

Indonesian Government Policy To Provide Employment Opportunities For Persons With Disabilities

Rachmadani Fatria^{1*}, Martinus Sardi²

^{1,2}*Program Studi Hukum, Fakultas Hukum, Universitas Muhammadiyah Yogyakarta, Indonesia*

**Correspondent Author: rachmadani.f.law16@mail.umy.ac.id*

Info of Article

Submitted: 22-02-2020

Reviewed: 03-03-2020

Revised: 30-03-2020

Accepted: 01-04-2020

DOI: 10.18196/mls.v2i2.11486

Abstract

Persons with disabilities still find it difficult to find and obtain work because they are considered less productive and incapable to work. However, every human being has human rights including the right to obtain work and to persons with disabilities. This study aims to understand the Indonesian government's role based on human rights instruments' concern for work opportunities. The research used a normative study with a descriptive qualitative analysis which is focused on library research and analysis of the compilation of written data. The author found that the role of government is through policies and realization on the program where the direction not only supervision within sanction to the employer but also develop quality and placement of disabilities workforce, open special labor market and promotion to all stakeholder for providing recruitment. Nonetheless, the national government role in the realization of obligation from the human rights legal instruments both international or national still not comprehensively comply with the provision because the specific regulation relates to employment still have discrimination provision, absence of government technical regulation about disabilities employment, lack of regulation and policy measures to encourage private sectors for hire persons with disabilities.

Keyword: work opportunity, government role, human rights, persons with disabilities

1. Introduction

Persons with disabilities still face adversity in terms of work opportunities because they are physically still considered as a burden or even unable to work. It does not mean that they are unnecessary because this community has its deficiency. Moreover, they also have the passion and the right to develop themselves to become the better human being with work which is no distinction from normal people as participants in society.

In fact, according to the data from BPS (Central Bureau of Statistic) in 2018, it was caused unemployment disabilities for severe disabilities to amount to 8,40% from a total population of persons with disabilities which amount to 1,6 million people (approximately 1.662.249 people) and mild disabilities amount 2,26% or 0,4 million (approximately 447.224 people)¹ and it will increase every year. Meanwhile, it is only 0.90 % of persons with disabilities who are employed in public and private institutions. The wealth of persons with disabilities can be seen in wealthiness data (income quintile) in 2018. The poverty rate is higher than non-disabled people where the rate amount to

¹ Hastuti. et al. (2019). *Kendala Mewujudkan Pembangunan Inklusif Terhadap PeyandangDisabilitas*. Jakarta: SMERU Research Institute, p.18.

9,49% compared to 11,04% accumulated from 15,38 % (3,04 million people) of severe disabilities and 10,63% (2,1 million people) mild disabilities.

The data explain how ironically where people in Indonesia who have the limitation of sense or body still find it difficult to obtain a job whether in the village or city and receive income for their prosperity.

Also, the Ministry of Manpower said from 440 companies in Indonesia there was 2.760 disabled worker from 230.000 workers which only amounts to 1,2 % and this is just the company which has been recorded by the government.² This phenomenon happens because of several factors namely people with disabilities still sustain several labeling and negative behavior by the company to persons with disabilities with the assumption that those people can't work. From work providers themselves also do not have an understanding of the terminology of disability, clarification of disability, even job fairs or opportunities for them.

The second factor that makes people with disability lack of work opportunity is when they had worked at the previous time, but the placement of employment not relevant with skill and capability of persons with disabilities, the issue lead persons with disabilities can't be optimal for performing their job and capability within their work achievement assumed by the company that they have lower quality than non-disabled people with result inclined for discharge. Then the company will reconsider the recruitment of people with disabilities or even never recruit at all.

Ironically, the problems can happen in the recruitment for the public sector with the result that disabled people could not get suitable work or developing their careers.

Internationally, the persons with disabilities explicitly recognized equally with the normal people at human rights issue including in the employment by the United Nations and the provision exist inside UDHR (Universal Declaration of Human Right) in Article 23 where everyone has the right to work to free choice of employment, to just and favorable conditions of work and to protect against unemployment.

It indicates that Indonesia as the country in the global community must provide suitable support for persons with disabilities because the right to work as part of human rights aims to fill their economic and social needs which can even make a positive contribution to society and empowering the country economy. Because, according to Karl Deutsch states have a function that must fulfill by the national government, some of the functions among others are the welfare of the people and increasing capability of people until achieving a specific purpose to give good support to each other.³ Nevertheless, they have more limitations and complex problems than normal people.

In this matter, the government actions are very important with the purpose to neutralize the barrier of persons with disabilities as a workforce to obtain work when

² CNN Indonesia. (2018). Serapan Pekerja Difabel oleh Perusahaan Masih Minim. Accessed on June 2nd 2020, https://www.cnnindonesia.com/ekonomi/20181030140004-92-342624/serapan_pekerja-difabel-oleh-perusahaan-masih-minim

³ Asmawi, A. (2018). Kesejahteraan Rakyat dan Implementasi Kebijakan Transportasi Laut di Jawa Barat, *Jurnal Pembangunan Sosial*, 1(1), p.89.

this right guaranteed by human rights law. So, it stimulates research problems about how is the role of the national government to ensure work opportunity based on the human rights perspective.

2. Method

The research method employed normative legal research that places law as a norm building system and referred to as legal studies mean from the doctrinal method which focusing on norms, rule of laws and regulations by looking at its efficiency including consideration from the human right perspective. The research uses secondary data means taken by reviewing legal material and non-legal material from the literature study. The data from the legal material for the research consist of: Primary Legal Material mainly focuses on the objective of research such as Acts, Court Decisions, and Regulations; and Secondary Legal Material as additional sources which support the primary material such as research reports, textbooks, journal, internet, and other non-legal documents related to this research. The method of collecting data in this research was done through library research such as reading, analyzing, and deriving conclusions from related documents on the main problem of this research. The research employed descriptive qualitative analysis which is emphasizing the analysis of the process of inference to describe a phenomenon in the form of written based data that has been obtained by researchers from literature studies.

3. Analysis and Results

3.1. National Government Activities to Fulfill the Employment Opportunity for Persons with Disabilities

The things that can be done by the government are to issue policies related to persons with disabilities including those related to employment opportunities. The policy towards persons with disabilities including public policies where the policy is implemented by the government and the action is to handle the problems that exist in the community.⁴ Public policy can be defined simply as the government's choice to do or not to do dealing with public matters. Consequently, the policy only creates by government bodies, not private organizations. According to Harrold Laswell and Abraham Kaplan, it should contain social objectives, benefits, and practices in society. Importantly, the public policy serves as which is everything that the state can do to maintain or to improve the quality of many people's life.⁵ So it can be said that people with disabilities are part of the public society that needs to improve. Therefore, the government should make policies that aim to increase the quality of life of persons with disabilities and make the stakeholders aware of the importance of the role of persons with

⁴ Pujilaksono, S. (2020). *Perundang-Undangan Sosial dan Pekerjaan Sosial: Perspektif Pemenuhan Keadilan dan Kesejahteraan Sosial*. Malang: Setara Press, p.89.

⁵ Saiful, D. et al. (2019). Public policy analysis on disaster threat due to geo-environmental condition of Tugurara River in Ternate City, North Maluku Province, *International Journal of GEOMATE*, 17(60), p. 212-213.

disabilities include work participation. The policy executes through a supportive program to realize regulatory policy and fulfill the mandate from legislation and even the constitution which support equality for persons with disabilities.

3.1.1. Policies Form

For the last 5 years, National Government policies through Presidential Regulation No. 33 of 2018 concerning the National Action Plan for Human Rights 2015-2019 include persons with disabilities issues and the Ministry of Social Affairs to coordinate, monitor, and evaluate the implementation for them. It indicates that the Government of Indonesia shows its commitment to mainstreaming disabilities issue in national development by including the National Action Plan of Persons with disabilities in the field of employment opportunities, namely:

- a. Compilation of policies regarding the recruitment of workers with disabilities in government agencies.
- b. Increased stakeholder understanding of United Nations principles on business and human rights issues (creating and disseminating guidelines).
- c. Increasing job vacancies for persons with disabilities in companies through job fairs and the availability of data on the number of persons with disabilities recruited.⁶

The Ministry which is given the mandate to handle persons with disabilities issues on employment opportunities in the Ministry of Social Affairs as a focal point since persons with disabilities are part of the community who always obtain exclusion from common society and need special treatment to conduct their social activities. Disabilities issues involve cross sectors role so Ministry of Manpower has the role as Ministry that directly handle employment issue and Ministry of State Apparatus Empowerment and Bureaucratic Reforms realize opportunities in public sectors.

a) Ministry of Social Affairs

Under the President Regulation no.33 of 2018, the Ministry given a mandate to address the issues about employment opportunities because this institution has directed to improve the ability, independence, and social participation of persons with disabilities. The policies namely formulate the technical regulation from Disability Act related to employment opportunities measure such as standard of rehabilitation and social welfare management. Moreover, Under the Government Lieu of Law no.70 of 2019 Social Ministry also has a role to establish social rehabilitation by government institutions or community.

Ministry of Social Affairs created the main indicator to achieve the goal of persons with disabilities social rehabilitation, especially for an increase in employment opportunity, namely:

⁶ Hastuti. et al. (2019). *Kendala Mewujudkan Pembangunan Inklusif Terhadap Penyandang Disabilitas*. Jakarta: SMERU Research Institute, p.9.

- a. Persons with disabilities can motivate themselves and understand and master the work skills which can be used as preparation for work to obtain income to fulfill his needs or the needs of family members.
- b. Increase the involvement of institutions outside government agencies or enterprises in terms of service for persons with disabilities, and social recognition to employs persons with disabilities.
- c. Give the awareness and understanding to society that persons with disabilities issue are not only the government's responsibility and create the society that gives comprehensive opportunities to persons with disabilities to participate in society even state development.⁷

b) Ministry of Manpower

The mandate of this Ministry is to formulate technical regulation social rehabilitation concerning employment, to promote the establishment of vocational training, to increase the persons with disabilities working in the company through a job fair. Also, the Ministry of Manpower has other policies namely:

- a. Competence Development of Workforce and Their Productivity.
 - b. Increase Placement and Empowerment of Workforce.
 - c. Expansion of Inclusive Employment
 - d. Understanding to a state institution, local authorities, State Enterprise, Local Enterprise, and private enterprise.
 - e. Expansion of Formal Work Opportunities.
 - f. Enforcement of Labor Law.
- c) Ministry of State Apparatus Empowerment and Bureaucratic Reform

This institution is the government body that focuses to handle employees at government instance and bureaucracy. Specifically, as the mandate from President Regulation no.33 of 2018, this ministry creates policy about technical regulation concern on public sector recruitment for persons with disabilities.

3.1.2. Program from National Government.

1) Stakeholder Cooperation

To achieve inclusive employment opportunities, the government may cooperate and create a partnership with the institution or the group outside government it namely non-governmental organization/institution, state, and private enterprise, and even foreign or international organization. Those achievements inter alia:

⁷ Directorate of Social Rehabilitation of Persons with Disabilities. (2019). *Laporan Kinerja 2018: Direktorat Rehabilitasi Sosial Penyandang Disabilitas*, Jakarta:Kementerian Sosial Republik Indonesia,p.54.

(1) Network Cooperation

Ministry of Manpower has a cooperation program with several enterprises and organizations to bridge job providers with disabilities applicants and employers according to their needs and competencies. One of them is partnerships with work provider institutions for persons with disabilities such as *Kerjabilitas*. This platform is a social carrier network that connects persons with disabilities who want to find work with the employer. Then, the website also provides a recommendation to the company regulation relate to the employment of persons with disabilities and self-improvement content for persons with disabilities who want to increase their skills in the competitive labor market.

(2) Supervision and Advocation Partnership

Ministry of Manpower has been conducting a partnership with Better work Indonesia to supervise, inspect, and give advocation to the companies. This organization is a part of the global Better Work branch program from the partnership between the International Labor Organization and International Finance Corporation. The program contains the collaboration between labor organization competency on employment standards with finance corporation competency on private sector development and with a purpose to increase compliance on employment standards and encourage competitive work on a global scale. The Directorate General of Labor Inspection from the Ministry of Power in cooperation with Enterprise Advisor of Better Work Indonesia (BWI) has formed the procedure for handle non-tolerable violations of workers' rights cases.

One of the cases is the practices, procedures, and policies of prohibiting to get employed. The protocol for this case consists of:

- 1) If the BWI finds the alleged cases, then the Program Manager will report to the Ministry of Manpower and/or the Office or unit in charge of labor inspection at the Provincial level concerning the alleged case orally and in writing within 2 (two) working days.
- 2) The Unit in charge of labor inspection at the Provincial level shall appoint an inspector to inspect no later than 2 (two) working days after receiving a written report from the BWI Program Manager to determine whether the violation has occurred or not.
- 3) After the inspection with the invention of the case, the Labor Inspector shall implement the procedure of implementation of labor inspection according to laws and regulations.
- 4) Labor inspection unit at the Provincial level provides information on follow up of case handling to the BWI Program Manager.
- 5) After receiving information from the Ministry of Manpower or unit in charge of labor inspection at the Provincial level, the BWI Program Manager shall make efforts to assist the company during advisory services to take necessary improvement actions, bearing in mind instructions of the Labor Inspector to the company.⁸

⁸ Ministry of Manpower, International Labor Organization. (2018). Protocol for Handling of Non-Tolerable Cases (*Zero Tolerance Protocol*) between Directorate General of Labor Inspection and OSH – Ministry of Manpower of the Republic Indonesia and Better Work Indonesia. Accessed June 26th 2020, https://www.ilo.org/jakarta/info/WCMS_625550/lang--en/index.htm

(3) Stakeholder Partnership

Ministry of Manpower is the ministry that is responsible for employment, in its cooperation with ILO, Disabilities Organization, *BPJS Ketenagakerjaan*, and enterprise called Bank Mandiri, L'Oreal Indonesia, Standard Chartered Indonesia, TetraPak Stainless Engineering and Trans Retail Indonesia has been formed Business Network and Indonesian Disabilities. This organization has a mission to encourage the business community in Indonesia to be more inclusive and conducive, support the active role of persons with disabilities to be competent to enter the workforce, conducts potential disability-based recruitment in an equal and friendly manner, and encourage creative programs that can improve the competitiveness of the company while enhancing the active and independent role of persons with disabilities.⁹ The program has resulted in the awareness and understanding of the enterprise about the ability and positive contribution of people with disabilities to the company. While they are also realizing to increase the quality of productivity of persons with disabilities as manpower.

(4) **Awareness and Encourage Training of Disabilities Services.**

Ministry of Manpower has launched Disability Equality Training based on the International Labor Organization standard and non-discrimination strategy for employment officials in provincial, cities, and regencies' level with government budget allocation. DET (Disabilities Equality Training) is a program with the purpose to raise awareness and understanding of disabilities within services needed and to create the chance to decent work for persons with disabilities. It is involving government officials, representatives of workers and employers' organizations, training for work providers, and other stakeholders relate to employment. The program can increase the stakeholder understanding to accommodate and provide services for persons with disabilities employment from the recruitment process until employed.

DET has introduced after the cooperation of the government with the PROPEL project and started in a workshop organized in 2014 with the Ministry of Manpower, Ministry of Social Affairs, Ministry of Law and Human Rights, and representatives both from employers and workers organizations.¹⁰ PROPEL (Promoting Rights and Opportunities for People with Disabilities in Employment through Legislation) is the ILO – Irish Aid Partnership project with the main goal to develop opportunities for persons with disabilities to protect the right to work as a way out of poverty and inequality.

⁹ International Labor Organization. (2016). *Program ILO di Indonesia: Capaian 2016*. Jakarta: International Labor Organization, p. 45.

¹⁰ Jeannette, S. (2015). *Moving towards disability inclusion: Stories of Change*. Geneva: International Labor Organization. Accessed on August 2nd 2020, https://www.ilo.org/wcmsp5/groups/public/ed_emp/ifp_skills/documents/publication/wcms_423412.pdf , p. 31.

(5) Cooperation with Another Ministry

The Ministry of State Enterprise has implemented a disability recruitment program through the State Enterprise Joint Recruitment Program in 2019 which was conducted by Forum Human Capital Indonesia in cooperation with the Ministry of Manpower. The program has opened work opportunities for 110 state enterprises with 1000 formation has been provided to persons with disabilities. The labor market has been opened for high school graduate, and also people with Diploma, Bachelor's Degree, and Master's Degree. Positions are provided for the fields of Energy Security, Logistics and Trade, Tourism and Culture, Food and Plantation Security, Health Services, Maritime Economics, Connectivity, Construction and Infrastructure, Mining, Manufacturing, Défense Strategy, Technology, Heavy and Shipping Industry; Telecommunications and Digital, Financial and Banking Services and Community Economy. The recruitment process is divided into 2 measures; the first measure is conducted by the Ministry of State Enterprise by fulfilling an administrative requirement and basic competency test through FHCI, and the second measure is conducted by having the test from state enterprise consisting of the physiological test, medical check-up, and interview.¹¹

Furthermore, the Ministry of Industry and the Ministry of Social Affairs have been cooperating on training and employment placement for persons with disabilities in the industrial sector. The execution of this cooperation is done through a 3 in 1 (training, certification, and placement) program. Then, the people with disabilities who graduated from the training will be given a competence certificate by Certification Profession Agency and are placed in the 11-garment company and footwear. The training was followed by 268 participants including 204 hearing and speech impairment, 39 persons with physical disabilities, and 25 intellectual disabilities. The training was conducted *inside* the Industrial Ministry Training Centre and *in the companies*.¹² These two appropriate activities it's some example of central government commitment to a held job opportunity with training and placement services but a cross-sectoral institution where not only the role of Ministry of Social Affairs and Ministry of Manpower.

2) Social Rehabilitation

Ministry of Social Affairs has been conducting social rehabilitation for persons with disabilities and it can define as the process of restoring and develop an individual ability to carry out its social functions reasonably in society. Then, the services platform claimed as advanced social rehabilitation by services includes livelihood therapy through life skills and vocational skills.¹³

¹¹Susiana, W. (2019). Pemenuhan Penyandang Hak Disabilitas Dalam Mendapatkan Pekerjaan di BUMN. *Law Reform*, 15(2), p. 234.

¹² Kementerian Informasi dan Komunikasi. (2019). 268 Penyandang Disabilitas Ikuti Diklat 3 in 1 Industri Garmen dan Alas Kaki. Accessed on September 23rd 2020, https://www.kominfo.go.id/content/detail/16093/268-penyandang-disabilitas-ikutidiklat-3-in-1industri-garmen-dan-alas-kaki/0/artikel_gpr

¹³ Ministry of Social Affairs. (2019). *Laporan Kinerja Kementerian Sosial RI Tahun 2018*. Jakarta: Kementerian Sosial Republik Indonesia, p.41.

This rehabilitation has social parameters that are divided into 2 namely: social capability and social responsibility. Social capability concerns the way of individual performs his or her roles with their capabilities, while social responsibility concerns the contributions to the social environment. Implementation of social rehabilitation is executed by various levels of government, from top to bottom. The central government in this concern as the regulation maker, establishment of Disability Rehabilitation Center as a unit that directly gives the service to persons with disabilities through rehabilitation to develop the skill and live quality for them, while local government has a task to implement social rehabilitation through the specific area from the provincial scale until city/regency by deconcentrate mechanism. The national government under the Ministry of Social Affairs has a division called Directorate of Social Rehabilitation on Persons with Disabilities which has the mandate to handle disabilities issue by establishing a central rehabilitation service official program, 19 disability rehabilitation centers, and a deconcentrate mechanism in 34 Provinces.

The achievement of the performance targets of the Directorate of Social Rehabilitation on Persons with Disabilities in 2018 has created successful outcome related to work as follows:

- (a) Ability to apply technical skills with as many as 1.065 people. Persons with disabilities in the institution have been able to develop their skills as provisions and can improve their abilities.
- (b) Ability to work at home and family business with as many as 622 people. Persons with disabilities with their family members can find an additional income for livelihood.
- (c) Ability to work in another workplace with as many as 110 people.
- (d) Hired in formal sectors with as many as 31 people.

Achievement above cause by Directorate activities which is through direct support program, Disabilities Rehabilitation Centre, and social rehabilitation service by Local Social Department.

The number of persons with disabilities who receive benefits from the regional activities by the central directorate, among others:

- (a) Aid support for developing accessibility to persons with disabilities through Social Welfare Institution for 862 people.
- (b) Assistive tools for persons with disabilities for 1998 people.

Secondly, social rehabilitation for persons with disabilities is directly conducted by 19 Disability Rehabilitation Centers which divides the types of services based on the types of disabilities. These units are spread across Indonesia, with service coverage across provinces, and districts/cities. The existence of these units as a vertical agency to serve rehabilitation for persons with disabilities that could not be served at the district or provincial level. The service is not only inside the official shelter but also outreach service with outside shelter system which is tailored to the needs and demands of the necessary services in the area.

The activities carried out for persons with disabilities are social assistance, social advocacy, social guidance, educational guidance, psychosocial adjustments, and vocational training to improve their abilities, so that they can implement their social functions in society.

Then, the social rehabilitation service also achieves outside the ministry shelter. The existence of a form of empowerment program outside the institution is due to a large number of people with disabilities that must be handled. Activities carried out with persons with disabilities remain in the community and family environment so that the program targets also involve these two elements which are expected to help the activities of beneficiaries in their areas to be more productive. The services through assistive tools and *Loka Bina Karya*. From the definition, *Loka Bina Karya* is the unit from a social service agency that provides vocational rehabilitation and the selection of beneficiaries with observation and interview in their house.

Rehabilitation also involves Local Social Departments in the local area which handle social issues for disabled people (deconcentrate mechanism). The service target consists of several activities including Vocational Training, Job Learning Practices, Community Based Rehabilitation, assistive tools, social campaign, and disability assistance.

Community Rehabilitation is rehabilitation that involves families and communities with disabilities due to disability services through institutions or rehabilitation center are insufficient and requires high funding which makes it difficult to reach. This policy has the goal of creating cooperation between families, governments, and communities to build the quality of people with disabilities as human resources that capable to contribute to social life. The method makes families and communities as the main sources for disability development and is an effort to take a holistic approach to alleviate poverty which also includes community empowerment and increased productivity. This activity will synergize various components in the community by strengthening the capacity of people with disabilities, establish independence and referral systems, establish preventive and promotive efforts for disability issues. This group consists of important structures in the community such as community figures, village governments and involves people with disabilities and their families.¹⁴

3) Ministry of Manpower Program

The program from the Ministry of Manpower is applying to improve their job vacancy provider with the result of increasing the formal employee quantities. The improvement of placement and workforce empowerment are executed through some programs namely: Online Placement for Workforce, Stakeholder Placement, Labor Placement through a local mechanism as the placement system of the workforce between cities or provincial level, expansion of employment opportunities, and job fair. Then, expansion of opportunities is conduct by workforce empowerment through self-employment, self-selection workforce who will get paid with middle income, and labor-intensive so the workforce at least has some vocational skill. (Ministry of Manpower Regulation no.27 of 2016).

These participation programs by workforce and employer support with the existence of information access with an online form of job vacancy, building job opportunity service rooms,

¹⁴ Surwanti, A, & Puspitosari W.A. (2019). Peningkatan Peran Kelompok Rehabilitasi Berbasis Masyarakat dalam Mewujudkan Kesejahteraan Penyandang Disabilitas. *Jurnal Pembedayaan*, 3(3), p.307-308.

strengthening regulations against companies conducting job fairs such as reports on employment placement within 3 months¹⁵. Specifically, persons with disabilities can receive information about job vacancy through the website of the ministry of manpower or the enterprise website such as *dnetwork.net* or *kerjabilitas.com*, while in another way the workforce can access job vacancy information on local employment official agency. The employer who wants to find a disability workforce can find candidate information at the same place and sites like disabilities workforce or disabilities organization.

Besides, the only report from the Directorate General of Labor Inspection has noted 24.012 enterprises that have complied with the provisions of labor laws and regulations. This compliance occurs because the directorate provides guidance, examination, and investigation of criminal acts. The guidance was carried out by the directorate, namely guidance of occupational placement and job training.

4) **Public Sector Employment**

State Apparatus recruitment has provided a special quota for persons with disabilities. The Ministry of State Apparatus Empowerment and Bureaucratic Reforms promote all central and local officials to provide quota to people with disabilities within an accessible recruitment process. Also, National Civil Service Agency as a non-ministry institution has mandated to collect data of quota needed in every institution, to manage the civil servant formation, and to provide the specific facility in the selection process for persons with disabilities. Applicants with disabilities only need to prepare an official certificate from a government hospital stating the type and degree of disability. Persons with disabilities are given the freedom to register with special formations of persons with disabilities, general formations, or special formations outside the disability formations available at certain agencies.¹⁶ An example of equal opportunity in public sectors can be seen from the National Development Planning Agency, Ministry of Transportation, and Surabaya City Government, opening 987 CPNS formations and 5% of the total formations with 4 categories of persons with disabilities.¹⁷ Likewise, persons with disabilities can fill a rebuttal if they did not pass administration selection caused by the official position that does not apply to them. When the complaint is reasonable, the administration official must change the administration selection result. The applicant has facilitated to complain in the denunciation form on WBS- BKN website (whistleblowing system for national civil service agency) or State Apparatus Commission help desk at commission website if there is discrimination in every step of selection from registration until the result of recruitment test or directly to institution official.

¹⁵ Ministry of Manpower. (2018). *Lakin Kemnaker 2018*. Jakarta: Kementerian Ketenagakerjaan Republik Indonesia, p.35.

¹⁶ Wahyuni, D. (2019). Kajian Singkat Terhadap Isu Aktual dan Strategis: Peluang dan Tantangan Penyandang Disabilitas di Dunia Kerja. *Bidang Kesejahteraan Sosial, Vol.XI, No.23/I/Puslit/Desember/2019*, p.15.

¹⁷ Wijaya, A.H. et al. (2020). Perlindungan Hak Penyandang Disabilitas dalam Memperoleh Pekerjaan dan Penghidupan yang Layak bagi Kemanusiaan. *Jurnal Konstitusi, 17(1)*, p.215.

On the other hand, to prevent discrimination, the management and policy of state apparatus in every institution must be based on qualification, and competence called a merit system. The realization will be supervised by the State Apparatus Commission and if the violation occurred, the commission will report to institution officials related for handle the punishment of their civil servant (Article 32 Law no. 5 of 2014 about State Apparatus).

5) **Reward**

The Appreciation by the Ministry of Manpower for 10 (ten) companies that employ Persons with Disabilities in 2018. This kind of measure to encourage the enterprise to consistently open the recruitment for persons with disabilities, as a good role model and imagery, and receive encourage awareness to other companies for hire disabilities so it will increase the equality for participation and confidence to disabilities candidate.

The companies which obtain the reward from the ministry of manpower among others:

- (a) Tiga Serangkai Pustaka Mandiri in Surakarta with 3 workers with disabilities.
 - (b) United Farmatic Indonesia in Sidoarjo with 32 workers with disabilities.
 - (c) Kanindo Makmur Jaya in Jepara with 56 workers with disabilities.
 - (d) Samwon Busana Indonesia in Jepara with 17 workers with disabilities.
 - (e) Primayudha Mandiri Jaya in Boyolali with 20 workers with disabilities.
 - (f) Komitrindo Emporio in Bantul with 6 workers with disabilities.
 - (g) Giat Usaha Dieng, Kubu Raya with 3 workers with disabilities.
 - (h) Asia Sandang Maju Abadi in Semarang with 20 workers with disabilities.
 - (i) Ubud Corner in Gianyar with 3 workers with disabilities.
 - (j) Tri Mitra Makmur in Tarakan with 3 workers with disabilities.
- 6) Return to Work Program

Injuries and illnesses can be occurred by accidents at the workplace or diseases. The injuries may cause an inability to work and reduced productivity and employability that affect professional and personal skills, socioeconomic burden, and family life. Meanwhile, for employers its causes disadvantage from costly early retirements, loss of skilled staff, absenteeism, and high insurance premiums due to work-related accidents and diseases.¹⁸

Since the enactment of Government Lieu of Law No.44 of 2015 concerning the implementation of work accident insurance and occupational death insurance programs, the government commits to providing services so that workers can return to work while getting impairment that takes a long time to heal or permanent disability. The return to

¹⁸ Awang, H, & Mansor, N. (2017). Predicting Employment Status of Injured Workers Following a Case Management Intervention. *Safety and Health at Work*,9(3), p.1.

work pathway is at the crossroads of three area policies (healthcare, social security, and employment) and importantly count on the self-perceived health status and ability to work.¹⁹ The intervention can give benefit to the workers by achieving a safe, timely, and sustainable return to the workforce and their productive contributions thereafter.

Facilities of the program provided in the form of health services, rehabilitation, and job training with processes carried out in the program are:

- (1) Workers have accidents or illnesses during work
- (2) Workers are assigned to health service facilities / Trauma Center (clinic/hospital)
- (3) Employer obliges to provide the report in 48 hours
- (4) Workers receive a recommendation from the advisor doctor of the Ministry of Manpower at the time of treatment or after being declared cured with a disability to join the program with the consent of both parties
- (5) Participants receive assistance from the case manager during rehabilitation to monitor the treatment process until recovery, even mentoring during job training and follow-up work placement certificate
- (6) Workers receive post-disability training by both government and private job training institutions
- (7) Workers get resettled at work after the training institution issues a certificate against the company within some considerations according to its disability.

In addition, as long as workers participate in the program, compensation for incapacity to work is still paid by *BPJS Ketenagakerjaan* until the end of the program. (Ministry of Manpower no.10 of 2016).

It is indicating the government role applies through policy and realize in the program with the purpose to create equality for employment opportunities for persons with disabilities. The policies and programs have a direction that based on human rights action where it is not only to punish the employer that discriminate persons with disabilities in the recruitment process but also encourage inclusive employment in form of promoting awareness and importance of disabilities employment to stakeholder and community; open special labor market services, create training and work placement services, return to work program if workers become disable at work time, supervise stakeholder (company and government instance), and measure to handle discrimination. So basically these all measure prevents employers from giving unequal opportunities to persons with disabilities where they sometimes argue that they cannot find a disability network and understand the disability special needs, maintain the notion that people with disabilities are less productive, undertake inappropriate job placement with the ability of persons with disabilities, and accept sanctions if there is discrimination in the recruitment process.

¹⁹ Mbengi, R. K. et al. (2018). How do social security schemes and labor market policies support the return-to-work of cancer survivors?. *Journal of Cancer Policy*, 15(1), p.129.

3.2. Human Rights Guidance Implementation from the National Government Policy to Maintain the Rights of Employment Opportunity

The effective method to handle persons with disabilities matters the medical approach is not enough and need the human rights-based approach because if depend only to medical perspective every disabilities individual will be less productive and dependent where they need to eradicate impairment from their bodies to fully access and participate in a community where not all disfunction could be healed.

A human rights-based approach in the developing model of social approach where the approach focuses on raising the awareness of society for creating the inclusive, equal participation, and increase the productivity of persons with disabilities because in the social model disabilities is not the characteristic by an individual but created by the social environment. It has been considered that the community fails to adjust accommodation needs and is the main factor of limitation for mobility and the potential productivity of disable people and delivers them to discrimination. The form of human rights model enforces the social approach and determined that every disability classification of every individual as a diversity of human physical form (ex: race and ethnic) with the result of this unique type of human being must have equal rights likes another.

This is an idea that gives us an understanding of the measures to treat each other to achieve equal rights instead of equal capabilities for all human beings even with differences. It is indicating that the purpose of human rights is not to foster individuals' capabilities to achieve the same external standard. Instead, every individual should be treated according to the same moral standards (human rights), but through support for every people to develop and thrive from their different abilities, challenges, and another fulfillment may require different approaches for different groups with the results to make every individual can become the best versions of themselves.²⁰ Meanwhile, if we are denying someone human rights, we also deny the individual important sources for flourishing and development because not everyone can do the same things if they are treated equally.

Therefore, this is the obligation which not only voluntarily to respect, protect, and developed persons with disabilities rights to eliminate wrong conduct, inhuman, arbitrary, exploitative, and lowered human dignity which is could not be obstructed and dismissed mainly from the government role on work opportunities issues. Work can improve financial conditions and raise living standards. Employment is also associated with developing personal wellbeing and improve the levels of functioning of their body.²¹ Otherwise, Unemployment creates a loss of social status, self-confidence, and diminishes a good quality of life.²²

²⁰ Skarstad, K. (2018). Human Rights through the Lens of Disability. *Netherland Quarterly of Human Rights*, 36(1), p.3.

²¹ Machingura, T & Lloyd, C. (2017), Mental Health Occupational Therapy and Supported Employment. *Irish Journal of Occupational Therapy*, 45(1), p.52.

²² Adler, A, & Seligman. (2016). Using wellbeing for public policy: theory, measurement, and recommendations. *International Journal of Wellbeing*, 6(1), p.13.

Therefore, to clarify adjustment the role of government with human rights approach the measure can be seen on fulfillment of values based on international and national provisions both in regulation and policies relates to the right of disability to employment opportunities.

In the case of persons with disabilities, they right accommodate in the specific international human rights law instrument called Convention on the Rights of Persons with Disabilities including provision about work opportunities.

This convention represents the most comprehensive provision for maintaining substantive equality for people with disabilities which prohibits discrimination, mistreatment and guarantees many substantive rights including the right to work.²³

According to Jerome Bickenbach, this Convention primarily re-envision equality by highlighting the basic principles of human rights law. It is indicating the persons with disabilities include as the group of people who also bears the inherent rights for human being and must be protected by law. Overall meaning and the foundation of the CRPD have illustrated the principles of integrity, dignity, and respect for the difference which recognize disability as an important part and contribute to human diversity.²⁴ The Convention thus finally makes the 'dignity value as a fundamental thing of equality by making a purposeful theoretical distinction between treating people equally in the distribution of resources and treating them as equals. It is also emphasized to respect the dignity, individual freedom, and independence.²⁵

Indonesia has ratified the CRPD under law no.19 of 2011 on October 18 and specifically, the convention in article 27 about employment also requires the state which ratified this instrument to enact the provision. This article is encouraging by the obligation that needs to fulfill according to the previous provision inter alia:

- a Encourage state parties to provide legislation, modify, or abolish discriminative regulation and practice by public authorities, institutions, organizations, communities, or private enterprise. State parties also require to protect and promote human rights in all policies and programs. Then, to address the issues and promote the rights of the convention, the state should involve and consult persons with disabilities including through their representative organizations. (Article 4 about General Obligation).
- b The need enforces the appropriate measure to enjoy equal legal capacity for persons with disabilities such in article state "enjoy legal capacity on an equal basis with others in all aspects of life" and state must exercise appropriate and effective safeguards to prevent abuse of human rights law. The article emphasizes the protection of rights under national law and justice system for persons with disabilities so they have a guarantee to choose the way to live, equal basis with

²³ Karner, A.S. (2015). A Comparative View of Equality under the UN Convention on the Rights of Persons with Disabilities and the Disability Laws of the United States and Canada. *Windsor Year Books of Access to Justice*, 32(2), p.73.

²⁴ May-Simera, C. (2018). Reconsidering sheltered workshops in light of the United Nations Convention on the rights of persons with disabilities (2006). *Laws*, 7(1), p.8.

²⁵ Komang, S.N. (2015). Pengaturan Advokasi terhadap Hak-Hak Penyandang Disabilitas terhadap Diskriminasi di Bidang Penegakan Hukum. *Jurnal Magister Hukum Udayana*. 4(1), p.105.

another including social participation, and any persons need to respect it. (Article 12 about Equality Before the Law)

The Indonesian government has recognized the principle that persons with disabilities must be empowered to exercise their human rights. It can be seen in the 1945 constitution where the state responsible to protect, promote, enforce and fulfill human rights under democratic principles under guarantee through additional regulation and other legislation (Article 28I Paragraphs 4-5).

National government within the legislative (lawmaker) has given equal opportunities for persons with disabilities to have equal rights on employment and the work condition must be reasonable with the result that persons with disabilities become productive. It can be seen in the Indonesian constitution on Article 27 where every citizen has the right to work and decent livelihood for the sake of humanity. Then, the provision inside the constitution has been emphasized in Law no.39 of 1999 about Human Rights wherein article 38 every citizen has the right to choose and obtain decent work following their skills and abilities. Then, entitled this right state also obligates to give education, training, and special assistance (Article 42).

Therefore, to realize obligation from the constitution and human rights legislation the legislative has formulated other specific laws that must be applied by the government both from regulation, policy, and practices with consideration for persons with disabilities by providing equalities relating to employment opportunities, which means the government provides legal protection for this group of people.

Legal protection is the action of the state to enact the law/regulation to assure enjoy the rights of a person or community and protection when their rights are harmed by another.²⁶ Persons with disabilities are obliged to obtain special legal protection from the government including in employment issues because they are the community that is vulnerable to get discrimination and protection is an effort to the right that natural and inherent for every human being to empower themselves and earn income to fulfill they livelihood.

The provision of Article 27 CRPD as human rights guidance and implementation adjusted with the national law and regulation to give certainty of legal protection by government policies that have been implemented on work opportunities.

The provision exists in paragraph 1 within subparagraph (a, d, e, g, h, and k) as follows:

- (1) Prohibit discrimination based on disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, the continuance of employment, career advancement, and safe and healthy working conditions.
- (2) Enable persons with disabilities to have effective access to general technical and vocational guidance programs, placement services, and vocational and continuing training.

²⁶ Nurhayati, S. (2020). Social Inclusion for Persons with Disabilities Through Access to Employment in Indonesia, *Prophetic Law Review*, 2(1),p. 8.

- (3) Promote employment opportunities and career advancement for persons with disabilities in the labor market, as well as assistance in finding, obtaining, maintaining, and returning to employment.
- (4) Employ persons with disabilities in the public sector.
- (5) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives, and other measures.
- (6) Promote vocational and professional rehabilitation, job retention, and return-to-work program for persons with disabilities.

This article is guidance to fulfill the rights of persons with disabilities in employment opportunities that must be implemented by ratified countries and is binding through appropriate steps with the availability of regulations, policies, and programs. The things that must be fulfilled by the government for people with disabilities ease to find and obtain job as follows:

3.2.1. Antidiscrimination Measure

The convention requires the government to modify and repeal laws, policies, and practices that are discriminatory against persons with disabilities in the field of employment even it is unintentional.²⁷

Legal protections against discrimination provide an essential foundation for these equal opportunities so the laws must have mechanisms to encourage preventing and lowering rates of discrimination by the set particular provision.

The national law has realized a statement of basic norms and provisions to create equality, namely the provisions in Disability Act in article 11 ensure persons with disabilities obtain jobs held by national/local government or private enterprise without discrimination. Previously, regulations relating to manpower also had an explicit statement regarding employment opportunities with disabilities regulated in Employment Act no. 13 of 2003 state every workforce has an equal chance to obtain work (Article 5). To respond to the statement of legislation, the government should guarantee the recruitment process and job training (article 45 of Disability Act). Besides, when conduct recruitment the government must emphasize that employers do placement tests to determine the interests, abilities, assist in the process of completing application forms and other necessary processes (Article 47). These measures are to ensure the equal recruitment of persons with disabilities.

To ensure employee recruitment in the private sector the national government conduct supervision on private enterprises with a division called Directorate General of Labour Inspection. Then, to help its duties, the directorate also cooperates with other institutions called Better Work Indonesia since the formulation of protocol for handle non-tolerable violations cases.

²⁷ Batenkas, I, Stein M. A., & Anastasiou, D (ed.). (2018). *The UN Convention on The Rights of Persons with Disabilities: A Commentary*. USA: Oxford University Press, p.773.

Fortunately, if the employer has been proven deliberately put aside in the recruitment process while the company can provide accommodation to disability candidates, it will be imposed with administrative sanction from warning until the revocation of business license (Article 190 (2) of Labor Act). Furthermore, if the employer prohibits or obscures the candidate, they will impose a maximum of 2 years imprisonment and a maximum fine amount of 200 million rupiahs (Article 145 of Disability Act).

Still, there are some formulated laws which are still vulnerable to discrimination even if it is not intended: The legislation such as Law about State Apparatus no.5 of 2014 in Article 65 concern on physical health requirement as a condition of the process and Law no.13 of 2003 about Manpower still use handicap term. These kinds of legislation possibly create employers more prioritize recruitment to people without disabilities that recognize with physical health and hold charity stigma even lowered from another. Nonetheless, the implementation regulation about an employee with disabilities in the specific regulation to handle the accommodation of the disability workforce still absent.

3.2.2. Vocational Training

Apart from supervision and punishment to the employer, they still have stereotypes and fear that persons with disabilities will be less productive at work and not match with the classification skill needed by the company so the workforce may decrease the income for them.

Such kind of training exists to protect persons with disabilities from discrimination on employment, ensuring accessibility of premises, information, and materials, provision of training.

The legislation ensures the government's commitment to providing opportunities for persons with disabilities to attend vocational training in central/local government and/or private vocational training institutions (Article 46 of Disability Act). Thus, it must concern the type of impairments and the abilities of the workforce with disabilities (Article 19 of the Labor Act).

It indicates that the government must provide a training program, facilities, and easy access for them. Consequently, after the fulfillment of training then the employer can obtain a workforce who understands the basis of work or work professionally.²⁸

Then, to respond to this legislation government create a regulation policy about organizing the social welfare of persons with disabilities called government lieu of law no.52 of 2019, the provision emphasizes that vocational training and continuation guidance as to the part of social rehabilitation (Article 14) which has a function to increase the function and independence of living by gaining skill for work. It is indicating that rehabilitation also covers a wide range of actions including the areas of

²⁸ Raissa, A. (2020). Perlindungan Bagi Para Pencari Kerja dari Kualifikasi Perusahaan yang Diskriminatif. *Mimbar Keadilan*, 12(2), p.268.

employment.²⁹ Then, the next provision stated that training will provide performance based on their interest, skill, and potential (Article 17). After persons with disabilities have joined and finished the training program, they have the right to obtain a competence certificate (Article 7 of the Ministry of Manpower Decision no. 205 of 1999) and continuation guidance as the activity to monitor development in work and improve the quality of skill (Article 24 of government lieu of law no.52 of 2019).

To realize this rehabilitation policy, the execution program is carried out by the directorate general of social rehabilitation for persons with disabilities as the division under the Ministry of Social Affairs to provide vocational training. Also, after termination from vocational service, the institutions should monitor the activities of people with disabilities in the work environment. (Article 18 Ministry of Social Affairs Regulation no.7 of 2017).

Realization program of this rehabilitation through the existence of 19 Disability Rehabilitation Center as a unit that directly gives the service to persons with disabilities to find the potential or develop the skill and live quality for them that could not handle by local authorities based on their capacities.

Specifically, in the local service area, the national government create a deconcentrate mechanism in 34 Province as a task to implement rehabilitation through a specific area by local authorities. The service consists of several activities including Vocational Training, Job Learning Practices, Community Based Rehabilitation, support device, the social campaign to the community of their district, and disabilities assistance. Then, after obtaining the creativity material, training, assistive tools, and work practice, persons with disabilities will distribute for the placement of work based on their consent.

3.2.3. Labor Market Promotion

Convention emphasizes the appropriate government to take comprehensive actions for the labor market to provide the existence of employment opportunities for persons with disabilities.

Specifically, the labor market has a role to facilitate job search, including information services on employment and training, individualized assistance such as guidance with job search and application, and intermediary activities which is bridge the job seeker and employer. Then, with the function above, there is an issue about deficiencies in human capital (ex: insufficient education and experience) and connections to the labor market, which constrain the access of disabled persons to regular work.³⁰

National legislation emphasizes the right of persons with disabilities to obtain work on the companies (article 11 of Disability Act) as we know the labor market is the job vacancy from the enterprise.

²⁹ Ferraina, S. (2012). *Analysis of the Legal Meaning of Article 27 of the UN CRPD: Key Challenges for Adapted Work Settings*, New York: Global Applied Disability Research and Information Network, p.17.

³⁰ Reinders Folmer, C. P. et al. (2020). Evaluating Social Investment in Disability Policy: Impact of measures for activation, support, and facilitation on Employment of disabled persons in 22 European countries. *Social Policy & Administration*, 54(5), p.3.

The government program from the Ministry of Manpower for assistance in finding and obtaining work through job fair that provides by the ministry with the private sector cooperation, partnership with disabilities network organization that can be found through information from internet such as *kerjabilitas* or labor market information by Department of Manpower. Also, State Enterprises under its ministry has been promoting job vacancies through the State Enterprise Joint Recruitment Program by Cooperation with the Ministry of Manpower.

Besides, the Ministry of Social Affairs promotes and give socialization to the private enterprise with the purpose to ensure them for providing employment quota for persons with disabilities and create an agreement to distribute disabilities workforce into the companies. Then, promotion of placement services also provides for those who have been graduated as vocational training beneficiaries with distribution to the company based on the skill that needs by companies.

3.2.4. Public Sector Opportunity

Aside from self-employment and the opportunity to be hired by other people such as enterprises, persons with disabilities have the right to obtain employment as a civil servant. It is important and obligate to ensure that people with disabilities who want to enter the public service are given the same opportunities.

The disabilities act enforces government agencies to employ in the public sector at least 2% of persons with disabilities from 100 state employees (Article 53).

The national government shows its commitment to the State Apparatus recruitment by providing a special quota for persons with disabilities every year throughout the formulation of the Ministry of State Apparatus Empowerment and Bureaucratic Reforms policy about the recruitment of disabilities according to the civil servant position needed and National Civil Service Agency role to collect data and manage the formation of civil servant including for persons with disabilities.

Ministry of State Apparatus Empowerment and Bureaucratic Reforms Regulation no. 23 of 2019 provide rights, obligations, and procedure that must be fulfilled by the applicant with disabilities and state institution that open civil servant recruitment where the applicants must prepare an official certificate from government hospital stating the type and degree of disability. Persons with disabilities have the freedom to register with special formations, general formations, or special formations outside the disability formations available at certain agencies. Also, persons with disabilities can fill a rebuttal if they did not pass administration selection caused by inexistence position. Then, the administration official must change the administration result.

3.2.5. Promotion of Private Sector Employment

The state must ensure the existence of legislation and other policies related to employment in the private sector so the company will realize and have the intention to hire persons with disabilities. Likewise, a particular program is needed to motivate the business sector for empowered persons with disabilities without compulsion. Then,

appropriate measures to motivate the private sectors such as a reward for motivational motive, incentives, or other actions as well as excellent for creating inclusive employment or. For instance, incentives typically reflect targeted, temporary, and conditional payments or reductions of tax/social security contributions, which make labor facilities cheaper for employers. Such measures, therefore, address employers' reservations against employing disabled persons, by compensating their (real or imagined) deficiencies relative to nondisabled staff. Incentives are assumed to promote demand, and thereby the access of disabled persons to regular work.

Under national law, private companies are required to hire at least 1% of persons with disabilities, and state enterprises need to hire at least 2% from a minimum of 100 employees. (Article 53 Disabilities Act).

The national government and local governments will give incentives to the companies who employ persons with disabilities (Article 54) and if the companies consistently employ persons with disabilities when they open recruitment, they will obtain a reward from the government based on article 139 Disabilities Act within the procedure exist in Presidential Regulation no.67 of 2020 as the guide for all official levels. Despite this, there is still no regulation and policy about incentives or other motivational action to the employer even it is obligate in Disabilities Act.

3.2.6. Return to Work Program

People without disabilities caused by some disease or accident become impairment have the right to return for employment because it is the need for obtaining income and fulfill his livelihood; National legal protection has been formed in disabilities act emphasizes that persons with disabilities have the right to return to work program and could not be retired with disability reason. (article 11) and labor law in the statement to force prohibition of the company to terminate the worker with impairment reason and termination is null and void (Article 153 Paragraph 1 j and Paragraph 2). Therefore, the Ministry of Manpower responds to this legislation and establishes a return to work program as a part of social protection under the Labor Social Security Management Body for the registered workers in the work accident guarantee program. The program is conducted through medication, rehabilitation, and event training so that persons with disabilities can work in the company again (Article 5 of the Ministry of Manpower Regulation no. 6 of 2016).

All guidance instruments for fulfilling the rights of persons with disabilities in article 27 CRPD is the main focus on employment but other provisions support the work opportunities namely:

3.2.7. Awareness Raising

In article 8 of Convention of the Rights for Persons with Disabilities, State Parties undertake to adopt immediate, effective, and appropriate measures: to promote awareness of the capabilities and contributions of persons with disabilities, and to promote recognition of the skills, merits, and abilities of persons with disabilities, and their contributions to the workplace and the labor market.

Information campaigns and awareness-raising carry out by government agencies and can be assisted by companies/employers in the form of public seminars and publications in various information media. The campaign was also carried out to increase the awareness of the government itself towards fellow institutions and bureaucracy in the country.

This has already been written in Government Lieu of Law no.52 of 2019 about Social Welfare of Persons with Disabilities which explains that in increasing the empowerment of persons with disabilities, socialization is needed to institutions, the business world, and partners to build a spirit of cooperation dan partnership (Article 60) to increase awareness and to encourage these stakeholders to employ people with disabilities.

Therefore, the government under the Ministry of Manpower has launched Disability Equality Training from the International Labor Organization standard and non-discrimination strategy for employment officials in provincial, cities, and regencies' level with government budget allocation as the way to increase awareness and the accommodation services to persons with disabilities about the employment and productivity. The training sometimes also invites non-state actors to relate to employment. Another program by the Ministry of Manpower with several stakeholders is by creating Business Network and Indonesian Disabilities program to understand the role and importance of employing people with disabilities, promote to conduct disability-friendly recruitment, and find the solution to solve facilities with accommodation issues for creating inclusive labor environment.

Besides, the awareness and recognition campaign by the government to local communities also through community-based rehabilitation and social campaign by the local government. It indicates in the Ministry of Social Affairs policy that rehabilitation outside the institution is carried out by family within the community (Article 10 of Social Ministry Regulation no.7 of 2017). This step can encourage the community to remove stigma, understand barriers, and provide support to people with disabilities.

Every activity of the national government if we adjusted with human rights values and guidance concern on employment opportunities; can be seen from the suitable with international and national human rights law instrument and others regulation. So, from all roles, the government comply to protect, promote, and fulfill the rights of persons with disabilities but still not comply with the provision of law instruments comprehensively because there are problems since the discrimination and unintended stigma still exist in specific national legislation and regulation, and absence of regulation about disabilities employment. Then, the lack of policy about the measure to motivate private sectors to create inclusive employment such as incentives

4. Conclusion

To handle the employment opportunity issue, the national government commit in their role to realize a paradigm shift in policy and awareness from a medical perspective

to a social and human rights perspective which means not only therapy or healing for people with disabilities but also facilitating them to remove barriers to participate in people's lives and guarantee their rights including the work opportunity. This measures through its mandate to the Ministry of Social Affairs as disabilities leading sector, Ministry of Manpower, and Ministry of State Apparatus Empowerment and Bureaucratic Reform. Then, their role applies through policy and realize in the program with direction to promote awareness and importance of disabilities employment to stakeholders, open special labor market service, create training to empowerment and work placement services, return to work program if workers become disable at work time, provide quota for persons with disabilities recruitment on public sectors, supervise stakeholder (company and government instance), and measure to handle discrimination if the action has occurred both in public or private sectors. However, from it is adjusted to international and national human rights law instrument, the government does not comply to all provision of law because there are still some discrimination and unintended stigma in specific legislation and regulation, absence of regulation about disabilities employment, and lack of policy and underground regulation to promote employment in private sectors.

References

Book

- Batenkas, I, Stein M. A., & Anastasiou, D (ed.). (2018). *The UN Convention on The Rights of Persons with Disabilities: A Commentary*. USA: Oxford University Press.
- Directorate of Social Rehabilitation of Persons with Disabilities. (2019). *Laporan Kinerja 2018: Direktorat Rehabilitasi Sosial Penyandang Disabilitas*, Jakarta: Kementerian Sosial Republik Indonesia.
- Hastuti. et al. (2019). *Kendala Mewujudkan Pembangunan Inklusif Terhadap Peyandang Disabilitas*. Jakarta: SMERU Research Institute.
- International Labor Organization. (2016). *Program ILO di Indonesia: Capaian 2016*. Jakarta: International Labor Organization.
- Ministry of Manpower. (2018). *Lakin Kemnaker 2018*. Jakarta: Kementerian Ketenagakerjaan Republik Indonesia.
- Ministry of Social Affairs. (2019). *Laporan Kinerja Kementerian Sosial RI Tahun 2018*. Jakarta: Kementerian Sosial Republik Indonesia.
- Pujilaksono, S. (2020). *Perundang-Undangan Sosial dan Pekerjaan Sosial: Perspektif Pemenuhan Keadilan dan Kesejahteraan Sosial*. Malang: Setara Press.

Journal

- Adler, A, & Seligman. (2016). Using wellbeing for public policy: theory, measurement, and recommendations. *International Journal of Wellbeing*, 6(1).
- Awang, H, & Mansor, N. (2017). Predicting Employment Status of Injured Workers Following a Case Management Intervention. *Safety and Health at Work*, 9(3).
- Asmawi, A. (2018). Kesejahteraan Rakyat dan Implementasi Kebijakan Transportasi Laut di Jawa Barat, *Jurnal Pembangunan Sosial*, 1(1).
- Karner, A.S. (2015). A Comparative View of Equality under the UN Convention on the Rights of Persons with Disabilities and the Disability Laws of the United States and Canada. *Windsor Year Books of Access to Justice*, 32(2).
- Komang, S.N. (2015). Pengaturan Advokasi terhadap Hak-Hak Penyandang Disabilitas terhadap Diskriminasi di Bidang Penegakan Hukum. *Jurnal Magister Hukum Udayana*. 4(1).
- Machingura, T & Lloyd, C. (2017), Mental Health Occupational Therapy and Supported Employment. *Irish Journal of Occupational Therapy*, 45(1).
- May-Simera, C. (2018). Reconsidering sheltered workshops in light of the United Nations Convention on the rights of persons with disabilities (2006). *Laws*, 7(1).
- Mbengi, R. K. et al. (2018). How do social security schemes and labor market policies support the return-to-work of cancer survivors?. *Journal of Cancer Policy*, 15(1).
- Nurhayati, S. (2020). Social Inclusion for Persons with Disabilities Through Access to Employment in Indonesia, *Prophetic Law Review*, 2(1).
- Raissa, A. (2020). Perlindungan Bagi Para Pencari Kerja dari Kualifikasi Perusahaan yang Diskriminatif. *Mimbar Keadilan*, 12(2).
- Reinders Folmer, C. P. et al. (2020). Evaluating Social Investment in Disability Policy: Impact of measures for activation, support, and facilitation on Employment of disabled persons in 22 European countries. *Social Policy & Administration*, 54(5).
- Saiful, D. et al. (2019). Public policy analysis on disaster threat due to geo-environmental condition of Tugurara River in Ternate City, North Maluku Province, *International Journal of GEOMATE*, 17(60).
- Skarstad, K. (2018). Human Rights through the Lens of Disability. *Netherland Quarterly of Human Rights*, 36(1).
- Surwanti, A, & Puspitosari W.A. (2019). Peningkatan Peran Kelompok Rehabilitasi Berbasis Masyarakat dalam Mewujudkan Kesejahteraan Penyandang Disabilitas. *Jurnal Pembedayaan*, 3(3).
- Susiana, W. (2019). Pemenuhan Penyandang Hak Disabilitas Dalam Mendapatkan Pekerjaan di BUMN. *Law Reform*, 15(2).

Wijaya, A.H. et al. (2020). Perlindungan Hak Penyandang Disabilitas dalam Memperoleh Pekerjaan dan Penghidupan yang Layak bagi Kemanusiaan. *Jurnal Konstitusi*, 17(1).

Article

Ferraina, S. (2012). *Analysis of the Legal Meaning of Article 27 of the UN CRPD: Key Challenges for Adapted Work Settings*, New York: Global Applied Disability Research and Information Network.

Wahyuni, D. (2019). Kajian Singkat Terhadap Isu Aktual dan Strategis: Peluang dan Tantangan Penyandang Disabilitas di Dunia Kerja. *Bidang Kesejahteraan Sosial*, Vol. XI, No.23/I/Puslit/Desember/2019.

Convention, Legislation, and Regulation

The Universal Declaration of Human Rights 1948

Convention on the Rights of Persons with Disabilities 2006

The 1945 Constitution of the Republic of Indonesia

The Law no.39 of 1999 about Human Rights

The Law no.13 of 2003 about Employment

The Law no.5 of 2014 about State Apparatus

The Law no.8 of 2016 about Disabilities

The Government Lieu of Law No.44 of 2015 about the implementation of work accident insurance and occupational death insurance programs

The Government Lieu of Law no.52 of 2019 about Promote Social Welfare of Persons with Disabilities

The Government of Lieu of Law no.70 of 2019 about Planning, Promote, and Fulfillment of the Rights of Persons with Disabilities

The Presidential Regulation no.67 of 2020 about Requirement and Procedure of Reward on Respect, Protect, and Fulfill the Rights of Persons with Disabilities

The Presidential Regulation no.68 of 2020 about the National Commission of Disabilities

The Ministry of Social Affairs Regulation no.7 of 2017 about Habilitation and Rehabilitation for Persons with Disabilities Standard

Ministry of State Apparatus Empowerment and Bureaucratic Reforms Regulation no. 23 of 2019 about Criteria for Determining the Needs of Civil Servant and Selection of Civil Servant Candidate in 2019

Ministry of Manpower Decision No: KEP/ 205/MEN/1999 about Work Training and Placement for Handicap.

Internet

- CNN Indonesia. (2018). Serapan Pekerja Difabel oleh Perusahaan Masih Minim. Accessed on June 2nd 2020, <https://www.cnnindonesia.com/ekonomi/20181030140004-92-342624/serapan-pekerja-difabel-oleh-perusahaan-masih-minim>
- Jeannette, S. (2015). *Moving towards disability inclusion: Stories of Change*. Geneva: International Labor Organization. Accessed on August 2nd 2020, https://www.ilo.org/wcmsp5/groups/public/ed_emp/ifp_skills/documents/publication/wcms_423412.pdf
- Kementerian Informasi dan Komunikasi. (2019). 268 Penyandang Disabilitas Ikuti Diklat 3 in 1 Industri Garmen dan Alas Kaki. Accessed on September 23rd 2020, https://www.kominfo.go.id/content/detail/16093/268-penyandang-disabilitas-ikutidiklat-3-in-1industri-garmen-dan-alas-kaki/0/artikel_gpr
- Ministry of Manpower, International Labor Organization. (2018). Protocol for Handling of Non - Tolerable Cases (*Zero Tolerance Protocol*) between Directorate General of Labor Inspection and OSH–Ministry of Manpower of the Republic Indonesia and Better Work Indonesia. Accessed June 26th 2020, https://www.ilo.org/jakarta/info/WCMS_625550/lang--en/index.htm