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**Submitted by:**

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**REPORT ON THE PROVINCES OF EAST NUSA TENGGARA AND YOGYAKARTA**

**REPORT ON THE IMPLEMENTATION OF THE UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES IN INDONESIA**

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I. Introduction

1. The report on the implementation of UN Convention the Rights of Persons with Disabilities (UNCRPD) was composed by Organizations of Persons with Disabilities (DPOs).
2. The report was put together based on the findings and discussions among members of DPOs, particularly those DPOs that are based in East Nusa Tenggara (NTT) and the Special Region of Yogyakarta (DIY).
3. Workshop on Human Rights and Monitoring of the Rights of PWDs using Universal Periodic Review (UPR) and CRPD Shadow Report Mechanisms for DPOs and NTT-based Civil Society Organizations (CSOs) at Naka Hotel, Kupang, NTT on July 23-25, 2018;
4. Workshop on Human Rights and Monitoring of the Rights of PWDs using Universal Periodic Review (UPR) and CRPD Shadow Report Mechanisms for DPOs and Yogyakarta-based CSOs at Arjuna Hotel, Yogyakarta on July 30—August 1, 2018
5. A meeting aimed at reviewing the draft composed by DPOs at OHANA’s office in Yogyakarta on October 14, 2018;
6. Workshop on the Finalization of UPR and CRPD Shadow Report Drafts and how to use them as an advocacy tool for CSOs and DPOs in NTT at Naka Hotel on September 26-27, 2018;
7. Workshop on the Finalization of UPR and CRPD Shadow Report Drafts and how to use them as an advocacy tool for CSOs and DPOs in Yogyakarta at Arjuna Hotel on October 9-10, 2018.
8. The report was prepared by a network of DPOs in Indonesia, which include:
9. Wahana Keluarga Celebral Palsy (WKCP), DIY
10. Organization of Persons with Disabilities ‘Mekar Abadi,’ Gunungkidul
11. Center for Empowerment of PWDs ‘Mitra Sejahtera’ (PPDMS) Gunung Kidul
12. Center for Improving Qualitied Activity of People Disabilities (CIQAL)
13. Gerakan untuk Kesejahteraan Tuna Rungu Indonesia (GERKATIN) DIY
14. ITMI (Ikatan Tunanetra Muslim Indonesia)
15. Pertuni Kota Kupang
16. Persatuan Tuna Daksa Kristiani
17. CIS Timor
18. Aliansi Jurnalis Peduli Disabilitas
19. Yayasan Transfigurasi Tabor Mulia ( YTTM)
20. Human Rights Working Group and OHANA as facilitator of reporting process.

II. Implementation of Rights in the Convention

Article 27: Right to Work and Decent Work*[[1]](#footnote-1)*

1. Legal Framework on the Right to Work
2. The Point 2 in Article 27 of the 1945 Constitution of the Republic of Indonesia stipulates that “Every person shall have the right to work and earn a humane livelihood.” As such, State carries the obligation to endeavor and ensure that its citizens have decent work and livelihood.
3. Referring to the obligation mentioned earlier, State must ensure that PWDs, as citizens of Indonesia, have access to decent work. This is expressed in Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD) on Work and Employment, and it is emphasized in Article 11 of Law No. 8 Year 2016, which conveys:

*PWDs’ rights to work, entrepreneurship and cooperative include the rights to:*

1. *Access employment provided by the State, Local Government or Private Sector without discrimination;*
2. *Earn equal pay as workers without disabilities for equal work;*
3. *Be provided with decent accommodation at work;*
4. *Be free from dismissal on the basis of disability;*
5. *Return to work;*
6. *Access fair, proportional and dignified deployment.[[2]](#footnote-2)*
7. The right to work is further elaborated in Articles 45—60 on the Implementation of Respect, Protection and Fulfilment of the Rights of Persons with Disabilities. These Articles cover such matters as equal employment opportunities, access to training and career path that is free from discrimination. Article 53 of Law No. 8 Year 2016 lays the groundwork for equality at work, stating that:
8. State, Local Government, State-own Enterprises, and Local Government-owned Enterprises must reserve AT LEAST 2% (two percent) of its employment quota for persons with disabilities;
9. Private companies must reserve AT LEAST 1% (one percent) of its employment quota for persons with disabilities.[[3]](#footnote-3)
10. Point 1 of Article 55 specifies that Local Government shoulders the obligation to have a Disability Service Unit within the Agency of Manpower and Transmigration. A Memorandum of Understanding (MoU) was signed between the Agency of Manpower and Transmigration and the Ministry of State-owned Enterprises (BUMN) in 2015 (Number 13/NK/MEN/XII/2015 and MOU-03/MBU/12/2015). This MoU is meant to regulate the deployment and training of persons with disabilities who work in State-owned enterprises, with a view to increase access to employment for persons with disabilities according to their expertise and/or capabilities. This MoU is expiring this year (2018).
11. The Government of Indonesia is in the process of enacting the bylaws of Law No. 8 Year 2016 in the form of Government Decrees. Along this process, an agreement has been reached as to adopt 7 (seven) Government Decrees; one of which regulates the conduct of Disability Service Unit in the aforementioned agency. At the time of writing this report, the Government and civil society have put forward their versions of the draft bill, and both parties have still been in conversation with each other. As a result, the draft bill is still circulating at the Parliament level.
12. Implementation of Regulations and Rules
13. The implementation of the right to work for PWDs still falls short of expectation, albeit the existence of the Universal Declaration of Human Rights (UDHR), UNCRPD, Law No. 8 Year 2016, and the MoU between the Minister of State-owned Enterprises and Minister of Manpower signed in 2015.
14. On August 29, 2018, members of Kupang-based blind union ‘PERTUNI’ held a meeting with Mr. Boy Benu, Head of the Training Division of the Agency of Manpower in Kupang, and Mrs. Yane Manafe, Head of the Training Section of the same agency. The meeting was aimed at discussing the extent to which the 2015 MoU has been implemented in Kupang. Mr. Benu went on to explain that the training programs offered by the Agency would accommodate people with physical disabilities. These training programs, which are scheduled to be carried out in the forth coming fiscal year, are tailored toward equipping PWDs with the skills of tailoring, beauty treatment, hairdressing, welding, driving, maintenance and repair work (air-conditioner, mobile phone, car, motorbike, etc.), and car-painting. Clearly, people with visual impairment have not been accommodated in the said programs.
15. In addition, Mr. Boy Benu requested for data on the number of people with vision impairment in Kupang. He also gathered up insights into the types of training that people with vision impairment need. The data and insights will inform the training programs specifically designed for people with vision impairment in the fiscal year of 2020. He admitted that the Agency of Manpower in Kupang lacks the necessary data on needs of PWDs that can be accommodated in the training programs.
16. Mr. Maksimus Hun, Mr. I Made Astika Dhana and Mr. Siprianus Taus—all representatives from PERTUNI Kupang—conveyed their aspirations to Mr. Boy Benu and Mrs. Yane Manafe on the involvement of PWDs in various training programs that the Agency is running. They enquired about the possibility of channeling PWD trainees to internship opportunities in both governmental and non-governmental institutions. Lastly, a concern was raised around the idea of ensuring the protection of PWDs at workplace and making sure that workplace is free from discriminatory employment practices against PWDs.
17. The case of **Mr. I Made Astika Dhana (33 years old) from PERTUNI Kupang** is one such example of discrimination against PWDs.
18. Mr. I Made Astika Dhana (33 years old) is a member of PERTUNI Kupang. He lost his vision in 2005. Mr. I Made Astika Dhana holds a Diploma III; he graduated from the Kupang Academy of Social Work. He resides at Air Lobang III Street, RT. 037/RW 015, Sikumana, Maulafa, Kupang.
19. In October 2017, Mr. Dhana heard of an employment vacancy through his college friend and decided to take a recruitment test to land a job as a fieldworker of Keluarga Harapan Program, which is administered by the Indonesian Ministry of Social Welfare. He passed the administrative test and continued on to the written test. Aware of his barriers, he enquired the national committee if he was allowed to have an assistant or a member of the committee come to his aid during the test. A permission was granted to Mr. Dhana to select a person to assist him in doing the written test.
20. After doing a series of tests, Mr. Dhana managed to secure the job. Then he was to report to the Kupang Agency of Social Welfare, where he would be stationed. While making the report, Mr. Dhana experienced an **unpleasant** treatment by one of the Agency’s officers. He was asked”

*“Do you always need somebody to take you around like this? Your fieldwork will be strenuous! We have to gather and validate data and coordinate using Whatsapp.”*

1. Mr. Dhana quickly responded to the officer by ensuring that he would perform his duties well. Back then, the response was met with skepticism and doubt. Several months into his employment, Mr. Dhana proved his abilities, and things began to change. It was not uncommon that he received praises from the Head of Protection and Social Security Section of the Agency.
2. Discriminatory Job Requirements
3. Discriminatory job requirements are still rampant in NTT. Mrs. Desderdea (43 years old), a member of PERSANI NTT, shared that some job requirements discriminate against PWDs. For example, some of the job requirements stipulate that applicants must be physically and mentally fit, which often translates into not having disabilities. The consequences of such discriminatory requirements are twofold. One is that PWDs are less likely to land the job. Second, PWDs tend to undermine themselves or refrain from sending a job application. Before serving as the Project Coordinator of PERSANI NTT, Mrs. Desderdea lacked the confidence to apply for a job. First of all, she has a mobility impairment, and secondly, she has heard of many unhappy experiences of her friends who got rejected by the institutions to which they applied, which was allegedly due to their disabilities. Attached below are some examples of job vacancy announcements that illustrate the extent and depth of discrimination against PWDs.[[4]](#footnote-4)

Recommendations

1. The Government of Indonesia should pass the draft bill on Manpower Disability Service Unit immediately to ensure the fulfilment of accessibility of people with disabilities;
2. The Local Government (Agency of Manpower at provincial and regency levels) should ensure the implementation of employment quota for PWDs, which amounts to 2% (two percent) in State-owned enterprises and 1% (one percent) in private sector, ensure the availability of decent accommodation during application process and working period, conduct job trainings for PWDs to enrich their potentials and meet the demand for workforce in NTT, put together trainings to raise awareness about disability issues and, in particular, about the right to work in both government and private sectors, create a Standard Operating Procedure (SOP) on how to employ PWDs in both government and private sectors, and adopt a regulation with a view to ensure that the administrative requirements of a job application are fair and more sensitive toward PWDs.

Suggested List of Issues:

1. Relating to MoU, how can the Government create a monitoring and evaluation mechanisms of the MoU? What are the punishments and rewards to those who comply with or breach the MoU?
2. How do the Government ensure that the trainings answer the needs of PWDs and improve their access to work?
3. How many PWDs are currently working in both government and private sectors?

Article 9: Accessibility

1. Legal Framework on Accessibility
2. The commitments of the Government of Indonesia to the protection of the rights of PWDs are expressed in the Law No. 19 Year 2011 on the Ratification of the UN Convention on the Rights of Persons with Disabilities and emphasized in Law No. 8 Year 2016 on Persons with Disabilities.
3. Letter (h) of Article 2 of the Law No. 8 Year 2016 stipulates that both State and Local Government carry the obligation to ensure accessibility for PWDs. Letter (m) of Article 5 stresses that accessibility is one of the basic rights of PWDs. Article 18 of Law No. 8 Year 2018 specifies in detail that the right to accessibility includes:
4. being able to access public facilities;
5. be provided with decent accommodation for individual accessibility
6. The Government of Indonesia has set building accessibility standards, which regulate the facilities, environmental and the size of building. These standards are set out in the Ministerial Decree No. 14/PRT/M/2017 of the Ministry of Public Works and Housing on the Requirements of Building Establishment.[[5]](#footnote-5)
7. Point 2 in Article 99 of Law No. 8 Year 2018 regulates that both Central and Local Governments are responsible for conducting official inspections to ensure the availability of accessible facilities for PWDs in every building.
8. Section 14 of Law No. 8 Year 2018 on Persons with Disabilities stipulates that PWDs have the right to accessibility. Article 18 of the Law states that “*PWDs’ right to accessibility includes the right to access public facilities and be provided with decent accommodation for individual accessibility*.”
9. Law No. 25 Year 2009 on Public Service states that “*Every person is entitled to equal rights, equal treatment that is free from discrimination and facilities and special treatments for vulnerable groups*.”
10. The President of Indonesia passed a Presidential Decree No. 59 Year 2017 on Sustainable Development Goals (SDGs), which emphasizes urban planning and inclusive housing that is safe and firm. One of Indonesia’s 2030 development goals is to create public and green open spaces that are safe, inclusive and accessible, in particular, to women, children, the elderly, and persons with disabilities.
11. Government Decree of the Ministry of Public Works and Housing No. 14 Year 2017 on the Requirements of Building Establishment (in lieu of Government Decree No. 30 Year 2006) sets the standards of accessibility for vulnerable groups, including persons with disabilities, children, pregnant women, and elderly people.
12. In NTT, the UNCRPD and Law No. 8 Year 2016 on the fulfillment of the rights of persons with disabilities have been implemented in 3 out of 22 regencies thus far. The three regencies have adopted Local Regulations (Perda) on the rights of PWDs; these regencies include Manggarai, West Manggarai and East Flores. The Local Regulation No. 6 Year 2015 adopted by Manggarai Regency ensures Equality[[6]](#footnote-6) and Empowerment of PWDs, and the Local Regulation No. 3 Year 2017 adopted by West Manggarai Regency ensures the Protection and Fulfillment of the Rights of PWDs.
13. The Special Province of Yogyakarta has also adopted the Local Regulation no. 4 Year 2012 on the Protection and Fulfillment of the Rights of PWDs[[7]](#footnote-7). All of public facilities must be adjusted to meet the accessibility standards as stipulated in the Regulation at least 10 years after the Regulation enters into force. It means that by 2024, the Yogyakarta Government must have provided accessible facilities in all sectors.
14. In Yogyakarta, 4 out of 5 regencies have adopted Local Regulations on the protection and fulfillment of the rights of PWDs. These include Bantul Regency (Local Regulation No. 11 Year 2015), Gunungkidul Regency (Local Regulation No. 9 Year 2016), Kulon Progo Regency (Local Regulation No. 3 Year 2016), and Sleman Regency (Local Regulation No. 1 Year 2018). Accessibility is discussed in separate articles in all of the four Local Regulations.
15. Implementation of the Article 9 of CRPD on Accessibility

Implementation in East Nusa Tenggara

1. The Agency of Social Welfare of Kupang was in communication with the Regional Secretary of Kupang, which led to the issuance of the Notification of Regional Secretariat No. 464/407/VII/2017 on July 3, 2017, instructing all governmental organizations and state-owned health institutions in Kupang to pay attention on accessibility when constructing buildings.
2. The commitments of local governments are reflected in their participation in the “High-level Meeting of Mayors Toward Inclusive Cities” that was organized by the United Nation on October 31, 2017. This meeting was attended by mayors from across Indonesia, as well as various stakeholders which included representatives from relevant Ministries, DPOs, labor and business unions and other civil society organizations. The meeting was concluded by the signing of the “Indonesian Mayors Network Toward Inclusive Cities Charter” by 14 mayors; one of whom was the Mayor of Kupang.
3. The Mayor of Kupang, Mr. Jefritson Wiru Kore, expresses that his administration will endeavor to make inclusive development a reality as stipulated in the “Charter of Indonesian Mayors Network Toward Inclusive Cities[[8]](#footnote-8).” Today, many of public facilities (public transportation and public service buildings in public spaces and government institutions) in Kupang are not yet accessible to PWDs and other vulnerable groups. The Mayor himself has admitted that the current public facilities have not complied with accessibility standards for PWDs[[9]](#footnote-9).
4. The commitments taken by the Mayor of Kupang have not materialized. The Mayor is committed to making development inclusive by proposing to provide a budget in the Regional Income and Expenditure Budget (APBD) for the coming 2019. Currently, the Local Government of Kupang is drafting a Local Regulation on the Protection and Fulfillment of the Rights of PWDs. The draft is being discussed with academics. The foreseeable challenge would lie in the legislative body; whether the local parliaments would agree on the draft and pass it.

Implementation in the Special Province of Yogyakarta

1. The Local Government of Yogyakarta deserves some appreciation. The Government has provided accessible facilities, such as tactile paving/guiding blocks along the streets of Malioboro, Kota Baru, Mangkubumi, and the local government office complexes in Gunungkidul, Sleman and Yogyakarta.
2. The Government has also provided accessible public facilities, such as ramps and accessible toilets in government offices and *puskesmas* (government-mandated community health clinics). These facilities are available in several government offices in the City of Yogyakarta and Regency of Gunungkidul. The Government of Yogyakarta has also initiated the establishment of underground toilets for PWDs; these toilets are located in Panembahan Senopati Park, across Bank Indonesia. Elevator is available to ease the mobility of wheelchair users[[10]](#footnote-10).
3. Some good practices are evident in Kunungkidul area; these include, among others, the availability of elevators in the local government offices[[11]](#footnote-11). Several other accessible facilities in Gunungkidul include:
4. The Village Government of Plembutan has provided:
5. Ramps and hand railings that already meet the accepted standards.
6. Guiding blocks leading to public facilities.
7. Accessible toilets.
8. Ramps are already available in the Village Government Office of Nglipar.
9. Ramps and hand railings are already available at Puskesmas (government-mandated community health clinic) 1 of Nglipar.
10. Ramps and hand railings are available at the Sub-district Office of Nglipar, Gunungkidul. These ramps and hand railings lead to public service buildings and meeting pavilion.
11. The Civil Registration Office of Gunungkidul has provided accessible toilets.
12. Accessible non-physical facilities, such as the use of running texts to disseminate information, are already available both on buses and bus stops of Transjogja. The Government has built inclined planes at several bus stops to ease the mobility of wheelchair users. In particular, on some buses, there is space that is designated specifically for wheelchair users[[12]](#footnote-12).
13. Accessible physical facilities are already available in 22 villages of Gunungkidul Regency, despite that fact that these have yet to meet the standards as specified in the Government Decree No. 14/PR/M Year 2017 on the Requirements of Building Establishment. It is also important to note that, as a result of the government officials’ lack of knowledge on the needs of PWDs especially those with non-physical disabilities, there has been little service (for instance, sign language interpreter) dedicated to helping PWDs, in particular those with non-physical disabilities.

Accessibility Implementation in East Nusa Tenggara

1. There is still a long way to go to fulfill FWDs’ right to accessibility in NTT. Despite the existing legal framework mentioned earlier, both physical and non-physical facilities accessible to PWDs are still lacking; this condition places barriers that render PWDs unable to do their activities independently. Some examples of these barriers include squat toilets inaccessible to PWDs, the nonexistence of ramps or inclined planes, limited bus stops, lack of information signs, absence of guiding blocks, high stairway, and absence of elevators.
2. Based on the information from Ela[[13]](#footnote-13), Chair of Yayasan Tranfigurasi Tabor Mulia[[14]](#footnote-14), one of the barriers that hinder the mobility of PWDs is the absence of accessible public transports, as well as the limited routes that public transports take.
3. A woman with a physical disability (her left leg has been paralyzed as a result of poliovirus that affected her at age 5), Ela admits that she has to walk over a long distance to access public transportation, all despite her mobility impairment. She walks over one kilometer away from her home to access public transportation at the nearest bus stop. At times, she uses the service of motorbike taxi, but it is not uncommon that the drivers decline to give the service as they doubt that Ela is able to pay; this is albeit her being able to pay just like other passengers.
4. In April 2017, Ela almost fell out of *angkot* (an open-air minibus) as the driver hurriedly started running the minibus when she was not yet completely seated. Desi[[15]](#footnote-15) from PERSANI[[16]](#footnote-16), who has a physical disability and uses a walking stick to aid her mobility, has had several of such experiences. Sometimes, she is denied entry to public transports when traveling home or to Kupang because of the stigma that PWDs are not able to pay.
5. Local DPOs opine that such discriminatory attitudes toward PWDs are a direct result of the lack of knowledge and understanding of disabilities and PWDs. People are generally unaware that PWDs have the same rights and entitlements as other people. Public transport operators, both privately or government-owned, fail to equip their drivers with the understanding that service users must enjoy equal treatment. This is despite that fact that the Article 44 of Transportation Ministerial No. 108 Year 2017 on Non-Route Public Transportation regulates that public transport operators must provide service to persons with disabilities, elderly people, children, pregnant women, and diseased people.
6. Made[[17]](#footnote-17) from PERTUNI[[18]](#footnote-18) in Kupang declares that the nonexistence of guiding blocks along the sidewalks poses a great barrier to mobility for people with visual impairment. In addition, there are many potholes in the sidewalks, and people with visual impairment often stumble over or fall into the holes, endangering their lives. When accessing public transports, PWDs are vulnerable to unjust treatment by the driver; for example, they are not given back the change (of their money) or are dropped off somewhere other than their destination.

Implementation in the Special Province of Yogyakarta

1. In Yogyakarta, despite the progresses made by the Local Government as mentioned earlier, such as the availability of accessible public facilities, there are challenges that still need to be addressed. These include:
2. The guiding blocks around the Local Government Office of Gunungkidul (along the streets of Sugiyono and Brigjen Katamso, as well as the street in front of Al-Ikhlas Mosque of Wonosari) are not functioning. Some flowerpots and telephone poles are placed in the guiding blocks. At some point, the guiding blocks are converted into a parking lot. The same thing is true in Malioboro Street, especially in the sidewalks around Beringharjo and Sentir markets. Street vendors, who are often oblivious to the function of guiding blocks, set up their stalls there, rendering people with visual impairment unable to use them. As such, people with visual impairment walk off the guiding blocks, risking their safety.
3. Some traffic lights in the arterial roads of Sugiyono and Brigjen Katamso in Wonosari, Gunungkidul Regency are not equipped with warning sounds. As such, it is dangerous for people with visual impairment to cross over the roads. Meanwhile, the traffic lights in Malioboro are already equipped with alarm, which can be turned on by pressing the buttons on the poles. However, the buttons are located too high to be reached by wheelchair users, people with achondroplasia and children.
4. The number of accessible facilities at bus stops and on Transjogja buses are still far from what is needed. The Committee for the Protection of the Rights of Persons with Disabilities noted that in 2017, out of 112 permanent bus stops and 80 portable bus stops, only 2% of which were accessible to PWDs, and they still fell outside the accepted standards of accessibility. On January 3, 2018, a wheelchair-bound child was reportedly denied entry to a bus (three times) as he was planning to take a bus in lane 1A. The operator argued that the bus was full; this was despite that fact that Transjogja bus has designated some space for persons with disabilities.[[19]](#footnote-19)
5. Several cases can be used to exemplify the issues pertaining to accessibility for PWDs. On April 23, 2016, Hardiyo (52 years old) received an invitation from the Agency of Social Welfare of Gunungkidul Regency to attend a meeting on Forum Komunikasi Disabilitas Gunungkidul (FKDG). The meeting was held on the second floor of the office of Social Welfare Agency of Gunungkidul, which happened to have stairway only. Wheelchair-bound, Hardiyo was then carried up to the second floor, along with his wheelchair.
6. On a different occasion in March 2018, Hardiyo was changing his personal data at the Registration Office (Dukcapil) of Gunungkidul Regency. He discovered that the office was already equipped with a ramp at its entrance; however, the ramp was too steep and its surface was made of ceramics, making it very slippery. As a result, he needed some assistance in using the ramp. In addition, information board with visual aid was unavailable, so people with hearing impairment would find it difficult when queueing. Other much-needed facilities, such as audio aid and brailled information cards, were nonexistent.
7. On November 27 and December 5, 2017 IDEA and Yogyakarta- and Gunungkidul-based CSOs-DPOs tracked the implementation of disability inclusiveness in public service offices and health clinics in both areas. The findings are:
8. The Office of Yogyakarta Agency of Social Welfare is already equipped with a ramp and hand railing at its entrance. Generally speaking, however, there is still a lack of accessible facilities. This is reflected in the absence of guiding blocks and parking lot designated for PWDs. In addition, the toilets and bathrooms are not yet accessible as they are still too narrow. Brailled texts are unavailable either.
9. The Office of Yogyakarta Agency of Public Works and Housing uses an old building with many steep doorsteps. No elevator or ramp is available to reach the second and third floors. The toilet at the back of the building lacks lighting and space. There is also a considerable difference between the level of the floor inside the toilet and that and outside of it. No visual, audio, or audio-visual aid is available.
10. The Office of Yogyakarta Agency of Health also uses an old building, which falls short of accessibility standards. The meeting room is located on the third floor, but no elevator is available in the building. The team discovered that the width of most doors is less than 80 cm, making it difficult for wheelchair users to pass through. In addition, no disability-friendly information signs are available.
11. The team tracked the implementation of disability inclusiveness in several places across Gunungkidul Regency. The findings include:
12. The Office of the Agency of Social Welfare and the Agency of Manpower and Transmigration are already equipped with ramps and guiding blocks. The meeting room, however, is located on the second floor, and no elevator is available in the building (see Haridiyo’s case above). Accessible toilets are nonexistent.
13. *Puskesmas* (government-owned community health clinic) 1 of Nglipar has a 3x7 meters square waiting room. The limited space forces the patients to wait far from the checking room. No running texts and accessible toilets are available.
14. Wheelchair users have troubles accessing the paths in the Wonosari City Park because of uneven surfaces. Public toilets are available, but the path leading to the toilets is too narrow (60 cm). The width of the toilet door is below the standard (60 cm), and so is the space inside the toilet (150 cm x 125 cm). As such, the toilets are inaccessible to wheelchair users.

Accessibility of Buildings in East Nusa Tenggara

1. The local DPOs have noted that some public service buildings are already geared toward the concept of disability inclusiveness, especially health care buildings. The Bakunase *Puskesmas* has embarked on realizing disability inclusiveness, although a lot needs to be improved. This *Puskesmas* already has a sloping surface, but ramp and accessible toilets are not yet available. Mr. Saba from the *Puskesmas* declares that people with severe disabilities are prioritized, whereas those with ‘light’ disabilities will have to go through the same procedures as other patients, except if they are in an emergency situation.
2. Oebobo *Puskesmas* already has disability-friendly infrastructure, and so do some hospitals in Kupang City.
3. However, steps need to be taken to ensure that PWDs can better access them. Many of government offices and public service buildings have yet to be accessible to PWDs. As such, DPOs need to advocate for the realization accessible buildings. This condition is a direct result of the lack of knowledge and understanding of inclusive development by government officials and public service providers.
4. When doing administrative work to get YTTM licensed, Ella had to go up and down the staircase (to the third floor) to reach the Division of Politics and Nation (Kesbangpol) at the Mayor’s Office. No lift was, and still is, available in the office. This condition put a barrier to Ella’s mobility.
5. As Fina[[20]](#footnote-20) explained, the needs of PWDs have not been accommodated despite the existing Local Regulation of Manggarai No. 6 Year 2015 on Equality and Empowerment of Persons with Disabilities. The Chair of Perkumpulan Tuna Daksa Kristiani (Community of Christian People with Physical Disabilities) spoke in the discussion on the Mid-term Local Development Planning[[21]](#footnote-21), saying that the Office of the Manggarai Agency of Planning, Research and Development is not yet accessible, and so is the Office of Kupang Regency. Generally, government offices across East Nusa Tenggara have not met accessibility standards.
6. Most of multi-level government office buildings in Kupang are not equipped with elevators, or they have steep staircases and slippery floor, making PWDs unable to do their activities independently. It should be a minimum service standard to ensure the availability of ramps and accessible toilets in all private or government office buildings. It is crucial to do as it is an effort toward the fulfillment of the rights of PWDs so that they can enjoy equal service as the general public.
7. Dina Noach (21 years old), a female Communication Studies student of a local university with a mini body and also a member of PERSANI, shared that her campus buildings are not yet accessible to PWDs. These buildings have high stairways, and they do not have ramps or accessible toilets. This is despite the fact that the University declared itself as an inclusive university back in 2016.

Recommendations:

1. There needs to be a dissemination of information on Law No. 8 Year 2016 on Disabilities, Local Regulation of DIY NO. 4 Year 2012 on the Protection and Fulfillment of the Rights of Persons with Disabilities and other local regulations, and the Ministerial Decree No. 14/PRT/M/2017 on the Requirements of Building Establishment.
2. The institution that is mandated to issue a permit for building establishment should put emphasize that the establishment of the building must comply with the existing laws on standards of accessibility and ensure the involvement of PWDs in the planning and establishment of the building.
3. Relating to the fulfillment of the rights of persons with disabilities by local government, in reference to UNCRPD, Law No. 8 Year 2016, Ministerial Decree No. 14 Year 2017 on the Requirements of Building Establishment, and the Charter of Indonesian Mayors Network Toward Inclusive Cities:
4. UNCRPD, Law No. 8 Year 2016, Ministerial Decree No. 14 Year 2017, and the Charter of Indonesian Mayors Network Toward Inclusive Cities should be used as a reference to ensure disability-inclusiveness in development planning and implementation.
5. Local Government (provincial/regency/municipality levels), as well as the Local Parliaments at provincial/regency/municipality levels, should prioritize the acceleration of the adoption of Local Regulations on the Protection and Fulfillment of the Rights of Persons with Disabilities (as already done by the Local Governments of Manggarai and West Manggarai) by engaging DPOs.
6. Raise awareness and sensitivity of all government officials about the rights of PWDs, including ensuring budget planning and accessible building facilities.
7. Local Government (provincial/regency/municipality levels) should ensure coordination with DPOs and reiterate that the responsibility of protecting PWDs’ rights does only rest on the Agency of Social Welfare alone; it should be shared between the government and civil society at large so that inclusive development can become a reality.
8. Local Government (provincial/regency/municipality levels) should work to ameliorate public facilities and ensure that they are accessible to PWDs. This is so that PWDs can do their activities independently.
9. Local Government (provincial/regency/municipality levels) should ensure the availability of the Standard Operating Procedure (SOP) that is inclusive and accessible, as well as ensure that PWDs can access it optimally.

Proposed List of Issues

1. Regarding the local regulation on the right of disability, such as in Yogyakarta or other provinces, have Provincial Government of Yogyakarta and the governments at regency and municipality levels disseminated information on the as well as Local Regulations at the regency level to various parties? (the smallest government unit to DPOs across the region?)
2. What measures have the Provincial Government and the Local Governments (at regency and municipality levels), in particular the Agency of Public Works and Housing, taken against the applicants of building establishment permits in ensuring accessibility in reference to the Ministerial Decree No. 14/PRT/M/2017 on the Requirements of Building Establishment and other Local Regulations? And, what is the national monitoring mechanism to ensure that Local Government works on improving accessibility?
3. What strategies or approaches will the Central and Local Governments take to convince the Legislative Body (Parliaments, Local Parliaments I, Local Parliaments II) so that they commit to the adoption of regulations (Law or Local Regulations) on the rights of PWDs? How will the Government ensure that the regulations are aligned with CRPD principles?
4. What is the long-term planning of the Local Government in relation to development, rural planning and budgeting with a view to ensure accessibility for PWDs?
5. Can the evaluation of Ministerial Decree (No. 14 Year 2017) address the problems around the issue of accessibility in implementing the mandates stipulated in Law No. 8 Year 2016?

## **Articles 5, 6 and 29: Involvement of Persons with Disabilities in Development**

1. Legal Framework on the Involvement of PWDs
2. Point (3) in Article 2E of the Constitution of the Republic of Indonesia guarantees that “Every person shall have the right to the freedom to associate, to assemble and to express opinions.” Article 8F states that “Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.”
3. Point (2) in Article 1 of the Law No. 8 Year 2016 mandates equal opportunity in relation to State and social affairs, including discussions on development planning (Musrenbang)[[22]](#footnote-22). Article 2 of the Law emphasizes the full participation of PWDs, and Point (1) of Article 75 stresses that both Central and Local Governments are obligated to ensure the full and effective participation of PWDs in both political and public life.
4. Article 2 of Law No. 8 Year 2016 on the Implementation and Fulfillment of the Rights of Persons with Disabilities, in particular the principle of full participation (letter d), and Article 23 on the Right to Independent Life and Involvement in Social Affairs, state:

*The right of persons with disabilities to independent life in society involves the right to:*

1. *Have personal mobility with the provision of aid tools and accessibility;*
2. *Have the opportunity to live independently among the society;*
3. *Receive training and guidance on how to live independently;*
4. *Be able to decide or receive assistance from the Central or Local Government in selecting a domicile or foster family or substitute family;*
5. *Have access to services provided either at home or by foster or substitute family;*
6. *Receive decent accommodation in order to take part in social life[[23]](#footnote-23).*
7. According to Law No. 8 Year 2016 on Persons with Disabilities, “A person with disability is one who has a long-term physical, intellectual, mental and/or sensory barrier that hampers interaction in social life and hinders the full and effective participation with other citizens on the basis of equal rights.”
8. In addition to the Law on disabilities, the right to participation is also emphasized in Law No. 25 Year 2004 on national development planning system, Article 11 (1) states that discussion on national development planning (Musrenbang) is held in order to develop a Long-term Development Planning (RPJP) and is joined by elements of state administrators and civil society.
9. The rights of PWDs are also discussed in Article 354 of Law No. 23 Year 2014 on Participation, Government Decree No. 45 Year 2017 on Civil Society Participation in the Conduct of Local Government, Article 2 of Law No. 8 Year 2016 on Persons with Disabilities, and the Guidebook on Planning and Budgeting that is Disability-friendly from BAPPENAS (National Development Planning Agency).
10. Articles 3 and4 of Law No. 23 Year 2014 on Local Government specifies civil society[[24]](#endnote-1) participation. Law No. 6 Year 2014 on Village states that every citizen plays an important role in the planning and developing processes of a village.
11. From the aforementioned regulations, it can be concluded that PWDs must receive protection and good treatment as they have long-term physical, intellectual, mental, and/or sensory barriers that hinder their full and effective participation and interaction with other citizens on the basis of equal rights. As such, PWDs need to be engaged in the development planning of a village with a view of attaining equal rights, in particular, the right to access public service facilities.
12. At the local level, some regulations have been in place to strengthen the participation of PWDs; some of the regulations in Yogyakarta include:
13. The Local Regulation of DIY No. 4 Year 2012[[25]](#endnote-2).
14. At the regency level, participation is also guaranteed under the Local Regulation of Gunungkidul NO. 9 Year 2016 on Disabilities[[26]](#endnote-3).
15. A letter issued by the Regent of Gunungkidul No.140/2369 on the procedure of participation for vulnerable groups in the development planning process; these groups include women, PWDs and other vulnerable groups.
16. Implementation of the Principles Participation in East Nusa Tenggara
17. The Government has not implemented the commitments expressed in laws in relation to the fulfillment of the rights of persons with disabilities in all of the development planning processes. This is reflected in the absence of local regulations that specify the principles of PWDs’ participation in development planning in Kupang. As such, letters have been the only means of influencing the government policies in Kupang to encourage the involvement of PWDs in the discussion on development planning (*Musrenbang*).
18. There has been some commitment to involving PWDs in discussions on development planning (*Musrenbang*) at neighborhood and sub-district levels as instructed in the letter issued by Local Development Agency (BAPPEDA). In implementation, however, not all of PWDs have been involved in such processes. Only those PWDs who have been doing advocacy work are invited to the meeting, while regular PWDs never receive any invitations.
19. Despite the nonexistent policies enacted by BAPPEDA/B44D in the Regency of Kupang, PWDs have already been involved in *Musrenbang* or RPJMD (Mid-term Development Planing) of 2019. Only those PWDs who have been doing advocacy work have been invited to the meetings.
20. In the context of village development, three villages in the Regency of Kupang (Mata Ari Village, Noelbaki Village, dan Oelatimo Village) have allocated their funds to the fulfillment of the rights of PWDs. The implementation, however, has not hit the targets.
21. The Local Government seems to overlook the involvement of PWDs without understanding the form and function of *Musrenbang*. *Musrenbang* is an annual meeting in which all sections of society are entitled to attend. *Musrenbang* functions as a platform where stakeholders (including civil society) come together to forge the same understanding about village development. *Musrenbang* begets an agreement on Village Development Work Plan (RKP) for a particular fiscal year. It is paramount that PWDs are involved in *Musrenbang* for the purpose of gathering insights into their needs and how to accommodate them in the development planning.
22. In reality, PWDs are only invited by the BAPPEDA of Kupang to come to a *Musrenbang*, but they are not involved in the development planning from its outset. This results in their low standard of welfare. In addition, PWDs admit that they do not fully understand about the ways in which they can voice out their aspirations to the government.
23. Practices of the Involvement of DPOs in Yogyakarta
24. There are several good practices in the involvement of DPOs in the development in Yogyakarta. In the village of Segoroyoso, Prelet Bantu, the Village Government has allocated a budget (in the Mid-term Development Development Plans) to the empowerment of PWDs for a period of 6 years (2014-2019). The fund amounts to IDR 69,192,000. In addition, some village governments in Yogyakarta have engaged PWDs in their development planning although they have not substantively influenced the budgeting and programs of the respective village governments.
25. However, several practices are found to have not been aligned with the laws and regulations mentioned earlier above. These include:
26. Despite the existing Local Regulation of Gunungkidul No. 9 Year 2016 and the Regent Instruction that lays down the conduct of *Musrebang* from the village to regency levels, only 22 out of 144 villages in Gunungkidul have engaged PWDs and other vulnerable groups in *Musrebang*.
27. In several villages, the recommendations put forward by PWDs have been incorporated in the Local Development Work Plan (RKPD), and funds have already been allocated to accommodate their needs. However, in some villages, the recommendations that emanate from vulnerable groups have not been considered in the RKPD. One reason to this is that there is no valid data about PWDs. In addition, though already engaged in *Musrebang* at a regency level, PWDs and other vulnerable groups have not been engaged in the *Musrebang* at sub-district level in all sub-districts.

Barriers and Challenges in Ensuring Participation of PWDs in NTT and DIY

1. In many villages of NTT, PWDs have not been engaged in development planning. This is largely due to the pervasive assumption that PWDs are incapable of doing anything, and that they are in need of help. In general, they are seen as an object in development.
2. One challenge facing PWDs is that they lack the understanding and knowledge about how to participate in such development planning processes. The Government has not prioritized the provision of comprehensive capacity building program for PWDs, as well as for government officials from village to provincial levels, to ensure the participation of PWDs, especially in *Musrenbang*.[[27]](#footnote-24)
3. Several practices in Gunungkidul Regency of Yogyakarta are worth a note in this report. These practices include:
4. In Plembutan Village, in the sub-district of Playen, vulnerable groups have been involved in *Musrenbang*. Their recommendations have also been incorporated into RKPD and the Village Regulation No. 11 Year 2017 on the Participation of Vulnerable Groups in Village Development Planning and Implementation. Budgeting is transparent, and the Village Government has also allocated funds to the programs dedicated to empowering vulnerable groups. PWDs are also invited to meetings at a sub-district level, and they are given the much-needed space to voice out the aspirations of vulnerable groups. In August 2018, for example, the vulnerable groups in Plembutan conducted a consultative meeting with Badan Permusyawaratan Desa (Village Consultative Agency), and their recommendations were incorporated into RKPD.
5. In Nglipar Village, vulnerable groups are already involved in *Musrenbang*, and a sum of IDR 5,000,000 is allocated to fund empowerment activities for vulnerable groups. However, their recommendations have not been incorporated into RKPD. At a sub-district level, DPOs are already involved in *Musrenbang* although their participation is limited (they only sit and listen to what is going on). No sign language interpreter is available to give assistance.
6. The engagement of PWDs in Katongan Village is limited to a symbolic effort. No transparency in budgeting is evident.
7. PWDs and other vulnerable groups in Rejosari Village in the sub-district of Semin were involved in *Musrenbang* and *Musde*s (village consultative meeting) on July 24, 2018. Recommendations advanced by PWDs have been incorporated into RKPD. The Village Government has allocated a budget to purchase meals for regular meetings, as well as to fund some empowerment programs, such as goat-farming, flour-making, bird cage-making, and so on. The Village Government has also adopted Village Regulation No. 5 Year 2018 on the Participation of Vulnerable Groups in the development planning of Rejosari. However, no sign language interpreter is available yet. Some members of vulnerable groups were not able to participate in the 2015 meeting on village development planning as the quota was already filled in.
8. In Karangasem (in the sub-district of Paliyan) and Hargosari (in the sub-district of Tanjungsari), PWDs are already involved in *Musrenbang*, but their recommendations have not been taken with great weight.
9. In Bantul Regency, PWDs are already invited to *Musrenbang*, but such an invitation seems to be a mere symbolic effort. In general, the participation of PWDs in *Musrenbang* and *Musdes* is low.

Rights Violations and Cases

1. Despite the existing legal framework on the inclusion of PWDs in *Musrenbang*, the participation of PWDs in such meetings is still poor. One reason to this is that, in 122 villages, PWDs and other vulnerable groups are not yet notified of the meetings by the village government officials.
2. There is a low transparency in budgeting. As a result, people cannot track village expenditure and gauge the impacts of such expenditure on matters that pertain to their recommendations. In *Musrenbang* at the sub-district level, decisions are taken on the basis of recommendations produced in the *Musrenbang* at a village level. Meanwhile, PWDs generally do not have a voice in the latter.
3. The reading materials discussed in *Musrenbang* are generally circulated at the meeting venue; as such, people do not have the chance to read through the information about budgeting in the work plan.
4. The invitation to attend *Musrenbang* in August 2018 in Rejosari, in the sub-district of Semin (Gunungkidul Regency), was sent over to the participants only the night before the meeting was conducted. As a result, there was no meaningful preparation and coordination among PWD groups in the village.
5. PWDs and other vulnerable groups are not capacitated to advance recommendations. This is largely due to the fact that they lack the knowledge and understanding about these participatory processes. In addition, no training is conducted by the Government to address this issue.

Recommendations

1. Village Government should maximize the role of *Musrenbang* and create space that allows PWDs to take part in village development planning processes by adopting a Local Regulation in reference to the higher legal framework and allocate the budget to fund empowerment activities for PWDs.
2. Both Central and Local Governments should ensure the participation of PWDs in *Musrenbang*. Capacity building programs should be created to equip government officials with the much-needed knowledge and understanding about disabilities issues. In addition, Governments should also provide accessible information to PWDs and guarantee that the participation of PWDs in aforementioned *Musrenbang* result in disability-friendly budgeting.
3. Government should put together capacity building programs for PWDs so that they can voice out their aspirations through *Musrenbang* at village, sub-district, regency and provincial levels. PWDs also need to be equipped with the skills necessary to oversee budgeting and policy implementation.

Proposed List of Issues

1. How can both Central and Local Governments ensure the participation of PWDs in all decision- and policy-making, planning, and budgeting processes, including *Musrenbang*?
2. How can the Government of Indonesia ensure the implementation of UNCRPD, Law No. 8 Year 2016, and other regulations in order to create positive impacts on the lives of PWDs? Give one example of a meaningful participation that has an impact on policy or budgeting. What are the challenges and barriers to such participation? Are there any complaint or case-handling mechanisms available when PWDs are unable to have a meaningful participation in aforementioned processes?
3. Has the Village Government created space for the participation of PWDs and considered the recommendations advanced by them in the village development planning? How do we ensure the participation of PWDs when the village itself does not have any Village Regulations that guarantee the participation of PWDs? How do we ensure that program activities for PWDs are incorporated into the Village Income and Expenditure (APBDesa)?
4. How can we expunge the stigma, stereotypes and prejudice attached to PWDs so that they can have a meaningful participation in policy-making processes and other public affairs?

## **Article 25: Health**

1. Health Conditions of Children with Disabilities
2. Some laws are already in place to guarantee PWDs’ right to health, such as the Article 12 of Law No. 8 Year 2016. According to the Law, PWDs’ right to health includes the right to (d) receive equal treatment and opportunity to independently select health service based on one’s needs.
3. Article 12 of Law No. 25 Year 2014 as an amendment of Law No. 23 Year 2002 on the Protection of Children emphasizes that “*Every child with disability is entitled to rehab, social assistance and treatment for the purpose of social welfare*.”
4. In reality, not all children with disabilities are covered by the insurance provided by the government. This is because the decision to grant insurance is based on the financial power of the parents. Children with disabilities from a well-to-do background cannot access government-sponsored health insurance. In Yogyakarta, some children with disabilities who are looked after by WKCP do not fall within the health insurance scheme. This increases the burden that the respective families have to shoulder.
5. In addition, the existing health insurance do not cover the costs incurred in certain health services, which means that parents/guardians/family have to gather up additional resources to cover the costs[[28]](#footnote-25).
6. Another problem is that children with cerebral palsy often do not receive the required health services because of exorbitant cost. A survey conducted by Wahana Keluarga Cerebral Palsy (WKCP) in Yogyakarta in 2014 showed that the lowest cost incurred in accessing health services (including medicine, therapy, and provision of aid tools) for cerebral palsy treatment amounted to at least IDR 1,800,000, and the highest IDR 2,700,000 (in 2018, the lowest expense is IDR 2,175,000 and the highest is IDR 4,262,000). It does not include the costs of diapers, vitamins and so on (which are not covered by the insurance).
7. The INA CBGs-based health insurance scheme (the amount of insurance premium paid is based on the type of illness) requires that children with cerebral palsy who suffer from accompanying illness pay for the treatment of illness that are not specified in the insurance.
8. The existing multi-tiered health insurance scheme puts parents (of children with cerebral palsy) at a disadvantage as they have to go to the lowest unit of health institution before proceeding to a hospital. For example, a couple in Kulonprogo with two children (one with cerebral palsy and the other with physical impairment) are forced to give up one of the parents’ job to look after the children. One day, her first child (with cerebral palsy) experienced a seizure, which lasted for 30 minutes. He was then taken to the emergency unit of a hospital to get treatment. At the Unit, the seizure continued for 10 minutes. After receiving treatment, the child’s parent had to pay as much as IDR 2,000,000 as the seizure could not be categorized as an emergency situation. The hospital asked the parent to seek a referral letter from *Faskes* 1, a lower health institution.
9. In a separate case, a grown-up with cerebral palsy has to be taken to a hospital on a weekly basis in order to get treatment for his seizures. Meanwhile, his mother has barriers to mobility. When asked if the treatment can be done once in a month, the hospital rejected.
10. Health Services and Data Collection
11. Data collection on the number of PWDs in Yogyakarta is constrained by the regulation that requires all PWDs to be covered by health insurance. The regulation specifies that health insurance is accessible to impoverished families, but such impoverishment is discussed in a separate regulation. Children with disabilities directly fall out of this category.
12. Nevertheless, the Government of Yogyakarta provides funds (loans) to its residents who are not insured or are unable to pay health services regardless of their economic status. With the funds, PWDs can access health services albeit temporary.
13. Relating to INA CBGs (see above), PWDs need extra money to pay the costs incurred in treating accompanying illnesses. The extra money is needed because they overstay the duration of hospitalization covered by BJPS (state-led insurance scheme). The BPJS specifies that the maximum number of therapies accessible to children with cerebral palsy is 8 times, whereas children with cerebral palsy need to undergo therapy every day. Also, the types of therapy vary.
14. The Agency and Operator of Special Health Services (Bapeljamkesus) states that in certain circumstances, patients can be directly taken to the emergency unit without having to pocket a referral letter from a lower health institution. However, such a statement is not underpinned by a legal framework, and health officials on the ground are insensitive.

Proposed Questions for List of Issues

1. Are all types of disabilities covered by the health insurance scheme provided by the Government?
2. Has the data collection on the number of PWDs in Yogyakarta been carried out optimally?
3. All PWDs, including children who need regular therapy treatment, are guaranteed by the State. This service is in line with the assessment of their needs.
4. INA CBG’s system needs to be evaluated, especially for children with disabilities. Children with disabilities should have access to health services according to their needs (as proven by the assessment by a medical officer).
5. PWDs have to be involved in the planning and budgeting of health service development in DIY and Indonesia in general (starting from regency/municipality level to provincial level).
6. How can the Government cut the *jamkesus* (health insurance) processes short?

Article 24: Inclusive Education[[29]](#footnote-26)

1. Legal Framework
2. Right to education is guaranteed by the Constitution of the Republic of Indonesia. Points 105 in Articles 31 of the Constitution stresses that every citizen of Indonesia is entitled to education. This applies to all citizens including persons with disabilities. In addition to the Constitution, other legal instruments that guarantee PWDs’ right to education include the National Education Minister’s Regulation No. 70 Year 2009 on Inclusive Education for Students with Special Needs and Special Intelligence and/or Potentials.
3. The right to education is stipulated in the UNCRPD, which has been ratified by the Government of Indonesia and translated into Law No. 9 Year 2011. In 2016, the Government of Indonesia adopted Law No. 8 Year 2016 on Persons with Disabilities. The right to education in Law No. 8 Year 2016 is further elaborated in Article 10.
4. In Yogyakarta, Articles 5-15 of Local Regulation No. 4 Year 2012 emphasize that every person with disability reserves the right to education. 4 out of 5 regencies in the Special Region of Yogyakarta have adopted Local Regulations that guarantee PWDs’ right to education. In those Local Regulations, education is referred to as a basic right that must be fulfilled.
5. In Yogyakarta, several regencies or municipalities that have adopted local regulations specifying the conduct of inclusive education include: Gunungkidul Regency (through the adoption of Regent’s Regulation No. 12 Year 2013 on Inclusive Education) and the City of Yogyakarta (through the Mayor’s Regulation No. 96 Year 2016 on the Establishment, Organizational Structure, Position, Function, Task, and Procedure of the Unit for Disability Service in Education and Resource Center in the Agency of Education.
6. Implementation of the Right to Education
7. On June 26, 2013 the Local Government of Gunungkidul in Yogyakarta declared itself as an inclusive regency. Thereafter, the Regent issued the Regent’s Regulation No. 12 Year 2013 on the Conduct of Inclusive Education. As a result, several schools were selected to become the models of inclusive schools. Until now, there have been as many as 240 schools, ranging from kindergartens to high schools, that implement inclusive education in Gunungkidul.
8. In 2012, the City of Yogyakarta bagged the Inclusive Education Award for government category. This award, which was given by the Central Government to the Municipal Government of Yogyakarta, has motivated the latter to ameliorate the practices of inclusive education. The commitment to inclusive education is reflected in the issuance of Mayor’s Regulation No. 9 Year 2016. As a follow-up on the regulation, the Municipal Government of Yogyakarta launched Integrated Disability Service Unit (UPT) for Education and Resource Center[[30]](#footnote-27), which is located in Pujokusuman Elementary School area. The UPT is expected to provide integrated services and handle complaints around the practices of inclusive education in the City of Yogyakarta.
9. So far, 60 out of 300 schools have implemented the concept of inclusive education, which amounts to 20% of the whole number of schools (ranging from kindergarten to high school levels) in Yogyakarta.
10. Despite the progresses, several challenges still remain. These include the limited number and capacity of guiding teachers. The Agency of Education, Youths and Sports of the Province of Yogyakarta has noted that until today, there have only been 132 guiding teachers[[31]](#footnote-28), which is still far from the required number, considering the number of schools (ranging from kindergarten to high school levels) in the Special Province of Yogyakarta.
11. On the other hand, those schools that have self-identified as ‘inclusive schools’ are not yet fully inclusive. It can be seen from the absence of accessible school facilities. One reason to it is the lack of budget. Another reason is that there is no updated data on the number of school-aged children with disabilities.

Rights Violations and Discrimination in Education

1. Notwithstanding the existing legal instruments and their rather good implementation, several rights violations still occur in relation to the fulfillment of the right to education. These rights violations include:
2. ***Discrimination against a student in Gunungkidul***. Rizal Bastian (13 years old) was admitted to Plembutan Asri State Elementary School in Gunungkidul in 2015. However, he was later asked to withdraw from the school as he was deemed to have troubles interacting with his peers and exhibit a slow pace of learning. The school requested that Rizal be sent to a Sekolah Luar Biasa/SLB (Special Needs School). This was not the best solution as the SLB was located far away from Rizal’s home. In addition, Rizal’s parents did not have any means of transport to fetch and send him off. Finally, Rizal was sent to a *Pondok Pesantren* (Islamic Boarding School), but shortly after, Rizal was brought back home at his request.
3. ***Discrimination against a student in Bantul*.** A student of Pudong State Elementary School, X (7 years old), was forcibly asked to transfer to a Special Needs School. The reason to it was that the school argued that it was unable to accommodate students with special needs. The school, however, did not give any recommendation as to which Special Needs School X had to move to.
4. ***Discrimination against a student in Yogyakarta.*** In 2015,a woman declared that her child, who had a hearing impairment, was denied admission to two schools (Blunyah Rejo II Elementary School and Bangun Rejo II Elementary School) that prided themselves as inclusive schools. The reasons that these schools gave to her varied. Surprisingly enough, these were recommended by the Agency of Education of Yogyakarta for children with disabilities. Blunyah Rejo I Elementary School argued that it lacked teaching staff, while Bangun Rejo II Elementary School reasoned that the child was unable to provide a correct answer to the question “2+2” and other simple questions.

Proposed List of Issues

1. Has the Government collected data on the number of children with disabilities (especially school-aged children)? If yes, is the data already available at all levels (village, sub-district, regency, municipality, and province)? If no, what strategies will the Government employ in collecting data?
2. How is inclusive education implemented by local governments? How much money is allocated to the realization of inclusive education?
3. How does the Government ensure that children with disabilities, as well as family of children with disabilities are free from discrimination in relation to their right to education?

Recommendations – Education

1. Both Central and Local Governments should allocate more funding to improve the implementation of inclusive education by recruiting more teaching staff and providing accessible schools facilities.
2. Both Provincial and Local Governments should disseminate information on the legal instruments that guarantee the rights of persons with disabilities, as well as run capacity building programs for schools that provide inclusive education. This is to prevent discrimination and discriminatory school policies.

Articles 12, 13 and 16: Persons with Disabilities before Law and Victims of Violence

1. Legal Framework on Equal Recognition before Law
2. Several legal instruments stress the importance of raising government officials’ and civil society’s awareness of persons with disabilities and victims of sexual violence before law. Article 3 of Law No. 39 Year 1999 on Human Rights states: (1) Everyone is born equal in dignity and human rights, and is bestowed with the intellect and reason to live with others in a spirit of brotherhood. (2) Everyone has the right to be recognized, guaranteed, protected, and treated fairly before the law and is entitled to equal legal certitude and treatment before the law. (3) Everyone has the right without any discrimination, to protection of human rights and obligations.
3. In addition, the right to equal recognition before law is also discussed in other regulations, such as Presidential Decree No. 59 Year 2017 on Sustainable Development Goals (SDGs), which discusses PWDs in the gender equality section, Law No. 17 Year 2016 on Child Protection, Supreme Court’s Regulation No. 3 Year 2017 on Guidelines on Judging Women’s Cases before law, and Articles 286-296 of Criminal Law Book on sexual harassment against underage females.
4. Several legal instruments at a local level include: Local Regulation of Yogyakarta No. 3 Year 2012 on the Protection of Female and Child Victims of Violence as stipulated in Articles 1, 5, 8 and 10; Local Regulation of Yogyakarta No. 4 Year 2012 on the Protection and Fulfillment of the Rights of Persons with Disabilities, Governor’s Regulation of Yogyakarta No. 34 Year 2013 on Local Plans of Action on the Protection of Female and Child Victims of Violence 2013-2017; and Regent’s Regulation of Bantul No 15 Year 2015 on the Protection of Female and Child Victims of Violence.
5. Currently, the Government is preparing the Draft Bill on the Elimination of Sexual Violence, which can potentially be used as a tool to ensure the rights of persons with disabilities who become victims of sexual violence. However, due to some faults in the document, the passing of the Draft Bill does not seem to be happening anytime soon.
6. Implementation of Equal Recognition before Law
7. Some regulations have not been implemented because of internal barriers at the local level.
8. Aside from the guarantee of non-discrimination and protection of rights, violence against PWDs continues to happen. CIQAL recorded that throughout 2014-2017, there were 96 cases of violence against PWDs, of which only 4 cases were proceeded to the court.
9. Many of the aforementioned cases were not proceeded through legal processes because of the lack of knowledge about law enforcement mechanisms. As a result, many cases of violence against PWDs went unreported. Another notable challenge is the lack of law enforcement officials’ attention on cases involving PWDs.
10. DAW was raped on October 24, 2017 in an area in Indonesia. Several challenges arise on the part law enforcement officials, including:
11. There is a weak protection system and the lack of law enforcement officials’ awareness of sexual violence against PWDs.
12. Perpetrators are part of the family, making the case go unreported. In one case, a woman with disability gave birth twice (as a result of rape). However, the perpetrator, who is a family member, was not reported to the police for fear of defaming the family’s image.
13. The existing legal system does not take side with female and child victims of violence as, for example, a person with an intellectual disability is asked to narrate his/her experience, which is to be used as evidence at the court.
14. There is a lack of infrastructure or facilities, including a sign language interpreter, during the legal processes (investigation, trial, and translation of documents).
15. There is difficulty in communication, but it is overlooked by law enforcement officials.
16. Indonesia’s Criminal Law Book does not recognize the testament of persons with intellectual or psycho-social disabilities.
17. P2TP2A is not transparent as to give the result of the victim’s psychological examination upon the request of the family.
18. Child Protection Unit (UP Perlindungan Anak) does not quickly respond to reports on violence against children with disabilities.
19. Even if a case is proceeded through the legal process, it takes so much time that the family of the victim becomes uncertain as to whether the case will be further dealt with or stopped. By arguing that there is a lack of evidence and witness cannot provide accurate testament, investigators decide to push through mediation between victims and perpetrators. Several cases are mediated and settled peacefully between victims and perpetrators. Upon case settlement, the rights of the victims are often not accrued to them.

Recommendations

1. Government should implement Law No. 8 Year 2016 on Persons with Disabilities in order to eliminate violence against women. In addition, the Government should amend some laws and regulations that discriminate against women with disabilities.
2. The Government should province legal assistance specifically to PWDs, as well as sign language interpreting service, and ensure that the testament of PWDs is recognized before law.
3. The Government should pass the Draft Bill on the Elimination of Sexual Violence and incorporate the issue of disabilities into it.
4. The Government should equip law enforcement officials with the awareness of sexual violence and how to handle cases of sexual violence using a structured and measurable scheme. The Government should also disseminate such information to the family of victim and DPOs.

Proposed List of Issues

1. Has the Draft Bill on the Elimination of Sexual Violence incorporate victims with disabilities? Why has this Bill not been passed?
2. How the government / law enforcement officers ensure the rights of people with dissabilities in the law enforcement process with the current Procedural Penal Code Law (KUHAP) that discriminated people with dissabilities?
1. By Pertuni NTT & Januar Johannis (CIS Timor) [↑](#footnote-ref-1)
2. Article 11 of Law No. 8 Year 2016 on Persons with Disabilities [↑](#footnote-ref-2)
3. Article 53 of Law No. 8 Year 2016 on Persons with Disabilities [↑](#footnote-ref-3)
4. This report was composed by Pertuni Kupang and CIS Timor, an NTT-based DPO. [↑](#footnote-ref-4)
5. Article 5: principles of universal design Point 2: “must consider the needs and abilities of PWDs, children, the elderly, and pregnant women.” [↑](#footnote-ref-5)
6. OPDis; Organisasi Penyandang Disabilities (Organization of Persons with Disabilities) [↑](#footnote-ref-6)
7. Article 2f sets out the principles of accessibility. Articles 89-93 in Chapter III mandate that public facilities must already be accessible when the Regulation comes into force. [↑](#footnote-ref-7)
8. Saturday, August 11, 2018 during the opening of ‘Dissemination of Information on Illegal Cyber Taxing’ organized by the Center Illegal Cyber Taxing Serive Center of the Police Office of Kupang in El Tari Street, Kupang [↑](#footnote-ref-8)
9. “It is for the purpose ensuring inclusive development in Kupang that I come to power as a Mayor. I admit that the current public facilities still fall outside the accepted accessibility standards for PWDs and vulnerable groups. And during my administration, we’ll try to make that come true in the Regional Income and Expenditure Budget (APBD) 2019.” The promise of the Mayor (of Kupang) as written by Juliana Bida Rehi, published on kupangmedia.com [↑](#footnote-ref-9)
10. <https://www.harianmerapi.com/news/2018/01/09/5241/toilet-bawah-tanah-mewah-ramah-difabel> [↑](#footnote-ref-10)
11. <http://kabarhandayani.com/pembangunan-lift-pemda-tuai-kritik/> [↑](#footnote-ref-11)
12. <https://www.solider.id/baca/4512-hanya-dua-halte-192-halte-trans-jogja-ramah-difabel> [↑](#footnote-ref-12)
13. Petronela Naikofi [↑](#footnote-ref-13)
14. Yayasan Transfigurasi Tabor Mulia [↑](#footnote-ref-14)
15. Desderdea KAni [↑](#footnote-ref-15)
16. Perkumpulan Tuna Daksa Kristiani [↑](#footnote-ref-16)
17. I Made Astika Dhana [↑](#footnote-ref-17)
18. Persatuan Tuna Netra Indonesia [↑](#footnote-ref-18)
19. https://news.detik.com/berita/d-3799835/trans-jogja-dalami-kabar-viral-difabel-ditolak-naik-bus [↑](#footnote-ref-19)
20. Serafina Bete [↑](#footnote-ref-20)
21. RPJMD (Mid-term Development Planning) of Manggarai for the periode 2014-2019 was carried out on Tuesday, September 25, 2018 at Bappelitbangda Office of Manggarai Regency. It was organized by Plan International Indonesia under the program of Gender Equality and Social Inclusion, inviting governmental organizations of Manggarai Regency and DPOs in Manggarai. [↑](#footnote-ref-21)
22. the Article states “Equal opportunity is the condition that gives space or provides access for persons with disabilities to channel their potentials in every aspect of State and social affairs.” [↑](#footnote-ref-22)
23. Article 23 of Law No. 8 Year 2016 on Persons with Disabilities [↑](#footnote-ref-23)
24. Point 3 includes: a. the drafting of a local regulation and local policy that regulates and puts burden on the people; b. planning, budgeting, implementation, monitoring, and evaluation of local development; c. asset management and/or local natural resources; and d. the conduct of public services. And Point 4 states that the participation of civil society as discussed in Point (3) is carried out in the form of: a. public consultations; b. consultative meetings; c. partnership; a. voicing of aspiration; monitoring; and/or f. other relevant form of participation. [↑](#endnote-ref-1)
25. Article 2 (c) on the principles of participation and full and effective participation in society; Article 72 on the Presentation of Aspiration by PWDs in either written or spoken form or using a sign language. Article 75 (1) on the responsibility of Central and Local Government in ensuring the full and active participation of PWDs in both public and political life; Article 94 on the participation of civil society in the respect, protection and fulfilment of the rights of PWDs including in the presentation of recommendations in spoken or written form in policy-making and monitoring as well as policy implementation. [↑](#endnote-ref-2)
26. This is emphasized in Article 2c: “the principle of full and effective participation in society,” Article 27: “Presentation of Opinions by PWDs in written or spoken form or using a sign language.” Article 94: “Participation of civil society in the respect, protection and fulfilment of the rights of PWDs including in the presentation of recommendations in spoken or written form in policy-making and monitoring as well as policy implementation [↑](#endnote-ref-3)
27. This report was prepared by PERSANI Kupang [↑](#footnote-ref-24)
28. This is despite the fact that the Minister of Health (Nila Moeloek) has once said that Kartu Indonesia Sehat (Indonesia Healthy Card) will ensure the impoverished families that are not covered by PBI will receive health services. Beritasatu online, November 5, 2014. [↑](#footnote-ref-25)
29. The report was composed by Organization of Persons with Disabilities ‘Mekar Abadi’ (OSPD) Gunungkidul and Ikatan Tuna Netra Muslim Indonesia (ITMI) Bantul. [↑](#footnote-ref-26)
30. <http://jogja.tribunnews.com/2016/12/29/upt-layanan-disabilitas-pendidikan-yogyakarta-diresmikan> [↑](#footnote-ref-27)
31. <https://www.bernas.id/63336--hak-hak-siswa-penyandang-disabilitas-di-diy-belum-terpenuhi.html> [↑](#footnote-ref-28)