

ANALYSIS OF PUBLIC POLICY IMPLEMENTATION IN THE EMPOWERMENT OF PERSONS WITH DISABILITIES IN THE INDUSTRIAL WORLD

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ABSTRACT

Law no. 8 of 2016 concerning Persons with Disabilities, namely Article 53 paragraphs 1 and 2, stipulates that job providers from the government sector are required to employ a minimum of 2% of the number of employees with disabilities. Meanwhile, private companies are required to employ at least 1% of their employees with disabilities. Companies that do not implement this policy will be subject to sanctions. However, to date, no company or institution has ever been sanctioned for not employing people with disabilities. This is qualitative research with a phenomenological approach which aims to answer the question of how to implement government policy in Law No. 8 of 2016 regarding providing employment opportunities for people with disabilities and what efforts must be made so that this Law can be implemented effectively by stakeholders. Data collection was carried out by observing semi-structured interviews with 13 informants consisting of people with disabilities who had worked in companies, people with disabilities who had run their own MSMEs. Source triangulation was applied by interviewing company owners and human rights activists. The research results show that Law No. 8 of 2016 has not been implemented properly. This is caused not only by juridical factors, but also non-juridical factors.

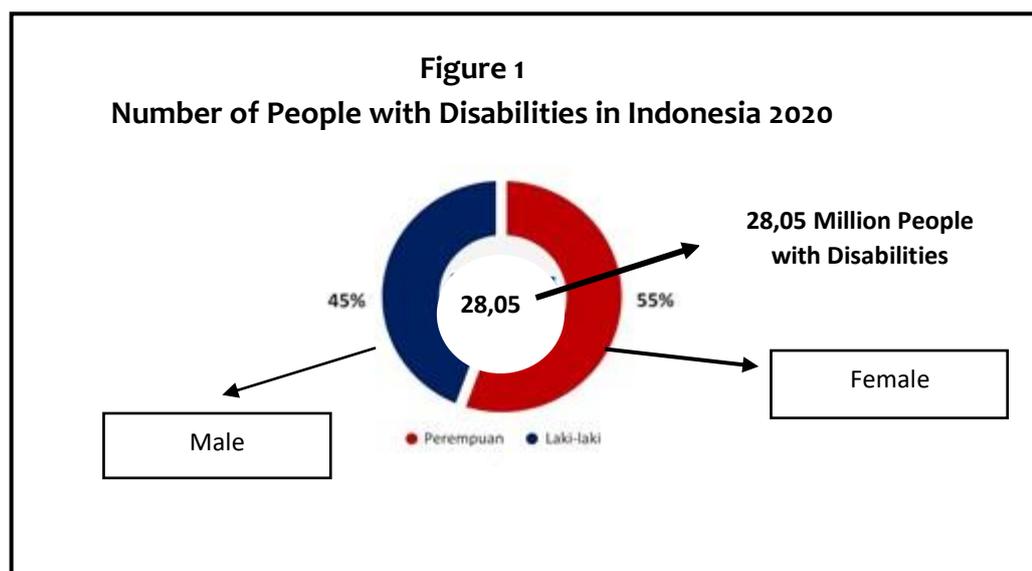
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INTRODUCTION

Disabled is an official term used by Indonesian society in the 70s, this term is considered normal or normal to refer to someone who has physical or mental limitations. Previously, we were more familiar with the term disability as people with "disabilities". The issuance of Law no. 19 of 2011 concerning the ratification of disability rights is a new step in eliminating the term disabled and replacing it with the term disabled or disability. By replacing this term, this also means that the state recognizes the use of the term disabled as standard language in state gazettes, regulations and legislation in Indonesia.

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Currently, the number of people with disabilities in Indonesia has reached 28.05 million people from a population of 275 million in 2020 or around 10.38% of the total population of Indonesia, with the highest number of people with disabilities being the elderly and women (Susenas, 2021). World Mental Health (2011) mentions three obstacles and functional limitations experienced by people with disabilities, namely impairment, activity limitations, and participation restriction. Impairment is an obstacle in the form of impaired body function or changes in body structure, for example paralysis and limited vision. Indonesians with disabilities are mostly women, older and live in rural areas. The number of women with disabilities in Indonesia reaches 55.46 percent of the total workforce population and disability prevalence and demographic figures.



Source: Susenas, 2021

According to United Nations (UN) Resolution Number 61/106 dated 13 December 2006, a person with a disability is every person who is unable to guarantee themselves, in whole or in part, normal individual needs and/or social life, as a result of their disability, whether innate or not, in terms of physical or mental abilities.

In various countries around the world, efforts have been made by each authority to involve people with disabilities in the world of work. This policy has been translated by the governments of several countries into capacity building programs for people with disabilities, such as Add Us In in the United States (Balcazar, Kuchak, Dimpfl, Sariepella, & Alvarado, 2014) and the Job Capacity Assessment (JCA) program in Australia (Lantz & Marston, 2012). The government of India (Kulkarni & Kote, 2013) and Malaysia (Dewi, Harith, Harsono, Ali, & Fitriana, 2020) have implemented policies to provide access to work in the form of written quota arrangements in law. Meanwhile in

other parts of the world, a company in South Africa operating in the industrial sector has been employing people with disabilities since 1997 (Engelbrecht & Lorenzo, 2010).

In Indonesia, quite a lot of policies in the form of laws have been implemented, such as Law Number 13 of 2003 concerning Employment which states that: Every worker has the same opportunity without discrimination to obtain work. Apart from that, Law No. 8 of 2016 states various rights, including the rights of persons with disabilities, namely the rights to employment, entrepreneurship and cooperatives. Article 53 paragraph (1) Law on Persons with Disabilities no. 8 of 2016 states that the Government, Regional Governments, State-Owned Enterprises and Regional-Owned Enterprises are obliged to employ at least 2% of persons with disabilities from the number of employees or workers, while private companies are obliged to employ at least 1% (one percent) of persons with disabilities. Disability of the number of employees or workers. Article 54 even states that incentives are provided to private companies that employ people with disabilities, including ease of licensing, rewards and assistance in providing easily accessible work facilities.

However, in reality, people with disabilities still find it difficult to find or get work. Most companies are still reluctant to recruit them even though it is mandated by law. In practice, it turns out that there are still many companies that ignore and do not implement these regulations, the result is that the level of inclusiveness is still low in the world of work and the industrial sector in Indonesia.

Many factors make it difficult for people with disabilities to be accepted by society, companies and industry. Companies often have incorrect negative assumptions and stigma towards people with disabilities. They are considered less productive, unable to keep up with the work rhythm, or require additional costs for the company. This discrimination limits opportunities for people with disabilities to develop their careers and obtain employment opportunities in companies. Then there are limited industries or companies that have inclusive policies that enable people with disabilities to work and contribute optimally.

This research is aimed at answering the question of how to implement government policy in Law No. 8 of 2016 which states that the Government, Regional Government, State-Owned Enterprises and Regional-Owned Enterprises are required to employ at least 2% (two percent) of people with disabilities from the total number of employees or workers, while private companies are required to employ at least 1% (one percent) of people with disabilities from the total number of employees or workers. and what efforts must be made so that this Law can be implemented effectively by stakeholders.

METHOD

This is a qualitative research with a phenomenological approach. Qualitative research is research that explores and interprets problems that some people consider to be social or humanitarian problems. According to Sugiyono (2011: 55), qualitative research methods are research methods that are based on post-positivism philosophy, used to research the conditions of natural objects, (as opposed to experiments) where the researcher is the key instrument, sampling data sources is carried out purposively and snowball, triangulation (combined) collection techniques, inductive or qualitative data analysis, and qualitative research results emphasize meaning rather than generalization.

Littlejohn and Foss (Littlejohn 2005) stated that phenomenology is related to the perception of an object, event or situation. In the human view, knowledge comes from conscious experience. In this context, phenomenology implies letting things appear as they are. Meaning emerges, on the one hand, by allowing reality, phenomena, experiences to be revealed. On the other hand, meaning emerges as a result of the interaction between the subject and the phenomena he encounters. The phenomenological research approach tries to understand the events of human life in the framework of people's thoughts and behavior as understood or thought about by the individuals themselves. Phenomenological research provides answers to ontological problems. Fitriana (2018) believes that phenomenological studies aim to gain better knowledge about reality. In phenomenological studies, the study problems include the following (Little John, 2005): (a) How does a person perceive a phenomenon/event? (b). What was his reaction to the experience? (c). What is the significance of the phenomenon for the subject?

Data collection techniques in this research used observations at 20 private companies in Jakarta and semi-structured interviews with . This type of interview is included in the in-depth interview category, where its implementation is freer compared to structured interviews. The aim of this type of interview is to find more open problems, where the party being interviewed is asked for their opinions and ideas (Esterberg in Sugiyono, 2010: 233). In qualitative research, the technique for determining informants used in this research is using purposive sampling or deliberate sampling using certain criteria. According to Sugiyono (2010:300), purposive sampling is a technique for sampling data sources with certain considerations.

To maintain the validity of the data, this research uses source triangulation by checking data that has been obtained through several sources, in this case, the researcher interviewed 13 informants consisting of 2 people with disabilities who have found work in companies and 8 people with disabilities who already own MSMEs. myself after repeatedly submitting applications to companies and government agencies and always being rejected. Source triangulation was carried out by interviewing 2 company leaders and 1 human rights activist.

The data analysis technique in this phenomenological research uses phenomenological analysis techniques (Moustakas, 1994): (a). Epoche Epoche is the first step in analyzing data by separating subject data from subjective data from the researcher. (b). Phenomenological Reduction This phase is the phase where phenomena are seen as external and internal objects. In this phase the focus of observation is the quality of the subject's experience. In this phase the researcher makes observations and describes them again and again until they get the structure of the subject's experience. (c). Imaginative Variation This phase is the phase of finding the structural meaning behind the textural meaning. The general structure in question is such as feelings and the subject's thoughts about the phenomena that have been experienced. Apart from that, the attachment of this phenomenon to interests, space, time, causality, things related to oneself and other people are observations that researchers pay attention to. Researchers try to find various themes that are behind this phenomenon, and finally make the subject able to explain this phenomenon clearly. (d). Synthesis This phase is a combination of various phenomena that have been discovered in previous phases. In this phase, the researcher attempts to assemble the findings into the essence of the experience expressed by the subject which is written descriptively.

RESULTS AND DISCUSSION

Until now, there are still people who underestimate and exclude people with disabilities as workers. People with disabilities also often receive negative stereotypes and the stigma that they are a burden on society and unable to be independent. It is clear that this is an act of discrimination, which can lead to persecution and exclusion. In fact, it is not uncommon for people with disabilities to have submitted job applications hundreds of times but to no avail. Not only that, they have actually faced rejection from the start of applying for work. It is not uncommon for them to receive inappropriate statements such as "Sorry, this job is intended for people who can hear so it does not suit your characteristics," "Sorry, there is no access to work for disabled workers in that office," even insults such as "Oh, deaf Then you can't work." From the various sentences uttered by job providers, it can be seen that there is a label that deaf people are unable to work. In fact, despite their hearing limitations, deaf people still have diverse abilities and talents. From this case, job providers tend not to understand how to accept and employ workers with disabilities.

The interview results also show that there are still many companies that do not implement Law No. 8/2016 which states that private companies must employ at least 1% of people with disabilities from the total number of employees. Of the 20 companies observed by researchers, it turns out that not one employs people with disabilities. The reasons are varied, including the company management's lack of knowledge regarding the recruitment process for people with disabilities. The company also argues that it is difficult to provide accessibility for disabled workers because it requires a lot of funds.

Facilities that need to be made to make the workplace accessible for people with disabilities include making ramps or inclined planes for wheelchair users, guiding blocks for the blind, and accessible bathrooms, and mismatching the skills of disabled workers with job requirements and working conditions. In essence, there are still many employers who think that people with disabilities are unproductive and recruiting people with disabilities means having to spend a lot of money.

One of the weaknesses in implementing this regulation is that the regional government does not yet have a Disability Services Unit. The unit regulated in Article 55 helps people with disabilities receive assistance and information in the world of work. Another cause is the overlapping authority to supervise and impose sanctions on companies between the Manpower Service and the Social Service. The Manpower Department has formulated a number of solutions so that the needs of disabled workers can be accommodated. For example, by holding job fairs with campuses and special recruitment for people with disabilities in government. This special recruitment applies test standards below the general employee recruitment. But in reality, many people with disabilities choose through general employee recruitment. So, many of them didn't make it.

Ministries and government agencies also show a weak understanding of the recruitment of persons with disabilities regarding the rights of persons with disabilities in the field of employment. This can be seen from the opening of workforce recruitment at this institution. For example, some time ago the Ministry of Law and Human Rights opened 17 thousand CPNS admissions, but only 1 person with disabilities was given the opportunity. Of course, the quota is very small and does not comply with the mandate of the Law on Persons with Disabilities. Apart from that, training for people with disabilities is organized by the government, in general the type of training provided is only for limited and not diverse skills, such as the blind are always trained in massage and the deaf are trained in sewing. This means that people with disabilities do not have the opportunity to practice other skills that are more needed by the market.

The results of interviews with 2 people with disabilities who have been accepted to work in private companies also prove that discrimination still occurs in their places of work. They shared their experiences of being a minority in a company. If there is an opportunity for promotion, they are not the ones appointed. Likewise, if there is an opportunity to take part in training, they are not the priority. Disabled employees are only recruited to simply comply with regulations. The important thing is that the company has employees with disabilities, at least 1% of the total number of employees. However, unfortunately, the obligations of companies that recruit people with disabilities have not been implemented, as written in Article 11, Law No. 8/2016, including: (a) Obtaining work organized by the government, regional government or private sector without discrimination, (b) Receive the same wages as workers who do not have disabilities in the same type of work and responsibilities, (c) Receive

reasonable accommodation at work, (d) Not be dismissed for reasons of disability, (e). Fair, proportional and dignified work placements, (f) Obtaining opportunities to develop career paths and all the normative rights inherent therein.

According to the 2022 Decent Work Indicators in Indonesia report from the Central Statistics Agency (BPS), the majority of disabled workers in the country are self-employed. In 2022, the proportion of disabled workers with self-employed status will reach 0.81% of the total working population nationally. In general, they feel more comfortable setting up their own business compared to becoming employees for a company, where discrimination still occurs, and career development is not prioritized by companies for employees with disabilities.

Apart from that, the sanctions which according to Law No. 8/2026 will be imposed on companies that do not employ people with disabilities have also never been implemented. Even though sanctions regulations have been regulated in laws and regulations at the central to regional levels, to date, no companies in Indonesia have been given sanctions because they have not or do not employ workers with disabilities.

There are several factors that influence not giving sanctions to companies that do not employ workers with disabilities. These factors can be divided into 2 categories, namely juridical factors and non-juridical factors (Pratiwi et.al, 2023). The juridical factor referred to is the weakness of sanctions regulations. The Law on Persons with Disabilities Article 143 letter b determines the prohibition on any person who obstructs, and/or prohibits persons with disabilities from obtaining employment, entrepreneurship and cooperative rights as stated in and sanctions for non-fulfillment of the provisions of Article 143 are regulated in Article 145, namely imprisonment a maximum of 2 (two) years and a fine of at least Rp. 200,000,000.- (two hundred million rupiah). This provision is difficult to implement because Article 143 determines "persons who obstruct". The meaning of the word "person" cannot be equated with a company, and the word "hinder" cannot be equated with not facilitating or providing opportunities for people with disabilities to obtain work. So, it can be concluded that the implementation of sanctions for companies that do not employ workers with disabilities has never been realized, or in other words, law enforcement has not run optimally because the regulation of these sanctions is weak, making it difficult for law enforcers (labor inspectors) to implement them. Efforts that must be made are to make improvements to existing laws, especially regarding terms in Indonesian and legal terminology used so that they are not ambiguous.

Meanwhile, non-juridical factors that influence the implementation of sanctions for companies that do not employ workers with disabilities are related to the implementation of labor inspections. Employment inspections regarding the absorption of persons with disabilities have not been able to run optimally. Labor inspection relies on labor reports which are submitted once a year. The employment report does not mention the number of workers with disabilities in the company. Labor inspectors

should carry out supervision of companies that have employed and have not employed workers with disabilities. However, the number of labor inspector is not proportional to the number of companies being supervised. Therefore, a specific department which is responsible to supervise companies should be made with a well-organized supervision system.

CONCLUSION

The results of this research show that the empowerment of people with disabilities in the world of work, both in private companies and government agencies, is still very limited. The government agency as the party that issued the policy that the Government, Regional Governments, State-Owned Enterprises and Regional-Owned Enterprises are obliged to employ at least 2% (two percent) of persons with disabilities from the total number of employees or workers, apparently has not implemented the policy that they made themselves. Likewise with private companies which according to law must employ at least 1% of the total number of employees, this is still not implemented properly.

If there are people with disabilities who are recruited by companies, acts of discrimination still occur. Meanwhile, the government has never implemented sanctions for institutions that do not comply with regulations. One of the causes is juridical factors and non-juridical factors. The juridical factor is more about confusion in the words used in the Law, such as in Article 143 there are the words "person who obstructs" and/or prohibits people with disabilities from obtaining employment, entrepreneurship and cooperative rights. The meaning of the word "person" cannot be equated with the company, and the word "hinder" cannot be equated with not facilitating or not providing opportunities for people with disabilities to obtain work. Meanwhile, non-juridical factors also cannot be implemented properly because they are more related to the implementation of labor inspections, where the number of company inspectors at the Ministry of Manpower or the Manpower Service is far less than the number of existing companies.

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