

# A Juridical Analysis of Law Number 8 of 2016 on Persons with Disabilities: Fulfilling the Principle of Accessibility to Enhance Legal Literacy

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## Abstract.

*The purpose of this thesis research is to examine the regulation of legal protection for persons with disabilities under the prevailing positive law in Indonesia. In addition, it aims to analyze the responsibility of the state in fulfilling accessibility for persons with disabilities. The problems addressed in this study are: (1) How is the regulation of legal protection for persons with disabilities under positive law? (2) How is the state's responsibility in fulfilling accessibility for persons with disabilities? The research method employed is normative legal research, using statutory and conceptual approaches. The findings show that legal protection and the fulfillment of accessibility rights for persons with disabilities require adequate facilities, infrastructure, and more integrated and sustainable efforts. Furthermore, synergy among policymakers plays an important role in strengthening legal protection for persons with disabilities. The state's responsibility in ensuring accessibility rights for persons with disabilities is manifested in equal opportunities, independence, full participation, and dignity. These efforts are carried out through the optimization of coordination among relevant authorities, inclusive policymaking, provision of disability-friendly facilities and services, and raising public awareness on disability issues.*

**Keywords:** State Responsibility, Legal Protection, Accessibility and Persons with Disabilities.

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## I. INTRODUCTION

Indonesia is a constitutional state that places human dignity, equality, and justice as fundamental principles in the organization of public life. As a state based on law, Indonesia is required not only to establish legal norms, but also to ensure that those norms provide effective protection for every citizen, including persons with disabilities. The protection of persons with disabilities is closely related to the constitutional mandate to respect human rights and to guarantee equal legal standing before the law. In this context, persons with disabilities are not merely recipients of social assistance. They are legal subjects who possess equal rights, autonomy, dignity, and the capacity to participate in public life.

The legal recognition of persons with disabilities in Indonesia has developed significantly after the ratification of the *Convention on the Rights of Persons with Disabilities* through Law Number 19 of 2011. The Convention marks a fundamental shift from a charity-based and medical-based model toward a human rights-based model. This shift requires the state to recognize persons with disabilities as holders of rights whose dignity, autonomy, participation, and accessibility must be respected. The Convention also places accessibility as a core principle in the fulfillment of disability rights. Article 9 of the Convention emphasizes accessibility, while Article 13 requires state parties to ensure effective access to justice for persons with disabilities on an equal basis with others, including through procedural and age-appropriate accommodations.

The enactment of Law Number 8 of 2016 concerning Persons with Disabilities represents Indonesia's national legal commitment to implement the principles of the Convention. This law broadens the scope of disability protection by regulating equal opportunity, respect, protection, and fulfillment of rights in all aspects of state and social life. It also includes the provision of accessibility and reasonable accommodation as key instruments to ensure that persons with disabilities can live independently, participate fully, and enjoy a dignified life. The official legal explanation of Law Number 8 of 2016 states that the regulation covers equal opportunities for persons with disabilities in all aspects of state administration and society, including respect, protection, fulfillment of rights, accessibility, and reasonable accommodation.

Despite this progressive normative framework, the implementation of disability rights in Indonesia still faces serious challenges. Persons with disabilities continue to experience barriers in accessing education,

employment, public services, transportation, information, and justice. These barriers do not only arise from individual impairments. They are also produced by social stigma, inaccessible infrastructure, weak institutional capacity, limited legal awareness, and the lack of inclusive public policy implementation. Therefore, disability should not be understood solely as a medical condition. It must be understood as the interaction between individual conditions and social, legal, and environmental barriers that prevent full and equal participation.

Several studies have shown that the exclusion of persons with disabilities in Indonesia remains a structural problem. The SMERU Research Institute identified that exclusion is influenced by stigma, weak public awareness, limited participation of persons with disabilities in development, and institutional barriers. The study also indicates that stigma exists not only among the general public, but also within government institutions. This finding shows that the fulfillment of disability rights requires more than legal recognition. It requires legal awareness, institutional reform, and a cultural shift toward inclusion.

Other studies also confirm that persons with disabilities in Indonesia face persistent obstacles in accessing justice. Colbran's study on access to justice for persons with disabilities in Indonesia found that formalistic legal interpretation may prevent persons with disabilities from exercising their rights in legal proceedings. This condition becomes more serious when persons with disabilities act as victims, witnesses, suspects, or parties in legal disputes. Panggabean also emphasizes that accessibility is a major problem in the protection of justice and legal rights for persons with disabilities in Indonesia. More recent studies show similar findings. Paikah argues that inclusive legal services for persons with disabilities who are in conflict with the law remain necessary to ensure equal access to justice and non-discriminatory legal protection. These studies demonstrate that the gap between legal norms and legal practice is still significant.

The issue of accessibility should therefore be understood in a broad sense. Accessibility does not only refer to physical facilities such as ramps, elevators, guiding blocks, or accessible transportation. It also includes access to legal information, legal procedures, complaint mechanisms, communication support, legal assistance, and disability-sensitive services. In this regard, legal literacy becomes an important element in the fulfillment of accessibility. Legal literacy enables persons with disabilities to understand their rights, recognize discriminatory practices, access available remedies, and participate in legal processes. Without legal literacy, the rights guaranteed by Law Number 8 of 2016 may remain formal rights that are difficult to use in practice.

Previous studies have generally examined disability rights from the perspective of legal protection, public services, access to justice, or social inclusion. However, there remains a limited discussion that specifically connects the principle of accessibility under Law Number 8 of 2016 with the improvement of legal literacy among persons with disabilities. This research gap is important because legal accessibility and legal literacy are closely related. A person may have a legal right, but that right cannot be effectively exercised when the person does not understand the law, cannot access legal information, or cannot use available legal mechanisms. Therefore, this study positions accessibility not merely as an administrative or infrastructural issue, but as a legal condition that determines whether persons with disabilities can understand, claim, and defend their rights.

Theoretically, this study is grounded in three main legal concepts: the theory of legal objectives, the theory of governmental authority and responsibility, and the theory of legal effectiveness. The theory of legal objectives explains that law should pursue justice, legal certainty, and social utility. In the context of disability rights, legal certainty is reflected in the existence of Law Number 8 of 2016, justice is reflected in equal treatment and non-discrimination, while utility is reflected in the ability of the law to improve the real conditions of persons with disabilities. The theory of governmental authority and responsibility explains that the state has the legal mandate to regulate, serve, supervise, and ensure the fulfillment of disability rights. Government authority must therefore be followed by responsibility, especially in providing accessible public facilities, inclusive legal services, and effective legal education. Meanwhile, the theory of legal effectiveness explains that law can work properly only when legal substance, legal structure, and legal culture support each other. Friedman argues that a legal system consists of substance, structure, and legal culture, while

Soekanto explains that legal effectiveness is influenced by legal rules, law enforcement officers, facilities, society, and culture (Friedman, 1975; Soekanto, 2014).

Based on this framework, the urgency of this study lies in the need to examine whether the legal protection provided by Law Number 8 of 2016 has effectively fulfilled the principle of accessibility for persons with disabilities, particularly in relation to legal literacy. The existence of laws and regulations is not sufficient when persons with disabilities still face discrimination, inaccessible procedures, limited legal information, and unequal participation in legal processes. This study is therefore important because it seeks to analyze the regulation of legal protection for persons with disabilities under positive law and to examine the responsibility of the state in fulfilling accessibility as a prerequisite for improving legal literacy. The findings are expected to contribute to the development of disability law studies and provide practical recommendations for government institutions, public service providers, legal aid institutions, law enforcement agencies, and civil society in building a more inclusive and responsive legal system.

## II. METHODS

This study uses doctrinal legal research, also known as normative legal research. This method examines law as a system of norms, principles, doctrines, and statutory rules. It does not use field research because the main focus is the analysis of legal materials. Normative legal research is appropriate for this study because the research analyzes Law Number 8 of 2016 concerning Persons with Disabilities, especially the fulfillment of the principle of accessibility as an effort to improve legal literacy for persons with disabilities. This approach allows the study to examine how positive law regulates legal protection and how state responsibility is constructed in the fulfillment of disability rights (Marzuki, 2017; Soekanto & Mamudji, 2015).

This study applies two approaches, namely the statute approach and the conceptual approach. The statute approach is used by examining laws and regulations related to persons with disabilities, human rights, accessibility, and state responsibility. This approach is important because legal research must be based on applicable legal norms. The legal instruments analyzed in this study include the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities, and Law Number 8 of 2016 concerning Persons with Disabilities. Through this approach, the study identifies the legal basis, scope of protection, and obligations of the state in ensuring accessibility for persons with disabilities (Marzuki, 2017).

The conceptual approach is used to examine key legal concepts, such as legal protection, accessibility, equality before the law, legal literacy, and government responsibility. This approach helps explain accessibility not only as physical access to buildings or public facilities, but also as access to legal information, public services, legal procedures, and justice mechanisms. In this context, accessibility becomes an important condition for persons with disabilities to understand and exercise their legal rights (Ibrahim, 2012).

The data used in this study are secondary data obtained through library research. Secondary data consist of primary, secondary, and tertiary legal materials. Primary legal materials include binding legal instruments, such as constitutions, laws, and regulations. Secondary legal materials include books, journal articles, research reports, academic papers, theses, dissertations, and other scholarly works relevant to disability law and legal literacy. Tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources that explain legal terms and concepts (Soekanto & Mamudji, 2015).

Data collection is conducted through library research and virtual research. Library research is carried out by collecting, reading, classifying, and analyzing legal materials relevant to the research problems. Virtual research is used to obtain supporting materials from credible online sources, such as official government websites, legal databases, academic journals, and institutional reports. This technique helps strengthen the validity and relevance of the legal materials used in the study.

The data are analyzed qualitatively through non-statistical analysis. The analysis focuses on interpreting legal norms, identifying relationships among regulations, and constructing legal arguments. The

analytical process consists of three stages: data reduction, data presentation, and conclusion drawing. Data reduction is conducted by selecting materials relevant to the research focus. Data presentation is carried out by organizing the materials based on themes, such as legal protection, accessibility, state responsibility, and legal literacy. Finally, conclusions are drawn by linking legal norms with the research problems and theoretical framework (Miles et al., 2014).

Through this method, the study provides a systematic juridical analysis of the fulfillment of accessibility for persons with disabilities under Indonesian positive law. This method also supports the research objective of explaining the state's responsibility in ensuring accessibility as a basis for improving legal literacy and access to justice.

### III. RESULT AND DISCUSSION

#### *Legal Protection for Persons with Disabilities under Indonesian Positive Law*

The findings show that Indonesian positive law has provided a relatively strong normative basis for the protection of persons with disabilities. This protection begins from the constitutional framework. The 1945 Constitution of the Republic of Indonesia guarantees equality before the law, legal certainty, and the right to obtain special treatment to achieve equality and justice. Article 28D paragraph (1) guarantees that every person has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. Article 28H paragraph (2) further provides that every person has the right to receive facilities and special treatment to obtain equal opportunities and benefits in order to achieve equality and justice. These provisions form the constitutional foundation for affirmative action for persons with disabilities (Republic of Indonesia, 1945).

This constitutional protection was strengthened through the ratification of the Convention on the Rights of Persons with Disabilities through Law Number 19 of 2011. The convention changes the legal and social understanding of disability from a medical-based model to a human rights-based model. Disability is no longer viewed merely as an individual limitation, but as the result of interaction between persons with long-term impairments and environmental or social barriers that hinder their full and effective participation in society. This approach is also adopted in Law Number 8 of 2016 concerning Persons with Disabilities, which defines persons with disabilities as individuals who experience long-term physical, intellectual, mental, and/or sensory limitations and face barriers in participating fully and effectively with other citizens based on equal rights. The uploaded legal text also emphasizes that this shift reflects the social and human rights model of disability, not the old medical model.

Law Number 8 of 2016 is the main legal instrument that regulates the rights of persons with disabilities in Indonesia. It recognizes various rights, including the right to life, freedom from stigma, privacy, justice and legal protection, education, employment, health, politics, religion, sports, culture, social welfare, accessibility, public services, disaster protection, rehabilitation, habilitation, concession, data collection, independent living, communication, information, mobility, citizenship, and freedom from discrimination, neglect, torture, and exploitation. The existence of these rights shows that the law has moved toward a comprehensive protection framework. It does not only regulate welfare assistance, but also recognizes persons with disabilities as legal subjects who have autonomy, dignity, and equal rights (Republic of Indonesia, 2016).

However, the discussion also shows that the main problem does not lie only in the absence of legal norms. The more serious issue lies in implementation. Normatively, the legal protection for persons with disabilities is strong. Yet, in practice, persons with disabilities still face discrimination, stigma, inaccessible public services, and limited access to justice. This condition indicates a gap between law in books and law in action. The uploaded text explicitly notes that although legal instruments already guarantee the rights of persons with disabilities, the long-standing problem remains the weak implementation of those legal norms.

From the perspective of legal protection theory, this condition shows that law must not stop at formal recognition. Rahardjo argues that legal protection means providing protection for human rights that are harmed by others so that people can enjoy all rights granted by law (Rahardjo, 2000). Hadjon also distinguishes legal protection into preventive and repressive protection. Preventive protection aims to prevent

disputes or rights violations, while repressive protection aims to resolve violations that have already occurred, including through judicial mechanisms (Hadjon, 1987). In the context of persons with disabilities, preventive protection requires accessible public facilities, inclusive legal information, and disability-sensitive policies. Repressive protection requires effective complaint mechanisms, legal remedies, legal aid, and accessible judicial processes.

### ***Accessibility as a Central Principle in the Fulfillment of Disability Rights***

Accessibility is one of the most important principles in the fulfillment of disability rights. Law Number 8 of 2016 defines accessibility as the facilities provided for persons with disabilities to realize equal opportunities. This definition shows that accessibility is not merely a technical issue. It is a legal requirement that enables persons with disabilities to exercise their rights. Without accessibility, equality before the law will remain formal and difficult to realize in practice.

The findings indicate that accessibility must be understood in both physical and non-physical dimensions. Physical accessibility includes accessible buildings, ramps, elevators, toilets, transportation, pedestrian paths, and other public facilities. Non-physical accessibility includes access to information, communication, legal procedures, digital services, public services, legal documents, sign language interpreters, Braille documents, audio formats, and legal assistance. The uploaded text explains that accessibility covers facilities, services, and information, both physical and non-physical, so that persons with disabilities can participate fully in society.

In the judicial context, accessibility becomes even more crucial. Persons with disabilities may appear before the law as victims, witnesses, suspects, defendants, or parties in civil cases. Therefore, they need reasonable accommodation to participate effectively in legal proceedings. Article 13 of the CRPD requires state parties to ensure effective access to justice for persons with disabilities on an equal basis with others, including through procedural accommodation and appropriate support in legal processes (United Nations, 2006). This obligation has been reflected in Indonesian law through Law Number 8 of 2016 and Government Regulation Number 39 of 2020 concerning Reasonable Accommodation for Persons with Disabilities in Judicial Processes.

Government Regulation Number 39 of 2020 requires law enforcement institutions to provide reasonable accommodation in the form of services and facilities. These include non-discriminatory treatment, a sense of safety and comfort, effective communication, information about rights and case progress, audio-visual communication facilities, examination standards, legal service standards, disability assistants, and interpreters. It also requires facilities adapted to different types of barriers, such as screen-reader computers, Braille documents, visual information boards, mobility aids, accessible rooms, accessible transportation, and other facilities based on individual assessment. The uploaded discussion confirms that this regulation places direct obligations on law enforcement institutions to provide services and infrastructure for persons with disabilities in every stage of the judicial process.

This finding is important because access to justice cannot be separated from legal literacy. Legal literacy requires persons with disabilities to understand their rights, legal procedures, available remedies, and institutions that can provide assistance. However, legal literacy cannot develop if legal information is inaccessible. For example, a blind person cannot fully understand legal documents if they are not available in Braille or digital screen-reader format. A deaf person may not understand legal proceedings without a sign language interpreter. A person with intellectual disability may need simplified legal explanations and assistance. Thus, accessibility is a prerequisite for legal literacy.

### ***The Gap between Normative Protection and Social Reality***

The findings also show that persons with disabilities in Indonesia still face multiple forms of exclusion. The barriers are not only legal but also social, cultural, economic, and institutional. The uploaded text describes that persons with disabilities are often viewed as weak, sick, unproductive, or dependent. Such stereotypes create discriminatory practices in education, employment, public services, and access to justice.

This situation reflects the weakness of legal culture. Friedman explains that a legal system consists of three elements: legal substance, legal structure, and legal culture (Friedman, 1975). In this research, the legal substance is relatively strong because Indonesia already has constitutional guarantees, the CRPD ratification

law, Law Number 8 of 2016, and Government Regulation Number 39 of 2020. However, the legal structure and legal culture remain problematic. Legal structure refers to the institutions that implement the law, including government bodies, public service institutions, and law enforcement agencies. Legal culture refers to the values, attitudes, and perceptions of society and officials toward law and disability.

The weak legal culture appears in the persistence of stigma and discrimination. Many policy makers and public officers still lack a disability perspective. As a result, policies and services are often designed from a charity-based or medical-based perspective, not from a rights-based perspective. This approach positions persons with disabilities as objects of assistance, not as legal subjects with rights. The uploaded text also states that discrimination often occurs because those who hold authority do not have sufficient knowledge and perspective on disability issues.

This finding is consistent with Soekanto's theory of legal effectiveness. According to Soekanto, the effectiveness of law is influenced by five factors: the law itself, law enforcement officers, facilities, society, and culture (Soekanto, 2014). In the context of disability rights, legal rules already exist, but their effectiveness is weakened by limited facilities, insufficient understanding among law enforcement officers, negative social stereotypes, and weak enforcement. Therefore, improving disability rights protection requires more than legal reform. It also requires institutional strengthening, training, accessible infrastructure, public education, and active participation of persons with disabilities.

### ***State Responsibility in Fulfilling Accessibility***

The study finds that the fulfillment of accessibility for persons with disabilities is a constitutional and legal responsibility of the state. Article 28I paragraph (4) of the 1945 Constitution states that the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government. Law Number 39 of 1999 concerning Human Rights also confirms that the government has the duty to respect, protect, uphold, and promote human rights. Law Number 8 of 2016 further specifies that the respect, protection, and fulfillment of the rights of persons with disabilities are state responsibilities.

The uploaded text explains that the state, through government apparatus, is the main actor responsible for fulfilling, protecting, and respecting human rights. It also states that Article 71 of Law Number 39 of 1999 obliges the government to respect, protect, enforce, and promote human rights recognized under national and international law. This means that the government cannot limit its role to issuing laws. It must also ensure that laws are implemented through policies, budgets, institutions, monitoring, and sanctions.

State responsibility includes three main obligations: to respect, to protect, and to fulfill. The obligation to respect requires the state not to create policies or practices that discriminate against persons with disabilities. The obligation to protect requires the state to prevent third parties, including private institutions, employers, schools, and service providers, from violating disability rights. The obligation to fulfill requires the state to take active measures, including providing accessible infrastructure, inclusive legal services, disability-sensitive legal education, and effective complaint mechanisms.

In this context, failure to provide accessibility may amount to discrimination. When the state provides public services based only on the needs of non-disabled persons, persons with disabilities are indirectly excluded. This form of exclusion can occur even when a rule appears neutral. For example, a court building without ramps, a legal document without accessible format, or a public information system without sign language support may create indirect discrimination. The uploaded text clearly states that failure to provide accessibility can be categorized as discrimination because it forces persons with disabilities to follow standards designed for non-disabled persons.

Therefore, the state must optimize its responsibility through several measures. First, the government must provide accessible public facilities, including courts, government offices, schools, hospitals, transportation, and digital services. Second, law enforcement officers must receive disability rights training so that they can provide inclusive and non-discriminatory services. Third, the government must strengthen monitoring and enforcement mechanisms against institutions that fail to provide accessibility. Fourth, persons with disabilities must be involved in policy-making processes because they understand their own barriers and needs. Fifth, legal literacy programs must be designed in accessible formats, including simple language, Braille, audio, sign language, and digital formats compatible with assistive technology.

### ***Accessibility, Legal Literacy, and the Effectiveness of Law***

The relationship between accessibility and legal literacy is central to this study. Legal literacy cannot be achieved if persons with disabilities do not have access to legal information and legal institutions. Accessibility allows persons with disabilities to know their rights, understand legal procedures, identify violations, file complaints, seek legal aid, and participate in judicial processes. Therefore, legal literacy is not only an educational issue. It is also a legal and institutional issue.

The findings show that Law Number 8 of 2016 provides a strong legal basis for improving legal literacy through accessibility. The right to information, the right to public services, the right to accessibility, and the right to justice and legal protection are interconnected. If these rights are fulfilled together, persons with disabilities can become active legal subjects. However, if accessibility remains weak, legal literacy will also remain limited.

Based on the theory of legal objectives, law must provide justice, certainty, and utility. Justice requires equal treatment and the removal of structural barriers. Legal certainty requires clear regulation and enforceable rights. Utility requires that the law produce real benefits for persons with disabilities. In this case, the effectiveness of Law Number 8 of 2016 should be measured not only by the existence of legal norms, but also by the extent to which persons with disabilities can access legal information, use legal mechanisms, and obtain protection without discrimination.

Thus, the discussion confirms that the fulfillment of accessibility is not a supplementary policy. It is the core requirement for realizing disability rights and improving legal literacy. The state must transform accessibility from a formal legal principle into a measurable public obligation. Without such transformation, persons with disabilities will continue to face barriers in understanding, claiming, and defending their rights.

## **IV. CONCLUSION**

Based on the analysis, this study concludes that the legal protection and fulfillment of accessibility rights for persons with disabilities in Indonesia have been normatively regulated in a comprehensive manner. The 1945 Constitution of the Republic of Indonesia, Law Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities, and Law Number 8 of 2016 concerning Persons with Disabilities provide a strong legal foundation for recognizing persons with disabilities as legal subjects who have equal rights, dignity, autonomy, and protection before the law. These regulations affirm that accessibility is not merely a technical facility, but a fundamental legal right that enables persons with disabilities to participate fully in social, educational, economic, administrative, and judicial life.

Nevertheless, the existence of legal norms has not fully guaranteed effective protection in practice. The main challenge lies in implementation. Persons with disabilities still face physical, informational, institutional, and cultural barriers when accessing public facilities, legal services, and justice mechanisms. Therefore, the fulfillment of accessibility requires integrated and continuous efforts, including adequate infrastructure, accessible information systems, inclusive public services, and stronger coordination among government institutions, law enforcement agencies, educational institutions, service providers, and civil society. Legal protection will only become effective when the state ensures that every regulation is supported by concrete facilities, responsive institutions, and consistent enforcement.

The study also concludes that the state bears a central responsibility in fulfilling accessibility rights for persons with disabilities. This responsibility includes the obligation to respect, protect, and fulfill disability rights through inclusive policies, sufficient budgeting, institutional supervision, disability-sensitive legal services, and public education. The state must not only provide formal legal guarantees, but must also remove barriers that prevent persons with disabilities from exercising their rights. In this context, accessibility becomes closely connected to legal literacy. When persons with disabilities can access legal information, understand their rights, and use legal mechanisms, their legal literacy will increase and their position as rights-bearing citizens will be strengthened.

Furthermore, the fulfillment of accessibility must be developed through a systemic approach. This approach requires clear governance mechanisms, adequate facilities, trained public officials, inclusive legal

procedures, and active participation of persons with disabilities in policy formulation. Innovation and collaboration are also necessary to empower persons with disabilities so that they can live independently, participate equally, and defend their rights. Thus, the fulfillment of accessibility is essential to realizing equality of opportunity, legal certainty, social justice, independence, full participation, and human dignity for persons with disabilities in Indonesia.

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The author realizes that this research still has limitations. Therefore, constructive criticism and suggestions are highly welcomed for future improvement. The author hopes that this research can contribute to the development of legal studies, especially in the field of disability rights, and support the creation of a more inclusive, accessible, and just legal system for persons with disabilities in Indonesia.

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