

RESEARCH ARTICLE

ACCESS TO JUSTICE FOR DISABILITY IN THE PERSPECTIVE OF JOHN RAWLS THEORY (CASE OF DEMAK REGENCY INDONESIA)

Maulana Fami Idris¹✉

¹ Postgraduate Program Master of Laws Universitas Negeri Semarang, Indonesia
✉ maulanafahmi@students.unnes.ac.id

CITED AS

Idris, M. F. (2021). Access to Justice for Disability in the Perspective of John Rawls Theory (Case of Demak Regency Indonesia). *Journal of Law and Legal Reform*, 2(3), 391-400. <https://doi.org/10.15294/jllr.v2i2.46486>

Submitted: January 30, 2021

Revised: March 29, 2021

Accepted: May 18, 2021

ABSTRACT

Disabilities are people who experience physical, intellectual, mental, and/or sensory limitations for a long period of time who in interacting with the environment may experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights. For this reason, disabilities must be given access to public facilities that are more compared to normal humans, in order to fulfill a sense of justice. This research aims to find out the meaning of accessibility for persons with disabilities to achieve John Rawls's version of justice in Demak Regency. The research method used in this research is this type of research is qualitative legal research using a juridical-empirical (non-doctrinal) approach, which is this type of research to find out how the law is implemented. In this case the author wants to know how the implementation of the theory of justice according to John Rawls in fulfilling the accessibility for persons with disabilities to achieve the version of Justice John Rawls in Demak district. The results of this study indicate that: first, accessibility for persons with disabilities is the fulfillment of proper public facilities for persons with disabilities to facilitate their activities. Secondly, accessibility for persons with

disabilities in Demak Regency is still minimal because public facilities are still focused on normal humans and there are several public facilities that are not yet available so that John Rawls' version of the theory of justice has not been achieved.

Keywords: *Accessibility; Access to Justice; Disability; John Rawls Theory*

INTRODUCTION

Access to infrastructure in public places must be able to support all community needs, including those with disabilities. Of course, this requires technical standardization in building an infrastructure that is friendly to people with disabilities. Basically, the accessibility of infrastructure for groups of persons with disabilities should be made a priority to create an inclusive environment ([The 1945 Constitution of Indonesia, Art. 27 Par. 2](#)).

People with disabilities need public facilities that are safe and easily accessible because there is a high risk of injury when doing activities outside the home, people with disabilities are often looked down upon by the community and sidelined in the construction of public facilities ([Waruni, Janine, Roshini, Rajitha, Bridget, & Shanthi, 2020](#)).

The fulfillment of public facilities for people with disabilities in Indonesia is regulated in the 1945 constitution article 34 paragraph 3 which states that, "*the state is responsible for the provision of adequate health facilities and public service facilities*" ([Jefri, 2016, pp. 2-3](#)), this can be interpreted that the state is responsible for the procurement of all health facilities and public services in the community, without exception for disabilities ([Dibley & Tsaputra, 2019](#); [Suharto, Kuipers, & Dorsett, 2016](#); [Niko & Nusantara, 2018](#); [Hidayatullah & Pranowo, 2018](#)).

The fulfillment of public facilities for disabilities is in line with the principles of justice contained in the book *Theory of Justice* by John Rawls, which teaches equality of basic rights in humans, in this case the equality of rights fulfillment in the use of public facilities to achieve a sense of justice John Rawls, especially the fulfillment of facilities common for people with disabilities in Demak Regency. This research is intended to analyze concerning what does accessibility mean, and how is the fulfillment of accessibility for persons with disabilities to achieve justice according to John Rawls' version in Demak Regency.

METHOD

This type of research is a qualitative legal research using a juridical-empirical (non-doctrinal) approach, namely this type of research to find out how the law is

implemented, including the process of implementing the law. Because this type of research can reveal the problems behind the implementation of the law ([Amirudin & Asikin, 2004](#)).

ACCESSIBILITY AND DISABILITY: THE LIMITATION AND LEGAL TERM

Accessibility according to the decision of the minister of public works number 468/Kpts in 1998 is "*the facilities provided for people with disabilities in order to realize equal opportunities in all aspects of life and livelihood*" ([Decree of the Minister of Public Works Number: 468/Kpts/1998 concerning Technical Requirements for Accessibility in Public and Environmental Buildings](#)). This assumes that all persons with disabilities have the right to equal access to comfort in life. The accessibility is emphasized on public facilities, for example, such as pedestrian paths, guide lanes, parking areas, doors, ramps, stairs, lifts, toilets, showers, sinks, telephones, equipment, furniture, and the last is signs.

The regulation also discusses the principles or criteria for good accessibility as basic guidelines for providing access to facilities and infrastructure, which include:

1. Ease, that is, everyone can reach all places or buildings that are public in an environment.
2. Usefulness, that is, everyone must be able to use all public places or buildings in an environment
3. Safety, that is, every building that is general in a built environment, must pay attention to the safety of everyone.
4. Independence, that is, everyone must be able to reach, enter and use all public places or buildings in an environment without the need for the help of others.

Accessibility rights for people with disabilities are also stated in [Article 10 of Law Number 4 of 1997 concerning the Equal Rights of People with Disabilities](#), which include:

1. Equality of opportunity for persons with disabilities in all aspects of life and livelihood is carried out through the provision of accessibility.
2. The provision of accessibility is intended to create conditions and an environment that is more supportive of people with disabilities being able to fully live in society.
3. Provision of accessibility as organized by the Government and/or the community and carried out in a comprehensive, integrated, and sustainable manner.

Furthermore, the definition of disability is any person who experiences physical, intellectual, mental, and/or sensory limitations for a long period of time who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights ([Law](#)

Number 8 of 2016 concerning Persons with Disabilities]). Disabilities are categorized into 4 groups, namely:

1. Persons with physical disabilities are impaired movement functions, including amputation, paralyzed or stiff, paraplegic, cerebral palsy (CP), due to stroke, due to leprosy, and small people.
2. Persons with intellectual disabilities are impaired thinking functions due to below average intelligence levels, including slow learning, mental disabilities and down syndrome.
3. Persons with mental disabilities are impaired thinking, emotional, and behavioral functions, including: psychosocial including schizophrenia, bipolar, depression, anxiety, and personality disorders; and developmental disabilities that affect social interaction skills, including autism and hyperactivity.
4. Persons with sensory disabilities are impaired in one of the functions of the five senses, including visual impairment, hearing disability, and/or speech disability (Widinarsih, 2019).

ANALYSIS OF ACCESSIBILITY FULFILLMENT FOR PERSONS WITH DISABILITIES TO ACHIEVING JUSTICE JOHN RAWLS' VERSION IN DEMAK REGENCY

Demak as one of the regencies in Central Java is astronomically located between 6°43'26"-7°09' 43" south latitude and 110°27'58'-110°48' east longitude. The total area of Demak Regency is 49 km² from west to east and 41 km² from north to south. Demak Regency has regional boundaries based on its geographical position, namely the northern border of the Jepara Regency and the Java Sea, the eastern border of the Kudus Regency and Grobogan Regency. Then the southern boundary is bordered by Grobogan Regency and the western boundary is bordered by the city of Semarang. Demak Regency has 14 sub-districts with an area of about 1,149.07 km² consisting of 897.43 km² of land and 252.34 km² of sea (BPS Demak Regency, 2018).

The word "fair or justice, *adil*" comes from the Arabic "*al 'adl*" which means something good, impartial attitude, safeguarding one's rights and the right way of making decisions. In English justice is called justice, and in Latin it is called *iustitia*. The concept of justice has begun to be discussed by philosophers from Greek times to the present day. One of the originators of the theory of justice is John Rawls.

John Rawls was a thinker who had an enormous influence in the fields of political philosophy and moral philosophy. his book entitled A theory of justice is a work of political philosophy and moral philosophy. John Rawls's theory of justice generally respects the equality of basic human rights and the fair

regulation of socio-economic differences. equality of basic human rights that are innate from birth must be protected as widely as possible.

In creating justice, the main principles used are: As much equal freedom as possible, as long as it benefits all parties, and the principle of inequality is used to try to provide protection to the weakest. This principle is a combination of the principles of equality and fair equality of opportunity (Ujan & Ata, 2001).

People with disabilities do not have a place in society. their presence is still underestimated, their limitations make them considered a weak, helpless group and only need mercy, their rights as human beings are often ignored, especially the right to access public facilities.

Data on the number of people with disabilities in Demak Regency is about 83,000 people or about 10 percent of the population of Demak Regency (Government Agency Performance Report (LJKIP) Demak Regency Government Social Service Women's Empowerment and Child Protection, 2017). To create the John Rawls version of the principle of justice which puts forward equality of basic human rights, people with disabilities and normal people should be given equal rights, especially in terms of fulfilling public facilities, in other words, if public facilities are built, they can not only be used by normal people but can also be used by normal people. used by people with disabilities.



Figure. 1

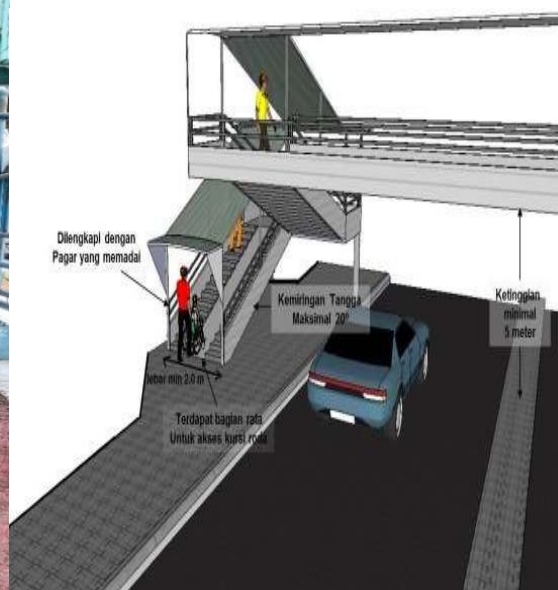


Figure. 2

Public facilities in Demak Regency that do not meet the principles of justice according to John Rawls' version, one of which is the pedestrian bridge (JPO) on Jl. Sultan Fatah, based on observations, the pedestrian bridge is only in the form of stairs, there is no way for wheelchairs so that it is only used by normal people and people with disabilities are still having difficulties. use it (Personal Observation, at Jl Sultan Fatah Demak, September 12, 2020).

It can be seen in Figure 1 the construction of a pedestrian bridge (JPO), this construction is clearly visible with the design of only stairs (can only be used by normal people) so the construction of the bridge does not meet the principle of justice because people with disabilities, especially those in wheelchairs cannot use it, and it is better to fulfill this principle the design is built by providing a path for wheelchairs so that equality of rights is created here.

The JPO design that can meet the principles of justice according to John Rawls version is shown in Figure 2. It can be seen that the bridge design has a minimum width of 2 meters and a maximum stair slope of 200, the pedestrian bridge is also equipped with adequate fences and in the middle of the stairs the pedestrian bridge is equipped with ramps. which can be used as a facility for wheelchairs for people with disabilities, so that if the design of the JPO (see Fig. 2) is built, it will fulfill John Rawls' version of justice because it can be used by all people ([Minister of Education and Culture Circular Letter No. Number: 02/Se/M/2018 Concerning Guidelines for Building Construction Materials and Civil Engineering](#), pp. 18-19).



Figure. 3



Figure 4

Other public facilities are the sidewalks in the *Alun-Alun Simpang 6* area of the Great Mosque of Demak, the sidewalks are not equipped with an S portal which functions to protect wheelchair users, if there is no concern that wheelchair users are not protected if they are walking on the sidewalk and it is risky to be bumped by other pedestrians. The sidewalks are not equipped with Guiding blocks or tiles with rounded yellow lines which are usually used for guiding paths for the disabled, especially the blind, nor are they there, there are only ordinary sidewalks for normal pedestrians, and disabilities, especially blind people, will find it difficult to walk on the sidewalk. the pavement and the fulfillment of John Rawls's version of the principle of justice has also not been fulfilled ([Observation, in the Simpang Enam Area, Demak Regency, 12 September 2020](#)).

To fulfill the sense of justice, the sidewalk must be built according to the design of Figure 2, where the sidewalk has a ramp (sloping plane) that makes it easy to access up and down for wheelchair users, the sidewalk is also equipped with marker poles to help users know the surrounding conditions, as well as protect, equipped with also with a Guiding block to help the blind to walk without obstacles and finally the selection of a non-slip floor so that disabled users don't slip easily (Gunawan & Michelle, 2017, pp. 3-5).



Figure. 5

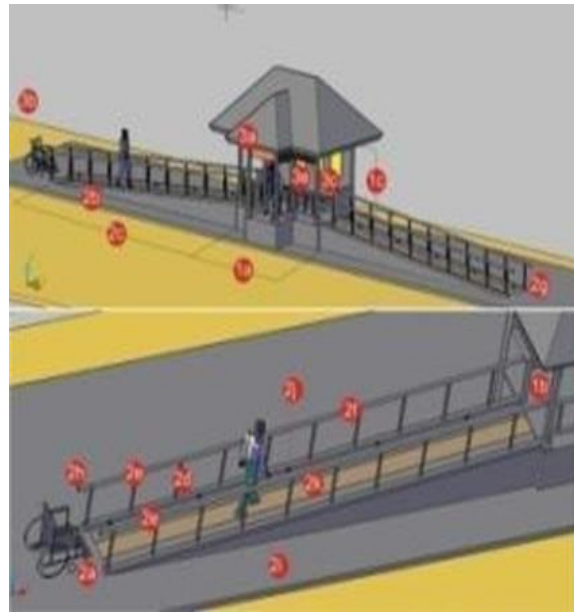


Figure. 6

One more public facility that the author observes is the bus stop which is located on Jln Sultan Fatah Demak which is located next to the JPO (Figure 5), it can be seen in Figure 5 that the height of the bus stop is the same as the sidewalk and access for persons with disabilities from the road does not exist, so that people with disabilities in particular those in wheelchairs only have access to the road to the bus stop and there is no access to get from the bus stop (Observation, on Jl. Sultan Fatah, Demak Regency, 12 September 2020).

To fulfill the John Rawls version justice, it should be built using the design according to Figure 6, where there is a ramp that extends in a linear form without bending. The ramp is made elongated in order to keep the slope below 70 and the ratio with the height of the bus stop is 1:12. The landing is at the beginning of the ramp, and the ramp is equipped with a guiding block in the middle. There are also access lighting lights on the low curb. Handrails are provided on both sides of the ramp, with a height of 90 cm adjusted to the calculation of percentile data. The overall size is adjusted based on the calculation of the 95-th percentile of the sample and government regulations on bus stops (Hendrawan & Jayadi, 2015, p. 387).

CONCLUSION

This study concluded that accessibility for persons with disabilities is the fulfillment of proper public facilities for persons with disabilities to facilitate their activities. Furthermore, accessibility for people with disabilities in Demak district is still minimal because public facilities are still focused on normal people so that John Rawls's version of justice theory has not been achieved. This study suggested that the Demak District Government, especially the public works and spatial planning office, pays more attention to the construction of disability-friendly facilities in order to make the district of Demak disability-friendly. Demak district government, especially social services, to pay more attention to the needs of people with disabilities, and for the community, especially the people of Demak Regency, not to look down on people with disabilities.

REFERENCES

- Amirudin, A., & Asikin, Z. (2004). *Pengantar Metode Penelitian Hukum*. Jakarta: PT Raja Grafindo Persada.
- Dibley, T., & Tsaputra, A. (2019). Changing laws, changing attitudes: the place of people with disability in Indonesia. In *Contentious Belonging* (pp. 77-94). ISEAS Publishing.
- Hidayatullah, A. N., & Pranowo, P. (2018). Membuka Ruang Asa dan Kesejahteraan Bagi Penyandang Disabilitas. *Jurnal Penelitian Kesejahteraan Sosial*, 17(2), 195-206.
- Jefri, T. (2016). Aksesibilitas Sarana dan Prasarana bagi Penyandang Tunadaksa di Universitas Brawijaya. *IJDS: Indonesian Journal of Disability Studies*, 3(1), 16-25.
- Niko, N., & Nusantara, A. S. P. (2018). Menilik Ruang Terbuka Bagi Difabel: Problematika Keadilan di Kota Bandung. *INCLUSIVE: Journal of Special Education*, 2(2).
- Suharto, S., Kuipers, P., & Dorsett, P. (2016). Disability terminology and the emergence of 'diffability' in Indonesia. *Disability & Society*, 31(5), 693-712.
- Tanuwidjaja, G., Nadia, Y., & Laurencia, M. (2017, August). Desain Trotoar yang Ramah Bagi Penyandang Disabilitas di Jl. Frontage Ahmad Yani Surabaya. In *Seminar Nasional Ilmu Terapan (SNITER)* (Vol. 1, No. 1, pp. A104-1).
- Tennakoon, V., Wiles, J., Peiris-John, R., Wickremasinghe, R., Kool, B., & Ameratunga, S. (2020). Transport equity in Sri Lanka: Experiences linked to disability and older age. *Journal of Transport & Health*, 18, 100913. <https://doi.org/10.1016/j.jth.2020.100913>
- Ujan, U., & Ata, A. (2001). *Keadilan Dan Demokrasi: Telaah Filsafat Politik Rawls*. Yogyakarta: Kanisius.

- Widinarsih, D. (2019). Penyandang Disabilitas di Indonesia: Perkembangan Istilah dan Definisi. *Jurnal Ilmu Kesejahteraan Sosial (Journal of Social Welfare)*, 20(2).
- Yupardhi, T. H., & Waisnawa, I. M. J. (2015). Studi Aksesibilitas Fasilitas Publik Halte Trans Sarbagita Terhadap Penyandang Disabilitas. *Segara Widya: Jurnal Penelitian Seni*, 3(1).

Laws and Regulations

Pasal 27 Ayat 2 Undang-Undang Dasar 1945.

Pasal 3 Ayat 4 Undang-Undang Dasar 1945.

Undang-Undang Nomor 4 Tahun 1997 Tentang Kesamaan Hak Para Difabel.

Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas.

Keputusan Menteri Pekerjaan Umum Nomor: 468/Kpts/1998 Tentang Persyaratan Teknis Aksesibilitas Pada Bangunan Umum Dan Lingkungan.

Surat Edaran Mentri PUPR No: 02/SE/M/2018 Tentang Pedoman Bahan Konstruksi Bangunan Dan Rekayasa Sipil.

Statistic and Document

Badan Pusat Statistik Kabupaten Demak Tahun 2018

Laporan Kinerja Instansi Pemerintah (LJKIP) Pemerintah Kabupaten Demak Dinas Sosial Pemberdayaan Perempuan Dan Perlindungan Anak. Tahun 2017

Observation

Observasi, Jln Sultan Fattah. Kabupaten Demak, 12 September 2020.

Observasi, Kawasan Simpang Enam. Kabupaten Demak, 12 September 2020.

There is no greater
disability in society,
than the inability to see
a person as more.

Robert M. Hensel