

## The Alignment of Indonesian Laws with International Legal Instruments on the Rights of Persons with Disabilities

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### ABSTRACT

Indonesia promulgated Law No. 8 of 2016 concerning Persons with Disabilities and established the National Action Plan on Human Rights (RANHAM) and Persons with Disabilities (RANPD). At international level, Indonesia ratified the Convention on the Rights of Persons with Disabilities through Law No. 19 of 2011 and it is also committed to achieve Sustainable Development Goals by 2030. The commitment is realized by the National Action Plan for SDGs which also focuses on persons with disabilities. This study aims to analyze the national legal instruments including the national action plans to ascertain their alignments and compliances with the international legal instruments. This study adopts a normative law research by using secondary data which is analyzed based on the content analysis. It finds that all national legal instruments align and comply with the obligations to respect, protect, and fulfill the rights of persons with disabilities mandated by the international legal instruments. Yet, it is unfortunate that the Optional Protocol to the Convention on the Rights of Persons with Disabilities has not been ratified by Indonesia even though it is a significant legal instrument to strengthen the implementation and monitoring of the CPRD.

**Keywords:** *Persons with Disabilities, National Action Plans, Human Rights, Indonesia.*

## **ABSTRAK**

Indonesia menerbitkan Undang-Undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas dan menetapkan Rencana Aksi Nasional Hak Asasi Manusia (RANHAM) dan Penyandang Disabilitas (RANPD). Di tingkat internasional, Indonesia telah meratifikasi Konvensi Hak-Hak Penyandang Disabilitas melalui Undang-Undang Nomor 19 Tahun 2011 dan juga berkomitmen untuk mencapai Tujuan Pembangunan Berkelanjutan (TPB) pada tahun 2030. Komitmen tersebut diwujudkan dengan Rencana Aksi Nasional untuk TPB yang juga fokus pada penyandang disabilitas. Kajian ini bertujuan untuk menganalisis instrumen hukum nasional termasuk rencana aksi nasional untuk memastikan keselarasan dan kesesuaiannya dengan instrumen hukum internasional. Penelitian ini mengadopsi penelitian hukum normatif dengan menggunakan data sekunder yang dianalisis berdasarkan analisis isi. Ditemukan bahwa semua instrumen hukum nasional menyelaraskan dan mematuhi kewajiban untuk menghormati, melindungi dan memenuhi hak-hak penyandang disabilitas yang diamanatkan oleh instrumen hukum internasional. Namun, sangat disayangkan Protokol Opsional dari Konvensi Hak-Hak Penyandang Disabilitas belum diratifikasi oleh Indonesia meskipun merupakan instrumen hukum yang signifikan untuk memperkuat pelaksanaan dan pemantauan Konvensi.

**Kata Kunci:** *Penyandang Disabilitas, Rencana Aksi Nasional, Hak Asasi Manusia, Indonesia.*

## Introduction

Approximately 15 percent of the world's population are people with disabilities. They are considered the largest minority group in the world. About 82 percent of people with disabilities are in developing countries and live below the poverty line and often face limited access to health, education, training, and decent work.<sup>1</sup> Persons with disabilities are classified as one of the vulnerable groups. They often receive discriminatory treatments, and their rights are often not fulfilled.<sup>2</sup>

In principle, persons with disabilities in Indonesia have the same position, rights and obligations similar to those of non-disabled persons.<sup>3</sup> This is in line with the constitutional mandate under Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads "Everyone has the right to be free from discriminatory treatment on any basis and is entitled to protection against such discriminatory treatment".<sup>4</sup> Some of these human rights have been explicitly and implicitly contained in the 1945 Constitution. To

implement and further regulate the human rights mandated by the 1945 Constitution,<sup>5</sup> Indonesia has enacted Law No. 8 of 2016 concerning Persons with Disabilities. This Law constitutes a special law (*Lex Specialis*) to govern the rights of persons with disabilities in Indonesia which imposes the obligations on the government to realize the rights of persons with disabilities including ensuring the fulfillment of the rights of persons with disability in all aspects of life.<sup>6</sup>

Article 1 (1) of Law No. 8 of 2016 concerning Persons with Disabilities (Persons with Disabilities Law/PwD Law) defines that "Persons with disabilities are any person who has long-term physical, mental, intellectual and/or sensory impairments who may face various challenges and barriers in their interaction with their surroundings to be able to fully and effectively participate together with other citizens on the basis of equal rights".<sup>7</sup> It further classifies Persons with disabilities into 4 (four) groups, namely:

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<sup>1</sup>Arie Purnomosidi, "Konsep Perlindungan Hak Konstitusional Penyandang Disabilitas Di Indonesia," *Refleksi Hukum: Jurnal Ilmu Hukum* 1, no. 2 (2017): 161-74, <https://doi.org/https://doi.org/10.24246/jr.h.2017.v1.i2.p161-174>.

<sup>2</sup>Bambang Widodo, "Upaya Memenuhi Hak Penyandang Disabilitas," Direktorat Jenderal HAM Kementerian Hukum dan HAM RI, 2020.

<sup>3</sup>Frichy Ndaumanu, "Hak Penyandang Disabilitas: Antara Tanggung Jawab Dan Pelaksanaan Oleh Pemerintah Daerah," *Jurnal HAM* 11, no. 1 (2020): 131-50, <https://doi.org/http://dx.doi.org/10.30641/ham.2020.11.131-150>.

<sup>4</sup>"The 1945 Constitution of the Republic of Indonesia," n.d., <https://jdih.bapeten.go.id/unggah/dokumen/peraturan/116-full.pdf>.

<sup>5</sup>Reko Dwi Salfutra, "Hak Asasi Manusia Dalam Perspektif Filsafat Hukum,"

*PROGRESIF: Jurnal Hukum* 12, no. 2 (2018): 2146-58, <https://doi.org/https://doi.org/10.33019/progresif.v12i2.977>.

<sup>6</sup>Arrista Trimaya, "Upaya Mewujudkan Penghormatan, Pelindungan, Dan Pemenuhan Hak Penyandang Disabilitas Melalui Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas," *Jurnal Legislasi Indonesia* 13, no. 4 (2016): 401-9.

<sup>7</sup>"Law Number 8 of 2016 concerning Persons with Disabilities," n.d., & "Presidential Regulation Number 53 of 2021 concerning the National Action Plan for Human Rights 2021-2025," n.d., <https://peraturan.bpk.go.id/Home/Details/37251/uu-no-8-tahun-2016#:~:text=bahwa%20Negara%20Kesatuan%20Republik%20Indonesia,warga%20negara%20dan%20masyarakat%20Indonesia>

- 1) Physical disabilities mean person with mobility functions impairment, including, among others, amputation, acute flaccid paralysis or paralyzed, paraplegia, cerebral palsy (CP), stroke-related paralysis, leprosy-related paralysis, and dwarfism.
- 2) People with intellectual disabilities means a person with intellectual impairment due to below-average level of intelligence, among others are learning difficulties, mental deficiency, and down syndrome.
- 3) Person with “mental disabilities” means a person with impairment in the mental, emotional, and behavioral functions, among others:
  - a. Psychosocial disabilities, among others schizophrenia, bipolar, depression, anxiety, and personality disorder; and
  - b. Developmental disabilities that affect their social interaction capacity, among others are autism and hyperactive.
- 4) Persons with sensory disabilities means a person with impairment in one of the five senses, among others are visual disability, hearing disability, and/or speech disability.

Persons with disabilities constitute citizens of Indonesia, consequently the same as other citizens, they have inherent rights to be protected, respected, and appreciated without discrimination. Article 1 (3) of PwD Law stipulates that “discrimination is any distinction, restriction, harassment or exclusion on the basis of disability that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of the rights of Persons with Disabilities”.

It is obvious that the PwD Law explicitly states that persons of disabilities can exercise their rights, and these are also protected and provided by Law No. 39 of 1999 concerning Human Rights. Article 1 (1) of Human Rights Law defines “human rights mean a set of rights bestowed by God Almighty in the essence and being of humans as creations of God which must be respected, held in the highest esteem and protected by the state, law, Government, and all people in order to protect human dignity and worth”.<sup>8</sup> It is apparent that human rights provided by this Law without any discrimination regardless skin color, gender, language, culture, and nationality. In other words, they are inherent in everyone as a human being.<sup>9</sup>

In the context of human rights, one of the main responsibilities of the government is to promote, protect, respect, and fulfill human rights. These responsibilities cover all aspects of people’s lives and are universal in accordance with the character of human rights.

In this regard, the state must fulfill its obligations for the rights of its citizens thoroughly and without exception. At the national level, Indonesia promotes, protects, respects, and enforces the rights of persons with disabilities under the 1945 Constitution, Law No. 39 of 1999 concerning Human Rights and Law No. 8 of 2016 concerning Persons with Disabilities.

At international level, Indonesia ratified the Convention on the Rights of Persons with Disabilities (CRPD) through Law No. 19 of 2011 concerning Ratification of the Convention on the

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<sup>8</sup>Law No. 39 of 1999 concerning Human Rights,” n.d., <https://www.refworld.org/docid/4da2ce862.html>

<sup>9</sup> Rhona K. M. Smith et al., *Hukum Hak Asasi Manusia* (Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia, 2008).

Rights of Persons with Disabilities.<sup>10</sup> It is a starting point in improving the protection and promotion of the rights of persons with disabilities. The Convention emphasizes the general rights and specifications of persons with disabilities, and it also regulates the mandate and obligations of the state party in fulfilling the rights of persons with disabilities, including adjusting national policies, realizing a disability inclusive environment, providing reasonable accommodation and accessibility in various sectors, both physical and non-physical.<sup>11</sup>

In addition, as a member of international community, Indonesia has a high commitment in implementing the Sustainable Development Goals (SDGs). SDGs is a global and national commitment to improve the welfare of the community by covering 17 goals, namely The 17 sustainable development goals (SDGs) to transform our world: Goal 1: No Poverty, Goal 2: Zero Hunger, Goal 3: Good Health and Well-being, Goal 4: Quality Education, Goal 5: Gender Equality, Goal 6: Clean Water and Sanitation, Goal 7: Affordable and Clean Energy, Goal 8: Decent Work and Economic Growth, Goal 9: Industry, Innovation and Infrastructure, Goal 10: Reduced Inequality, Goal 11: Sustainable Cities and Communities, Goal 12: Responsible Consumption and

Production, Goal 13: Climate Action, Goal 14: Life Below Water, Goal 15: Life on Land, Goal 16: Peace and Justice Strong Institutions, and Goal 17: Partnerships to achieve the Goal. Out of 17 goals, Goal 4, 8, 10, 11 and 17 explicitly mention Persons with Disabilities.

The commitment of Indonesia to achieve the SDGs was reflected by the issuance of the Presidential Regulation (*Peraturan Presiden/Perpres*) No. 59 of 2017 concerning the Achievement of the Sustainable Development Goals which was signed by the President of the Republic of Indonesia on July 4, 2017.<sup>12</sup>

The Presidential Regulation regulates the composition of the National Coordination Team which involves government and non-government elements in Implementing Team membership and Working Groups and other stakeholders based on their roles and their respective duties. The Presidential Regulation also adopts the 17 goals and 169 targets.<sup>13</sup>

To continuously achieve the SDGs in 2030, the government recently issued a Presidential Regulation (*Peraturan Presiden/Perpres*) No. 111 of 2022 concerning the Achievement of the Sustainable Development Goals.<sup>14</sup> Article 1 of the Regulation states that "Sustainable Development Goal is the global development agenda to end poverty, improve welfare, and protect the

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<sup>10</sup> "Law No. 19 of 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities," n.d., <https://www.bphn.go.id/data/documents/11uu019.pdf>

<sup>11</sup> Hilmi Ardani Nasution and Marwandianto, "Memilih Dan Dipilih, Hak Politik Penyandang Disabilitas Dalam Kontestasi Pemilihan Umum: Studi Daerah Istimewa Yogyakarta," *Jurnal HAM* 10, no. 2 (2019): 161-78, <https://doi.org/http://dx.doi.org/10.30641/ham.2019.10.161-178>.

<sup>12</sup> "Presidential Regulation (*Peraturan Presiden/Perpres*) Number 59 of 2017

concerning the Achievement of the Sustainable Development Goals," n.d., <https://peraturan.bpk.go.id/Home/Details/72974/perpres-no-59-tahun-2017>

<sup>13</sup> Badan Pusat Statistik, *Indikator Tujuan Pembangunan Berkelanjutan (TPB) Indonesia 2019* (Jakarta: Badan Pusat Statistik, 2019).

<sup>14</sup> "Presidential Regulation (*Peraturan Presiden/Perpres*) Number 111 of 2022 concerning the Achievement of the Sustainable Development Goals," n.d., <https://peraturan.bpk.go.id/Home/Details/227039/perpres-no-111-tahun-2022>

planet, through the achievement of 17 (seventeen) goals by 2030.

Yet, it is questioned whether these national laws are aligned with the mandates and spirits of international legal instruments pertaining to the rights of persons with disabilities. In this conjunction, the study aims to analyze the alignment of Law No. 8 of 2016 concerning Persons with Disabilities with the Convention on the Rights of Persons with Disabilities which was ratified by Law No. 19 of 2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities. It also examines the alignments of National Action Plans for Human Rights and Sustainable Development Goals (SDGs).

### **Methodology**

This study adopts a normative law research which focuses on legal principles and the synchronization of legal instruments.<sup>15</sup> It is merely used a secondary data which has the following general characteristics: 1) secondary data are generally in a ready-made state; 2) the form and content of secondary data have been formed and filled in by previous researchers; 3) secondary data can be obtained without being bound or limited by time and place.<sup>16</sup>

The said secondary data consists of primary law material, namely the legal materials that have binding power in general (laws) or have binding power for interested parties such as conventions, legal documents and judges' decisions. The primary legal materials in this study are Law No. 19 of 2011 concerning Ratification of the Convention on the

Rights of Persons with Disabilities, Law No. 8 of 2016 concerning Persons with Disabilities, Presidential Regulation No. 53 of 2021 concerning the National Action Plan for Human Rights 2021 - 2025, Regulation of the Minister of National Development Planning/Head of Bappenas No. 3 of 2021 concerning the National Action Plan for Persons with Disabilities.<sup>17</sup> Secondary law materials which provide explanations of primary legal materials such as books, journals, reports in the printed or electronic medias are also utilized by this study. All data is analyzed by using a qualitative approach based on the content analysis.

### **Discussion**

#### **1. The Alignment of Law No. 8 of 2016 Concerning Persons with Disabilities with the Convention on the Rights of Persons with Disabilities (CRPD)**

The ratification of the CRPD by the Indonesian government is in accordance with the 1945 Constitution of the Republic of Indonesia which sets the state goals, that is to participate in implementing the world order based on independence, eternal peace and social justice. In this regard, Indonesia as a member of international community has committed to participate in complying with international instruments, including the CRPD to uphold human rights to promote the world order. This is emphasized in the Elucidation of Law No. 8 of 2016 concerning Persons with Disabilities (PwD Law) which explicitly states that "The enactment of Law No. 19 of 2011 on the Ratification of the

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<sup>15</sup> Abdulkadir Muhammad, *Hukum Dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004).

<sup>16</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2011).

<sup>17</sup> "Regulation of the Minister of National Development Planning/Head of

Bappenas Number 3 of 2021 concerning the National Action Plan for Persons with Disabilities," n.d., <https://peraturan.bpk.go.id/Home/Details/219477/permen-ppnkepala-bappenas-no-3-tahun-2021>

Convention on the Rights of Persons with Disabilities on 10 November 2011 shows commitment and seriousness of the Indonesian Government to respect, protect, and fulfill the rights of Persons with Disabilities that is expected to eventually increase the wellbeing of Persons of Disabilities”.

Article 1 of CRPD stipulates its purposes, that is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”. These purposes are aligned and further elaborated by Article 3 of the PwD Law. The aims of the Law are:

- 1) To realize the respect, advancement, protection, and fulfilment of human rights and fundamental freedom of Persons with Disabilities in full and equal manner;
- 2) To ensure measures in the respect, advancement, protection, and fulfilment of rights as inherent dignity in any Persons with Disabilities;
- 3) To realize better quality, fair, of physical and mental wellbeing, independent, and dignified standards of living for Persons with Disabilities;
- 4) To protect Persons with Disabilities from abandonment and exploitation, harassment and all forms of discrimination, as well as violation of human rights; and
- 5) To ensure that the exercise of respect, advancement, protection, and fulfilment measures for the rights of Persons with Disabilities to develop themselves and utilize all their abilities in accordance with their talents and interests in order to enjoy, to take part as well as to contribute optimally, in a safe, flexible, and dignified condition in all aspects of life of the nation, the state, and the community.

Article 3 of the CRPD and Article 2 of the PwD Law both set their general principles. Table 1 show the similar principles of the two legal instruments.

**Table 1. The General Principles of the CRPD and the PwD Law**

<b>Convention on the Rights of Persons with Disabilities</b>	<b>Law No. 8 of 2016 concerning Persons with Disabilities</b>
a. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons	a. Respect for inherent dignity
b. Non-discrimination	b. Individual autonomy
c. Full and effective participation and inclusion in society	c. Non-discrimination
d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity	d. Full participation
e. Equality of opportunity	e. Human diversity and humanity
f. Accessibility	f. Equal opportunity
g. Equality between men and women	g. Equality
h. Respect for the evolving capacities of children with disabilities and respect for the right of children	h. Accessibility

with disabilities to preserve their identities	
	i. Evolving capacities and identities of children [with disabilities]
	j. Inclusion
	k. Special treatment and Extra protection

Source: Convention on the Rights of Persons with Disabilities and Law No. 8 of 2016 concerning Persons with Disabilities

Unlike the CRPD, the principles are not elaborated by the PwD Law. Yet, all principles under the CRPD are adopted by the PwD Law. Interestingly, an additional principle is introduced by the PwD Law, namely “Special Treatment and Extra Protection”. However, it is unfortunate that the PwD Law does not define what is meant by “Special Treatment and Extra Protection”.

As the consequences of ratifying the CRPD and transforming it into the national legal system by the enactment of the PwD law, Indonesia is mandated to comply with all provisions of the Conventions with the obligations to respect, protect and fulfill the rights of persons with disabilities is carried out on the basis of the principle of *pacta sunt servanda* and good faith as provided under Article 26 of the Vienna Convention 1969 (Vienna Convention on the Law of Treaties).<sup>18</sup>

Accordingly, the substances of the PwD Law must be aligned with those of the CRPD. The CRPD provides the civil and political rights for persons with disabilities which include “accessibility,

recognition before the law and legal capacity, access to justice, participation in public life (including the right to vote)”. In relation to the economic, social, and cultural rights of persons with disabilities, the CRPD contains “respect for the family, right to education, right to health, habilitation and rehabilitation, work and employment, and adequate standard of living and social protection”. In align with these rights, the PwD Law provides an exhausted rights list under Article 5.

These rights consist of the general rights of persons with disabilities under Article 5(1) of the PwD Law, namely “right to “life, free from stigma, privacy justice and legal protection, education, employment, entrepreneurship, and cooperative, health, politics, religion, sports, culture and tourism, social welfare, accessibility; public service, protection from disaster, habilitation and rehabilitation, [price] concession, be recorded/data collection, live independently and involved in the community, [freedom of] expression, communication, and obtaining information, migrate and change nationality; and be free from any discrimination, abandonment, abuse, and exploitation.

By virtue of the rights under Article 5 of the PwD Law, it can be submitted that the Law does not define the term “Special Treatment and Extra Protection”, but it provides a special treatment for persons with disabilities, namely “price concession”. In addition, Article 5 of the PwD Law adds special rights for women and children in addition to their general rights. These can be regarded as special treatment and extra protection for them. Table 2 shows these rights below.

<sup>18</sup> Nurhidayatulloh et al., “Forsaking Equality: Examine Indonesia’s State Responsibility on Polygamy to the Marriage Rights in CEDAW,” *Jurnal Dinamika Hukum*

18, no. 2 (2018): 182-93, <https://doi.org/http://dx.doi.org/10.20884/1.jdh.2018.18.2.810>.



**Table 2. Rights to Special Treatment and Extra Protection for Women and Children with Disabilities under the PwD Law**

Women Disabilities	Children with Disabilities
For reproductive health;	To receive special protection from discrimination, abandonment, harassment, exploitation, as well as sexual violence and crimes
To accept and refuse the use of contraception;	To receive care and nurture from immediate or foster families for their optimum growth and development
To receive extra protection from multiple discrimination; and	For their interests to be protected in decision-making
To receive extra protection from any act of violence, including sexual violence and exploitation.	To be treated humanely according to child's dignity and rights
	To have their special needs fulfilled
	To receive equal treatment as other children in order to achieve social integration and individual development
	To receive social facilitation.

Source: Article 5(2) and Article 5(3) of Law No. 8 of 2016 concerning Persons with Disabilities

Aside from a special treatment for women and children with disabilities, all persons with disabilities as part of Indonesian citizens deserve special treatments. The special treatments can be categorized into 2 (two) meanings, namely:

- 1) Special treatment as a form of protection from the risk of being vulnerable to various acts of discrimination and protection from human rights violations. This treatment is a form of maximum effort in respecting, promoting, protecting and fulfilling universal human rights.
- 2) Special treatment as a form of taking sides with disability groups by providing special treatment and more optimal protection as compensation for the conditions they experience in order to minimize or eliminate the impact of their disability so that it is possible for them to enjoy, play a role and contribute optimally and fairly with dignity in all walks of life in society, nation and state.

Based on the discussions, it is obvious that the PwD Law has transformed and adapted the principles and substances of the CRPD to comply with the obligations to respect, protect and fulfill the rights of persons with disabilities mandated by the CRPD. Furthermore, the PwD Law provides more specific provisions to fulfil and enforce the said rights. The CRPD has an optional protocol (Optional Protocol to the Convention on the Rights of Persons) that stipulates two procedures to strengthen the implementation and monitoring of the CPRD. The first allows individuals to submit petition to the CRPD Committee, claiming violations of their rights; and secondly to authorize the CRPD Committee to conduct investigations into the serious violations

of the CRPD.<sup>19</sup> It is unfortunate that Indonesia has not been a party to this Protocol.

## **2. The Manifestation of Law No. 8 of 2016 Concerning Persons with Disabilities in the National Action Plan and Its Alignment with Sustainable Development Goals (SDGs)**

In relation to the obligations of government to respect, promotion, protection, enforcement and fulfillment of human rights (*Penghormatan, Pemajuan, Perlindungan, Penegakan, dan Pemenuhan Hak Asasi Manusia/P5 HAM*), it has the legitimacy to issue legal products to implement the P5 HAM. One of the government's concrete efforts is to continuously issue the regulations pertaining to the National Action Plan for Human Rights (*Rencana Aksi Nasional Hak Asasi Manusia/RANHAM*). Presidential Regulation (Perpres) No.75 of 2015 concerning RANHAM 2015-2019 has been updated by the issuance of the Presidential Regulation No. 53 of 2021 concerning the National Action Plan for Human Rights 2021 - 2025. It is the 5<sup>th</sup> generation of RANHAM and constitutes a continuation of the previous RANHAM, namely 1<sup>st</sup> generation launched in 1998, 2<sup>nd</sup> generation in 2005, 3<sup>rd</sup> generation in 2011, and 4<sup>th</sup> generation in 2015.<sup>20</sup>

RANHAM is a document that contains strategic objectives that are used as a reference for ministries, institutions, and provincial and district/city regional governments for the purpose of implementing P5 HAM in Indonesia. RANHAM 2021-2025 (5<sup>th</sup> generation of RANHAM) focuses on 4 (four) target groups, namely: (i) women; (ii) children; (iii) persons with disabilities; and (iv)

indigenous people's groups. The vulnerable groups that are targeted in the 5<sup>th</sup> generation of RANHAM are based on the dynamics that occur in society, such as:

- 1) Women's groups: there are several regions in Indonesia that have not maximized the protection and fulfillment of women's rights in various fields of development.
- 2) Group of children: there are still children in special situations who do not get basic rights and public services, especially in the fields of population administration, education, and health. In addition, children are still very vulnerable to physical and sexual violence, exploitation, and discrimination, including in the field of employment.
- 3) Disability groups: the implementation of respect, protection, fulfillment, enforcement and promotion of disability rights is still not effective and optimal, even though Law Number 8 of 2016 concerning Persons with Disabilities has in fact been in existence, yet certain areas have not yet optimized the facilities for disability groups.
- 4) Indigenous people groups: there is no adequate legal protection framework for *adat* groups and there are still violations of land rights for *adat* community groups.<sup>21</sup>

It is obvious that the 5<sup>th</sup> generation of RANHAM prioritizes PwD among its focus groups. It also asserts that the enforcement of Law Number 8 of 2016 concerning Persons with Disabilities is still far from being satisfied and optimum. However, it does not mean that

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<sup>19</sup> Komisi Nasional Hak Asasi Manusia, *Mendorong Pengesahan Optional Protocol CRPD Dalam Rangka Pemenuhan HAM Penyandang Disabilitas* (Jakarta: Komisi Nasional Hak Asasi Manusia, 2016).

<sup>20</sup> I Wayan Sulpai, "Implementasi Rencana Aksi Nasional Hak Asasi Manusia (RANHAM): Pencapaian Dan Tantangan," Sekretariat Kabinet Republik Indonesia, 2022.

<sup>21</sup> *Ibid.*

the challenges and issues faced by persons with disabilities are not properly handled by the government through the previous RANHAM. The Cabinet Secretariat (*Sekretariat Kabinet*) of Indonesia reports that the implementation of 1<sup>st</sup> - 4<sup>th</sup> generation of RANHAM has resulted in several achievements, including:

- 1) The issuance of regulations and policies that guarantee the rights of women, children, persons with disabilities, and indigenous groups;
- 2) Increased understanding of government officials on human rights;
- 3) Implementation of human rights instruments in central and local government policies;
- 4) Increasing the accessibility of persons with disabilities and other vulnerable groups to participate in the civil, political, economic and cultural fields; and
- 5) There are efforts to handle allegations of human rights violations for women, children, persons with disabilities, and indigenous groups.

In addition to RANHAM, the government also establishes the National Action Plan for Persons with Disabilities (RANPD) 2021 - 2025. The Regulation of the Minister of National Development Planning/Head of Bappenas No. 3 of 2021 governs the National Action Plan for Persons with Disabilities (RANPD). This National Action Plan is valid for 5 years as a derivative of the Master Plan for Persons with Disabilities which is valid for the next 25 years.<sup>22</sup>

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<sup>22</sup> Hendra D., "Rencana Aksi Nasional Disabilitas, Gerbang Menuju Indonesia Inklusif," Solider, 2021.

<sup>23</sup> Srikandi Syamsi, "Mengupas Rencana Aksi Nasional Penyandang Disabilitas," Solider, 2021.

There are seven strategic targets of the RANPD, namely: (1) Data collection and inclusive planning for persons with disabilities, (2) A barrier-free environment for persons with disabilities, (3) Protection of political rights and access as well as justice for persons with disabilities, (4) Empowerment and independence for persons with disabilities, (5) The realization of an inclusive economy for persons with disabilities, (6) Education and skills for persons with disabilities, (7) access and equitable distribution of health services for persons with disabilities.<sup>23</sup>

At national level, Indonesia implements RANHAM and includes persons with disabilities as its focus. In the international context, the government also implements the National Action Plan (RAN) to achieve Sustainable Development Goals (SDGs). Sustainable Development Goals (SDGs) are an international agenda compiled by the United Nations (UN) with involving 194 countries, civil society, and various stakeholders from all over the world. Indonesia as part of the world community is committed to implement the SDGs and align with its national development.<sup>24</sup>

To achieve the SDGs, the government establishes the National Action Plan for SDGs (*Rencana Aksi Nasional Tujuan Pembangunan Berkelanjutan/RAN TPB*). The RANTPB is an activity which is prepared and collaboratively planned between government and non-government to be used as guidelines for implementing the SDGs nationally. Implementation principles of SDGs are used as the basis for the preparation of the RANTPB, such as the principle of "no one left behind"

<sup>24</sup> Badan Pusat Statistik, *Indikator Tujuan Pembangunan Berkelanjutan (TPB) Indonesia 2019*.

and the principle of inclusiveness which means that the RAN TPB is prepared by involving all parties, both ministries/institutions, philanthropy, academics, experts, organizations Civil Society, the media and so on. Its implementation emphasizes benefit everyone, especially vulnerable groups such as women, children's groups, youth, the poor and persons with disabilities. RAN TPB is an operational elaboration of the development agenda of SDGs in Indonesia.<sup>25</sup>

It is apparent from the discussions that the National Action Plans relating to persons with disabilities (RANHAM and RANPD) aim to concretely and contextually realize the PwD Law. In this conjunction, RAN TPB in a wider scope also supports the ultimate aims of this Law as it is previously mentioned that Goal 4, 8, 10, 11 and 17 of SDGs explicitly mention Persons with Disabilities.

## Conclusion

It can be concluded from the above discussions that the transformation of the CRPD through the PwD Law evidences the alignment of between the national and international legal instruments relating to persons with disabilities. The alignment is clearly reflected by the adoption of principles and provisions of the CRPD in the provisions of PwD Law both directly and indirectly.

It is also concluded that the National Action Plans, namely RANHAM, RANPD and RAN TPB are all aligned and interconnected to improve the rights of persons with disabilities by respecting, promoting, protecting, enforcing and fulfilling the said rights.

It is highly recommended that Indonesia should ratify the Optional Protocol to the Convention on the Rights of Persons to strengthen the implementation and monitoring of the

CRPD, hence the enforcement of the rights of PwDs can be optimally realized.

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<sup>25</sup> Badan Pusat Statistik.

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