

# RECRUITMENT POLICY FOR PROSPECTIVE CIVIL SERVANT FOR PERSONS WITH DISABILITIES ON SPECIFIC FORMATION: OPPORTUNITIES OR OBSTACLES

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## ABSTRACT

*Persons with disabilities have the right to work like any other person or human. However, in reality, these rights are often neglected. Gratefully, the Provincial Government of Bali, Indonesia pays attention to disability rights to work through Regional Regulations by emphasizing the field of work of special formations in the government sector as candidates for civil servants. This study aims to analyze the recruitment policies of prospective civil servants related to special formations for persons with disabilities in the sector of the Bali Provincial Government. This is an empirical legal research with a statute approach through document study and an empirical approach through interview techniques. The results of the study show that the implementation of policies issued by the Provincial Government of Bali related to fulfilling the right to work for persons with disabilities in the Government sector in the implementation of its admissions in 2018 in the Provincial Government of Bali for the formation of persons with disabilities has not been fully in accordance with the policy of respect, protection, and fulfillment of rights. Persons with disabilities as stipulated in various human rights provisions, can be seen from the requirements stated in the recruitment requirements for special formation of persons with disabilities, which require being able to see, operate computer, analyze, express opinions or discuss and be able to teach in front of the class and convey learning materials properly and clear, thus closing opportunities for persons with disabilities and visual impairments to take part in the recruitment selection and these conditions can only be fulfilled for persons with severe disabilities. A certain condition with a degree or degree mild disability.*

**Keywords:** Right to Work, Person with Disability, Recruitment, Civil Servant, Specific Formation.

## INTRODUCTION

In almost all over the world, it is known that almost 80 percent of people with disabilities live below the poverty line. Most of them live in remote rural areas and far from the city center. This causes persons with disabilities to face greater difficulties than society in general because they have barriers to accessing public services (UNDP, 2016). Persons with disabilities often do not have access to proper education, health services, and economic activities. Lack of access to transportation, buildings, education and work are some examples of obstacles in the daily life of persons with disabilities (Adioetomo S.M et al., 2014). Persons with disabilities are also less likely to be employed than those without disabilities (Effendi & Yuniato, 2017). In addition, when they are hired, they often work for low-paying jobs with very little chance of promotion and poor working conditions. Many rights of persons with disabilities are violated in various ways around the world, including in Indonesia (Colbran, n.d.).

Persons with disabilities internationally in the context of human rights are protected based on the United Nations Convention on the Right of Persons with Disabilities (hereinafter CRPD) (Harpur, 2012). This convention aims to protect, promote, and guarantee the right of all persons with disabilities and also increase the respect for the dignity inherent in them, inter alia the right to participation, right to live in the community, rights related to private life, and an overarching theme of autonomy for them (Tichá et al., 2018). The CRPD regulate accessibility for disabilities persons. Accessibility refers to the practice of removing barriers to ensure equal access for persons with disabilities to, among others, built environments, goods and services, as well as facilities. In the contexts of accessibility, the primary aim of the CPRD was not to create new rights but to ensure the existing human rights were made equally effective for persons with disabilities. (Broderick, 2020)

Equalization of rights is an absolute thing that must be done, including equal opportunity to get a job, right to work results and right to protection while doing work. Jim Ife found that *In many cases they are simply claims for human rights that are denied to particular groups: people with disabilities, for example, may find it especially difficult to obtain employment, and hence the right to meaningful work (recognized as a universal human right* (Ife, 2008). Human rights represent a fundamental concept and driving force for the of civilization development (Belenkova et al., 2020)

In the national context, Indonesia as a member in various international conventions in the field of human rights has also regulated the rights of persons with disabilities (Afrianty, 2020). One of the protections given to the person with disabilities is the equalization of disability rights, both the right to work and the right to education. The equalization of rights of persons with disabilities in terms of obtaining employment is also guaranteed in the Republic of Indonesia Law Number 8 of 2016 concerning Persons with Disabilities (hereinafter Law on Persons with Disabilities) in Article 52, which obliges the Government, Local Government, Regional Owned Enterprises to employ at most at least 2% (two percent) of Persons with Disabilities of the number of employees or workers, and has also been adopted by the Bali Provincial Government by issuing Regional Regulation Number 9 of 2015 concerning Protection and Fulfillment of the Rights of the Rights of Persons with Disabilities, one of which is equal rights in obtaining

regulated work in Article 13. The Bali Provincial Government has implemented this regulation on the Selection of Candidates for Civil Servants (hereinafter CPNS) in the Bali Provincial Government Environment in 2018 by including special formations for people with disabilities. However, in reality, none of the applicants with disabilities filled the formation.

Based on the aforementioned background, the important issues examined in this study include whether the regulation on the recruitment of civil servant candidates for the fulfillment of the right to work for people with disabilities in the Bali Provincial Government has provided equal opportunities for persons with disabilities, and whether these regulations are implemented in practice. This writing aims to examine and explore equal access to rights for persons with disabilities in the 2018 Bali Provincial Regulation regarding the recruitment of CPNS with special formations and to examine the implementation of the policy at a practical level.

## RESEARCH METHOD

This research is a juridical empirical research with the nature of qualitative descriptive research and uses primary data and secondary data. All data obtained in this study were obtained using document study techniques and interview techniques. Primary data consists of the results of interviewing using non-probability sampling, namely purposive sampling of informants at the Bali Provincial Civil Service Agency, Bali Provincial Office of Social Affairs, Organizing Committee for Recruitment of Prospective Civil Servants (CPNS) for People with Disabilities in Bali Province in 2018 as well as participants who passed who passed the 2018 CPNS recruitment to obtain data on the factors that affect the absence of applicants from persons with disabilities on the 2018 CPNS Bali Province. Legal materials examined by the Manpower Law, Human Rights Provisions, especially those relating to persons with disabilities. All data and legal materials were analyzed descriptively qualitatively.

## RESULT AND DISCUSSION

### **Recruitment Policy for Prospective Civil Servant for Specific Formation for Persons with Disabilities in Indonesia**

Persons with disabilities are entitled to work without discrimination for their survival and a decent living. Getting a job is important for persons with disabilities, just like other basic needs, including education, welfare, and comfort (Rozali et al., 2017). For person with disabilities, work is crucial, because many people with disabilities are unemployed and are often socially excluded. Having a job means reducing poverty and keeping people with disabilities in good health (Vornholt et al., 2018). On the other side, although Employment is not a universal remedy for the problems that people with disabilities experience, however this opportunity gives them access to social contacts and through working they enable to participate in society, moreover acceptance with all its facets seems to be a cornerstone for the long-term integration of people with disabilities at work. Hence, important to fully understand the concept of acceptance and it's relation to sustainable employment of people with disabilities. (Vornholt et al., 2013)

Internationally, Indonesia has shown its commitment in fulfilling the rights of persons with disabilities through the ratification and signing of conventions and declarations. Indonesia has shown good progress in developing the legal basis for persons with disabilities in recent years, but there are still many challenges for the Indonesian government and policy maker to ensure and guarantee equal rights and opportunities are fully realized, for example funds allocated in national budgets and programs for persons with disabilities in Indonesia is still too low for equal rights and opportunities for disabilities (Priebe & Howell, 2014).

There are several challenges and problems that are not only faced by the government, but also by companies in encouraging the expansion of job opportunities for people with disabilities. Person with disabilities also have their own challenges in getting job opportunities, these challenges include: limited job opportunities because only certain types of jobs or positions can be held by persons with disabilities, gaps between competencies and work requirements determined by user and limited information available on the market work for people with disabilities.

With regard to employment and participation in employment, persons with disabilities are a group that is not considered part of the workforce and they often cannot get their right to work. Their careers are influenced by negative and wrong views of society, although many people with disabilities have become professionals and are successful in their careers. Entering the world of work is very difficult for this group, WHO lists limiting factors, for example lack of education and training, work environment, and people's responses to disabilities who do not believe in their ability to work (Rozali et al., 2017).

### **Recruitment Policy for Prospective Civil Servant for Specific Formation for Persons with Disabilities in Bali**

Employment opportunities for persons with disabilities will increase if they complete a good education level. In Bali, according to data on the number of people with disabilities in Bali Province owned by the Bali Provincial Social Service in 2018, it was stated that there were 36,221 people with disabilities.

Employment opportunities for persons with disabilities will increase if they complete a good education level. In Bali, based on data on the number of people with disabilities in Bali Province owned by the Bali Provincial Social Service in 2018, it was stated that the Balinese people who were people with disabilities were 36,221 people and on average very few have received a bachelor's degree level of education, and this is a reason that there are no applicants for the Civil Servant Candidate Selection (CPNS) in the Bali Provincial Government in 2018.

The Systems and procedures for recruitment or admission of the civil servant to the Regional Government of Bali Province refers to the Ministerial Regulation of Ministry of Administration and Bureaucratic Number 36 of 2018 concerning the Criteria for Placement of Civil Servant Needs and Implementation of 2018 Civil Servant Selection (hereafter PermenPARNB), as well as Regulation of the Basic Competencies for the Procurement of CPNS in 2018, thus it is no longer carried out independently by government agencies but is carried out centrally and integrated by adhering to the principles of openness and equal rights. The system is

prepared to face the area of the industrial revolution 4.0 echoed by the government through the role of the State Civil Service Agency as the supervisor for the management of the State Civil Apparatus.

Starting in 2018, the acceptance of CPNS was carried out with a different procedure than before. The entire implementation of basic competency selection (hereinafter SKD) and field competency selection (hereinafter SKB) is only carried out through Computer Assisted Test (hereinafter CAT BKN) based selection held by BKN as the Implementer of the National Selection Committee (hereinafter Panselnas).

The purpose of using CAT method is in the context of transparency so that the entire admission process can be known together and to avoid the criminal act of buying and selling positions so that competition can be carried out fairly by guaranteeing and protecting the rights of every citizen who wants to apply as a CPNS. Then, regarding the determination of the number of special formations for Persons with Disabilities in the recruitment of CPNS in 2018, the Bali Provincial Government pays attention to the rights of Persons with Disabilities which are based on Law Number 8 of 2018 concerning Persons with Disabilities which obliges local governments to provide a special quota for Persons with Disabilities of at least 2% all existing employees.

Furthermore, related to the mechanism for drafting the needs of Civil Servant for government agencies and determining the number of special CPNS formations, one of them is determine the type of formation and position. The need for special formations in the recruitment of CPNS 2018 for the Province of Bali is for persons with disabilities for Teachers with the following requirements:

1. Able to see, operate computers, analyze, express opinions or discuss and be able to teach in front of the class and convey learning material properly and clearly;
2. Have a doctor' certificate explaining the type or level of the disability;
3. Have a diploma and transcript in accordance with the educational qualification being applied (temporary diploma or pass certificate (SKL) and/or temporary transcript);
4. Grade Point Average (GPA) 2,75;
5. Universities and study programs that are accredited in the National Accreditation Board for Higher Education and are registered with the report forum of the Ministry of Research and Technology and Higher Education upon graduation;
6. Willing to be present at the verification of registration requirements to ensure that the format matches the level or type of disability being carried.

Based on the implementation of the policy proposed by George Edward III in a crucial process because how good a policy is, if it is not carefully prepared and planned for its implementation, the objectives achieved will not be realized (Dwiyanto, 2009). Success in implementing policies depends on the content of the policy and the environment for its implementation (Subarsono, 2011). The concrete manifestation of policy implementation is indicated by the interests that are influenced by the existence of the program. In this case, the Provincial Government of Bali has a concern for persons with disabilities, has manifested special recruitment for persons with disabilities in accordance with the mandate of the legislation. Even though the Bali Provincial Government has allocated the formation of people with disabilities in the recruitment of CPNS in 2018, the Bali Provincial Government has not provided equal

opportunities for all types of disabilities. It can be seen from the requirements listed in the teacher recruitment requirements, which require being able to see, operate a computer, analyze, express opinions or discuss and be able to teach in front of the class and convey learning materials properly and clearly, thus opportunities for people with disabilities with speech and visual impairments cannot participate in the recruitment selection. Even if these conditions can be fulfilled for persons with disabilities, they are only addressed to physical disabilities with certain conditions with a degree or level of mild disability. Judging from the regulated requirements, it's very difficult for persons with disabilities to become teachers.

Whereas in Article 1 Number 2 of the Law on Persons with Disabilities, it is clearly written that all persons with disabilities have equal opportunities in all aspects of state administration and society. In addition, in Article 1 Number 8 of the Law on Person with Disabilities, the government regulates accessibility, namely the facilities provided for persons with disabilities in order to realize equal opportunities. According to those articles it seems like the state institutions have no reason to limit people with disabilities. Thus, the Provincial Government of Bali should be able to open the recruitment of CPNS for all kinds of disabilities and without any discrimination. Everything is determined by the competencies and capabilities of each, which will later be determined during the selection process. The policy regarding the special formation in the 2018 National Civil Service Candidate for the Province of Bali is like a double-edged knife because on the one hand it is a quick solution to comply with statutory regulations, but on the other hand has the potential to bring new discrimination. This specialization is a form of affirmative policy, namely making disabilities a priority to fill certain formations, with the aim of rapidly encouraging the fulfillment of the right to work for persons with disabilities. However, care is needed and good socialization and education, especially for the 2018 CPNS implementers in the field, to achieve these goals and objectives. This is needed because special formations for people with disabilities can also bring new discrimination. Seeing this phenomenon, the Theory of Justice from John Rawls, regarding the difference principle, namely social and economic differences that must be regulated in order to provide the greatest benefit for those who are most disadvantaged and the principle of fair equality of opportunity shows those who are least have the opportunity to achieve welfare prospects, opinions, and authorities by providing special protection, namely by providing special formations that cannot apply, even covering benefits for persons with disabilities themselves and creating new potential for discrimination.

The potential for discrimination in question is the existence of special formations that do not produce an inclusive policy, because it limits a person with a disability to register in other formation categories. The existence of a special formation for disabilities has the potential to be understood as the only pathway for persons with disabilities to become civil servants in CPNS 2018. In addition, there are concerns that it will also impact on the various accessibility that should be provided by the Bali Provincial Government, becoming unavailable because the person with disability concerned does not choose special formation for disabilities. The Article 19 of the Law on Persons with Disabilities states that the right to accessibility includes the right: Gaining accessibility to take advantage of public facilities as well as getting adequate accommodation as a form of individual accessibility. With regard to accessibility, the State requires the Government and Local Governments to provide facilities or infrastructure that can

be accessed by Persons with Disabilities as one of the conditions in applying for building permit. The emphasis on the physical environment as a major determinant factor that causes disability has been stated in the latest concept related to disability issued by the United Nations, namely the concept of the International Classification of Functioning, Disability and Health (hereinafter the ICF), which replaces the concept of the International Classification of Impairments, Disabilities and Handicaps (hereinafter the ICIDH). This new concept of the ICF emphasizes the interaction of 3 (three) disability issue factors, namely “*impairments*” (certain disorders or damage in a person’s body); “*activity limitation*” (limited activity due to certain body conditions) and “*participation restriction*” (restrictions on participation, for example discrimination at work, school, etc.).

Apart from physical accessibility, there is non-physical accessibility that the State also needs to pay attention to in relation to how information, communication and technology can be used or understood by Persons with Disabilities. The commitment of the Government, Local Government, State Enterprises (BUMN and BUMD Sector), and the private sector to fulfill the provisions of Article 53 of the Law on Persons with Disabilities must be supported wholeheartedly and to realize the policy on this commitment requires careful planning and accurate data on the number of persons with disabilities each year. Concerning about the presentation of data on persons with disabilities, the Provincial Government of Bali, in this case the Manpower and Social Services Office, does not yet have the latest data regarding the number of people with disabilities in the workforce, thus special formations for persons with disabilities and setting requirements are very difficult to fulfill for persons with disabilities in Bali because nobody has those requirements. Concerns related to the potential for discrimination by holding special formations that did not result in an inclusive policy emerged because PermenPANRB 36/2018 still places persons with disabilities as entities with certain physical characteristics, not focusing on barriers for someone to participate in the overall selection of CPNS 2018. In other word, PermenPANRB 36/2018 still sees disability as a caricative issue, not a human rights issue in accordance with the Law on Persons with Disabilities or the CRPD. Thus, attention to disabilities does not focus on removing barriers from who are the 2018 CPNS participants, but only on grouping and ultimately having an impact on the exclusion of persons with disabilities.

The ideal policy in understanding disabilities is to continue to open opportunities for persons with disabilities to apply in any formation according to predetermined requirements. In addition, the provision of adequate accommodation or accessibility is guaranteed for every person with disabilities in any formation. Hence, the provisions as stated in letter F number 2 point I of the PermentPANRB Attachment stated that “*Institution committee is obliged to verify registration requirements by inviting prospective applicants to ensure the conformity of formation with the level or type of disability being carried*”, should be abolished. This provision holds the view that the conditions of persons with disabilities must be in accordance with the existing work. However, according to human right and in order to create the inclusive conditions, the work or supporting facilities must be in accordance with the conditions of the workers. In other words, environmental conditions must adapt to humans, not the other way around.

The policy for persons with disabilities in the 2018 National Civil Service Candidate for the Provincial Government of Bali should be interpreted as a first step, which shows the strong commitment of the Government and Local Government to fulfill the provisions of Article 53 of

the Law on the Persons with Disabilities. Policies that should be followed by the formulation and ratification of a *grand design* for the fulfillment of the right to work for persons with disabilities with clear and measurable levels and targets. Policies that are formed in an open and participatory manner involve group of people with disabilities. A tiered solution is needed in fulfilling the provisions of Article 53 of the Law on Persons with Disabilities. The tiered solution referred to in this case is about planning or steps towards achieving 2% of civil servants in Bali Provincial Government agencies at a certain time. Planning that is able to answer when the 2% quota will be achieved; how to reach and carry out the supervision; and who is responsible for implementing and bearing the burden of the budget. This tiered solution requires accurate data on the current number of civil servants with disabilities. From that data, then it can be determined the target time to meet the rest, and determine the fulfillment strategy for years. With this grand design, every party, including people with disabilities, can find out where the Bali Provincial Government' policy is going to implement Article 53 paragraph (1) of the Law on Persons with Disabilities. The existence of a tiered solution also allows monitoring and evaluation to be carried out, in assessing whether the target is achieved or not, and the future plan if the target is achieved or not.

## CONCLUSION

The implementation of policies issued by the Bali Provincial Government related to fulfilling the right to work for people with disabilities in the Government sector in the implementation of the 2018 National Civil Service Candidates for the formation of persons with disabilities has not been fully in accordance with the policy of respecting, protecting, and fulfilling the rights of persons with disabilities, which require being able to see, operate computers, analyze, express opinions, or discuss and be able to teach in front of the class and convey learning material well and clearly, hence closing opportunities for persons with disabilities and visual impairments to participate in this CPNS recruitment selection and these conditions can only be fulfilled for persons with physical disabilities with certain conditions. According to the regulate requirements, it is very difficult for persons with disabilities to fulfill these requirements and this is contrary to Article 1 Number 2 of the Persons with Disabilities Law, which states that all people with disabilities have equal opportunity in all aspects of state administrators and society. Several strategic are needed for the implementation of CPNS in the future in terms of equating perceptions among related stakeholders, planning the implementation of CPNS acceptance for persons with disabilities by involving the community of persons with disabilities and related parties, and optimizing services for persons with disabilities. The suggestions that can be given are by looking at the conditions for the implementation of CPNS admissions for people with disabilities in 2018 in Bali Province, it is recommended that the Bali Provincial Government conduct an intensive coordination with various parties regarding the implementation of CPNS acceptance for people with disabilities, socialization and advocacy of concepts or perspective positive towards persons with disabilities and actively involve the community of persons with disabilities in planning and government activities.



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