

# Government Duty in Fulfillment of Rights to Work for People with Disability in Makassar South Sulawesi

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**Abstract**—This study aims to determine; 1) The responsibility of the state in fulfilling work rights for persons with disabilities; 2) Factors inhibiting the fulfillment of work rights for persons with disabilities. This research method is normative legal research with analysis analysis is qualitative descriptive, data reduction process, data presentation, conclusion drawing. Data collection uses observation, documentation and interview methods. The results of the study show that the Makassar City Government of South Sulawesi Province carries out the obligation to fulfill human rights in the form; Respect, to protect, and fulfill (to fulfill). Respect, protection and fulfillment of universal human rights, are shown by regulations that provide space and facilities as well as efforts to provide legal protection for the position, rights, obligations and roles of persons with disabilities. The Makassar City Government has collaborated with several agencies to carry out rehabilitation to function and develop the physical, mental and social abilities of people with disabilities in order to carry out their social functions in a dignified manner in accordance with their talents, abilities, education and experience; The Government carries out guidance on improving social welfare of people with disabilities through policy setting, coordination, counseling, guidance, assistance, licensing, and supervision. The inhibiting factor of persons with disabilities in fulfilling the right to work is the awareness and concern of the public about persons with disabilities who consider that people with disabilities are less skilled workers, cheap labor and burden the community.

**Keywords**—*Government's Duty and People with Disabilities*

## I. INTRODUCTION

Globally, people with disabilities are regulated in a Convention that is Convention on the Rights of Persons With Disabilities. Persons with disabilities in Indonesia have the same position, rights, obligations and roles as other citizens. The Constitution of the Republic of Indonesia regulates Human Rights, this indicates that our country has given serious attention to human dignity in the life of the nation and state. In a theory, it is stated that human rights are inherent in human nature itself, therefore the basis of human rights is: First, human nature, the understanding of human nature, not human beings who are viewed abstractly from culture, the universe, the creator, but human beings all its dimensions, in its realization with God, society, the natural environment, humans who are called to use the universe, develop themselves to achieve perfection according to their

dignity. Both God created man, who wanted him so that the man he created reached his perfection.[1]–[3]

Therefore, increasing the role of persons with disabilities in national development is very important to get attention and be utilized. Persons with disabilities have the same position, rights and obligations as non-disabled people.[4] Internationally, the term disability changes, including: cripple, handicapped, impairment, which is then used more often by the term people with disability or disabled people. People with disability were then translated into Indonesian with disabilities who initially used the term disability. The term disability sufferers are discriminatory because they see someone having one or more types of diseases that affect a person's physical condition. Changes in the use of the term disabled people with disabilities began to be introduced in the stipulation of Law no. 4 years 1997, which places the position of persons with disabilities tend to smooth the term. This term is basically still widely used in various publications or mass media, but various social activists argue that the use of this term has a narrow meaning that still places a person in a "normal" position and is unable to because of the disability conditions he has. Until finally in 1997, the use of the term diffable began to be introduced to the public at large. The term diffable is one of the efforts to reconstruct views, understanding, and the general public perception of previous values that view a person with disability as someone who is not normal, has a disability as a deficiency and disability. In the UN Convention "The Convention on the Rights of Persons with Disabilities" on December 13, 2006 defines people with disabilities as people with physical, mental, intellectual or sensory impairments in the long term that can hinder and hinder various interactions and full and effective participation in society on the basis of the same as the others.

Therefore, as a part of Indonesian citizens, it is appropriate for persons with disabilities to get special treatment, which is intended as an effort to protect against vulnerability to various acts of discrimination and especially protection from various human rights violations. This special treatment is seen as an effort to maximize respect, promotion, protection and fulfillment of universal human rights. [5]–[8]

The constitutional foundation for the protection of persons with disabilities in Indonesia is contained in Article 28 A of the 1945 Constitution of the Republic of Indonesia,

namely: "Everyone has the right to live and has the right to defend his life and life". The right to life is the most basic human right for all humans. The right to life is a part of human rights which has a non derogable rights. The right to life is absolutely must be owned by everyone, because without the right to life, there are no other human rights.[9], [10]

Explicitly Indonesia also has Law No. 4 of 1997 concerning Persons with Disabilities which provides a firm legal basis regarding the position and rights of persons with disabilities. in the consideration of the Disabled Persons' Law it was emphasized that "Persons with disabilities are part of Indonesian society who also have the same position, rights, obligations and roles". In addition, the fundamental rights of persons with disabilities are also affirmed in Article 41 Paragraph 2 of Law Number 39 of 2009 concerning Human Rights (Human Rights Law), which stipulates that: "Every person with disabilities, elderly people, pregnant women and children , has the right to obtain special facilities and treatment ". Likewise with Article 42 of the Human Rights Law which reads: "Every citizen who is elderly, physically disabled or mentally handicapped has the right to receive care, education, training and special assistance at the expense of the state, to ensure a decent life in accordance with his human dignity, improve confidence, and the ability to participate in the life of society, nation and state. "Besides the right to life. The Indonesian government has also ratified the International Covenant on Social and Cultural Economic Rights (International Covenant on Economic, Social and Cultural Right) in October 2005. This ratification was marked by the publication of Law No. 11 of 2005 concerning International Covenant Ratification on Economic, Social and Cultural Right (International Covenant on Economic, Social and Cultural Rights). Thus, the state must respect, protect and fulfill these rights to its citizens including the right to work. The economic, social and cultural rights regulated in the covenant include: Right to work, Right to receive training programs, Right to comfort and good working conditions ,, Right to enjoy social security, including social insurance, including that persons with disabilities need attention from the government, especially in terms of employment, as regulated in the Manpower Act Number 13 of 2003. In article 67 that employers are required to employ workers with disabilities (disability) must provide protection in accordance with the level and degree of disability.[11]

Rights and obligations in Van Apeldoorn's view that rights and obligations arise due to legal events. It was explained that a legal event was a law-based event. generate or abolish rights.

One ownership that is inherent in one's identity is the reciprocal rights and obligations. This means that he has a reciprocal relationship with the community, namely the rights and obligations between the two parties. A citizen has the rights and obligations to his community, and vice versa the community has rights and obligations to members.

Law in a subjective sense signifies rights and obligations, to people in community members. The existence of a person's right means, that he has a privilege that opens the possibility for him to be treated according to the privilege. The existence of an obligation to someone means, that is

asked from him an attitude or action, which is in accordance with the features that exist in others.[12], [13]

The rights (right-duty) according to Sudikno Mertokusumo, state that every legal relationship created by law always has two aspects whose contents are rights, while on the other hand the obligation. There is no right without obligation, otherwise there is no obligation without rights. This is what he thinks that law is different from rights and obligations, even though they cannot be separated. Rights and obligations become more forceful when the law is involved in a concrete case. Thus, the implication is the birth of rights and obligations.

Furthermore, it is explained that rights and obligations are not a collection of rules or rules, but the balance of power in an individual form is reflected in the obligations of other parties. In other words, rights and obligations are the authority given to someone by law. This form of relationship is called the logical correlatives.

According to Jimly Asshiddiqie, if the rights are related to the concept of freedom (liberty) then the obligation is related to the aspect of responsibility (responsibility). (Ridawan HR: 2011) Responsibility in the theory of responsibility is something that can be accounted for for obligations. Freedom and responsibility are two things that are contradictory but also interdependent. Responsibility or accountability as a moral quality shows the form of natural and voluntary control over freedom.[14]-[16]

Accountability or responsibility can be meaningful Liability (the state of being liable) Liability refers to a comprehensive meaning, covering almost every character of risk or responsibility, which is certain to be lucky, or possible. Liability is defined for rights and obligations. Responsibility (the state of being responsibility). Responsibility something that can be accounted for for an obligation, including decisions, skills, abilities, and skills. Responsibility also means the obligation to be responsible for the Act being implemented, and to repair or otherwise compensate for any damage that has been caused. In relation to the responsibility of the state towards persons with disabilities in the view of Philipus M. Hadjon included in the responsibility of government action. In administrative law, the issue of the legality of government actions is related to the power of government.

## II. RESEARCH METHODS

This study uses primary data sources are employees of the Department of Manpower and Transmigration of South Sulawesi Province, and the Makassar City Social Service, legal materials consisting of laws, journals and legal journals, law books, as well as various data sources that have certain characteristics related to focus and research studies. To obtain complete and valid data in this study, data collection techniques are used that are appropriate to the circumstances and nature of the research, namely the documentation method by collecting various legal documents, and interviewing the relevant government. This research is a qualitative descriptive analysis of the results of interviews and legal documents relating to government responsibility in fulfilling the rights of persons with disabilities. To obtain complete and valid data in this study,

data collection techniques are used that are appropriate to the condition and nature of the research, namely the method of documentation by collecting various legal documents, and interviews.

### III. RESULTS AND DISCUSSION

Government responsibility in fulfilling the work rights of persons with disabilities Discussion of the results of this study uses guidelines contained in the Declaration of Human Rights (UDHR) or the General Declaration of Human Rights (UDHR)

As stipulated in the Universal Declaration of Human Rights that the holder of human rights obligations is fully the state, hereinafter referred to as the government, in the explanation of documents concerning articles in the Universal Declaration of Human Rights, stipulates that the full realization of human rights is the obligation of the state. The state must carry out the obligation to fulfill human rights in the form; Respect, to protect, and to fulfill. (C, de Rover 2000)

Therefore, the state cannot help but must fulfill the rights of citizens, including economic, social and cultural (ecosob) rights such as the right to housing, the right to food, the right to education, the right to work, including the right to disability, and various other rights.

International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights); with the convention, Indonesia has ratified through Law No. 11 of 2005. Concerning the Ratification of the International Covenant on Economic, Social and Cultural Rights (International Covenant on Economic, Social and Cultural Rights). After being ratified by the ICESCR, the Indonesian government has an obligation to make reports regarding the efforts and achievements of the implementation of economic, social and cultural rights that must be submitted to the Committee at the United Nations. If explored, the Covenant on Ecosob Rights is prepared, nothing else and not not for the protection and fulfillment of rights, so that everyone and groups of people can enjoy all ecosob rights catalogs, to the maximum and maximum extent possible, that can be achieved by humans. For this reason the state framework is prepared for the purpose of enhancing the enjoyment of the ecosob rights of all people, not the contrary, the State contributes to the reduction (degradation) of the enjoyment of the economic, social and cultural rights of citizens. Obligation of conduct is a bond or obligation of the state to do something, all efforts and all actions to receive (to promote, respect, protect and fulfill) - facilitate (to facilitate) ) and provide (to provide) - enjoyment of eco-social rights. Recognize (to recognize) and protect (to protect).

The obligation and responsibility of the government towards the protection of persons with disabilities can be given in the form of legislation, one of which is related to the government's responsibility in providing recognition and protection of persons with disabilities, especially to gain access to work, indicated by the determination of 1% quota as stipulated in legislation that is in Act No. 4 of 1997 concerning Persons with Disabilities (Law on Persons with Disabilities) which provides a firm legal basis regarding the

position and rights of persons with disabilities. In the Considering Part of the Disabled Persons Law, it is emphasized that "Persons with disabilities are part of Indonesian society who also have the same position, rights, obligations and roles". In terms of employment, the Disabled Persons Law provides guarantees regarding the rights of persons with disabilities to obtain employment. Article 14 of the Law on persons with disabilities regulates 1% (one percent) quota problem, that is the company must employ at least 1 (one) person with a disability who meets the relevant job requirements and qualifications, for every 100 (one hundred) employees. In fact, companies that employ people with disabilities are still very minimal.

Other regulations governing the fulfillment and protection of the work rights of persons with disabilities are; 1) Presidential Decree No. 83 of 1999 concerning Coordination and Control Institutions for Improving Social Welfare of Persons with Disabilities. 2) UU no. 11 of 2009 concerning Social Welfare, including the handling of Social Welfare of Persons with Disabilities. 3) Decree of the Minister of Manpower of the Republic of Indonesia No. Kep.205 / MEN / 1999 concerning Job Training and Employment of Persons with Disabilities. 4) State Civil Service Agency Circular Letter No. K.26-20 / U-5-39 / 48 Concerning the Appointment of Persons with Disabilities as Civil Servants. 5) Mutual Agreement between the Minister of Social Affairs, Minister of Manpower and Minister of Home Affairs and DPP Apindo concerning Placement and Utilization of Personnel with Disabilities in Companies and Communities. 6) Circular of the Minister of Manpower and Transmigration No.01.KP.01. 15. 2002 concerning Placement of Workers with Disabilities in the Company. 7) Circular of the Minister of Social Affairs No.001 / PR / XII-4 / SE.MS concerning the Acceptance of Workers with Disabilities in the government and private sectors. 8) Makassar city regional regulation Number: 6 of 2013 concerning the fulfillment of the rights of persons with disabilities.

The Makassar City Regional Regulation of the Province of South Sulawesi, regarding the 1% quota for persons with disabilities, remains a reference for the employment agency to keep paying attention to persons with disabilities, only that in recent years, no one has been absorbed in the company. However, workers with disabilities in each year are still accommodated by the Ministry of Manpower to register or apply as workers in every state and private (company) agency, only that in the last three years there has been no absorption into the world of work, especially in private companies that are in supervision of labor services.

In addition to labor services, the social service is also responsible for fulfilling the work rights of persons with disabilities. The following is data on the population of people with disabilities in Makassar City in South Sulawesi, in 2017 there were 2,250 people. (Source: Head of social rehabilitation of Makassar City social service in South Sulawesi, September 2016/2017)

The level of attention of the Makassar City Government towards people with disabilities is very high, it can be seen in the empowerment programs of people with disabilities, through special coaching for their preparation or future

provision. The Makassar City Government of South Sulawesi, the community cooperates with PSBD (Bina Daksa Social Institution) Wirajaya Makasar conducts efforts: Re-habilitation which is directed to re-function and develop physical, mental, and social abilities of people with disabilities to be able to carry out their social functions in a fair and dignified manner according to talent, ability, education and experience. The government also provides guidance on efforts to improve the social welfare of people with disabilities through policy setting, coordination, counseling, guidance, assistance, licensing and supervision. Basically every disabled person has the same opportunity to get education in the unit, path, type, and level of education according to the type and degree of disability.

The Makassar City Government (Dinas Sosial) collaborates with PSBD (Bina Daksa Social Institution) Wirajaya Makasar is one of the Technical Implementing Units in the Social Ministry environment which is under and is responsible directly to the Director General of Social Services and Rehabilitation, and is functionally coached by the Service Director and Social Rehabilitation of Persons with Disabilities (now Social Rehabilitation of Persons with Disabilities / RSODK). The task of this PSBD is to provide guidance, curative, rehabilitative social services and rehabilitation, promotive in the form of guidance on basic skills knowledge, resocialization, further guidance for people with disabilities to be able to be independent and play an active role in community life as well as review and preparation of service standards, providing information and referrals (Article 2 of the Ministry of Social Affairs Number 106 / HUK / 2009). Guidance provided includes: (1) Guidance and physical services (2) Guidance on the use of assistive devices; (3) Mental guidance (4) Social guidance, given in an effort to restore and / or develop the client's willingness, confidence and ability in personal adjustment; and adjustments to the social environment (social adjustment); (5) Job skills guidance. (6) Reading and writing guidance. (7) Work Learning Practices (PBK); and (8) Entrepreneurial guidance .

Inhibiting factors for the fulfillment of the employment rights of persons with disabilities in the city of Makassar 6 of 2013 concerning the Rights of Persons with Disabilities in Makassar City, South Sulawesi, mandates that all institutions, both Government and private, receive 1% of persons with disabilities from the number of employees or employees. However, in fact there are still factors that hinder persons with disabilities that are very difficult to obtain employment in both the private and government sectors, namely the awareness and concern of the public about persons with disabilities who generally consider people with disabilities to be unskilled workers, cheap labor and weigh heavily on society . (Results of interviews with employees of the Manpower Office of Makassar City in South Sulawesi in September). Entrepreneurial Thought Factor, lack of awareness from the employer, company owner to employ persons with disabilities because they are considered abnormal and certainly cannot be employed like normal workers and are considered to be detrimental to the company and the owner of the company. Moreover, the company certainly wants to make the maximum profit. an attitude of

doubt about the ability of persons with disabilities, users of employment services for persons with disabilities generally do not provide the necessary facilities / tools, limited accessibility for work independence

#### IV. CONCLUSION

That the Makassar City Government of South Sulawesi Province has carried out the obligation to fulfill human rights in the form; Respect, to protect, and fulfill (to fullfil). Respect, protection and fulfillment of universal human rights, are shown by regulations that provide space and facilities as well as efforts to provide legal protection for the position, rights, obligations and roles of persons with disabilities. The government has also conducted guidance on efforts to improve the social welfare of people with disabilities through policy setting, coordination, counseling, guidance, assistance, licensing, and supervision. the inhibiting factor of persons with disabilities in fulfilling the right to work is the awareness and concern of the public about persons with disabilities who consider that people with disabilities are less skilled workers, cheap labor and are very burdensome to the community.

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