

Enabling People with Disabilities' Dream to Become Public Servants

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ABSTRACT

In the current global development, the facts show that people with disabilities tend to be vulnerable. One of the rights of persons with disabilities that needs to be supported is the right to work, especially those administered by the government. This article aims to analyze the recruitment process of civil servants with disabilities. This study uses a qualitative method with an analytical description approach. The results showed that in general, the recruitment of civil servants by the Central and Regional Governments was in accordance with the prevailing regulations, although not yet optimal. This condition is apparent from various stages such as the Announcement Stage, the Interview Stage, and the Job Placement Stage, which still has weaknesses that hinder the rights of persons with disabilities to participate in government, especially to become civil servants. People with certain disabilities are often not able to participate in the Civil Servant selection test. Therefore, many parties need to come together to overcome this problem by monitoring the recruitment of civil servants.

Keywords: *People with Disabilities, Recruits, Civil Servants.*

1. INTRODUCTION

People with disability in Indonesia is one of the priorities that the government need to address. A total of 21.84 million or about 8.56 percent of Indonesia's population are people with disabilities who are potentially excluded from the development process, especially the age group of 19 - 59 years, 162,732,512 people, people with moderate disabilities, 9,549,485 (3.67%); and people with severe disabilities 1,449,725 people (9.63%). [1]They are not only excluded from the opportunity to enjoy the results of development, but also the opportunity to actively participate in development. Consequently, people with disabilities tend to have a lower quality of life than people without disabilities.

The issuance of Law Number 8 of 2016[2] on Persons with Disabilities opens the opportunity for people with disabilities to get involved in the development and governance process. The government can provide opportunities for people with disabilities to become civil servants. This is the first step for government agencies, ministries, or government

agencies to realize respect, promotion, protection, and human rights fulfillment.

Article 27 letter G of the Convention on the Rights of Persons with Disabilities (CRPD) states that States Parties recognize the right of persons with disabilities to work on the basis of equality with others. This includes the right to the opportunity to finance life with any job they want or accepted in the job market and an open, inclusive and accessible work environment for persons with disabilities.

The Convention on the Rights of Persons with Disabilities is not easy to realize because Indonesia has not established a uniform recruitment pattern of public servants with disabilities in every organizing institution and the provision of decent accommodation. There are 11 types of violations in the process

of recruiting civil servants by the State Personnel Agency. The agency offered disability formation less than 2 percent. Ady Thea DA, "BKN Discovers Various Types of CPNS Recruitment Violations 2019," *Online Law*, 2019, p. <<https://www.hukumonline.com/berita/baca/lt5ddf6f753c920/bkn-temukan-beragam-jenis-pelanggaran-rekrutmen-cpns-2019/>>. It is necessary to ensure that people with disabilities have equal access to participate and enjoy development. Adjustments are needed as the state strives to fulfill the rights of persons with disabilities.

Based on the description above, the problem that can be discussed is the recruitment process of civil servants with disabilities and inhibitory factors in its implementation. This paper focuses on the implementation of recruitment and placement of people with state employees within the Ministry of Justice and Human Rights.

2. RESEARCH METHODS

This qualitative research employed a descriptive-analysis method. Data were obtained through a virtual live interview using the zoom meeting application. Informants in this study include officials from five (5) Regional Offices of the Ministry of Manpower dealing with the recruitment of civil servants, the Ministry of State Civil Apparatus Empowerment and Bureaucratic Reform, civil servants with disabilities within the Ministry of Justice and Human Rights and Non-Governmental Organizations (NGOs).

The data were then analyzed qualitatively, namely describing the primary data and reducing all information to focus on the main problem. The main problem found was the implementation of recruitment of public servants with disabilities based on the provisions of the Law on Persons with Disabilities.

3. FINDINGS AND DISCUSSIONS

3.1. *Right to Employment for Persons with Disabilities*

Employment is a way to maintain life and meet basic needs. But employment is also an activity where a person asserts their identity, both for themselves and those around them. Employment is essential for the well-being of ones' family and social stability. Regardless of race, religion, and gender, human beings have the right to realize both their material well-being and spiritual development

in a free and dignified state, economic resilience, and equal opportunity.

The State of Indonesia has guaranteed the right of every person to obtain a job as stipulated in several laws and regulations such as Article 27 paragraph (2) of the 1945 Constitution[4]. It states that "every citizen has the right to a job and a decent livelihood for humanity." Article 38 of the Human Rights Law also regulates the followings:

1. Every citizen, according to their talents, prowess, and abilities, is entitled to a decent job.
2. Everyone has the right to freely choose the job they prefer and is entitled to fair employment conditions.
3. Everyone, whether male or female doing the same, comparable, equal, or similar work, is entitled to equal wages and terms of the employment agreement.
4. Every man, both men and women, in doing work worthy of the dignity of their humanity is entitled to a fair wage according to their achievements and can ensure the survival of their family.

People with disabilities have fundamental human rights and get special treatment to protect against vulnerability to various human rights violations. Article 5 paragraph (3) of the Human Rights Law states, "Everyone who belongs to a vulnerable community has the right to more treatment and protection concerning his particularity." This regulation is reinforced by Article 42 paragraph (2) of the Human Rights Law, which said that people with disabilities, elderly persons, pregnant women, and children is entitled to special facilities and treatment. The right to obtain work is the right of every citizen, including people with disabilities. Article 6 point 1 of the International Covenant on Economic, Social and Cultural Rights states that states parties to the covenant recognize the right to employment, including the right of all people to the opportunity to make a living through the work they choose or receive freely, and will take adequate measures to protect this right. The contents of article 6 point 1 of the International Covenant will not materialize when the only open opportunity for workers with disabilities to work is in a "shelter" facility with sub-standard conditions.

Based on the legislation above, we can see that every worker has the same opportunity without discrimination to get a job, including disabled people. The government needs to realize equal rights and equal opportunities for people with disabilities

to live a prosperous, independent, and non-discrimination life. As previously stated, disability rights have been described in detail in the Convention on the Rights of Persons with Disabilities comprehensively. The birth of the Convention on the Rights of Persons with Disabilities is the culmination of a paradigm shift from the old perspective that saw Persons with disabilities as "charitable objects" and social protection to a new way of view that saw people with disabilities as a "subject" who had rights, able to claim their rights, and able to make decisions for their life. Fajri Nursyamsi et al., *Disability Legal Framework In Indonesia : Towards a Disability-Friendly Indonesia* (Jakarta: Center for Legal and Policy Studies, 2015), <https://www.pshk.or.id/wp-content/uploads/2016/01/Kerangka-Hukum-Disabilitas-di-Indonesia.pdf>.

3.2. Recruitment Implementation of Persons with Disabilities (Quota 2 %)

Persons with disabilities have the same position, rights, and obligations as non-disabled people. As part of an Indonesian citizen, it is appropriate for people with disabilities to receive special treatment to protect against vulnerability to various acts of discrimination and human rights violations. Such special treatment is seen as an effort to maximize respect, promotion, protection, and fulfillment of universal human rights.

One such special treatment can be seen in the formation proposal. The formation proposal submitted by the Ministry of Administrative Reform and Bureaucratic Reform information to the respective agencies is tailored to the organization's needs and followed the rules of at least 2% disability formation. This is also in line with the statement by a spokesperson of the State Personnel Agency (BKN) that is not involved in the preparation of civil servant requirements; it is submitted completely to each government institution in accordance with the desired needs. BBC News, 'CPNS Selection 2019 Rated As Disability-Friendly, Transgender And Female, PPDI 'said To Open As Wide as Possible, But The Conditions Are Limiting', 2019 <<https://www.bbc.com/indonesia/indonesia-50463761>>.

Article 53 of the Disability Law does not provide further explanation of what is meant by the government, local government, State-Owned Enterprises (SOEs), and Regional State-Owned Enterprises (SOEs) employing at least 2% of the number of employees or workers. The contents of

the article can give rise to multi-interpretation. First, 2% of the number of workers is 2% of the number of current employees and those to be recruited. Second, 2% means that 2% of the total employees to be recruited in the year of recruits. The third interpretation is 2% of one formation in the year of recruitment. These three interpretations have different implications. In the first interpretation, 2% is the number of employees of one agency and those to be recruited. The second interpretation only look at 2% of the total number of employees to be recruited in the year of recruitment. The third interpretation is the narrowest interpretation where looking at a quota of 2% of one or more formations in the year of recruitment.

Based on this explanation, it can be said that in principle, the quota system does not have a standard system, both in quality and quantity. In this case, the Ministry of Law and Human Rights's quota system is based on the formation quota, not the total quota of employees recruited in the current recruitment year. This interpretation may be influenced by the assumption that people with disabilities can only be placed in certain positions such as administration, information technology, finance, and other positions that do not affect the mobility and performance of persons with disabilities. However, this interpretation is an assumption and means that it can be wrong and can also be true. Thus, many Echelon 1 Units do not allocate the quota, which is a quota of 2% of the total employees recruited if summed up as a whole. It is understandable that Echelon 1 Units does not allocate disability formations because:

1. The unit argues that the functioning tasks they perform do not have significant relevance to people with disabilities.
2. The work in the unit is a job that requires high precision, self-mobility and has considerable risks.
3. Ignorance of what is meant by disability and not knowing how to deal with people with disabilities in the workplace.

The three reasons above ultimately create a formation city based on the 2% quota in question. The city has finally locked in any formations that people with disabilities can use in the year of recruitment.

3.3. Recruitment Announcement and Opening Stage

Judging from the announcements made, the implementation of the selection of civil servants submitted by both the Central and Local Governments is still in the usual format, both through print and online media. There is no announcement format specifically intended for sensory disabled people. The government can ensure that any information is open and accessible to everyone by making the announcement available on the website is accessible to people with disabilities.

The Ministry of Law and Human Rights may use the instructions determined by the Web Content Accessibility Guidelines (WCAG) 2.0. These guidelines have been adjusted to the provisions of the Web Accessibility Initiative (WAI), which aims to provide easy access for everyone. In general, the ease of access is the content of information from each network site and its navigation menu using an easily accessible format, such as Paradise Masyhur, Accessibility Evaluation of Official Websites of Ministries and Institutions Using WCAG Guidelines 2.0," Scientific Meeting of Kominfo Researchers, 2015

<https://www.researchgate.net/publication/291692636_Evaluasi_Aksesibilitas_Website_Resmi_Kementerian_dan_Lembaga_Menggunakan_Pedoman_WCAG_20>. The menu can be accessed in audio format so that those who have difficulty in viewing can navigate the website through sound. Thus, the provision of video with subtitles intends to make it easier for those who cannot hear or read the video content through writing.

Another aspect after the announcement is that the process of enforcement and verification is carried out by the Selection Committee for The Acceptance of civil servants at the Ministry of Justice and Human Rights's regional office by providing special treatment and ease of service compared to applicants from the public. The committee provides various facilities and tools in order to facilitate people with disabilities in the process of eradication and verification. Although the Public Servant Admissions Selection Committee has not been given the training to assess the level of disability of a person, they submit the implementation of verification of disability certificate and examination of applicants with disabilities to doctors and medical personnel who have knowledge of it.

Related to this, the problem that occurs is the obligation to attach a certificate of disability for

applicants with disabilities participating in the public servant selection in 2019. Disability information certificate is still relatively new and is not widely known in medical circles, so there is no standard format set in the creation of the disability certificate. This makes it difficult for people with disabilities even though they have been given an example of the certificate. In addition, the lack of medical knowledge about the types of disabilities, especially those considered uncommon, causes applicants with disabilities to try to explain their disabilities and even spend a small amount of money in the issuance of disability certificates.

3.4. Interview Stage

In this stage, what needs to be considered is the need for special treatment and assistance given to applicants with disabilities, for example, the use of elevator facilities. There needs to be an officer who escorts people with disabilities in and out of the interview area. However, not all Ministry of Law and Human Rights Regional Offices have adequate facilities and infrastructure for people with disabilities due to lack of budget on facilities and infrastructure in civil servants' selection process.

3.5. Work Placement Stage

The placement of prospective persons with disabilities has been adjusted to the formation of positions proposed by people with disabilities. The unavailability of facilities and infrastructure is still a problem faced in accommodating civil servants' duties with disabilities. The regional office's efforts is to place people with disabilities in a room on the first floor, so that they do not need to climb the stairs to get to their workspace. Provision of facilities and infrastructure is required by the Disability Law and cannot be replaced or changed. Gradually the Regional Office of the Ministry of Manpower must provide accessible facilities.

The work given to public servants with disabilities should also be adjusted to their capability. However, the current workload of people with disabilities is still based on general workloads and has not paid attention to the person's occupational aspects and medical conditions. Therefore, it is very important for the Bureau of Personnel and the staffing department in each unit and the Regional Office to prepare an analysis of workloads according to the abilities and needs of people with disabilities.

3.6. Implementation of Civil Servant Recruitment according to Disability Activists

According to Antoni, one of the disability activists in West Sumatra stated that the understanding of disability and inclusion is still very limited, and their tendency is still to blame the Central Government where the center has rules but there is no readiness from the local government such as understanding of the variety and variety of disabilities, further related to the requirements of physical and spiritual health and recruitment through a certain variety of disabilities so that it has not reached inclusiveness and proper accommodation in the process of recruitment until now has not materialized.

According to Iacun Sulhadi (Association of Persons with Disabilities of West Sumatra), the process of implementing the recruitment of Prospective State Civil Apparatus for disabilities is a long journey based on informant experience is the understanding of the institution responsible for the implementation of civil servant candidate acceptance, besides that what is needed is a very clear guide and how later competencies in the coming years can be described. Sumatera Barat has used the quota system but still meets the quota of 1% because it still uses the Law on Persons with Disabilities and they do not understand the new Disability Law. After they did the mapping related to drajat and various types are still very rigid, thus giving rise to a false understanding of the workforce and even civil servant candidate disability that impacts the cancellations and is considered incapable.

According to Indira (Padang Legal Aid Institute), civil servant candidate recruitment with disabilities still has many problems. The first is the paradigm at the government level that affects the selection process. The problem of quota of 2%, If people with disabilities are able to take in the general formation path can be opened that opportunity so that this can be offset so that the quota can be filled because sometimes in the disability requirements are very detailed very good education majors with the type of formation opened, so that to meet the quota of 2% in order to be achieved then there are some general formations also proposed by people with disabilities in accordance with the qualifications with which he has, both knowledge, experience and education. If

not interpreted inclusive quota of 2% can be exclusive, and this becomes an obstacle.

According to Happy Sebayang (Chairman of Disability Advocacy Indonesia), bureaucracy needs to change the paradigm so that there is an impact in the recruitment process where the paradigm is related to the regulation and initial policies related to disabled civil servants.¹ Similarly, according to Ariani Sukarwo, Chairman of the Electoral Access Center (PPUA) that the thing that causes the organizer to always fail in carrying out recruitment despite advocacy is the inability to understand the concept of disability. Thus, policies related to the recruitment of civil servants are often problematic.

According to Purwanti or Ipung, Center For Improving Qualified Activity In Life Of People With Disabilities (Ciqal), every policy that has existed so far has never occurred in harmony. The regulation related to "physical and spiritual health" is very restrictive and discriminates against people with disabilities. When there is a requirement of "physical and spiritual health," in the perspective of the Indonesian Association of Physicians (IDI) is meant to be physically and spiritually unhealthy related to physical conditions, it is considered physically unhealthy so that it becomes a problem.

According to Fajri Nursamsi, Indonesian Center for Legal and Policy Studies (PSHK), currently we are faced with regulation is very strong, in fact we already have merit system, which on the other hand related to the condition of "physical and spiritual health" still exists, but in The Explanation of Article 65 of the Civil Servant Law, it is mentioned that the physical health requirements for people with disabilities are adjusted to the implementation of the work, so at the time of the Civil Servant Law there is already a thought that the conditions which must be adjusted to the condition of disability, regulatory inputs are available.

The impact of the issuance of the Disability Law in the recruitment of prospective civil servants so far is still limited to the opening of disability formations and a quota of 2%. But for a true inclusion policy that really needs to be ensured is not only a matter of hiring employees but more importantly, the government is preparing concrete measures on how to ensure the availability of support and decent accommodation in the workplace. Only then can people with disabilities work effectively and can contribute according to their skills. Therefore, there

are still many things that must be improved to ensure that civil servants' recruitment practices are inclusive. When they are accepted, they should not become a problem anymore, and their career path in the future is not hampered.

Related to the involvement of organizations with disabilities, the involvement is not at the local government's request but by the disability organization's initiation. Furthermore, the informant suggests that it is people with disabilities who must initiate these needs, not the local government. If people with disabilities remain silent without voicing their needs, then the process of refractoriness will continue. It needs to be reviewed related to physical and spiritual health and the variety of disability levels that become the main reference for the institution responsible for the procurement of candidates for the state civil apparatus.

4. CONCLUSIONS

In general, the recruitment of civil servants with disabilities carried out at the Ministry of Justice and Human Rights has been implemented in accordance with the laws and regulations. This can be seen at several stages carried out in the selection of public servant admissions, namely announcement, interview, and placement stages. However, in its implementation, there are still weaknesses regarding the requirements and facilities provided. Although there are weaknesses in the selection stage of public servant acceptance within the Ministry of Justice and Human Rights, the existence of good cooperation between the Central unit and the Regional Office makes the implementation of the selection of public servant admissions run smoothly.

The results of research from the Center for Human Rights Research and Development, Research and Development Agency for Law and Human Rights states that there are inhibiting factors in the recruitment of civil servants with disabilities in the Ministry of Justice and Human Rights and Local Governments, namely:

1. The selection committee of disability civil servants has lack of knowledge on the type of disability, provision of decent accommodation, and ethics of communicating with civil servants with disabilities;
2. The lack of budget allocation for facilities and infrastructure in the selection process of public servants in regional offices;

3. A limited number of formations provided for persons with disabilities with a type of position that is mainly in accordance with the educational background of persons with disabilities;
4. The lack of decisive action or sanctions given by the State Personnel Agency to government agencies that inhibit people with disabilities from obtaining their right to work;
 - a. Not Seeking the process of transferring knowledge and understanding of various rules and policies related to the rights of persons with disabilities, knowledge of various disabilities and dysfunction of limbs to the selection committee through education and training;
 - b. Involving the regional office and organizations with disabilities / NGOs in determining the formation of positions on the selection of civil servant recruitment at the central and regional levels;
 - c. Allocating the budget to the regional offices in conducting the selection of civil servants with disabilities as ordered by Government Regulation No. 70 of 2019 on Planning, Implementation, and Evaluation of Respect, Protection, and Fulfillment of Rights of Persons with Disabilities
 - d. Creating a roadmap for the Ministry of Justice and Human Rights to achieve the target at point 2 (two) of involved organizations with disabilities in planning, implementing, and evaluating civil servants with disability selection.

5. SUGGESTION

In order to overcome various problems in the recruitment of civil servants with disabilities, especially in the Ministry of Justice and Human Rights, we made the following suggestions:

1. Seeking the process of transferring knowledge and understanding of various rules and policies related to the rights of persons with disabilities, knowledge of various disabilities and dysfunction of limbs

- to the selection committee of civil servants through education and training,
2. Involving the regional offices and organizations with disabilities / NGOs in determining the formation of positions on civil servants with disabilities acceptance selection at the central and regional levels,
 3. Allocating the budget to regional offices in conducting Civil Servant Candidate acceptance selection as ordered by Government Regulation No. 70 of 2019 concerning Planning, Implementation and Evaluation of Respect, Protection and Fulfillment of Rights of Persons with Disabilities,
 4. Create a roadmap for the Ministry of Justice and Human Rights to reach the target of 2% of the number of employees with disabilities by 2030,
 5. Conveying to the units to allocate the formation of disability employees in each Echelon 1 unit by improving the quality and quantity of facilities and accessibility of disability support.
 6. Improving the structure of buildings on educational and training sites in accordance with the Law on Persons with Disabilities and regulation of the Minister of PUPR No. 14 of 2017 on Building and Building Accessibility Requirements,
 7. Improving the pattern of education and training and competency testing with a more inclusive pattern, by giving more time to training participants with disabilities in conducting competency tests and providing tools such as screen reader programs.

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