

The implementation of public private partnership (PPP) as a human rights-based empowerment step for mentally disabilities in Ponorogo regency

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Abstract

The aim of this study is to provide a solution to the problems faced by Ponorogo Regency in empowering hundreds of mentally retarded persons with disabilities at the village level. This study is based on the results of normative legal studies and types of data in the form of secondary and primary data obtained by library research techniques. The approach used in this study is legislation (Statute approach). The results of this study indicate that so far people with mental retardation have not been maximally empowered, this is because local governments are not responsive and proactive in providing protection for rights and welfare that guarantees respect and there is no legal protection in Ponorogo district which requires persons with disabilities to follow empowerment program. As a manifestation of Law Number 39 of 1999 concerning Human Rights and Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities, the settlement effort initiated in this study is to carry the concept of Public Private Partnership (PPP) in order to guarantee empowerment human rights-based mental retardation disabilities in the future.

Keywords: disability, empowerment, human rights, mentally retarded, public private partnership (PPP)

1. Introduction

Minority groups everywhere are very close to discriminatory treatment. Discriminatory action include in the form of words or actions. One part of the existing minority groups is the group of people with disabilities ^[1]. Disability, which is often known as diffable or Persons with disabilities, is one of the issues of marginalized groups that is often forgotten and vulnerable people whose rights must be protected. Protection of these rights is carried out based on the provisions of article 28 A-28 J of the 1945 Republic of Indonesia Law which regulates human rights. Human rights are a set of rights that are inherent in humans because of their nature as humans where these rights are gifts from God and cannot be violated or eliminated by other human beings.

The struggle for equality and justice is carried out continuously in elements and institutions, namely the government, the private sector, educational institutions, as well as other institutions and communities at various levels, local, national, regional and international. Persons with disabilities themselves have their own terminology. According to the Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities is any person who experiences physical, intellectual, mental, and / or sensory limitations for a long time who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens on the basis of equal rights ^[2].

Convention on the Rights of Person with Disabilities

(CPRD) defines persons with disabilities as those who have long-term mental, physical, intellectual impairments which in their interactions can hinder their full and effective participation in society ^[3]. Persons with disabilities as citizens also have the same rights to get the same welfare without any discrimination. However, in reality, there are still many problems with disabilities, such as the policy on empowering people with disabilities. The issue of disability is indeed very rare to be discussed in every line of livelihood. People with disabilities are only seen from the point of view of aid projects, not on empowering their potentials, this is what causes persons with disabilities to live in conditions that make them even more concerned.

Realizing this problem, the Republic of Indonesia in the Law of the Republic of Indonesia Number 19 of 2011 (hereinafter abbreviated as Law No.19 / 2011) ratified the Convention on the Rights of Persons with Disabilities (hereinafter abbreviated as CRPD), namely the Convention on the Rights of Persons with Disabilities. / Persons with Disabilities. CRPD is an international and national human rights instrument in an effort to respect, fulfill and protect the rights of people with disabilities in Indonesia (Development tool and Human Rights Instrument). This makes Indonesia a part of the world community who is committed through formal juridical efforts to optimally realize all forms of honor, protection, fulfillment of the rights of Persons with Disabilities and fundamental freedoms for all persons with disabilities, as well as respect for the dignity of persons with disabilities as part of inherent dignity as stated in the convention ^[4].

¹ Aprilina Pawestri, *Hak Penyandang Disabilitas Dalam Perspektif Ham Internasional Dan Ham Nasional*, Jurnal Era Hukum, Volume 2, No. 1, Juni 2017, 164.

² Undang-undang Republik Indonesia Nomor 8 Tahun 2016 tentang Penyandang Disabilitas.

³ Syafi'ie Purwanti, *Potret Difabel Berhadapan Dengan Hukum Negara*, (Yogyakarta: SIGAB Press, 2013), 13.

⁴ Penjelasan Undang-Undang Negara Republik Indonesia Nomor 19 Tahun 2011 Tentang Pengesahan CRPD

On the basis of Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities, the government both local and provincial governments have an obligation to empower the independence of persons with disabilities. One example of the cases raised in this study is a problem related to the welfare of people with mental retardation disabilities in Ponorogo Regency. Ponorogo is a district that has a unique regional culture. Reog is a culture that becomes the identity of Ponorogo Regency. In addition to a city of culture, Ponorogo has received a label as a city of students, because there are many Islamic boarding schools, both traditional Islamic boarding schools and modern Islamic boarding schools. Apart from the pride of the Ponorogo region, there is also another side of Ponorogo that makes it sad for those who hear it. The existence of the weak is quite common, especially on the slopes of the mountains. The weak here are people with mental retardation disabilities. The Ponorogo community is known as a religious community, but the level of concern for the weak is still low.

The government has not played an active role in handling the problems of the weak, especially people with mental retardation disabilities. Even though in preserving Reog's culture, the community and government have high enthusiasm ^[5]. Ponorogo Regency has a difference from other regions, namely there are villages with disabilities, the majority of whose residents are persons with mental retardation disabilities. Researchers took the example of villages with the largest number of people with disabilities who were often known by the media. The number of people with disabilities is 349 scattered in 5 (five) villages, namely Kreet, Sidoharjo, Karangpatihan, Pandak, and Dayakan Villages. Of these several villages, one village is dominated by one, namely Kreet village ^[6].

All villages with people with disabilities are managed by the Rumah Kasih Sayang (RKS) gift from the Ministry of Social Affairs in 2011 which is managed by the community in the village itself and by volunteers except for Karangpatihan Village because of the limitations of people with disabilities who rely on the help of others to survive which continuously triggers the awareness of youth organizations to manage it themselves ^[7]. This idea has implications for the sustainability of its management which does not last long and there is no clear policy direction. At the beginning of the establishment of the RKS, there were indeed many positive activities and plans contained in it such as improving nutrition by distributing food. Besides that, every week there were also medical activities for mentally disabled people. However, as time goes by, the fate of the RKS has no longer thrown into a lack of attention from various groups including the government ^[8]. This condition shows the need for a policy from the local government of Ponorogo Regency to protect and prosper

people with mental retardation disabilities. Special attention is needed from different governments from the regions that are able to alleviate them from underestimated eyes because of their conditions and their unproductivity which seem to be a burden and exacerbate their poverty. This specificity lies in the situation that Ponorogo Regency has, namely people with disabilities who gather in one village.

The provisions for welfare empowerment have actually also been regulated in the Regional Regulation of the Province of East Java Number 3 of 2013 concerning Protection and Services for Persons with Disabilities. Here it is stated that the local government is obliged to provide accessibility and increase the level of welfare, quality and survival and independence for persons with disabilities as stated in Article 4. In addition, other elements that have obligations in fulfilling the rights of Persons with Disabilities are the central government, provincial government, District / city governments, community organizations, private companies and community groups, in the form of cooperation to achieve the goal of fulfilling the rights of persons with disabilities, especially those with disabilities in Ponorogo Regency.

It is clear that the regional regulation of East Java Province Number 3 of 2013 regarding the protection and services of disabilities still finds several problems such as in the empowerment sector. This is caused by persons with disabilities to be very dependent on others. The city government of Ponorogo is obliged to pay attention to persons with disabilities who are classified as very vulnerable groups among the existing vulnerable groups. Hierarchically, the Social Service of Ponorogo Regency is the agency responsible for the implementation of the basic rights of persons with disabilities, especially in the Ponorogo Regency area and within the scope of empowerment of independence besides that the Manpower Office has almost the same function, the need for harmonization between the two agencies to achieve what is. Is contained in the Regional Regulation of East Java Province Number 3 of 2013 concerning Protection and Services for Persons with Disabilities and the need for public awareness to support this.

In addition, the role of the government as a stakeholder is deemed inadequate, given the absence of regional regulations that regulate Ponorogo in detail so that it does not have clear references in carrying out its duties. Coordination between the social service and the manpower office as well as the private sector is important, besides that there is a need for comprehensive outreach to the public in order to achieve what is contained in the regulation. Coordination between the Social Service and the Manpower Office as well as private companies is a bridge, each of which has a meaningful role in fulfilling the basic rights of persons with mental retardation disabilities in Ponorogo Regency. Therefore it is necessary to solve this problem through a way out, namely the application of public private partnership (PPP) as a step to empower mental retardation based on human rights (HAM) in Ponorogo district.

2. Research Method

This study is juridical-normative legal study, which is based on legal materials that focus on reading and studying primary and secondary legal materials so that they are able to find and formulate new arguments, theories or concepts

⁵ Tyas Qomariyah, *Kaum Difabel di Tengah Masyarakat Desa Ngilo-ilo Kecamatan Slahung Kabupaten Ponorogo*, Skripsi, Fakultas Ilmu Sosial dan Politik Universitas Islam Negeri Sunan Ampel Surabaya, 2016, 2.

⁶ Obtained from Sosial Rumah Kasih Sayang Organization on 25th Juni 2020.

⁷ Citra Gaffara Taqwarahmah, Bagus Riyono and Diana setyawati, *Peran Karang Taruna dalam Pemberdayaan Penyandang Disabilitas di Desa Karangpatihan Kabupaten Ponorogo dan Implikasinya Terhadap Ketahanan Ekonomi Keluarga*, Jurnal Ketahanan Nasional, Volume 23, Nomor 1 Year 2017, 39.

⁸ <https://www.terasjatim.com/rumah-kasih-sayang-di-ponorogo-mangkrak/>, accessed on 16th Oktober 2020 at 00.08 WIB

as prescriptions in solving the problems at hand ^[9]. The technique of collecting legal materials is carried out by literature study. The approach used is legislation (stuatute approach). Primary and secondary legal materials are used in this study. Primary legal material in the form of statutory regulations related to the rights of persons with disabilities and secondary legal material in the form of legal literature both books, journals, articles and other legal works. Legal materials were collected by means of library research (library research).

3. Findings and Discussion

According to Wuradji in his book Aziz Muslim states empowerment is a process of community awareness that is carried out in a transformative, participatory and sustainable manner through increasing the ability to handle various basic problems they face to improve living conditions according to the expected ideals ^[10]. Empowerment that will be carried out as a solution to the problems faced by mental retardation disabilities in Ponorogo Regency is through a partnership. At the beginning of the news that the mentally retarded disability village in Ponorogo was known by many empowerment media that should have been carried out by the government, it was reflected in Law Number 39 of 1999 concerning Human Rights (HAM), various positive activities in it as a form of fulfilling the rights of persons with disabilities to be live independently and prosper.

Through the construction of Rumah Kasih Sayang (RKS) by the Minister of Social Affairs, Mr. Salim Segaf Al Jufri in 2011, as an initial response to the needs of the local community ^[11]. However, it turns out that over time, the fate of the RKS is no longer pulsating and is not functioning again due to the lack of attention from various groups including the government as mentioned above ^[12]. As a result, this management did not last long and there was no clear policy direction so that it could not provide a way out of the problems it faces to date. Their return to dependence on the surrounding community is not a reflection of Law of the Republic of Indonesia Number 8 of 2016 Article 1 paragraph 5 as a conscious effort to protect, protect and strengthen the rights of persons with disabilities. The various ways that have been done are in fact unable to change the lives of people with mental retardation in Ponorogo Regency.

In the end, the Social Organization or *Organisasi Sosial* (Orsos) as a companion, and also the supervisor of the implementation of activities consisting of local residents and volunteers is the place for them to return. Without special knowledge and skills possessed by social organizations, minimal human resources (HR) and minimal incentives for funds and limited infrastructure, it has not had a positive impact on mentally retarded people. The efforts made by this social organization are to fulfill the expectations of the East Java Provincial Regulation Number 3 of 2013 Article 4 concerning Protection and Services for Persons with Disabilities that the central government, provincial

governments, district / city governments, community organizations, private companies and community groups, regions are obliged to strengthen the rights of persons with disabilities by protecting, protecting, providing or facilitating rehabilitation services with the aim of realizing independence and welfare. Based on the existing reality, it is clear that there are still many obstacles that hinder the empowerment of hundreds of mentally retarded disabilities within the scope of villages in Ponorogo Regency. Empowering mental retardation disabilities so that their rights are fulfilled as human beings with dignity and having the same human nature are certainly not easy, because these mentally retarded disabilities live in remote, arid villages where they live unworthy and live below the poverty line and never get education ^[13].

According to Sumodiningrat, quoted by Ambar Teguh, empowerment is empowerment, which means giving "power". Or the right term is "energize" which means to give "energy". Empowerment is the provision of energy so that the person concerned is able to move independently ^[14]. To be able to provide energy to people with disabilities, special handlers are needed, because of limitations in the level of intelligence, physical and mental limitations. In addition, the absence of a legal umbrella in Ponorogo district itself which requires persons with disabilities to participate in the empowerment program for people with disabilities, causing local governments not to be responsive and proactive in providing protection for their rights in order to fulfill a life that is prosperous, independent, and without discrimination and guarantees respect for efforts. Therefore it is very necessary to allocate special funds and adequate human resources through the concept of Public Private Partnership by synergizing the government, private sector and also the community. PPP itself is defined as cooperation between the government and the private sector in the provision of infrastructure which includes design and construction, capacity building / rehabilitation, operation and maintenance in order to provide services. PPP development in Indonesia is mainly based on the limited funding sources that can be allocated by the government ^[15]. According to Peter Schubeler, in the context of both infrastructure and welfare development projects compared to the public sector, the private sector is considered to have incentives and has a greater ability to provide and manage service costs more efficiently so that it will encourage faster project implementation and better asset maintenance ^[16]. This effort was made to realize the relationship between the enactments of Law No. 8/2016 and East Java Provincial Regulation No. 3/2013 concerning Persons with Disabilities which orders the government to take responsibility for taking steps to provide an enabling environment for Persons with Disabilities. These steps were taken to ensure the implementation of the Indonesian Government's convention, namely signing the Convention on the Rights of Persons with Disabilities on March 30, 2007 in New York which was later ratified by the Republic of Indonesia in the form of

⁹ Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, (Jakarta: Kencana Prenada Media, 2014), 55-56.

¹⁰ Aziz Muslim, *Metodologi Pengembangan Masyarakat*, (Yogyakarta: Teras, 2009), 3.

¹¹ <http://kominfo.jatimprov.go.id/read/umum/27604>, accessed on 18th Oktober 2020, at 21:52 WIB

¹² <https://www.terasjatim.com/rumah-kasih-sayang-di-ponorogo-mangkarak/>

¹³ Dian Suluh Kusuma Dewi, *Model Pemberdayaan Masyarakat Tunagrahita di Kampung Idiot Kabupaten Ponorogo*, Jurnal Otoritas, 14 April 2016, 2.

¹⁴ Ambar Teguh Sulistiani, *Kemitraan dan Model-model Pemberdayaan*, (Yogyakarta: Gala Media, 2004), 78.

¹⁵ Yusid Toyib, Riant Nugroho, *Transformasi Public Private Partnership Indonesia*, (Jakarta: PT Elex Media Komputindo, 2018), 31.

¹⁶ Peter Schubeler, *Participation and Partnership in Urban Infrastructure Management*, (Washington DC: The World Bank, 1996), 15.

Law of the Republic of Indonesia Number 19 of 2011 concerning Ratification of the Convention on the Rights of Persons Disabilities that are international and national in nature^[17].

These laws and regulations expressly represent the state's responsibility for disabilities, where in this case the local government of Ponorogo Regency delegates it to the Social Service, which should coordinate with the Ponorogo Regency Manpower Office in the achievements set forth in Government Regulation Number 70 of 2019 concerning Fulfillment of Disability Rights and as an effort to increase social welfare. The two agencies are considered to be able to help ease the burden on people with mental retardation in Ponorogo Regency which requires a lot of human resources to carry out rehabilitation, which activities must be carried out by competent human resources. Furthermore, for the sake of creating human rights-based welfare empowerment for people with disabilities, the majority of whom are mentally retarded, the researchers tried to use the concept of Public Private Partnership (PPP) as mentioned to invite the government, society and the private sector, especially those in Ponorogo Regency to cooperate. One of the main motives for this partnership to be implemented is the reason that most states, both at the central and regional levels, experience budget constraints / funding^[18]. The policies intended are to usher in the necessary changes to structures and norms in society to ensure that they enjoy the fullest human rights^[19].

The PPP concept that the author carries out this time is cooperation in carrying out rehabilitation, in which the private sector is considered to have high incentives to manage where the goal is the creation of productive mental retardation disabilities and job opportunities so that they are able to be financially independent and can perform like other individuals. As the main goal of sustainable human rights-based welfare empowerment for people with mental retardation who are trained through several programs that will be carried out by the government, society and also the private sector as a solution to the problems of welfare and unworthy living in poverty that they have experienced so far. In addition, PPP in empowering mental retardation disabilities is expected in the future to be able to hold long and short term courses, training workshops and continuing education programs. This condition will certainly have a lot of impact on their ability to participate in society, so they need support and assistance from various parties^[20].

4. Conclusion

The phenomenon of hundreds of people with mental retardation disabilities in Ponorogo Regency as stated in Law Number 39 of 1999 concerning Human Rights at the beginning of the news that the village with mental

retardation was known by many media has been reflected through several positive activities as an initial response to respect and protection. Besides the absence of a legal umbrella in Ponorogo district itself, which requires persons with disabilities to participate in the empowerment program for people with disabilities, it does not last long and is sustainable. Of course this is not the intention of Law No. 8/2016 and East Java Provincial Regulation No. 3/2013 concerning Persons with Disabilities which orders the government to take responsibility for taking steps to provide an enabling environment for Persons with Disabilities. In the end, a person with mental retardation in Ponorogo district depends on their life back on other people around them. Social Organizations work as assistants and also supervisors of the implementation of activities consisting of local residents and volunteers who are the places for them to return. Without the special knowledge and skills possessed by social organizations, the lack of human resources (HR) and minimal financial incentives and minimal infrastructure have not had a positive impact on mentally retarded people. Therefore, it is necessary to empower mentally retarded disabilities based on human rights and sustainable welfare using the concept of Public Private Partnership (PPP) so that the creation of productive mental retardation disabilities is able to be financially independent and can perform like other individuals.

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¹⁸ Marina Zaharioaie, Alexandru Ioan Cuza, *The Utility Of Using Public-Private Partnership For Local Governments, Journal of Public Administration, Finance and Law, Volume 2 Year 2012, 18*

¹⁹ Laufey Love, Rannveig Traustadóttir and James Gordon Rice, *Achieving Disability Equality: Empowering Disabled People To Take The Lead, Cogitatio, Social Inclusion, Volume 6 Year 2018, 1st Edition, 7*.

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