

## **Harmonisasi Pengaturan Ketenagakerjaan Bagi Penyandang Disabilitas Di Indonesia**

Imma Indra Dewi W<sup>1</sup>, Ari Hernawan<sup>2</sup>, Zainal Arifin Mochtar<sup>3</sup>

### **Intisari**

UU No 3 Tahun 2003 tentang Ketenagakerjaan menetapkan setiap tenaga kerja memiliki kesempatan yang sama tanpa diskriminasi untuk memperoleh pekerjaan. Persamaan kesempatan atas pekerjaan ini juga berlaku bagi penyandang disabilitas, termasuk perlakuan yang sama. Kesempatan kerja bagi penyandang disabilitas juga diatur dalam Pasal 53 UU No 8 Tahun 2006 tentang Perlindungan Hak-hak Penyandang Disabilitas. Persoalan yang dihadapi adalah perusahaan dan instansi penyedia lapangan kerja menginginkan kinerja optimal dari para pekerjanya, namun tidak semua sumber daya manusia memiliki kapasitas yang sama, termasuk kondisi fisik dengan kedisabilitasan (*different ability/kemampuan berbeda*). Hal ini berdampak secara tidak langsung kepada pencari kerja penyandang disabilitas. Beberapa kasus telah menunjukkan situasi ini, karena itu penelitian ini difokuskan pada harmonisasi pengaturan ketenagakerjaan bagi penyandang disabilitas antara pengaturan ketenagakerjaan dengan pengaturan penyandang disabilitas di Indonesia serta harmonisasi pengaturan ketenagakerjaan bagi penyandang disabilitas antara peraturan di Indonesia dengan konvensi internasional, juga mengenai penguatan konsep pengaturan ketenagakerjaan bagi penyandang disabilitas dalam desain peraturan di Indonesia di masa depan

Penelitian dengan judul Harmonisasi Pengaturan Ketenagakerjaan Bagi Penyandang Disabilitas di Indonesia merupakan penelitian hukum normatif, dengan pendekatan pendekatan peraturan perundang undangan (*statue approach*) serta dipadukan dengan pendekatan historis (*historical approach*) dan pendekatan konsep (*conceptual approach*).

Hasil penelitian menunjukkan pengaturan ketenagakerjaan bagi penyandang disabilitas dalam peraturan perundangan tentang ketenagakerjaan di Indonesia belum harmonis antara UU No 13 Tahun 2003, UU No 8 Tahun 2016, dan UU No 11 Tahun 2020. Ketidakharmonisan itu karena UU No 13 Tahun 2003 dan UU No 11 Tahun 2020 masih diskriminatif, belum berkeadilan serta belum menjamin kesetaraan dalam pengaturan ketenagakerjaan bagi penyandang disabilitas. Pengaturan ketenagakerjaan bagi penyandang disabilitas dalam UU No 13 Tahun 2003 dan UU No 11 Tahun 2020 juga belum harmonis, sementara UU No 8 Tahun 2016 sudah harmonis dengan konvensi-konvensi internasional. Dalam pengaturan ketenagakerjaan bagi penyandang disabilitas di Indonesia diperlukan penguatan

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konsep HAM terutama berkaitan dengan prinsip non-diskriminasi, kesetaraan dan keadilan dengan mengutamakan ketaatan dengan HAM internasional, sesuai dengan undang-undang dan kebijakan Indonesia; proses pengembangan hukum dan kebijakan bersifat partisipatori, dengan melakukan konsultasi dengan berbagai pemangku kepentingan, termasuk organisasi-organisasi pengusaha, pekerja, penyandang disabilitas dan pihak terkait lainnya.

**Kata kunci** : harmonisasi, pengaturan ketenagakerjaan, penyandang disabilitas, Indonesia

## ***Harmonization of Employment Arrangements For Persons with Disabilities in Indonesia***

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### ***Abstract***

*Manpower Law No. 13 of 2003 concerning Manpower stipulates that every worker has the same opportunity without discrimination to get a job. This equal opportunity for work also applies to persons with disabilities, including equal treatment. Job opportunities for persons with disabilities are also regulated in Article 53 of Law No. 8 of 2016 concerning Protection of the Rights of Persons with Disabilities. The problem faced is that companies and employment agencies want optimal performance from their workers, but not all human resources have the same capacity, including physical conditions with disabilities (different abilities). This has an indirect impact on job seekers with disabilities. Several cases have demonstrated this situation, therefore this research is focused on harmonization of employment arrangements for persons with disabilities between employment arrangements and arrangements for persons with disabilities in Indonesia as well as harmonization of employment arrangements for persons with disabilities between regulations in Indonesia and international conventions, as well as on strengthening the concept of employment arrangements for persons with disabilities. persons with disabilities in the design of regulations in Indonesia in the future.*

*The research entitled Harmonization of Labor Arrangements for Persons with Disabilities in Indonesia is normative legal research, with a statutory approach and combined with a historical approach and a conceptual approach.*

*The results of the study show that employment arrangements for persons with disabilities in the laws and regulations concerning employment in Indonesia are not harmonious between Law No. 13 of 2003, Law No. 8 of 2016, and Law No. 11 of 2020. The disharmony is due to Law No. 13 of 2003 and Law No. 11 of 2003. 2020 is still discriminatory, not yet fair and does not guarantee equality in employment arrangements for persons with disabilities. Employment arrangements for persons with disabilities in Law No. 13 of 2003 and Law No. 11 of 2020 are also not harmonious, while Law No. 8 of 2016 is in harmony with international conventions. In regulating employment for persons with disabilities in Indonesia, it is necessary to strengthen the concept of human rights, especially with regard to the principles of non-discrimination, equality and justice by prioritizing compliance with international human rights, in accordance with*

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*Indonesian laws and policies; the law and policy development process is participatory in nature, with consultation with a wide range of stakeholders, including employers', workers', persons with disabilities and other relevant stakeholder organizations.*

*Keywords: harmonization, employment arrangements, persons with disabilities,*