

## IMPLEMENTATION THE OBLIGATION OF PRIVATE COMPANY TO EMPLOY DISABILITY PERSONS BASED ON LAW NO. 8 OF 2016 IN SEMARANG CITY

Ubaidillah Kamal

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### ABSTRACT

*The 1945 Constitution (UUD 1945) mandates that every citizen has equal rights and opportunities to obtain decent work and livelihood for humanity, including disability peoples. Law No. 8 of 2016 concerning Persons with Disabilities has mandated private companies to be obliged to employ 1% of persons with disabilities from their total workforce while state-owned companies account for 2%. Conditions show many factors that have caused private companies to not carry out these obligations, including in the Semarang City. The problems discussed in this study are (1) How is the implementation of the obligation to employ persons with disabilities in private companies in the Semarang city: (2) How is government supervision of the implementation of employing persons with disabilities in private companies in Semaarang City. This research is qualitative research with an empirical juridical approach. Data validity uses triangulation and data analysis techniques using qualitative data analysis. The conclusions of this study are: (1) the implementation of the obligation to employ persons with disabilities by private companies in the Semarang City has not been carried out as expected because of the awareness of business actors, business preparedness, readiness for disability, control and government oversight factors. (2) The supervision carried out by the Department of Manpower and Transmigration of Central Java province has not been maximized and is still appealing and mentoring and there has been no application of sanctions.*

Keywords: Implementation, The obligation to employ, disability persons, supervision

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### INTRODUCTION

Article 27 point 2 of the UUD 1945 states that each citizen has the right to decent work and livelihood without discrimination. Persons with disabilities are part of the citizens also entitled to work in accordance with their abilities and conditions. Disabled Persons are those who experience physical, intellectual, mental, and / or sensory limitations for a long period of time in interacting with the environment can experience obstacles and difficulties to participate fully and effectively with other citizens based on similar rights (Article 1 of Law Number 8 of 2016). According to John C. Maxwell (in Seogiono et al., 2014: 21), persons with disabilities are someone who has a disorder and / or who can interfere with activity

The state's obligation in the constitution to realize the right to work for persons with disabilities is realized in Article 53 of Law No. 8 of 2016 paragraph (1), determined that the Government, Regional Government, State-Owned Enterprises, and Regionally-Owned Enterprises must employ at least 2% (two percent) Persons with disabilities from the number of employees or workers. Paragraph (2) determines that a Private Company must employ at least 1% (one percent) of Disabled Persons from the number of employees or workers. Article 5 of Act No. 13 of 2003 also states that "Every worker has the same opportunity without discrimination to get a job. Article 67 Paragraph 1 of Act Number 13 of 2003 concerning Labor also requires employers who employ workers with disabilities to provide protection in accordance with the type and degree of disability.

Persons with disabilities must be protected. Article 1 paragraph (5) Law No. 8/2016 determines the protection of persons with disabilities is a conscious effort to protect, protect and strengthen the rights of persons with disabilities. As part of citizens, it is appropriate for persons with disabilities to get special treatment, as an effort to protect against vulnerability to various acts of discrimination and violations of human rights. Special treatment can be seen as an effort to maximize the respect, promotion, protection and fulfillment of universal human rights (Majda El Muhtaj, 2016: 337)

The Central Java Provincial Government issued Regional Regulation (Perda) No. 11 of 2014 concerning Fulfillment of the Rights of Persons with Disabilities. This regulation makes it clear that Persons with Disabilities have the same rights as other normal communities and that the fulfillment of the rights of persons with disabilities is an obligation and responsibility of Regional Governments, District / City Governments, BUMDs, legal entities and other business entities, communities and parents. Article 26 states that Every Disabled Person has the right and opportunity to get a job and / or do work and get salary / wages in accordance with the laws and regulations.

The provisions of the legislation indicate that private companies must employ persons with disabilities at least 1% of the total / total number of workers. So that every private company should have to carry out these obligations as well as possible. Private companies in the city of Semarang in 2015 amounted to 1753 companies, then in 2016 showed the same number which means there was no decline or increase in private companies. In 2017 private companies in the city of Semarang decreased by 180 companies to become 1573 private companies. But in Semarang City many private companies still rarely employ or open employment opportunities for persons with disabilities.

## RESEARCH DESIGN

This study uses an empirical juridical approach method, namely how the provisions of legislation are carried out in the real life of society or by looking at the reality that is in practice in the field. This approach is also known as a sociological juridical approach. The research method used in this study is a qualitative research method. Qualitative research is a research procedure that produces descriptive data in the form of written or oral words from people and observable behavior. Primary and secondary data sources by means of interviews, observation, documentation and literature. Data validity uses triangulation techniques, while data analysis uses qualitative data analysis. The location chosen as the place for this study was in the city of Semarang, taking samples from the Department of Manpower and Transmigration of Central Java Province, PT Bina Busana Internusa, PT Apparel One Indoneisa 1, PT Apparel One, Sahabat Difabel Semarang, and working-age disabled people.

## RESULT AND DISCUSSION

### Implementation Of The Obligation To Hire Persons With Disabilities In Private Companies In The Semarang City

Fulfillment of the rights of persons with disabilities in obtaining work in the city of Semarang is carried out in the context of increasing dignity, dignity and self-esteem, and creating a prosperous, just, prosperous society, both material and spiritual. People with disabilities who often get discrimination need special attention because they have different needs. The Office of Social Affairs, Department of Manpower, and Transmigration of the City of Semarang, must ensure the right to obtain fulfilled work for persons with disabilities in the city of Semarang. (Ismail Saleh, 2018: 67)

Director General of Social Rehabilitation of the Ministry of Social Affairs of the Republic of Indonesia, Samsudi said that only about 25% of companies use workers from persons with disabilities. Very small companies fulfill the mandate of Law No. 4 of 1997 to employ persons with disabilities as employees, that is, at least one quota of every 100 workers used. There are even companies that employ 500 employees, but none of the disabled people are employed in the company (<http://semarang.bisnis.com> downloaded on September 10, 2018).

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Tabel 1 : The Total of workers and companies in Semarang City in 2017.

REGIO N	SECTO R	Total Com p-any	LABOR						Company Classification			Company Status			
			Citizen		Foreign		Child		Smal l	Mediu m	Bi g	Priv	PMD N	PM A	JV
			M	F	M	F	M	F							
Semaran g City	1	7	386	109	-	-	0	0	3	3	1	7	0	0	0
	2	2	45	10	-	-	0	0	1	1	0	2	0	0	0
	3	1,148	58,723	60,989	24	2	0	0	453	341	34	397	133	86	532
	4	62	13,949	12,269	2	0	0	0	30	24	8	22	13	4	23
	5	71	9,336	6,485	5	0	0	0	36	26	9	40	9	5	17
	6	1,039	34,458	22,360	56	8	0	0	516	389	13	430	123	55	431
	7	167	7,282	4015	13	1	0	0	92	54	21	82	18	11	56
	8	595	20,185	11,516	61	1	0	0	379	159	57	251	113	9	222
	9	721	34,068	17,118	26	3	0	0	403	209	10	342	100	10	269
Total		3,812	178,432	134,871	40	6	0	0	1,929	1,206	68	1,573	509	180	1,550

Source: Department of Manpower and Transmigration

Based on a total workforce of 313,303 people in 2017 out of a total of 3,812 companies in Semarang City, there should be 3,133 potential workers with disabilities who must or must be absorbed by the company.

The number of persons with disabilities in the city of Semarang from year to year shows a growth in number.

Tabel 2.: Total of Disability Persons in Semarang City 2014-2017

No	YEAR	TOTAL
1	2014	5,557
2	2015	6,658
3	2016	6,985
4	2017	7,063

Source : Research Data

From the table, it can be seen that from year to year the number of persons with disabilities in Semarang City is increasing. Even though it has not shown a specific number of persons with disabilities in the category of work age. The increase in the number of persons with disabilities from year to year should be followed by an expansion of employment opportunities.

Facts show different conditions, employment opportunities for persons with disabilities in Semarang City are still minimal. Persons with disabilities in Semarang City still feel 'neglected' and have not been able to enjoy the rights as they should. They assume there is still discrimination, especially when they have to compete for work. ([http:// metrosemarang](http://metrosemarang.com). Downloaded November 23, 2018). Few are absorbed in the available jobs. For example, there are three companies studied with the following conditions:

**Table 3: Analysis Of The Number Of Workers With Disabilities In PT Bina Busana Internusa, PT Apparel One Indonesia 1 And PT Apparel One Indonesia 2.**

No	Company Name	Total	Total should be	Total Available
1	Bina Busana Internusa	2,360	23 persons	8 persons
2	Apparel One Indonesia 1	2,028	20 persons	0
3	Apparel One Indonesia 2	1,920	19 persons	2 persons

Source: Research Data

In practice, out of 3,812 companies in Semarang, City the quota for persons with disabilities is not yet fully fulfilled. It can be seen from 3 private companies namely PT Bina Busana Internusa and PT Apparel One Indonesia 2 that have employed persons with disabilities, namely PT Bina Busana Internusa, there are 8 people with disabilities and PT Apparel One Indonesia 2, there are 2 persons with disabilities who do not meet the 1% quota while PT Apparel One Indonesia 1 has not employed persons with disabilities.

Data from the Semarang Manpower and Transmigration Office in 2016 also showed the same conditions, namely as follows:

**Tabel 4: Companies that Employ Disability People 2016**

NO	COMPANY	Total of Worker	Worker from Disability Persons
1	PT. SAMA	2,778	2
2	PT GBI	2,405	13
3	PT MG	325	1
4	PT BI	2,230	5
5	PT ISM	940	1
6	PT MPS	2,425	5
7	PT IP	29	1
8	PT AIR	917	3
9	PT LWI	962	3
10	PT FM	784	3

Source: Semarang Manpower and Transmigration Office

The data above shows that based on 10 companies as samples that were analyzed by the Manpower and Transmigration Office in Semarang in 2016, the company has not carried out optimally regarding the obligation to fulfill labor quotas for persons with disabilities. This shows that the rules regarding quota for persons with disabilities in the right to obtain employment in the implementation do not work properly, so it can be seen that the quota for persons with disabilities in employment has not gone well .

The implementation of the obligation to employ persons with disabilities in Semarang City is a policy to fulfill the right to work for persons with disabilities. The obligation of the company to employ persons with disabilities is regulated in Law No. 8 of

2016 concerning persons with disabilities. This is stated in article 53, the article states that private companies must employ at least 1% of persons with disabilities from the number of employees or workers, for example for each private company if it has 100 workers, the company must employ at least 10 persons with disabilities. It means that the obligation of private companies to employ 1% disability persons has not yet been realized.

There are administrative sanctions if the company has not employed persons with disabilities, this is regulated in Article 88 of the Central Java Provincial Regulation (Perda) Number 11 of 2014 concerning the Fulfillment of the Rights of Persons with Disabilities, administrative sanctions as referred to in the form of:

1. written warning;
2. temporary suspension of part or all business activities;
3. suspension of business license; and
4. revocation of business licenses.

however, the four sanctions have not been given to companies that have not or have not even implemented them. The government is still hesitant to implement the law explicitly with reasons for coaching and giving time to be able to implement it. Then what about the conditions of workers with disabilities. Related to the protection of workers related to persons with disabilities, it is regulated in Law Number 13 of 2003 concerning Manpower, including regulating this matter:

1. Every workforce has the same opportunity without getting discrimination to get a job (Article 5)
2. Every worker or laborer has the right to receive equal treatment without discrimination from the company (Article 6)
3. Every workforce has the right to obtain and / or improve and / or develop work competencies in accordance with their talents, interests and abilities through job training (Article 11)
4. Every worker or laborer has the same opportunity to attend job training in accordance with his field of work (Article 12 paragraph (3))
5. Every workforce has the same rights and opportunities to choose, obtain, or move jobs and obtain decent income at home or abroad (Article 31)
6. Every worker or laborer has the right to obtain protection for occupational safety and health, morals and morality, and treatment in accordance with human dignity and religious values (Article 86 paragraph (1))
7. Every worker or laborer has the right to obtain income that fulfills a decent living for humanity (Article 88 paragraph (1))

Juridically, Article 5 provides protection that every workforce has the right and equal opportunity to obtain decent work and livelihood without distinguishing gender, ethnicity, race, religion, and political flow according to the interests and abilities of the workforce concerned, including treatment the same for people with disabilities. Article 6 requires employers to provide workers 'and workers' rights and obligations without distinguishing their gender, ethnicity, race, religion, color, and political flow.

In terms of the process of recruitment of persons with disabilities at PT Bina Busana Internusa, PT Apparel One Indonesia 1 and PT Apparel One Indonesia 2, all prospective workers are accommodated at PT Bina Busana Internusa after being placed depending on the empty quota, in this recruitment process there is no difference between prospective normal workers with persons with disabilities or no special quota for persons with disabilities. in article 45 of law No 8 of 2016 said the Government and Regional Governments must guarantee the process of recruitment, admission, job training, work placement, sustainability work, and career development that is fair and without discrimination to persons with disabilities.

Employing persons with disabilities should companies must provide special facilities for persons with disabilities, in accordance with article 50 which reads: "Employers must provide decent accommodation and facilities that are easily accessible to workers with disabilities". Regarding work support facilities for persons with disabilities according to Cecil as the personnel at PT Bina Busana Internusa and Bagus as personnel at PT Apparel One Indonesia 2 for facilities between persons with disabilities and ordinary workers are not differentiated because the degree of disability is still mild.

Article 49 of Law No. 8 of 2016 explains that Employers must pay workers with disabilities the same as workers who are not Disabled with the same type of work and responsibility. In BBI companies the Group provides wages or salaries for persons with disabilities who are the same as normal workers, this is in accordance with what was said with Cecil as the personnel section.

persons with disabilities will find it difficult to compete with normal prospective workers, but from the description delivered by Cecil above in the recruitment process between normal workers and persons with disabilities there is no difference, there should be a special quota for persons with disabilities to be easily recruited and the rights of persons with disabilities the next is the facility is a right that must be fulfilled by the company to workers with disabilities, to support the work requires a tool. But in the company of PT. Bina Busana Internusa, PT Apparel One Indonesia 1, PT Apparel One Indonesia 2, there is no difference between normal workers and workers with disabilities on the grounds that the degree of disability is still mild. in this case the labor agency and transmigration requires private companies and state-owned enterprises to provide supporting facilities for persons with disabilities in accordance with Law No. 8 of 2016. Other rights, namely getting a decent wage for the survival of disability workers regarding the right to receive wages feasible already fulfilled at PT. Bina Busana Internusa, PT Apparel One Indonesia 1, PT Apparel One Indonesia 2.

The Department of Manpower and Transmigration of Central Java Province, especially the job placement section, said that the main task of empowerment is providing debriefing for disability friends because most of the education is lacking, for example there are elementary school graduates, no schooling, some graduates this is what we empower, diffable friends who do not have the education world, which means that it is difficult to enter the workforce, then we empower. Empowerment itself is also in

accordance with their competence to do work, to collaborate in this city of Semarang with KSD, to recruit disability friends we ask KSD because they know and understand the condition of disability. For our socialization, there are socialization of work opportunities, work mechanisms and procedures for the community and companies, for the inhibiting factor to employ persons with disabilities, namely accessibility in the company.

PT Bina Busana Internusa, PT Apparel One Indonesia 1, PT Apparel One Indonesia 2 have a training center, which is aimed at normal and disabled workers, the training is free and gets transport money, after that the simulation can go directly to the line with the UMR direct salary (Regional minimum wage).

The Difabel Friends Community gives them skills that are in accordance with their abilities, which can bring what money is a skill. For example providing journalistic training, now he can write books, short stories. Yesterday there was training from the labor agency to make a necklace, it turns out he made a necklace that we sell on the exhibition, his necklace sells well, it can be an addition to him. Some are sloppy, he can't do anything, his hands are stiff, he can work, then I told him to handle the Instagram Community of Friends with Disabilities. For now it is more about empowerment. We have sewing every Tuesday, Thursday, we believe, Friday there is a journalistic workshop, Saturday computer, Sunday dance.

the implementation of the obligation to employ persons with disabilities in Semarang is still not fully fulfilled, the authors took three samples of private companies in Semarang, namely PT Bina Busana Internusa, PT Apparel One Indonesia 1 and PT Apparel One Indonesia 2, two of which have employed persons with disabilities namely PT Bina Busana Internusa has 8 people with disabilities and PT Apparel One Indonesia 2 has 2 persons with disabilities but the number still does not meet the 1% quota. In PT Marimas to, but the results obtained are not employing persons, this is due to the policies of the company's superiors. Supposedly with the regulation of Law No. 8 of 2016 private companies in Semarang have employed persons with disabilities of at least 1% of the total number of workers working in a private company.

The problem of recruitment between persons with disabilities and other normal prospective workers is still not differentiated, this makes it difficult for persons with disabilities to compete in order to enter the company. This problem should companies provide special quotas for persons with disabilities to make it easier to compete with normal workers. Facilities supporting work for disabilities in the company are still lacking, this makes the disabled people less than optimal to do a job. The company should provide facilities to support work for persons with disabilities in order to work more optimally.

### **Supervision of the Implementation of the Obligation to Hire Persons with Disabilities in Private Companies in the City of Semarang**

Labor inspection is the activity of supervising and enforcing the implementation of legislation in the field of manpower. Whereas in Law Number 13 Year 2003 article 176, labor inspection is carried out by employees of labor inspectors who are competent and independent in order to guarantee the implementation of labor legislation. Based on Presidential Regulation Number 21 of 2010, labor inspectors are carried out by labor inspection work units in institutions whose scope of duties and responsibilities are in the field of labor in the Central Government, Provincial Government and Regency / City Government. To carry out labor inspection, within the organization of labor inspection work units in agencies whose scope of work and responsibilities in the field of labor in the Central Government, Provincial Government and Regency / City Government are formed functional positions of labor inspectors. In this case the government gives its duty to the Manpower and Transmigration Office to carry out the task of labor inspection. So that the role of the government is more structured in protecting workers in obtaining rights as workers / laborers in a company, with such objectives, the government has carried out its obligations as a State that protects workers' rights.

Central Java Provincial Regulation (Perda) Number 11 of 2014 Article 36 Concerning the Fulfillment of the Rights of Persons with Disabilities explains the SKPD and District / City SKPD that have the main duties and functions in the field of labor obliged to supervise Legal Entities, Business Entities and BUMD. Supervision as referred to in paragraph (1) is carried out on:

1. companies that have employed persons with disabilities as workers to guarantee the fulfillment of workers' rights with disabilities; and
2. companies that have not employed persons with disabilities as workers to fulfill the work quota of persons with disabilities.

Regarding the supervision of the company carried out by the labor and transmigration services in the field of supervision according to him the task in fulfilling disability rights oversees companies / labor inspection in accordance with the law. The work placement supervision activity in 2015 took a sample of only 23 companies from 3752 companies and only 5 companies in the data concerning workers with disabilities, this was due to the limited budget to supervise all the companies in Semarang and the task of supervision also covered the Java region Middle and for now is still not a matter of priority scale.

Semarang City has 1753 private companies that should have employed persons with disabilities at least 1% of the total number of workers, but in the field there are still many private companies that have not employed persons with disabilities, in this case the role of labor inspectors is more active in the company to fulfill the rights of the persons disability.

Problems regarding data on private companies that have employed persons with disabilities or those who do not employ persons with disabilities, labor inspectors do not have accurate data, this makes supervision roles less than optimal, the need for revisions to the law must report that companies do not attach the number of workers with disabilities so that labor inspectors have accurate data about companies that have employed persons with disabilities or who have not employed persons with disabilities.

The implementation of employing persons with disabilities in private companies in Semarang City is very weak, because the budget for corporate supervision is still too minimal so supervisors in carrying out their duties are still not maximal and the problems of persons with disabilities have not yet become a priority scale due to the new law no. this should supervise the issue into a priority scale because one of the tasks of the labor and transmigration agency is to protect the rights of persons with disabilities and for now the labor and transmigration services do not have accurate data regarding companies that have or have not employed persons with disabilities. The Department of Manpower and Transmigration should improve performance in terms of supervision of private companies and strict sanctions for companies that still do not employ persons with disabilities. Then with the existence of Law No. 8 of 2016 should be in Law No. 7 of 1981 concerning the Obligatory Report of the Company needs to be revised regarding the addition of data on the number of persons with disabilities, this can facilitate the workforce and transmigration offices to have accurate data regarding private companies that have or have not employed persons with disabilities.

The Department of Manpower and Transmigration of Central Java Province has not yet made a Service Operational Standard (SOP) in implementing the policy of Fulfillment of the Rights of Persons with Disabilities in the City of Semarang. Even though the absence of an SOP has little effect on the course of the policy, the SOP will facilitate the implementation of a policy. The pattern of supervision carried out is still not able to realize measurably the achievement of the obligation to employ persons with disabilities as much as 1% by private companies in Central Java, including in the city of Semarang. The efforts made are still recommendations and guidance to private companies to implement the 1% provision. There are no steps in the form of threats of sanctions given to private companies that have not implemented the 1% requirement.

Article 102 paragraph (1) very clearly states that the key to all labor issues is very much dependent on the function of the government in setting policies, providing services, carrying out supervision and enforcement against violations of labor regulations. The function of the worker / laborer as mentioned in paragraph (2) will be carried out properly if the functions and roles of the government as paragraph (1) run well and correctly, especially in ensuring the fulfillment of workers' rights which are the obligation of employers to fulfill them.

In condition labor inspection related to persons with disabilities in the right to obtain employment in Semarang City, it is no longer carried out in the Semarang City Manpower Office and switch to the Manpower and Transmigration Office of Central Java Province, this is a vacancy function of supervision of employment. This has implications for the weakening in the application and enforcement of labor-related regulations.

## **CLOSING**

### **Conclusion**

Based on the results of research and discussion, it can be conclude that:

1. The implementation of the obligation to employ persons with disabilities in private companies in Semarang City has not been fully fulfilled, the rules for employing persons with disabilities are regulated in Law No. 8 of 2016 that companies must employ a minimum of 1% of the total number of workers. However, there are still many companies that have employed persons with disabilities but have not fulfilled the 1% quota and there are still companies that have not at all employed persons with disabilities, this is due to the awareness of the company in terms of employing people with disabilities. Private companies in Semarang City have not provided supporting facilities to assist the work process for persons with disabilities. then in the recruitment process should be between normal workers with persons with disabilities to be separated, this makes it difficult for persons with disabilities to compete with prospective normal workers.
2. The role of the government in monitoring the implementation of employing persons with disabilities in private companies in Semarang City has not been maximized due to insufficient budget, this has become a barrier for supervisors to conduct corporate supervision and for data problems companies that have employed persons with disabilities or who have not employed persons with disabilities should there needs to be a revision regarding the law that the company must report as a report from the company for the number of workers with disabilities. This makes it easier for labor inspectors to take action against companies that have not employed persons with disabilities

### **Suggestion**

Suggestion can be given are:

1. For all private companies, step by step it is better to employ persons with disabilities in accordance with the obligation of at least 1% of the total workers. As well as providing supporting facilities for persons with disabilities to make it easier to do work. Recruitment of prospective workers should be separated, there is a special quota for people with disabilities to facilitate the recruitment process.
2. For the Department of Manpower and Transmigration, it should further enhance the capacity and capability of its performance in the supervision of private companies.
3. The Ministry of Law and Human Rights to fully support the government in taking action against violations of the rights of persons with disabilities, and more firmly to take legal actions to violate the rights of persons with disabilities that occur in Indonesia.

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Ubaidillah Kamal

Faculty of Law Semarang State University

Sekaran Campus, K1 Building, Gunungpati, Semarang City, Central Java-Indonesia

Email: [ubaidillahkamal@mail.unnes.ac.id](mailto:ubaidillahkamal@mail.unnes.ac.id)