

# PROMOTING AND STRENGTHENING ACCESS TO JUSTICE OF PERSONS WITH DISABILITIES; *Study on the Establishment of Local Regulation in Klaten and Bantul Districts as a Part of CBR Program in Indonesia*<sup>1</sup>

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## Abstrak

Implementasi peraturan yang memberikan perlindungan bagi penyandang disabilitas di Indonesia masih jauh dari harapan. Dibutuhkan komitmen dan usaha yang kuat dari berbagai pihak, apalagi Indonesia baru saja meratifikasi Konvensi PBB tentang Hak-hak Penyandang Disabilitas melalui UU No. 19 Tahun 2011. Tulisan ini dimaksudkan untuk memaparkan keterlibatan Pusat Studi HAM dan Demokrasi Universitas Atma Jaya Yogyakarta (PSHD-UAJY) dalam melahirkan perda di Kabupaten Klaten Propinsi Jawa Tengah dan Peraturan Bupati di Kabupaten Bantul Propinsi DIY bagi penyandang disabilitas. Melalui program *Community Based Rehabilitation* (CBR), PSHD-UAJY berupaya menanamkan nilai-nilai HAM pada kedua peraturan tersebut sehingga dapat terpenuhi hak-hak penyandang disabilitas. Namun, lahirnya perda bagi penyandang disabilitas masih menuntut partisipasi aktif berbagai pihak untuk memastikan implementasinya.

Kata kunci: hak-hak penyandang disabilitas, partisipasi

## Introduction

Constitution of the Republic of Indonesia constitutes explicitly that Indonesia has secured human rights for its citizen. Article 27 subsection (1) of the Constitution declares that each citizen has equal position before law and governance. Moreover in Article 27 subsection (2) is asserted that each person has the right to work and suitable

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<sup>1</sup>This paper has been presented at the 2<sup>nd</sup> International Conference on Human Rights Education in Durban-South Africa, November 14-16, 2011.

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livelihood. Beside, Article 28 secures that each citizen has the right to alliance and line-up, express their opinion orally and written. Indonesia also secures independency of each person to hug its religion and gets observance according to its religion as stated in Article 29 subsection (2). In term of education it is determined in Article 31 subsection (1) that each citizen has the right to get education. Even in Article 31 subsection (2) stated that each citizen shall follow elementary education and the government has to funds it.

Furthermore, the Indonesian Constitution has been amended by putting in human rights protection that adopted from the Universal Declaration of Human Rights (UDHR). The rights of persons with disabilities have been the subject of much attention in the United Nations and other international organizations over a long period of time. Indeed, the Constitution do not regulate the rights of disabled people specificly, but in principle, it can be used as a basis to advocacy their rights. Disabled people, in principle, are citizen that have equal rights as well as the others.

Human rights values have also been regulated in the Law No. 39 of 1999 concerning Human Rights. In this law, human rights settled generally but it stated more detail than the Constitution. Besides, Indonesia has also been ratified some instruments of international law in human rights field. All the instruments become Indonesian legal sources included for disabled people. Some of them are: *Convention on the Elimination of All Forms of Discrimination against Women* 1979 (ratified by Law No. 7 of 1984); *Convention on the Rights of the Child* 1989 (ratified by Presidential Decree No. 36 of 1990); *Convention against Torture and Others Human Cruel, Inhuman or Degrading Treatment or Punishment* 1984 (ratified by Law No. 5 of 1998); *International Convention on the Elimination of All Forms of Racial Discrimination* 1965 (ratified by Law No. 29 of 1999); *International Covenant on Economic, Social and Cultural Rights (ICESCR)*1966, (ratified by Law No. 11 of 2005); and *International Covenant on Civil and Political Rights (ICCPR)*1966, (ratified by Law No.12 of 2005). Concerning with persons with disabilities, in fact, Indonesia has also been ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) by Law No. 19 of 2011.

Generally, persons with disabilities were not protected yet as well as other people, especially in getting equal opportunity on fulfilling their need and interest. However, Indonesian people, included government officers, still have wrong perception in seeing and treating disabled

people. Most of them do not treat them as common people but tend to pay more attention based upon over compassion.

In order to more empowering of persons with disabilities, the Republic of Indonesia actually has been stipulated Law No. 4 of 1997 about Disabled People. Furthermore, for secure of social welfare of persons with disabilities, Indonesia stipulated Government Regulation No. 43 of 1998 about Efforts on Increasing Social Welfare of Persons with Disabilities. The regulations aimed to protect disabled people's interest and their social welfare could be raised.

Despite of the existence of Law No. 4 of 1997 and Government Regulation No.43 of 1998 has been long enough, in fact, persons with disabilities in Indonesia were not treated equal and still have limited access to fulfil their rights. It can be seen in some aspects such as access to public services (education, health care, public transport), accomplishment of economic, political, and social rights, discrimination on the basis of disability, etc. One of the reasons is because Indonesia governmental was governed by and based on region or local autonomy. It means that each local government has different point of view on putting disabled people's rights in their policy. Local autonomy means that every local government in each region can make and decide their policies based upon their own interest and condition. Therefore, system of local autonomy shown disparity of each local government's role and responsibility on making policy in fulfilling the rights of persons with disabilities.

On behalf of principles of region autonomy, every local government strived for optimize their own resources to develop social welfare for their inhabitant, included persons with disabilities. Since the Law No. 4 of 1997 declared it can be seen that only some local governments in Indonesia follow up the act with local regulations to secure rights of person with disabilities. It means that fulfilling of rights of persons with disabilities can not be felt by persons with disabilities in each region similarly. Therefore, the fulfilling of rights of persons with disabilities must be strengthened continuously in all regions.

On top of that, Karina KAS and Center for the study of Human Rights and Democracy, University of Atma Jaya Yogyakarta (CSHD-UAJY) called for impetus and reinforce fulfilling of disabled people's rights in two districts, Klaten and Bantul. As a Human Rights Intitution at the University, CSHD-UAJY would like to do more than just thought for the shake of human rights education in the class room (in house training). In this case, CSHD-UAJY get involve in the efforts to

promoting and strengthening access to justice for persons with disabilities throughout legal drafting of local regulations. CSHD-UAJY emphasizing that the rights of persons with disabilities are important to be strengthened and regulated more detail on the local regulation in order to they can improve of their quality of life in economic, social, and cultural aspects.

Indeed, in the beginning CSHD-UAJY focus on human rights education by conducting seminar, discussion, and trainings for students, teachers, and public on human rights issues. However, supported by "Karina KAS", since 2010 CSHD-UAJY begins with concrete actions in advocacy for persons with disabilities by strengthening access to justice of persons with disabilities. By establishing of local regulation on fulfilling and protecting of the rights of persons with disabilities in Klaten and Bantul districts, CSHD-UAJY convinced that spreading of human rights values would happened.

Determining of Klaten and Bantul districts as target of rights advocacy for persons with disabilities was established by considering its urgency. The amount of persons with disabilities in both regions is in great scale and tends to raise after quake disaster in Mei 2006. It was happened because many citizen were injured (some of them become disabled) because of their home collapse (even noted that more than 5000 people died). As a consequence, the amount of disabled people in both areas tend to increase. At that time, the earth quake has shaken some regions in Yogyakarta and Central Jawa, included Klaten dan Bantul region. Even most of dead victims caused by earth quake, come from both districts.

Indeed local government in those regions has conducted some efforts to fulfil rights of disabled people, but they did not have local regulation on it. The local regulation needed to protects and secures fulfilling of the rights of disabled people in many fields. By having local regulation, it can be certained the responsibility of government and other parties on implementing its regulation. By doing that, access to justice of persons with disabilities could be increased and strengthened.

Furthermore, establishment of local regulations on fulfilling of the rights of disabled people was oriented to achieve:<sup>3</sup>

1. Recognition and respects to the rights of persons with disabilities in every aspects of life;

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<sup>3</sup>CSHD-UAJY, "Naskah Akademik tentang Kemandirian Difabel di Kabupaten Klaten" (Yogyakarta: 2010), p. 4.

2. Availability of opportunity and occasion for disabled people to access to education, health care, employment, and public services so that they can get easily;
3. Increasing of commitment of government and all stake holders in realizing equal opportunity of disabled people on all aspects of life.

In other words, the purpose of the rules are to ensure that girls, boys, women and men with disabilities, as members of their societies, may exercise the same rights and obligations as the others. In Indonesia there are still obstacles for persons with disabilities in exercising their rights and freedom. Furthermore, it is difficult for them to fully participate in many activities of their societies. It is the responsibility of States to take appropriate action to remove such obstacles. Persons with disabilities and their organizations should play an active role as partners in this process. The equalization of opportunities for persons with disabilities is an essential contribution in the general and worldwide effort to mobilize human resources.

Therefore, the implementation of the program of empowerment of persons with disabilities was conducted by Community Based Rehabilitation (CBR) approach. By CBR approach, Disable People Organizations (DPOs), NGOs, Government Bodies, Community leader, academics, and some other elements of Community, urged to struggles for establishment of local government regulation on fulfilling of the rights of persons with disabilities.

This paper will be started with the description of general condition of persons with disabilities in Indonesia, especially relating to some obstacles for them on fulfilling their rights. It will consist of stigma towards person with disabilities, general approach and treatment by government of Indonesia concerning with persons with disabilities, legal consciousness, and awareness to persons with disabilities.

The second part of this paper describes legal basis for persons with disabilities in Indonesia. In this section, it will be examined some related rules such as Constitution of the Republic of Indonesia, the Law No. 39 of 1999 about Human Rights, the Law No. 4 of 1997 about Disabled People, and Government Regulation No. 43 of 1998 about Efforts on Increasing Social Welfare of Persons with Disabilities.

The final part of this article explains the involvement of Karina KAS and CSHD-UAJY in establishing of local regulation for persons with disabilities, especially in Klaten and Bantul district. It will consist of

using of CBR approach and its implementation, the background the objectives, and the achievements and finally, the obstacles of the program.

### **General Condition of Persons with Disabilities in Indonesia**

There is no suitable and comprehensive data relates to persons with disabilities in Indonesia. In this case, government bodies collect data by using of different method and criteria. As a consequence there is differentiation about the amount of persons with disabilities. According to health ministry, noted that 39% of citizen of Indonesia are persons with disabilities (equivalent with 100 million people); WHO note down that 10% of inhabitant of Indonesia are persons with disabilities (25 million people); meanwhile Social Ministry records 0.5% (more that 1.5 million people), and Statistic Center Agency make a note of 1.38% (approximately 3 million people) are person with disabilities.<sup>4</sup>

The lack of suitable and comprehensive data relating to persons with disabilities becomes the main obstacle because it will impede the proper advocacy for them based upon evidence, need assessment, formulation of policy, monitoring and evaluation. The narrow understanding about disability provides contribution for this problem. The same condition also faced by many families that did not realize or recognize if their family has disability.

Furthermore, negative stigma towards person with disabilities still happened in Indonesia. Most of Indonesian people believe that persons with disabilities are sick and weak. Persons with disabilities were seen as people without ability and they merely become a burden for other people. Disability also be seen by some people as a curse or punishment for their sins. As a consequence, most of persons with disabilities are very rare to get involve in many activities in their society. Even some of them spend of their time only in his or her house because of shy<sup>5</sup>.

Of course, it is not easy to completely remove the stigma. It was needed human rights education and empowerment continuously for all people to get proper understanding about persons with disabilities.

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<sup>4</sup>Nicola Colbran, *Access to Justice of Persons with Disabilities of Indonesia; Study Report of the Background of Access to Justice of Persons with Disabilities (AIPJ, October 2010)*, p. 32.

<sup>5</sup>*Ibid.*, p. 11.

Besides, general approach and treatment by government of Indonesia concerning with persons with disabilities is still dominated by charity basis approach. This approach reflects that persons with disabilities can be managed by social charity programs. Based upon this point of view, the whole aspect of living of persons with disabilities will be stipulated by professionals concerning with their education, need, shelter, etc. Persons with disabilities are very rare to get involve in decision making process. They did not seen as a subject who has legal rights, but precisely as an object for social welfare and charitable programs. These programs, of course, may encourage the emergence of dependence of persons with disabilities at providing donation and other government aid schemes. This approach also tends to influence mind-set of persons with disabilities to themselves as a part of citizen that is unequal and should be compassioned<sup>6</sup>.

Charity-based approach is also mean that normatively, disability in general, should be seen as one of legal aspect concerning with social and welfare security, health, or guardianship. In Indonesia, government body which has ultimate responsibility for person with disabilities is Social Ministry. This ministry classifies persons with disabilities as “disable of social welfare problem.” It means that persons with disabilities were assumed incapable to meet their basic needs (physical, spiritual, and social) reasonably, because of difficulty or obstruction. They are persons that were categorized into the group consist of disable people, waif, street children, homeless, sluttish, beggar, ex-convict, and disaster victims.<sup>7</sup>

Another approach that is also clearly visible on the regulation, policy, and program in Indonesia is medical model for disability. This model looks at disability as deficiencies or irregularities of individual norm. It reflects that it was needed treatment for treat or change persons with disabilities so that they could follow the process and existing social structure. It can be seen by establishing social residence or rehabilitation center in Indonesia in which persons with disabilities should stay in the residence because in this places aid programs from the state are available.

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<sup>6</sup>*Ibid.*, p. 12.

<sup>7</sup>This categorizing was also shown at Local Regulation of Bantul District No. 1 of 2010 about Organization of Social Welfare for Disable of Social Welfare Problem.

Regulations that reflect medical model to disability usually using terms like “special treatment” for persons with disabilities. It was clearly seen at Indonesian regulations and policies such as the Law No. 39 of 1999 about Human Rights.

Meanwhile, the Convention on the Rights of Person with Disabilities (CRPD) did not adopt charity approach or medical model but using of social model to disability that is recognizes disability as human rights issue. This model reflects disability as a consequence from individual interaction with its environment that does not accommodate differentiation in each person and impede individual participation in society.<sup>8</sup>

Furthermore, legal consciousness of persons with disabilities in Indonesia is weak. Most of them do not know well their rights and its mechanism to realizing those rights. Most of them are not well educated, poor, and merely become compassion object. The amount of active DPO is still limited and could not optimize their strategic role because of over load from its tasks, limited staff, and inadequate resources<sup>9</sup>.

Besides, most of persons with disabilities do not know the existence of program, service, policy, and regulation, because they have no access to information from related government agencies such as Social Ministry. Government institution do not systematically conducts consultation by involving persons with disabilities in developing

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<sup>8</sup>Section 3 at the General Principles Section stipulates that CRPD's principles are: (a) Respect to human dignity which is cling, individual's authority comprises freedom of determine option and independence of people; (b) Non-discrimination; (c) Participation and full involvement and effective in societies; (d) Respect to differences and acceptance of disability as part of human diversity and sense of humanism; (e) equal opportunity; (f) Accessibility; (g) equality among male and female; and (h) Respects to capacity which is developed of children with disability and respect to children's rights to protect their identity.

<sup>9</sup>Kamaludin in his study found that PPCI, as the largest DPO in Indonesia, has it main function as coordinator of its members. PPCI has a strategic function because in an ideal world, it can effectively coalesce the correlation between PPCI, its member, government institution, and society to accomplish the appreciation, improvement, align, fulfillment, and protection on human rights for people with disability. See J. Kamaludin “Factors that influenced Persatuan Penyandang Cacat Indonesia (PPCI) in Struggling the Rights of People with Disability, Tesis-Postgraduate Program” (Jakarta: Univ.of Indonesia, 2005).



programs, services, regulations, and policies. It will contribute to the lack of awareness of persons with disabilities concerning their current condition<sup>10</sup>. It is important to strengthen the awareness and understanding of government officers to the rights of persons with disabilities.

On top of that, it was needed empowerment programs to increase awareness of persons with disabilities to their rights and enlarge DPOs' capacity so that they might optimize their role<sup>11</sup>. Furthermore, strategic programs on spreading human rights values must be developed for government officers in order to change their point of view concerning persons with disabilities. General condition shows that most of government officers in Indonesia still have no comprehensive understanding of human rights values. By having proper understanding on human rights values, hopefully government policies might be in line with the rights of persons with disabilities.

### **Legal Basis for Persons with Disabilities in Indonesia**

The Constitution of the Republic of Indonesia did not have specific rules for persons with disabilities, but it stipulates provisions that explicitly encourage non-discrimination, equality before the law, and the right to get equal treatment in law. Article 27 (1) and 28D (1) instruct that every citizen has the rights for recognition, warranty, protection, and legal certainty that are fair as well as equal treatment before the law.

Article 27 (1): "All citizens shall be equal before the law and the government and shall be required to respect the law and the government, with no exceptions."

Article 28D (1): "Every person shall have the right of recognition, guarantees, protection and certainty before a just law, and of equal treatment before the law."

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<sup>10</sup>Nicola Colbran, *op.cit.*, p. 22.

<sup>11</sup>The International Consultation on Reviewing CBR forum that was held in Helsinki, Finland noted that the position paper advocates for a broad approach for developing CBR programmes, that involves the participation of people with disabilities and their representatives at all stages of the development of CBR. See "Community-Based Rehabilitation Constraints and Challenges-Draft 6 Es&/Rw 16.04.03" (http: International Consultation on Reviewing CBR 25-28.5.2003), p. 7.

The Constitution also provides mandate that every person has the right to get accessibility and special treatment for getting equal possibility and benefit to achieve equality and justice. Article 28H (2): "Every person shall have the right to receive facilitation and special treatment to have the same opportunity and benefit in order to achieve equality and fairness."

The Constitution also emphasizes that every person has the right to freedom from discriminative treatment for all reason and the right to get protection from discriminative actions. Article 28I (2): "Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment."

Based on the above provisions, it can be seen that constitutionally persons with disabilities in Indonesia has already strong legal basis to pursuing and struggling of their rights. It also means that government has to promote, protect, and implement it during their policies. In this case, it was needed strong commitment and political will from the government so that persons with disabilities are really fulfilled their rights.

In the same manner as mentioned by the Constitution, Article 3 (2) of the Law No. 39 of 1999 concerning Human Rights stipulates that: "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."

It can be noted that, in general, the Law No. 39 of 1999 concerning Human Rights shows that basic principles of human rights have been legally respected, recognized, and protected. However, the provisions concerning persons with disabilities were only stipulated at Articles 5 (3): "All members of disadvantaged groups in society, such as children, the poor, and the disabled, are entitled to greater protection of human rights." And also at Article 41 (2): "The disabled, elderly, pregnant women and children have a right to special facilities and treatment."

In addition, the meaning of 'special facilities and treatment' is the provision of services and/or facilities and infrastructure in the interests of efficiency, security, health and safety. Meanwhile Article 17 the Law No. 39 of 1999 stresses that:

Everyone without discrimination, has the right to justice by submitting applications, grievances, and charges, of a criminal, civil, and administrative nature, and to a hearing by an independent and impartial tribunal, according to legal procedure that guarantees a

hearing by a just and fair judge allowing an objective and impartial verdict to be reached.

Unfortunately, the concept of discrimination used by this act does not cover up persons with disabilities. It can be shown by Article 1 (3):

Discrimination means all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of life.

In the meantime, the Law No. 4 of 1997 about Disabled People and Government Regulation No. 43 of 1998 about Efforts on Increasing Social Welfare of Persons with Disabilities specifically provides setting to persons with disabilities. Article 5 of the Law No. 4 of 1997 stipulates that: "Persons with disabilities have the rights and equal opportunity in all aspect of live and livelihood." Moreover, Article 6 regulates that every persons with disabilities have right to:

1. Education for all unit, stripe, genre, and stage;
2. Job and suitable life in line with disability's type and stage, education, and their capability;
3. Equal treatment to take a role on development and enjoy its results;
4. accessibility in connection with their independence;
5. Rehabilitation, social aid, and preserve of social welfare stage; and;
6. Equal right to develop their talent, capability, and its social life, especially for children with disabilities in their families and society.

Although Law No. 4 of 1997 provides some provisions for protecting persons with disabilities, it is not easy to get and realize it. Beside, the stipulation on punishment is very weak. There are no definite parties who have responsible to fulfill obligation to it and it does not clear who should investigate when violation of the rights was happened.<sup>12</sup> Furthermore, this regulation also does not make certain

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<sup>12</sup>In this case Social Ministry states that they have no capacity to monitor the implementation of the act. They only serve related function on rehabilitation

about complaint mechanism based on the act. As an example it can be seen at Article 29 that stipulates: "Every person that do not provide accessibility as mentioned at Article 10 or equal treatment for persons with disabilities as stipulated at Article 12, shall be punished administratively."

Furthermore, it was determined that administrative punishment will be further stipulated by government regulation. Unfortunately, Government Regulation No. 43 of 1998 concerning Efforts on Increasing Social Welfare of Persons with Disabilities (promulgated after the Law No. 4 of 1997) has no specific rule relating to administrative punishment.

In general, therefore, both regulations are inadequate and uncomprehensive in protecting and promoting the rights of persons with disabilities<sup>13</sup>. Both regulations mainly are regulate about welfare, and in several sections it shows medical model approach for persons with disabilities. In other word, those regulation does not show rules that protect and promote the rights of persons with disabilities. It seems that both regulations could not be guideline and instrument for persons with disabilities for getting redress.

For that reason, efforts to promote and strenghten legal basis of the rights of persons with disabilities have to be done by developing local regulation in every povince and district in Indonesia.<sup>14</sup> By determining that persons with disabilities have to be strengthened and increased of its access to justice, therefore CSHD-UAJY was called to get

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such as training or education programs and preparing persons with disabilities to interact in society. See Nicola Colbran, *op.cit.*, p. 20.

<sup>13</sup>Saru Arifin in his research shows that laws related to disable are quite a lot, but most are formulated negatively, such as social welfare act, train act, traffic act, flight act, shipping act, healthy act, and education act. The negative formulation wills consequence to unbinding role to serve the accessibility for disabled. Besides, the government policy in accommodating the disable's rights to achieve job, normatively based on Act No. 4 of 1997 which is formulation is open to interpretation. See Saru Arifin, "Analisis Perlindungan Hukum terhadap Hak Penyandang Cacat dalam Meraih Pekerjaan (Studi Kasus di Kota Yogyakarta), dalam *Fenomena* (Vol. 5 No.2, September 2007).

<sup>14</sup>As a comparison, Wirawan's research shows that there is no district in East Java that already has local regulation concerning accessibility of persons with disability. See. I.B. Wirawan, *Accessibility of Persons with Disability in East Java*, Sociology Department-Faculty of Social and Political Science, Airlangga University, without year, p. 9.

involve in establishing of local regulations concerning fulfilling of the rights of persons with disabilities.

### **Establishing of the Local Regulation for Persons with Disabilities by CBR's Approach**

The concept of disability has changed across the years. The World Health Organization (WHO), in its International Classification of Functioning, Disability and Health (ICF), defines disability as "the outcome or result of a complex relationship between an individual's health condition and personal factors, and of the external factors that represent the circumstances in which the individual lives". Hence, if all factors relating to the disabling process are not tackled equally, the needs of people with disabilities cannot be genuinely and comprehensively addressed.

The concept of community-based rehabilitation came to life in the wake of the Alma-Ata Declaration on Health for All through Primary Health Care (1978). In 1981, the WHO Expert Committee on Disability Prevention and Rehabilitation proposed community-based rehabilitation as an alternative approach to the conventional institution-based system—a system that would best address the needs of people with disabilities in low-income countries.

Community Based Rehabilitation (CBR) may be defined, according to three United Nation Agencies, ILO, UNESCO, and the WHO, as a "strategy within community development for the rehabilitation, equalization of opportunities, and social inclusion of all children and adults with disabilities ... CBR is implemented through the combined efforts of people with disabilities themselves, their families and communities, and the appropriate health, education, vocational and social services"<sup>15</sup>.

The major objectives of CBR are:<sup>16</sup> *firstly*, to ensure that people with disabilities are able to maximize their physical and mental abilities, to access regular services and opportunities, and to become active contributors to the community and society at large; and *secondly*, to

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<sup>15</sup>See ILO, UNESCO, UNICEF, WHO, "Community Based Rehabilitation with and for People with Disabilities: Draft Joint Position Paper" (Geneva: ILO, UNESCO, UNICEF, WHO, 2002).

<sup>16</sup>ILO, UNESCO, WHO, "CBR A Strategy for Rehabilitation, Equalization of Opportunities, Poverty Reduction and Social Inclusion of People with Disabilities-Joint Position Paper" (WHO, 2004).

activate community to promote and protect the human rights of people with disabilities through changes within the community, for example, by removing barriers to participation.<sup>17</sup>

The primary objective of CBR is the improvement of the quality of life of people with disability and marginalized persons. Key principles relating to CBR are equality, social justice, solidarity, integration and dignity. CBR is not an approach that only focuses on the physical or medical needs of a person or delivering care to disabled people as passive recipients. It is not outreach from a centre. It is not determined by the needs of an institution or groups of professionals, neither is it segregated and separate from services for other people. Conversely CBR involves partnerships with disabled people, both, adults and children, their families and careers. It involves capacity building of disabled people and their families, in the context of their community and culture.

It is a holistic approach encompassing physical, social, employment, educational, economic and other needs. It promotes the social inclusion of disabled people in existing mainstream services. It is a system based in the community, using district and national level services.<sup>18</sup>

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<sup>17</sup>Concerning participation, a study found that it was felt strongly that CBR should be part of community development, and that to encourage the development of CBR programmes as separate entities, was at odds with a participatory approach and did not conform to the ideology of inclusion. See *Community-Based Rehabilitation (CBR) as a Participatory Strategy in Africa*, GLADNET Collection, Cornell University, 2002. p. 9. It can be accessed at <http://digitalcommons.ilr.cornell.edu/gladnetcollect/60>. In the same publication, Susan B. Rifkin and Maria Kangere in their paper *What is Participation?* noted that some arguments for including participation in health and disability programmes are: (1) People know what works for them and professionals need to learn from people; (2) People make contributions of resources (money, materials, labour) for these programmes; (3) People become committed to activities that they have helped develop; (4) People can develop skills, knowledge and experience that will aid them in their future work

<sup>18</sup>CBR program must recognize that social change and fulfillment of human rights will not occur by targeting the community level alone. Neither will they occur by targeting only central policymakers and legislators. Improved conditions for persons with disabilities depend on the combined efforts of a number of stakeholders. Persons with disabilities and their families need to be empowered, disabled people's organizations (DPOs) and parents' organizations need to be strengthened and duty bearers (such as government officials and professionals) need to build their capacity. This means that future CBR program

CBR promotes the rights of people with disabilities to live as equal citizens within the community, to enjoy health and well being, to participate fully in educational, social, cultural, religious, economic and political activities. CBR emphasizes that girls and boys with disabilities have equal rights to schooling, and that women and men have equal rights to opportunities to participate in work and social activities.

The United Nations Standard Rules on the Equalization of Opportunities for People with Disabilities (1993) and Convention on the Rights of Persons with Disabilities (2006) are two key instruments promoting equality of opportunities and dignity for persons with disabilities. In particular, States Parties to the Convention are obligated undertake measures to ensure persons with disabilities participate on an equal basis in all aspects of society<sup>19</sup>.

Action plan of WHO in 2006-2011 on Disability and Rehabilitation shows that one of WHO key activities is promoting CBR. Today, CBR is being implemented in more than 90 countries and has evolved into an effective comprehensive multi-sector strategy in creating access to health care, education, livelihood opportunities and participation/inclusion. After 25 years of use, it is the time to take stock and update the strategies where needed. WHO will work in the following areas: Develop CBR Guidelines; Conduct regional/country workshops for promotion of CBR and Guidelines; and Support Member States to initiate CBR and/or strengthen existing CBR.

The background of the CBR program in Central Java and Yogyakarta Province is encouraged by strong eager in which persons with disabilities might be obtained and become an intact part of society. In the beginning, the program starts with medical services (fisiotherapy, occupation therapy, nursing, and medical treatment) for people with *Spinal Cord Injury* (SPI) because of earth-quake in Klaten and Bantul regency in 2006.

Developing of CBR program was intended to establish inclusive society in which able to achieve disparity of people, not only fisically or intellectually but also mentally. This program was developed by

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should ensure support to these three spheres and facilitate input and collaboration between many stakeholders and sectors. See WHO and SHIA, "CBR as We Have Experienced it-Voice of Persons with Disabilities," Part 1 (WHO: 2002), p. 8.

<sup>19</sup>See "Regional Framework on Community-based Rehabilitation-Pilot version" Document WHO-EM/HLP/042/E/01.10

following 5 pilars recommended by WHO such as: health, education, livelihood, empowerment, and social inclusive. Furthermore, the scope of CBR program develops to effort for empowering of adult and children with disability (not only SCI) that was founded in the area of program, such as cerebral palsy, autis, polio, and deaf-mute.

Before implementing the CBR program, local government programs are merely oriented to providing social aid and still less program oriented to self-development capacity of the DPO or persons with disabilities itself. Therefore, most of the programs are dispersed and do not exist in the long run. Ironically, the programs also tends to increasing of dependence of persons with disabilities to social aids.

In the beginning, the CBR program conducts identification towards community leaders at grass root level. At top level, approach to the government also conducted. Beside, approach to the DPO also been done throughout discussion series. It is aimed to collect constructive ideas and thought for empowering persons with disabilities. One of the results of the discussion series and intensive approach is establishing the Council of Rehabilitation for Community Based Disability (DRDBM). The member of this council are representative of grass root community, some disable people from several areas, 5 (five) DPOs, government officers and volunteers<sup>20</sup>.

The functions of DRDBM are:

1. Provide input, consideration and recommendation to the government (executive) and legislative policy-making related to the livelihood and living with disabilities;

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<sup>20</sup>Interesting study concerning community volunteers in CBR projects conducted by Dr. Sunil Deepak and Dr. Manoj Sharma. They noted that role of community volunteers is perceived as one of the major issues for the CBR projects in the world. However, the term "volunteer" seems to denote a wide spectrum of identities and roles in the CBR projects. These problems seemed to be quite similar between the projects, even though they were presented in different ways and with differing emphasis, and included the following: 1. Difficulty in finding new community volunteers; 2. Fast turnover of volunteers; 3. Need for additional resources for continuously training new volunteers; 4. Lack of motivation among community volunteers; and 5. Need for paying incentives or small salaries to volunteers. See Dr. Sunil Deepak and Dr. Manoj Sharma, "Volunteers and Community-based Rehabilitation," Research Paper (March, 2001).



2. Promoting active participation of the disabled, families with disabilities and the public in the rehabilitation / habilitation with disabilities as an effort to improve the welfare of disabled;
3. Hold, analyze and convey the aspirations associated with the lives and livelihood of persons with disabilities towards related parties;
4. Build networks with various parties in an effort to develop programs related to improving the welfare of disabled;
5. Evaluation and monitoring of policies and implementation programs relating to life and livelihood with disabilities

One of the important agenda of DRDBM in Klaten is conducting advocacy for establishing local regulation for persons with disabilities. The process of gaining support begins with campaigns to the public throughout the media of television, radio and also directly socializations into the community. Besides, public hearing with related commission at local parliament also conducted. In the process of establishing local regulation for persons with disabilities in Klaten, DRDBM involves CSHD-UAJY as well.

In the beginning, CSHD-UAJY urged to arrange academic draft of the local regulation for persons with disabilities. After that the draft of local regulation also be composed and brought to be discussed on seminar and workshop session. The seminar and workshop involves some government officers who come from several government institutions (such as Social Services, Labor Services, Education Services, Health Services, etc.), member of local parliament, several DPOs, Academics, persons with disability, and community volunteers. The result of the Seminar and Workshop is final draft of Local Regulation for persons with disabilities. Then, the final draft brought to local parliament to be discussed. In this case, DRDBM also conducts lobbies for related parties in the parliament. After pass several times of parliament session, finally Local Regulation concerning Equality, Independence, and Welfare of Persons with Disabilities' in Klaten approved and promulgated on January 31, 2011.

Meanwhile, empowerment effort and social inclusion of persons with disabilities conducted by advocacy and building of network in the province and district level up to the village area. However, on behalf of implementing direct empowerment concept comprehensively, it was chosen several villages as working area so that may become best

practices to be developed jointly with government and community. In 2010 it was developed programs in 5 villages in Klaten district, includes: Ngandong, Karangturi, Ceporan, Kadilanggon, and Brangkal. It covers some beneficiaries such as SCI, cerebral palsy, autism, polio, and deaf-mute.

In the meantime, the CBR program in Bantul was implemented directly in 5 villages such as Canden, Sriharjo, Panjangrejo, Trirenggo, and Sitimulyo and it covers all kind of existing disabilities in those villages. For the time being, CBR program in Sukoharjo was implemented directly in 2 villages such as Nguter and Kedungwinong. Indirectly, CBR program endeavors at least 15.000 persons with disabilities in those districts for getting benefit in conducting advocacy of the rights of persons with disabilities through local regulation, regent regulation, and CBR networking establishment.

Community empowerment pillar conducted by providing training to village's cadres and integrated service post (Pos Pelayanan Terpadu/POSYANDU) in early finding and mapping of persons with disabilities so that they are capable to conduct early detection and intervention, especially babies with disability. Establishment of networking is also conducted by involving local volunteers and building coordination with local organization such as Forum Peduli Difabel Bantul (Bantul Disability People Forum), *Dewan Rehabilitasi Difabel Bersumberdaya Masyarakat* (the Council of Rehabilitation for Community Based Disability) in Klaten, Team of Monitoring and Evaluation and Advocacy of Disability, and "Sehati" Disability Association in Sukoharjo. Supporting on disability issues is facilitated by Disable People Organization (DPO) or Self-Help Group (SHG) in their activities.

In addition, persons with disabilities also get empowerment effort for increasing of economical issue based on their interest and capacity. It covers establishment of micro business, placement of occupation, and job-skill training so that it might increasing of family welfare of persons with disabilities. The program also facilitates establishment and supporting of Credit Union (CU) for persons with disabilities. Nowadays, there are 3 credit union established by persons with disabilities in 3 target district.

In the field of health issues, support for persons with disabilities is provided by assisting on "dekubitus" injury care, equipping of walker, and wheel chair. Recently, support on health issue provided by giving and limited to consultation and indirect assist on realizing reference system. The program also develops strong network by conducting

approach and lobby to the government so that public health services, especially for persons with disabilities, could be provided in the Community Health Center (*Pusat Kesehatan Masyarakat/PUSKESMAS*) or other medical services. This effort up to now, do not meet best result.

Additionally, informal education for persons with disabilities conducted inclusively throughout some activities such as reading community, early childhood education, and mobile library. Effort to the network development for encouraging of inclusive education implementation is also conducted in target areas.

Network development and advocacy for establishing of local policy which has disability perspective was conducted in empowerment and social inclusion sectors. Establishing of local regulation for persons with disabilities in Klaten is collaborative and collective action involving Karina KAS, Council of Rehabilitation of Community Based Disability (DRDBM), Government Bodies, Local Parliament, DPO, NGO, Community Leaders, and CSHD-UAJY. Meanwhile, composing of regent regulation in Bantul is still running and involves local DPOs. Prominent achievements of the program are consisting of:

1. In the filled of economic empowerment, more than 50% of beneficiaries have livelihood activities that support to fulfilling of their economic needs. Beneficiaries are treated up to now have 3 credit unions for disable people and it is managed by them;
2. Mobility of persons with disabilities has increase significantly by fulfilling the needs of assistive devices and accessible motorcycle;
3. Public and community get involve more active in handling efforts of disability problems in their environment. In Klaten and Bantul, CBR network established up to village level and involving local community leaders in empowering persons with disabilities, directly or throughout their support in the established Self-Help-Group. In Sukoharjo, local government donates land area of 3000 m<sup>2</sup> for farming activities of persons with disabilities. In the mean time, local government in another village donates a kiosk at a traditional market to be used persons with disabilities for their economic activities;
4. The active involvement of community in the established CBR's network for providing advocacy and attention at disability problems. It can be shown by the role of volunteers from government bodies, DPO, or community leader on the Council of Rehabilitation of Community Based Disability (DRDBM), Advocacy Team of Disable People of Sukoharjo, and Monitoring

and Evaluation Team of Implementation of Local Regulation for Disable People in Sukoharjo;

5. Local Regulation for Empowering of Persons with Disabilities in Klaten district has been signed and promulgated at earlier this year. In Bantul, public support has been achieved for establishing of Regent Regulation concerning Empowerment of Persons with Disabilities. The draft of Regent Regulation has finished and will be brought to workshop series to be criticized. Hopefully, the end of the year, the regulation will be approved and promulgated.

Those achievements could be examined by using the Standard Rules to analyze CBR programs developed by UN. The Standard Rules cover a comprehensive range of preconditions for improved quality of life for disabled persons, they have been used as a reference guide when examining and organizing the reflections made by the interviewees on the usefulness of different CBR program initiatives.<sup>21</sup> Nevertheless, the CBR program is not without obstacles. Some of its barriers are:

1. The existing government policy towards persons with disabilities do not implement optimally. Therefore by having local regulation on the rights of persons with disabilities, it can be expected that

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<sup>21</sup>The Standard Rules have been specifically addressed these areas: **Awareness-raising.** This involves all measures aimed at eliminating stigma, increasing the knowledge of different disabilities and creating an inclusive social environment; **Medical care.** This involves early interventions and access to medical treatments; **Rehabilitation and support services.** This involves measures to enable persons with disabilities to reach their optimal physical, sensory, intellectual and social levels, and to provide tools, services and assistive devices that compensate for the loss or absence of a functional limitation; **Education.** This involves access to basic education and literacy skills; **Income maintenance and social security.** This involves employment, vocational skills training and loan facilities; **Government and community commitment.** This involves the implementation measures taken by the authorities and the community to fulfil their obligations towards persons with disabilities, such as recognition of their responsibility, adoption of policies and plans, legislation, resource allocation, coordination and training, etc.; **Support to DPOs.** This involves *the empowerment* of persons with disabilities to form their own self-help and advocacy groups, *the capacity building* of these organizations to enable them to engage in development issues in general and disability issues in particular, and *the recognition* of the importance of these organizations as important stakeholders. See. WHO and SHIA, *Ibid.*, p. 15.

- government policy to persons with disabilities will be more strenght and increase of their access to justice;
2. The program still provides more attention for fisical disability and unable to pay attention for persons with mental or intellectual disabilities;
  3. Karina KAS is an Chatolic organization that managing activities in the area of moslem citizen. Therefore it is often hampered by suspicion and religious issues. At least, some people in Indonesia still look at the religion as an sensitive aspect in many social activities, even in promoting human rights values;
  4. Local autonomy is often obstruct the national policy on fulfilling the rights of persons with disabilities. In this case, most of local government policy do not put the program for persons with disabilities as priority. Additionally, government officers always justify its policy with financial reason in which they have limited budget for programs to persons with disabilities.<sup>22</sup>

## **Conclusion**

The establishment of local regulations on increasing of independence of persons with disabilities is a part of promoting and strengthening access to justice. Throughout the CBR program, empowerment of persons with disabilities is conducted by and based on human rights approach. Human rights approach on the program is very important to increasing awareness of all parties that the rights of persons with disabilities are human rights and therefore it must be promoted, protected, and fulfilled. It has been strengthened by arranging academic draft and the draft of local regulations on increasing of independence of persons with disabilities that was conducted by CSHD-UAJY.

The dynamic of the process of establishing of local regulations to protect and fulfil the rights of persons with disabilities in Klaten and Bantul are also conducted by involving active participation of the related parties (such as: community leaders, government officers, DPOs, NGOs, academics, members of local parliament, and activists) and even its main

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<sup>22</sup>Based on the *Country Study Report* publication in 2005, one of the reasons of social rehabilitation problems and its accessibility in Indonesia is because there is limited government budget annually in the field of social rehabilitation and protection of persons with disabilities. The amount of budget is very small that is 0.5% from the total of national budget. See. I.B. Wirawan, *op.cit.*, p. 2.

actor is DPOs. It means that, hopefully, the content of local regulations has reflects the real need and interest of persons with disabilities.

For the CSHD-UAJY, as a human rights institution in the university, its involvement on the CBR program (especially on the composing of academic draft and local regulations' draft and its criticism), becomes the strategic opportunity to spreading human rights values to the public. As a part of human rights education institution, CSHD-UAJY has challenged to provide its influence to the public on promoting and strengthening human right principles. In this case, it has been done throughout persons with disabilities issues.

Finally, although local regulation on the rights of persons with disabilities has been promulgated, it does not means that their rights will be obtained automatically. It is still needed active participation of all parties to encourage related government officers in order to implement and realize those regulations throughout their policies.<sup>23</sup> The awareness of persons with disabilities to their rights has also been strengthened continuously so that they take active participation in monitoring actions concerning with the implementation of those rules.

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<sup>23</sup>That is why the struggle of persons with disability and other pro-disabled institutions remains control the local regulation in its implementation. They urge to the government for spreading it to the public in order to be understood and become public knowledge. In their last meeting, present: DRDBM, some DPOs, and Disabled Advocating Team that facilitated by Karina KAS, discussed understanding and agreement on next step in order to achieve the same goal in identifying the weakness of regulations

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