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Legal Guarantees for Persons with Disabilities to Secure Decent Work: A Human Rights Perspective from Indonesia

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Abstract
Employment rights for people with disabilities are often neglected due to the lack of respect for equality before the law and respect for human rights. This study aims to examine: (1) the position and role of national and international law in regulating the right to work for people with disabilities; and (2) the implementation of regulations regarding the right to work for people with disabilities in Indonesia from a human rights perspective. Using normative legal research. The results of the study indicate that the international legal framework, especially the Convention on the Rights of Persons with Disabilities (CRPD), which has been ratified through Law Number 19 of 2011, provides a strong foundation for the recognition and protection of employment rights for people with disabilities. At the national level, this regulation is strengthened by the 1945 Constitution, Law Number 13 of 2003 concerning Employment, and Law Number 8 of 2016 concerning Persons with Disabilities. The impact of this study is that it must strengthen the implementation of non-discrimination experienced by people with disabilities in the world of work.

Keywords:
Disability; Human Rights; Workers' Rights.

A. INTRODUCTION

People with disabilities are a diverse group of people, including individuals with physical disabilities, mental disabilities, or a combination of both.[1] The level of disability they experience can have minor to major effects on their ability to participate in social life, and in some cases, they require

[1] Harun Amin Sinaga and Yati Sharfina Desiandri, "Pemenuhan Hak-Hak Politik Penyandang Disabilitas Terhadap Masalah HAM Di Indonesia," *Jurnal Sains dan Teknologi* 5, No. 3 (April 2, 2024): 967–973, https://doi.org/10.55338/saintek.v5i3.2387, p. 969.

assistance or support from others. In addition, people with disabilities generally face greater challenges than individuals without disabilities, mainly due to barriers to accessing various public services, such as education, health services, and employment opportunities.[2]

As a form of commitment to the protection of the rights of persons with disabilities, Indonesia has ratified the Convention on the Rights of Persons with Disabilities (CRPD) through Law No. 19/2011 on the Ratification of the Convention on the Rights of Persons with Disabilities. The CRPD is a legal instrument of human rights, both at the international and national levels, which aims to ensure respect, protection, and fulfillment of the rights of individuals with disabilities. This convention is also a development tool that encourages the creation of an inclusive and equitable society for all parties, without discrimination.[3]

By ratifying CRPD, Indonesia demonstrates its position as part of a global community that has a strong commitment to ensuring respect, protection, and fulfillment of the rights of persons with disabilities. This step reflects the nation's determination to align national policies with universal principles of human rights, particularly in providing fair and equal treatment for citizens with disabilities. As a follow-up to the ratification, Indonesia then enacted Law No. 8/2016 on Persons with Disabilities.[4] his change marks a paradigm shift from a compassion-oriented approach to a rights-based approach, which emphasizes that persons with disabilities are part of society and have the same rights as other citizens.[5]

Persons with disabilities must receive legal protection. Article 1 paragraph (5) of the same law explains that "protection of persons with disabilities is a conscious effort to protect, nurture and strengthen the rights of persons with disabilities." As a legitimate part of citizens, persons with disabilities should receive special treatment to prevent vulnerability to discrimination and human

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2 Rusman Widodo, *Sekolah Ramah Hak Asasi Manusia (SR HAM): Solusi Menghapus Pelanggaran HAM Di Sekolah* (Jakarta: Komnas HAM, 2017), p. 5.

3 Suhartoyo, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional," *Administrative Law & Governance Journal* 2, No. 2 (2019): 326–336, https://doi.org/https://doi.org/10.14710/alj.v2i2.326-336, p. 330.

4 Laurensius Arliman S, "Perkembangan dan Dinamika Hukum Ketenagakerjaan Di Indonesia," *Jurnal Selat* 1, No. 2 (2017): 2–14, p. 12.

5 Martinus Sardi, "Membangun Budaya Hak-Hak Asasi Manusia," *Jurnal Media Hukum* 23, No. 1 (2016): 121–127, https://doi.org/10.18196/jmh.2015.0073.121-127, p. 125.

rights violations. This special treatment is a form of optimizing respect, promotion, protection, and fulfillment of universal human rights. Employment opportunities for them are still very limited, and discrimination, both direct and covert, still often occurs in the recruitment process and in the work environment itself.[6]

According to the Central Bureau of Statistics (BPS) in 2024, there are around 22.97 million people with disabilities in Indonesia, accounting for around 8.5% of the total population. Of these, around 17 million are of productive age, Participation in the Labor Force, BPS data for 2024 shows that of the total 139.85 million working population, only around 763,925 people, or 0.55% are people with disabilities. The majority of people with disabilities work in the informal sector, with the following employment status: own business (0.85%), business assisted by non-permanent workers (0.79%), business assisted by permanent workers (0.64%), laborers (0.26%), agricultural free workers (0.54%), non-agricultural free workers (0.54%), and family/unpaid workers (0.62%). From the data above, it can be explained that from a human rights perspective, the right to decent work is a fundamental right that is universally guaranteed. Article 27 paragraph (2) of the 1945 Constitution confirms that every citizen has the right to work and a livelihood that is decent for humanity.

The concept of human rights for workers with disabilities is the recognition that every individual, without exception, possesses inherent rights from birth to live with dignity, including the right to work freely, fairly, and equally. This right includes access to employment opportunities without discrimination, fair treatment in the workplace, an inclusive working environment, and protection from exploitation and abuse. In the context of workers with disabilities, this human right obliges the state and society to eliminate all physical, social, and policy-related barriers that hinder their participation in the workforce, and to provide reasonable accommodation to ensure equal and dignified employment opportunities.

Based on the study conducted by Firmansyah Maulana Anggor in 2020, the research discusses the fundamental labor

[6] Amzulian Rifa'i, Suparman Marzuki, dan Andrey Sujatmoko, *Wajah Hakim Dalam Putusan: Studi Atas Putusan Hakim Berdimensi Hak Asasi Manusia* (Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII), 2018), p. 12.

rights of persons with disabilities from the perspective of international standards and their implementation in Indonesia. Despite Indonesia's ratification of the Convention on the Rights of Persons with Disabilities (CRPD) and the existence of various labor regulations, enforcement and monitoring remain weak. Persons with disabilities frequently encounter discrimination in employment opportunities and career development. This study highlights the gap between international norms and national practices, emphasizing the critical role of the government, employers, and labor inspectors in ensuring the equal and dignified fulfillment of labor rights for persons with disabilities.[7] Meanwhile, the 2021 study by Muhammad Dahlan and Syahriza Alkohir examines the realization of the right to work for persons with disabilities in the Indonesian public sector after the ratification of the CRPD. The authors underline the inconsistency between the social model of disability embraced by the law and the prevailing medical model applied in recruitment practices. Affirmative policies through quotas and special hiring schemes have yet to achieve substantive equality, as they are constrained by medical criteria and limited job field options.[8]

The research problems formulated in this article are as follows: 1) What is the position and role of national and international law in regulating the right to work for persons with disabilities? 2) How is the implementation of the regulation on the right to work for persons with disabilities implemented in Indonesia based on a human rights perspective? The purpose of this research is to analyze the position and role of national and international law in regulating the right to work for persons with disabilities, as well as to examine the implementation of legal provisions concerning the right to work for persons with disabilities in Indonesia from a human rights perspective.

B. RESEARCH METHODS

The type of research used in this study is normative juridical legal research, which is a research approach that focuses on analyzing legal norms that apply in society

[7] Firmansyah Maulana *et al.*, "Standar Internasional Hak-Hak Dasar Buruh Penyandang Disabilitas dan Implementasinya Dalam Hukum Perburuhan Nasional Di Indonesia," *Rewang Rencang: Jurnal Hukum Lex Generalis* 1, No. 2 (May 1, 2020): 22–37, https://doi.org/10.56370/jhlg.v1i2.199, p. 22.

[8] Muhammad Dahlan and Syahriza Alkohir Anggoro, "Hak Atas Pekerjaan Bagi Penyandang Disabilitas Di Sektor Publik: Antara Model Disabilitas Sosial Dan Medis," *Undang: Jurnal Hukum* 4, No. 1 (June 5, 2021): 1–48, https://doi.org/10.22437/ujh.4.1.1-48, p. 35.

and serve as guidelines for behavior. This research is often also referred to as dogmatic or theoretical legal research because it relies on the study of legal principles, laws, and regulations, as well as developing legal doctrines. Normative legal research relies on secondary data, such as primary legal materials (laws, international conventions), secondary legal materials (literature, journals), and tertiary legal materials (legal dictionaries, encyclopedias). The main scope of this research includes an inventory of positive laws, an analysis of legal principles and theories, the level of harmony or synchronization between legal rules, a comparison between legal systems, and historical studies of the development of certain legal norms. This approach allows researchers to understand the structure of the applicable law and examine the extent to which the law can be effectively applied in protecting the rights of persons with disabilities, especially the right to decent work.

C. RESULTS AND DISCUSSIONS

1. The Position and Role of National and International Law in Regulating the Right to Employment for Persons with Disabilities

Legally, the right to decent work for persons with disabilities has a strong juridical basis in the Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia. The 1945 Constitution affirms that every citizen has the right to obtain employment and a decent livelihood in accordance with humanitarian principles.[9] In addition, it also states that every individual has the right to work, receive a fair wage, and receive humane treatment in labor relations. These provisions are further strengthened by constitutional guarantees stating that everyone has the right to be free from all forms of discrimination, regardless of background, and is entitled to protection against discriminatory actions that may occur.

The concept of human rights includes three main elements that are very important for human existence as a social being, namely human integrity, freedom, and equality. These three elements form the basis for formulating and understanding the meaning and definition of human rights.

[9] Assad Al-Faruq, "Perlindungan Hukum dan HAM Bagi Anak dan Disabilitas," *e-Journal Al-Syakhsiyyah Journal of Law and Family Studies* 4, No. 1 (2022): 1–12, https://doi.org/https://doi.org/10.21154/syakhsiyyah.v4i1.3545, p. 8.

The understanding of human rights becomes clearer when these rights are recognized and seen as part of the humanization process carried out by other parties, both in vertical relations between individuals and the state, as well as in horizontal relations between fellow individuals, both in reality (de facto) and legally (de jure).[10] Thus, human rights values are universal and are realized through the recognition, protection, and promotion of human integrity, freedom, and equality in various major human rights instruments at the international, regional, and national levels.[11]

The right to work for persons with disabilities has been explicitly recognized in the national legal framework as an integral part of the fulfillment of human rights. The Indonesian Constitution, namely the 1945 Constitution of the Republic of Indonesia, guarantees that every citizen has the right to obtain employment and a decent livelihood in accordance with human values. This guarantee is then elaborated in more detail in Law No. 8/2016 on Persons with Disabilities, which specifically regulates the employment rights of persons with disabilities, including the obligations of the government and the private sector in providing equal access to employment.[12] In this law, persons with disabilities are positioned as legal subjects who have the same position and rights in various aspects of social life, including the employment sector. National law not only recognizes this right normatively but also serves as the basis for the establishment of affirmative policies and monitoring mechanisms for the implementation of the right to work that is inclusive and free from discrimination.

On the other hand, international law also plays an important role in shaping universal norms and principles regarding the protection of the rights of persons with disabilities. Through the ratification of the Convention on the Rights of Persons with Disabilities in Law No. 19/2011, Indonesia has committed itself to guaranteeing the right to work for persons with disabilities equally and with dignity. The CRPD requires state parties to remove barriers to

[10] Kartika Dewi Mulyanto, "Urgensi Ratifikasi Konvensi Pekerjaan Yang Layak Bagi Pekerja Rumah Tangga," *Undang: Jurnal Hukum* 1, No. 1 (2018): 109–133, https://doi.org/10.22437/ujh.1.1.109-133 , p. 121.

[11] AI [Amnesty International], "Becoming a Human Rights Friendly School: A Guide for Schools" (London, United Kingdom: Amnesty International, 2012), https://resourcecentre.savethechildren.net/document/becoming-human-rights-friendly-school-guide-schools-around-world, Accessed 12 Juni 2024.

[12] Laurensius Arliman S., "Pengaturan Kelembagaan Perlindungan Hak Asasi Manusia Terhadap Anak di Indonesia" (Disertasi Program Doktor Ilmu Hukum, Universitas Andalas, 2021), http://scholar.unand.ac.id/77320/, Accessed 12 Juni 2024.

access to employment and provide reasonable accommodation in the workplace. The Convention reinforces national legal standards by providing international benchmarks that must be adhered to. This synergy between national and international law is important in creating a legal system that is fair, responsive, and inclusive of persons with disabilities in the field of employment.[13]

With the synergy between national and international law, efforts to protect and fulfill the right to work for persons with disabilities can run more effectively and purposefully. Regulations at the national level become a concrete implementation tool of the international principles contained in the CRPD. In this context, the Indonesian government has the responsibility to not only formulate regulations, but also ensure their implementation through supervision, public education, and the provision of facilities and infrastructure that support the active participation of persons with disabilities in the world of work. This includes the provision of skills training, work inclusion programs, and incentives for companies that employ workers with disabilities.[14]

The position and role of national and international law in guaranteeing the right to work for persons with disabilities cannot be separated. Both complement each other, where national law becomes a direct implementation tool at the state level, while international law such as the CRPD provides a universal normative framework that directs state policies to be in line with global human rights values. This is important so that efforts to fulfill the rights of persons with disabilities are not merely symbolic, but touch the substantive aspects, namely providing real space and opportunities for persons with disabilities to participate actively and productively in the world of work.[15]

Persons with disabilities are part of citizens who have basic rights protected by legislation, including the right to achieve a

[13] Budi Ardianto and Mochammad Farisi, "Perlindungan Hukum Bagi Penyandang Disabilitas Dalam Mendapatkan Pekerjaan Berdasarkan International Covenant On Economic Social And Cultural Rights 1966 dan Undang-Undang Nomor 13 Tahun 2003 Tentang Ketenagakerjaan," *Ganaya: Jurnal Ilmu Sosial Dan Humaniora* 4, No. 1 (2021): 179–192, p. 185.

[14] Anisah Che Ngah dan Abdul Rahman, "Respon Pemerintah Indonesia Terhadap Hak Asasi Anak Dalam Konvensi Internasional (Refleksi Ius Constitutum Dan Prospek Ius Constituendum," *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 3, No. 2 (2014): 129–142, https://doi.org/https://doi.org/10.24252/ad.v3i2.1514, p. 131.

[15] Lukman Hakim dan Nalom Kurniawan, "Membangun Paradigma Hukum HAM Indonesia Berbasis Kewajiban Asasi Manusia," *Jurnal Konstitusi* 18, No. 4 (17 Februari 2022): 869–897, https://doi.org/10.31078/jk1847, p. 870.

prosperous life. They are also entitled to legal protection to ensure the fulfillment of these rights and ease of access. When Law No. 39/1999 on Human Rights was passed, Indonesia had not yet ratified the International Covenant on Civil and Political Rights or the Covenant on Economic, Social and Cultural Rights. However, the substance of these two international covenants had become a reference and conceptual basis in the drafting of the contents of Law No. 39/1999.[16]

2. Implementation of Regulations on the Right to Work for Persons with Disabilities Implemented in Indonesia Based on Human Rights

Perspective As a country that adheres to a constitutional system, Indonesia guarantees protection for all its citizens through various legal instruments and government policies in various fields of life. All aspects of people's lives must be covered by laws and regulations to ensure the fulfillment of human rights, which is the essence of the implementation of the law. The 1945 Constitution of the Republic of Indonesia as a fundamental norm is the basis for the formation of all legal regulations in Indonesia.[17] One form of human rights protection stipulated in the 1945 Constitution is the guarantee that every citizen has the right to obtain decent work. The right to decent work is part of basic human rights that apply universally, and there should be no discrimination in its fulfillment, including against individuals who have physical limitations or persons with disabilities.[18] In this context, a person's physical health condition cannot be used as an excuse to limit their access to decent work opportunities. The state is obliged to ensure that every citizen, without exception, obtains this right fairly and equally.

The concept of protection for workers with disabilities in the Job Creation Law is integrated within the spirit of labor reform that is inclusive and non-discriminatory. Law Number 11 of 2020 on Job Creation, which amends several provisions of Law Number 13 of 2003 on Manpower, upholds the principles of equality and equal

[16] Saldi Isra, Ferdi Ferdi, dan Hilaire Tegnan, "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, No. 2 (12 Agustus 2017): 117–140, https://doi.org/10.20956/halrev.v3i2.1081, p. 117.

[17] Barzah Latupono, "Perlindungan Hukum Dan Hak Asasi Manusia Terhadap Pekerja Kontrak (Outsourcing) DI Kota Ambon," *SASI 17*, No. 3 (September 30, 2011): 59–69, https://doi.org/10.47268/sasi.v17i3.366, p. 65.

[18] Herning Setyowati dan Nurul Muchiningtias, "Peran Advocat Dalam Memberikan Bnatuan Hukum Kepada Masyarakat Dalam Perspektif Hak Asasi Manusia," *Lex Scientia Law Review* 2, No. 2 (7 Desember 2018): 155–168, https://doi.org/10.15294/lesrev.v2i2.27582, p. 160.

employment opportunities for persons with disabilities. Articles 5 and 6 of the Manpower Law, which remain unchanged, state that every worker, including those with disabilities, is entitled to equal treatment without discrimination. Furthermore, employers are required to provide accessibility and reasonable accommodation in the workplace. The Job Creation Law also promotes flexible work arrangements and vocational training, which potentially expand opportunities for persons with disabilities to participate actively in both the formal and informal labor markets. This protection reflects the state's obligation to guarantee the right to decent work for all citizens without exception.

Individual freedom is not absolute because it is limited by the human rights of others. Consequently, every individual has the responsibility to respect and recognize the rights of others in a common life.[19] This obligation does not only apply to private individuals but must also be upheld by various forms of social organizations in all levels of society. Therefore, the state has an important role in ensuring that the rights of individuals, including the rights of persons with disabilities, can be realized in reality and without obstacles. The state must be present as a protector and regulator so that the rights of every citizen, without exception, can be enjoyed equally. The first president of the Republic of Indonesia, Ir. Sukarno emphasized that Pancasila as the foundation of the state has a family spirit. Pancasila was first introduced to the Indonesian people as the philosophical foundation of the state to be established and dedicated to the entire Indonesian nation.[20] The values in Pancasila not only reflect the spirit of togetherness and unity but also emphasize the importance of respect for human dignity in a fair and civilized manner. Therefore, within the framework of Pancasila, the recognition and protection of the rights of persons with disabilities is part of the practice of the nation's basic values that must be upheld in the life of the state.[21]

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[19] Chairiyah Chairiyah, Nadziroh Nadziroh, and Wachid Pratomo, "Konsep Sekolah Ramah Hak Asasi Manusia (HAM) Sebagai Wujud Pelaksanaan Konstitusi," *TRIHAYU: Jurnal Pendidikan Ke-SD-an* 6, No. 3 (15 Juli 2020): 952–956, https://doi.org/10.30738/trihayu.v6i3.8157, p. 954.

[20] Nana Selviana *et al*., "Organ Trafficking Crime in Indonesia: How Is It Implemented and Regulated According to International Law?," *Uti Possidetis: Journal of International Law* 5, No. 2 (June 28, 2024): 196–238, https://doi.org/10.22437/up.v5i2.33237, p. 203.

[21] Zainal Abidin Pakpahan, "Kepastian Hukum Atas Hak Penyandang Disabilitas Sebagai Warga Negra Dalam Mendapatkan Pekerjaan Di Indonesia," *Warta Dharmawangsa* 18, No. 2 (6 Mei 2024): 379–398, https://doi.org/10.46576/wdw.v18i2.4439, p. 385.

Human rights are within the scope of the right to equality and freedom, which in its implementation involves the relationship between individuals and institutions. Human rights are fundamental rights that have been owned by a person since birth. Human rights can also be interpreted as rights that come from human nature itself. Thus, the existence of human rights does not depend on the recognition of other parties, whether individuals, community groups, or the state. However, the implementation of human rights in daily life is highly dependent on how others recognize and respect these rights.[22] The way society and the state recognize and guarantee human rights greatly affects the extent to which these rights can be actualized by individuals in their social lives.[23]

Article 27 CRPD explicitly recognizes the right of persons with disabilities to work on an equal basis with others. This provision obliges State Parties to protect and promote the realization of the right to work in an inclusive and open work environment. A key element derived from this article is the obligation to provide reasonable accommodation, which constitutes a substantive application of the broader principle of non-discrimination. Reasonable accommodation refers to necessary and appropriate modifications or adjustments made to ensure that persons with disabilities can enjoy or exercise their right to work equally, without imposing a disproportionate or undue burden on the employer.[24]

In Indonesia, this principle has been adopted through Law No. 8 of 2016 concerning Persons with Disabilities, which mandates the provision of reasonable accommodation in the workplace. However, concrete mechanisms for implementation remain underdeveloped. For instance, there is an absence of clear and standardized technical regulations specifying what constitutes reasonable accommodation across various sectors, making it difficult for employers to understand and fulfill their legal obligations. Furthermore, state supervision and enforcement mechanisms are weak,

[22] Kartika Gabriela Rompis, "Perlindungan Hukum Terhadap Penyandang Disabilitas Dalam Perspektif Hukum Hak Asasi Manusia," *Lex Administratum* 4, No. 2 (2016): 171–177, p. 175.

[23] Susiana Susiana dan Wardah Wardah, "Pemenukan Hak Penyandang Disabilitas Dalam Mendapatkan Pekerjaan Di BUMN," *Law Reform* 15, No. 2 (30 September 2019): 225–238, https://doi.org/10.14710/lr.v15i2.26181, p. 227.

[24] Endah Rantau Itasari, "Perlindungan Hukum Terhadap Penyandang Disabilitas Di Kalimantan Barat," *Integralistik* 31, No. 2 (2020): 70–82, https://doi.org/https://doi.org/10.15294/integralistik.v32i2.25742, p. 74.

and there is a lack of accessible complaint procedures for persons with disabilities who experience discrimination due to the denial of reasonable accommodation at work.

Persons with disabilities have limitations that impact their ability to participate fully in social life, so they require support and assistance from other parties. They also face greater challenges compared to the non-disabled community, such as barriers to obtaining public services, education, health facilities, and employment. Based on Article 4 of Law No. 8/2016 on Persons with Disabilities, there are four categories of persons with disabilities. First, physical disabilities, namely impaired movement functions such as amputation, paralysis, paraplegia, cerebral palsy (CP), due to stroke, due to leprosy, and small stature. Second, intellectual disabilities, which are impaired thinking functions due to below-average intelligence, such as slow learning, mental disabilities, and Down syndrome. Third, mental disabilities, which are disorders of thinking, emotions, and behavior, including: (a) psychosocial disabilities such as schizophrenia, bipolar, depression, anxiety, and personality disorders; (b) developmental disabilities that affect social interaction skills, such as autism and hyperactivity. Fourth, sensory disabilities are disorders of one of the five senses, such as visual, hearing, and/or speech impairments.

In addition, systemic barriers significantly hinder the effective implementation of this principle. These include low awareness and understanding among employers, who often perceive disability as a matter of charity or corporate social responsibility rather than a human rights issue. Structural limitations such as inaccessible physical infrastructure, limited access to assistive technologies, and the absence of disability inclusion training for staff and management exacerbate the problem. Moreover, existing affirmative action policies, such as employment quotas, are not yet complemented by economic incentives that could encourage greater employer compliance.

To ensure the effective realization of the right to work for persons with disabilities, and to operationalize the principle of reasonable accommodation, strategic legal and institutional reforms are necessary. These include (a) the issuance of standardized national implementing

regulations, (b) targeted training and technical assistance for public and private sector employers, and (c) the establishment of a robust monitoring and human rights-based evaluation system for inclusive employment practices. These steps are crucial to prevent indirect or hidden discrimination and to ensure full and equal participation of persons with disabilities in the labor market.

The protection of human rights is the main element of the rule of law because human rights are considered the most basic rights and require the most complex arrangements compared to other state interests; these rights are inherent in every individual from birth as a gift from God Almighty, cannot be revoked or deprived, and must be respected, upheld and protected by the state, including by Indonesia, which also has an obligation to uphold human rights as a consequence of various international treaties it has agreed to. The problem that arises in the Indonesian state of law is that human rights protection has not been implemented thoroughly and comprehensively, as human rights violations are still rampant, both serious and minor; however, the reform era has shown progress in upholding human rights, but weak accessibility and lack of public attention to the needs of persons with disabilities, including in terms of fulfilling economic rights through employment opportunities, are still an obstacle in realizing the guarantee of rights in accordance with the 1945 Constitution of the Republic of Indonesia.[25]

Article 5 of Law No. 13/2003 on Manpower stipulates that "Every worker has the same opportunity without discrimination to obtain employment". Meanwhile, Article 6 of Law No. 13/2003 on Manpower states that "Every worker/laborer has the right to receive equal treatment without discrimination from employers". From these provisions, it can be understood that workers with disabilities have the right to obtain employment without discrimination.[26] Law No. 13/2003 on Manpower also regulates the protection and employment opportunities for workers with disabilities. In explanation of Article 5, it is explained that "Every worker has the same rights and opportunities to obtain decent work and livelihood without

[25] Aprilina Pawestri, "Hak Penyandang Disabilitas Dalam Perspektif HAM Internasional Dan HAM Nasional," *Era Hukum* 15, No. 1 (2017): 164–182, https://doi.org/https://doi.org/10.24912/era%20hukum.v15i1.670, p. 170.

[26] Pamungkas Satya Putra, "Aksesibilitas Perlindungan Hukum Bagi Tenaga Kerja Penyandang Disabilitas Di Kabupaten Karawang," *Mimbar Hukum* 31, No. 2 (2019): 205–221, p. 207.

discriminating against gender, ethnicity, race, religion, and political sect in accordance with the interests and abilities of the worker concerned, including equal treatment of persons with disabilities".

It is clear that obtaining decent work without discrimination is something that must be realized by all people, especially by business actors. Disabled workers must be given special protection related to accessibility in obtaining employment. This is an implication of respect for human rights for persons with disabilities in the world of work.[27] The right to work and employment in the Convention on the Rights of Persons with Disabilities is part of the human rights convention that cannot be separated from the existence of all humans. Thus, every human being has the right to participate, contribute, and enjoy economic, social, cultural, and political development.

Article 53 Paragraph 1 of Law No. 8/2016 on Persons with Disabilities 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. Meanwhile, Paragraph 2 states that private companies must employ at least 1% of persons with disabilities from the number of employees or workers. The prohibition of discriminating against someone, especially persons with disabilities, has been regulated in law, but there are still many persons with disabilities who receive discriminatory treatment in obtaining employment.

This was evidenced toward the end of 2024 when the Ministry of Manpower of the Republic of Indonesia reported the establishment of 239 Disability Service Units (Unit Layanan Disabilitas or ULDs) across various regions. Through these units, a total of 804 persons with disabilities had successfully gained access to employment opportunities. This achievement reflects progress in developing labor infrastructure that is more inclusive and accessible to persons with disabilities. Nevertheless, the number of placements remains insufficient to meet the minimum 2% employment quota mandated by the law, particularly for government institutions and state-owned enterprises (SOEs). Furthermore, official data also indicates that the Labor Force Participation Rate (LFPR) for persons with disabilities stood at 20.14%, while the Open

[27] Kartika Gabriela Rompis, *loc.cit*.

Unemployment Rate (OUR) for this group reached 10.8%. These indicators demonstrate that the participation of persons with disabilities in the formal labor market remains low, and that significant challenges persist in expanding inclusive employment for this vulnerable group.[28] In fact, it is not uncommon for people with disabilities to not get job opportunities in companies because of their physical condition. For some employers, people with disabilities are considered unable to work well and do not have reliable skills. Even more concerning, many parties still assume that a person with a disability is someone who is not physically or mentally healthy.

Article 11 of Law No. 8/2016 on Persons with Disabilities states that persons with disabilities have the right to obtain employment organized by the government or private sector without discrimination and receive equal pay. In addition, they should not be dismissed from their jobs on the grounds of disability. Although the legislation has regulated this, in reality, there are still many people with disabilities who have difficulty obtaining employment. This is not because they do not want to try to find a job, but because many employers have closed themselves off to the existence of people with disabilities.

One of the ways companies have closed themselves off from disabled workers is by issuing employee recruitment regulations that require an attractive appearance or physical and mental health. At first glance, these recruitment regulations seem unproblematic, but if explored further, these rules actually do not provide any opportunities for people with disabilities to apply as workers. The rights of persons with disabilities in employment are also listed in Article 45 to Article 54 of Law No. 8/2016 on Persons with Disabilities.[29] Considering the human rights guarantees for persons with disabilities that have been established by the government through legislation, it is an obligation for the state to follow up with supporting activities, supporting programs,[30] and supporting facilities in order to fulfill the rights of people with disabilities in the world of work. In

[28] Rantika Safitri, "Analisis Penyalahgunaan Alokasi Dana Desa oleh Kepala Desa (Studi Kasus di Desa Taman Jaya)," *Jurnal Petitum* 2, No. 1 (2022): 45–55, https://juma.umko.ac.id/index.php/petitum/article/view/343, p. 50

[29] Mumpuniati, "Pembentukan Karakter Mandiri Bagi Penyandang Disabilitas Kecerdasan Dalam Kapasitas Kemanusiaan," *Jurnal Pembangunan Pendidikan: Fondasi Dan Aplikasi 4*, No. 1 (December 21, 2016): 59–66, https://doi.org/10.21831/jppfa.v4i1.12114, p. 59.

[30] Susani Triwahyuningsih, "Perlindungan Dan Penegakan Hak Asasi Manusia (HAM) Di Indonesia," *Jurnal Hukum: Legal Standing* 2, No. 2 (2018): 113–121, https://doi.org/10.24269/ls.v2i2.1242, p. 113.

addition, there also needs to be awareness from employers (private sector) to participate in realizing human rights guarantees for persons with disabilities in obtaining employment.

D. CONCLUSIONS

Within the framework of international law, the right to work for persons with disabilities is regulated in the Convention on the Rights of Persons with Disabilities (CRPD), which Indonesia has ratified through Law Number 19 of 2011. The CRPD as an international human rights instrument emphasizes the importance of recognizing persons with disabilities as legal subjects who have the right to work freely, equally, and with dignity. The Convention obliges state parties, including Indonesia, to guarantee equal access to employment in the public and private sectors, including the provision of reasonable accommodation in the workplace. By ratifying the CRPD, Indonesia not only binds itself to international norms but is also obliged to adopt and adapt national laws to be in line with these international standards. The implementation of the right to work for persons with disabilities in Indonesia is legally guaranteed through Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution, Article 53 of Law Number 8 of 2016 on Persons with Disabilities, Law Number 39 of 1999 on Human Rights, Law Number 13 of 2003 on Manpower, and Law Number 11 of 2020 on Job Creation. Indonesia has also ratified the CRPD through Law Number 19 of 2011. However, implementation remains weak, as reflected in the low labor force participation and the unmet 2% employment quota. Strengthening technical regulations, supervision, and the active role of the state and society is necessary to ensure fair and equal employment rights for persons with disabilities.

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