

LEGAL PROTECTION IMPLEMENTATION FOR DISABILITIES PERSONS IN OBTAINING EQUAL EMPLOYMENT OPPORTUNITIES IN DENPASAR CITY

Intan Safira Morgana^{1*}, I Made Dedy Priyanto²

^{1,2} Faculty of Law, Universitas Udayana

E-mail: ¹⁾ intansafira8@gmail.com, ²⁾ dedy_priyanto@unud.ac.id

Abstract

*This research aims to identify and comprehend the regulatory arrangements for employees with physical disabilities to get opportunity equality, as well as the implementation of legal protection for workers with physical disabilities to obtain equal job opportunities in the city of Denpasar. The study approach utilized is an empirical legal research method based on a comparison between *das sollen* and *das sein*. Legal and fact-based approaches are applied. Primary data sources include interviews with disabled workers in the city of Denpasar, whereas secondary data sources include statutes and regulations, books, and scientific journals. According to the findings, the regulation regarding persons with disabilities is clearly stated in the national regulations, namely the Human Rights Law, the Law on Persons with Disabilities, and the Manpower Act, whereas the special regulations for Denpasar City are contained in the Bali Provincial Regulation on Persons with Disabilities. However, despite the fact that there are policies in place to govern persons with disabilities in Denpasar City, it is still difficult to find a job, especially in companies, due to the stigma that people with disabilities are incapable of doing anything. Even though the state has enacted legislation governing the employment of people with disabilities, the reality of the situation makes these regulations difficult to implement, especially in relation to issues of employment.*

Keywords: Disability, Job Opportunities, Labor, Legal Protection

1. INTRODUCTION

Although having a happy, healthy, financially secure, physically and intellectually successful existence is the goal of every human being, there are times when bad luck strikes. Not everyone who is born into this world is created perfectly, even for people who look perfect physically, not necessarily mentally perfect or have imperfections. This imperfection is commonly referred to as a disability. Community understanding of disability and persons with disabilities was closely related to the discriminatory behavior experienced by them in everyday life (Widinarsih, 2019). Disability itself is a self-limitation caused by deficiencies in the body which can be physical, mental, emotional and others (Marzuki, 2015). This limitation can be obtained through birth or accident, for example, someone who is born with a lack of sight or is blind, and someone who becomes blind because he has had an accident.

However, every person who is born into the world even though he has limitations, his rights must still be recognized as stated in the highest constitution of the State of Indonesia, namely the 1945 Constitution or what is hereinafter referred to as the 1945 Constitution, in Chapter X concerning Human Rights it states that humans have rights, which has whatever meaning is regulated in that chapter, including people who have both mental and physical

limitations. The Indonesian state adheres to the principle of "*equality before the law*" so that any existing regulations are regulations that apply to everyone and regardless of their position, occupation and others (Ridwan, 2014).

In Indonesia, with regard to the presence of persons with disabilities, national regulations have been made which are regulated in Law no. 8 of 2016 concerning Persons with Disabilities, according to this law it is very clear that everything is stated, especially those related to the survival of a person with a physical disability (Amaliah, 2016). According to Article 1 paragraph (1) it states "Persons with disabilities are any person who experiences physical, intellectual, mental and/or sensory limitations for a long period of time who, in interacting with the environment, may experience obstacles and difficulties to participate fully and effectively with others citizens based on equal rights" (Amaliah, 2016).

Denpasar city is the center of the province of Bali, whose mobility has begun to become denser with the arrival of various workers from outside the region who make a living in Bali, thus making competition in Bali in terms of finding work increasingly stringent. Bali is famous for its tourism which attracts the world's attention, most of the livelihoods of people in Bali are in the field of tourism. The population density is starting to be high, as well as employment opportunities that increasingly prioritize the intellectuality of a person, making many people with disabilities in Bali unable to compete with other normal people in terms of finding work.

It should not come as a surprise that job seeking requires extra effort. Even though they have the status of a person with a disability, like it or not, that person still has to be able to survive amidst the limitations they have. Many social services have been opened that are intended for persons with disabilities so that in the future they have their own income. In Bali, there are rules governing persons with disabilities, which are contained in "Bali Provincial Regulation Number 9 of 2015 concerning the Protection and Fulfillment of the Rights of Persons with Disabilities, hereinafter referred to as the Bali Regional Regulation concerning Persons with Disabilities."

The existence of special regulations governing the fulfillment of the rights of persons with disabilities has not been able to overcome problems regarding employment opportunities for persons with disabilities in Denpasar City. Hence, to be able to find answers to these problems, in this case the research entitled Legal Protection for Workers with Disabilities in Obtaining Equal Employment Opportunities in the City of Denpasar.

State of the art of current research is by comparing research that has been carried out before. Research by Ketut Yulia Wirasningrum, entitled "Legal Construction Concerning Bali Regional Company Obligations to Employ Persons with Disabilities", this study raises the issue of how the concept of Balinese regional companies in regulating the obligations of Balinese regional companies to employ persons with disabilities, and how the legal construction of obligations of Balinese regional companies to employ persons with disabilities (Wirasningrum, 2019). Subsequent research, by Tjokorda Gde Agung Smara Raditia, and Dewa Gede Pradnya Yustiawan, with the title "Fulfillment of the Rights of Workers with Disabilities Who Work at Foundations in Bali", with the problem of how to regulate the rights of workers with disabilities based on laws and regulations invitations that apply in Indonesia, and how the treatment given by the foundation to workers with disabilities in Bali (Raditia & Yustiawan, 2020).

Further, research by Ayuning Sasmita Margana, I Made Udiana, and AA Ketut Sukranata, with the title “Legal Protection of the Use of Air Transportation Services for Persons with Disabilities”, the problem is how is legal protection for persons with disabilities as service users in using air transportation services, and legal remedies what can be done by persons with disabilities in the event of a dispute with the airline (Margana et al., 2019). These three studies are very different from this study. In this study, we focus on Legal Protection for Workers with Disabilities in Obtaining Equal Employment Opportunities in the City of Denpasar, when viewed from the title of this study, certainly has differences from previous research. Another difference lies in the location of the research, where this research took place in Denpasar, while the research above is located in foundations, regional companies and air transportation. In addition, the legal issues raised are also different from this research. Although there are differences, this research also has similarities, namely the object of research. The object of current research is related to persons with disabilities and employment.

Based on the legal events mentioned above, the purpose of this research is to find out the existing regulations in giving equal rights to workers with physical disabilities in obtaining equal employment opportunities in Denpasar City as well as the implementation of legal protection for workers who have physical disabilities in obtaining equal behavior in getting a job in Denpasar City.

2. RESEARCH METHOD

Empirical legal research is the research method used in this study. Using empirical legal research methods because there are gaps in rules and their implementation in society (Soekanto, 2015). The approach used is the statute approach and the fact approach. The legislation used is Law no. 8 of 2016 concerning Persons with Disabilities and Bali Province Regional Regulation Number 9 of 2015 concerning the Protection and Fulfillment of the Rights of Persons with Disabilities, while the fact approach is carried out by looking at the reality that occurred in Denpasar City as a research location. The data sources of this research consist of primary and secondary data sources. Primary data sources, obtained directly at the research location through interviews with respondents and informants (Tampubolon, 2019). Meanwhile, secondary data sources consist of legislation, namely the Law on Persons with Disabilities and the Regional Regulation on the Protection and Fulfillment of the Rights of Persons with Disabilities, books, scientific journals, and the internet. This research is descriptive in nature. Processing techniques and data analysis using descriptive qualitative, namely by providing a clear picture related to existing regulations in providing equal rights to workers who experience physical disabilities in obtaining equal employment opportunities in the City of Denpasar and the implementation of legal protection for workers who have physical disabilities in obtaining equal behavior in getting a job in the city of Denpasar. Afterward, a qualitative analysis was carried out with reference to the legislation.

3. RESULT AND DISCUSSION

3.1. Regulatory Arrangements for Workers with Disabilities in Obtaining Equal Employment Opportunities

Every person in Indonesia is guaranteed all of their rights by the state, the rights referred to are usually the right to continue their life, the right to embrace a religion, the right to make choices and the right to get a job is no exception (Apsari & Mulyana, 2018). This was stated in Article 28 which specifies that “everyone has the right to equal employment opportunities.” The existence of this provision should make persons with disabilities not have to worry about problems meeting their daily needs. Problems regarding employment can be found in the Labor Law where Article 1 point 3 states “Employee is any person who works and receives wages or other forms of compensation.” So based on this understanding it can be concluded that the meaning of all people who work for entrepreneurs, individuals, legal entities or other bodies in any case (Husni, 2006).

In addition to the 1945 Constitution regarding special rights, the rights of people with physical disabilities are also contained in the Disabilities Act, the Act clearly provides freedom and opportunities for workers with disabilities to find work. Regarding equality of opportunity, it is stated in Article 1 paragraph 2, namely “opportunity is a condition that provides opportunities and/or provides access for persons with disabilities to channel their potential in all aspects of administering the state and society.”

We have found that many Indonesians still fail to properly recognize the existence of people with disabilities, and it is not unusual for us to encounter individuals who think that people with disabilities are helpless and unable to perform any task. Some people even insult and do not consider the existence of these people with disabilities, so that the rights of people with disabilities are sometimes not considered. This stigma is very difficult to get rid of in society, especially in the case of persons with disabilities who are looking for work. In fact, in part 7 regarding cooperatives, entrepreneurship and work, where in Article 11 it is clearly stated that “persons with disabilities are allowed to get jobs organized by the government, local government, or the private sector without any discrimination.”

The rights of people with physical disabilities are also contained in Article 42 of the Human Rights Law which states that “Every citizen who is elderly, physically disabled and/or mentally disabled has the right to receive treatment, education, training, special assistance at the expense of the state, to guarantee a decent life in accordance with human dignity, increasing self-confidence and the ability to participate in the life of society, nation and state.”

The existence of national regulations that prioritize equality of opportunity and fulfillment of the rights of people with physical disabilities has prompted the government in Bali to make a special regulation related to persons with disabilities. This regulation was contained in the Bali Regional Regulation on Persons with Disabilities. Where in the regional regulation it is very clear in Article 5 where “every person with disabilities has equal opportunities in the fields of education, employment, health and others.”

3.2. Implementation of Legal Protection for Persons with Disabilities in Obtaining Equal Employment Opportunities in Denpasar City

Even though there have been many regulations governing employment opportunities for persons with disabilities, in reality they have not brought much change in society. Discrimination in terms of getting a job still occurs among persons with disabilities. There was a stigma in society that people with disabilities were seen as someone who cannot do a job, they were seen as unable to do anything. For job providers, employing people with disabilities will only reduce the effectiveness of the company (Aulia & Apsari, 2020). Hence, social workers can only intervene with persons with disabilities (Riyana & Kisworo, 2019).

As happened to Mr. Wayan Widyasa who is a parking attendant at Jalan Diponegoro Denpasar, who has worked there for 7 years, he has a physical disability where his body cannot grow like other people, or what most people say is a stunted body. Mr. Wayan Widyasa admitted that it was very difficult to get a decent job with his physical limitations, because he was always considered useless and unable to do anything, so he finally tried to apply to become a parking attendant and was then accepted (Interview on 8 May 2022). Since then, he has become a parking attendant in the area despite his limitations.

Another example is what happened to Mr. Buana who is also a parking attendant on Jalan Diponegoro who has been deaf since birth. Even though he cannot communicate well, he can still be a parking attendant by relying on his whistle, it is very difficult to communicate with him in this study, but it can be concluded that he is very grateful for this job, even though it is only as a parking attendant but he can still fulfill his life needs and meet the economy his family (Interview on May 8, 2022).

These two examples are concrete forms that people with disabilities are not people who can't do anything, they are also able to do work like other normal people even with the limitations they have (Dewi, 2015). Another thing was revealed by one of the informants who is Human Resources Development in a company, he said that accepting workers with disabilities is still very difficult, because companies have certain conditions and qualifications that require prospective workers to be physically perfect (Rokhim, 2015). This proves that hiring persons with disabilities in private companies cannot be accepted because private companies usually prioritize workers who can work optimally so as not to lose out.

This is what the government should do to protect its citizens to be able to eliminate the stigma in society that gives a stamp or label for persons with disabilities can't do anything (Sudharma, 2017). Even though times have changed, there are already many people with disabilities who have higher education and study at universities like other normal people. So that in the future if Indonesia will be more open in accepting this difference.

The regulations that have been made have really prioritized the aspects needed by people with physical disabilities, but people with disabilities not only need regulations but also need real action so that what has been contained in regulations in Indonesia can be easily enforced. Discrimination against people with disabilities has indeed occurred since they were born or got the disability, but that does not mean they will receive this discrimination for the rest of their lives. There should have been concrete steps so that everything could run in balance and in accordance with the third precept of *Pancasila*.

The role of the Denpasar City Government which is aggressively protecting persons with disabilities, but it is time for the wider community to start opening their eyes that this is indeed happening. Sometimes even unconsciously we often become discriminatory

behavior itself, so that it can make the life of persons with disabilities even more difficult. For companies, they must start to open their eyes that people with disabilities can also do work optimally for the company regardless of any deficiencies in their bodies, the principle of fair and civilized humanity in the 5th precept of *Pancasila* must be prioritized. Apart from that, both the Denpasar City Government, the private sector, and the community must be able to open their minds and hearts to view people with disabilities as equals to people in general.

4. CONCLUSION

Indonesia as a constitutional state has clearly prioritized the rights of people with physical disabilities where this is stated in the 1945 Constitution, the Labor Law, the Law on Persons with Disabilities, the Human Rights Law in national regulations, whereas in particular the City of Denpasar uses the Bali Governor's Regional Regulation on Disabilities. It is hoped that this regulation will open everyone's eyes that persons with disabilities are not someone who cannot do anything, but have equal rights with normal people in general, especially in terms of getting a job. Meanwhile, a view or stigma in Indonesian society are still very rigid and difficult to change, as can be seen from how often we see people with disabilities who only do jobs such as parking attendants or hawkers, even though in the city of Denpasar there are many hotels and companies that can employ people with disabilities, the stigma about people with disabilities being unable to do anything is the main trigger for companies to often reject them, this is because companies are only looking for someone who can provide maximum capabilities for the company. Once again, discrimination against workers with disabilities is a problem that seems to have no end.

REFERENCES

- Amaliah, L. H. (2016). *Dari disabilitas pembangunan menuju pembangunan disabilitas*. Beeboks Publishing.
- Apsari, N. C., & Mulyana, N. (2018). Penyandang Disabilitas dalam Dunia Kerja. *Focus: Jurnal Pekerjaan Sosial*, 1(3), 234–244.
- Aulia, F. D., & Apsari, N. C. (2020). Peran Pekerja Sosial dalam Pembentukan Kemandirian Activity of Daily Living Penyandang Disabilitas Netra. *Prosiding Penelitian Dan Pengabdian Kepada Masyarakat*, 7(2), 377–386.
- Dewi, U. (2015). Implementasi Kebijakan Kuota bagi Penyandang Disabilitas untuk Mendapatkan Pekerjaan di Kota Yogyakarta. *NATAPRAJA*, 3(2).
- Husni, L. (2006). *Pengantar hukum ketenagakerjaan Indonesia*.
- Margana, A. S., Udiana, I. M., & Sukranatha, A. A. K. (2019). Perlindungan Hukum Penggunaan Jasa Transportasi Udara Terhadap Penyandang Disabilitas. *Kertha Semaya: Journal Ilmu Hukum*, 7(11), 1–15.
- Marzuki, S. (2015). *Aksesibilitas Peradilan Bagi Penyandang Disabilitas*. PUSHAM.
- Raditia, T. G. A. S., & Yustiawan, D. G. P. (2020). Pemenuhan Hak-Hak Tenaga Kerja Penyandang Disabilitas Yang Bekerja Pada Yayasan Di Bali. *Kertha Semaya: Journal Ilmu Hukum*, 8(12), 1845–1852.

- Ridwan, H. R. (2014). Hukum Administrasi Negara Edisi Revisi. *RajaGrafindo Persada, Jakarta*.
- Riyana, D., & Kisworo, B. (2019). Intervensi Pekerja Sosial Terhadap Penyandang Disabilitas Mental Di Margo Laras Pati. *Jurnal Pendidikan Luar Sekolah. Universitas Negeri Semarang*, 3(1), 79–87.
- Rokhim, F. (2015). Makna Kerja bagi Penyandang Disabilitas di Yayasan Bina Karya “Tiara Handycraft” Surabaya. *Paradigma*, 3(3).
- Soekanto, S. (2015). Pengantar Penelitian Hukum, Jakarta: UI-Press, 2014. *Supriadi Dan Alimuddin, Hukum Perikanan Di Indonesia, (Jakarta: Sinar Grafika*.
- Sudharma, K. J. A. (2017). Implementasi Asas Keseimbangan Pada Kontrak Kerja Bagi Tenaga Kerja Penyandang Disabilitas Yang Diterapkan Oleh Yayasan Nirlaba Di Provinsi Bali. *Jurnal Panorama Hukum*, 2(2), 203–214.
- Tampubolon, I. A. (2019). Perlindungan Hukum Terhadap Pekerja Penyandang Disabilitas Dalam Mendapatkan Pekerjaan Yang Layak (Studi Kasus di PT. Deaf Cafefingertalk Tangerang). *Jurnal Pionir*, 5(3).
- Widinarsih, D. (2019). Penyandang disabilitas di indonesia: perkembangan istilah dan definisi. *Jurnal Ilmu Kesejahteraan Sosial*, 20(2), 127–142.
- Wirasningrum, K. Y. (2019). Konstruksi Hukum Tentang Kewajiban Perusahaan Daerah Bali Mempekerjakan Penyandang Disabilitas. *Acta Comitatus: Jurnal Hukum Kenotariatan*, 4(2), 177–186.

