

CONSUMER PROTECTION | RESEARCH ARTICLE

Protection of Consumers with Disabilities in The Public Services Sector (Legal Comparative with Australia)

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Abstract: The existence of a consumer protection law and the ratification of the CRPD by the Indonesian government is expected to guarantee the safety and comfort of consumers, including persons with disabilities. Therefore, the problem of comparative regulation and institutional, as well as the supervision of the implementation of public services for persons with disabilities, is raised in Indonesia and Australia. Australia was chosen as a comparison because this country already has a comprehensive protection system for persons with disabilities and is fully committed to providing public service facilities. This research is a prescriptive normative research using secondary data consisting of primary legal materials and secondary legal materials. This study concludes that similar to Indonesia, the formation of regulations and policies in Australia in the public service sector for persons with disabilities has reached a technical level and is carried out in a coordinated manner between the center and the regions. The basic difference is that the institutional system that handles the planning, implementation, and supervision of public services for persons with disabilities in Indonesia is separated into various ministries and/or agencies so that it requires strengthening synergies at the central and regional levels so that the implementation of public services is guaranteed optimally.

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PUBLIC INTEREST STATEMENT

Persons with disabilities are included as consumers who are internationally recognized and protected in the CRPD and UNGCP. The Indonesian government is trying to protect consumers' right to accessibility and accommodation by issuing several regulations through ratifying the CRPD with Law Number 19/2011 concerning Ratification of the Convention on the Rights of Persons with Disabilities. Furthermore, the state also established Law no. 8 of 2016 concerning Persons with Disabilities. This study describes the implementation of providing access to services for persons with disabilities in the public service sector, which seems to be still not optimal. The choice of Australia as a comparison is intended to enrich information related to implementation, including its monitoring. Australia is a country that can provide access to public services constitutionally and make it happen in the form of a law containing a special institution established by the Australian government, namely the NDIA (National Disability Insurance Agency), which is organizationally under the Ministry of Health with full funding by the central and state governments.

Meanwhile, Indonesia has a National Commission for Disabilities (KND) formed and funded by the central government with limited authority. The supervision of implementing public services for persons with disabilities in Indonesia is still spread across the relevant ministries, while the Australian government delegates full authority to NDIA. All relevant ministries and authorities of public service providers and supervisors in Indonesia should synergize and cooperate in building the accessibility of public services to realize the fulfillment of rights for persons with disabilities.



1. Introduction

The existence of persons with disabilities in a pluralistic society is often not visible because the numbers are small compared to other community groups. The small number and ignorance of voicing their rights as citizens have resulted in this group being marginalized in various aspects of life, including public service facilities and facilities. The limited accessibility and adequate accommodation for consumers with disabilities have prompted the government to regulate the rights of persons with disabilities to obtain proper and humane access (Muqovvah, 2020).

Indonesia has ratified the CRPD (Convention on the Rights of Persons with Disabilities) in Law Number 19 of 2011 concerning the ratification of the Convention on the Rights of Persons with Disabilities, so social awareness of persons with disabilities has grown (Law Number 19, 2011). In addition, the state also regulates through legal instruments, namely Law Number 8 of 2016 concerning Persons with Disabilities and its derivatives and Government Regulation Number 70 of 2019 concerning Planning, Implementation, and Evaluation of Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities.

However, the reality shows that the accessibility of public services for persons with disabilities is still not running optimally. Accessibility is one of the basic rights that must be owned by persons with disabilities when they socialize. The implementation of good public administration and services for the community, especially people with disabilities, is an important thing to realize, as stated by the coordinator of the disability community at the People's Information Center or LIRA Disability Care (LDC) Abdul Majid (Muqovvah, 2020).

Public services have become an international benchmark in assessing the success of state administrators and the government of a country. In fact, for Indonesia, the fulfillment of excellent public services manifests the ideals of the nation and state as stated in the constitution. The problem is that currently, public services are considered to be in disarray and have not been implemented properly. According to the World Bank, our public service index was still 129th out of 188 countries last year. Meanwhile, from access and convenience, the World Bank has ranked Indonesia 114th out of 188 countries (World Bank, 2016).

The Governor of the Province of the Special Capital Region of Jakarta Number 24 of 2019 currently does not support Persons with Disabilities and public transportation accessibility. However, the high level of population mobility certainly requires integrated public transportation. However, amid modernization, public facilities cannot be used by persons with disabilities. For example, in the Electric Railroad (KRL), sometimes a guide block for the visually impaired (guiding block) is lost and destroyed. Some sidewalks' guiding blocks are sometimes even blocked by cable excavations, seating facilities, and trees so that persons with disabilities cannot pass them. Likewise, when accessing Transjakarta Bus transportation, people with disabilities still find it difficult to get to the bus stop, such to the lack of handrail accessibility. The Regulation of the Governor of the Province of the Special Capital Region of Jakarta Number 24 of 2019 has shown that the government pays little attention to the width of doors that meet universal standards, namely designs that wheelchair users can pass independently, like in public places. Voice or audio and braille for the blind in retail and tourism, as well as sign language and writing for the deaf.

This study focuses on the public service sector for persons with disabilities because this is one of the important facilities requiring government attention at both the central and regional levels. Several previous studies have explored the implementation of public services in the regions such as Yogyakarta, Garut, and several other cities. In addition, similar studies are comparing their application in the Southeast Asian region. Still, this study compares the legal system for the protection of persons with disabilities in a more comprehensive country, namely Australia. Public services such as the public transport system in Australia have been friendly to persons with disabilities, including their availability. In addition, access

to the public building environment has been easily accessible for them, especially for those who use wheelchairs.

Australia, a country with different cultural conditions but geographically close to Indonesia, has also ratified the CRPD convention. By ratifying the CRPD, Indonesia and Australia are committed to addressing the rights of persons with disabilities in various sectors, including public services (Harahap & Bustanuddin, 2015). Based on the conditions in society, it is interesting to analyze more deeply related to the regulation and supervision of the two countries towards public services for persons with disabilities. The reasons above prompted the research team to raise the title "Protection of Consumers with Disabilities in the Public Service Sector (Comparison of Laws with Australia)." The research question compares the arrangements for implementing the public service sector for consumers with disabilities in Indonesia and Australia; and compares institutional systems and their supervision in the public service sector for consumers with disabilities. This study aims to describe and analyze comparative arrangements, institutional systems, and supervision in public services for consumers with disabilities in Indonesia and Australia.

2. Literature Review

2.1 Consumer Protection

The community, as consumers, has the right to public services. However, consumers are part of the global market and influence market forces. According to Misra and Dhaka (2006), in their research in India, legal protection for consumers is not enough to protect consumers from exploitation. Moreover, this exploitation cannot be separated from vulnerable groups such as persons with disabilities. Apart from exploitation, persons with disabilities also experience difficulties obtaining their rights as consumers who enjoy public services. For example, the public health insurance scheme for persons with disabilities in several low-income countries seems unclear (Australian Government, 2018). Thus, there are still obstacles for persons with disabilities to enjoy public services health sector. For example, as stated by Palmer and Nguyen in their research in Vietnam, insurance does not fully cover the high demand for health care for persons with disabilities. In addition, there are environmental barriers to accessing health facilities, a shortage of medical services or technology, or discriminatory treatment of persons with disabilities by health service staff (Nursyamsi et al., 2015).

Students often have difficulty getting reasonable accommodation in education, such as in the library. According to Hong, cited by Robertson et al. (2015), students with disabilities should wait until they know it is safe to request reasonable accommodations for them. In other fields, public transportation services are also experiencing the same thing. For example, the World Health Organization (WHO) states that pedestrians with disabilities are at high risk of experiencing road injuries.

Fulfilling public services for persons with disabilities as consumers requires dynamic interactions between them and the environment and realizing the importance of consumer participation in planning, implementing, and evaluating research activities and intervention strategies. Therefore, regulations can majorly fulfill public services for persons with disabilities (Olney & Dickinson, 2019).

Indonesia has established a policy on consumer protection in Law Number 8 of 1999, namely: (1) the right to correct, clear, and honest information regarding the conditions and guarantees of goods and/or services, the right to hear opinions and complaints on goods and/or services used; (2) the right to obtain proper advocacy, protection, and efforts to resolve consumer protection disputes; and (3) the right to obtain compensation, compensation and/or replacement, if the goods and/or services received are not by the agreement or not properly. However, there are still cases of consumers who do not get their rights as consumers, including consumers with disabilities.

According to United Nations Conference on Trade and Development (2020) explain that national policies for consumer protection, member states should establish

consumer protection policies that encourage: (a) good business practices; (b) clear and timely information to enable consumers to contact businesses easily, and to enable regulatory and law enforcement authorities to identify and locate them; (c) Clear and timely information regarding the goods or services offered; (d) Clear, concise and easy to understand contract terms that are not; (e) A transparent process for the confirmation, cancellation, return and refund of transactions; (f) secure payment mechanisms; (g) fair, affordable and speedy dispute resolution and redress; (h) consumer privacy and data security; and (i) Consumer and business education.

2.2 Persons with Disabilities

According to Law Number 8 of 2016, "persons with disabilities are any person who experiences physical, intellectual, mental, and/or sensory limitations for a long period who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with citizens (Law Number 8, 2016). Others based on equal rights." In addition, people with disabilities need more attention and are the most vulnerable to violence, discrimination, and neglect (Sunardi & Mustafa, 2020).

There are three approaches to understanding persons with disabilities, particularly related to rights, namely the framework for understanding medical disability, social models, and human rights. The medical model views persons with disabilities as closely related to the dysfunctions and processes of the human body (Sudarwati, 2016). This model identifies people with physical or intellectual disabilities as naturally inferior to the average person. Because of these conditions, they are deemed ineligible for equal participation protection under the law. Thus, this model sees persons with disabilities needing charitable assistance or rehabilitation.

The social model views persons with disabilities in terms of social practice, namely, seeing the social environment as the main cause of discrimination suffered by persons with disabilities. In this case, it is necessary to remove barriers for persons with disabilities in the social environment so they can enter society (Baart & Taaka, 2017). However, this approach provides equal access to persons with disabilities but does not guarantee an equality or equity approach. Therefore, equal treatment does not guarantee equality for persons with disabilities.

The human rights model approach tries to understand the barriers experienced by persons with disabilities and provides moral values in developing the concept of disability. This model does not link the concept of disability with equality as a formal approach, instead recognizing differences as an aspect of human diversity so that they can better understand equality and equity, resulting in social justice (Hidayat, 2020). In human rights, relating to persons with disabilities has two elements, first, recognizing the rights of persons with disabilities, and second, emphasizing the understanding of disability as a social construction and calling for people to change normative practices that contribute to the decline in the quality of life of persons with disabilities.

3. Conceptual Framework

Disability is not solely the attribute of an individual but also a social concept. Hence it is a highly heterogeneous concept. Therefore, it can be defined that to meet the concept of disability, it is necessary that the regulation of rights of persons, particularly those as a consumer, implement the human rights model as disability approaches using equal and equity approaches instead of medical and social approaches. From those approaches, researchers are encouraged to acknowledge the dynamic human rights model interaction between the person and the environment, to be aware importance of consumer participation through regulation. Based on the conceptual framework in Figure 1, this study hypothesizes that the

difference between Indonesia and Australia is related to the institutional system of public services for persons with disabilities.

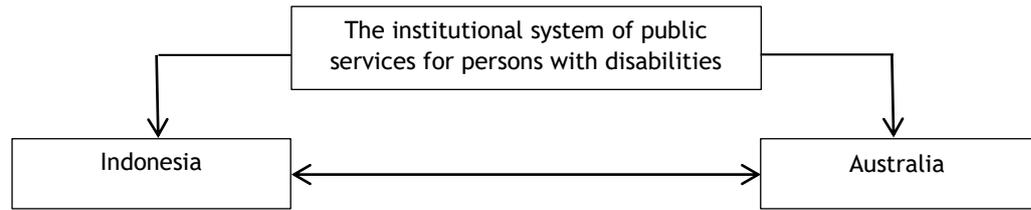


Figure 1. Conceptual framework

4. Methods

4.1 Participants

This study applied a conceptual and statutory approach and comparative law. First, a conceptual approach is used to analyze the theory of disability and consumer protection. A conceptual approach is also used to explain the notion of disability in the framework of human rights and consumer protection. Meanwhile, the statutory approach is carried out to look at regulating the rights of persons with disabilities in consumer protection in two legal jurisdictions, Indonesia and Australia. In comparison, the comparative approach is based on the understanding that this research requires comparative information from other countries with better consumer protection legal systems to enrich the knowledge.

4.2 Measurements

The data used is secondary data, both non-legal data and legal data. The data collected will be analyzed qualitatively to obtain answers to the problems to be studied. While conclusions are drawn using the deductive reasoning method. This reasoning process starts from statements or general doctrines about the licensing system to arrive at a specific conclusion about protecting consumers with disabilities in the public service sector in Indonesia and Australia.

4.3 Analysis

The data were processed and analyzed with a qualitative approach. Conclusions are drawn in this study using the deductive reasoning method, which is a reasoning process that starts from a general statement about legal protection for persons with disabilities to arrive at a specific conclusion about the comparison of regulations and supervision between Indonesia and Australia.

5. Findings

The differences in regulations that protect persons with disabilities between Indonesia and Australia can be viewed from several aspects, namely the constitutional basis, term limits, scope, division of central and regional authority, and funding as follows

Table 1. Comparison of national regulations and policies for the protection of persons with disabilities in Indonesia and Australia

No	Substance	Indonesia	Australia
1	Constitutional basis	Indonesia respects the rights of persons with disabilities in accordance with Clause 28, letter I of the 1945 Constitution, which states, "everyone has the right to be free from discriminatory treatment on any basis and is entitled to protection against discriminatory treatment."	Australia also regulates the rights of persons with disabilities, as evidenced in section 117 of the Australian Constitution, which reads, "Everyone in every State who has a disability status must be treated equally and not be treated in a discriminatory manner."

No	Substance	Indonesia	Australia
2	Terminology	Public Service is an activity or series of activities in the context of fulfilling service needs by the provisions of laws and regulations for every citizen and resident of goods, services, and/or administrative services provided by public service providers (Clause 1 paragraph 13 in conjunction with Clause 5 paragraph (1) letter n in conjunction with Clause 19 of Law No. 8/2016 in conjunction with Clause 1 number 8 PP 42/2020 in conjunction with Clause 1 paragraph 3 PP 70/2019).	In the context of legal instruments in Australia do not define public services explicitly. This is because the principles in the National Disability Insurance Scheme (NDIS) align with the United Nations Convention on the Right of Persons with Disability (CRPD) which stipulates accessibility as a general principle.
3	Area Coverage	Clause 19 of Law no. 8/2016 states that the right to public services for persons with disabilities includes obtaining adequate accommodation in public services that are optional, reasonable, and dignified without being discriminatory; as well as assistance, translation, and provision of facilities that are easily accessible at public service places at no additional cost Clause 17 PP No. 42/2020 jo. state that the scope of public services is services for goods, services, and/or administrative services provided by public service providers	Public service providers in Australia are regulated by the Australia Public Service Act 1999. However, this only regulates those related to the bureaucracy and structure rather than institutions or bodies related to elements of public service providers. The object or scope of the instrument does not definitively regulate what is meant in the context of public service providers. Still, it is regulated in legal instruments related to public services themselves.
4	Facility Funding	Clause 105 paragraph (4) of Law no. 8/2016 jo. Clause 21 PP 70/2019 jo. Clause 41, paragraphs (1) and (2) of PP 42/2020 state that funding for planning, implementing, and evaluating the respect, protection, and fulfillment of the rights of persons with disabilities comes from: <ul style="list-style-type: none"> - State budget; - Regional budget; and - Other sources of funding (such as corporations) that are legal and non-binding by the provisions of laws and regulations, both central and local governments. 	Funding of public services for persons with disabilities is regulated in Chapter 6, Funding (Finance) Section 178-180 of the NDIS, which states that the Australian Parliament regulates funding to NDIA. The Australian Minister of Finance can provide direction on the amount of money required by the NDIA. In addition, NDIA funding sources can be obtained from state governments, which are intended to implement NDIS comprehensively.

Source: Indonesian and Australian laws and regulations (data processed)

In addition, the Australian Competition and Consumer Protection (ACCC) is an authority that has the authority to settle disputes over consumer protection and can

collaborate with several Australian state institutions in carrying out consumer protection efforts. For example, ACCC cooperates with the Consumer Protection Agency of Victoria and New South Wales by making guidelines for consumer protection, especially for persons with disabilities. The guidelines provide information related to the consumer rights of persons with disabilities and provide information or instructions for making a complaint relating to violators. The above description from Indonesian and Australian laws and regulations (data processed) can be observed in the following Table.

Table 2. Comparison of institutional and public service monitoring of persons with disabilities in Indonesia and Australia

No	Substance	Indonesia	Australia
1	Institutional	The National Commission for Disabilities (KND) ensures and monitors the implementation of protection and fulfillment of the rights of persons with disabilities. The Minister of National Development Planning/Bappenas (National Development Planning of the Republic of Indonesia/National Development Planning Agency) is in charge of designing, implementing, and evaluating the protection of persons with disabilities.	Based on Section 117 NDIS (National Disability Insurance Scheme), the Launch Transition Agency (NDIA) is a corporate body by its arrangement or establishment by the Public Governance, Performance and Accountability Act 2013.
2	Division of Central and Local Authority	The central and local governments coordinate their obligations in designing and implementing the construction of public service facilities, ensuring the protection and dissemination of information to the public regarding prevention, identification of criminal acts, and reports on cases of exploitation, violence, and harassment against persons with disabilities.	The basic NDIS market applies to all states in Australia. However, concerning who is authorized to determine policies on public services for persons with disabilities, the central NDIS or the central government holds it. However, this can be excluded if a written agreement is given to the relevant Ministry in the state.
3	Supervision The Implementation of Public Services for Persons with Disabilities	Clause 30 of Law No. 8/1999 states that the government, the community carry out supervision, and non-governmental consumer protection institutions, which the relevant minister and technical minister will later carry out Based on Law no. 8/2016, the government has established a National Commission for Disabilities, which has the duty and function to ensure and monitor the implementation of respect, protection, and fulfillment of the rights of persons with disabilities (Clause 131 of Law No. 8/2016 in conjunction with Clause 2 of Presidential Regulation 68/2020).	Supervision or review of the implementation of the provisions contained in the NDIS is regulated in Section 208 of the NDIS. This has a procedure such as the Commonwealth Minister can choose a special team to conduct an independent review of the implementation of the NDIS, which is also approved by the Ministerial Council, which is related to the review which is regulated more concretely in terms of reference of the review approved by the Ministerial Council. Definition of Ministerial Council: consists of Ministers of the Commonwealth (Ministers of NDIS and Government Services) and Prime Ministers of the State. (Section 9 NDIS Definition)
4	Recipients of complaints and	Recipients of complaints and restoration of consumer rights	The NDIS regulates this as an institution that focuses on

No	Substance	Indonesia	Australia
	restoration of consumer rights for persons with disabilities	for persons with disabilities Several institutions can carry out the function of receiving consumer complaints with disabilities: 1. The Consumer Protection Agency itself is contained in Clause 34, paragraph (1) of Law No. 8/1999; 2. The government, through the Ministry of PAN_RB, has established the National Public Service Complaint Management System (SP4N) - People's Aspirations and Online Complaints Service (LAPOR). The dispute resolution for restoring consumer rights (including persons with disabilities) is BPSK and the courts.	controlling and fulfilling the rights of persons with disabilities and the ACCC or Consumer Protection Agencies themselves, which opens a full room for complaints and restoration of consumer rights for persons with disabilities.

Source: Nurinaya (2021), Australia Government, Department of Social Services (2021).

6. Discussion

The enactment of the CRPD has consequences for the government to carry out its obligations to fulfill the rights of persons with disabilities in each of its policies, starting from the establishment of regulations, planning for the development of public facilities to budget allocations for physical development and social welfare for the accessibility of the fulfillment of their rights. In addition, there is an obligation in the CRPD is an optional protocol that stipulates, firstly, allowing individuals to petition the CRPD Committee, claiming violations of their rights; and, secondly, authorizing the CRPD to conduct investigations into serious violations of the CRPD. CRPD optional protocol does not have to be ratified by countries already parties to the CRPD. However, the government needs to consider accepting this protocol because, in addition to complying with Clause 7 paragraph (1) of Law no. 39 of 1999 concerning Human Rights, there are also several benefits for countries that ratify the Optional Protocol CRPD (Harahap, & Bustanuddin, 2015).

On the other hand, one of the impacts of the non-accommodation of the optional protocol by Indonesia is that persons with disabilities have not been able to take international mechanisms to resolve their cases. To be able to take the international mechanism, the condition is that the Indonesian state has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities. As part of Indonesian citizens, it is appropriate for persons with disabilities to receive special treatment, which is intended to protect against vulnerability to various acts of discrimination and especially protection from various human rights violations. Such special treatment is seen as an effort to maximize respect for, promotion, protection and fulfillment of universal human rights, and is also guaranteed in the provisions of the 1945 Constitution Clause 28 I paragraph 2) that "Everyone is free from discriminatory treatment on any basis and has the right to protection." against such discriminatory treatment." The state's obligation to respect, protect and fulfill the rights of persons with disabilities is based on *pacta sunt servanda*. The principle of *pacta sunt servanda* is the result of customary law, formulated in Clause 26 of the Vienna Convention. The principle of *pacta sunt servanda* is that every agreement is binding between the parties and must be carried out in good faith.

Disability is about the body with functional limitations, and it is caused by health conditions (diseases, disorders, or injuries). Conditions of functional limitations can occur in physical and mental limitations, termed disabilities. In addition, functional limitations are also described as an inability that prevents a person's activities from being normal and effective, which is termed disability (Law Number 8 of, 2016). However, people with disabilities are not without abilities but have different things. A person's perspective on persons with disabilities is different, thus giving different

treatment to persons with disabilities.

Looking at the three (3) approaches to the rights of persons with disabilities above, it can be understood that an affirmative action is still a form of effort to provide equal and equal opportunities for persons with disabilities. Affirmative action complements the right to equality and non-discrimination. Affirmative action means inclusion and effectively reduces disparities for persons with disabilities. Affirmative action appears to lead to discrimination but is not pure discrimination.

Public service is an activity or series of activities fulfilling service needs per statutory regulations for every citizen and resident of goods, services, and/or administrative services provided by public service providers. The implementation of public services is based on several principles directly related to persons with disabilities, namely equality of treatment/non-discrimination. In this regard, the UNGCP principally states that member states (UN) must introduce and formulate universal access to public benefits, and maintain or strengthen national policies to improve regulations related to the provision of services, consumer information, security deposits and advances for services, and charges. Late payments, termination and restoration of services, the establishment of payment plans, and settlement of disputes between consumers and service providers of benefits services, considering the needs of vulnerable and disadvantaged consumers (UNGCP, 2020).

The first policy of the Indonesian government to protect persons with disabilities is to ratify the Convention on the Rights of Persons with Disabilities (CRPD) in Law no. 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons With Disabilities (Harahap & Bustanuddin, 2015). Furthermore, the government established regulations to protect persons with disabilities in Law no. 8 of 2016 concerning Persons with Disabilities which revoked Law no. 4 of 1997 concerning Persons with Disabilities. The formation of this law is a mandate of the 1945 Constitution. This law is also supported by other regulations that protect the rights of persons with disabilities as citizens, such as Law no. 39 of 1999 concerning Human Rights, Law no. 7 of 2017 concerning Elections, Law no. 13 of 2013 concerning Manpower, Decree of the Minister of Social Affairs No. 138 of 2013 concerning Giving Awards to Those Who Are Merciful in Implementing Efforts to Improve Social Welfare for Persons with Disabilities, and Regulation of the Minister of Women's Empowerment and Child Protection Number 4 of 2017 concerning Special Protection for Children with Disabilities.

Australia also has several regulations aimed at protecting persons with disabilities, including the Aged and Disabled Persons Homes Act 1954, the Disabled Persons Accommodation (Assistance) Act 1963, the Handicapped Children's Assistance Act 1970, the Handicapped Persons Assistance Act 1974, the Advisory Group appointed by the Minister "The Disability Advisory Council of Australia" 1985, Disability Services Act 1985, Advisory Groups appointed by the Minister "State and Territory Disability Advisory Council of Australia" 1989, The Commonwealth Disability Strategy 2007, and National Disability Insurance Scheme Act 2013 (Australia Government, Department of Social Services, 2021).

In setting in their respective regions, both countries are trying to set it into a national standard. Indonesia has regional regulations to protect persons with disabilities, for example, the regional regulations made by the Special Capital Region of Jakarta. The DKI Jakarta Regional Government issued policies related to this matter, including the DKI Jakarta Governor Regulation No. 24 of 2019 concerning the Provision of Social Assistance to Fulfill the Basic Needs of Persons with Disabilities, Jakarta Capital Special Region Regulation No. 4 of 2013 concerning Social Welfare, and Regulation of the Governor of DKI Jakarta Province No. 107 of 2014 concerning Equal Employment Opportunities for Persons with Disabilities. In the Australian state, especially Victoria, the protection of persons with disabilities is regulated, including The Disability Act 2006, Equal Opportunity Act 2010, and The Disability Standards for Education 2005.

Clause 1 number 12 PP 70/2019 The Ministry of National Development Planning/Bappenas (National Development Planning of the Republic of Indonesia/National Development Planning Agency) is in charge of planning, implementing, and evaluating the respect, protection, and fulfillment of the rights of persons with disabilities. Accessibility to settlements, public services, and protection from disasters for persons with disabilities is regulated in PP 42/2020, which states that what is meant by the central government is the president/vice president and the relevant Minister (Minister of Social Affairs). Local governments are regional leaders (Clause 2 and Clause 3 of PP 42/2020). In 2021, the government established the National Commission for Disabilities (KND), an independent non-structural institution. KND has the duty and function to ensure and monitor the implementation of respect, protection, and fulfillment of the rights of persons with disabilities (Clause 131-134 of Law No. 8/2016 in conjunction with Clause 2 of Presidential Regulation 68/2020).

The National Commission for Disabilities (KND) was formed to implement respect, protection, and fulfilling the rights of persons with disabilities (Clause 131 of Law 8/2016). Clause 132 of Law 8/2016: (1) KND has the task of monitoring, evaluating, and advocating the implementation of respect, protection, and fulfillment of the rights of persons with disabilities; and (2) The results of monitoring, evaluation, and advocacy as referred to in paragraph (1) shall be reported to the President.

In carrying out the duties as referred to in Clause 132, the KND carries out the following functions: (1) preparation of KND activity plans to respect, protect, and fulfill the rights of Persons with Disabilities; (2) monitoring and evaluating the implementation of respect, protection, and fulfillment of the rights of Persons with Disabilities; (3) advocating for the respect, protection, and fulfillment of the rights of Persons with Disabilities; and (4) implementation of cooperation in handling Persons with Disabilities with relevant stakeholders.

The Australian Government (2017) established the NDIA, which has the main task and function to implement NDIS effectively and significantly as a form of comprehensive, in-depth support for independence, social and economic participation for persons with disabilities. The functions of NDIA are as follows: (1) Enable persons with disabilities to have the right to choose and control in achieving their goals, planning and assisting them; (2) Ensure that the decisions and choices of persons with disabilities are respected and given real priority; (3) Promote the provision of innovative and high-quality support that enables persons with disabilities to maximize their independent lifestyle and inclusion in society; and (4) Ensure that there is a fair balance between safety and the right of persons with disabilities to choose to participate in an activity that poses a risk to them.

In addition, NDIA has functions in managing, advising, and continuing financial reports from NDIS such as: (1) Creating and assessing current and future expenditure forecasts from NDIS; (2) Identifying and managing risks and issues related to the ongoing finances of the NDIS; (3) Consider actuarial suggestions, including suggestions from schema actuaries and reviewing actuaries; (4) Develop and enhance the disability sector, which includes facilitating innovation, research and contemporary best practices in the sector; (5) Building public awareness of disability and social contributors to persons with disabilities; (6) Collect, analyze, and exchange data on matters related to disability and its supporting factors; and (7) Conduct research related to disability, as well as support for persons with disabilities and social contributors for persons with disabilities.

In terms of implementation, NDIA of the functions mentioned above, NDIA must take actions that are incidental or conducive. In addition, they must act appropriately, efficiently, and effectively to provide consumer protection. There is a National Consumer Protection Agency (BPKN) whose function is to provide advice and consideration to the government in developing consumer protection (including persons with disabilities) in Indonesia by Clause 34 of Law 8/1999 on Consumer Protection.

This law appoints several ministries/agencies that have their respective duties and functions: (1) The Minister and the relevant technical Minister as supervisors and supervisors of the implementation of consumer protection to ensure that the rights of consumers (including persons with disabilities) and business actors are obtained, as well as the implementation of the obligations of consumers and business actors (Law Number 8, 1999; Law Number 8, 2016); (2) BPKN has the function of providing advice and consideration to the government to develop consumer protection (Regional Regulation of the Province of the Special Capital Region of Jakarta Number 4, 2013); (3) BPSK has the function of resolving consumer disputes out of court in the regions through mediation or arbitration or conciliation (Nurinayah, 2021); and (4) LPKSM is tasked with disseminating information to increase awareness of the rights and obligations as well as the prudence of consumers in consuming goods and or services (Ndaumanu, 2020).

Unlike Australia, the Australian Government (2011) already has an independent body in business competition and consumer protection called the Australian Competition and Consumer Commission (ACCC). ACCC has a role in law enforcement in business competition and consumer protection as regulated in the Competition and Consumer Act 2010 (CCA). Furthermore, the ACCC has the authority, among others, to regulate the rate of trade so that market prices do not have significant differences (low prices), to review or supervise related to the quality of goods and service levels, and to realize a choice or variation of similar products so that the public can choose the product freely. In addition, ACCC focuses on taking appropriate promotional actions for a product, protecting consumer rights, improving consumer welfare, and stopping any actions categorized as unfair business competition or actions that harm or harm consumers. Finally, ACCC has the task of enforcing the applicable law within the CCA, which prevents unfair business competition practices and protects consumers' rights.

In Law number 8/2016 Chapter IV, both the central and regional governments coordinate the planning, implementation, and evaluation of the implementation of respect, protection, and fulfillment of the rights of persons with disabilities. In addition, it is obligatory to guarantee and protect the rights of persons with disabilities as legal subjects to take the same legal actions as others. Furthermore, in disseminating information, they are required to disseminate legal protection to the public and state apparatus regarding the protection of persons with disabilities, including prevention, identification of criminal acts, and reports and complaints of cases of exploitation, violence, and harassment.

The division of authority related to public services is the central government delegating to state governments, which in Section 71 of the Australian Public Service (APS) Act 1999 states, that the Prime Minister can regulate the authority of state authorities through APS employees who work for the state as APS employee or through a State employee who works for an agency or Institution as a State employee. Furthermore, Section 22 of the Australia Public Service Act 1999 stipulates that the Head/Head of a body (public service agency/agency) on behalf of the Commonwealth (Commonwealth) can regulate or designate a person as an employee with the aims and objectives of the Institution (Australia Government, Department of Social Services, 2021).

Concerning the authority to establish a policy, this is regulated concretely in its statutory instruments, such as the NDIS. In the case of NDIS, full authority is still held by the central government or the Minister of NDIS himself, but this can be excluded if the Minister of NDIS gives a written agreement to the relevant Ministry in one of the states. This is because the states only implement the provisions of the NDIS Act 2013 itself.

NDIS applies comprehensively in the territory of the states in Australia. However, concerning who is authorized to determine policies on public services for persons with disabilities, the central NDIS or the central government holds it. However, this can be excluded if a written agreement is given to the relevant Ministry in the state.

The functions of receiving complaints and resolving consumer disputes with persons with disabilities are divided into several institutions: (1) The National Consumer Protection Agency (BPKN) as regulated in Clause 34 paragraph (1) of Law No. 8/1999; (2) The government through the Ministry of PAN RB has established the National Public Service Complaint Management System (SP4N)-People's Aspirations and Online Complaints Service (LAPOR); and (3) Consumer Dispute Settlement Agency (BPSK) which is an agency established in the regions; while the District Court is a judicial institution that resolves consumer disputes. BPSK and district court decisions can be appealed to the level of cassation in the Supreme Court.

Meanwhile, in Australia, in terms of problems against consumers with disabilities, it is regulated in Section 12 of the NDIS Complaints Management and Resolution Rules 2018. The provision states that complaints made by consumers with disabilities must be followed up and forwarded by NDIS to the relevant body with the subject of the complaint. This is regulated more clearly in Section 12 of the explanation of the NDIS Rules 2018, which states that one of the bodies in question is the Consumer Protection Agencies. This is because a person with a disability can complain about services to them as a consumer. However, even though NDIS, as a protection agency for persons with disabilities, receives complaints regarding problems related to consumer protection, NDIS can stop the process of resolving these problems and give the authority to the Australian Consumer Protection Agency (ACCC).

Supervision or review of the implementation of the provisions contained in the NDIS is regulated in Section 208 of the NDIS. This has procedures such as the Commonwealth Minister being able to choose a special team to conduct an independent review of the implementation of the NDIS, which is also approved by the Ministerial Council, which is related to the review, which is regulated more concretely in terms of reference of the review approved by the Ministerial Council. Definition of Ministerial Council: consisting of Ministers of the Commonwealth (Ministers of NDIS and Government Services) and Prime Ministers of the State (Australia Government, Department of Social Services, 2021). The limitation of this study is that the data were obtained only from secondary data (studies). In addition, this research only explores the side of the government and consumer protection institutions, not from the perspective of consumers with disabilities.

7. Conclusion

Indonesia and Australia have ratified the CRPD (Convention on the Rights of Persons with Disabilities) convention, issued law-level regulations, implemented regulations, and even drafted regulations at the regional or state level to have a strong legal basis for implementing public services for persons with disabilities. However, the differences in regulations that provide protection for persons with disabilities between Indonesia and Australia can be viewed from several aspects, namely the definition of terms, the scope of the regulation, the division of central and regional authorities, and the funding of facilities/ infrastructure.

Institutional systems and supervision of public services for consumers with disabilities in Indonesia and Australia have been established based on government regulations and policies. The difference is that the institutional and supervisory system in Indonesia is still spread across several ministries and institutions such as the Ministry of social affairs, the Ministry of PAN RB, relevant ministries and local governments; and the National Commission for Disabilities (KND), BPKN, BPSK, and LPKSM; while the institutional system and supervision of the implementation of public services in Australia are handled by a National Disability Insurance Agency (NDIA).

8. Recommendation

Regulators and Public Policy Makers, the government, and local governments should establish technical policies that provide the basis for delivering public services in all regions. The Public Service Supervisory Agency, all relevant ministries, and authorities of public service providers and supervisors carry out synergies and cooperation in building the accessibility of public services to realize the fulfillment of the rights of persons with disabilities.

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