

ANALYSIS OF THE RIGHTS OF PERSONS WITH DISABILITIES VIEWED FROM THE PERSPECTIVE OF HUMAN RIGHTS FOR WORKERS

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Abstract

This study uses a Human Rights approach to investigate the rights of persons with disabilities in the work environment. This study thoroughly examines legal protections and employment practices involving persons with disabilities. This study evaluates the extent to which the rights of workers with disabilities are respected, protected, and fulfilled in the workplace using human rights frameworks. The analysis shows that despite progress in raising awareness about the importance of equity and inclusion in the workplace, there are still many challenges that need to be addressed. People with disabilities face many problems, including discrimination and inaccessibility to employment opportunities. In addition, the study identifies best practices and policies that have been shown to improve the quality of life of employees with disabilities. The implication of this research is the need for labor policy reforms that are more inclusive and based on human rights principles. Increased accessibility, elimination of discrimination, and empowerment through training and education are key steps to create a fair and equal working environment for all workers, including persons with disabilities. This research increases understanding of human rights protections in the world of work and provides the basis for policy changes that help the lives and careers of workers with disabilities.

Keywords: Disability Workers' Rights, Human Rights

1. INTRODUCTION

The right to decent work and livelihood as well as equal position of citizens in law and government are enshrined in the Preamble to the 1945 Constitution. According to Article 27 paragraph 2 of the 1945 Constitution, "Every citizen has the right to work and a decent living for humanity." These include freedom of association and assembly, the right to express thoughts orally and in writing, the right to profess religion and worship in accordance with one's religion and beliefs, and the right to education and teaching. As stated in article 27, paragraph 2, the government must play an important role in the development of a state that provides some kind of guarantee to ensure a decent and safe life for every society, and has the word certainty, protection, guarantee, recognition and fair and equal treatment before the law. The Government of Indonesia has the responsibility to fulfill the rights of every citizen with disabilities, according to Law No. 4 of 1997 concerning Persons with Disabilities, which states that "Every Person with Disabilities has equal rights and opportunities in all aspects." Actually, Human Rights are inherent rights of every human being from birth and are absolute or inviolable. Thus, it can be said that the same right to life is given to every human being as a gift from Allah SWT. In this regard, the Government of Indonesia faces major challenges to fulfil the rights of persons with disabilities.

In line with Indonesian law, Indonesian government officials have a responsibility to implement the law honestly and fairly, especially in terms of upholding human rights as a guarantee and recognition of the rights of persons with disabilities. The lives of persons with disabilities may be a benchmark for the decline of the state system if the government's attention to them has not been maximized. Although employment opportunities for people with disabilities have been regulated by

the government, the public still does not fully pay attention to them. This can happen because the employer is not socialized or understand it.

With that basis, the author chose the topic "Analysis of Disability Rights Viewed from the Perspective of Human Rights for Workers" to discuss the issue of employment opportunities for people with disabilities.

Depending on the jurisdiction, the definition of disability may differ. By law, a person with a disability is defined and regulated as a person who experiences mental, physical, intellectual, or sensory limitations that may affect a person's ability to go about daily life or have equal access with others to services.

In many countries, the general definition of disability is people whose mental, physical, intellectual, or sensory limitations in the long run prevent them from fully contributing to their economic, social, political, or cultural lives, and are entitled to protection, access, and opportunities just like everyone else. This is very much in line with the principle of Human Rights (HAM), which upholds the dignity and dignity of each person without distinguishing anyone from gender or cognitive qualities. It is important to underline that definitions of disability can vary by national or regional legislation, and that certain countries may have more specific or in-depth definitions depending on the situation. Generally, the law provides an understanding of the special rights and protections afforded to persons with disabilities, so that they can lead a life of dignity and equality with others.

It is stated in Law No. 8 of 2016 that persons with disabilities are everyone who has mental, physical, psychological and / or sensory limitations for a long period of time and when interacting with their environment they experience difficulties or limitations to participate fully and effectively with other citizens on the basis of equal rights". To survive, every citizen has the right and opportunity to obtain employment. In addition, they deserve a decent position without discrimination. To achieve this, Manpower Law No. 13 of 2003, Paragraph 1 of Article 67, stipulates that employers who provide employment opportunities to workers classified as disabled persons are required to avoid discrimination by providing legal protection to them.

According to Law No. 8 of 2016 Article 4 concerning Persons with Disabilities, the degree of disability is grouped into (four), as follows:

1. Individuals with physical disabilities, which include decreased amputation, motor, or other types of paralysis, for example: paraplegia, spasticity, stroke, cerebral palsy (CP), leprosy, and wecil;
2. People with intellectual disabilities, namely someone who has impaired mind function caused by slow learning speed, intelligence levels below average, Down syndrome, and mental disorders;
3. People with mental disabilities, which means disturbances in emotions, thinking, and behavior. Examples such as schizophrenia, psychosocial, anxiety, personality disorders, bipolar disorder, depression and developmental disabilities that affect a person's ability to perform social interactions, such as hyperactivity and autism;
4. Individuals with sensory disabilities, which include disorders related to the functioning of the five senses, such as deafness, visual impairment or speech impairment.

Law No. 13 of 2003 Articles 5 and 6 concerning all workers have the same opportunity to obtain work without discrimination. In addition, the Manpower Law clearly states that persons with disabilities are among the citizens who have the right to work without discrimination. Article 5 Paragraph 1 of Law No. 8 of 2016 concerning Persons with Disabilities establishes the following rights for persons with disabilities: live without discrimination; have privacy; justice and protection of the law; work; education; businesses and cooperatives; politics; health, religion, sports, culture, and tourism; accessibility protection; social; and public services.

2. IMPLEMENTATION METHODS

This research is classified as descriptive qualitative, in conducting this research, the author uses an approach with normative juridical types from various sources. The normative approach used in this study is to use data from secondary data sources, such as related laws and regulations, supporting books, research documents, magazines, and various articles related to the research topic. To complete this study takes approximately one week. This study focuses on analyzing and interpreting data starting with the observation method, namely by collecting the results of previous research, analyzing data, and drawing conclusions as supporting the proposed journal.

3. RESULTS AND DISCUSSION

According to Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower, the purpose of labor protection is to guarantee the basic rights of workers, laborers and to guarantee equal treatment and opportunities without discrimination for any reason, as well as to improve the level of welfare of workers and workers who include their families by considering the business world. So discrimination against people with disabilities is "forbidden" in this law. The rights mentioned above are strengthened by Law No. 4 of 1997 concerning Persons with Disabilities.

In Law No. 4 of 1997 Article 14 concerning Persons with Disabilities states in it that companies that use advanced types of technology must still provide employment opportunities to at least 1 (one) person with disabilities in accordance with the qualifications and related job requirements, even though the accumulated number of employees amounts to less than 100 (one hundred) employees. This protection is also mentioned in Law No. 13 of 2003 concerning Manpower, which explains that "Every worker has the same opportunity to get a job without discrimination". Indonesia has ratified important international instruments governing the right to work for persons with disabilities, namely the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) on the Rights of Persons with Disabilities (Year 2006) and the Optional Protocol. In November 2011, Indonesia ratified the UN Convention and issued Convention No. 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities. Based on Law No. 4 of 1997 Article 14, the Government issued Government Regulation No. 43 of 1998 concerning efforts to improve social protection for persons with disabilities, this regulation was amended into Article 28 which states that: "Employers are required to recruit at least 1 (one) person with disabilities who meets the job requirements and professional qualifications as company workers for every 100 (one hundred) company workers."

The reality experienced by people with disabilities is that people with disabilities carry a stigma of imperfection that makes themselves unable to be fully accepted by society. So that people with disabilities are still far from achieving equality, because in reality there are still many people with disabilities who experience discrimination in terms of the exercise of their rights, in terms of education, employment, access to public facilities such as transportation, places of worship, and entertainment, as well as equality before the law. (Eta Yuni Lestari, 2017)

The issue of protection of the human rights of the Indonesian people has not been fully protected by the Indonesian rule of law. There are still many violations of human rights in Indonesia, both mild and severe. But on the other hand, we must realize that the enforcement of Indonesia's Human Rights has indeed been more developed during this reform era. (Hidayat, 2016)

One of the problems faced by persons with disabilities when obtaining employment guaranteed by the Constitution is the concept of respect for rights, low access, and lack of public attention to their needs, including meeting their economic needs through the provision of employment. (Putra, 2019)

Article 6 of the Manpower Law No. 13 of 2003 states that "Every worker has the right to be treated equally without being discriminated against by employers", and Article 5 of the Manpower Law No. 13 of 2003 states that "All workers have the same opportunity, without discrimination, to

get a job". The regulation concludes that workers with disabilities are entitled to equal employment opportunities.

In addition, Law No. 13 of 2003 on Manpower provides protection and employment opportunities for workers with disabilities. According to the interpretation of Article 5, "Every worker has equal rights and opportunities in dignified work and livelihood, regardless of gender, ethnicity, race, religion, and political party affiliation, depending on the interests and abilities of the worker concerned." It also includes equal treatment of persons with disabilities. Thus, it can be concluded that everyone, especially economic actors, should be able to get the opportunity towards decent work without discrimination.

Workers with disabilities should be protected from special access to work, so that persons with disabilities will be respected in the workplace. The Convention on the Rights of Persons with Disabilities is a human rights convention that cannot be separated from human life. The right to work and employment is one of the most important human rights. Where everyone has the right to participate, contribute, and benefit from economic, social, cultural, and political progress. Article 53 (1) of Law on Persons with Disabilities No. 8 of 2016 requires the government, local governments, state-owned enterprises, and local enterprises to recruit a minimum of 2% of persons with disabilities into the labor force or workers. Meanwhile, article 2 stipulates that private companies must employ at least 1% of persons with disabilities compared to the number of employees or workers. Although the law prohibits discrimination against anyone, especially persons with disabilities, many citizens still have difficulty finding employment.

The existence of people with disabilities is currently not fully accepted by society as a whole, so their opportunities are still limited in getting jobs because of their physical condition. Some employers still assume that people with disabilities are still seen as unable to work optimally and also lack reliable skills. Even more concerning, many people think that people with disabilities are people with poor physical health and mental conditions. Discussion on labor is an important part of state development based on Pancasila and the 1945 Constitution, because labor has a very important role in the development of the country.

A very important part in the realization of human rights justice is the Indonesian legislation that protects the rights of workers with disabilities, which shows the state's concern for a small percentage of citizens who have special needs. According to Article 11 of Law Number 8 of 2016 concerning Persons with Disabilities, it is stated that people with disabilities are entitled to equal employment opportunities in government companies and private companies without discrimination. In addition, persons with disabilities should not be dismissed from work because of their condition. This condition is not because they do not want to find work, but because many employers do not provide job opportunities for people with disabilities, even though the laws and regulations have stipulated so. One of the company's efforts to avoid disabled workers is to establish rules and policies when accepting employees or employees with attractive appearance criteria or physically and mentally healthy. There is nothing wrong with this regulation related to recruitment as a whole, but if examined further, that the regulation or policy does not provide opportunities for persons with disabilities to apply as workers as mentioned in articles 45 to 54 of the Law on Persons with Disabilities Number 8 of 2016 regulating the rights of persons with disabilities in employment. In addition, Indonesia has ratified the Convention on the Rights of Persons with Disabilities (CRPD) with Law Number 19 of 2011 concerning the Ratification of CRPD. According to Article 27 of the Convention on the Rights of Persons with Disabilities concerning Work and Employment, "States Parties recognize persons with disabilities to work, on the basis of equality with others this includes the right to the opportunity to finance a decent living for persons with disabilities, so that persons with disabilities have the opportunity to fight for and defend the rights guaranteed in the Convention.

Taking into account the laws and regulations that have been made by the government to guarantee the rights of persons with disabilities in the world of work, the state must continue to

provide support, programs, and facilities. It is expected that (private) employers should be made aware of the importance of guaranteeing human rights for individuals with disabilities to get jobs, lest they become beggars, this shows that the law's concern for human rights guarantees has not been effective. (Nurwati, 2020)

In addition, the implementation of laws in the field is not well realized, some of the problems obtained, namely the limited budget available for the development of persons with disabilities and the lack of availability of government-owned rehabilitation centers for people with disabilities are one of the concrete evidences. There is still a reality about the treatment received by people with disabilities in society, is the behavior of families towards people with disabilities, they have not been able to accept sincerely and tend to be ashamed if there is one family member who has a disability, most of them prefer to hide their existence. This shows that the protection provided to persons with disabilities by the government and the general public has not been in harmony with the laws and regulations that guarantee their rights.

All the stats that I give here are also reinforced by the following journals:

(Pakpahan, 2021) (Arrivanissa, 2023) (Affandi, 2022) (Hasyim, 2017) (Yaman, 2021) (Wiarti, 2020) (Kurniawan, 2022) (Munir, 2020) (Shaleh, 2018) (Abdullah Fikri, 2023) (Simarmata, 2021) (Nabila, 2022) (Rompis, 2016) (Nurwati, Perlindungan Tenaga Kerja Disabilitas dalam Perspektif Hak Asasi Manusia, 2020).

4. CONCLUSION

The purpose of the issuance of Manpower Law Number 13 of 2003 is a step to ensure that all employees have been given equal treatment regardless of the type of their disability and to encourage equal employment opportunities for everyone.

To address this problem, the Indonesian government has used the United Nations Convention on the Human Rights with Disabilities (UNCRPD). However, the rights of persons with disabilities have not been fully protected by the Indonesian legal system, resulting in a lack of comprehensive attention and assistance for persons with disabilities while working.

The concept of justice in the Indonesian legal system is very important in addressing the needs of people with disabilities, including their economic needs and the provision of employment services. The law also stresses the importance of equal treatment for all employees, regardless of their disability, in ensuring equal opportunities in the context of employment.

Everyone, especially economic actors, must be protected from special access to employment. The Convention on the Rights of Persons with Disabilities is a human rights convention that cannot be separated from human life. This includes the right to employment. People with disabilities are still not fully accepted by the general public. People with disabilities are considered to lack reliable skills and are unable to work optimally. Although the law prohibits discrimination against anyone, especially people with disabilities, many people still experience discrimination when seeking employment.

The company's way to avoid disabled workers is to set several criteria mentioned in the required employee or employee recruitment regulations such as: attractive appearance, physical health, and mentality. In addition, Indonesia has ratified the Convention on the Rights of Persons with Disabilities (CRPD) with Law Number 19 of 2011 concerning the Ratification of CRPD.

Taking into account the legislation that has been established by the government to guarantee the rights of persons with disabilities in the world of work, different and different work abilities in different and different occupations in other occupations.

Employment is an important component that is inseparable in the development of the country based on Pancasila and the 1945 Constitution. Manpower has a very crucial role in the success of the country's development. A small part that is very important for the realization of human rights justice is the Indonesian legislation that protects the rights of persons with disabilities in the workplace.

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