

When Courts Speak: Substantive Justice for Disabilities in CASN Recruitment on Trial

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Abstract

The statutory 2% labour quota for persons with disabilities, as mandated by Law No. 8 of 2016, remains largely unfulfilled. Discriminatory practices persist in the recruitment of civil servants, as illustrated by the case of Muhammad Baihaqi (Supreme Court Decision No. 471 K/TUN/2021). This study aims to analyse the capacity of the State Administrative Court (PTUN) to deliver substantive justice and to identify the key obstacles that hinder such efforts. The methodology employed is a doctrinal legal study, utilising primary legal sources (statutes and court decisions) and secondary materials (reports from the Central Statistics Agency [BPS], academic literature, journal articles, and media coverage). Findings indicate that lower administrative courts tend to prioritise procedural compliance, such as adherence to filing deadlines, while neglecting the substantive issue of discrimination. In contrast, the Supreme Court underscored the importance of substantive justice; however, systemic barriers remain prevalent. For instance, in 2019, only 0.017% of civil servant hires were persons with disabilities, reflecting ongoing institutional bias and inadequate reasonable accommodation. This study is the first to explicitly link the procedural rigidity of PTUN to broader human rights violations, arguing for a paradigm shift towards a socio-legal approach that bridges administrative law with justice for persons with disabilities. The paper recommends several reforms: stricter enforcement of the labour quota, the standardisation of disability-inclusive recruitment assessments, the imposition of sanctions for non-compliance, and the integration of disability rights training for judges. Urgent institutional reforms are necessary to align administrative law with human rights principles and to ensure equitable participation of marginalised groups in public employment.

1. Introduction

The administration of the state is founded on the principles of justice and equality before the law, which constitute a core mandate of Indonesia's reform

agenda. This includes the protection of human rights for all individuals, including persons with disabilities.¹ These rights are inalienable and universal, applying to every individual regardless of personal characteristics such as gender, race, or disability status.² As mandated by the Constitution, the state is obligated to ensure protection, equality, and equal opportunities for persons with disabilities in all aspects of life, including employment and social participation.³

Law Number 4 of 1997 concerning Persons with Disabilities was enacted in 1997; however, it is no longer aligned with the current paradigm regarding the rights and needs of persons with disabilities. Consequently, Law Number 8 of 2016 on Persons with Disabilities was introduced to replace the previous legislation. This newer law affirms the State's commitment to ensuring the well-being of all citizens, including persons with disabilities, who possess the same legal status and human rights as other Indonesian citizens. It recognizes persons with disabilities as an integral part of the nation, entitled to live and develop with dignity and equality.⁴ This aligns with the UN Convention on the Rights of Persons with Disabilities (CPRD).⁵ This principle is fundamental to ensuring that all individuals, including persons with disabilities, are afforded equal rights to dignity and opportunity. Nevertheless, significant gaps remain in the implementation and realization of these rights.⁶ A global analysis indicates that while approximately 62% of countries generally prohibit employment discrimination on the basis of disability, fewer explicitly address indirect discrimination (33%) and harassment (30%). Moreover, only about half of the countries have legal provisions that guarantee reasonable accommodation for persons with disabilities.⁷

Although a legal framework exists to guarantee the rights of persons with disabilities, its implementation continues to face significant challenges, particularly in the area of employment. According to data from the Central Statistics Agency (Badan Pusat Statistik/BPS), approximately 10.38% of the Indonesian population has a disability. However, of the 17 million persons with disabilities of working age, only 7.6 million are employed,⁸ primarily in the informal sector and often earning below-average wages. This highlights the persistent and significant barriers to

¹ Jack Donnelly, "Universal Human Right In Theory and Practice," *Cornell University Press* 14, no. 1 (1992): 142–43.

² Rhoan K.M Smith, *Hukum Hak Asasi Manusia (HAM)*, ed. Knut D Asplund, Suparman Marzuki, and Eko Riyadi, *Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII)*, 1st ed. (Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII), 2008), 11.

³ Y. Handajani, "The Role of Participation of Religious and Social Organization on Disability of Elderly: Case Study in Jakarta, Indonesia," *European Geriatric Medicine* 3 (September 2012): S79, <https://doi.org/10.1016/j.eurger.2012.07.155>.

⁴ Utami NS et al., "Kesetaraan Hak Politik Orang Dengan Gangguan Jiwa (ODGJ) Dalam Pemilu," *Jurnal Kedokteran Forensik Dan Toksikologi Indonesia* Vol.13, no. 4 (2019): 1571–75.

⁵ United Nations, "Declaration on the Rights of Indigenous Peoples" (2007), <https://doi.org/10.7765/9781847791221.00032>.

⁶ Agung Wardana and Ni Putu Yogi Paramitha Dewi, "Moving Away From Paternalism: The New Law on Disability in Indonesia," *Asia Pacific Journal on Human Rights and the Law* 18, no. 2 (2017): 172–95, <https://doi.org/10.1163/15718158-01802003>.

⁷ Jody Heymann, Elizabeth Wong, and Willetta Waisath, "A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries," *Journal of Disability Policy Studies* 33, no. 1 (June 17, 2022): 25–34, <https://doi.org/10.1177/10442073211006396>.

⁸ Ema Tusiati et al., *Analisi Tematik Kependudukan Indonesia*, ed. Wiisnu Winardi, Cetakan Pe (Jakarta: Badan Pusat Statistik Republik Indonesia, 2023), 75.

achieving decent and equitable employment opportunities for persons with disabilities.⁹

Due to this phenomenon, individuals with disabilities often face significant challenges in securing employment within the formal sector. The Law on Persons with Disabilities introduces an affirmative policy that mandates a minimum quota of 2% for the employment of persons with disabilities in the public sector. This requirement applies to both central and regional governments, as well as State-Owned Enterprises (SOEs) and Regionally Owned Enterprises. The implementation of this policy is essential to ensure equal access to decent employment opportunities for individuals with disabilities.¹⁰

It is indisputable that persons with disabilities possess the same constitutional right to participate in the bureaucracy and to become civil servants.¹¹ The Manpower Act, in the elucidation of Article 5, underscores that all workers have the right to obtain employment in accordance with their interests and abilities, without discrimination on the basis of gender, ethnicity, race, religion, or disability.¹²

Persons with disabilities frequently encounter discrimination in both the formal and informal employment sectors. A notable example is the 2019 Civil Servant Candidate Selection (CASN), in which Muhammad Baihaqi was deemed unqualified by the Central Java Regional Secretary on the grounds that he did not meet the criteria regarding the type of disability and the educational qualifications for the position he applied for. This case illustrates that, despite existing policies intended to guarantee equal rights for individuals with disabilities, discriminatory practices persist in recruitment processes.¹³

Regulations concerning persons with disabilities have been established to safeguard their rights and to promote their inclusion as equal members of society.¹⁴ Although existing policies and regulations have formally guaranteed the rights of persons with disabilities, they continue to encounter substantial barriers in accessing opportunities within the bureaucratic system. In an effort to enhance inclusivity in civil service recruitment, the government has adopted an affirmative policy mandating a minimum quota of 2% for individuals with disabilities. Nevertheless, the implementation of this policy remains fraught with challenges, as evidenced by the persistently low acceptance rates and limited availability of suitable positions across both central and regional government agencies. This situation underscores that the enactment of the Law on Persons with Disabilities

⁹Roselina Yoalanda et al., *Ketenagakerjaan Dalam Data 2023*, ed. Zulfyandi, Kementerian Ketenagakerjaan, Cetakan Ke, vol. 2 (Jakarta: Kementerian Ketenagakerjaan Republik Indonesia, 2023).

¹⁰ C N Syahfitri et al., "EVALUASI KEBIJAKAN PEMENUHAN HAK PEKERJAAN SEKTOR FORMAL BAGI PENYANDANG DISABILITAS DI LINGKUNGAN PEMERINTAH KOTA BANDUNG," *Jurnal Ilmiah Wahana ...*, 2024, 24.

¹¹ Republik Indonesia, "UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA TAHUN 1945," *Warga Dan Negara* 1945 (1945): Pasal 28 Dayat (2).

¹² M Yaman, "Kebijakan Pemerintah Dalam Memberikan Kesempatan Penyandang Disabilitas Dalam Penerimaan Calon Aparatur Sipil Negara," *Sol Justicia* Vol.4, no. No.1 (n.d.): 71.

¹³ Revina Nova Amelia and Nadia Indah Femmithasari, "DISKRIMINASI PENERIMAAN CALON PEGAWAI NEGERI SIPIL TERHADAP PENYANDANG DISABILITAS," *Jurnal Ilmiah Dinamika Hukum* 24, no. 1 (May 13, 2023): 130–31, <https://doi.org/10.35315/dh.v24i1.9316>.

¹⁴ R K Dewi et al., "Kendala Mewujudkan Pembangunan Inklusif Penyandang Disabilitas," *The SMERU Research ...* (Jakarta: The SMERU Research Institute, 2020), 7–8.

represents a state initiative aimed at realizing the rights of persons with disabilities by expanding employment opportunities, including access to civil service positions within the bureaucracy.

Previous studies have predominantly emphasized the normative dimensions of affirmative policies, often neglecting to assess the effectiveness of their implementation within the administrative legal system—particularly in the context of the State Administrative Court (PTUN). Given the intrinsic relationship between procedural justice and substantive justice, the procedures employed in the State Administrative Court constitute an integral part of substantive law. Consequently, the failure to apply fair procedures may lead to violations of substantive justice.¹⁵

The State Administrative Court (PTUN) is encouraged to adopt a more proactive role (*Dominus Litis*) in legal reasoning by moving beyond a rigid legal positivist framework. This involves integrating socio-legal and socio-cultural paradigms to better achieve substantive justice, particularly in addressing the specific barriers to access to justice faced by persons with disabilities. This study focuses on the procedural practices of the State Administrative Court, which have often posed significant obstacles to the realization of the principle of non-discrimination. The Supreme Court decision No. 471 K/TUN/2021 serves as the focal point of analysis, illustrating how the cassation court can rectify the shortcomings of the lower administrative courts by emphasizing the necessity of a substantive approach in resolving administrative disputes. In cases involving the rights of persons with disabilities, such an approach demands that judges take into account the broader social implications and the development of public policy, such as the principles of sustainable development, when rendering their decisions.¹⁶

2. Method

This research examines the role of the Administrative Court in upholding administrative justice for persons with disabilities, with particular reference to Supreme Court Decision No. 471 K/TUN/2021. Employing a doctrinal research method, the study analyzes the substantive aspects of the concept using secondary data. The data are drawn from primary, secondary, and tertiary legal materials, including supporting literature.¹⁷ These materials are systematically compiled, analyzed, and interpreted to facilitate comparison and derive conclusions relevant to the issues under investigation.

Primary legal sources include binding legal instruments such as the 1945 Constitution of the Republic of Indonesia, Law No. 8 of 2016 on Persons with Disabilities, Law No. 20 of 2023 on State Civil Apparatus, and Supreme Court Decision No. 471 K/TUN/2021. Secondary sources comprise scholarly opinions and legal analyses published in academic journals and books, which serve to further enrich the study.

¹⁵ Álvaro Pérez Ragone, "The Impact of the Dialogue between Substantive Law and Procedural Law," *Revista Derecho Del Estado*, no. 41 (2018): 255–83.

¹⁶ Soehartono Soehartono et al., "The Establishing Paradigm of *Dominus Litis* Principle in Indonesian Administrative Justice," *Sriwijaya Law Review* 5, no. 1 (January 28, 2021): 42, <https://doi.org/10.28946/slrev.Vol5.Iss1.877.pp42-55>.

¹⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI-Press, 2014).

The research adopts a conceptual methodology, offering a novel perspective that challenges conventional jurisprudential interpretations. A qualitative analysis is employed, grounded in both conceptual and statutory approaches.¹⁸ The aim is to deliver an empirical, systematic, and contextually relevant exploration of how the Administrative Court addresses the rights of persons with disabilities within the framework of Indonesian law, guided by contemporary legal theories and frameworks.

3. Analysis or Discussion

A. Case of Disqualification of Persons with Disabilities in CPNS Selection: Position Analysis and Legal Review

1) The case of Muhammad Baihaqi: 2019 Central Java Province Civil Servant Candidate Program

In 2019, Muhammad Baihaqi applied for a civil servant (CPNS) position in Central Java Province under the special category for persons with disabilities, with Registration Number 4400068060305733. At the time, he was serving as an educator at Al-Irsyad Junior and Senior High Schools in Pekalongan Regency. Baihaqi submitted his application on 23 November 2019, following the official announcement of the 2019 CPNS recruitment for the Central Java Provincial Government, which was open from 11 to 24 November 2019, as stipulated in Announcement Letter No. 810/1156, dated 8 November 2019. Despite attaining high scores in the Basic Competency Selection (SKD), Baihaqi was disqualified from the selection process and deemed ineligible (TMS) due to his disability status. Believing the disqualification to be discriminatory, Baihaqi filed a lawsuit against the CPNS Selection Committee, represented by the Regional Secretary of Central Java Province. He alleged that the decision was prejudiced against his disability and violated legal protections. Specifically, Baihaqi contended that the special policy for the recruitment of persons with disabilities was inconsistent with the applicable legal framework, particularly Law No. 8 of 2016 on Persons with Disabilities, which upholds the principle of non-discrimination in access to employment.

2) Analysis of Judges' Decisions and Legal Considerations

A series of decisions issued by the State Administrative Court (PTTUN) at both the first instance and appellate levels, as well as by the Supreme Court at the cassation stage, illustrate a significant concern regarding the violation of the right to decent work and freedom from discrimination. Muhammad Baihaqi's initial legal challenge was dismissed on procedural grounds, specifically for failing to meet the formal filing deadline, without any substantive examination of the alleged discriminatory nature of the administrative decision in question. The PTTUN upheld this dismissal, reaffirming the procedural stance and

¹⁸ Peter Mahmud Marzuki, *Pengantar Penelitian Hukum* (Jakarta: Kencana, 2006).

similarly refraining from assessing potential violations of the rights of persons with disabilities as guaranteed under national law.

However, the Supreme Court, in its cassation judgment, departed from this procedural approach by emphasizing the principle of substantive justice. It held that the disqualification of Baihaqi by the Regional Secretary of Central Java on the basis of his disability contravened both Law No. 8 of 2016 on Persons with Disabilities and Central Java Regional Regulation No. 11 of 2014 on the Fulfillment of the Rights of Persons with Disabilities. The Court not only overturned the lower court decisions but also ordered further administrative proceedings to facilitate Baihaqi's graduation. In doing so, the Court underscored that human rights, particularly the right to non-discrimination, must form the foundation of legal and administrative processes.

This landmark decision marks a pivotal shift at the Supreme Court level from a rigid proceduralism to a more rights-based, substantive approach. It prioritizes the protection of individual rights over adherence to formalistic legal technicalities. Importantly, this judgment sets a significant precedent in advancing the principle of inclusive justice in Indonesia, especially with respect to the treatment of vulnerable populations, including persons with disabilities.

SUBJECT	PTUN SEMARANG PUTUSAN NO. 85/G/2020/PTUN. SMG	PTTUN SURABAYA PUTUSAN NO. 113/B/2021/PT.T UN.SBY	MA NO. 471 K/TUN/2021
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BASIS OF CLAIM	The cancellation of the decision of the Central Java Regional Secretary regarding the results of the CPNS selection is considered discriminatory against people with disabilities.	Appeal against the PTUN decision that dismissed the lawsuit due to expiration.	Cassation against the PTTUN decision that upheld the PTUN.
CASE POSITION	Baihaqi, an applicant with a disability, stated discrimination in the decision of the Central Java Regional Secretary who declared TMS due to disability.	Baihaqi did not accept the rejection by the PTUN regarding the expired lawsuit.	The Supreme Court considered that Baihaqi had met the selection requirements, and the decision was discriminatory, violating the principle of



			nondiscrimination
VERDICT	The lawsuit was not accepted because the lawsuit was considered expired. not accepted (NO)	Affirming the decision of PTUN Semarang.	Cancel the decisions of PTTUN and PTUN; grant Baihaqi's lawsuit in its entirety.
JUDGE'S CONSIDERATION	The lawsuit was considered expired because it exceeded the 90-day limit from the receipt of the announcement.	Upholding the formal grounds of expiration, not considering the substance of discrimination.	The lawsuit should be examined on its merits because it meets the administrative requirements. Declared that the Sekda's actions violated Law No. 8/2016 and the principle of nondiscrimination
LEGAL ANALYSIS	Focus on formal aspects of expiration does not consider discrimination.	Continuing the procedural approach without exploring the substantive aspects of discrimination.	The Supreme Court prioritizes human rights and nondiscrimination principles,

The Supreme Court Decision No. 471 K/TUN/2021 presents the facts of the case, detailing that Muhammad Baihaqi registered on November 23, 2019, as a participant in the Civil Apparatus Candidate Selection (CASN) through two separate pathways: first, a specialized training program for persons with disabilities—specifically those categorized as visually impaired; and second, a teacher training program for mathematics at Randublatung State High School 1, located in Central Java, under Registration Number 44000682060305733. The results of the Basic Competency Selection (SKD) showed a score of 401, which, according to the panel of judges *Bahwa berdasarkan fakta di persidangan, menunjukkan pada tanggal 23 November 2019 Penggugat mendaftar CASN dengan formasi Penyandang Disabilitas dan formasi jabatan guru matematika pada SMA Negeri 1 Randublatung Jawa Tengah dengan kategori peserta pendaftar disabilitas tuna netra dan memperoleh Nomor Registrasi 44000682060305733. Kemudian mengikuti ujian Seleksi Kompetensi Dasar dengan nilai 401. Berarti Pemohon Kasasi/Penggugat*

*memenuhi syarat yang ditentukan*¹⁹, which quantitatively satisfies the requisite passing threshold.

Baihaqi was deemed ineligible (TMS) solely on the basis of his impairment, despite having met all the selection criteria. The Supreme Court ruled that the State Administrative decision disqualifying Baihaqi contravened legal provisions protecting the rights of persons with disabilities, as noted in the judgment, *bahwa berdasarkan pertimbangan tersebut di atas, Keputusan Tata Usaha Negara Objek sengketa bertentangan dengan Peraturan Daerah Provinsi Jawa Tengah Nomor 11 Tahun 2014 tentang Pemenuhan Hak Penyandang Disabilitas serta Peraturan Gubernur Jawa Tengah Nomor 11 Tahun 2017 tentang Pelaksanaan Peraturan Daerah Provinsi Jawa Tengah Nomor 11 Tahun 2014 tentang Pemenuhan Hak Penyandang Disabilitas, dan asas larangan diskriminasi. Oleh karena itu, diperintahkan kepada Termohon Kasasi/Tergugat untuk memproses lebih lanjut kelulusan Pemohon Kasasi/Penggugat sesuai peraturan perundang-undangan*. Emphasizing that the rights of persons with disabilities to participate in the civil servant selection process must be upheld without discrimination, the Supreme Court held that the matter of Baihaqi's graduation should be further addressed in accordance with the applicable regulations.

3) Other Cases of Discrimination against Persons with Disabilities in the CASN Selection

Instances of discrimination against individuals with disabilities during the selection process for prospective civil servants (CPNS) in Indonesia highlight the ongoing violation of the fundamental rights of this vulnerable population.

- a. The Padang Legal Aid Institute (LBH) has reported alleged discrimination against individuals with disabilities in the recruitment process for public service positions at the Audit Board of Indonesia (BPK). A person with a disability, identified as a victim of this discriminatory practice, has submitted formal complaints to both the National Human Rights Commission (Komnas HAM) and the West Sumatra Ombudsman.²⁰
- b. A notable case of discrimination in the CPNS selection process involved Dr. Romi Syofpa Ismael, a dentist from South Solok Regency, West Sumatra, whose appointment was annulled due to her paraplegia, despite having ranked first in the 2018 general recruitment selection. The revocation was widely regarded as a violation of Law No. 8 of 2016 concerning Persons with Disabilities, prompting public outcry and central government intervention. This led to the issuance of an official decree by the South Solok Regency Government in August 2019, appointing Romi as a CPNS. Following

¹⁹ Mahkamah Agung, "Putusan No.471 K/TUN/2021 Muhammad Baihaqi Melawan Sekretaris Daerah Povinsi Jawa Tengah" (2021), hlm. 5.

²⁰ "LBH Padang Ungkap Diskriminasi Difabel Dalam Seleksi CPNS," CNN Indonesia News, 2020, <https://www.cnnindonesia.com/nasional/20200522213830-20-506034/lbh-padang-ungkap-diskriminasi-difabel-dalam-seleksi-cpns>.

the issuance of the decree, Romi withdrew her planned lawsuit to the State Administrative Court, effectively resolving the case without judicial proceedings. Nevertheless, the incident underscores the pressing need for local governments to fully understand and uphold the rights of individuals with disabilities in the CPNS selection process.²¹

B. IMPLEMENTATION OF DISABILITY RIGHTS AFFIRMATIVE POLICIES IN THE CIVIL SERVICE SECTOR

a. The Rule of Law, Human Rights, and the Inclusion of Persons with Disabilities in Public Employment in Indonesia

The rule of law is commonly understood as a system in which legal norms and regulations govern both societal behavior and governmental actions. Its primary objective is to safeguard individual liberties and prevent arbitrary exercise of power.²² As such, law enforcement operates as a counterbalance to unchecked sovereign authority. The role of law enforcement extends to the implementation, enforcement, and maintenance of laws within a state or region, with the overarching goals of preserving social order, protecting personal freedoms, deterring and penalizing legal violations, and upholding justice and the protection of human rights. It involves a network of institutions and procedures designed to support and maintain the rule of law.

Human rights have played a pivotal role in the development and conceptualization of the rule of law. In Indonesia, the Constitution implicitly affirms the presence of human rights, while explicit protections are codified in specific constitutional provisions. These constitutional rights represent fundamental human rights that are embedded within the legal framework. The delineation of state authority and citizens' rights in the Constitution serves to protect the public from potential abuse by state actors.

When human rights are enshrined in the Constitution, they acquire constitutional status and are thereby applicable to all citizens. However, it is important to note that not all rights outlined in the 1945 Constitution qualify as human rights. Additional categories of rights, such as citizenship rights, extend beyond the scope of universal human rights. As emphasized by Jimly Asshiddiqie, the right to participate in governance is a privilege reserved for citizens and is not extended to non-citizens.

The state exercises its regulatory authority by enacting laws and policies that aim to protect marginalized and vulnerable populations. Among these are the Human Rights Act, the Convention on the Rights of Persons with Disabilities (ratified through national legislation), and the Persons with Disabilities Act. These are further supported by

²¹ BBC, "Dokter Gigi Romi, CPNS Difabel Yang Kelulusannya Dibatalkan: Saya Mampu Bersaing Dengan Peserta Umum," *BBC News Indonesia*, July 30, 2019.

²² Ahmad Heru Romadhon et al., *Filsafat Hukum : Aliran, Pemuka Dan Pemikiran*, 1st ed. (Malang: Inara Publisher, 2024).

implementing regulations such as Government Regulations concerning the planning, implementation, and evaluation of the respect, protection, and fulfillment of the rights of persons with disabilities. More recently, Law No. 6 of 2023 has reaffirmed the stipulations contained in Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation, reflecting the government's ongoing commitment to regulatory reform.

With regard to the protection of rights for persons with disabilities, Article 5(1) of Law No. 8 of 2016 affirms a broad array of entitlements for individuals with disabilities. Article 11 specifically guarantees their right to equal employment opportunities in both public and private sectors, free from discrimination. Individuals with disabilities are entitled to career development and access to all employment-related benefits. The law mandates equitable treatment throughout all stages of employment, including recruitment, training, placement, retention, and promotion, by both central and local governments.

Persons with disabilities are legally recognized as possessing the same rights and obligations as other citizens. Consequently, in the interest of inclusive governance, they are equally entitled to access meaningful and quality employment. This includes eligibility for appointment as Civil Servants (ASN). The government's role is particularly critical in addressing structural imbalances in public employment, where persons with disabilities often face systemic disadvantages. The government assumes both primary and secondary functions in this context, with its regulatory role classified as a primary function being essential due to its broad reach and authoritative capacity. Regulation is operationalized through legislation, government and regional regulations, and other legally binding instruments.

Despite progressive legal frameworks, a major barrier to the effective implementation of affirmative policies for persons with disabilities is the government's limited awareness and understanding of disability inclusion. Many institutions continue to apply a medical model of disability, which restricts employment opportunities based on physical impairments rather than individual qualifications or competencies.

A significant policy advancement is reflected in the Regulation of the Minister of Administrative and Bureaucratic Reform No. 6 of 2024, which officially governs the recruitment of State Civil Apparatus (CASN) employees. The 2024 recruitment cycle includes designated quotas for persons with disabilities, aimed at fostering equal access to public sector employment.

Nevertheless, various forms of discrimination persist during recruitment processes, undermining equal opportunities for persons with diverse disabilities. Some institutions maintain eligibility requirements that prioritize unimpaired vision, hearing, speech, and the ability to move unaided—thus effectively excluding individuals who are deaf, speech-impaired, or mobility-impaired. These discriminatory

criteria continue to pose significant obstacles to the full participation of persons with disabilities in the CASN recruitment process.²³

b. The Policy of 2% Quota for Persons with Disabilities in the Acceptance of State Civil Apparatus (ASN) in Indonesia

Persons with disabilities hold the same legal status, rights, and obligations as those without disabilities. The enactment of various laws and regulations reflects the state's recognition of the rights and existence of citizens with disabilities.²⁴ The regulations that establish the legal foundation for the fulfillment of the rights of persons with disabilities are presented in Table 2.

Table 2. Regulations for the Fulfillment of the Rights of Persons with Disabilities

No	Regulasi	Pasal	Substansi
1.	Constitution of the Republic of Indonesia 1945	Article 28 I, paragraph (2)	Every person has the right to be free from discriminatory treatment on any grounds and to be protected against such discriminatory treatment.
2.	Law No. 4 of 1997 on Disabled Persons	Article 6 point 2	fulfillment of disability rights in decent work and livelihood in accordance with the type and degree of disability, education and abilities
		Article 6 Point 4	fulfillment of the right of people with disabilities to accessibility in the context of its independence
		Article 14	State and private companies provide equal opportunities and treatment to people with disabilities. handicapped with employs people with disabilities in their company according to the type and degree of disability, education, and ability, the number of which is adjusted to the number of employees and/or

²³ Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Republik Indonesia, "Peraturan Menteri Pendayagunaan Aparatur Negara Dan Reformasi Birokrasi Nomor 6 Tahun 2024 Pengadaan Pegawai Aparatur Sipil Negara, BN 2024 (404); 30 Hlm" (n.d.).

²⁴ Nastitie Kusuma Anggraini, "Pemenuhan Hak Konstitusional Penyandang Disabilitas Atas Persamaan Kesempatan Kerja Dalam Industri Perbankan Badan Usaha Milik Negara" (Universitas Indonesia, 2023), 36–37.

			the qualifications of the company.
3.	Law No. 13 of 2003 on Manpower	Article 5	Every worker has the same opportunity without discrimination to obtain employment.
		Article 19	The provision of job training for workers with disabilities is carried out considering the type, degree of disability and ability of workers with disabilities concerned.
		Article 67 paragraph (1)	Employers who employ workers with disabilities are obliged to provide protection in accordance with the type and degree of disability.
4.	Law of the Republic of Indonesia No. 19 of 2011 Concerning the Ratification of the Convention on the Rights of Persons with Disabilities Rights of Persons with Disabilities)	-	Ratification
5.	Law No. 8/2016 Persons with Disabilities	Article 53	The Government, Regional Governments, State-Owned Enterprises, and Regional-Owned Enterprises shall employ at least 2% (two percent) of people with disabilities from the total number of employees or workers".

Labor regulations play a crucial role in safeguarding workers' fundamental rights and ensuring their safety, while also promoting a fair and decent working environment. The government formulates labor regulations that encompass the protection of the rights of both persons with disabilities and the general workforce.²⁵ To ensure the legal protection of human rights in Indonesia, particularly the right to work for persons with disabilities, a robust legal framework is essential.²⁶

²⁵ Ametta Diksa Wiraputra, "Perlindungan Hukum Terhadap Pekerja Penyandang Disabilitas," *Dharmasisya* 1, no. 1 (2021): 34–45.

²⁶ Ismail Shaleh, "Implementasi Pemenuhan Hak Bagi Penyandang Disabilitas Ketenagakerjaan Di Semarang," *Kanun Jurnal Ilmu Hukum* 20, no. 1 (2018): 68, <https://doi.org/10.24815/kanun.v20i1.9829>.

The government's commitment to advancing and protecting the rights of persons with disabilities contributes significantly to their safety and ensures protection against arbitrary, unfair, or discriminatory treatment. According to data from the National Labor Force Survey (SAKERNAS) in August 2020, 45.32% of employed persons with disabilities are male, while 54.68% are female. In terms of work location, the majority are employed in rural areas (50.56%), with a slightly lower percentage working in urban areas (49.44%). These statistics offer a more nuanced understanding of the demographic composition of persons with disabilities in the Indonesian labor force.²⁷ Data on the labor force of people with disabilities in 2020 (Figure 1).²⁸

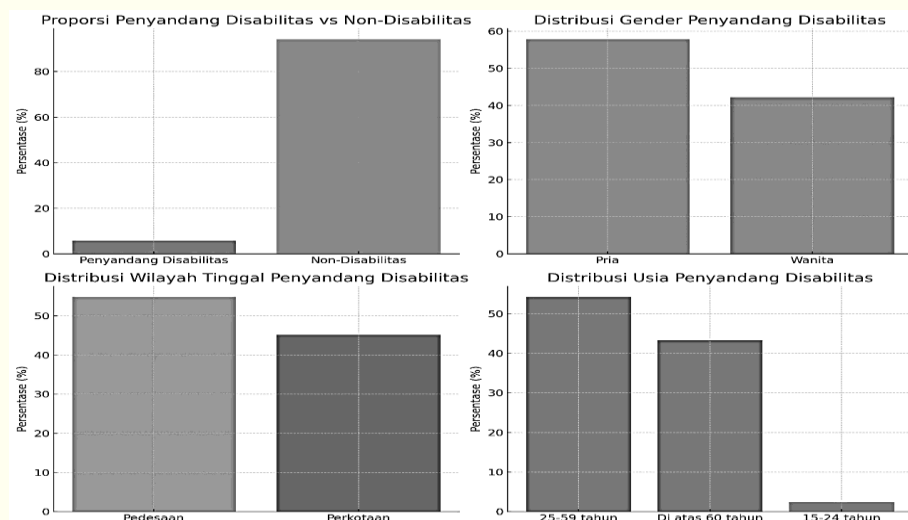


Figure 1: Labor force data of people with disabilities in 2020

- **Proportion of Disabled and Non-Disabled Persons:**
Individuals with disabilities comprise only 5.79% of the total labor force, highlighting their limited representation within the working population. In contrast, 94.21% of the labor force consists of individuals without disabilities.
- **Gender Distribution of Persons with Disabilities:**
The majority of individuals with disabilities in the labor force are men, accounting for 57.83%, while women represent 42.17%. This disparity suggests a gender-based difference in either the prevalence of disability or participation in the labor market among people with disabilities.
- **Distribution of areas where people with disabilities live:**
People with disabilities mostly live in rural areas (54.82%). This data shows that many of them choose to live in rural areas, or there may be limited opportunities in urban areas.
- **Age Distribution of Persons with Disabilities:**

²⁷ Muhammad Hanri et al., "LABOR MARKET BRIEF, LPEM FAKULTAS EKONOMI DAN BISNIS UNIVERSITAS INDONESIA," vol. 2 (Jakarta, 2022), 3.

²⁸ Ibid., 2: hlm. 4-5.

People with disabilities in the labor force are mostly aged 25-59 years (54.25%), which shows that the productive age group dominates. But a significant number (43.32%) are over 60 years old, while only a few of them are young, 15-24 years old (2.43%).

Research conducted by Rika Kumala Dewi et al. utilizes data from the 2018 *Susenas* (National Socioeconomic Survey), which included 1,131,825 respondents. This analysis focuses on individuals of working age, specifically those between 15 and 64 years old. The resulting dataset comprises 741,063 observations, among which approximately 93,074 individuals (12.6%) were identified as having a disability. Of this group, 6.2% were classified as having a severe disability.²⁹

Statistical analysis of various labor market indicators for the productive-age population in Indonesia reveals that individuals with disabilities experience lower levels of labor market attainment compared to their non-disabled counterparts. Although unemployment rates among people with disabilities are relatively lower, their overall employment opportunities remain limited. This is evident in the substantial disparity in employment status: only 30.6% of workers with disabilities hold permanent jobs, compared to 45.6% of non-disabled workers. Furthermore, a significant proportion of employed individuals with disabilities (52.63%) pursue self-employment, with the vast majority (93.1%) operating small-scale or subsistence enterprises without employing additional labor. Labor market conditions are particularly unfavorable for women with disabilities, underscoring persistent gender disparities in access to decent work within this group. (Figures 2 and 3).

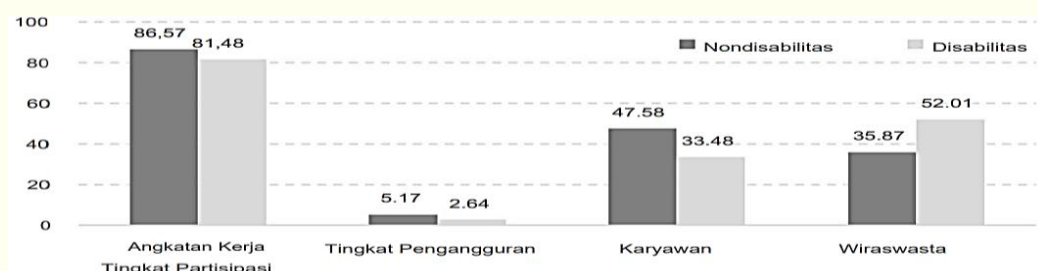


Figure 2: Male people with disabilities

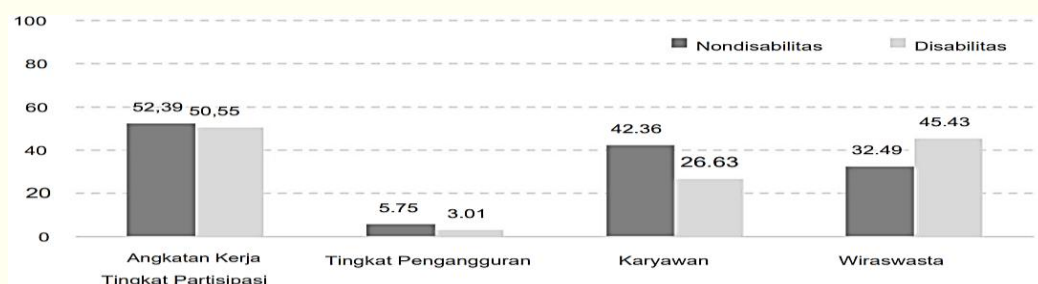


Figure 3: Women with Disabilities

²⁹ Asep Suryahadi, "Disability and Labor Market Exclusion: Evidence from Indonesia," *Sustainability Science and Resources* 2, no. 1 (2022): 45–77, <https://doi.org/10.55168/ssr2809-6029.2022.2004>.

Individuals with disabilities aged 35–54 exhibit a higher probability of entering and participating in the labor force compared to other age cohorts. Notably, within this age group, women with disabilities demonstrate a significantly greater likelihood of workforce participation than their male counterparts. In rural areas, age does not appear to be a significant determinant of the capacity of individuals with disabilities to engage in formal sector employment. Conversely, in urban areas, age plays a more prominent role in shaping employment opportunities.

These differences can be attributed to the distinct economic structures of rural and urban areas. The rural economy, predominantly driven by agriculture, tends to accommodate workers across various age groups. In contrast, urban economies, which are largely characterized by industrial and service sectors, often impose age-related restrictions, particularly on individuals lacking prior work experience.

Women with disabilities, particularly those with lower educational attainment, face limited opportunities to participate in the labor market. They are more likely to exit the workforce and remain in households with high dependency ratios, highlighting the continued relevance of caregiving responsibilities in limiting labor force participation among this group. Nevertheless, in urban settings, women with disabilities are more likely to be employed than men with disabilities, suggesting a nuanced dynamic influenced by gender roles and urban labor market structures.

Unemployment rates tend to be higher in rural areas, a disparity that may stem from the broader availability of employment opportunities in urban areas and the lower likelihood of women engaging in formal sector work. Gender remains a significant factor influencing access to formal employment, particularly among individuals with limited education.

The implementation of the 2% quota policy for individuals with disabilities in civil service recruitment has yielded some positive outcomes. In 2018, over 1,800 individuals with disabilities were accepted as prospective civil servants. However, despite this progress, many government institutions continue to fall short of meeting the mandated quota. Concerns persist regarding the limited access of persons with disabilities to diverse employment opportunities. In practice, quota systems often confine individuals with disabilities to specific job roles, thereby restricting their career mobility and prospects for professional advancement.³⁰

Supportive policies for individuals with disabilities are essential to ensuring equal access to employment opportunities, in line with the principles outlined in the Convention on the Rights of Persons with Disabilities (CRPD), which underscores the right to work and the obligation to provide reasonable accommodation. In the Indonesian context, the effective implementation of such policies remains hindered

³⁰ Citra Dewie Puspitasari and Bambang Shergi Laksmono, "Reviewing the Policy of People with Disabilities Employment in Government Agencies," *Jurnal Bina Praja* 13, no. 2 (2021): 245–56, <https://doi.org/10.21787/jbp.13.2021.245-256>.

by several persistent challenges, including limited accessibility, inadequate infrastructure, and entrenched stereotypes and discrimination within the workplace. Addressing these barriers necessitates a more structured and comprehensive approach to administrative law, which should encompass inclusive recruitment practices, the provision of disability-friendly facilities, and the strict enforcement of mandated employment quotas.

C. PROTECTION OF DISABILITY RIGHTS IN THE RECRUITMENT OF CIVIL SERVANT CANDIDATES (CASN)

The protection of the rights of persons with disabilities in the selection process for Indonesia's civil service (Aparatur Sipil Negara or ASN) presents a complex challenge that demands serious and coordinated attention from multiple stakeholders. Although Law No. 8 of 2016 affirms and regulates the rights of persons with disabilities—including the right to work—its implementation continues to face significant obstacles. A primary challenge lies in the gap between the legal framework and its practical application, where discrimination and systemic barriers still hinder many persons with disabilities from accessing employment opportunities in the public sector.

In this context, the recognition of the right to work as an essential component of fundamental human rights is particularly relevant. Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia explicitly states that every citizen has the right to obtain employment and a decent livelihood. However, despite this robust legal foundation, empirical data reveal that only a small fraction of persons with disabilities are employed in the formal sector. According to a 2020 report by Statistics Indonesia (Badan Pusat Statistik, BPS), approximately 10.38% of the Indonesian population consists of persons with disabilities, yet only a minimal proportion of them are employed in formal employment.³¹

The implementation of affirmative policies in the recruitment of civil servants has yet to yield satisfactory outcomes. Despite the legal requirement to allocate a minimum quota of 2% for persons with disabilities in each civil service (ASN) recruitment cycle, many government institutions have failed to meet this provision. For instance, in 2019, only approximately 0.017% of civil servant recruits were persons with disabilities, far below the mandated target.³² These findings highlight the urgent need to evaluate and reform the recruitment process to better accommodate and address the needs of persons with disabilities. In practice, several government agencies continue to violate the existing regulations by failing to open positions specifically designated for persons with disabilities. Moreover, the current quota system applied in Indonesia is a restrictive one, lacking effective enforcement mechanisms. Although it formally obliges all employers to allocate a certain percentage of positions to persons with disabilities, the absence of

³¹ Tusianti et al., *Analisi Tematik Kependudukan Indonesia*.

³² Sulistianingsih, Sulistianingsih. "Keterlibatan Penyandang Disabilitas dalam Pelayanan Publik di Era Society 5.0." *Jurnal Wacana Kinerja: Kajian Praktis-Akademis Kinerja dan Administrasi Pelayanan Publik* (2023): n. pag.



meaningful sanctions undermines its effectiveness. A quota system that is legally binding but not supported by stringent penalties fails to ensure full compliance or promote substantive inclusivity in the workforce.³³

Despite existing legal protections against discrimination, institutional bias and discriminatory attitudes persist, driven by various social and cultural barriers. A disconnect remains between legal provisions and institutional practices, resulting in implicit and systemic forms of discrimination. These biases are often reinforced by societal norms and groups, and institutionalized through practices that sustain inequality, particularly for marginalized communities. While legal frameworks are necessary, they are insufficient on their own to dismantle deeply rooted biases, especially when they fail to account for the socio-cultural contexts that perpetuate exclusion. Such biases are pervasive across multiple domains, including those related to gender, race, and disability. Hence, achieving genuine equality and inclusion requires a comprehensive approach that addresses both structural and cultural dimensions of discrimination.

Barriers to equality and inclusivity are maintained at multiple levels—through everyday social interactions, entrenched cultural beliefs and values, and institutional structures, including both formal and informal rules. Factors such as identity-based exclusion and implicit bias play a critical role in sustaining systemic inequality and must be confronted to create a more inclusive society.³⁴ Discrimination within social institutions plays a significant role in shaping individual behavior and societal norms.

When such discrimination persists, it severely limits the empowerment and advancement opportunities available to persons with disabilities. Institutional bias remains prevalent largely due to the inadequate implementation of inclusive policies. Even when individuals with disabilities gain employment, workplace discrimination often continues, highlighting the critical need for stronger legal protections and enforcement mechanisms to ensure their rights are upheld throughout the employment cycle.³⁵ Local governments often fail to provide adequate support for persons with disabilities, contributing to persistent discrimination in both educational and employment settings.³⁶

In relation to the merit system, this means that recruitment is carried out with the principles of equality and fairness based on qualifications and

³³ International Labour Organization, *Achieve Equal Employment Opportunities for Persons with Disabilities through Legislation*, 2013, hlm. 25.

³⁴ Laura Grindstaff, "Barriers to Inclusion: Social Roots and Current Concerns," *Uprooting Bias in the Academy: Lessons from the Field*, 2021, 19–44, https://doi.org/10.1007/978-3-030-85668-7_2.

³⁵ Mangku, Rai Yulianti, and Lasmawan, "Legal Protection for People with Disabilities in Indonesia in the Perspective of Justice Theory."

³⁶ Irwansyah Reza Mohamad and Ismet Hadi, "Affirmative Action Model in Strengthening the Education Rights Protection and Fulfillment of Person with Disability," *International Journal Paper Public Review* 2, no. 1 (January 5, 2021): 30–39, <https://doi.org/10.47667/ijppr.v2i1.68>.

competencies, not for political reasons or personal preferences.³⁷ When the merit system is not functioning optimally, attention must be directed toward human resource management within the civil service, particularly in the identification of staffing needs. Identifying employee requirements is a critical component of personnel planning, especially in relation to organizational structure and formation. However, this process is often inaccurate due to a lack of alignment with the actual needs of the organization. In many cases, the determination of human resource requirements in government institutions is conducted hastily and without comprehensive planning. Consequently, employees may be assigned to positions that do not align with the core duties and functions of their respective work units, leading to inefficiencies and suboptimal performance.³⁸

Social stigma against persons with disabilities remains a significant barrier to their acceptance as government employees. Many government agencies continue to apply selection criteria that are not inclusive, such as physical requirements that fail to accommodate individuals with mental or intellectual disabilities. These exclusionary practices limit access to public employment and reinforce negative perceptions. Therefore, it is imperative for the government to actively promote public awareness and education regarding the capabilities and potential of persons with disabilities. Enhancing societal understanding is essential to fostering greater acceptance and inclusion across all sectors, including within public institutions.³⁹

The approach to assigning civil servants with disabilities has gradually shifted from a centralized allocation model to a more equitable distribution among local governments. Given their critical role in promoting community welfare, it is essential for local governments to prioritize inclusive practices. In recent years, local administrations have played an increasingly important role in expanding employment opportunities for persons with disabilities. This development reflects the government's growing commitment to ensuring that all citizens, including those with disabilities, have the opportunity to pursue careers within the civil service. Supporting this view, Sackey's research demonstrates that affirmative policies targeting individuals with disabilities can serve as effective tools for reducing inequality and promoting social inclusion.⁴⁰

³⁷ Winsherry Tan and Dyah Putri Ramadhani, "Pemenuhan Hak Bekerja Bagi Penyandang Disabilitas Fisik Di Kota Batam," *Jurnal HAM* 11, no. 1 (April 28, 2020): 27, <https://doi.org/10.30641/ham.2020.11.27-37>.

³⁸ MH. Rakhmat, H. Muhammad, DR, S.H., "Pengantar Filsafat Hukum DR H. Muhammad Rakhmat," 2015. Lihat juga pada *Pengawasan Netralitas Aparatur Sipil Negara*, Komisi Aparatur Sipil Negara (2018), hlm. 20.

³⁹ Risang Pujiyanto and Sonny Taufan, "Juridicial Review of Rights of Mental Disabilities In Procurement of Civil Servants," *UNIFIKASI: Jurnal Ilmu Hukum* 8, no. 2 (2021): 218–29, <https://doi.org/10.25134/unifikasi.v8i2.4103>.

⁴⁰ Amit Gupta and Pushpendra Priyadarshi, "When Affirmative Action Is Not Enough: Challenges in Career Development of Persons with Disability," *Equality, Diversity and Inclusion: An International Journal* 39, no. 6 (April 10, 2020): hlm. 620–621, <https://doi.org/10.1108/EDI-05-2019-0146>.

To effectively address the persistent institutional prejudice and discriminatory attitudes that remain despite existing legal protections for persons with disabilities, Indonesia must take decisive action by strengthening affirmative policies within the public service sector. First, the recruitment process must be made fully inclusive by providing appropriate accommodations, such as alternative testing formats and necessary support during job interviews. Second, all government institutions must establish comprehensive support structures, including continuous training programs for civil servants, aimed at raising awareness of disability rights and fostering a culture of workplace inclusion.

Third, stricter oversight mechanisms are essential. These should include regular audits to ensure compliance with the mandated 2% quota for persons with disabilities and to monitor the proper allocation of designated resources. Institutions that fail to meet their obligations should face meaningful sanctions, such as the suspension of recruitment authority or reductions in budget allocations. Fourth, a transparent monitoring and evaluation system must be established, providing public access to detailed data on the implementation of disability-inclusive policies. This level of transparency will ensure that affirmative actions are not merely symbolic but result in substantive inclusion.

These measures are vital for Indonesia to reduce social inequality and foster a more inclusive and equitable public sector workforce. The implementation of affirmative disability policies in the recruitment of civil servants (Calon Aparatur Sipil Negara, or CASN) reflects the commitment of national and local government institutions to uphold inclusivity, as mandated by Law No. 8 of 2016 on Persons with Disabilities.

Despite this commitment, significant disparities remain in fulfilling the 2% disability quota across different regions. For example, during the 2024 CASN recruitment cycle, the DKI Jakarta Provincial Government allocated 87 positions specifically for individuals with disabilities, distributed across six job categories: Goods Handler (61 positions), Archivist (5), Health Services Organizer (5), IT Systems Organizer (4), Legal Documentalist (4), and Social Counselor (3). This allocation constitutes approximately 1.97% of the total 4,413 CPNS (Civil Servant Candidate) formations in the province, illustrating near-compliance with the legal mandate but also highlighting the need for consistent implementation across all regions.⁴¹

This allocation brings DKI Jakarta close to meeting the national benchmark of 2%. The policy is further strengthened by allowing individuals with disabilities to apply for general formations, provided they meet the required competency standards. Moreover, the remuneration offered ranging from IDR 6 to 21 million per month, is equivalent to that of their non-disabled peers, reinforcing the principle of equal treatment. This inclusive implementation is in line with the provisions of Ministerial Regulation of the

⁴¹ Pemerintah Provinsi Daerah Khusus Ibukota Jakarta, "SURAT KEPUTUSAN SEKRETARIAT DAERAH PROVINSI DAERAH KHUSUS IBUKOTA JAKARTA PENGUMUMAN NOMOR 12 TAHUN 2024 TENTANG PENGADAAN PEGAWAI NEGERI SIPIL DI LINGKUNGAN PEMERINTAH PROVINSI DAERAH KHUSUS IBUKOTA JAKARTA TAHUN 2024" (2024).

Ministry of Administrative and Bureaucratic Reform (PANRB) No. 27 of 2021, which outlines a selection mechanism designed to ensure non-discrimination. Notably, it mandates the provision of reasonable accommodation during the recruitment process, thereby promoting equitable access for persons with disabilities.

In contrast, the Central Java Provincial Government allocated only two (2) positions for persons with disabilities out of a total of 265 CPNS 2024 vacancies, representing merely 0.75%, significantly below the national benchmark of 2%,⁴² significantly lower than the 2% benchmark. This shortfall is particularly concerning given that the province has established a legal framework to support employment equality through Regional Regulation (Perda) No. 11 of 2014 and Governor Regulation (Pergub) No. 11 of 2017. These regulations are intended to promote equal employment opportunities for persons with disabilities.⁴³ however, the limited allocation in the 2024 recruitment cycle indicates a gap between policy and practice.

The Ministry for Administrative and Bureaucratic Reform (KemenPAN-RB) has responded to the issue of non-compliance with the disability employment quota by issuing Letter No. B/3730/M.SM.01.00/2024, dated 19 August 2024. This letter conditionally approves allocations below the mandated 2% threshold, on the condition that the Central Java Provincial Government increases its disability quota in the following year's recruitment for Government Employees with Work Agreements (PPPK). While this policy has been criticized for potentially legitimizing non-compliance, it also reflects a pragmatic consideration of the limited financial capacity of regional governments to provide adequate workplace accommodations.

Based on an analysis of the implementation of the 2% quota for persons with disabilities in civil servant (ASN) recruitment in DKI Jakarta and Central Java—alongside the identification of systemic discriminatory practices across multiple sources—a set of actionable policy recommendations is proposed. These include the establishment of integrated monitoring systems and structured sanctions to ensure compliance with the quota. A central component of this effort is the proposed development of a 2% Quota Compliance Dashboard, which would integrate Big Data systems from the National Civil Service Agency (BKN), KemenPAN-RB, and Social Services. This dashboard would provide real-time tracking of progress on disability inclusion in recruitment across all government institutions, detailing metrics such as the proportion of positions filled relative to quota targets, types of disabilities represented, and the availability of test accommodations and workplace facilities.

To enhance transparency, the Indonesian Ombudsman (Ombudsman RI) will conduct quarterly audits to evaluate the consistency between recruitment planning and implementation, the adequacy of supporting

⁴² Pemerintah Provinsi Jawa Tengah, "Surat Keputusan Sekretaris Daerah Provinsi Jawa Tengah NOMOR : 800.1.10.1/1934 TENTANG PENERIMAAN CALON PEGAWAI NEGERI SIPIL PEMERINTAH PROVINSI JAWA TENGAH FORMASI TAHUN 2024" (2024).

⁴³ Adhik Kurniawan, "Pemprov Jateng Buka Rekrutmen 4.446 Formasi CPNS, 2 Persen Untuk Disabilitas," *Epos Regional-Espos.Id*, 2024.

infrastructure, and the effectiveness of job coach training provided to selection committees.

Furthermore, a tiered sanction system will be introduced for agencies failing to meet the 2% quota. Agencies fulfilling less than 1% of the quota will face reductions in capital expenditure budgets and delays in the approval of budget implementation documents (DIPA) until the quota is met. Agencies with compliance rates between 1% and 1.5% will be subject to lower performance accountability (SAKIP) scores, which may affect employee performance-based allowances, and will be required to provide disability awareness training for all managerial personnel (Echelon III and above). Agencies with fulfilment rates between 1.5% and 2% will receive public warnings through mass media and the official KemenPAN-RB website. Conversely, agencies granted a dispensation will receive an additional 5% of their operational budget, earmarked for inclusive human resource development. Awards and recognition will also be granted to provincial or municipal governments that successfully meet or exceed inclusivity targets.

To address unfilled quotas, a rehabilitation mechanism will be introduced, incorporating a Carry Over system that increases the following year's quota by 50% of the previous year's shortfall. Additionally, the BKN will implement a six-month pre-recruitment training program, in collaboration with Vocational Training Centres (BLKs), to enhance the employability of candidates with disabilities.

Strengthening the legal and regulatory framework is also critical. This includes the amendment of PermenPAN-RB No. 27/2021 to mandate inclusive job analysis prior to the submission of recruitment formations. Administrative sanctions will be imposed on agencies that fail to provide sufficient test accommodations. Standard Operating Procedures (SOPs) for test accommodations will be formalized, mandating provisions such as an additional 30% time allocation for candidates with intellectual disabilities and the availability of certified sign language interpreters for deaf applicants.

Civil society engagement is another key pillar of this policy. A Disability Quota Watch mobile application will be developed to enable NGOs and community members to report violations in real-time. These reports will be integrated into the Ombudsman's dashboard to facilitate timely investigations and interventions. Moreover, a Tripartite Consultation Forum will be established, comprising representatives from KemenPAN-RB, disability rights organizations, and labor unions, to conduct regular policy reviews and evaluations.

The policy will initially be piloted in five provinces : DKI Jakarta, Central Java, West Java, South Sulawesi, and West Nusa Tenggara (NTB), during the 2025–2026 period, followed by a mid-term evaluation conducted by the National Institute of Public Administration (LAN). Success indicators include an increase in the national average of quota fulfilment from 0.75% in 2024 to 1.8% by 2026, and a 40% reduction in reported cases of discrimination during the civil servant selection process, as measured through participatory reporting mechanisms.

Ultimately, this policy framework repositions disability quota compliance as a cornerstone of a broader, more inclusive meritocracy, one that is proactively monitored, evaluated, and enforced across institutional and societal dimensions.

4. Conclusion

Supreme Court Decision 471 K/TUN/2021 reveals a critical shift in Indonesia's administrative jurisprudence from rigid proceduralism to a more substantive, rights-based approach in adjudicating disability-related conflicts. This decision underscores the growing judicial recognition of human rights principles embedded in Law No. 8/2016 and the UN Convention on the Rights of Persons with Disabilities (CRPD), particularly the obligation to provide reasonable accommodation in public employment. However, the persistent gap between the legal framework and its implementation, exemplified by the exclusion of qualified candidates like Muhammad Baihaqi and the routine non-enforcement of the 2% civil service employment quota, reflects systemic institutional discrimination, inadequate legal enforcement mechanisms, and enduring socio-cultural stigma. These discrepancies suggest that while judicial progress has been made, particularly at the Supreme Court level, practical application remains inconsistent and underdeveloped across lower administrative bodies and regional governments. To bridge this gap, Indonesia must prioritize institutional reforms, uniform judicial training on disability rights, and robust enforcement of affirmative action policies. Comparative studies of international affirmative action models may further inform effective strategies to operationalize legal commitments, ensuring that the rights of individuals with disabilities are meaningfully realized rather than symbolically acknowledged.

References

- Adhik Kurniawan. "Pemprov Jateng Buka Rekrutmen 4.446 Formasi CPNS, 2 Persen Untuk Disabilitas." *Epos Regional-Espos.Id*, 2024.
- Amelia, Revina Nova, and Nadia Indah Femmithasari. "DISKRIMINASI PENERIMAAN CALON PEGAWAI NEGERI SIPIL TERHADAP PENYANDANG DISABILITAS." *Jurnal Ilmiah Dinamika Hukum* 24, no. 1 (May 13, 2023): 129–38. <https://doi.org/10.35315/dh.v24i1.9316>.
- Anggraini, Nastitie Kusuma. "Pemenuhan Hak Konstitusional Penyandang Disabilitas Atas Persamaan Kesempatan Kerja Dalam Industri Perbankan Badan Usaha Milik Negara." Universitas Indonesia, 2023.
- BBC. "Dokter Gigi Romi, CPNS Difabel Yang Kelulusannya Dibatalkan: Saya Mampu Bersaing Dengan Peserta Umum." *BBC News Indonesia*, July 30, 2019.
- CNN Indonesia News. "LBH Padang Ungkap Diskriminasi Difabel Dalam Seleksi CPNS," 2020. <https://www.cnnindonesia.com/nasional/20200522213830-20-506034/lbh-padang-ungkap-diskriminasi-difabel-dalam-seleksi-cpns>.



- Dewi, R K, R P Pramana, H Sadaly, R K Dewi, and ... "Kendala Mewujudkan Pembangunan Inklusif Penyandang Disabilitas." *The SMERU Research* Jakarta: The SMERU Research Institute, 2020.
- Donnelly, Jack. "Universal Human Right In Theory and Practice." *Cornell University Press* 14, no. 1 (1992): 142–45.
- Grindstaff, Laura. "Barriers to Inclusion: Social Roots and Current Concerns." *Uprooting Bias in the Academy: Lessons from the Field*, 2021, 19–44. https://doi.org/10.1007/978-3-030-85668-7_2.
- Gupta, Amit, and Pushpendra Priyadarshi. "When Affirmative Action Is Not Enough: Challenges in Career Development of Persons with Disability." *Equality, Diversity and Inclusion: An International Journal* 39, no. 6 (April 10, 2020): 617–39. <https://doi.org/10.1108/EDI-05-2019-0146>.
- Handajani, Y. "The Role of Participation of Religious and Social Organization on Disability of Elderly: Case Study in Jakarta, Indonesia." *European Geriatric Medicine* 3 (September 2012): S79. <https://doi.org/10.1016/j.eurger.2012.07.155>.
- Hanri, Muhammad, Nia Kurnia Sholihah, Pekerja Penyandang, and Pemimpin Negara. "LABOR MARKET BRIEF, LPEM FAKULTAS EKONOMI DAN BISNIS UNIVERSITAS INDONESIA." Vol. 2. Jakarta, 2022.
- Heymann, Jody, Elizabeth Wong, and Willetta Waisath. "A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries." *Journal of Disability Policy Studies* 33, no. 1 (June 17, 2022): 25–34. <https://doi.org/10.1177/10442073211006396>.
- Indonesia, Republik. "UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA TAHUN 1945." *Warga Dan Negara 1945* (1945): 1–166.
- International Labour Organization. *Achieve Equal Employment Opportunities for Persons with Disabilities through Legislation*, 2013.
- Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Republik Indonesia. Peraturan Menteri Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Nomor 6 Tahun 2024 Pengadaan Pegawai Aparatur Sipil Negara, BN 2024 (404); 30 hlm (n.d.).
- Mahkamah Agung. Putusan No.471 K/TUN/2021 Muhammad Baihaqi melawan Sekretaris Daerah Povinsi Jawa Tengah (2021).
- Mangku, Dewa Gede Sudika, Ni Putu Rai Yulianti, and I Wayan Lasmawan. "Legal Protection for People with Disabilities in Indonesia in the Perspective of Justice Theory." *Unnes Law Journal* 8, no. 2 (October 19, 2022): 245–62. <https://doi.org/10.15294/ulj.v8i2.52406>.
- Marzuki, Peter Mahmud. *Pengantar Penelitian Hukum*. Jakarta: Kencana, 2006.
- Mohamad, Irwansyah Reza, and Ismet Hadi. "Affirmative Action Model in Strengthening the Education Rights Protection and Fulfillment of Person with Disability." *International Journal Papier Public Review* 2, no. 1 (January 5, 2021): 30–39. <https://doi.org/10.47667/ijppr.v2i1.68>.

- Pemerintah Provinsi Daerah Khusus Ibukota Jakarta. SURAT KEPUTUSAN SEKRETARIAT DAERAH PROVINSI DAERAH KHUSUS IBUKOTA JAKARTA PENGUMUMAN NOMOR 12 TAHUN 2024 TENTANG PENGADAAN PEGAWAI NEGERI SIPIL DI LINGKUNGAN PEMERINTAH PROVINSI DAERAH KHUSUS IBUKOTA JAKARTA TAHUN 2024 (2024).
- Pemerintah Provinsi Jawa Tengah. Surat Keputusan Sekretaris Daerah Provinsi Jawa Tengah NOMOR: 800.1.10.1/1934 TENTANG PENERIMAAN CALON PEGAWAI NEGERI SIPIL PEMERINTAH PROVINSI JAWA TENGAH FORMASI TAHUN 2024 (2024).
- Pujiyanto, Risang, and Sonny Taufan. "Juridicial Review of Rights of Mental Disabilities In Procurement of Civil Servants." *UNIFIKASI : Jurnal Ilmu Hukum* 8, no. 2 (2021): 218–29. <https://doi.org/10.25134/unifikasi.v8i2.4103>.
- Puspitasari, Citra Dewie, and Bambang Shergi Laksmono. "Reviewing the Policy of People with Disabilities Employment in Government Agencies." *Jurnal Bina Praja* 13, no. 2 (2021): 245–56. <https://doi.org/10.21787/jbp.13.2021.245-256>.
- Ragone, Álvaro Pérez. "The Impact of the Dialogue between Substantive Law and Procedural Law." *Revista Derecho Del Estado*, no. 41 (2018): 255–83.
- Rakhmat, H. Muhammad, DR, S.H., MH. "Pengantar Filsafat Hukum DR H. Muhammad Rakhmat," 2015.
- Rhoan K.M Smith. *Hukum Hak Asasi Manusia (HAM)*. Edited by Knut D Asplund, Suparman Marzuki, and Eko Riyadi. *Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII)*. 1st ed. Yogyakarta: Pusat Studi Hak Asasi Manusia Universitas Islam Indonesia (PUSHAM UII), 2008.
- Romadhon, Ahmad Heru, Julisa Aprilia Kaluku, Vifi Swarianata, Jufryanto Puluhulawa, Dinda Delfina, Fajar Kurniawan Adhyaksa, Yasser Arafat, Dita Birahayu, and Carissa Amanda Siswanto. *Filsafat Hukum : Aliran, Pemuka Dan Pemikiran*. 1st ed. Malang: Inara Publisher, 2024.
- Shaleh, Ismail. "Implementasi Pemenuhan Hak Bagi Penyandang Disabilitas Ketenagakerjaan Di Semarang." *Kanun Jurnal Ilmu Hukum* 20, no. 1 (2018): 63–82. <https://doi.org/10.24815/kanun.v20i1.9829>.
- Soehartono, Soehartono, Kukuh Tejomurti, Arsyad Aldyan, and Rachma Indriyani. "The Establishing Paradigm of Dominus Litis Principle in Indonesian Administrative Justice." *Sriwijaya Law Review* 5, no. 1 (January 28, 2021): 42. <https://doi.org/10.28946/slrev.Vol5.Iss1.877.pp42-55>.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI-Press, 2014.
- Suryahadi, Asep. "Disability and Labor Market Exclusion: Evidence from Indonesia." *Sustainability Science and Resources* 2, no. 1 (2022): 45–77. <https://doi.org/10.55168/ssr2809-6029.2022.2004>.
- Syahfitri, C N, M Ilham, D Mulyati, and ... "EVALUASI KEBIJAKAN PEMENUHAN HAK PEKERJAAN SEKTOR FORMAL BAGI PENYANDANG DISABILITAS DI

LINGKUNGAN PEMERINTAH KOTA BANDUNG." *Jurnal Ilmiah Wahana* ..., 2024.

- Tan, Winsherly, and Dyah Putri Ramadhani. "Pemenuhan Hak Bekerja Bagi Penyandang Disabilitas Fisik Di Kota Batam." *Jurnal HAM* 11, no. 1 (April 28, 2020): 27. <https://doi.org/10.30641/ham.2020.11.27-37>.
- Tusianti, Ema, Fenny Afifatul A, Dede Yoga Paramartha, Dede Yoga, and Diah Ikawati. *Analisi Tematik Kependudukan Indonesia*. Edited by Wiisnu Winardi. Cetakan Pe. Jakarta: Badan Pusat Statistik Republik Indonesia, 2023.
- United Nations. Declaration on the Rights of Indigenous Peoples (2007). <https://doi.org/10.7765/9781847791221.00032>.
- Utami NS, Prasetyoningsih N, Hidayat A, Huda NM, Suteki S, Retno Saraswati, and Budiono A. "Kesetaraan Hak Politik Orang Dengan Gangguan Jiwa (ODGJ) Dalam Pemilu." *Jurnal Kedokteran Forensik Dan Toksikologi Indonesia* Vol.13, no. 4 (2019): 1571–75.
- Wardana, Agung, and Ni Putu Yogi Paramitha Dewi. "Moving Away From Paternalism: The New Law on Disability in Indonesia." *Asia Pacific Journal on Human Rights and the Law* 18, no. 2 (2017): 172–95. <https://doi.org/10.1163/15718158-01802003>.
- Wiraputra, Ametta Diksa. "Perlindungan Hukum Terhadap Pekerja Penyandang Disabilitas." *Dharmasiswa* 1, no. 1 (2021): 34–45.
- Yaman, M. "Kebijakan Pemerintah Dalam Memberikan Kesempatan Penyandang Disabilitas Dalam Penerimaan Calon Aparatur Sipil Negara." *Sol Justicia* Vol.4, no. No.1 (n.d.): 70–76.
- Yoalanda, Roselina, Franciscus Anton W, Ainul Fatwa Khoiroruroh, Zaini, and Devi Andrian. *Ketenagakerjaan Dalam Data 2023*. Edited by Zulfiyandi. Kementerian Ketenagakerjaan. Cetakan Ke. Vol. 2. Jakar: Kementerian Ketenagakerjaan Republik Indonesia, 2023.

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