely in Sendangtirto Village, Sleman Regency and Village Sidorejo, Kulon Progo Regency. The *ratio legis* of the village regulation include: (1) that persons with disabilities are citizens who have equal rights and obligations, dignity,

27 Ramdan Lamato, *Dinamika Persebaran CRPD Sebagai Norma HAM Disabilitas di Indonesia* (2019) at 143.

28 Summarized from the result of FGD that was attended by DPO representatives, government officers, Disability Committee member, NGO, and academia, at May 16, 2019.

and an equal role and position in development; and (2) that in the life of the community, it is necessary to strengthen efforts to fulfill and protect the rights of persons with disabilities.

According to I.C. van der Vlies, the concept that underlies the formation of village regulations should be based on the principles of good regulation formation (*algemene beginselen van behoorlijk regelgeving*)²⁹. This consists of 2 (two) main parts: first, formal principles, which include: the principle of clear objectives (*beginsel van duidelijke doelstelling*); the principle of appropriate institutions (*beginsel van het juiste orgaan*); the principle of the need for regulation (*het noodzakelijkheids beginsel*); the principle of implementation (*het beginsel van uitvoerbaarheid*); and the principle of consensus (*het noodzakelijkheids beginsel*). Second, the principles of material, including: principles of terminology and correct systematics, principles of identifiability, principles of equal treatment in law, principles of legal certainty and principles of law enforcement according to individual circumstances.

The following content analysis was conducted in connection with the Village Regulations in Sendangtirto Village, Sleman Regency, and in Sidorejo Village, Kulonprogo Regency, using the ROCCIPI³⁰ parameter.

Table 3. ROCCIPI Analysis of Disability Village Regulations in Sendangtirto and Sidorejo Villages

No	Indicator	Review	Explanation
1	Rule	The regulations have been based on the Disability Law, the Local Government Law and the Village Law and there is a need to harmonize the substance and definition	The stipulative definition must be equated with the law that becomes the reference
2	Opportunity	Village regulations need to be harmonized with the Disability Law relating to the Rights of Persons with Disabilities, also covering women and children with disabilities	

29 Maria Farida Indrati Soeprapto, *Ilmu Perundang-undangan 1: Jenis, Fungsi, dan Materi Muatan (Legislation Science)* (PT Kanisius, 2007) at 226.

30 ROCCIPI is abbreviation of Rule, Opportunity, Capacity, Communication, Interest, and Ideology. See: Arscheidt, J, etal, "Law Making for Development -Explorations into the Theory and Practice of International Legislative Projects" (2008) Leiden University Press.

3	Capacity	Village regulations need to be adjusted to the conditions and factual needs that exist in the village	Synchronization needs to be done considering that the Village Regulation must be able to strengthen the capacity of village government officials with regard to Participation of Persons with Disabilities in Village Development
4	Communication	Harmonization and synchronization of the substance of the Village Regulation concerning the Participation of Persons with Disabilities in Village Development with the Disability Law	
5	Interest	Clearer and more specific arrangements are needed in the Village Regulation, bearing in mind the actors associated with the Participation of Persons with Disabilities in Village Development, namely, avoiding conflicts of interest between relevant stakeholders	In its implementation it is necessary to adjust to Ministerial Regulations regarding the use of priority village funds, one of which is to empower community members with disabilities
6	Process	The process of fulfilling the rights of persons with disabilities is carried out through the Village Development Planning Consultation (<i>Musrenbangdes</i>) by setting priorities, programs, activities, and village development needs	This is needed to adjust with funding from the state budget, local government budget and non-governmental organizations
7	Ideology	Alignment of village officials in realizing the fulfillment of the rights of persons with disabilities in accordance with existing laws and regulations	This is needed to internalize the principles of fulfilling the rights of persons with disabilities

Based on ROCCIPI Analysis, Harmonization and synchronization of the substance of the Village Regulation concerning the Participation of Persons with Disabilities in Village Development with the Disability Law and the process of fulfilling the rights of persons with disabilities is carried out through Village activities, and village development needs Development Planning Consultation (*Musrenbangdes*) by setting priorities, programs activities, and village development needs.

IV. DISABILITY AND URGENCY OF THE DEVELOPMENT OF INCLUSIVE VILLAGE POLICIES

Article 78 Paragraph (1) of Law Number 6 Year 2014 concerning Villages states that "Village development aims to improve the welfare of the Village community and the quality of human life and poverty alleviation through meeting basic needs, building village facilities and infrastructure, developing local economic potential, and sustainable use of natural resources and the environment ". In this case the village is believed to improve the welfare of its citizens. Therefore, the village government and the villagers must not discriminate against women, children, the poor, vulnerable groups, and in including persons with disabilities in all stages of planning and implementation of village development processes. Moreover, the village government and villagers must be held accountable for their commitment to non-discrimination and inclusion. These village's role is necessary because people whose concept of truth is built by the view of positivity assume that something that is considered normal is in accordance with the circumstances of most people (a result of generalizations), or in other words as generally.³¹ There is a relationship between disability and poverty. This relationship lies in environmental barriers that make it difficult for persons with disabilities to gain equal access or opportunities with non-disabled people. These environmental barriers can be in the form of infrastructure, community acceptance, regulations, or government policies that will affect social and economic losses for persons with disabilities. Therefore, disability is a development issue; to overcome these problems, social and economic development must be inclusive.³²

Of course, the realization of an inclusive village policy requires sufficient resources, including both human and financial support and commitment. In terms of funding resources, the Village Minister Regulation No. 16 of 2018 that supplements the Priority to Use Village Fund 2019, mentions the need to prioritize activities and programs that will improve quality of life, welfare, tackle poverty, and improve public service at the village level. This is consistent with one of the nine indicators of inclusive villages³³, namely that there is a budget plan that mainstreams disability inclusion. The use of village funds is carried out to all villagers, including persons with disabilities in the village. Article 10 paragraph 2 letter f states that the empowerment of village communities in the fields of

31 Sutrisno Hadi, *Statistik 2* (Yogyakarta: Fakultas Psikologi Universitas Gajahmada, 1984) at 145.

32 *Persons with Disabilities in Indonesia: Empirical Facts and Implications for Social Protection Policies*, by Arbeiter-Samariter-Bund Indonesia & Philippines (2010) at 2-3.

33 To realize the Inclusive Village, there were 9 indicators agreed by the stakeholders at the 2014 First Inclusion Meeting in Sendangtirto Village Sleman, Special Region of Yogyakarta, Indonesia. 1. There is comprehensive data and information on village assets, including disability data, 2. There are institutions for persons with disabilities that are equivalent to other village institutions, 3. There is a guarantee that the involvement of persons with disabilities in the policy making process, 4. There is a budget plan that mainstreams disability inclusion, 5. There are regulations that support disability inclusion, 6. Equality and accessibility of public services in the village, 7. Availability and increased accessible physical facilities, 8. There are social forms and responsibilities from the society, 9. There is space for innovation and networking.

education, health, and the empowerment of the poor, women, children, and people with disabilities is prioritized in social service activities.

Bonni Kartareja,³⁴ from CIQAL (one of the DPO in Yogyakarta,) stated that persons with disabilities are already involved in policy making processes regarding the fulfilment of their rights in Bantul, Kulonprogo, and Sleman Regency. The direct involvement of persons with disabilities in decision making processes guarantees their involvement in different activities and the protection of at least some rights. The next step is to make sure that those policies are really implemented in the village level.

Recently, Sleman Regency Government also enacted Regulation No.1 of 2018 regarding the Management of Protection and Rights Fulfilment of Persons with Disabilities. *Ratio legis* of this regulation is an affirmation that persons with disabilities are Indonesia citizens who have equal rights, obligations, dignity, and prestige to all other Indonesian citizens. However, the intended effect of the law is yet to be realized as persons with disabilities have not fully obtained equity in rights and opportunities in many fields, such as education, employment, healthcare, politics, and legalisation. The Sendangtirto Village Government, Sleman Regency developed village regulations for persons with disabilities. These village regulations have various impacts on persons with disabilities including improved access to public facilities, like mosques; and developing engagement, through programs like, the formation of Village Disabilities Groups KDD, KDD Involvement in Development (proposals for disability needs in village meetings).

The onset of disability may lead to the worsening of social and economic well-being, adversely impacting education, employment, earnings, and increasing expenditures related to disability.³⁵

- a. Children with disabilities are less likely to attend school, thus experiencing limited opportunities for human capital formation and facing reduced employment opportunities and decreased productivity in adulthood.³⁶
- b. People with disabilities are more likely to be unemployed and generally earn less even when employed.³⁷ Both employment and income outcomes appear to worsen with the severity of the disability.³⁸ It is harder for people with disabilities to benefit from development and escape from poverty³⁹ due to discrimination in employment, limited

34 Said by Bonnie Kartareja, CIQAL, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019.

35 WHO, *supra* note 7 at Chapter 1, page 10.

36 Cem Mete, *Economic Implications of Chronic Illness and Disability in Eastern Europe and the Former Soviet Union* (World Bank Publications, 2008) at 3.

37 Andrew Houtenville et al, eds, “Counting Working-Age People with Disabilities: What Current Data Tell Us and Options for Improvement” (2009) Upjohn Press 54.

38 T Emmett, “Disability, poverty, gender and race” in Brian Watermeyer et al, eds, *Disability and Social Change: A South African agenda* (The Human Sciences Research Council (HSRC), 2006) 62.

39 *Disability, Poverty and the Millennium Development Goals: Relevance, Challenges and Opportunities for DFID*, by Philippa Thomas (London: Disability Knowledge and Research, 2005).

access to transport and resources to promote self-employment and livelihood activities.⁴⁰

- c. People with disabilities may have extra living costs resulting from their disability, such as costs associated with medical care or assistive devices, or the need for personal.
- d. support and assistance which often require more resources to achieve the same outcomes as non-disabled people. This is what Amartya Sen has called “conversion handicap”. Because of these higher costs, people with disabilities and their households are likely to be poorer than non-disabled people with similar incomes⁴¹,
- e. Households with a disabled member are more likely to experience material hardship – including food insecurity, poor housing, lack of access to safe water and sanitation, and inadequate access to healthcare.⁴²

In Kulonprogo Regency, after the Kulonprogo Regency Regulation No 3 of 2016 about the Management of Persons with disabilities Protection was enacted, some village government officers began to assist people with mental disorders by creating special support teams. To control it, the local government, along with SIGAB (DPO organization), made an agreement/MoU about disabilities that is still applicable to this day. This was prompted by the village government’s feeling of responsibility to support families struggling to support disabled relatives. The village leader views the fulfillment of the rights of persons with disabilities as paramount.⁴³

Meanwhile in Bantul, there have been few movements towards the protection of the rights of persons with disabilities, despite the number of persons with disabilities in Bantul.⁴⁴ Bantul Regency Government has enacted the Bantul Regency Regulation No. 11 of 2015 on the Fulfilment of Persons with Disabilities Rights. The lack of public information and government proactiveness have made the implementation of this regulation less effective. The Bantul Regency law compared with Kulonprogo, Sleman, and even Gunung Kidul regency, given the issues about disabilities and its mismanaged services.⁴⁵ The issues that have occurred in Bantul are the result of

40 P Coleridge, “Disabled people and ‘employment’ in the majority world: policies and realities” in A Roulstone & Colin Barnes, eds, *Working futures: Disabled people, employment policy and social inclusion* (Policy Press, 2005) 17.

41 Jeanine Braithwaite & Daniel Mont, “Disability and poverty: A survey of World Bank Poverty Assessments and implications” (2009) 3:3 *Alter* (Current Trends and Development in Global Disability Research / Mondialisation et recherche sur le handicap : courants actuels) 219-232.

42 *Living Conditions among People with Activity Limitations in Zambia. A National Representative Study.*, by Arne Hemming Eide & Mitchell Loeb, Sintef rapport A262 (Oslo: SINTEF, 2006).

43 Said by Sutrisno, Sidorejo’s village leader, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019.

44 Tribun Jogja, “Jumlah Penyandang Disabilitas di Bantul Tertinggi di DIY”, (2 March 2018).

45 Stated by Sholih Muhdlor from SAPDA, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019.

numerous factors, including problems in the local government; the economic condition, which is comparatively lower than other regencies; geographic problems, such as the sparse dispersion of government offices in locations difficult to access by person with disabilities. Bantul Regency still needs assistance to manage the gap that exists due to these problems. For example, in the field of education, there are still students with disabilities that are denied access to learning at some schools.⁴⁶ There are so many schools that are yet to realize their obligation to accept and support disabled children as their students. This often results from a lack of understanding of disability and the belief that children with disabilities should learn and attend a school for children with “special needs”. Even the head of the village and its sub-district leader lack sufficient knowledge to provide appropriate services and support for persons with disabilities.⁴⁷ Negative attitudes towards disability can result in negative treatment and discrimination against people with disabilities, for example: children bullying other children with disabilities in schools; bus drivers failing to support access needs of passengers with disabilities; employers discriminating against people with disabilities; strangers mocking people with disabilities.⁴⁸ Negative attitudes and behaviors have an adverse effect on children and adults with disabilities, this can manifest as low self-esteem and reduced participation.⁴⁹ People who feel harassed because of their disability may avoid going to certain places, changing their routines, or even moving.⁵⁰

In Sleman Regency, many public facilities have been built to ensure accessibility for persons with disabilities. The participation of persons with disabilities is also higher, suggesting that improved accessibility improves participation. This thing is also related to cooperation and coordination among government’s institutions. Many persons with disabilities are involved in a whole range of social activities. SIGAB is one of organization that encourages local authorities to pursue more inclusive policies for persons with disabilities, including programs related to inclusive villages. We hope that in the future, developing the concept of inclusive villages, we will be able to see the kinds of programs local authorities have implemented to protect persons with disabilities and review their sustainability moving forward.⁵¹

The village needs to provide staff to accompany persons with disabilities. The village

46 Stated by M. Syafi’ie, PUSHAM UII, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019.

47 Stated by Ragil Risyanti, PLD UIN, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019.

48 WHO, *supra* note 7 at 6.

49 Graham Thornicroft, Diana Rose & Aliya Kassam, “Discrimination in health care against people with mental illness” (2007) 19:2 International Review of Psychiatry (Abingdon, England) 113-122.

50 *Hate crime against disabled people in Scotland: a survey report*, by Disability Rights Commission (Edinburgh: Capability Scotland, 2004) at 15.

51 Stated by Kuni Fatonah, at FGD session “*Study towards Policy of Fulfilment the Rights of People with Disability in Yogyakarta Province*”, Faculty of Law Univ. of Atma Jaya Yogyakarta, 16 May 2019

leader in Sendangtirto has already invited persons with disabilities to take part in some meetings and discussions related to village development plans (*Musrembangdes*). Notwithstanding, a major obstacle remains, that being the inability of persons with disabilities to identify their own needs. In this village, staff are really needed to support these people. Given the entrenchment of stigmatization and discrimination against persons with disabilities, some parents are so ashamed of their disabled children that they exclude them from the outside world.⁵²

The Combined Resource Institution (CRI), who once cooperated with Sasana Integrasi dan Advokasi Difabel (SIGAB) in helping Inclusion Village Initiative Program, notes some recommended follow-up strategies which are:⁵³

First, disability group empowerment should be used to build confidence and ensure everyone is capable of being involved in strategic village spaces. This must be done alongside developing inclusive awareness within the village and supra village government. Once awareness has been established, the next step is to involve disability groups in village planning and development discussions. *Second*, Village Information System (SID) in several villages have not mastered all of the application functions in the village. Its capacity must be continuously strengthened using learning modules that already exist. For SID teams to exist at the village level they need the Village Leader's Decree as a legal basis. This Decree not only serves to legitimate the SID's presence but simultaneously challenges them to be responsible for the work they carry out. *Third*, integrating the Inclusion Village Initiative Program more broadly into various fields, requires follow-up audiences to specify and guide the development of the program. Government institutions will always become the key to SID integration, with regional information systems in place to strengthen inclusive planning and development quality. Many villages across Indonesia have recently adopted the name 'inclusive village'. Notwithstanding, the commitment to inclusion does not seem to extend beyond livelihood matters and basic services like health and education. The full realization of the concept of inclusion should reach all sectors of society. With accurate, accessible data and information, the inclusive idea which started through the use of the SID application, inclusive village policies could be realized across Indonesia, providing support and benefits to those living with disabilities as well as contributing to positive development in all sectors of society.

V. CONCLUSION

After the UNCRPD ratification by Law No. 19 of 2011, the accelerated legislation in Yogyakarta Province in responding to global duties to protect and fulfil the rights of person with disabilities in Indonesia has been relatively quick. Although the law about

⁵² Herman Padiyanto, Kepala Desa Sendangtirto, FGD "*Kajian Terhadap Kebijakan Pemenuhan Hak-Hak Penyandang Disabilitas di Daerah Istimewa Yogyakarta*", Fakultas Hukum Universitas Atma Jaya Yogyakarta, 16 Mei 2019

⁵³ Bitra Indonesia, "Sistem Informasi Desa SID untuk Merintis Desa Inklusi", (2 February 2017).

Persons with Disabilities was just enacted in 2016, the Yogyakarta Local Government has made Regional Regulation No. 4 of 2012. It was followed by Bantul Local Regulation No. 11 of 2015; Kulon Progo Local Regulation No. 3 of 2016; Gunung Kidul Local Regulation No. 9 of 2016; and Sleman Local Regulation No.1 of 2018. The existence of the regulations above has provided enough support to persons with disabilities to demand for greater protection and fulfillment of their rights. However, there is still a need to synchronize and harmonize the existing local laws alongside Law No.8 of 2016. Regulation and policy implementation on the protection and rights fulfillment for person with disabilities is yet to be optimally accomplished. Strong political will and proper budget is still needed from policy makers in order to realize this. Inclusive Village Initiative Programs, initiated by SIGAB, could help accelerate the implementation of protection and rights fulfillment policy. Some villages have even adopted this into their Village Regulations as a legal basis. This thing should always be encouraged and improved so that Inclusive Village Regulations do not stop at the development phase but make practical and impactful achievements to improve the living conditions of the persons with disabilities in villages.

However, there are still many obstacles that complicate the realization of this. Stigmatization towards persons with disabilities (as the impact of bio-medical knowledge distribution) which leads to discrimination, is difficult to combat. Further, there is a need to strengthen disability groups' capacity to improve the overall quality of participation. Inclusive Village Regulations is a strategic step in the right direction that not only aligns with the SDGs program but could accelerate goal achievement which is written in UNCRPD.

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