



Model for Fulfilling the Right to Work for Persons with Disabilities as an Effort to Protect the Law.

Darmawati^{1*}, Asriadi Zainuddin²

¹ Faculty of Law, Ichsan University Gorontalo, Indonesian

² Faculty of Sharia, IAIN Sultan Amai Gorontalo, Indonesia

*Correspondence: wati.lecture@gmail.com

ARTICLE HISTORY

Received: 01.11.2024

Accepted: 05.12.2024

Published: 29.12.2024

ARTICLE LICENSE

Copyright © 2024 The

Author(s): This is an

open-access article

distributed under the

terms of the Creative

Commons Attribution

ShareAlike 4.0

International (CC BY-SA

4.0)

ABSTRACT

The issue of fulfilling the rights of people with disabilities is still being discussed today. People with disabilities are often considered as citizens of society who are unable to carry out their duties and responsibilities so that they are sometimes not accepted in the world of work and their rights are often ignored. It is not uncommon for people with disabilities to also have limitations in accessing education due to limited SLB, infrastructure and accessibility for them. This phenomenon is starting to receive attention, especially in Gorontalo Province. The purpose of this study is to find out and analyze the implementation of the fulfillment of work for people with disabilities in Gorontalo Province and find the ideal concept of fulfilling the right to work for people with disabilities. The approach used is a empirical approach with data collection sourced from interviews, questionnaire distribution, literature searches through books, journals, and online media. The results of the study show that the fulfillment of the right to work for people with disabilities has not fully run as expected because it is caused by several factors including discrimination problems, difficulty in obtaining jobs due to the limitations of education and the abilities they have, accessibility and supporting facilities for the fulfillment of the right to education are still limited. The ideal concept of fulfilling the right to work for persons with disabilities is carried out by strengthening the policy framework, strengthening the private sector and the capacity of persons with disabilities and changing the perspective of the public regarding persons with disabilities.

Keywords: Persons; Disability; Fulfillment; Rights; Protection.

1. Introduction

The state of Indonesia is a country of law (Rustam, 2018) that upholds Human Rights. Human rights are rights that must be protected and respected by every human being. Every citizen has their own rights even from the womb. (Nanda, 2021) Human Rights (HAM) is a set of rights inherent in humans as creatures of God Almighty and are His gifts that must be respected, upheld, and protected (Rosnida, 2020). One of the rights protected in Law No. 39/1999 on Human Rights is the right to work and a decent livelihood. Human rights as basic rights that are inherent in human beings, universal in nature, should always be respected, protected and defended, especially for minority groups that are vulnerable to discrimination, one of which is minority groups with disabilities (Ave Agave Cristina Situmorang, 2023).

Every citizen has the right to equal treatment for civil, political, economic, social, and cultural rights in accordance with the provisions of laws and regulations, regardless of race and ethnicity (Sulaiman, 2017). Persons with disabilities are one of the minority groups and are very vulnerable to discrimination (Pawestri, 2017). With the enactment of Law No. 8/2016 on Persons with Disabilities, the Government is expected to be committed and serious in fulfilling the rights of persons with disabilities in order to improve their welfare. Persons with disabilities have the same position, rights and obligations as non-disabled people (Pakpahan, 2024).

Persons with disabilities are every 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 other citizens based on equal rights (Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas, 2016). Where they have difficulty interacting and participating with other community members (Randi Hilman Nurjaman, 2023). The term disability replaces the term disabled used in Law No. 4/1997 on Disabled Persons (Alia Harumdani Widjaja, 2020).

The right to obtain employment, including for workers with disabilities, is regulated in the Indonesian state constitution. Therefore, these rights are protected and guaranteed by law, so companies that employ persons with disabilities, in particular, must defend the rights of persons with disabilities (Wicaksono, 2019).

The number of people with disabilities in Indonesia currently reaches 22.97 million people or around 8.5% of the total population in Indonesia. Specifically for Gorontalo Province, there are around 7,700 people with disabilities whose rights must be fulfilled. There are 22 rights owned by persons with disabilities as stipulated in Article 5 Paragraph (1) of Law Number 8 Year 2016 on Persons with Disabilities. Among these rights, the right to work and a decent livelihood is a right that should be obtained by persons with disabilities.

Local governments are encouraged to provide regulations related to the fulfillment of the right to work for persons with disabilities as a follow-up to Law Number 8 of 2016 concerning Persons with Disabilities, where Gorontalo Province currently has a Regional Regulation related to the Protection and Fulfillment of the rights of Persons with Disabilities but the existence has not been able to protect and accommodate persons with disabilities.

Currently, based on data obtained from the Indonesian Deaf Welfare Movement (GERKATIN) Gorontalo, the number of disability workers recorded in Gorontalo Province is 19 people, of which 12 people work in the government sector and 7 people work in the private sector. The data shows that there are still many people with disabilities who have not gotten a job in accordance with the mandate of Regional Regulation Number 4 of 2023. The community stigma on people with disabilities is still often likened to medical incapacity, so disabilities are still considered like illnesses that always ask for help from others. Not only that, but the assumption that people with disabilities are not able to enter the workforce like normal people (Karinina Anggita Farrisqi, 2021).

Problems related to people with disabilities often result in differences in treatment among the community. There is often a distance between each individual and other individuals. The issue of fulfilling the rights of persons with disabilities is certainly one of the problems that must be addressed. There have been many previous studies that have examined this issue, including: Susiana and Wardah's research according to him, the fulfillment of the rights of persons with disabilities in obtaining employment in BUMN has not been implemented despite the existence of the Aceh Qanun on Manpower and the Banda Aceh Mayor's Regulation on Fulfilling the Rights of Persons with Disabilities in obtaining decent work, only one of the four BUMN companies that were respondents and had employed people with disabilities (S. Susiana, 2019). According to Ismail Shaleh's research, the implementation of the fulfillment of rights for persons with disabilities in the field of employment in Semarang has not fully run as it should because there are factors that make the Semarang City government insufficient in implementing the fulfillment of rights for persons with disabilities in Semarang (Shaleh, 2018).

Research conducted by Muhammad Dahlan, although the disability legal regime in Indonesia emphasizes a social model of disability that promotes a human rights-based approach, its implementation is still based on a medical model of disability which views people with disabilities based on their physical condition and is therefore assumed to only be able to enter the field of work. which has been determined by the state (Muh Dahlan, 2021). According to research conducted by Eta Yuni Lestari, the efforts that have been made by the Semarang City Manpower Department to fulfill the rights of people with disabilities through assistance from RT and RW in Semarang City are to carry out outreach and identify people with disabilities (Eta Yuni Lestari, 2021).

Furthermore, research conducted by Ananta Refka Nanda stated that the efforts of the Semarang City Government in implementing the mandate of Law Number 8 of 2016 concerning Persons with Disabilities need to receive support from the community, entrepreneurs, and the Semarang city government in order to maximize the absorption of work rights for people with disabilities (Nanda, 2021). Research conducted by Indriana Firdaus shows that although the Job Creation Law creates hope to protect the rights of workers, including people with disabilities, its implementation is still not fully effective. This is evident from the large number of disabled workers who have not yet found a job. Another fact also shows that a number of articles in the Job Creation Law have not been able optimally to ensure the fulfillment of the rights of workers with disabilities in the work environment, both in terms of facilities and accessibility (Firdaus, 2024).

Specifically, research conducted by Darmawati, et al (2024) stated that the non-fulfillment of the right to work for persons with disabilities in Gorontalo so that it is necessary to find a solution to these problems, including strengthening the access to disability forums under the auspices of the Government as the center in handling problems of fulfilling rights. The problem to be studied in this research is how to fulfill the right to work for persons with disabilities and construct a model of fulfilling the right to work for persons with disabilities in Gorontalo Province as a form of protection of human rights where the theory that corresponds to the above problem is the Theory of Legal Protection by Philipus M. Hadjon. Legal protection according to Hadjon is the protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness.

2. Method Research

This study employs empirical research (Irwansyah, 2020) to analyze law as a pattern of societal behavior in community life, where people constantly interact and connect in social aspects (Rafika Nur, 2024). The approach used to answer the above problems is a empirical approach. The approach used in this research is a qualitative approach. The data collection technique comes from primary data and secondary data. Primary data is data obtained directly from respondents through interviews and distributing questionnaires and from laws and regulations related to the object of research study. Secondary data is obtained from documentation studies through searches of books, journals and internet media.

The Sample Withdrawal Technique was carried out by Purposive sampling, this technique was chosen by the researcher to draw samples due to certain considerations. Furthermore, the data obtained in the field is analyzed using qualitative analysis to answer research problems and phenomena that occur.

3. Results and Discussion

Implementation of Fulfillment of the Right to Work for Persons with Disabilities in Gorontalo Province

The fulfillment of the right to work for people with disabilities is an important matter and needs attention from the Government. The right to work is part of the rights of every Indonesian citizen without exception. Every individual, including persons with disabilities, has the same right to work and contribute to the world of work. The number of workers with disabilities recorded in Gorontalo Province is 19 people, of which 12 people work in the Government and 7 people work in the private sector. The fulfillment of the right to work for people with disabilities has never been restricted because all information related to job vacancies is always conveyed to the general public.

An interview with Mr. Sabantha D. Mario stated that:

“Currently there is a Pohuwato Regional Regulation Number 3 of 2023 concerning the Implementation of Employment. The program that has been carried out by the Manpower Office to fulfill the right to work for people with disabilities is to conduct an apprenticeship for people with disabilities in one of the private companies but it did not work as expected because the person concerned officially submitted a request to leave the 4-month apprenticeship period. In addition, the BUMD sector is required to employ 2 percent of workers with disabilities, while BUMN have an obligation to employ 1 percent of all workers with disabilities.”

The results of the interview above show that the fulfillment of the right to work for people with disabilities has been followed up through Regional Regulations even at the district/city level in Pohuwato (Peraturan Daerah Kabupaten Pohuwato Nomor 3 Tahun 2023 Tentang Penyelenggaraan Ketenagakerjaan., 2023). Gorontalo

Regency and Gorontalo City. From the results of the implementation of the fulfillment of the right to work for persons with disabilities, there are no restrictions at all, but if we look at the ratio of persons with disabilities, it has not been fulfilled because usually the company in accepting employees must first check the quality of prospective workers.

Based on the results of interviews with the District / City Social Service stated that:

"Currently, training and technical assistance programs for persons with disabilities have been conducted to fulfill their rights to education and employment. The provision of technical guidance for this work program is carried out to provide opportunities for persons with disabilities to receive non-formal education as well as to improve their abilities as a provision for them to be able to work in companies or government agencies."

Based on the results of the interview above, it can be seen that in order to ensure the fulfillment of the right to work for persons with disabilities, the Social Service has facilitated persons with disabilities to participate in training and guidance programs so that persons with disabilities have skills and can compete with job seekers in obtaining employment. However, in this case there has been no cooperation with the Manpower Office regarding the implementation of the training program.

Philipus M Hadjon in the theory of legal protection argues that legal protection is the protection of dignity, as well as recognition of human rights owned by legal subjects based on legal provisions from arbitrariness (Putra, 2018). If it is associated with the theory of legal protection that the protection provided to persons with disabilities must meet their needs and the recognition that discrimination against persons with disabilities is a violation of the inherent dignity and value of every person.

The obstacles in fulfilling employment rights include:

1. The number of workers with disabilities in several districts has not been recorded due to the absence of coordination from the company to the District Manpower Office.
2. The District Manpower Office does not have a budget to provide guidance and monitoring evaluation to companies in collecting data on workers with disabilities.
3. There are several districts in Gorontalo Province that do not yet have a Regional Regulation on Disability so that there is no cooperation between related Regional Apparatus Organizations in providing fulfillment and protection for disabilities, especially the right to work.
4. The district does not have the authority to conduct labor supervision because it is the responsibility of the Provincial Manpower Office.
5. High educational qualifications as a condition of employment that are difficult to meet by people with disabilities
6. Office accessibility and discrimination
7. Unfavorable treatment from the company because it doubts the ability of workers with disabilities.
8. Work is not in accordance with the competence of the disability and the honorarium is not appropriate.

Model of Fulfillment of Right to Work for Persons with Disabilities in Gorontalo Province

The fulfillment of the right to work is one of the important aspects in creating equality and justice for every citizen, including persons with disabilities. Based on Law No. 8/2016 on Persons with Disabilities, every individual is entitled to employment opportunities without discrimination. However, in Gorontalo Province, the challenges in implementing this policy are still quite significant.

As one of the developing provinces, Gorontalo faces various obstacles in providing an inclusive work environment, ranging from social stigma, limited infrastructure accessibility, to low private sector participation in employing people with disabilities. This issue not only impacts the high unemployment rate among people with disabilities, but also hinders their potential contribution to economic and social development.

Efforts to fulfill the right to work for persons with disabilities require an integrated approach through the development of the Right to Work Fulfillment Model. This model is designed to identify problems, formulate strategies, and provide solutions that can be applied systematically in Gorontalo Province. By involving the

government, private sector, organizations of persons with disabilities, and the community, it is hoped that this model can serve as a guide to creating an inclusive and equitable work environment.

Based on the obstacles obtained in fulfilling the right to work for persons with disabilities, the form of model concepts that can be applied are:

a. Legal and Policy Framework

This model places regulation as the main pillar to ensure the protection and fulfillment of rights for persons with disabilities. The steps that need to be taken are for districts/municipalities that do not yet have Regional Regulations related to Persons with Disabilities to immediately be held where the regulations need to regulate the quota of workers with disabilities in the public and private sectors and provide incentives for companies committed to labor inclusion.

b. Capacity Building for Persons with Disabilities

This capacity building is done so that people with disabilities can compete in the job market. Capacity building is done through skills-based training and entrepreneurial mentoring.

c. Strengthening the Role of the Private Sector

The private sector must be a strategic partner in fulfilling the right to work for persons with disabilities. The steps that can be taken are to provide incentives to companies that employ people with disabilities and provide inclusive work facilities and to collaborate with employers' associations.

d. Improved Accessibility of Infrastructure and Technology

To be able to create a disability-friendly work environment, of course, it must be supported by inclusive physical infrastructure including providing accessible public and workplace facilities such as ramps, elevators and disability-friendly toilets. In addition, technological support is needed in the form of providing technological devices that support the productivity of people with disabilities such as layer reading software for the visually impaired.

e. Continuous Mentoring and Monitoring

This model also emphasizes the importance of assistance for persons with disabilities who have obtained employment through a monitoring program involving mentors from professionals to guide persons with disabilities in adapting to the world of work. In addition, periodic evaluations are needed by the local government together with organizations of persons with disabilities to conduct periodic evaluations of the policy implementation.

f. Education and Social Awareness.

A change in the paradigm of society is very important in realizing the fulfillment of the right to work for persons with disabilities. Education can be done by socialization through mass media, seminars and discussion forums to remove the stigma against persons with disabilities. In addition, instilling the value of inclusiveness from an early age through a curriculum that introduces the rights of persons with disabilities.

With the model of fulfillment of the right to work for persons with disabilities, it is hoped that it can reduce the number of unemployment among persons with disabilities by opening up wider and more appropriate employment opportunities. In addition, it can increase economic independence by empowering persons with disabilities to contribute to economic development and create a world of work in Gorontalo Province to be more friendly, productive and respectful of diversity.

4. Conclusion

The regulation on the fulfillment of disability rights stipulated in Law No. 8/2016 has provided protection to people with disabilities in obtaining employment. The fulfillment of the right to work for disabilities in Gorontalo Province has been followed up in the form of Regional Regulations that have been passed by several districts/cities. The implementation of the fulfillment of the right to work for disabilities has been carried out through apprenticeship

and training programs which are programs of the Provincial Manpower Office and the Social Service Office. Regarding the fulfillment of the quota of workers with disabilities for the BUMD and BUMN sectors from the total workforce has not been fulfilled. The inhibiting factors in the implementation of the fulfillment of the right to work include the difficulty of obtaining employment due to the limited education and abilities they have, accessibility and supporting facilities for the fulfillment of the right to work are still limited. The model for fulfilling the right to work for persons with disabilities can be done through creating a legal and policy framework for regions that do not yet have Regional Regulations on Disability, strengthening the capacity of persons with disabilities, the need to strengthen the role of the private sector, increasing accessibility to infrastructure and technology, continuous assistance and monitoring and conducting education and social awareness.

5. Speech Thank You

We would like to thank the parties who have helped in the process of completing this research.

Bibliography

- Alia Harumdani Widjaja, D. (2020). Perlindungan Hak Penyandang Disabilitas Dalam Memperoleh pekerjaan dan penghidupan Yang Layak Bagi Kemanusiaan. *Jurnal Konstitusi*, 17(1), 198.
- Ave Agave Cristina Situmorang, D. (2023). Convention on The Rights of Person With Disabilities: Upaya Pemenuhan HAM Terhadap Akses Pekerja Disabilitas. *Uti Possidetis: Journal of Internasional Law*, 4(2), 167.
- Eta Yuni Lestari, D. (2021). Pemenuhan Hak Bekerja Bagi Penyandang Disabilitas Di Kota Semarang. *Jurnal Integralisti*, 32(1), 45.
- Firdaus, I. (2024). Efektivitas UU Cipta Kerja Dalam Melindungi Hak Pekerja Penyandang Disabilitas. *Jurnal Fakta Hukum*, 3(1), 1–18.
- Irwansyah. (2020). *Penelitian Hukum, Pilihan Metode dan Praktik Penulisan Artikel*. Mitra Buana Media.
- Karinina Anggita Farrisqi, D. (2021). Perlindungan Hak Penyandang Disabilitas Untuk Memperoleh Pekerjaan dan Penghidupan Yang Layak. *Jurnal Pekerjaan Sosial, Focus*, 4(2), 150.
- Muh Dahlan, D. (2021). Hak Atas Pekerjaan Bagi Penyandang Disabilitas Di Sektor Publik: Antara Model Disabilitas Sosial dan Medis. *Undang: Jurnal Hukum*, 4(1), 1–48.
- Nanda, A. R. (2021). Kendala dan Solusi Bagi Penyandang Disabilitas Kota Semarang Dalam Mengakses Pekerjaan. *Jurnal Pembangunan Hukum Indonesia*, 3(3), 325–336.
- Pakpahan, Z. A. (2024). Kepastian Hukum Atas Hak Penyandang Disabilitas Sebagai Warga Negara Dalam Mendapatkan Pekerjaan di Indonesia. *Jurnal Dharmawangsa*, 18(2), 380.
- Pawestri, A. (2017). Hak Penyandang Disabilitas Dalam Perspektif HAM Internasional dan HAM Nasional. *Jurnal Era Hukum*, 2(1), 164.
- Peraturan Daerah Kabupaten Pohuwato Nomor 3 Tahun 2023 Tentang Penyelenggaraan Ketenagakerjaan., (2023).
- Putra, W. (2018). Perlindungan Hukum Terhadap Persamaan Bagi Kelompok Penyandang Disabilitas Dalam Angkutan Penerbangan. *Jurnal Hukum Adigama*, 1(1), 1–25.
- Rafika Nur, D. (2024). Optimizing the Role of The Gorontalo High Prosecutor's Office in Realizing Restorative Justice. *Jurnal Hukum Volkgeist*, 8(2), 201.

- Randi Hilman Nurjaman, D. (2023). Pemenuhan Hak dan Perlindungan Hukum Bagi Penyandang Disabilitas di Kota Bandung. *Jurnal Kajian Islam Kontemporer: Moderasi*, 1(2), 3.
- Rosnida. (2020). Settlement of Indonesian Human Rights Violations in The Past Through Restorative Justice Approaches. *Jurnal Hukum Volkgeist*, 5(1), 21.
- Rustam, D. R. (2018). Kedudukan Dissenting Opinion Dalam Perkara Tindak Pidana Korupsi. *Jurnal Hukum Volkgeist*, 2(2), 203.
- S. Susiana, and W. W. (2019). Pemenuhan Hak Penyandang Disabilitas Dalam Mendapatkan Pekerjaan Di BUMN. *Law Reform Jurnal*, 15(2), 225–238. <https://doi.org/https://doi.org/10.14710/lr.v15i2.26181>
- Shaleh, I. (2018). Implementasi Pemenuhan Hak Bagi Penyandang Disabilitas Ketenagakerjaan di Semarang. *Kanun Jurnal Ilmu Hukum*, 20(1). <https://doi.org/https://doi.org/10.24815/kanun.v20i1.9828>
- Sulaiman, H. (2017). Tinjauan Yuridis Terhadap Pemenuhan Hak-Hak Anak di Lembaga Pemasyarakatan Kelas I A Makassar. *Jurnal Hukum Volkgeist*, 2(1), 47.
- Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas, (2016).
- Wicaksono, I. (2019). Access to Justice For People With Disabilities In Employment. *Jurnal Hukum Volkgeist*, 4(1), 9.