

THE PRINCIPLE OF NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY IN THE WORLD OF WORK FOR WORKERS WITH DISABILITIES (Study in Kupang City)

FERDINANDUS LOBO¹, BENEDIKTUS PETER LAY², ERNESTA UBA WOHON³, STEFANUS DON RADE^{4*},
CAROLINA GLORIA METKONO⁵

Faculty of Law, Widya Mandira Catholic University¹

Faculty of Law, Widya Mandira Catholic University²

Faculty of Law, Widya Mandira Catholic University³

Faculty of Law, Widya Mandira Catholic University⁴

Faculty of Law, Widya Mandira Catholic University⁵

ferdinandlobo@unwira.ac.id¹

benediktuslay12@gmail.com²

ernestha160482@gmail.com³

stefanusdonrade@unwira.ac.id^{4*}

gloriaory92@gmail.com⁵

Abstract

This research discusses the problem where companies have not hired people with disabilities. The company in Kupang City is one of the companies that is really able to hire people with disabilities. However, so far the company does not have a single worker who comes from among people with disabilities. Based on Law No. 8 of 2016 concerning Persons with Disabilities article 53 paragraph (1) states, the Government, local governments, State-owned Enterprises and Regional-Owned Enterprises are required to employ at least 2% (two percent) of persons with disabilities from the number of employees or workers. Meanwhile, article 53 paragraph (2) states that private companies must employ at least 1% (one percent) of persons with disabilities from the number of existing employees. The formulation of the problem from this writing is how to implement the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities (study at Kupang City) and the obstacles to the implementation of the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities at Kupang City. The type of research used is empirical legal research. Based on the results of the study, it shows that the Company has not applied the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities. Meanwhile, the obstacles are the first obstacle from the person with disabilities itself, the second is the obstacle from the company.

Keywords: *Implementation, Principle of Non-Discrimination, equality of opportunity*

INTRODUCTION

In the current era of globalization, every field of work requires a professional workforce, namely a workforce that has the ability to match the needs so that the target of the company or institution can be achieved. Every company or institution requires Manpower to provide optimal service to customers (customers) and in increasing production. On the other hand, companies or agencies also demand that the workforce be quick in serving and expanding its market share. Companies and agencies providing employment want optimal performance from their workforce.¹ Unfortunately not all human resources have the same capacity. Diversity, especially related to a person's physical condition, is a consideration for business owners and /

¹Asyhadie, Zaeni, 2015, Work Law: Employment Law in the Field of Labor Relations, PT RajaGrafindoPersada, Jakarta.



job providers in choosing workers to be hired. The diversity that exists basically must not discriminate the treatment of one human being from another, be it on the grounds of ethnicity, race, religion or class. Likewise, physical condition or known as disability (different ability).²

According to Law No. 8 of 2016, persons with disabilities are all persons who experience physical, intellectual, mental, and or sensory limitations for a long period of time who in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on equal rights. Discriminatory treatment of people with disabilities is still easy to find in everyday life.

Persons with disabilities also have the right to obtain employment as stated in the 1945 Law article 27 paragraph (2) which reads "every citizen has the right to employment, a decent livelihood for humanity. This shows that every Indonesian citizen regardless of ethnicity, race, religion, gender, etc. has the same right to get a job or carry out a job

Furthermore, the right to get a decent job for persons with disabilities is regulated in article 5 of Law No. 13 of 2003 which states that "every worker has an equal opportunity without discrimination to obtain employment. This means that everyone deserves the opportunity to get a job, including from people with disabilities, so that people with disabilities should not get an obstacle in obtaining a job to maintain their lives.

That persons with disabilities have the right to work, entrepreneurship and cooperatives which have been regulated in article 11 of Law No. 18 of 2016 are as follows:

- a. Get jobs organized by the government, local government, or the private sector without discrimination.
- b. Earn equal pay to non-disabled workers in the same type of work and responsibilities
- c. Got decent accommodation in the job
- d. Not fired for disability reasons
- e. Getting the program back to work
- f. Proportional, dignified, and fair work placements
- g. Get the opportunity to improve the career ladder and all the normative rights inherent in it
- h. Increase business, have a job, be self-employed, develop cooperatives and start your own business.

In Indonesia, the number of people with disabilities according to the 2018 national economic survey (susenas) is around 14.2% of the Indonesian population who have disabilities or 30.38 million people. This number is huge and significant. Meanwhile, in NTT province in the last 4 years, the number of persons with disabilities has reached 36,600 people and approximately 10% of these people with disabilities live in

²Heymann, Jody, et al., 2013, *Disability and Equity at Work*, Oxford University Press, UK.



Kupang City. East Nusa Tenggara is the 15th province in Indonesia with a large number of people with disabilities.

Getting a decent job and getting equality is also entitled to be owned by persons with disabilities so that employers are obliged to provide employment opportunities for persons with disabilities³, as well as protect them in accordance with the degree of disability as stipulated in article 67 paragraph (1) of Law No. 13 of 2003. Protecting what is meant is such as the availability of accessibility, providing work equipment, and personal protective equipment. The right to obtain a decent job and have an employment relationship for persons with disabilities has been guaranteed by the Act.

Having equal opportunity to get a job for people with disabilities means that everyone must treat the workforce, both disabled workers and normal workers, equally. This can be interpreted equally. This can be interpreted as not treating people in a discriminatory manner, including statements of wages in the same job. Job qualifications and requirements must be made by paying attention to factors such as the type and or degree of disability, skills, level of education, expertise, health, as well as all available information, which means the degree of disability is the degree of lightness and severity of the disability that a person bears.

Law No. 8 of 2016 concerning persons with disabilities article 11 letter a states that persons with disabilities have the right to get the opportunity to obtain employment without discrimination whether held by the government, local government, or the private sector. Given the many issues of neglect that lead to discrimination that often occurs in people with disabilities.

Legal protection of the right of persons with disabilities to obtain decent work has been regulated in several legal instruments, namely: article 28 D of the 1945 Constitution of the Republic of Indonesia states "everyone has the right to fair recognition, guarantees, protection, and legal certainty as well as equal treatment before the law. Law No. 8 of 2016 concerning persons with disabilities. Law No. 13 of 2003 concerning manpower article 67 paragraph 1 specifies "employers who employ workers with disabilities are obliged to provide protection according to the type and degree of disability"

Article 53 paragraph 1 and paragraph 2 of Law No. 8 of 2016 concerning persons with disabilities already mention the provision of employment opportunities for workers with disabilities where private companies are required to provide 1% of the work quota for persons with disabilities and SOEs / government agencies 2%.

However, so far many regions in Indonesia have not fully employed persons with disabilities as written in the Law.⁴ DIY Jogjakarta is one of the areas where the absorption of disabled workers is still minimal, this is evidenced by data from non-governmental organizations distributing disabled workers, showing that of the 3,886 private companies in the DIY area, only 58 of them employ people with disabilities.

³ Jackson, Mary Ann, "Models of Disability and Human Rights: Informing the Improvement of Built Environment Accessibility for People with Disability at Neighborhood Scale?" *Laws*, Vol. 7, 10, 2018.

⁴ A. Priamsari, RR. Daughter. "Fair Laws for People with Disabilities." *Issues- Legal Issues* 48, no. 2 (2019): 215–223.



This shows that there are still very many companies that do not accommodate persons with disabilities as stipulated in Law No. 8 of 2016 concerning persons with disabilities.

In addition to DIY, the Central Java area is also an area where there are still many companies that have not hired people with disabilities. Based on the February 2016 National Labor Force Survey, there are around 11.65 million people with disabilities in the labor force, however, in reality there are still many who have not entered the workforce.⁵

Likewise, in the East Java region, it is known that data on persons with disabilities reached 4.9 million people, but the absorption of workers with disabilities is still less than in other regions, the low absorption of workers with disabilities shows that not all companies have implemented the mandate of Law No. 8 of 2016.

This shows that the 1% quota for private companies to hire people with disabilities is far from the reality.⁶ Not a few companies have 100 employees but do not have a single worker who comes from the disabled. There are also companies that have more than 200 workers but only have one worker with a disability.

Just like what happened in Kupang City. The reality is that there are still many large companies that do not employ people with disabilities. The company indirectly discriminates against persons with disabilities in the recruitment of workers. Such as the announcement of the admission of prospective employees which requires applicants to be physically and spiritually healthy, attractive in appearance and intended for normal people and inadequate facilities. The company builds assumptions and perceptions that people's disabilities are weak.

This habit then interprets the abilities that people with disabilities actually have and results in eliminating the opportunity and right to access work.⁷

One of them is several companies in Kupang City that so far do not have workers who come from people with disabilities. so that this research made several Kupang companies as research objects. This is based on the fact that the company is one of the companies capable of hiring people with disabilities in Kupang City, where not many companies have carried out their obligations to hire people with disabilities. So it becomes interesting to see the extent to which the company carries out its obligation to hire people with disabilities.

Based on the background above, the author would like to know "The implementation of the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities in Kupang City and the obstacles to the

⁵Nursyamsi, Fajri, EstuDyahArifianti, Muhammad Faiz Aziz, Putri Bilqish, and Abi Marutama. *Disability Legal Framework in Indonesia: Towards a Disability-Friendly Indonesia*. Print I. Center for Indonesian Law and Policy Studies, 2015.

⁶Salfutra, RekoDwi. "Human Rights In The Perspective Of Legal Philosophy." *Journal of Progressive Law XII/No.2/D*, no. 1 (2018): 43.

⁷Arrista, Trimaya. "Efforts to realize the protection and fulfillment of the rights of persons with disabilities through Law Number 8 of 2016 concerning Persons with Disabilities." *Journal of Indonesian Legislation* 13, No. 4 (2016):401–410.

implementation of the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities in Kupang City".

METHOD

The type of research used is empirical legal research which includes a statutory approach and a conceptual approach. Data sources are primary and secondary data where primary data is data obtained mainly from the results of empirical research, namely research carried out directly in the community, through observation, interviews and documentation. While secondary data are data obtained from literature review or review of various literature or library materials related to problems or research materials that are often referred to as legal materials. Research locations at several companies in Kupang City. The analysis technique used is a qualitative descriptive data analysis technique.

RESULT AND DISCUSSION

1. RESULTS

From the results of the study, it is known that the number of employees working in companies in Kupang City exceeds one hundred employees, but these companies do not yet have workers who come from people with disabilities. The requirements intended for applicants are, men and women, high school / vocational diploma graduates, maximum age 25 years, have experience in department stores of at least 1 year, look good and have good communication skills and look attractive. The height is at least 150 cm for women and 160 for men and so on.

From the results of the study, it is known that so far the number of employees in several companies is more than one hundred people but the company has not opened job vacancies for people with disabilities due to several considerations.⁸ The company has not accommodated people with disabilities because it has a reason, namely, because the employees needed by the company are those who have perfect physique, especially in the operational department, cashier, display section, which of course the work requires agility and physical perfection and fluency in language in order to communicate well. In addition to these requirements, there are also facilities and infrastructure in companies that are not fully responsive to people with disabilities. This also causes the company to not accommodate people with disabilities.⁹ Because to hire people with disabilities, companies must prepare supporting facilities and infrastructure.

Then the company must hire people with disabilities, the Company knows about the Law that regulates this, but why until now the company has not accepted employees from people with disabilities because the facilities in the company are not adequate and not disability-friendly, but it does not rule out the possibility that over time some companies will provide opportunities for workers from people with disabilities.¹⁰

The obstacles that cause companies to not hire people with disabilities are because the facilities and infrastructure in the company are not yet friendly. The existing facilities in the company have not fully supported people with disabilities to work in the company, because if the company wants to open job vacancies for workers from people with disabilities, the company must prepare adequate facilities and infrastructure.

In addition to Law No. 8 of 2016 which regulates persons with disabilities, there are regional regulations related to the fulfillment of the rights of persons with disabilities in Kupang City, namely, Governor Regulation No. 68 of 2020 concerning the protection and fulfillment of the rights of persons with disabilities. And Kupang City regional regulation No. 2 of 2019 concerning the protection and

⁸Harahap, Rachmita Maun, Imam Santosa, DeddyWahjudi, and WidjajaMartokusumo. 2019. "Study of the application of universal design in lecture halls for hearing disabilities in universities (case study: cadl building lecture hall at ITB)." *Narada: Journal of Design and Art* 6 (1): 1-26.

⁹Purnomosidi, Arie. "TKonsepPerlindunganHakConstitutionAl Persons with Disabilities di Indonesia", *Journal of Legal Reflections*, Volume 1 Number 2, pp. 161-174

¹⁰ Effendi, A. Masyur. 2005. *Development of the Human Rights Dimension and the Dynamics Process of Human Rights Law Drafting (HAKHAM)*. Bogor: Ghalia Utama.



fulfillment of the rights of persons with disabilities. In this regard, there has been no policy from local governments related to the enforcement of the rights of persons with disabilities because there has been no special enforcement agency formed to enforce the protection of the rights of persons with disabilities.

Meanwhile, the 1% quota for private companies to hire persons with disabilities is still far from what is expected because in Law No. 8 of 2016 article 53 paragraphs 1 and 2 it is said that the Government, Local Governments, State-Owned Enterprises, and Regional-Owned Enterprises are required to hire at least 2% (two percent) of persons with disabilities from the number of employees or workers. Meanwhile, private companies are required to hire at least 1% (one percent) of persons with disabilities from the number of employees or workers.

So far the implementation has not been there and far from what was expected, because there are still many large companies in Kupang City that have not accommodated workers with disabilities for various reasons. Karna must be ready both. Both people with disabilities must be mentally prepared and the world of work must be prepared both for their facilities and infrastructure and also sensitivity in the world of work.

When the world of work accepts people with disabilities as workers, sensitivity is needed because indirectly they will interact with people with disabilities themselves, so how to build closeness between people with disabilities and other workers.

For the absorption of manpower, work in Kupang City is still lacking for various reasons. The first is because of disability many do not get an education. Making it difficult for people with disabilities to find work. Because one of the requirements of the company is that it must have a diploma as well as skills. Then the second, Because employers look at the physical, so people with disabilities who apply to the company are difficult to accept.

However, there are some worlds of work that are starting to provide opportunities for people with disabilities but one of the obstacles that have not been eliminated by the world of work is the work requirements that require physical and spiritual health. Thus this becomes one of the challenges or obstacles for people with disabilities when they want to work.

Meanwhile, the biggest obstacles that make it difficult for people with disabilities to find work are that the stigma for people with disabilities is still very high.¹¹ Because people still think that people with disabilities are incapacitated people, the level of education is still low, many people with disabilities do not get education because regular schools cannot accept people with disabilities, there is a law that regulates persons with disabilities which requires a quota of 1% for private companies and 2% for state-owned enterprises to hire people with disabilities.

However, in reality, the world of work is not ready, although the company provides opportunities for people with disabilities, but the rules and requirements to be accepted to work in the workplace have not been changed which requires job applicants to be physically and spiritually healthy.

2. DISCUSSION

A. IMPLEMENTATION OF THE PRINCIPLE OF NON-DISCRIMINATION AND EQUAL OPPORTUNITY IN THE WORLD OF WORK FOR WORKERS WITH DISABILITIES (STUDY IN SEVERAL KUPANG CITY COMPANIES)

1. PRINCIPLE OF NON-DISCRIMINATION

A principle or principle is the foundation underlying a piece of legislation, the background of its formation and guidelines that guide regulations ethically. "Non" in the Big Dictionary Indonesian means no, no, without. Meanwhile, discrimination is defined as an attitude/behavior, an unfair act or an act of balance carried out by an individual or group towards other individuals. The principle of non-discrimination is a foundation that guides legislation ethically to eliminate any behavior of exclusion, or discrimination that aims to reduce or eliminate the recognition, enjoyment or use of human rights and basic freedoms in any field, whether ethnic, racial, religious, or class.

Thus, non-discriminatory treatment is an effort to eliminate discrimination or discrimination, exclusion treatment or forms that reduce or eliminate the enjoyment or use of human rights, including freedom, especially in the field of obtaining work.

¹¹Fulthoni, Renata Arianingtyas, et al. 2009. Understanding Discrimination, Jakarta: The Indonesian Legal Resource Center (ILRC).

From the results of research in several companies in Kupang City through interviews, researchers found that: One of the requirements intended for an applicant is: looking attractive and having good communication skills and being physically and spiritually healthy.

Researchers did not get secondary data related to work conditions in several companies in Kupang City, but researchers found empirical data in the form of answers from department store managers of several companies in Kupang City related to the conditions for being accepted into the company, one of which requires applicants to look attractive to be able to communicate well, intended for normal people and physically and spiritually healthy. Moving on from the requirements set by the company that indirectly discriminates against persons with disabilities and the company does not open opportunities for people with disabilities or in other words, the company does not accommodate people with disabilities to get job opportunities in several companies in Kupang City.

In addition to the requirements, the company's facilities and infrastructure have not been responsive to persons with disabilities.¹² Based on the results of the study, it is known that the facilities and infrastructure owned by the company have not been fully responsive to people with disabilities. Where the company has not provided facilities that support people with disabilities.

Philipus M Hadjon argued that legal protection is the protection of dignity and dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions of authority or as a collection of rules or rules that will be able to protect something else. However, from the results of the study, it can be seen that related to the application of the principle of non-discrimination, it turns out that so far persons with disabilities have not received legal protection as they should even though this principle has been regulated in Law No. 8 of 2016 concerning persons with disabilities, but in fact the local government, especially in Kupang City, has not been prepared by law enforcement agencies to overcome exclusive treatment or neglect of rights or restrictions on non-discrimination principles. discrimination by the company in this case several companies in Kupang City.

Gustaf Radbruch also argued that the purpose of the law must bring justice, certainty and expediency. However, with regard to the problems studied, persons with disabilities have not received justice as they should be related to the fulfillment of their rights to get a job and certainty and benefit have not been felt by persons with disabilities due to various obstacles experienced by persons with disabilities.

Based on the results of interviews with the management of several companies in Kupang City, the company does not fully know through Law No. 8 of 2016 concerning persons with disabilities related to the company's obligation to hire persons with disabilities. And ignorance of this law applies *adagium ignorantia juris non excusat* which means ignorance of a law is inexcusable or ignorance of the law is not justified and goes back to the principle of legal fiction i.e. the principle that assumes everyone knows the law (*presumptio iures de jure*). Everyone is considered to know the law, including people who live in the interior and outside or who do not receive education.

So far, the company has not applied the principle of non-discrimination in employee recruitment, because the requirements intended for applicants require physical and spiritual health and attractive appearance and are intended for normal people because employees are needed to be agile or fast at work.¹³ And the existing infrastructure in the company has not been fully responsive to people with disabilities. in the sense that the company indirectly excommunicates, differentiates and hinders people with disabilities from being able to access and obtain jobs in several companies in Kupang City.

2. EQUALITY OF OPPORTUNITY

Equality of opportunity is a condition that provides opportunities and/or provides everyone with equal, comparable or commensurate access to better well-being. Employment opportunity is the availability of employment to accommodate the labor force. Wide employment opportunities reduce the number of unemployed people, increase population productivity, and increase production and national income. So it can be concluded that the similarity of job opportunities is a situation where there is a availability of job vacancies that provide opportunities and / or provide equal, comparable or commensurate access to everyone who is looking for a job in order to obtain better welfare.

¹²Irwanto, et al. 2010. Analysis of the Situation of Persons with Disabilities in Indonesia: A Desk-Review, Jakarta: Center for Disability Studies, Faculty of Social and Political Sciences, University of Indonesia.

¹³Jazim Hamidi, "Legal Protection of Disabilities in Fulfilling the Right to Get Education and Work", Journal of Law IusQuialustum faculty of law, Universitas Islam Indonesia, Vol. 23 Issue 4, October 2016.



In Law No. 8 of 2016, it is explained that equality of opportunity is a condition that provides opportunities and / or provides access to persons with disabilities to channel potential in all aspects of state and community administration.

Article 5 of Law No. 13 of 2003 on manpower (Manpower Law) explains that "every worker has the same forgery without discrimination to obtain employment" in the explanation of article 5 of the Manpower Law explained that every worker has the same rights and opportunities to obtain a decent job and livelihood without differentiating gender, ethnicity, race, religion, and political flows according to the interests and abilities of the workforce concerned including equal treatment of persons with disabilities.

Meanwhile, in Law No. 8 of 2016, persons with disabilities have the right to work, entrepreneurship, and cooperatives, one of which includes the right to obtain work organized by local governments, or the private sector without discrimination. Article 53 paragraphs 1 and 2 explain that "local governments and governments, and State-owned enterprises, Regional-Owned enterprises, are required to employ at least 2% (two percent) of persons with disabilities from the number of employees or workers. Meanwhile, private companies are required to hire at least 1% (one percent) of people with disabilities from workers or employees".

Equality of opportunity in question is a fair condition when a job applicant is treated equally and unhindered by various obstacles created by the employer company. Therefore, the theories used become a benchmark to protect the rights of persons with disabilities and bring justice to persons with disabilities.

Legal protection is the protection of dignity and dignity, as well as the recognition of human rights possessed by legal subjects based on the legal provisions of authority. Legal Protection Theory serves to protect the rights of persons with disabilities from arbitrary actions including equal opportunities for persons with disabilities to obtain employment. Meanwhile, the purpose of the law is to bring justice, certainty and expediency. Justice intended for people with disabilities is to get equal opportunities in the world of work without any discrimination or discrimination.

Based on the results of research through interviews conducted by the author at several companies in Kupang City, it can be seen that so far the equality of opportunities for people with disabilities has not been fulfilled because it is hindered by the conditions given by the company where the company requires applicants to look attractive, and is intended for normal people and the facilities and infrastructure provided by the company are not fully disability-friendly and the Affirmative action does not exist. Because so far the company has not implemented what is in Law No. 8 of 2016 article 53 paragraphs 1 and 2 concerning the company's obligation to hire persons with disabilities.

3. IMPLEMENTATION

While Implementation is the provision of means to carry out something that has an impact or effect on something.¹⁴ Something is done to cause repercussions or consequences that can be in the form of laws, government regulations, judicial decisions and policies made by government agencies in state life. In its function as the protection of human interests, the law has a purpose. The law has goals to be achieved. According to Gustav Radbruch the purpose of the law is to bring justice, certainty and expediency.

First, justice is closely related to conscience. Justice is not about a formal definition because it is closely related to everyday human life. Conscience has the highest position because it is closely related to the deepest inner sense. Second, certainty, which means that certainty is a lawsuit, is for the law to be positive in the sense that it applies with certainty.¹⁵ The law must be obeyed, thus the law is truly positive. This means that legal certainty is appointed to protect the interests of each individual so that they know what deeds are allowed and otherwise what deeds are prohibited, so that they are protected from government arbitrariness. Third, expediency is defined as a goal that must be aimed at something that is useful or has expediency. In addition to bringing justice, certainty and expediency also need protection for human interests. Philipus M Hadjon argued that legal protection is the protection of dignity and dignity, as well as the recognition of human rights possessed by legal

¹⁴Istifarroh and WihiCahyo Nugroho, "Protection of Disability Rights to Get a Job in Self-Employed Companies and State-Owned Enterprises", *MimbarKeadilian*, Vol. 12 No. 1, July 2019.

¹⁵Latuconcina, Zulfatah, "Affirmation of Government Policy in Facilitating Work for Persons with Disabilities", *Pandecta Journal of Unnes*, Volume 9. Number 2. Semarang, January 2014.



subjects based on legal provisions of authority or as a collection of rules or rules that will be able to protect something else.

According to Philipus M Hadjon that legal protection for the people as a preventive and repressive government action. Preventive legal protection aims to prevent disputes from occurring, directing government actions to be prudent in discretionary decision-making, and repressive protection aimed at resolving disputes. Including its handling in the judiciary. Thus, it can be said that the function of legal protection is to protect the people from dangers and threats of crime that can harm themselves where legal protection is to protect legal subjects through applicable laws and regulations and forced to implement them with a sanction.

From the results of research conducted in several companies in Kupang City and the results of interviews with the head of pertuni, the head of persani and the head of the manpower and transmigration office, it can be seen that the implementation of the principle of non-discrimination and equality of opportunity in the world of work for people with disabilities is still very far from what was expected. Because so far it is known that the number of employees in this company has met 100 workers but there is not a single worker who comes from the disabled circle while in Law No. 8 of 2016 article 53 paragraphs 1 and 2 explains that the government and regional governments, and State-owned enterprises, Regional-Owned Enterprises, are required to hire at least 2% (two percent) of persons with disabilities from the number of employees or workers. Meanwhile, private companies are required to hire at least 1% (one percent) of people with disabilities from workers or employees. However, in article 53 paragraphs 1 and 2, the affirmative action is not applied. The 1% quota for private companies to hire persons with disabilities has not been implemented in several companies in Kupang City.

B. BARRIERS TO THE IMPLEMENTATION OF THE PRINCIPLE OF NON-DISCRIMINATION AND EQUALITY OF OPPORTUNITY IN THE WORLD OF WORK FOR WORKERS WITH DISABILITIES (STUDY IN SEVERAL COMPANIES IN KUPANG CITY)

From the results of the research and interviews conducted, it is known that the obstacles that affect the implementation of the principle of non-discrimination and equality of opportunities in the world of work for workers with disabilities in several companies in Kupang City are divided into two including:

1. BARRIERS FROM PERSONS WITH DISABILITIES.

People with disabilities feel insecure and inferior to their physical condition and limitations when the company sets the conditions for working, namely having to look attractive, intended for normal people as well as needed agility in doing their work.

As well as the low level of education of persons with disabilities in the fact that occurs in Kupang City, most people with disabilities do not get education, this is due to the lack of educational facilities for people with disabilities. As a result, people with disabilities do not obtain a diploma. Even though a diploma is one of the important requirements in applying for a job.

2. OBSTACLES FROM THE COMPANY

The company's lack of understanding of Law No. 8 of 2016 concerning persons with disabilities, especially with regard to article 53 paragraphs 1 and 2 regarding the company's obligation to hire persons with disabilities.

Then the second obstacle is the lack of availability of adequate facilities or those that are responsive to the degree of disability, which can support people with disabilities when doing work. Inadequate access to facilities for workers with disabilities.

One condition for companies to hire people with disabilities is that the company's facilities must be adequate for disabled workers. Special access according to their physical and mental needs. The access referred to here includes the provision of facilities such as special elevators intended for workers with special needs toilets that are friendly to workers with disabilities, and special escalators for workers who use wheelchairs.¹⁶

¹⁶ZulkarnainRidwan, "Protection of the Constitutional Rights of Persons with Disabilities", Fiat Justitia Journal of Legal Sciences, Volume 7 No. 2, May – August 2013.



In addition, companies must also provide special jobs for people with disabilities based on the degree of disability of a worker. However, the fact that in Kupang City facilities for workers with disabilities in the company are not yet available. Some companies in Kupang City have not provided the facilities in question because they are constrained by costs in building facilities. This is the cause of the lack of disabled workers at companies in Kupang City.

The third is The requirements of the company, The conditions of the company that indirectly discriminate against persons with disabilities by stipulating the conditions for being accepted to work in the company are attractive-looking people, intended for normal people and must be physically and spiritually healthy.

In addition, there are also other factors that become obstacles, namely there are no strict sanctions and enforcement agencies related to the fulfillment of the rights of persons with disabilities.

CONCLUSION

Based on the results of research and discussion on the implementation of the principle of non-discrimination and equality of opportunities in the world of work for workers with disabilities at PT Transmart Kota Kupang, the author can conclude that:

a. The principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities in several companies in Kupang City has not been implemented properly because the company still requires applicants to look attractive, physically and spiritually healthy and access for persons with disabilities and inadequate facilities, has not supported people with disabilities to be able to work in several companies in Kupang City, and the facilities and infrastructure have not been responsive to the degree or level of disability.

b. Meanwhile, the obstacles to the implementation of the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities in several companies in Kupang City are, namely, the first Obstacles from persons with disabilities themselves. The biggest obstacle of people with disabilities is because people with disabilities feel insecure and inferior to their physical condition and limitations when the company sets the conditions for work, namely having to look attractive, intended for normal people as well as needed agility in doing their work. As well as the level of education of persons with disabilities which is still low. Then the obstacles of the company.

The biggest obstacle on the part of the company is the lack of understanding on the part of the company of Law No. 8 of 2016 concerning persons with disabilities, especially with regard to article 53 paragraphs 1 and 2 regarding the obligation of companies to hire persons with disabilities. Then the second obstacle is the lack of availability of adequate or disability-responsive facilities, which can support people with disabilities when doing work. As well as the conditions set by the company.

In addition, it is influenced by several things, namely: the lack of education level obtained by persons with disabilities, inadequate access to facilities for persons with disabilities, the unavailability of special programs from the government in this regard, no strict sanctions and binding rules in the Law, no enforcement agencies related to violations of the rights of persons with disabilities and views or stigmas that assume that the offender disabilities are the weak and

RECOMMENDATIONS

From the results of the research and conclusions above, the author suggests that the implementation of the principle of non-discrimination and equality of opportunity in the world of work for workers with disabilities in several companies in Kupang City must be guided by Law No. 8 of 2016 concerning persons with disabilities article 53 paragraphs 1 and 2. As well as for companies, they should provide work requirements that do not discriminate, and for the government to create empowerment programs for people with disabilities so that they are ready when they enter the world of work.



REFERENCES

- [1.] Priamsari, RR. Daughter. "Fair Laws for People with Disabilities." *Issues- Legal Issues* 48, no. 2 (2019): 215-223.
- [2.] Arrista, Trimaya." Efforts to realize the protection and fulfillment of the rights of persons with disabilities through Law Number 8 of 2016 concerning Persons with Disabilities." *Journal of Indonesian Legislation* 13, no. 4 (2016):401-410.
- [3.] Asyhadie, Zaeni, 2015, *Work Law: Employment Law in the Field of Labor Relations*, PT RajaGrafindoPersada, Jakarta.
- [4.] Effendi, A. Masyur. 2005. *Development of the Human Rights Dimension and the Dynamics Process of Human Rights Law Drafting (HAKHAM)*. Bogor: Ghalia Utama.
- [5.] Fulthoni, Renata Arianingtyas DKK. 2009. *Understanding Discrimination*, Jakarta: The Indonesian Legal Resource Center (ILRC).
- [6.] Harahap, Rachmita Maun, Imam Santosa, DeddyWahjudi, and WidjajaMartokusumo. 2019. "Study of the application of universal design in lecture halls for hearing disabilities in universities (case study: cadl building lecture hall at ITB." *Narada: Journal of Design and Art* 6 (1): 1-26.
- [7.] Heymann, Jody, et al., 2013, *Disability and Equity at Work*, Oxford University Press, UK.
- [8.] Irwanto. et al. 2010. *Analysis of the Situation of Persons with Disabilities in Indonesia: A Desk-Review*, Jakarta: Center for Disability Studies, Faculty of Social and Political Sciences, University of Indonesia.
- [9.] Istifarroh and WihiCahyo Nugroho, "Protection of Disability Rights to Get a Job in Self-Employed Companies and State-Owned Enterprises", *MimbarKeadilian*, Vol. 12 No. 1, July 2019.
- [10.] Jackson, Mary Ann, "Models of Disability and Human Rights: Informing the Improvement of Built Environment Accessibility for People with Disability at Neighborhood Scale?" *Laws*, Vol. 7, 10, 2018.
- [11.] Jazim Hamidi, "Legal Protection of Disabilities in Fulfilling the Right to Get Education and Work", *Journal of Law IusQuialustum faculty of law, Universitas Islam Indonesia*, Vol. 23 Issue 4, October 2016.
- [12.] Latuconcina, Zulfatah, "Affirmation of Government Policy in Facilitating Work for Persons with Disabilities", *Pandecta Journal of Unnes*, Volume 9. Number 2. Semarang, January 2014.
- [13.] Nursyamsi, Fajri, EstuDyahArifianti, Muhammad Faiz Aziz, Putri Bilqish, and Abi Marutama. *Disability Legal Framework in Indonesia: Towards a Disability-Friendly Indonesia*. Print I. Center for Indonesian Law and Policy Studies, 2015.
- [14.] Purnomosidi, Arie. "KonsepPerlindunganHakConstitutionAl Persons with Disabilities di Indonesia", *Journal of Legal Reflections*, Volume 1 Number 2, pp. 161-174
- [15.] Salfutra, RekoDwi. "Human Rights In The Perspective Of Legal Philosophy." *Journal of Progressive Law XII/No.2/D*, no. 1 (2018): 43.
- [16.] ZulkarnainRidlwan, "Protection of the Constitutional Rights of Persons with Disabilities", *Fiat Justitia Journal of Legal Sciences*, Volume 7 No. 2, May - August 2013.