

Equality in Labor Regulations for People with Disabilities in Indonesia

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ABSTRACT

The right to work for persons with disabilities in Indonesia is regulated in Law No. 8 of 2016 concerning Persons with Disabilities. However, in reality, not all human resources have the same capacity, including persons with disabilities (different abilities). This poses challenges for persons with disabilities in entering the workforce. These challenges arise due to attitudes towards disability in society. Basically, society is still unable to be objective in accepting and assessing differences. Many of the requirements in the recruitment selection process in the world of work still focus on the physical and mental perfection of applicants. Based on human rights, all individuals are equal, and consequently, every individual has equality because, in essence, individuals are equal and have the same status as one another. Equality is a fundamental principle of human rights. With equality, individuals have equal dignity and worth. This research is normative legal research based on issues concerning equal employment regulations and efforts to strengthen equality in the formation of inclusive labor laws for persons with disabilities in Indonesia.

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1. INTRODUCTION

Employment opportunities for persons with disabilities are regulated in Article 53 of Law- Law Number 8 of 2016 concerning the Protection of the Rights of Persons with Disabilities (hereinafter referred to as Law No. 8 of 2016), which stipulates that the Government, Regional Governments, State-Owned Enterprises (BUMN), and Regional-Owned Enterprises (BUMD) are required to employ at least 2% (two percent) of persons with disabilities from the total number of employees or workers. Private

companies are required to employ at least 1% (one percent) of people with disabilities from the total number of workers. Regarding the right to work for people with disabilities in Indonesia, the problem faced is that companies and employment agencies want optimal performance from workers, but not all human resources have the same capacity and competence. The assumption of unequal capacity and competence is also applied to the way society views persons with disabilities. This indirectly affects the employment opportunities of persons with disabilities [1].¹

¹ Abdul Latief Danu Aji, et. al, *Diversity in the World of Work: Opportunities and Challenges for People*

with Disabilities Spirit Publik Volume 12, Number 2, October 2017 p. 89.

Abdul Latief said that there are challenges that persons with disabilities must face in fulfilling their right to work. Among them is the recruitment process, which is biased against the fulfillment of the rights of persons with disabilities because companies focus on finding human resources without disabilities. This can be seen from the selection process carried out in private companies, regionally-owned enterprises, state-owned enterprises, and government organizations. The requirements used in the selection process still focus on the physical and mental perfection of applicants.²

The next challenge for persons with disabilities in entering the workforce is related to attitudes toward disability. Society is not yet able to be objective in accepting differences.³ The placement of workers with disabilities is sometimes not based on expertise, but on assumptions about the type of work appropriate for the type of disability. As a result, the accessibility of persons with disabilities to become formal employees based on their expertise is low.⁴ Persons with disabilities experience stigma and discriminatory treatment from employers. This stigma and discriminatory treatment. Among them is the assumption that people with disabilities cannot work. In addition, there is also the assumption that employers must make additional investments if they hire people with disabilities. From the employers' perspective, hiring people without disabilities is relatively cheaper.⁵ These reasons cause many persons with disabilities to work in the informal sector because of difficulties in accessing job vacancies that are openly offered to persons with and without disabilities. As a result, in the recruitment stage, persons with disabilities are more likely to be rejected than persons without disabilities. This rejection is based on the stigma regarding the limitations of persons with disabilities.

Legal Problems

Based on the background description, the problems in regulating the right to work

for persons with disabilities can be formulated as follows:

- 1) Are there is inequality for persons disability in the field of employment?
- 2) Is necessary to strengthening the concept equality in inclusive employment regulations for persons with disabilities or not?

2. LITERATURE REVIEW

2.1 *Employment Regulations for Persons with Disabilities in Indonesia*

Legally, Law Number 13 of 2003 concerning Employment law is the umbrella law for employment in Indonesia. As such, it should also serve as an umbrella law and protect persons with disabilities in employment relationships. In 2016, Law No. 8 of 2016 concerning Persons with Disabilities was enacted. Law No. 8 of 2016 also regulates special employment for persons with disabilities. In 2020, the government enacted Law No. 11 of 2020, which was then formally reviewed by the Constitutional Court against the 1945 Constitution, resulting in Constitutional Court Decision Number: 91/PUU-XVIII/2020. Following up on Constitutional Court Decision Number: 91/PUU-XVIII/2020, the government then drafted a Government Regulation in Lieu of Law on Job Creation to amend and replace Law No. 11 of 2020 on Job Creation. Based on Article 22 paragraph (1) of the 1945 Constitution, on December 30, 2022, the President enacted Government Regulation in Lieu of Law Number 2 of 2022

² *Ibid*, p. 90.

³ *Ibid*.

⁴ *Ibid*.

⁵ *Ibid*.

concerning Job Creation. Subsequently, Perpu No. 2 of 2022 was enacted as Law of the Republic of Indonesia No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation into Law.

1. Law No. 13 of 2003

Regarding equal opportunities without discrimination in obtaining employment, Article 5 of Law No. 13 of 2003 stipulates that every worker has equal opportunities without discrimination in obtaining employment.⁶ Labor regulations for persons with disabilities should include the right to work, recruitment, recruitment, job training, job placement, job continuity, and career development, accessibility, wages, union rights, social security, quotas, incentives, and service units. These rights and opportunities are granted to all workers, regardless of gender, ethnicity, race, religion, and political affiliation, and are granted to each worker in accordance with their interests and abilities, including persons with disabilities.⁷ The phrase "discrimination" in Article 5 of Law No. 13 of 2003 means that there should be no distinction, exclusion, or preference because every worker has the same opportunity to obtain employment.

Article 6 of Law No. 13 of 2003 stipulates that every worker/laborer has the right to equal treatment, rights, and

obligations without discrimination based on gender, ethnicity, race, religion, skin color, or political affiliation from employers. This article guarantees the fulfillment of the principle of justice and clear regulations regarding the opportunities of every citizen to obtain fair resources from one another, without discrimination, exception, or preference for any worker. Every worker/laborer has the right to equal treatment and has the same position in law and government.

Vocational training in Law No. 13 of 2003 is regulated in Articles 9-30. The regulation on vocational training for persons with disabilities in Law No. 13 of 2003 consists of only one article, namely Article 19 paragraph (1) of Law No. 13 of 2003, which states that vocational training for workers with disabilities shall be carried out with due regard to the type and degree of disability and the abilities of the workers with disabilities concerned. Vocational training encompasses all activities to provide, acquire, improve, and develop work competencies, productivity, discipline, attitude, and work ethic at a certain level of skill and expertise in accordance with the level and qualifications of the position or job.

Work placement is regulated in Law No. 13 of 2003, from Article 31 to Article 38. In general, the regulations are as follows:

- 1) the rights and opportunities of every worker to choose, obtain, or change jobs and earn a

⁶ See Article 5 of Law No. 13 of 2003.

⁷ Explanation of Article 5 of Law No. 13 of 2003.

decent income within or outside the country. (Article 31)

- 2) Work placement (Articles 32-38) Article 31 of Law No. 13 of 2003 stipulates that every worker has the same rights and opportunities to choose, obtain, or change jobs and earn a decent income at home or abroad. Furthermore, Article 32 of Law No. 13 of 2003 emphasizes:

Paragraph (1) Labor placement shall be carried out based on the principles of openness, freedom, objectivity, fairness, and equality without discrimination.

Paragraph (2) The placement of workers shall be directed at placing workers in positions that are appropriate to their expertise, skills, talents, interests, and abilities, with due regard for their dignity, human rights, and legal protection.

Paragraph (3) The placement of workers shall be carried out with due regard to the equitable distribution of employment opportunities and the provision of workers in accordance with national and regional program requirements.

The principle of openness is the provision of clear information to job seekers, including the type of work,

wages, and working hours. This principle is to protect workers/laborers and avoid disputes after workers are placed. Freedom in this context means that job seekers are free to choose the type of work and employers are free to choose labor. It is not permissible for job seekers to be forced to accept a job or for employers to be forced to accept the labor offered. Objectivity is the principle that employers offer jobs that are suitable for job seekers based on their abilities and the requirements of the position. In addition, it must also take into account the public interest, not favoring the interests of certain parties, while fairness and equality mean that the placement of workers must be based on their abilities, not on race, gender, skin color, religion, and political affiliation.⁸ Equal employment opportunities must be pursued throughout Indonesia and constitute a unified national labor market by providing equal opportunities for employment for all workers. The provision of employment opportunities must be tailored to the talents, interests, and abilities of the workers. Similarly, equal employment opportunities must be pursued in order to meet labor needs in all sectors and regions.⁹ The expansion of employment opportunities is regulated in Articles 39-41 of Law No. 13 of 2003.

Specifically related to persons with disabilities, Article 67 of Law No. 13 of 2003 stipulates the following regarding the protection of persons with

⁸ See explanation of Article 32 paragraph (1) of Law No. 13 of 2003

⁹ See the explanation of Article 32 paragraph (3) of Law No. 13 of 2003

disabilities in the workplace:

Paragraph (1)
Employers who hire workers with disabilities are required to provide protection in accordance with the type and degree of their disability.

Paragraph (2) The provision of protection as referred to in paragraph (1) shall be implemented in accordance with applicable laws and regulations.

Protection in Article 67 paragraph (1) of Law No. 1 of 2003, for example, relates to the provision of accessibility, the provision of work tools, and personal protective equipment tailored to the type and degree of disability.¹⁰

Wages are the rights of workers that are received and stated in the form of money as compensation from employers or employers to workers/laborers that are determined and paid according to a work agreement, agreement, or legislation, including allowances for workers/laborers and their families for work and/or services that have been or will be performed.¹¹ Every worker has the right to earn an income that provides a decent standard of living for humanity as stipulated in Article 88 paragraph (1) of Law No. 13 of

2003. This means that the income or earnings of workers from their work are expected to be able to meet the reasonable needs of workers and their families. The definition of reasonable includes meeting the needs for food and drink, clothing, housing, education, health, recreation, and old age security.¹² The principle of remuneration is contained in Article 2 paragraph 3 of Government Regulation No. 36 of 2021, which emphasizes that every worker has the right to receive equal pay for work of equal value. In this context, work of equal value is interpreted as work that is of equal weight, measured based on competence, work risk, and responsibility within the company.¹³ The right to organize and assemble for workers is regulated in Article 104 of Law No. 13 of 2003, which stipulates that every worker/laborer has the right to form and become a member of a labor union/workers' union. The explanation of Article 104 paragraph (1) of Law No. 13 of 2003 emphasizes that the freedom to form, join or not join a labor union/workers' union is one of the basic rights of workers/laborers. Regarding social security as regulated in Article 99 of Law No. 13 of 2003, it is general in nature. Employers are required to provide welfare facilities, including family planning services, childcare facilities, worker/laborer

¹⁰ See explanation of Article 67 paragraph (1) of Law No. 13 of 2003

¹¹ Article 1 point 30.

¹² Explanation of Article 88 paragraph (1) of Law No. 13 of 2003: What is meant by income that meets a decent standard of living is the amount of income or revenue that workers/laborers receive from their work so that they are able to meet the

reasonable needs of workers/laborers and their families, including food and drink, clothing, housing, education, health, recreation, and old age security.

¹³ Explanation of Article 11 of Government Regulation No. 78 of 2015

housing, religious facilities, sports facilities, canteen facilities, health facilities, and recreational facilities. Welfare improvements can also be achieved by establishing worker/laborer cooperatives and productive businesses within the company.

2. Law No. 8 of 2016

During Joko Widodo's first term in office, Law No. 8 of 2016 was passed by the Indonesian House of Representatives on March 17, 2016. One of the advantages of Law No. 8 of 2016 is its main reference source. Law No. 8 of 2016 was drafted with reference to the CRPD, which Indonesia ratified through Law No. 19 of 2011. The enactment of this law was an important step, considering that people with disabilities in Indonesia had long been hoping for changes to Law No. 4 of 1997, which was considered outdated and lacking a human rights perspective.

Article 5 paragraph (1) letter f of Law No. 8 of 2016 states that the right to work is one of the rights guaranteed by law, further reinforced in Article 128 paragraph (2) of Law No. 8 of 2016, which stipulates that the Central Government and Regional Governments are obliged to guarantee that Persons with Disabilities are free from all forms of physical, psychological, economic, and sexual violence. These provisions reaffirm the guarantee of employment for persons with disabilities.

The right to work for persons with disabilities is regulated in Article 11 of Law No. 8 of 2016 concerning the rights to work, entrepreneurship, and

cooperatives for persons with disabilities as follows:

The right to employment, entrepreneurship, and cooperatives for persons with disabilities includes the right:

- a. obtaining employment organized by the Government, Regional Government, or private sector without discrimination;
- b. to receive the same wages as non-disabled workers in the same type of work and with the same responsibilities;
- c. to obtain reasonable accommodations in employment;
- d. not to be dismissed on the grounds of disability;
- e. accessing return-to-work programs;
- f. fair, proportional, and dignified job placement;
- g. receiving opportunities to develop their career path and all the normative rights attached to it; and
- h. advancing business, owning one's own job, entrepreneurship, cooperative development, and starting one's own business.

Article 11 of Law No. 8 of 2016 regulates the rights of persons with disabilities to employment, including fair, proportional, and dignified job placement. According to the explanation of Article 11 letter e of Law No. 8 of 2016, the return-to-work program refers to a series of procedures for handling work accidents and occupational diseases through health services, rehabilitation, and training so that workers can return to work.

Regarding the implementation of respect, protection, and fulfillment of the rights of persons with disabilities concerning employment, entrepreneurship, and cooperatives, Articles 45 to 60 of Law No. 8 of 2016 stipulate that the Government and Regional Governments are obligated to:

- 1) ensure fair and non-discriminatory recruitment, hiring, job training, job placement, job continuity, and career development for persons with disabilities ¹⁴
- 2) provide opportunities for persons with disabilities to participate in job skills training at job training institutions organized by the Government, Regional Governments, and/or the private sector. ¹⁵

Vocational training institutions used for the benefit of persons with disabilities must be inclusive and easily accessible. ¹⁶ In the recruitment process for workers with disabilities, employers may:

- 1) conduct placement tests to determine interests, talents, and abilities;
- 2) provide assistance in filling out application forms and other necessary processes;
- 3) provide tools and test

formats that are appropriate for the disability; and

- 4) allow flexibility in the time required to complete tests in accordance with the condition of the person with a disability.¹⁷

In the placement of workers with disabilities, employers may:

- 1) providing an orientation or adaptation period at the start of employment to determine what is needed, including the provision of training or internships;
- 2) providing a flexible workplace by accommodating various disabilities without reducing work targets;
- 3) Providing rest periods;
- 4) Providing flexible work schedules while still meeting work time allocations;
- 5) Providing assistance in performing work while taking into account the special needs of persons with disabilities; and
- 6) Granting special leave or time off for medical treatment.¹⁸

Accessibility in the workplace for persons with disabilities according to Article 50 of Law No. 8 of 2016 is accompanied by *penalties* for employers who

¹⁴ Article 45 of Law No. 8 of 2016: The Government and Regional Governments shall guarantee a fair and non-discriminatory recruitment, admission, job training, job placement, job continuity, and career development process for Persons with Disabilities.

¹⁵ Article 46 (1) of Law No. 8 of 2016: The Government and Regional Governments shall provide opportunities for Persons with Disabilities

to participate in job skills training at Government, Regional Government, and/or private job training institutions.

¹⁶ Article 46 (2) of Law No. 8 of 2016: The vocational training institutions referred to in paragraph (1) must be inclusive and easily accessible.

¹⁷ See Article 47 of Law No. 8 of 2016.

¹⁸ See Article 48 of Law No. 8 of 2016.

violate it. Basically, in relation to providing accessibility for workers with disabilities, employers are required to:

- 1) provide adequate accommodations and facilities that are easily accessible to workers with disabilities. If this is not fulfilled, employers may be subject to administrative sanctions in the form of:
 - a) written warnings;
 - b) suspension of operational activities; suspension of business licenses;
 - c) revocation of business licenses
- 2) Establish a complaint mechanism for unmet rights of persons with disabilities. Employers are obligated to desimete information about the provision of adequate accommodations and facilities that are accessible to workers with disabilities.

Workers with disabilities are also entitled to wages. The principle of remuneration is equality of rights between workers with and without disabilities.¹⁹ For work of the same type and responsibility, persons with disabilities are entitled to the same wages as workers without disabilities.²⁰ Workers with disabilities are also entitled to the right to organize and assemble in the work

environment.²¹ The right to wages and social security must be provided by employers. Persons with disabilities are also entitled to equal access to benefits and programs in the national social security system in the field of employment. This access must be guaranteed by the central government and local governments.²²

In order to fulfill and implement the right to work for persons with disabilities, Article 53 of Law No. 8 of 2016 stipulates that:

Paragraph (1) The Government, Regional Governments, State-Owned Enterprises, and Regionally-Owned Enterprises shall employ at least 2% (two percent) of persons with disabilities from the total number of employees or workers.

Paragraph (2) Private companies are required to employ at least 1% (one percent) of persons with disabilities from the total number of employees or workers.

Law No. 8 of 2016 also stipulates that private companies that have employed persons with disabilities are entitled to incentives. The provision of incentives to companies is the responsibility of the Government and Regional Governments. This provision is regulated in Article 54 paragraph (1) of Law No. 8 of 2016. The explanation of Article 54 paragraph (1) of Law No. 8 of 2016 emphasizes that incentives

¹⁹ See Article 50 of Law No. 8 of 2016

²⁰ Article 49 of Law No. 8 of 2016: Employers are required to pay persons with disabilities the same wages as workers without disabilities for the same type of work and responsibilities.

²¹ See Article 51 of Law No. 8 of 2016

²² See Article 52 of Law No. 8 of 2016

for private companies that employ persons with disabilities include licensing facilities, awards, and assistance in providing accessible work facilities. Furthermore, Article 54 paragraph (2) of Law No. 8 of 2016 emphasizes that the form and procedure for providing incentives are stipulated in a separate regulation. The implementing regulation is Government Regulation No. 67 of 2020 concerning the Requirements and Procedures for Awarding Recognition in Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities.

Service units are also a new provision regulated in Article 55 of Law No. 8 of 2016. This article stipulates that local governments are required to have disability service units within the agencies that administer local government affairs in the field of employment. The establishment of disability service units is funded by the local government revenue and expenditure budget. The duties of disability service units include:

- 1) planning the respect, protection, and fulfillment of the right to work for persons with disabilities;
- 2) providing information to the Government, local governments, and private companies regarding recruitment, hiring, job training, job placement, job continuity, and career development that is fair and non-discriminatory to persons with disabilities;
- 3) providing assistance to workers with disabilities;
- 4) providing assistance to

employers who hire workers with disabilities; and

- 5) coordinating disability service units, employers, and workers in the fulfillment and provision of work aids for persons with disabilities.

Provisions regarding disability service units will be further regulated in Government regulations. To follow up on the provisions regarding disability service units in Law No. 8 of 2016, in 2020 the Government issued Government Regulation No. 60 of 2020 concerning Disability Service Units in the Field of Employment.

3. Law No. 6 of 2023

The Job Creation Bill was passed into Law No. 11 of 2020 concerning Job Creation, which was promulgated in November 2020. There are 76 (seventy-six) laws affected by Law No. 11 of 2020, including Law No. 13 of 2003. Regarding employment, Article 80 of Law No. 11 of 2020 states that in order to strengthen the protection of workers and improve the role and welfare of workers/laborers in supporting the investment ecosystem, Law No. 11 of 2020 amends, repeals, or establishes new regulations on several provisions stipulated in:

- 1) Law No. 13 of 2003 concerning Labor;
- 2) Law Number 40 of 2004 concerning the National Social Security System;
- 3) Law No. 24 of 2011 concerning the Social Security Administration Agency; and
- 4) Law No. 18 of 2017 concerning the Protection of Indonesian Migrant

Workers The employment cluster in the Job Creation Law is regulated in Articles 88-92, and specifically

Specifically seeks to amend, repeal, or establish new regulations. A total of 58 articles in Law No. 13 of 2003 are affected, with 28 articles repealed, 38 articles amended, and 15 new articles inserted. Persons with disabilities in Law No. 11 of 2020 are referred to as persons with disabilities. Several articles in Law No. 13 of 2003 are affected by the enactment of Law No. 11 of 2020, including employment regulations for persons with disabilities.

The enactment of Law No. 11 of 2020 has sparked various reactions, both pro and con. This has led to a formal review of Law No. 11 of 2020 on Job Creation against the 1945 Constitution. After going through the trial process, the Constitutional Court issued a decision with Constitutional Court Decision Number: 91/PUU-XVIII/2020 on the Subject Matter: Formal Review. This decision was read on Thursday, November 25, 2021, in Jakarta. There are three important points in Constitutional Court Decision Number: 91/PUU-XVIII/2020, namely:

- a. declaring that the enactment of Law No. 11 of 2021 on Job Creation does not have legally binding provisions as long as it is not interpreted as meaning that no improvements will be made within 2 years from the date this decision is pronounced

- b. if within a period of two years the legislators are unable to finalize Law Number 11 of 2020 concerning Job Creation, then the laws or articles or contents of the law that have been revoked or amended by Law Number 11/2020 must be declared to be valid again
- c. declaring that Law No. 11 of 2020 remains in force until amendments are made in accordance with the time period specified in this decision.
- d. declaring to suspend all actions or policies that are strategic and have a broad impact
- e. ordering a ban on issuing new implementing regulations related to Law Number 11 of 2020 concerning Job Creation

From the contents of the above decision, it means that the Constitutional Court has ordered the House of Representatives and the Government to amend Law No. 11 of 2020 within the next two years. The Constitutional Court has also suspended all strategic actions or policies that have a broad impact. The government is also not permitted to issue new implementing regulations related to Law No. 11 of 2020. Consequently, if within two (2) years the government does not amend Law No. 11 of 2020 as ordered by the Constitutional Court, then legally Law No. 11 of 2020 will no longer be valid and the laws or articles or articles or the content of the law repealed or amended by Law No. 11 of 2020

shall be deemed to be in force again. The consideration of the Constitutional Court judges in declaring Law No. 11 of 2020 conditionally unconstitutional is regarding the use of the *omnibus law* method, which is not regulated in Law No. 12 of 2011. The judges argued that the *omnibus law* method cannot be used as long as regulations regarding the procedures and methods for using the *omnibus law* method in the formation of legislation have not been adopted in Law No. 12 of 2011 in conjunction with Law No. 15 of 2019.

In connection with the issue of the legal basis for the formation of Law No. 11 of 2020 using the *omnibus law* method, in 2022 the House of Representatives passed Law No. 13 of 2022 concerning the Second Amendment to Law No. 12 of 2011 concerning the Formation of Legislation (hereinafter referred to as Law No. 13 of 2022). With the enactment of Law No. 13 of 2022, if the requirements for the formation of Law No. 11 of 2020 are met, it can be enforced. The enactment of Law No. 13 of 2022 was followed up by the Government by taking steps to respond to Constitutional Court Decision Number: 91/PUU-XVIII/2020. The Government then promulgated Law No. 2 of 2022 concerning Government Regulation in Lieu of Law (Perpu) Number 2 of 2022 concerning Job Creation. Government Regulation No. 2 of 2022 was then ratified into Law No. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation

into Law.

In relation to the protection of persons with disabilities, the Government issued Government Regulation No. 60 of 2020 concerning Disability Service Units in the Field of Employment. However, the issuance of this Government Regulation is not to fulfill the provisions of Article 81 paragraph 22 of Law No. 6 of 2023 which amends Article 67 of Law No. 13 of 2003, because Government Regulation No. 60 of 2020 regulates the ULD in the field of employment. Government Regulation No. 60 of 2020 was issued solely to fulfill the provisions of Article 55 of Law No. 8 of 2016, which stipulates that local governments must have a disability service unit within the agency that administers local government affairs in the field of employment. Thus, the provision of Article 81(22) of Law No. 6 of 2023, which amends Article 67 of Law No. 13 of 2003, only serves as a supplement to the regulation because the required regulation has not yet been drafted.

Furthermore, under Article 81(1) of Law No. 6 of 2023, Article 13 of Law No. 13 of 2003 is amended to state that vocational training is conducted by:

- a. government vocational training institutions are vocational training institutions owned by the government
- b. private vocational training institutions are institutions owned by the private sector
- c. A corporate training

institution is a training unit within a company.

In principle, job training can be conducted at a training facility or workplace. In its implementation, government job training institutions may collaborate with private entities. Government job training institutions and company job training institutions are required to register their activities with the relevant labor authority at the district/city level. The amendment to Article 13 of Law No. 13 of 2003 based on Article 81 paragraph 1 of Law No. 6 of 2023 is the establishment of three categories of job training institutions. This is expected to provide better opportunities for persons with disabilities to gain wider access to job training.

According to Article 81, point 43 of Law No. 6 of 2023, the provisions of Article 153 of Law No. 13 of 2003 regarding the prohibition of termination of employment for workers have been amended, but point j still uses the word "disability." This provision stipulates that employers are prohibited from terminating employment relationships with workers who have permanent disabilities. The use of the term "permanent disability" indicates that Law No. 6 of 2023 is inconsistent in its regulations regarding persons with disabilities in relation to employment.

2.2 *The Right to Work for Persons with Disabilities as a Human Right*

Human rights are not a neutral concept, but there are points of contact with universal issues [2].²³ The concept of human rights encompasses three main elements for human existence as social beings, namely *human integrity, freedom, and equality* [3].²⁴ The implementation of human rights is intended for all human beings and is universal in nature. In this context, the point of contact is referred to as the balance between rights and obligations, as well as individual interests and the public interest. This balance takes the form of fundamental obligations [4].²⁵ Article 1 of Law No. 39 of 1999 explains that human rights are a set of rights inherent in the nature and existence of human beings as creatures of God Almighty and are a gift that must be respected, upheld, and protected by the state, the law, and the government, and by every person for the sake of honor and the protection of human dignity. Article 5 paragraph 3 of Law No. 39 of 1999 stipulates that every person who belongs to a vulnerable community group has the right to receive special treatment and protection in accordance with their specific needs. The community groups referred to in Article 5 paragraph 3 of Law No.

²³ Satipto Rahardjo, 1993, *Sociological Discussion of Human Rights*, Paper presented at the National Seminar on Human Rights organized by the Faculty of Law, UNDIP, p. 5

²⁴ Rhivent M. M. Samatara, *Employment Rights for Persons with Disabilities from a Human Rights Perspective*, Lex Administratum, Vol. IX/No. 1/Jan-Mar/2021, p. 23

²⁵ Nur Kholis, *The Principle of Non-Discrimination in Contempt of Court, Legality*, ISSN: 2549-4600, Vol. 26, No. 2, September 2018-February 2019, pp. 210-237

39 of 1999 include the elderly, children, the poor, pregnant women, and people with disabilities.

1. Disability

Legal protection for persons with disabilities in Law No. 39 of 1999 is specifically regulated in Article 41 paragraph 2, which stipulates that vulnerable groups are entitled to special facilities and treatment. Articles 36-42 of Law No. 39 of 1999 regulate the right to welfare. One of the rights to welfare is the right to obtain decent work as stipulated in Article 38 of Law No. 39 of 1999. Persons with disabilities have fundamental rights because of their nature as human beings. These rights are inherent and cannot be lost throughout a person's lifetime because of their status as human beings. The main focus is on the life and dignity of persons with disabilities as human beings. In reality, persons with disabilities vulnerable to discrimination in the fulfillment of their rights to education, employment, and public facilities, as well as equality before the law.

Every person with a disability has the right to receive special facilities and treatment. Persons with disabilities have fundamental rights. Persons with disabilities are classified as a vulnerable group and have the right to receive treatment and protection in accordance with their specific needs. Persons with disabilities have the same status, rights, and obligations as other

members of society. They have the right to receive special treatment and protection in order to protect them from vulnerability to discriminatory acts and, most importantly, from human rights violations.

The Indonesian government ratified the UN Convention on the Rights of Persons with Disabilities in October 2011 as a further commitment to protecting the rights of persons with disabilities. The ratification of the UNCPRD (*Convention on the Rights of Persons with Disabilities*) is an action taken by the Indonesian government to shift fundamentally from a social welfare approach to a human rights approach. With this ratification, Indonesia recognizes that persons with disabilities have the right to enjoy their rights without discrimination on the basis of their disability. Indonesia is also obliged to take all necessary measures to ensure access for persons with disabilities to the exercise of their fundamental rights, including the right to work.

2. Equality in the Right to Work

Every individual is equal, because they have human rights as fundamental rights that are inherent to every individual. Consequently, every individual has equality and equity [5].²⁶ The principle of equality in human rights affirms that, fundamentally, individuals are equal and have the same dignity and worth [4].²⁷ In the Big

²⁶ A. Widiada Gunakaya, 2017, *Human Rights Law*, Yogyakarta, Andi, pp. 64-65

²⁷ Nur Kholis, *The Principle of Non-Discrimination in Contempt of Court*, Legality, ISSN:

Indonesian Dictionary, equality is defined as being equal. Equal itself is defined as being on the same level, the same in terms of position or office, as well as being comparable, equivalent, or balanced.²⁸ In Blaks Law Dictionary, equality is defined as

The condition of possessing the same rights, privileges, and immunities, and being liable to the same duties. Equality is equity. Fran. Max. 9, max. 3. Thus, where an heir buys an encumbrance for less than is due upon it, (except it be to protect an encumbrance to which he himself is entitled.) he shall be allowed no more than what he really paid for it, as against other encumbrancers upon the estate. 2 Vent. 353; 1 Vern. 49; 1 Salk. 155.

Equality is one of the highest ideals in human rights. Equality places every individual on the same level, receiving the same respect for their dignity. This requires that every human being in the same condition must be treated equally [6].²⁹ Equality establishes the understanding that all individuals are born free and equal in human rights [7].³⁰ Every individual is equal because they have human rights are fundamental rights that are inherent to every individual. Consequently, every individual has equality and equity [5].³¹

The principle of equality in human rights affirms that, fundamentally, individuals are equal and have the same dignity and worth [4].³² When equality cannot be achieved, it will result in discriminatory treatment of others. The emergence of discrimination leads to the domination of one group over another.³³

Rhona K.M. Smits states that the principle of equality is a fundamental principle of human rights. This principle requires equal treatment, meaning that workers in the same situation must be treated equally and in different situations must be treated differently [8].³⁴ Based on Rhona K.M. Smits' theory of equality, *affirmative action* is recognized. Affirmative action is often referred to as positive discrimination. Affirmative action allows the state to treat certain underrepresented groups more favorably.³⁵ It is carried out when, even if individuals in different positions are treated equally, differences will still occur even if human rights standards are improved. Affirmative action is only used until equality can be achieved [7].³⁶ Once equality has been achieved, affirmative action is no longer justified. Affirmative action is a response to

2549-4600, Vol. 26, No. 2, September 2018-February 2019, pp. 210-237

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<https://kbbi.kemdikbud.go.id/entri/kesetaraan>
accessed July 25, 2020

²⁹ Rhona K.M. Smith, Op. Cit, p. 39

³⁰ Jauhariah, 2016, *Dinamika Hukum & HAM* (The Dynamics of Law and Human Rights), Jakarta: Cintya Press, pp. 79-80. 69

³¹ A. Widiada Gunakaya, 2017, *Human Rights Law*, Yogyakarta, Andi, pp. 64-65

³² Nur Kholis Op. Cit, pp. 210-237

³³ A. Masyhur Effendi and Taufani S. Evandri, *Human Rights in the Dynamics of Political, Economic, and Social Law*, Ghalia Indonesia, Bogor 2014, p.9

³⁴ Osgar S. Matompo, *et.al*, 2018, *Law and Human Rights*, Intrans Publishing, p.14

³⁵ Rhona K.M. Smith, 2009. *Human Rights Law*. PUSHAM UII. Yogyakarta pp. 62-63, p. 39

³⁶ Jauhariah, *Dynamics of Law & Human Rights*, Cintya Press Publisher, Jakarta, 2016, pp. 79-80. 69

discrimination that is used to combat discrimination between groups with the aim of reducing discrimination between groups.

Discriminatory treatment of persons with disabilities, especially in fulfilling their right to work, has resulted in a high number of persons with disabilities who are not absorbed into the formal sector. Based on this situation, it is proposed that *ius constituendum* and the strengthening of the concept of equality in Indonesian labor law be implemented. Based on Rhona K.M. Smits, *affirmative action* is recognized. Affirmative action is a response to discrimination, introduced to overcome discrimination between groups. The purpose of affirmative action is to reduce forms of discrimination between groups.³⁷

Affirmative action is *positive discrimination* carried out to accelerate the achievement of justice and equality. Thus, affirmative action can be interpreted as a policy that requires different treatment or compensation for certain groups.³⁸ This different treatment is given based on considerations of race, skin color, gender, religion, and culture. The provision of compensation and privileges is intended to achieve more professional representation in various institutions and occupations [9].³⁹ Affirmative action is a

policy to take temporary measures as compensation for groups that have been discriminated against and lack resources. Affirmative action is carried out country due to the existence of marginalized groups as a result of development and legal policies.⁴⁰

According to Azza Karam, there are two general concepts of equality, namely competitive equality and equality of results. Competitive equality is used to remove formal barriers, while equality of results not only removes formal barriers but also sets quotas to achieve equal results [10].⁴¹

Furthermore, Azza Karam states that the concept of equality of results is what affirmative action policies aim to achieve.⁴² The presence of affirmative action from the outset has indeed sparked debate, giving rise to pros and cons. Each group provides different arguments. To date, there has been no agreement regarding affirmative action. Academically and philosophically, there are two major schools of thought on affirmative action, namely the supporters and the opponents. Supporters argue that it must be done so that no child of the nation is denied access to the public sphere. Meanwhile, opponents argue that affirmative action actually jeopardizes a *fair* system and will create new forms of discrimination⁴³. Azza

³⁷ Hendri Sayuti, *The Nature of Affirmative Action in Indonesian Law (Efforts to Empower the Marginalized)*, Menara, Vol. 12 No. 1 January – June 2013, p. 41

³⁸ *Ibid.*

³⁹ Masnur Marzuki, *Affirmative Action and the Paradox of Democracy*, Constitutional Journal, PSHK-FH UII, Vol. II, No. 1, June 2009, p. 34

⁴⁰ Hendri Sayuti, *Op. Cit.*, p. 46

⁴¹ Azza Karam, 1999, *Women in Parliament Are Not Just Numbers, Not Just Decorations*, Jakarta, Yayasan Jurnal Perempuan, p. 89

⁴² *Ibid.*, p. 90

⁴³ Hendri Sayuti, *Op. Cit.*, pp. 45-46

Karam's opinion supports Rhona K. Smith's view on affirmative action to achieve equality.

3. METHODS

This research is normative legal research that places law as a system of norms in the form of principles, norms, rules from legislation, court decisions, agreements, and doctrines or teachings.⁴⁴ The approach used is a *statutory approach* combined with a *historical approach* and a *conceptual approach*.⁴⁵ This study requires secondary data from literature research, in the form of primary legal materials, secondary legal materials, and tertiary legal materials. These legal materials are then examined to obtain the necessary data and conclusions. The data collection technique is carried out through a literature study of legal materials. After the legal materials have been collected, they are processed through the following stages:

1. Editing is carried out by re-examining the legal materials obtained so that they can be supplemented if incomplete legal materials are found and by formulating the legal materials found into simpler sentences.
2. Systematization is carried out by selecting legal materials, then classifying and categorizing them and compiling them.
3. Description is carried out by describing the research results based on the legal materials obtained and then analyzed [11].⁴⁶

⁴⁴ Mukti Fajar and Yulianto Achmad, 2010, *Dualism in Normative and Empirical Legal Research*, Yogyakarta: Pustaka Pajar, p. 34.

⁴⁵ Suharsimi Arikunto, 2002, *Research Procedures: Practical Approach Procedures*, Jakarta, Rineka Cipta, p. 23

⁴⁶ Mukti Fajar and Yulianto Achmad, *Op. Cit*, p. 180

⁴⁷ Burhan Bungin, 2007, *Qualitative Research Methodology*, Jakarta, PT. Raja Grafindo Persada, p. 203

The data analysis method used was qualitative content *analysis* to determine the characteristics of the content and draw inferences from it [12].⁴⁷ Done by examining text documents. Qualitative content analysis is an integrative and conceptual analysis method for discovering, identifying, processing, and analyzing documents to understand their meaning, significance, and relevance. Data interpretation used theoretical interpretation techniques with several theories as comparisons and guides. This qualitative content analysis was conducted on the contents of Law No. 13 of 2003, Law No. 6 of 2023, and Law No. 8 of 2016.

4. RESULTS AND DISCUSSION

4.1 The Right to Work for Persons with Disabilities in Indonesia

Absolute protection and guarantees of employment must be felt and enjoyed by every citizen. This can be achieved by providing legal protection for the fulfillment of the right to employment for every Indonesian citizen. This protection must be provided without exception, through a legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia [13].⁴⁸ Rights are normative elements that serve as guidelines for behavior, protect freedom and immunity, and guarantee opportunities for humans to maintain their dignity and integrity [13].⁴⁹ Rights are something that must be obtained. Mc Closkey states that the granting of rights is to be done, owned, or already done. Meanwhile, Joel Feinberg states that the granting of rights is a unity of legitimate claims or understood as benefits from the exercise of rights and the

⁴⁸ Jazim Hamidi, Legal Protection for Persons with Disabilities in Fulfilling *Their Rights to Education and Employment*

656 IUS QUIA IUSTUM Law Journal NO. 4 Vol. 23 October 2016, pp. 652 – 671

⁴⁹ ICCE Team, UIN Jakarta, 2003, *Democracy, Human Rights, and Civil Society*, Jakarta: Prenada Media, p. 199

fulfillment of obligations. Thus, benefits can be obtained from the exercise of rights when accompanied by the fulfillment of obligations. Therefore, rights and obligations are two things that cannot be separated. When someone demands their rights, they must also fulfill their obligations.⁵⁰

Rights are everything that every person should have. These things exist and are inherent to a person from birth, even before birth, or are established by law. Rights give authority or power to do something, even to demand something. The existence of these rights has, on the one hand, given rise to obligations. Rights and obligations are like two sides of the same coin. The two are inseparable. If a person has rights, then with those rights come obligations. Obligations are things that must be carried out. In relation to the right to work for people with disabilities, the problem faced is that companies and employment agencies want optimal performance from their employees. However, not all human resources have the same capacity. The same applies to physical conditions with disabilities (different abilities). This has an indirect impact on job seekers with disabilities.

What Abdul Latief said reflects the issue of the right to work for persons with disabilities from the perspective of employers [1].⁵¹ As business owners, employers naturally want their companies to perform at their best. However, this view of employers towards persons with disabilities is not correct. In terms of work ability and capacity, many persons with disabilities have the same abilities as workers in general or are even superior. This can be seen from mandatory company reporting data which shows that 440 companies employ persons with disabilities. Of the 237,613 workers, 2,851 are persons with disabilities. Thus, the percentage of workers

with disabilities compared to other workers is 1.2%. This fact proves that persons with disabilities:

1. have been well-accepted in the formal sector.
2. possess competitiveness, advantages, and both *hard* and *soft skills*.
3. able to compete in the job market
4. high productivity
5. higher concentration and focus on work compared to other workers⁵²

However, Abdul Latief's opinion regarding the desire of companies and employment agencies to obtain optimal performance from workers has an impact on employment opportunities for people with disabilities, which is not entirely wrong. Data from the national socioeconomic survey (Susenas) conducted by the Ministry of Health's Research and Development Agency shows that the prevalence of disabilities among the Indonesian working population is also relatively low:

Table 1. Subjects with Disabilities

No	Subject	Percentage
1	Not working	14.4
2	Employee	6
3	Self-employed	8
4	Farmers, fishermen, and laborers	10.2

This fact is similar to Ika Ariana Indriyany's opinion that the cause of differences in data on persons with disabilities is due to differences in the criteria for determining whether a person can be categorized as a person with a disability or not. However, the data presented shows the same thing, namely that persons with disabilities are a minority group [14].⁵³ The

⁵⁰ *Ibid*, p. 200

⁵¹ Abdul Latief Danu Aji, Tiyas Nur Haryani, *Diversity in the Workplace: Opportunities and Challenges for People with Disabilities*, Spirit Publik Volume 12, Number 2, October 2017 p. 85

⁵² <https://www.kompasiana.com/mawan.sidarta/5bf80fd9677ffb17915bdc34/penyandang-disabilitas-bisa-menjadi-assets-valuable-to-companies?page=all> accessed July 23, 2020

⁵³ Indriyany, 2015, *Public Services and the Fulfillment of the Rights of Persons with Disabilities: A Study of Inclusive Education Services Through the Case of the Transfer of Persons with Disabilities from Regular Schools to Special Schools in Yogyakarta*. INKLUSI,

protection and fulfillment of the rights of persons with disabilities is part of human rights to improve their social welfare [15].⁵⁴ Human rights are also often referred to as natural rights, basic human rights, and absolute rights. In English, they are called *natural rights*, *human rights*, and *fundamental rights*. In Dutch, they are known as *grond rechten*, *mensen regchten*, and *rechten van mens*. These terms indicate that the emphasis is on the recognition of human rights themselves. The recognition of the protection and fulfillment of the human rights of persons with disabilities is given in order to obtain special treatment, as an effort to protect against the vulnerability of human rights violations.

4.2 The Concept of Equality in Employment Regulations for Persons with Disabilities in Indonesia

Affirmative action is also a constitutional right of Indonesian citizens as stipulated in Article 28 H paragraph (2) of the 1945 Constitution.⁵⁵ The stipulation of affirmative action in the 1945 Constitution shows that Indonesia has adopted it. Another provision in Article 5 paragraph (3) of Law No. 39 of 1999 also provides the basis for

granting affirmative action to specific community groups.⁵⁶ The explanation of Article 5 paragraph (3) of Law No. 39 of 1999 stipulates that persons with disabilities are part of this vulnerable group. In Indonesia, persons with disabilities are one of the community groups that experience discrimination, therefore affirmative action can be given to this group.

The principle of equality in employment regulations for persons with disabilities has also not been implemented in Law No. 13 of 2003. Explicitly, Law No. 13 of 2003 still views persons with disabilities as objects. In this concept, persons with disabilities are parties who must be given compassion and are considered sick people who must be helped. Law No. 13 of 2003 also does not yet have implementing regulations to carry out employment policies for persons with disabilities. The principle of equality is a fundamental principle of human rights and requires equal treatment. Similar situations must be treated similarly, and different situations must be treated differently [8].⁵⁷ Thus, in similar situations in employment, persons with disabilities must be treated equally, whereas in different situations, they must be treated differently.⁵⁸

The employment regulations in Law

Journal of Disability Studies, Vol. 2 No. 1, 1–20. p. 3

⁵⁴ Muhammad Julijanto INKLUSI Journal of Disability Studies, Vol. 6, No. 1, Jan-Jun 2019 p. 130

⁵⁵ Article 28 H paragraph (2) of the 1945 Constitution: Every person shall have the right to receive special facilities and treatment to obtain equal opportunities and benefits in order to achieve equality and justice.

⁵⁶ Article 5 paragraph (3) of Law No. 39 of 1999: Every person belonging to a vulnerable group has the right to

receive special treatment and protection in accordance with their specific needs. The explanation of Article 5 paragraph (3) of Law No. 39 of 1999 stipulates that persons with disabilities are part of this vulnerable group.

⁵⁷ Osgar S. Matompo, et.al, Op. Cit, p.14

⁵⁸ Article 28H paragraph (2) of the 1945 Constitution is a constitutional guarantee for those who experience marginalization, exclusion, exclusion, restriction, discrimination, and

inequality in political and public life stemming from persistent structural and socio-cultural inequalities (discrimination), whether formal or informal, in the public or private sphere, also known as affirmative action. This requires special temporary measures aimed at opening up opportunities for them to participate actively in public life in a fair and balanced manner. Affirmative action refers to policies related to race, ethnicity, physical disability, military career, gender, age, or social class that are taken into consideration in an effort to promote equal opportunities or improve the ability of disadvantaged or underprivileged groups to achieve justice. Therefore, temporary special measures (affirmative action) are not a form of discrimination, but rather a correction, assistance, and compensation for the discriminatory and unfair treatment experienced by certain citizens, with the aim of accelerating the achievement of "de facto" equality between them and other citizens. These special measures are temporary, to

No. 8 of 2016 differ from other laws because there has been a paradigm shift among lawmakers from viewing persons with disabilities as objects to subjects. This change has had an impact on the way persons with disabilities are treated, from a *charity-based approach* to a *human rights-based approach*. It is also influenced by the political situation outside the formation of the law itself. Law No. 8 of 2016 has fulfilled the principle of equality. This can be seen in the body of the law. The fulfillment of the principle of equality in Law No. 6 of 2023 has become increasingly vague and has weakened the protection of the right to work for persons with disabilities.

Basically, the enactment of Law No. 6 of 2023 does not have a significant impact on persons with disabilities in Indonesia. Persons with disabilities are only regulated in Article 81 paragraph 22 of Law No. 6 of 2023, which amends Article 67 of Law No. 13 of 2003. The change is that employers who hire workers with disabilities are required to provide protection in accordance with the type and degree of disability. This means that the change only replaces the term "persons with disabilities" with "persons with disabilities." However, this change is not followed by inclusive regulations on the right to work for persons with disabilities. Nevertheless, the change in terminology from "persons with disabilities" to "persons with disabilities" has at least changed the perspective of lawmakers from the old paradigm that positioned persons with disabilities as sick people to being part of diversity. The types of protection referred to are the provision of accessibility and the provision of work tools and personal protective equipment tailored to the type and degree of disability. However, the use of the term "person with a disability" in Article 81(43) of Law No. 6 of 2023, which amends the provisions of Article 153 of Law No. 13 of 2003 regarding the prohibition of grounds for termination of employment, indicates that Law No. 6 of 2023 is not yet consistent and does not yet have a perspective of equality for

persons with disabilities.

This amendment has eliminated the function of Law No. 6 of 2023 to protect workers' rights and place workers, especially workers with disabilities, on an equal footing with employers. This change is not in line with the spirit of creating an inclusive Indonesian society. Law No. 6 of 2023 has also eliminated efforts to encourage the implementation of return-to-work programs because employers are not required to hire workers with disabilities. Employers indirectly have the option to terminate employment. This has eliminated equality before the law between workers with disabilities and other workers, as well as with employers. This is contrary to international standards.

4.3 Efforts to Strengthen Equality in the Formulation of Labor Laws for Persons with Disabilities

Based on the results of research on Law No. 13 of 2003, Law No. 8 of 2016, and Law No. 6 of 2023, there are differences or inconsistencies in the concept of labor regulations for persons with disabilities in each piece of legislation. These inconsistencies arise due to differences in character, formation process, legal function, interpretation, and legal policy, as well as the fulfillment of principles in the formation of the three laws. This inconsistency has an impact on labor regulations for persons with disabilities in Indonesia. In addition to being inconsistent, there are provisions in Law No. 8 of 2016 that are not regulated in Law No. 6 of 2023 and Law No. 13 of 2003. The disharmony between Law No. 13 of 2003, Law No. 8 of 2016, and Law No. 6 of 2023 has resulted in the need for harmonization, especially between positive laws that apply to labor regulations for persons with disabilities in Indonesia. The principles and concepts in Law No. 8 of 2016 must be accommodated by Law No. 13 of 2003 and Law No. 6 of 2023. Amendments to Law No. 13 of 2003 relating to workers with

accelerate the achievement of substantive equality. This means that once equality has been achieved, temporary special measures (affirmative action)

must be discontinued. See Constitutional Court Decision No. 143/PUU-VII/2009.

disabilities are very important. In addition, they also fulfill the concept of equality for workers with disabilities. Based on an analysis of Law No. 13 of 2003, Law No. 8 of 2016, and Law No. 6 of 2023, horizontal harmonization and the application of the *lex specialist derogate legi generalis* principle are necessary. This principle is applied because there is disharmony in the substance of the two laws in the parallel hierarchy. Application of the *lex specialist derogat legi generalis* principle in horizontal harmonization between Law No. 13 of 2003 and Law No. 8 of 2016, it is necessary to formulate a regulation that has a specific and distinct form and characteristics. Such a regulation is referred to as a *sui generis* regulation, as it differs from existing regulations. This regulation is intended to regulate the field of employment for persons with disabilities.

5. CONCLUSION

Based on the research results, it can be concluded that:

1. The concept of equality in labor regulations for persons with disabilities has not been implemented in Law No. 13 of 2003 and Law No. 6 of 2023. Both laws still explicitly view persons with disabilities as objects. In this concept, persons with disabilities are parties who must be given compassion and are considered sick people who must be helped. The concept of equality has been adopted in labor regulations in Law No. 8 of 2016. In Law No. 8 of 2016, persons with disabilities are no longer viewed as objects but have been positioned as subjects. This change has influenced the way persons with disabilities are treated, from a

charity-based approach to a human rights-based approach.

2. The concept of equality in the field of employment for persons with disabilities in Law No. 8 of 2016 must be accommodated by Law No. 13 of 2003 and Law No. 6 of 2023. With regard to Law No. 13 of 2003, Law No. 8 of 2016 and Law No. 6 of 2023 also need to be harmonized horizontally and apply the principle of *lex specialist derogate legi generalis*. The application of the principle of *lex specialist derogat legi generalis* is necessary to form a regulation with special or *sui generis* characteristics, which is intended to regulate the formation of inclusive legal regulations in the field of employment for persons with disabilities.


SUGGESTIONS


1. Law No. 13 of 2003 and Law No. 6 of 2023 must be amended in the sections that regulate persons with disabilities by accommodating the concept of equality and a human rights perspective and eliminating the traditional perspective.
2. The government must establish umbrella legislation on employment that provides equal status between persons with disabilities and persons without disabilities.
3. Lawmakers must have a shared perspective, namely a human rights perspective, when drafting regulations or policies related to employment for persons with disabilities.

REFERENCES

- [1] A. L. D. Aji and T. N. Haryani, "Diversitas dalam Dunia Kerja: Peluang dan Tantangan bagi Disabilitas," *Spirit Publik J. Adm. Publik*, vol. 12, no. 2, pp. 83–93, 2017.
- [2] S. Rahardjo, "Penyelenggaraan Keadilan dalam Masyarakat yang sedang berubah," *J. Masal. Huk.*, vol. 10, p. 121, 1993.
- [3] S. P. F. UMUM and D. APRILIANTI, "KEWAJIBAN PEMERINTAH DAERAH TERHADAP AKSESIBILITAS PELAYANAN PUBLIK BAGI PENYANDANG DISABILITAS".
- [4] N. Kholis, "Asas Non Diskriminasi Dalam Contempt Of Court," *Leg. J. Ilm. Huk.*, vol. 26, no. 2, pp. 210–237, 2018.
- [5] A. Widiada Gunakarya S.A., *Hukum Hak Asasi Manusia*. ANDI, 2017.
- [6] U. I. I. (Yogyakarta). P. S. H. A. M. (PUSHAM), R. K. M. Smith, K. D. Asplund, and S. Marzuki, *Hukum hak asasi manusia*. Pusat Studi Hak Asasi Manusia, Universitas Islam Indonesia (PUSHAM UII), 2008.
- [7] Jauhariah, "Dinamika Hukum & HAM," *Cintya Press*, no. 69, pp. 79–80, 2016.
- [8] O. S. Matompo and A. N. I. Achmad, "Hukum dan Hak Asasi Manusia," 2018.
- [9] M. Marzuki, "Affirmative Action dan Paradoks Demokrasi," *J. Konstitusi*, vol. 2, no. 1, pp. 8–23, 2009.
- [10] A. Karam and A. Wisesa, "Perempuan di parlemen: bukan sekedar jumlah, bukan sekedar hiasan," (*No Title*), 1999.
- [11] Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Empiris dan Normatif*. Bandung: Pustaka Pelajar, 2010.
- [12] B. Bungin and L. J. A. Moleong, "Jenis dan Pendekatan Penelitian," *Proses Kerja Kbl Dalam Menjalankan Progr. Corp. Soc. Responsib. Di PT. Pelindo*, vol. 1, 2007.
- [13] J. Hamidi, "Perlindungan Hukum terhadap Disabilitas dalam Memenuhi Hak Mendapatkan Pendidikan dan Pekerjaan," *J. Huk. Ius Quia Iustum*, vol. 23, no. 4, pp. 652–671, 2016.
- [14] I. A. Indriyany, "PELAYANAN PUBLIK DAN PEMENUHAN HAK DIFABEL Studi tentang Layanan Pendidikan Inklusif melalui Kasus Pemindahan Difabel dari Sekolah Reguler ke Sekolah Luar Biasa di Yogyakarta," *INKLUSI J. Disabil. Stud.*, vol. 2, no. 1, pp. 1–20, 2015.
- [15] M. Julijanto, "Politik Hukum Disabilitas: Studi Kasus Perda No. 8 Tahun 2013 di Wonogiri," *Inklusi*, vol. 6, no. 1, p. 127, 2019.
- [16] H. A. M. R. Indonesia, "Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia," *Jakarta: Depkumham*, 1999.
- [17] K. Majelis, P. Rakyat, and R. Indonesia, "Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia," *Undang. Republik Indones. Nomor*, vol. 39, 1999.
- [18] K. Hukum and H. A. M. R. Indonesia, "Undang-Undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas." 2016.
- [19] P. P. R. I. Nomor, "tahun 2015 tentang Pengupahan," *Bab II Kebijak. Pengupahan Pasal*, vol. 3, 78AD.
- [20] H. A. M. Komnas, *Omnibus Law RUU Cipta Kerja dalam Perspektif Hak Asasi Manusia*. Komnas HAM, 2021.

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