

Challenging the “Half-Hearted” Fulfillment of the Rights of Workers with Disabilities

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Abstract

This study finds that there is a persistent legal conflict and regulatory disharmony between national provisions on disability employment quotas and their implementation at the company level. Empirical evidence shows that many companies fail to meet the quota obligation due to the absence of qualified applicants with disabilities, unprepared workplace environments, and the lack of operational technical guidelines. Furthermore, the absence of explicit sanctions in existing regulations creates legal uncertainty and weakens enforcement. Using a normative legal method with a statute and conceptual approach, this research analyzes the relevant legal framework and constructs arguments based on legal principles and theories in labor law concerning the rights of persons with disabilities. The study reveals that the current regulatory framework lacks integrated monitoring mechanisms, measurable evaluation indicators, and clear administrative sanctions, while also failing to provide incentives that could encourage compliance. The novelty of this research lies in offering a combined legal and policy framework that bridges the gap between normative provisions and practical implementation, supported by recommendations for detailed technical guidelines, accessibility audits, and structured incentive schemes. These findings contribute to strengthening inclusive labor policies in Indonesia, ensuring that the principle of inclusivity becomes a measurable and enforceable standard rather than a rhetorical aspiration.

Keywords: *regulatory disharmony, quota obligation, disability worker quota*

A. INTRODUCTION

The right to work is part of the human rights constitutionally guaranteed in Indonesia. Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia stipulates that “*Every citizen shall have the right to work and to earn a humane living.*” This right also applies to vulnerable groups, including persons

with disabilities. To realize equality and social justice, the state is obliged to provide legal protection and affirmative policies to ensure the participation of persons with disabilities in the workforce. Law No. 8 of 2016 on Persons with Disabilities represents a major milestone in the progressive recognition of the rights of persons with disabilities. One of its strategic provisions is the regulation of mandatory employment quotas for persons with disabilities. Article 53 paragraph (1) mandates that every private company must employ at least 1% of persons with disabilities from its total workforce, while government institutions have a higher obligation of at least 2%. However, despite this normative provision, the realization of the quota policy remains far from expectations. A study by Bappenas (2019) revealed that the labor force participation rate of persons with disabilities in Indonesia is still low, at only about 7.5%, with most working in the informal sector. ((Bappenas), 2019) Data from the Central Bureau of Statistics (BPS) in 2022 show that of the total working-age population with disabilities, only 45.87% are employed, with significant disparities between urban and rural areas. (Statistik, 2022)

In practice, there is legal conflict and regulatory disharmony between national provisions and company-level implementation. Many companies fail to meet the quota obligation, citing the absence of suitable applicants with disabilities, unprepared work environments, and the lack of operational technical guidelines. Furthermore, sanctions for companies violating the quota are not clearly stipulated, leading to legal uncertainty. According to Harefa & Adiwirman (2021), the lack of enforcement mechanisms and the absence of incentive or

disincentive systems render the policy largely non-enforceable.(Harefa & Adiwarmarman, 2021)

Additionally, implementing regulations such as Government Regulation No. 60 of 2020 on Disability Service Units (ULD) in the Employment Sector have not been fully integrated with companies' internal recruitment policies. In some cases, job standards, selection systems, and workplace design remain normative and fail to take into account accessibility principles and reasonable accommodation for persons with disabilities. This demonstrates a gap between the principle of inclusion in national law and the exclusive practices within the business sector.

From an academic perspective, there is a notable research gap. Many legal and social studies on disability focus on social, educational, or public service aspects. Research specifically examining the implementation of employment quotas in the private sector remains scarce. For instance, studies such as Damayanti & Nugroho (2020) only explore the perceptions of persons with disabilities toward employment without critically assessing the legal structures and normative challenges faced by companies.(Damayanti & Nugroho, 2020) To create an inclusive employment system, interdisciplinary research encompassing legal, economic, and human resource management perspectives is essential.

Through this research, the author seeks to address this academic gap by examining the legal conflicts surrounding disability employment quotas, the rights of workers with disabilities in companies, the effectiveness of affirmative policies in the private sector, and the need for more operational and adaptive policy frameworks. It is hoped that the findings will contribute meaningfully to the development of an inclusive labor law and policy framework.

B. RESEARCH METHOD

This study employs a normative legal research method (Sabar et al., 2025), also known as doctrinal research, which focuses on examining, analyzing, and interpreting written legal rules, including legislation and court decisions, in the sense of what *ought to be* (*das sollen*) rather than what occurs in practice. The method combines a statute approach and a conceptual approach (Tinambunan, 2018), chosen because the research aims to analyze legal provisions governing disability employment quotas, identify regulatory disharmony, and propose normative solutions within the labor law framework. (Marzuki, 2017) This approach enables a systematic examination of statutory foundations, legal concepts, and principles relevant to the rights of persons with disabilities, while recognizing its limitations in capturing practical implementation or societal perceptions. Consequently, the findings are prescriptive in nature, intended to refine legal norms and policy frameworks to strengthen inclusivity in Indonesia's labor sector.

C. RESULT AND DISCUSSION

Normative Regulation of the Rights of Workers with Disabilities

The main legal foundation is Law No. 8 of 2016 on Persons with Disabilities (UU 8/2016), particularly Article 53 paragraph (2), which provides for employment rights and the quota system — requiring private companies to employ at least 1% of persons with disabilities. At the broader labor law level, Law No. 13 of 2003 on Manpower, particularly Articles 5 and 6, provides for equal opportunity and non-

discrimination principles, forming the basis for anti-discrimination in recruitment and employment.

At the regulatory level below the law, Government Regulation No. 60 of 2020 on Disability Service Units in the Employment Sector establishes the role of ULDs in monitoring and providing employment services. However, their presence and capacity remain uneven across the country. BPS labor force survey data (August 2023), processed by the Ministry of Manpower's Pusdatik, show that there are 21.23 million working-age persons with disabilities, of whom 14.77 million are in the labor force, and 13.9 million are employed.(Indonesia, 2025a, 2025b) As of 2023, there were only 207 ULDs nationwide (28 provinces, 127 regencies, and 52 cities), placing just 702 persons with disabilities into jobs by December 2023. It is hoped that Employment Service Units (ULD) will continue to increase in number. In addition, their operations will become more active and optimal, thereby expanding employment placements. Another key aspect in promoting inclusive employment placement and empowerment is the support system in the workplace, including how to create inclusivity in the work environment.(Indonesia, 2025b)

Meanwhile, there is also Presidential Regulation No. 67 of 2020 on the Requirements and Procedures for Granting Awards in the Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities (Perpres 67/2020) and Presidential Regulation No. 68 of 2020 on the National Commission on Disabilities (Perpres 68/2020). Both regulations essentially serve as a framework for strengthening national policies related to the fulfillment of disability rights. Regarding Perpres 67/2020, substantively it regulates awards as a form of recognition for the contributions of persons with disabilities. However, it does not yet include systematic

incentives or comprehensively address the diverse groups of persons with disabilities, either in terms of types of impairments or socio-economic backgrounds. As for the substance of Perpres 68/2020, the National Commission on Disabilities is supposed to represent the voices of persons with disabilities in policy-making. If its membership and consultation mechanisms are limited or dominated by non-disabled parties, its legitimacy and effectiveness may be questioned. This is evident in Article 7 paragraph (1), which states that the members of the NCD, as referred to in paragraph (1), shall total seven (7) persons, consisting of: a) four (4) members from among persons with disabilities; and b) three (3) members from among non-disabled persons.

At the ministerial level, there is Minister of Manpower Regulation No. 21 of 2020 concerning Guidelines for the Implementation of Disability Service Units in the Employment Sector (Permenaker 21/2020) and Minister of Manpower Regulation No. 3 of 2021 concerning Guidelines for Granting National Awards to Companies and State-Owned Enterprises Employing Workers with Disabilities (Permenaker 3/2021). Permenaker 21/2020 serves as a guideline that does not include provisions regarding budget allocation or operational funding for Disability Service Units (ULD), which can hinder implementation in the field. It also lacks integrated implementation indicators, resulting in potentially wide variations in service quality between provinces or sectors. Furthermore, the absence of regular audit or evaluation mechanisms makes it difficult to monitor the effectiveness of ULD and maintain service consistency. Lastly, it has yet to clearly regulate the participation of persons with disabilities themselves in service planning or evaluation. Meanwhile, regarding Permenaker 3/2021, its shortcomings include: *First*, without clear quantitative indicators, company evaluations may be normative and subjective. *Second*, assessments based solely on

documents or self-reports may create bias, without on-site verification or independent audits. *Third*, awards are not accompanied by fiscal incentives or supporting policies, limiting their effectiveness in driving real change. *Lastly*, there is the possibility that companies may focus only on projecting an inclusive image, without building a genuinely inclusive work system in depth.

A Constitutional Court ruling that is normatively related to the rights of workers with disabilities can be seen in Constitutional Court Decision No. 93/PUU-XX/2022 regarding the Judicial Review of the Indonesian Civil Code. This decision is significant because it interprets the provisions on guardianship in the Civil Code, which affect the legal capacity of persons with disabilities, and affirms that guardianship does not automatically remove legal capacity. Persons with disabilities who can understand risks are entitled to full legal capacity. This ruling strengthens the position of persons with disabilities as legal subjects entitled to enter into employment agreements if they meet the requirements of legal competence, thereby supporting the right to work and reducing the justification for employment discrimination based on stereotypes. (Sabar et al., 2025)

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Key problems hindering full realization:

1. Weak or unclear sanctions

Law No. 8 of 2016 sets a quota (1% for the private sector) but does not include strict criminal or administrative sanctions in many of its articles for companies that fail to meet the quota; enforcement largely depends on implementing regulations and local

policies/incentives rather than strict penalties. As a result, many companies do not implement the existing provisions."

2. Limited monitoring and reporting mechanisms

Disability Service Units (ULD) have been regulated in several provisions; however, their capacity in many regions remains limited in terms of human resources, budget, and networks with companies, as well as suboptimal monitoring of quota compliance and accessibility.

3. Incomplete accessibility standards

There are technical guidelines stipulated in Minister of Public Works and Public Housing Regulation No. 14/PRT/M/2017 of 2017 on the Requirements for Accessibility in Buildings (Permen PUPR 14/2017), but implementation in office buildings/companies varies greatly; many workplaces are still not fully accessible or do not provide reasonable accommodation, particularly for employees with disabilities.

4. Gap between legal norms and corporate HR culture

Discriminatory job advertisements (such as requirements related to physical and mental health) or non-adaptive selection processes marginalize applicants with disabilities even when quotas exist. Laws and ministerial regulations have not fully compelled a change in corporate culture.

5. Lack of data and access to qualified candidates

Companies often complain about the difficulty of finding candidates with disabilities who match the required competencies; this occurs because, although the government provides portals and networks, their reach has not been evenly distributed.

The fulfillment of the right to work for persons with disabilities in Indonesia remains far from optimal despite the existence of various regulations, including Law No. 8 of 2016. One of the main obstacles is the weak sanction system for companies that fail to meet the 1% quota for the private sector. The absence of strict criminal or administrative penalties results in reliance on implementing regulations and local policies, which significantly weakens enforcement. Consequently, many companies neglect the existing provisions without fear of legal consequences, underscoring the urgent need for regulatory reform to create deterrent effects.

In addition to weak sanctions, monitoring and reporting mechanisms remain ineffective. Disability Service Units (ULD), although legally mandated, have limited capacity in many regions in terms of human resources, budget, and networks with companies. This situation hinders effective oversight of quota compliance and workplace accessibility. Without robust monitoring, violations are difficult to detect or address in a timely manner.

Accessibility standards stipulated under Minister of Public Works and Public Housing Regulation No. 14/2017 provide technical guidance but are inconsistently implemented across workplaces. Many companies fail to provide adequate accessibility or reasonable accommodations, limiting the full participation of persons with disabilities in the workforce. Such inconsistency exacerbates inequality in employment opportunities and undermines the principle of inclusivity.

Furthermore, a significant gap persists between legal norms and corporate human resource culture. Some companies continue to issue discriminatory job advertisements, including unnecessary physical and mental health requirements, while recruitment processes remain non-adaptive to the needs of persons with disabilities.

Current laws and ministerial regulations have yet to compel meaningful changes in corporate practices, highlighting the need for legal reforms accompanied by cultural transformation in the business sector.

The lack of comprehensive data and limited access to qualified candidates with disabilities also present recurring challenges for companies. Although government portals and recruitment networks exist, their reach is uneven across regions, preventing suitable candidates from connecting with available job opportunities. This data gap hinders companies from fulfilling quotas despite the availability of potential workers, making integrated national data systems an urgent necessity.

Addressing these barriers requires a multidimensional approach. Legal reforms should include amendments to Law No. 8 of 2016 to introduce clear administrative sanctions or fines. ULD capacity must be strengthened and expanded nationwide, and regular audits should be conducted to ensure consistent implementation of accessibility standards. Corporate culture change should be pursued through targeted training, awareness campaigns, and inclusive recruitment programs.

Integrating national disability employment data will be essential for matching companies with suitable candidates. Accurate and accessible data can be supported by partnerships between businesses and vocational training institutions, alongside the optimization of recruitment platforms with broader reach and user-friendly features. These measures will significantly reduce barriers to candidate placement.

The success of the disability employment quota policy will not rely solely on strong regulations but also on structural support, such as fiscal incentives, public recognition, and funding for reasonable accommodations. A balanced combination of incentives and sanctions will create a stronger motivation for compliance. Mentoring

programs for companies in the early stages of implementing inclusive practices will also facilitate sustainable changes.

Overall, the fulfillment of disability employment rights in Indonesia remains “half-hearted” due to weak law enforcement, inadequate monitoring, inconsistent accessibility standards, exclusive corporate cultures, and data-related barriers. Comprehensive reforms in legal, institutional, infrastructural, and cultural aspects are required to close this gap. Consistent implementation will strengthen the position of persons with disabilities in the labor market and serve as a tangible indicator of the state’s commitment to human rights and social justice. By doing so, the principle of inclusivity can be transformed from a rhetorical aspiration into a concrete and sustainable standard within national labor policy. The fulfillment of disability employment rights in Indonesia remains largely “half-hearted,” as the gap between the existing legal framework and its practical implementation persists. Despite formal provisions under Law No. 8 of 2016 and its implementing regulations, weak enforcement mechanisms allow many companies to disregard the quota obligations without consequence, reducing inclusivity to a symbolic commitment rather than a functional reality. The absence of strict administrative or financial sanctions undermines the seriousness of the policy, while inadequate monitoring systems—particularly the limited capacity of Disability Service Units (ULD) in terms of staffing, funding, and corporate engagement—further diminish oversight. Accessibility also remains inconsistent, with workplaces often failing to fully comply with the technical guidelines under the Ministry of Public Works and Public Housing Regulation No. 14/2017, thereby restricting participation for persons with disabilities. Cultural barriers within corporate environments persist, as discriminatory job advertisements and non-

adaptive recruitment processes continue to marginalize qualified candidates. This problem is compounded by the lack of accurate and integrated data, which makes matching employers with suitable candidates inefficient despite the existence of government recruitment portals. Addressing these interconnected challenges requires comprehensive reforms that include enforceable sanctions, institutional capacity-building, consistent accessibility audits, and strategic incentives. Equally important is fostering cultural change in the corporate sector through awareness campaigns, inclusive recruitment training, and recognition systems that position disability employment as an opportunity rather than a burden. Consistent and coordinated implementation of these measures will strengthen the position of persons with disabilities in the labor market, serving as tangible proof of the state's commitment to human rights and social justice. Ultimately, embedding inclusivity as a measurable, enforceable, and sustainable standard within national labor policy will not only advance equality but also enhance the productivity and cohesion of Indonesia's workforce.

D. CONCLUSION

In *das sollen* terms, there is a need for detailed technical guidelines or implementing regulations for disability employment quotas, including monitoring, evaluation, and administrative sanctions. The state should also develop incentive schemes for compliant companies, such as tax breaks, public recognition, and funding support for reasonable accommodations. This study recommends:

1. Amending Law 8/2016 to add administrative sanctions or fines.
2. Strengthening ULD capacity nationwide.

3. Mandating accessibility audits in private companies.
4. Conducting massive public outreach on inclusive recruitment.
5. Integrating national data on job-seeking persons with disabilities.

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