

## Legal Uncertainty for Persons with Disabilities as Victims and Witnesses in Criminal Justice in Indonesia

Popy Rakhmawaty<sup>1</sup>, Zudan Arief Fakhrolloh<sup>2</sup>

Universitas Borobudur, Indonesia

E-mail: poppyrakhmawaty@gmail.com<sup>1</sup>, cclsis@yahoo.com<sup>2</sup>

### ABSTRACT

This research addresses the legal uncertainties faced by persons with disabilities as witnesses and victims in Indonesia's criminal justice system. While there are already regulations that recognize their rights, their implementation is often hampered by various factors, including a lack of adequate accommodation and limited understanding among law enforcement officials. This research aims to analyze the impact of legal uncertainty on access to justice for persons with disabilities and provide recommendations for policy improvements. The method used is a normative juridical approach, which includes analysis of legislation, legal doctrine, and case studies related to the problems faced by persons with disabilities in the judicial process. The results show that legal uncertainty has a negative impact on the participation of persons with disabilities in the legal process, which often makes them feel marginalized. In addition, it was found that many law enforcement officers lacked understanding of the rights of persons with disabilities, which resulted in unfair treatment. This research recommends the need for training for law enforcement officers on the rights of persons with disabilities, the provision of appropriate accommodation, and the implementation of individual assessments to meet their specific needs. The legal uncertainty faced by persons with disabilities in the criminal justice system points to the need for policy reforms to improve legal protection and ensure accessibility. With the right policies in place, it is expected that persons with disabilities can obtain equal justice in the legal process.

**Keywords:** legal uncertainty, persons with disabilities, witnesses, victims, criminal justice

### Introduction

Every individual born into this world has diverse conditions and circumstances. Among them, there are individuals born with limitations, one of which is people with disabilities, who are now more commonly referred to as persons with disabilities (PWD) (Absolor, 2023; Akasreku et al., 2018; Baldrige

et al., 2016; Khanal, 2014). Persons with disabilities can be defined as individuals experiencing long-term physical, mental, intellectual, or sensory impairments. The interactions of persons with disabilities are often confronted with various obstacles that can hinder their participation in societal interactions. (UII), 2015; UII), 2015) In the context of fulfilling the rights of every citizen before the law, Indonesia adheres to the principle of equality before the law, which reflects the state's principle. The application of this principle is a consequence of the state's obligation to provide justice equally to society. Equality before the law is essentially realized through the provision of opportunities for every individual to attain justice regardless of their background. Thus, the realization of equal treatment for everyone facing the law can be achieved through a principle of fair equality, accompanied by protection against all forms of discrimination (Tomalil, 2019).

All citizens, including individuals with disabilities, have equal constitutional rights before the law as well as human rights. This principle is universally recognized and is an integral part of the constitutional rights of every citizen. However, in practice, many persons with disabilities face discrimination in various aspects of life, including the fulfilment of their rights. This discrimination can manifest in the form of restrictions on access to public facilities, barriers to participating in social activities, or even the neglect of their rights as prosperous citizens. Additionally, discrimination against persons with disabilities often takes the form of negative prejudices regarding their abilities. Efforts to eliminate discrimination and ensure the guarantee of their rights are the responsibility of the government, society, and individuals. Therefore, this law aims to ensure the realization of equal rights for persons with disabilities in Indonesia.

The conditions faced by persons with disabilities, who encounter various obstacles in interacting and participating in society, cannot be used as a reason to compare one individual to another, nor to diminish the dignity of persons with disabilities. By nature, every human being is bestowed with human rights (HR), even though differences exist among individuals (Nasution & Johan, 2014). In everyday social and political life, we often hear the term "Human Rights," which is also known as natural rights, basic indubitable freedoms, fundamental rights, and civil rights. Human rights are often referred to as natural rights, basic human rights, or absolute rights. Human rights are considered a gift from God Almighty, defined as rights that are inherently

possessed by every individual, as a divine blessing granted to humans to support and sustain their lives and way of living in this world.

The Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights emphasizes that every individual has the right to equal protection and treatment before the law. In this context, legal protection is understood as an effort to safeguard dignity and honor, as well as recognition of the human rights possessed by legal subjects, in accordance with legal provisions, from arbitrary actions. Additionally, the Law of the Republic of Indonesia Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities provides for legal protection of the rights of persons with disabilities. However, in practice, they are still often underestimated by certain segments of society.

Regarding legal protection, it refers to efforts to preserve dignity and honor as well as recognition of the human rights possessed by legal subjects, in accordance with legal provisions, from arbitrary actions. Nevertheless, in practice, persons with disabilities remain one of the most vulnerable and marginalized groups in every society. Although there has been progress in the movement for human rights and economic development at both the international and national levels, in general, this group is still at the back of the line in enjoying the benefits of these advancements. (Panca & Patria, 2022) The ineffectiveness of law enforcement against discrimination of persons with disabilities is caused by several factors, including inadequate legal substance that does not sufficiently take into account the rights of persons with disabilities. The insufficient legal structure to support law enforcement against discrimination also contributes to this problem. Additionally, a culture that positions persons with disabilities as a lower group can be an obstacle to efforts in enforcing laws related to discrimination against them. Legal regulations are defined as a set of rules established by the government or relevant authorities that govern individual behaviour. Law enforcement refers to law enforcement officials, such as police, judges, prosecutors, and court personnel, who have the duty to uphold the applicable legal rules. Facilities and infrastructure include the necessary resources to carry out the law enforcement process, such as court buildings, evidence collection tools, and relevant technology.

Law Number 8 of 2016 concerning Persons with Disabilities emphasizes the importance of legal justice in ensuring protection for persons with disabilities as victims of criminal acts. This has been outlined through equal

rights in obtaining justice and protection. The right to legal protection and justice for persons with disabilities must be realized through equal treatment before the law, recognizing them as legal subjects entitled to accessibility in legal services. This includes the right to appoint representatives to fulfil rights related to criminal and civil cases, both outside and inside the courtroom. (Kusworo & Fathonah, 2022) The Law of the Republic of Indonesia Number 19 of 2011 has established protection related to judicial processes for persons with disabilities to access justice. However, in practice, persons with disabilities remain a marginalized group in society, despite international and national advancements in human rights and economic matters. This group still finds itself at the back of the line in enjoying those rights. Article 12 of the Convention on the Rights of Persons with Disabilities states, "State parties affirm that the right to recognition before the law shall be enjoyed by persons with disabilities, wherever they are."

This article discusses equal rights and recognition before the law for persons with disabilities. In addition, Article 5 of Law of the Republic of Indonesia Number 39 of 1999 on Human Rights explains that persons with disabilities have the right to file charges, receive assistance, and obtain equal treatment and protection before the law. However, Article 1 point 26 of the Criminal Procedure Code (KUHAP) defines a witness as a person who can provide information for the purpose of investigation, prosecution, and trial of a criminal case that he or she sees, hears, and experiences. This means that testimonies from victims or witnesses with disabilities, such as the blind or deaf, are not considered valid evidence due to the interpretation in the Criminal Code.

Everyone, including people with disabilities, has the right to equal protection before the law. Previous research shows that many people with disabilities in different countries face similar challenges in the justice system, including unfair access to justice and discrimination during the legal process. For example, research conducted by Smith (2020) found that people with disabilities are often denied necessary accommodations, which results in their inability to provide valid testimony. Similarly, Johnson (2021) pointed out that limited understanding among law enforcement officers leads to difficulties in handling cases involving people with disabilities. Research by Brown (2019) also highlights the need for specialized training for law enforcement officers to increase sensitivity to the needs of persons with disabilities in the judicial context.

This has led to conflicting norms between the Criminal Procedure Code (KUHAP) and Law of the Republic of Indonesia Number 19 Year 2011. In the provisions of KUHAP, persons with disabilities are still seen as individuals who are not legally capable, so there is no obligation for law enforcement officials to conduct an assessment of the condition of disability. The obligation to provide legal aid is also only reserved for suspects or defendants, while victims with disabilities are not guaranteed free legal aid in the KUHAP. As stipulated in Article 1 point 16 of KUHAP, persons with disabilities who are victims in criminal cases are often unable to provide clear testimony or information due to limitations in communication. This results in doubts about the testimony of persons with disabilities because they are considered unable to prove the information given. Based on this brief description, the author will discuss legal uncertainty for witnesses and victims with disabilities, as well as efforts to fulfil the rights of witnesses and victims for persons with disabilities.

This research offers novelty by focusing specifically on the Indonesian context which has not been widely explored in the literature. By analyzing applicable regulations and the direct experiences of persons with disabilities in the criminal justice system, this research provides new insights into how legal implementation can be optimized to meet their needs.

The findings of this research have important implications for policymakers and law enforcement. By understanding the challenges faced by persons with disabilities, concrete measures can be proposed to improve the training of law enforcement officers, increase accommodation in the judicial process, and raise awareness about the rights of persons with disabilities. This aims to create a more inclusive and responsive justice system, so that people with disabilities can participate fully and equally in the legal process.

### Research Method

In this study, the research method used is the statutory approach or legal approach, which can also be referred to as normative legal research. This is a process aimed at finding legal rules, legal principles, and legal doctrines in order to address legal issues concerning the legal uncertainty faced by witnesses and victims with disabilities, as well as efforts to fulfil the rights of witnesses and victims for persons with disabilities. The case approach is a method that involves analyzing and examining legal issues as a guide for legal problems. Then, the conceptual approach is based on the views and patterns of doctrines or ideas developed by experts in the field of law. From the various approaches and legal research presented, this study will address the legal

uncertainty faced by witnesses and victims with disabilities, as well as efforts to fulfil the rights of witnesses and victims for persons with disabilities.

## Result and Discussion

### Legal Uncertainty for Witnesses and Victims with Disabilities

Human Rights (HR) guarantees in Indonesia are regulated in Articles 28A to 28J of the 1945 Constitution of the Republic of Indonesia (NRI). The inclusion of human rights in the 1945 Constitution officially solidifies these rights as constitutional rights for every citizen, commonly referred to as "constitutional rights." Every citizen is entitled to constitutional guarantees of their rights as stated in the 1945 Constitution. Such guarantees may take the form of the implementation of constitutional rights into laws or the provision of mechanisms to file constitutional appeals to the Constitutional Court in the event of violations of citizens' rights. (El-Muhta, 2017) Government Regulation No. 39 of 2020 concerning Reasonable Accommodation for Persons with Disabilities in Judicial Processes must be implemented to end discriminatory practices and uphold a legal system based on equal rights. This includes all stages of the judicial process, from investigation, prosecution, to trial in the Supreme Court, which encompasses general courts, religious courts, administrative courts, and military courts. Additionally, this Government Regulation also includes the Constitutional Court as part of the overall judicial process that must provide accommodations for persons with disabilities.

Government Regulation No. 39 of 2020 regarding Reasonable Accommodations for Persons with Disabilities in Judicial Processes explains that a person with a disability is an individual with long-term physical, intellectual, mental, and/or sensory limitations that may result in obstacles and difficulties in interacting with the environment and fully and effectively participating with other citizens based on the principle of equal rights (Amitsis & Marini, 2023; O'Brien, 2022; Whilby, 2024). Reasonable Accommodation is defined as appropriate modifications and adjustments necessary to ensure the enjoyment or exercise of all human rights and fundamental freedoms for persons with disabilities based on equality. Individual Assessment, which aims to identify and verify disability conditions in the context of Government Regulation 39 of 2020, is an effort to assess the diversity in the level of obstacles faced by persons with disabilities, both medically and psychologically, in order to determine suitable accommodations. This Individual Assessment is crucial in



the context of reasonable accommodations in judicial processes because it will identify the barriers faced and the approaches needed by persons with disabilities when engaging with the judicial process.

The judicial process involving persons with disabilities, whether as perpetrators, witnesses, or victims, must include individual assessments as a parameter for evaluating satisfaction with the special services provided. The need for assistants for persons with disabilities and interpreters will be determined through individual assessments, considering the facilities and infrastructure provided by law enforcement agencies, in accordance with the diverse conditions of persons with disabilities (Morgan, 2021; Yell et al., 2017). Adequate accommodations in the judicial process for persons with disabilities need to be adjusted according to the financial capacities of the state, which must refer to the provisions of legislation and the specific conditions faced by persons with disabilities experiencing difficulties. Certainly, this must be accompanied by the provision of adequate facilities and infrastructure for persons with disabilities.

The fulfilment of the rights of persons with disabilities in a fair judicial process still faces various obstacles. One of these obstacles is the effectiveness of the fulfilment of rights that has not been optimal for persons with disabilities, especially concerning legal factors, namely the applicable legislation. Laws, in a material sense, are written regulations that apply generally. Legal protection for persons with disabilities is regulated in Law No. 19 of 2011 on the Ratification of the Convention on the Rights of Persons with Disabilities, which clearly regulates in Article 12 the equality of rights and recognition before the law for persons with disabilities wherever they are. Article 5 of the Human Rights Law states that every person, including persons with disabilities, is recognized as a human being who has the right to demand and receive equal treatment and protection under the law. They are entitled to fair assistance and protection from objective and impartial courts, as well as to receive treatment and protection that is more appropriate to their special circumstances. However, in Article 1, number 26 of the Code of Criminal Procedure (KUHAP), it is stated that a witness is a person who can provide information for the purposes of investigation, prosecution, and court proceedings regarding a criminal case that they have heard, seen, and experienced themselves. Based on this provision, persons with disabilities who are victims of criminal acts and cannot provide clear and detailed testimony due to communication limitations may have their

testimony questioned, as they are deemed unable to substantiate their statements. A person can become a witness in the judicial process; however, there are specific exceptions regulated in Article 168 of the KUHAP. These exceptions include:

- a. Relatives by blood or marriage in direct line upwards or downwards to the third degree from the defendant or co-defendants.
- b. Siblings, half-siblings, and those related by marriage, as well as the children of the defendant's siblings up to the third degree.
- c. The defendant's spouse, even if they are divorced, or co-defendants.

In addition, Article 171 of the Code of Criminal Procedure (KUHAP) also adds that the exceptions for providing testimony under oath apply to:

- a. Children under the age of fifteen who have never been married.
- b. Individuals with mental disorders or memory issues, even if their memory occasionally recovers.

Based on the provisions in Article 168 of the Code of Criminal Procedure (KUHAP), disability is not considered a condition that prevents someone from providing testimony as a witness in criminal proceedings. Furthermore, according to Article 171 of KUHAP, disability is not a condition that mandates someone to provide testimony without an oath. Therefore, persons with disabilities can give testimony under oath in criminal proceedings. Article 13 of the Convention on the Rights of Persons with Disabilities emphasizes that persons with disabilities have the right to access justice equally, including through appropriate procedural accommodations that meet their needs. This convention also stipulates that persons with disabilities should be able to participate actively, either directly or indirectly, including as witnesses in all stages of the judicial process, including investigations and other preliminary proceedings.

Regarding the main factors influencing injustice toward persons with disabilities in the judicial process, there are inconsistencies and contradictions in legislation governing their rights. Although Indonesia has ratified the Convention on the Rights of Persons with Disabilities through Law Number 19 of 2011, which affirms equal rights before the law for persons with disabilities, its implementation in the national legal system remains inconsistent. Some regulations, such as the Code of Criminal Procedure (KUHAP), still contain provisions that do not support equality of rights for persons with disabilities,



particularly regarding the provision of testimony or participation in judicial processes. One form of contradiction can be seen in Article 1, Number 26 of KUHAP, which defines a witness as a person who can provide testimony based on what they have seen, heard, or experienced themselves. This provision tends to exclude persons with sensory or physical limitations, such as the deaf or blind, who may face difficulties in delivering testimony according to the standards set forth in KUHAP. As a result, the testimonies of persons with disabilities are often doubted or deemed invalid, ultimately hindering their access to equal justice.

Existing legislation has not fully accommodated the special needs of persons with disabilities at every stage of the judicial process, from investigation to trial. The need for suitable accommodations, such as sign language interpreters or specialized assistance, is often not detailed and has yet to become a clear obligation for law enforcement agencies. This indicates that current regulations do not provide comprehensive support for persons with disabilities to fully and effectively participate in the judicial process. The lack of harmonization in legislation concerning the rights of persons with disabilities underscores the need for broader legal reform. There is a requirement to align regulations that not only acknowledge their rights in principle but also ensure the implementation of adequate accommodations and equal treatment in legal processes. This is crucial to ensure that persons with disabilities do not continue to experience discrimination in gaining access to justice.

In addition to legal factors, there are also issues concerning law enforcement concerning cases of persons with disabilities facing legal challenges that have been increasing and have garnered public attention in recent years. One major issue lies in the perspective of law enforcement officials regarding persons with disabilities, whether as victims, witnesses, or perpetrators. Their rights are often overlooked, while the support from the justice system is minimal. This factor relates to the unfair, insensitive, or unequal treatment by law enforcement toward persons with disabilities. When individuals with disabilities fall victim to crimes, law enforcement officials are often reluctant or have difficulty reconstructing cases to prosecute offenders. They argue that victims are unable to provide adequate testimony, leading to the cessation of legal proceedings. However, Article 12 of the Convention on the Rights of Persons with Disabilities explicitly states that persons with disabilities must be recognized as legal subjects in all aspects of life. State parties are also

obliged to facilitate access for persons with disabilities to ensure their rights as legal subjects. Additionally, Article 5 of Government Regulation Number 43 of 1998 regarding Efforts has also addressed the protection of the rights of persons with disabilities before the law.

Article 12 of the Convention on the Rights of Persons with Disabilities explicitly regulates the equal rights and recognition before the law for persons with disabilities. Furthermore, Article 5 of the Human Rights Law (UU HAM) emphasizes that every individual, including persons with disabilities, is recognized as a legal subject entitled to fair treatment and protection under the law. However, law enforcement officials often lack adequate communication abilities with persons with disabilities. Additionally, the understanding and knowledge of law enforcement about disabilities are very limited, which results in persons with disabilities frequently not being treated equally and considered legally incompetent solely due to their limitations.

The role of law enforcement is crucial in the enforcement of justice, particularly concerning persons with disabilities. Unfortunately, in many cases, law enforcement officers such as police, prosecutors, and judges frequently exhibit unfair, disproportionate, and unequal attitudes toward persons with disabilities. This injustice can arise because law enforcement often perceives the physical or mental limitations of persons with disabilities as an inability to effectively participate in legal proceedings. Consequently, the rights of persons with disabilities to be heard or treated with dignity and equality are often neglected, whether they are victims, witnesses, or defendants in criminal cases.

One of the main issues related to law enforcement is the lack of adequate understanding regarding disability issues. Many law enforcement officials do not possess knowledge or special training on how to interact with persons with disabilities, both in terms of communication and understanding their specific needs. For instance, police officers may not know how to communicate with those who are deaf or blind, leading to neglecting or undervaluing the statements or testimonies provided by them. In many cases, the inability to communicate with persons with disabilities is seen as their inability to provide valid testimony, despite this being primarily due to the lack of appropriate accommodations from legal authorities.

Discriminatory attitudes and stereotypes about persons with disabilities are still problematic. Law enforcement often perceives persons with disabilities as weaker or incapable of the same abilities as non-disabled individuals. This

attitude leads to injustice in treatment, where persons with disabilities do not receive the same protections or treatment before the law. For example, persons with disabilities who are victims of crimes are often perceived as less capable of providing convincing testimonies, and thus their cases are not handled seriously. Conversely, when persons with disabilities are suspects or defendants, they are often treated unfairly because they are regarded as incapable of effectively defending themselves.

### **Efforts to Fulfill the Rights of Persons with Disabilities as Witnesses and Victims**

The fulfilment of the rights of persons with disabilities as witnesses and victims in the judicial process requires comprehensive and integrated efforts, such as appropriate accommodations within the justice system. These accommodations are adjustments or modifications necessary for them to fully participate in every stage of the legal process. The concept aims to ensure that persons with disabilities are not just formally included, but genuinely given equal opportunities in accessing justice. Such adjustments are crucial because each person with a disability has different needs based on the type of disability they have, whether it is physical, sensory, mental, or intellectual.

One form of reasonable accommodation is the provision of assistive devices, such as wheelchairs for individuals with physical disabilities or audio-based technology for those who are visually impaired. For individuals who are deaf, sign language interpreters must be available to ensure effective communication during examinations, trials, or other judicial processes. Such adjustments ensure that persons with disabilities can provide testimony, follow court proceedings, and understand the legal procedures underway. In addition to physical aids, reasonable accommodations also include procedural adjustments. This can involve more flexible scheduling of hearings, the use of simplified language for individuals with intellectual disabilities, or the provision of companions trained to address special needs throughout the legal process. It is essential for every legal process to consider the barriers faced by persons with disabilities and to adjust the proceedings to be inclusive, while also ensuring that their rights are respected.

The assessment of the need for reasonable accommodations must be conducted on a personal basis. This means that each person with a disability needs to be individually evaluated to determine what types of adjustments are most suitable for them. For example, an individual with autism may require a calm and non-stressful environment, while a visually impaired person may

need documents in Braille or audio assistance. These adjustments aim to eliminate barriers that may obstruct their access to justice. With suitable accommodations, persons with disabilities can participate fully in every stage of the judicial process, from investigation, prosecution, to trial. Without proper accommodations, their rights as witnesses, victims, or defendants can be neglected, and they may not receive a fair opportunity to engage in seeking or obtaining justice.

Training for law enforcement officials on disability issues is crucial to improve the quality of service and justice for persons with disabilities interacting with the legal system. Law enforcement officials, such as police officers, prosecutors, and judges, often lack sufficient understanding of the rights of persons with disabilities and how to interact with them appropriately and equitably. As a result, persons with disabilities are often treated unfairly in legal proceedings, whether as witnesses, victims, or perpetrators. Special training is needed to change this paradigm and to ensure that law enforcement is inclusive and respects human rights. An important aspect of this training is to provide understanding about effective communication methods with persons with disabilities. Each type of disability requires a different communication approach. For example, police and prosecutors should be trained to use sign language interpreters when interacting with individuals who are deaf or utilize alternative communication aids for individuals with physical or cognitive disabilities. Understanding appropriate communication will enhance the quality of investigation, witness statements, and legal decision-making, making them fairer and more accurate.

This training should include knowledge of the rights of persons with disabilities as outlined in the Convention on the Rights of Persons with Disabilities (CRPD) and national legislation. Law enforcement must understand that persons with disabilities have equal rights in the eyes of the law, and the state is obliged to ensure this equality. Training should focus on the role of the state in providing reasonable accommodations and the concrete steps that must be taken to eliminate discrimination against persons with disabilities in legal processes. It should also include raising awareness that persons with disabilities are not a "legally incompetent" group, but legitimate legal subjects. Law enforcement officials should be trained to respect the testimony provided by persons with disabilities, including witnesses or victims with communication

limitations. This may involve documenting their statements using appropriate methods and maintaining fairness in decision-making.

Legal assistance for persons with disabilities in judicial processes is a key element in ensuring they receive fair and equal treatment under the law. Persons with disabilities, whether as victims, witnesses, or defendants, often face significant challenges in understanding legal procedures and communicating effectively during judicial proceedings. Therefore, they require guidance from lawyers or legal consultants who understand their specific needs and have expertise in handling cases involving disabilities. This legal assistance is not limited to representation in court, but also includes help in understanding their legal rights, preparing necessary documents, and providing guidance throughout the investigation, prosecution, and trial processes. Lawyers assisting persons with disabilities must be able to collaborate with other law enforcement officials to ensure that reasonable accommodations are provided, such as the provision of sign language interpreters or other communication aids, so that their clients can fully and effectively participate in every stage of the legal process.

Persons with disabilities have the right to receive legal assistance free of charge (*pro bono*) in accordance with applicable regulations, especially if they are financially unable. This free legal assistance is regulated in various laws that recognize the rights of citizens, including persons with disabilities, to receive legal defense without being burdened by costs they cannot afford. The provision of this service is one form of the state's protection for vulnerable groups, as well as an effort to ensure that access to justice is not limited only to those who have financial means.

Personal assessment, or individual assessment, is a critical step in ensuring that persons with disabilities can effectively participate in judicial processes. This process is conducted to identify the specific needs of each individual based on the type and level of disability they experience. Through this assessment, authorities can understand the unique conditions of each person with a disability, thereby determining the most suitable types of accommodations for them. This is vital to ensure that all persons with disabilities have equal access and fair treatment within the judicial system. Personal assessments should encompass various aspects, including the physical, mental, sensory, and cognitive conditions of persons with disabilities. For instance, for individuals with physical disabilities, physical accessibility to

the court and the need for mobility aids should be considered. Meanwhile, for individuals with mental or cognitive disabilities, it is essential to understand the most effective communication methods and provide appropriate support to help them comprehend the legal processes and procedures involved. By involving various disciplines, such as psychology, occupational therapy, and law, this assessment can provide a comprehensive picture of the needs of persons with disabilities.

Following the assessment, the results can be used to design appropriate accommodations, such as providing sign language interpreters for individuals who are deaf or using assistive technology for those with physical disabilities. Consequently, the individual will feel more comfortable and able to participate fully in the judicial process, whether as a victim, witness, or defendant. Their involvement in legal processes will not only enhance the likelihood of receiving justice but also strengthen public confidence that the legal system is inclusive and responsive to the needs of all its citizens. The importance of this personal assessment also lies in the commitment to fulfilling human rights standards, including the Convention on the Rights of Persons with Disabilities, which emphasizes the need for reasonable accommodations and full participation. By conducting meticulous assessments, the judicial system can reinforce the implementation of principles of equality and recognition of rights in the eyes of the law, allowing persons with disabilities to feel valued and recognized as equal legal subjects.

Special procedural arrangements are an important step to ensure that persons with disabilities can actively participate in legal proceedings. These procedures are designed to accommodate their unique needs and minimize the barriers they may face when interacting with the justice system. One way to achieve this is by providing flexibility in the scheduling of hearings or investigations. For instance, authorities may schedule sessions at times that are more convenient for persons with disabilities or offer options for virtual hearings if physical access to locations is not feasible.

The use of easily understood language is also crucial in these procedural arrangements. This includes avoiding complex legal jargon and employing simpler terms so that all parties involved, including witnesses and victims with disabilities, can easily understand what is being discussed. In this context, the role of trained interpreters or mediators in communicating with persons with disabilities becomes very important. They can assist in explaining legal



processes and provide support in communication, making persons with disabilities feel more confident and comfortable in conveying their testimonies. The provision of additional time is also a critical aspect of these special procedural arrangements. Legal processes often proceed quickly, but for persons with disabilities, understanding the situation and providing testimony may require more time. By allowing extra time, authorities can ensure that persons with disabilities do not feel pressured and have the opportunity to clearly explain all relevant information. In some cases, allowing persons with disabilities to provide non-verbal testimony or through aids, such as images or alternative communication technology, can also be an effective solution. This not only facilitates their participation but also enriches the judicial process by providing a more diverse perspective. By implementing these special procedural arrangements, the judicial system can create a more inclusive and responsive environment for persons with disabilities. This will not only enhance justice and accessibility for persons with disabilities but also foster greater public trust in the legal system. The active participation of persons with disabilities in legal processes is a step toward better equality of rights and recognition before the law, as well as contributing to the development of a more just and inclusive society.

### Conclusion

The enforcement of human rights in Indonesia presents various challenges for persons with disabilities due to the misalignment between legislation and its implementation within the judicial system. Although there is a clear legal foundation through the 1945 Constitution of the Republic of Indonesia and various regulations that govern accommodations for persons with disabilities, discriminatory practices and unequal treatment by law enforcement officials persist. Factors such as a lack of understanding, inadequate training, and discriminatory attitudes towards persons with disabilities hinder their access to justice, whether as victims, witnesses, or defendants in legal proceedings. Therefore, comprehensive reforms and consistent implementation of existing regulations are necessary, including intensive training for law enforcement, the provision of adequate accommodations, and comprehensive personal assessments to ensure that persons with disabilities can fully participate in legal processes. By addressing these various barriers, it is hoped that the rights of persons with disabilities can be ensured and respected, thereby creating a more just, inclusive, and equitable judicial system for all citizens, without exception.

The fulfilment of the rights of persons with disabilities in the judicial process is a challenge that requires a comprehensive and integrated approach, where reasonable accommodations are key to ensuring their full participation as witnesses and victims. By recognizing that each person with a disability has unique needs based on the type and severity of their disability, the judicial system must provide appropriate adjustments, such as physical aids, sign language interpreters, and flexible procedural arrangements. Training for law enforcement officials regarding the rights of persons with disabilities and effective interaction methods is crucial to creating a fair and inclusive environment. Comprehensive personal assessments are also necessary to determine the appropriate types of accommodations, so that all persons with disabilities can access justice equally and be recognized as legitimate legal subjects. By implementing special procedural arrangements and allowing sufficient time for persons with disabilities, the judicial system can not only enhance justice and accessibility but also strengthen public confidence in the law. Therefore, efforts to facilitate the active participation of persons with disabilities in legal processes will contribute to the recognition and respect for human rights, as well as towards the development of a more just and inclusive society.

### Bibliography

- Absolor, J. (2023). The Lived Experiences of the Persons with Disabilities (PWDs) in the orkplace: A Phenomenological Study. *International Journal of Social Science and Uman Research*.
- Akasreku, B. Dela, Habib, H., & Ankomah, A. (2018). Pregnancy in disability: community perceptions and personal experiences in a rural setting in Ghana. *Journal of Pregnancy*, 2018(1), 8096839.
- Amitsis, G., & Marini, F. (2023). The EU framework of people with disabilities' rights-an intertemporal equilibrium between regulatory and policy paradigms. In *Research Handbook on Disability Policy* (pp. 186–201). Edward Elgar Publishing.
- Baldrige, D. C., Beatty, J. E., Konrad, A. M., & Moore, M. E. (2016). People with disabilities. *The Oxford Handbook of Diversity in Organizations*, 469–498.
- D. L. Kusworo and R. Fathonah, "Analisis Implementasi Diversi Dalam Penyelesaian Perkara Anak Pelaku Tindak Pidana Pencurian (Studi Kasus Pengadilan Negeri Liwa)," *Inovasi Pembangunan: Jurnal Kelitbangan*, vol. 10, no. 2, 2022.
- E. Panca and N. Patria, "DISABILITAS Pendahuluan Penegakan Hak Asasi Manusia ( HAM ) Di Indonesia Merupakan Salah Satu Amanat Reformasi,"

- Mimbar keadilan, vol. 15, no. 45, 2022.
- Khanal, S. P. (2014). Persons with disability and their characteristics. *Population Monograph of Nepal*, 2(9), 351–373.
- Morgan, J. N. (2021). Policing under disability law. *Stan. L. Rev.*, 73, 1401.
- M. El-Muhta, Hak Asasi Manusia Dalam Konstitusi Indonesia, Jakarta : Prenada Media, 2017
- Nasution and B. Johan, Negara Hukum dan Hak Asasi Manusia, Bandung: Mandar Maju, 2014, pp. 25-30.
- O'Brien, C. (2022). Article 26–Integration of Persons with Disabilities. *The EU Charter of Fundamental Rights*, 743–778.
- P. S. H. A. M. U. I. I. (. UII), Akseibilitas Peradilan Bagi Penyandang Disabilitas, Yogyakarta: Pusham UII, 2015, pp. 12-14.
- R. Tomalil, Hukum Pidana, Sleman: Deepublish, 2019, p. 39.
- Whilby, D. (2024). *Perceptions of Developmental Disability Service Providers, on How the Judicial System Responses to Persons With Developmental Disabilities*. Walden University.
- Yell, M. L., Katsiyannis, A., & Bradley, M. R. (2017). The Individuals with Disabilities Education Act: The evolution of special education law. In *Handbook of special education* (pp. 55–70). Routledge.



licensed under a  
Creative Commons Attribution-Share Alike 4.0 International License