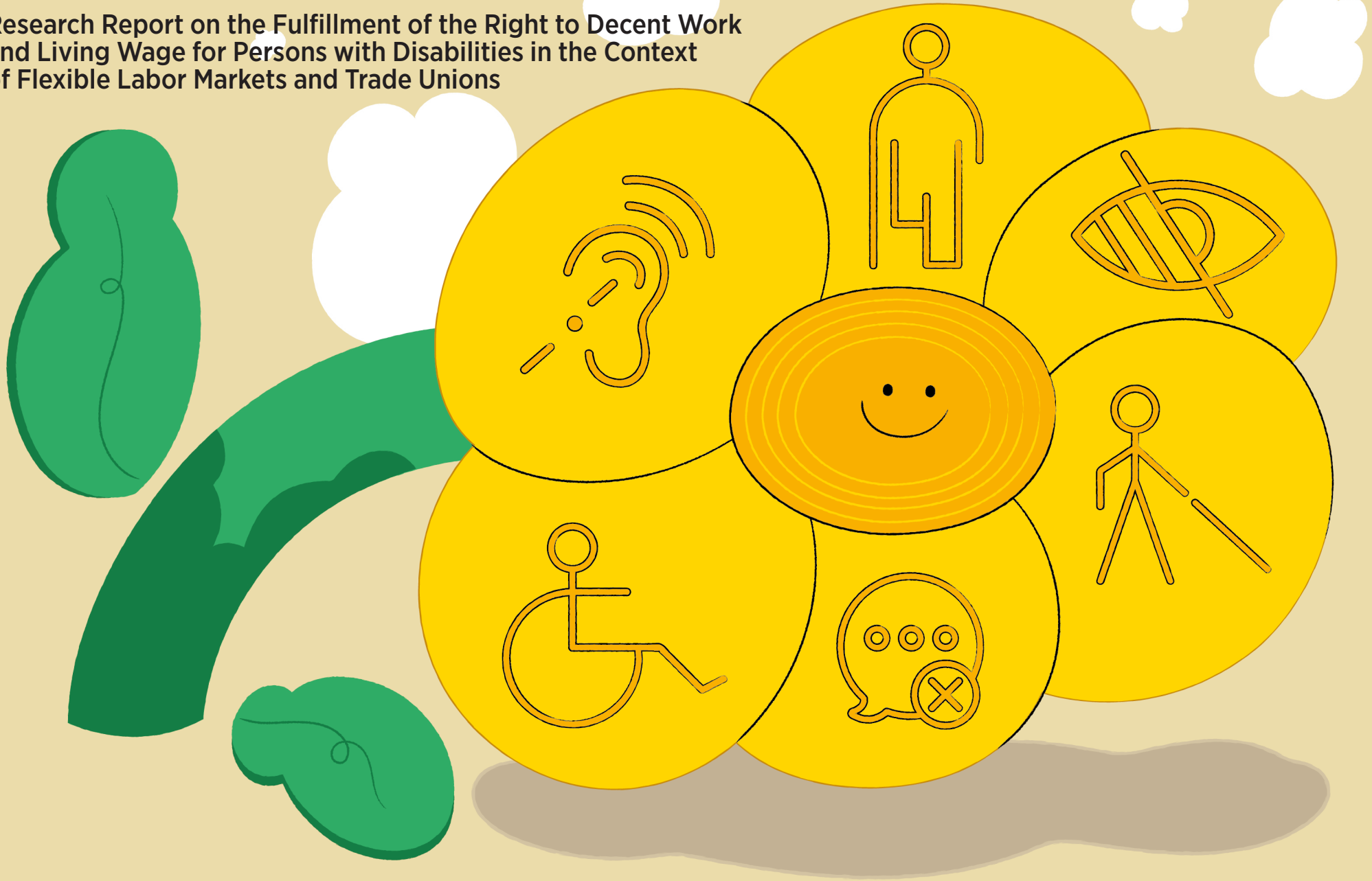
TOWARDS A HUMAN RIGHTS MODEL

Research Report on the Fulfillment of the Right to Decent Work and Living Wage for Persons with Disabilities in the Context of Flexible Labor Markets and Trade Unions



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CRPD Convention on the Rights of Persons with Disabilities

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CONTENTS

ABBREVIATION 3

INTRODUCTION 4

1. Right to Work, Fair Treatment and Living Wage for Persons with Disabilities 4
2. Problem Statement in Research 7
3. Research Objectives 7
4. Research Location 8
5. Research Methodology 8
6. The Limitations of the Research 8

THE RIGHT TO WORK OF PERSONS WITH DISABILITIES AND FLEXIBLE LABOR MARKETS 9

1. Persons with Disabilities Rights Perspective 9
2. Persons with Disabilities and Flexible Labour Market Policies 13
3. The Trade Unions and The Struggle of Persons with Disabilities 15

POLICY ON EMPLOYMENT OPPORTUNITIES FOR PERSONS WITH DISABILITIES IN THE MANUFACTURING AND SERVICE INDUSTRIES 17

1. PT Hino Motor Manufacturing Indonesia 17
2. PT Aerofood Indonesia 18
3. PT Sumber Alfaria Trijaya 18

TOWARDS A HUMAN RIGHTS MODEL 20

1. Right to Work for Persons with Disabilities 20
2. Lack of Knowledge, Power and Marginalization 23
3. Intersectional Discrimination Against Women with Disabilities 24

CONCLUSIONS AND RECOMMENDATIONS 27

1. Conclusion 27
2. Recommendation 28

ATTACHMENTS 30

1. Attachment I: PwDA and Implementation Regulations 30
2. Attachment II: Types of Disabilities in PwDA 32
3. Attachment III: Ableism Job Vacancy 32

Bibliography 34

Abbreviations

CRPD ..... Convention on the Rights of Persons with Disabilities
CSA ..... Central Statistics Agency
DSU ..... Disability Service Unit
PwDA ..... Persons with Disabilities Act
NCD ..... National Commission on Disabilities
UN ..... United Nations

INTRODUCTION

On 13 December 2006, the United Nations (UN) adopted the Convention on the Rights of Persons with Disabilities (CRPD). The CRPD is a covenant that cannot be separated from other covenants, namely the covenant on economic, social and cultural rights and civil and political rights.

The CRPD is an affirmation and recognition of the rights of persons with disabilities that are equal to those of non-disabled persons since birth. The right is inherent and inalienable. The state is obliged to respect, protect, fulfil and promote such rights. The CRPD also recognizes that discrimination based on disability is a violation of human rights.

The Indonesian government is one of 146 countries that signed the CRPD on March 30, 2007 in New York. In 2011, the Indonesian government ratified the CRPD through Law Number 19 of 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities.

In 2016, the Indonesian Government issued PwDA (Persons with Disabilities Act) Number 8 of 2016. The law explains the definition of disability, types of disabilities,[1] types of rights recognized, and establishes reward and punishment mechanisms for those who implement and violate these rights.

Persons with Disabilities are defined as any person who experiences physical, intellectual, mental, and/or sensory limitations for a long period of time who, when interacting with the environment, may experience obstacles and difficulties in participating fully and effectively with other citizens based on equal rights (Article 1 number 1. PwDA reach out person who disabilities since birth or due to an accident (Article 11 letter e).

PwDA stipulates 22 basic rights for persons with disabilities, 4 rights for women with disabilities, and 7 rights for children with disabilities.

Through the PwDA, the state recognizes that persons with disabilities have equal rights with non-disabled persons to access various state services, non-discrimination, and receive reasonable accommodation. The state is also required to provide equal opportunities for persons with disabilities and non-disabled persons by respecting, protecting, fulfilling and promoting the rights of persons with disabilities.

To ensure the fulfillment of the rights of the disabled, the state uses a reward and punishment approach. The state provides incentives for state institutions and companies as well as private companies that fulfill the rights of persons with disabilities. Conversely, anyone who obstructs and/or prohibits the rights of persons with disabilities is threatened with a maximum imprisonment of two years and a maximum fine of IDR 200 million (Article 145).

1. Right to Work, Fair Treatment and Living Wage for Persons with Disabilities

In fact, the country's constitution, recognizes the right to work, fair treatment and decent income for all, without discrimination, gender, sexual orientation or religion. The 1945 Constitution, Article 27 (2), states, "Every citizen has the right to work and a decent living for humanity". In the Manpower Law Number 13 of 2003 and the Job Creation Regulation Number 6 of 2023, Chapter on Manpower, the right to work and living wage is non-discriminatory. The PwDA emphasizes and details the rights of persons with disabilities as humans and as citizens.

The following are the main articles regarding the right to work in the PwDA.

Article 11: The rights to employment, entrepreneurship, and cooperatives for Persons with Disabilities include the rights:

- **a.** to obtain employment organized by the government, regional government, or private sector without discrimination;
- **b.** to receive the same wages as non-disabled workers in the same type of work and with the same responsibilities;
- **c.** to receive adequate accommodation in employment;
- **d.** not to be dismissed for reasons of disability;
- **e.** to receive a return-to-work program;
- **f.** fair, proportional, and dignified job placement;
- **g.** to receive opportunities to develop career levels and all normative rights inherent in them;
- **h.** to advance business, have one's own job, be self-employed, develop cooperatives, and start one's own business.

Article 50: Obligation to provide reasonable accommodation and complaint mechanisms for persons with disabilities. And, types of sanctions for employers who do not provide reasonable accommodation for persons with disabilities.

Article 51: The obligation of employers and the state to guarantee the right to associate and assemble for persons with disabilities in the work environment.

Article 52: The obligation of the government and regional governments to guarantee that persons with disabilities can utilize the social security system in the employment sector.

Article 53: The obligation of the government, regional governments, and state-owned companies to employ at least 2 percent of people with disabilities from the total workers in each institution and company. The obligation of every private company to employ at least 1 percent of people with disabilities from the total number of workers employed.

After the issuance of the PwDA, there were 13 implementing regulations in the form of presidential regulations and government regulations. Among them are the obligation to establish a DSU (Disability Service Unit) in the employment sector and the establishment of a NCD (National Commission on Disabilities). At the provincial, city and district levels, local governments issue regulations that recognize persons with disabilities and their rights. There are 12 provinces that have issued regional regulations regarding disabilities (Tempo.co, August 21, 2019; see, Attachment).

Of the 38 provinces, only 28 provinces, 46 cities and 117 districts, have formed DSU. The ULD is an employment unit for persons with disabilities to provide career development information, skills training, and job assistance.

1. The types of disabilities recognized by PwDA Number 8 of 2016, see the Appendix.

DSU has been operating, but its role is not optimal. Some of the problems are that the Employment Sector Disability Service Unit only works with organisations of persons with disabilities and has not reached out to companies to encourage the implementation of the PwDA (Mallarangi and Nawangsari, 2023). According to the Assistant Deputy for Empowerment of Disabilities and the Elderly of the Coordinating Ministry for Human Development and Culture, Togap Simangunsong, the local government does not understand the importance of DSU for the advancement and protection of the rights of persons with disabilities (Kompas.com, 9 April 2021).

On December 1, 2021, the President of the Republic of Indonesia inaugurated 7 members of the NCD. However, the formation of the NCD has drawn protests from organizations supporting and persons with disabilities. Among the protests raised was the existence of the NCD which was attached to the Ministry of Social Affairs, thus threatening the rights of people with disabilities to be seen as merely a social issue and based on charity, not human rights. The NCD under the Ministry of Social Affairs also threatens the independence of the institution (Lingkarsosial.org, 3 July 2020).

Since 2015, the Indonesian Government through CSA (Central Statistics Agency), a state institution that regularly collects and provides data to the government, has created a special category in its reports on the development of employment rights of persons with disabilities based on the Washington Group concept. According to the report, in 2023, the number of persons with disabilities reached 22.97 million people or 8.5 percent of the population of Indonesia. This figure has increased from the 2015 period which reached 21.84 million people. Of the number of persons with disabilities, around 17 million people are of productive age.

By measuring the obligation to employ 1 percent in private companies and 2 percent in state institutions and state-owned enterprise, there should be 170,000 persons with disabilities working in private companies and 340,000 persons with disabilities in state institutions and state-owned enterprise. However, only 5,825 persons with disabilities work in formal sector, with details of 1,271 people in state-owned enterprise and 4,554 people in private companies. The rest, persons with disabilities work in the informal sector (Kompas.id, 12 December 2022).

However, other CSA data released different data in the Decent Work Indicators in Indonesia in 2023. The report states that of the total 139,852,377 working population,[2] 0.55 percent or 763,925 people are persons with disabilities. This figure has increased from the 2022 period, which reached 720,748 people.

The CSA also states, of the total number of workers with disabilities above, 452,322 are men and 311,603 are women. The employment status of workers with disabilities divided into seven categories, namely self-employed (0.85 percent), self-employed assisted by casual workers (0.79), self-employed assisted by permanent workers (0.64 percent), laborers (0.26 percent), casual agricultural workers (0.54 percent), casual non-agricultural workers (0.54 percent), family/unpaid workers (0.62 percent). Compared to the 2022 period, the increase in the proportion of workers with disabilities occurred in the self-employed status from 0.81 percent to 0.85 percent, and laborer status from 0.23 percent to 0.26 percent.

Although the data is different, it illustrates the same trend, which is that most Persons with Disabilities work in the informal sector. In addition, the differences in the figures above show that there is a lack of single data and data synchronisation. This is one of the factors that hinder the monitoring of progress in the fulfilment of the right to work of Persons with Disabilities (see, Muhammad and Sholihah, 2021).

The informal sector is a type of work that is vulnerable, does not receive legal protection and cannot access the law and is high cost. In terms of providing social security for employment and health, for example, informal workers are included in self-employed category who must pay for their own social security.

The informalization of the types of work for Persons with Disabilities can also be seen in informal types of business. In 2022, workers with disabilities work in the agricultural sector were 42.35 percent, increasing to 42.82 percent in 2023, in the manufacturing sector from 17.70 percent to 17.55 percent, and in the service sector from 39.95 percent to 39.63 percent.

The Indonesian Government's report to the UN regarding the implementation of the CRPD, mentions four obstacles for persons with disabilities, namely: the unavailability of single data and different concepts regarding persons with disabilities, social and cultural barriers against people with disabilities, the unavailability of facilities and infrastructure for people with disabilities to participate and have equal opportunities to access public services, inefficiency in determining the budget and funding sources for fulfilling the rights of people with disabilities (Dina and Slamet, 2022). Other obstacles to the implementation of the rights of persons with disabilities are related to law enforcement, lack of social support, flexible labor markets, employer perspectives and the lack of self-confidence of people with disabilities in the social environment.

The right to work, a safe working environment free from discrimination and a living wage are the rights of persons with disabilities. These rights are part of the trade union struggle agenda. In this context, research on the fulfilment of the right to work of persons with disabilities was conducted.

2. Problem Statement in Research

a. In order to access the right to work, Persons with Disabilities face complex issues ranging from self-confidence, paradigms about Persons with Disabilities, discrimination from employers to flexible labor market policies. What are the main problems of Persons with Disabilities?
b. Since the 1990s, Persons with Disabilities have fought for their rights through organizations of Persons with Disabilities. They demand equal treatment and fulfilment of rights from the social environment and the state. How do organizations of Persons with Disabilities articulate their problems and advocate for the rights of Persons with Disabilities?
c. Trade unions have strong experience in advocating for labor rights at the national level and in the workplace. How do trade unions respond to the problems of Persons with Disabilities?

3. Research Objectives

a. To better understand the problems faced by Persons with Disabilities when accessing and obtaining employment.
b. To better understand the advocacy strategies of organizations supporting Persons with Disabilities.
c. To explore the response of factory-level trade unions to workers with disabilities in terms of both issues and organization.

2 The CSA claims that there has been an increase in the number of employed people from 135,296,713 in 2022 to 139,852,377 in 2023. At the same time, there has been an increase in the workforce from 143.73 million people in 2022 to 147.71 million people in 2023. Researchers are often suspicious of the data announced by the CSA because the data announced is often unrealistic and trumpets the success of government programs.

4. Research Location

Initially, this research was focused in the Jabodetabek area (Jakarta, Bogor, Depok, Tangerang and Bekasi). In its implementation, the research expanded to Purwakarta and Sukabumi, West Java. The addition of these locations is related to the new trend in industrial relocation from old areas to new areas.

5. Research Methodology

This study uses an action research approach with a literature study method, in-depth interviews and focused group discussions. The analytical framework in this study uses a human rights and political economy approach.

Action research is a research methodology that aims to collect information from the perspective of the perpetrator and encourage the perpetrator to change the situation for the better. With the action research approach, the recommendations in this study are aimed at organizations of people with disabilities and trade unions, as two subjects who are interested in changing the situation, such as the slogan "Nothing about Us, Without Us" in the campaign for Persons with Disabilities.

The following are the details of the action research approach methods:

a. Literature study by reviewing research results related to the rights of people with disabilities in accessing employment, employment policies and working conditions. The desk study was conducted in June 2024.
b. In-depth interviews with reference to interview guidelines. In-depth interviews were conducted with persons with disabilities, organisations of persons with disabilities, workers, factory and national trade union officials. In-depth interviews were conducted from July to September 2024. For the sake of security, the names of the interviewees in this research are referred to by symbols.
c. Focused discussions with persons with disabilities, organisations of persons with disabilities, trade union officials, work accident victim assistance organisation. Focused discussions were held in September 2024.
d. This research is complemented by observations and field notes owned by the researcher. As labor researchers, we have field notes on labor dynamics in the field.

6. The Limitations of the Research

This study focuses on more on the perspectives of Persons with Disabilities, Persons with Disabilities organizations, and labor unions. We did not conduct interviews with business association, employer, and state officials. To complement the perspectives of business association, employer and state officials, research from other parties and mass media clippings are presented.

THE RIGHT TO WORK OF PERSONS WITH DISABILITIES AND FLEXIBLE LABOR MARKETS

1. Persons with Disabilities Rights Perspective

With the issuance of PwDA, Law Number 4 of 1997 concerning The Disabled is declared null and void. In Part Two of Manpower Article 67 of Regulation in Lieu of Law on Job Creation Number 6 of 2023, the term 'The disabled/the handicapped' contained in Law Number 13 of 2003 on Manpower is replaced with 'Persons with Disabilities. So that the official term for people who experience physical and mental limitations and obstacles is no longer cacat (the handicapped/the disabled) but disabilitas (Disabilities) in Indonesia language.[3]

Literally, disabilitas direct translation from of disability. This is different from the term of cacat or disabled/handicapped, which is commonly used to refer to deficiencies and lack of value of an object, not a human. The term of cacat is a translation from disabled/handicapped (See, Rieser, 2014). The term of cacat or 'the disabled/the handicapped' in legislation has been used since 1947. During this period, the term of the disabled/ handicapped was associated with efforts to rehabilitate victims of the war of independence, the poliomyelitis epidemic and work-related accidents (See, Maftuhin, 2016).

In 1995, the term difabel (different ability/differently abbled) emerged. The term was strengthened in 2004. If disability refers to the conditions and opportunities experienced by a person, then difable refers to people who have different abilities. Several organizations and regional regulations still use the term difabel to replace the term cacat/the disabled/the handicapped rather than disability (Salim and Yulianto, 2021; Panimbang, et al., 2022).[4]

The term 'cacat/ the disabled/the handicapped has a negative and individual meaning, as a person who has deficiencies, imperfect and abnormal both physically and mentally. While the terms disability and difabel are neutral, which are related to the support of the social environment and the responsibility of the state (see. Rieser, 2014).

By replacing the term the cacat/the disabled/the handicapped with Persons with Disabilities and diffable, humans are not faced with the term perfect and imperfect but with different abilities with different needs. The change in terminology is an important step towards shifting the paradigm of 'people with disabilities' and 'social situations that are inhospitable to everyone' from objects of pity, requiring generosity, to human beings who have equal rights as other human beings. The change in terminology is an important step to change the paradigm of Persons with Disabilities from charity and medical model, to social and human rights model.

3. Observers of Persons with Disabilities say that the term the disabled/cacat is only used for inanimate objects or used items. They also suggested that the writing of Penyandang Disabilitas should be written with a capital 'P' and 'D' to show respect for Persons with Disabilites as human beings.
4 Interviewed Dd, September 2, 2024; FGD September 5, 2024).

The Great Dictionary of the Indonesian Language (KBBI) has also included the term disability as part of the standard variety of the Indonesian language. KBBI defines disability in three meanings, namely: a condition (such as illness or injury) that damages or limits a person's mental and physical abilities; physical, intellectual, mental, and/or sensory limitations over a long period of time that result in obstacles and difficulties in interacting; people who have physical, intellectual, mental, and/or sensory limitations over a long period of time that result in obstacles and difficulties in interacting with the environment, and cause limitations in carrying out daily tasks or activities.

The above definition suggests that disability is divided into two conditions, congenital disability and disability due to certain conditions such as accidents. With this understanding, everyone has the potential to become disabled (see, Latief, 1999: 40). If we observe that the causes of physical and mental disabilities, both congenital and accidental, are related to an unhealthy and dangerous living environment, then the discussion of social and economic disparities in the capitalist system is the basis of disability (See, Russel, 2010; Rosenthal, 2022).

The discussion on social conditions that hinder the participation of Persons with Disabilities to interact with the social environment and the responsibility of the state to fulfil the rights of Persons with Disabilities strengthened in the 1980s. At that time, the UN declared the year of Persons with Disability. This approach is called the social model and human rights model. The UN published the World Programme of Action for Persons with Disabilities, which aims to campaign for the participation of Persons with Disabilities in social life and development.

The PwDA places Persons with Disabilities as human beings, subjects and citizens, who have the rights to obtain education, health, employment and other basic rights. The state is obliged to respect, protect and promote the rights of Persons with Disabilities.

Table of Term Changes

Medical Model Term	Social Model Term
the handicapped, the disabled	disabled people, people with disabilities, a person with a disability
cripple, invalid, defective, abnormal,	a person with a disability
the blind	sight impaired, vision impaired, low vision, people with visual impairments, blind people, blind and partially sighted people
the deaf	deaf/Deaf (spelt with capital "D" is accepted to denote social and cultural identification), user of British/American sign language, user of SIBI (System Isyarat Bahasa Indonesia) sign language, hard of hearing people, hearing impaired, a person with hearing impairment, a person who is deaf.

Source: Maftuhin, 2016

With the recognition of equal rights for Persons with Disabilities, calling Persons with Disabilities as defects, abnormal, abnormalities, must be cured and must be pitied is an inappropriate action. The conservative approach is called the medical model and charity model (Rieser, 2014).

The medical model and charity model assume that disability is related to the biological and physiological functions of the human body that are separated from external factors. As a result, Persons with Disabilities is labeled as ODGJ (People with Mental Disorders), sick, sufferers and considered as patients. Therefore, Persons with Disabilities are given medical drugs or given health technology (Salim and Yulianto, 2021).

With poor working conditions, one of the factors that drive the level of disability is an unsafe working environment and hazardous chemicals. Exposure to hazardous chemicals can cause workers and workers' families to become physically and mentally disabled. Therefore, the discussion on the rights of persons with disabilities cannot be separated from the struggle for occupational health and safety and inclusiveness.[5]

Disability, both in medical and social explanations, is directly related to an economic system that relies on mass production, the best quality with low wages, placing people with disabilities as worthless. This economic system has the strong potential to make non-disabled workers disabled. Thus, this production system is detrimental to both disabled and non-disabled workers (Rosenthal, 2023).

Disability in both medical and social terms has a direct relationship with an economic system that relies on mass production, the best quality with low wages that places Person with Disabilities without value. This economic system has the potential to turn non-disabled workers into Persons with Disabilities. Thus, the production system harms both disabled and non-disabled workers (Rosenthal, 2023).

The following is data showing unsafe working conditions, which cause workers to become Persons with Disabilities and even die. The data of BP Jamsostek (Social Security Agency of Employment) 2021 states that the number of work-related accidents and diseases increased from 210,789 in 2019 to 234,370 in 2021.[6] Of that number, the number of workers with disabilities also increased from 2019 to 2021; partial disabilities from 3072 people to 3804 people and functional disabilities from 2984 to 4362.

BPJS Jamsostek also provides the RTW (Return to Work) program. RTW is a program for medical treatment, physical and psychological rehabilitation, vocational training, and evaluation of returning to work. In 2021, of the total victims of work accidents, only 1,120 people received RTW. Of that number, only 985 people have returned to work. This means that 233,385 workers who had work accidents and work-related diseases no longer have jobs.

5 Interviewed, September 5, 2024.

6 The 2021 period is the latest report provided on the official BP Jamsostek website. In the report, BP Jamsostek uses the term cacat/handicapped rather than Person with Disabilities.

Table Model of Disability

Models of disability can be condensed into two main approaches: the individual approaches, which see the person as having a problem; the social approaches, which see society as having a problem being unable to accommodate all people (CBM Christian Blind Mission 2022)

	Charitable (individual)	Medical (individual)	Social (societal)	Human rights (societal)
Objective	Help people with disabilities; do things for them.	Fix or cure the medical problem.	Look beyond the individual and identify and remove main barriers within society. Reforming society, raising awareness, and changing attitudes.	Equity and rights for all people with disabilities, in line with the CRPD.
Perceived Identity	Beneficiary	Patient	Citizen	Rights holder
Assumption	People with disabilities are suffering and need help, they are seen as victims and objects of pity.	Disability is a health condition. People with disabilities have a disease or defect that is at odds with the norm.	People are disabled by society: the problem is with society; therefore, society needs to change.	Taking the social model a step further. Include all people equally within society: women and men, girls and boys, regardless of background or any type of characteristic.
Attitude	People with disabilities seen as passive recipients of help and care. Feeling of superiority towards persons with disabilities.	The person with disability is primarily defined as a patient. The health professionals know best what needs to be done.	Diversity amongst people is respected; diversity is part of the human condition.	People with disabilities are central actors in their own lives.
Be aware	Charity is a human motivation and not bad per se. The point is how people are seen. They are perceived as powerless objects of pity without agency.	The medical model does not equal medical intervention. The problem with it is, as with the charitable model, that people are seen as objects with problems that can be fixed by professionals who know best, without involving the person.	There are institutional, environmental, attitudinal and communication barriers which need to be removed.	This model holds government accountable as the duty bearer. All our programmes, including medical services should be implemented following a rights-based approach (CRPD).

Work Accident and Work-Related Disease

Year	Work Accident and Work-Related Disease	Fatality
2019	210.789	4.007
2020	221.740	3.410
2021	234.370	6.552

The Persons with Disabilities Due to Work Accidents

Consequences of work accidents	2021	2020	2019
Partial handicapped	3.804	2.605	3.072
Functional handicapped	4.362	2.715	2.984
Permanent handicapped	28	9	35
Death	6.552	2.515	3.172
Recovered Cases	219.624	82.802	173.572
Total	234.370	90.646	182.835

2. Persons with Disabilities and Flexible Labour Market Policies

Mm, a woman with a visual disability, shared her story. She participated in a job selection at a state-owned company. After passing a number of selection stages, she passed. However, when she signed the employment agreement, her job was transferred to another company. The company is known as a subsidiary of a state-owned company and is popular as a contractor of work from state-owned companies.

The employment agreement also stated that the type of work was for a short-term contract. She refused the job because she felt her dignity was being degraded. Moreover, from the beginning, she registered through a state-owned company, not another company.[7]

Another case occurred in 2019. A person with mental disability has registered to take part in IT (Information Technology) certification through the disability pathway at a government institution. When they received the registration form, it turned out that there was no column for A person with mental disability. The recruitment organizer also confirmed that the institution could not yet accept expertise certification for people with mental disabilities (*pjs-imha.or.id*, n.d).

There are also cases of workers who were dismissed because they became persons with disabilities due to work accidents. Giri Pamungkas, who worked at a plastic packaging factory PT HRI (Hasil Raya Industries) Karawang, West Java, was fired after losing four of his right fingers. After being fired, Giri Pamungkas was promised to be re-employed by the company owner.

After waiting for two years, it turned out that the promise to be re-employed by the company never came. During those two years he also looked for a

7 Interviewed Mm, July 20, 2024.

new job, but luck was not on his side. Using social media, he fought alone. During the case, there was almost no response from the trade union at his workplace or outside the company.

Giri Pamungkas successfully used social media to campaign. His case went viral and received national online mass media coverage. The company's management also responded to Giri Pamungkas' case. The company argued that the dismissal of Giri Pamungkas was not due to an accident and dysfunction of his limbs, but due to the expiry of the employment agreement (*Detik.com*, February 17, 2022).

The Regent of Karawang also intervened to resolve the case. The case ended with compensation payments from the company to Giri Pamungkas. Although he did not mention the amount of compensations, Giri Pamungkas was satisfied with the compensation he received. Giri Pamungkas was also offered a job at one of the local government-owned companies by the Regent of Karawang (*Detik.com*, March 7, 2022).

Giri Pamungkas works in the molding section of a printing machine. In the printing industry, molding is a core part of printing production. According to laws and regulations, workers who work in the core production section and are continuous are prohibited from being employed with a fixed-term employment. Workers being fired after a work accident on the grounds that their work contract has ended is a common symptom of labor practices in Indonesia.[8]

The three cases above illustrate that persons with disabilities and persons with disabilities due to work accidents are vulnerable to discrimination when applying for jobs, are hampered by career advancement and are easily dismissed.

Nurhajati and Arifin's (2023) states, 5 out of 9 Persons with Disabilities experience violence and harassment in the workplace. Forms of violence range from discrimination of employment opportunities, sexual harassment, being unilaterally sacked or forced to resign because they are considered a financial burden on the company. In addition, when working Persons with Disabilities do not receive proper accommodation from workplace managers, do not get career development opportunities and job training, and are not registered in the BPJS (Employment and Health Social Security Agency). Persons with disabilities are discriminated against because of their status as Persons with Disabilities.

Discrimination against persons with disabilities indirectly contradicts the government's plan to create inclusive employment opportunities. In the last ten years, the Government of Indonesia has organised the Indonesian economy to be more investment-friendly. According to the Ministry of Investment/BKPM (Investment Coordinating Board), Indonesia's investment competitiveness has increased by 7 ranks from last year. Indonesia has also become one of the top three investment destinations in Southeast Asia below Singapore and Thailand (*bkpm.go.id*, June 27, 2024). Investment realization in the last five years has also increased by an average of 6.9 percent (*Katadata.co.id*, 03/31/2022). However, the percentage of open unemployment to the total workforce is 5.32 percent, which means there are 7.86 million unemployed as of August 2023 out of a total workforce 147.71 million. According to the Deputy for Coordination of Education Quality Improvement and Religious Moderation at the Coordinating Ministry for PMK, Warsito, the portion of open unemployment to the workforce should be below 4 percent (*Detik.com*, 30 April 2024).

One explanation for the slow absorption of labor in the formal sector is the non-inclusive job vacancy qualifications. Government institutions, state-owned enterprises and private companies create job vacancy qualifications that tend to be ableist, gender-biased and ageist.[9] Persons with Disabilities experience discrimination when applying for work. State institutions, state-owned enterprises and private companies still mention the information 'physically and mentally healthy', 'attractive appearance' 'maximum age 35 years' as requirements for applying for a job.

The three cases above illustrate that the low participation rate of Persons with Disabilities in the workforce is a complex issue. The workforce participation rate of Persons with Disabilities is only 30 percent compared to non-Persons with Disabilities workers. Barriers to Persons with Disabilities participating in the labour market range from educational background issues, negative stigma from community members to discrimination from government agencies and employers (Dina and Slamet, 2022). Other barriers to employment and living wage and fair treatment in the world of work also arise from labour market flexibility policies.

The concept of flexible labor market (LMF) has been promoted by the World Bank and the IMF (International Monetary Fund) since the 1980s in Southeast Asia. The promotion of LMF is part of an effort to create a global market to overcome the crisis of profit accumulation. The main concept of flexible labor market is to free the labor market from non-economic intervention by providing flexibility to economic actors to regulate production, time, and place of work as well as the provision of labor according to production needs. Easy hire and fire, unclear employment relationships due to the emergence of third parties as labor supplier and declining labour welfare are some of the key words to understand flexible labour market practices (Tjandraningsih and Nugroho, 2007; Arifin, 2011).

3. The Trade Unions and The Struggle of Persons with Disabilities

The rights of Persons with Disabilities have not been part of the issues advocated by trade unions. In fact, the issue of Persons with Disabilities can be campaigned in three dimensions, first, the right to inclusive employment. Second, encouraging a safe and inclusive work environment. Third, encouraging management policies to ensure workers with disabilities get job security.

However, from 2007-2024, in every demonstration and strike, the demands of the trade unions were dominated by demands for the fulfillment of unionization, holiday allowances, minimum wage increases and changes in state policy (Panimbang, n.d; *Majalahsedane.org*, March 31, 2024). The issue of work accidents began to be campaigned in the last three years (see, Sedane Editorial Team, April 27, 2024), but in the context of types of work and hazardous chemicals.

As Persons with Disabilities who are marginalized in the social environment, the issue of Persons with Disabilities has not yet received the attention of trade unions. In fact, organizations of Persons with Disabilities hope to be able to work together with trade unions to change policies in companies;

8 FGD, 5 September 2024.

9 Ableism is a view that discriminates against Persons with Disabilities. Ageism is a view that demeans a person based on age. Gender-biased is a view that discriminates against someone based on gender.

encourage CLA (Collective Labor Agreements) that have a perspective on Persons with Disabilities and create a work environment that is friendly to Persons with Disabilities.[10]

Of the 80 national-level trade union federations, their vision and mission state improvements in working conditions, living wages and job security. There is not trade unions federations that includes a program to fight for the right to work and living wage for Persons with Disabilities (Mizuno, et al., 2007).

Of the four national-level trade union federation leaders, only one trade union leader stated that it was concerned with the issue of the rights of Persons with Disabilities, although it did not have a specific agenda to campaign for the rights of Persons with Disabilities. Of the four national level trade union federation officials interviewed, only one trade union stated that it was concerned with the issue of the rights of Persons with Disabilities, even though it did not have a specific agenda to campaign for rights of Persons with Disabilities.

The four trade union federations affirmed that the priority issues for trade unions are freedom of association, contracts and outsourcing, and minimum wage. One other trade union federation said it was more concerned with the issue of eliminating illegal levies on job applicants.[11]

Three other trade union federations leaders stated that they had advocated for workers who became Persons with Disabilities arising from workplace incidents and occupational diseases. One of the three trade union federations leaders stated that it was difficult to advocate for workers who became Persons with Disabilities because they were faced with the article on 'prolonged illness', contained in the Manpower Law Number 13 Article 153 and overnment Regulation in Lieu of Law of the Job Creation Law Article 81.

The absence of a liaison between trade unions and organizations of Persons with Disabilities and the absence of information regarding the rights of Persons with Disabilities in trade unions are some explanations for the absence of the rights of Persons with Disabilities in trade union demands. This is reflected in the practice of recognizing women's rights that began to be campaigned for by labor unions in 2012. Women's issues began to be introduced by women's organizations and international labor union federations to national-level labor unions in 2010 (Arifin, 2015). Ten years of intensive cooperation between trade unions and women's organizations has led to more and more trade unions campaigning for women's rights in the workplace.

The Persons with Disabilities movement and trade unions movement in Indonesia emerged in the 1990s under the repressive Soeharto regime. Both of the movement started from different problems. While the trade unions movement fought for freedom of association and fulfillment of wage rights (see, Hadiz, 1997), the Persons with Disabilities movement fought for the right to social recognition by introducing the term difabel to replace the word disabled (see, Salim, 2024).

10 Interviewed, Mm. Ibid. Participant in FGD (September 5, 2024) was surprised to have just learned about the PwDA. According to them, it is very important to integrate the PwDA into the workers' struggle.

11 The practice of extortion for job applicants has become an open secret in the manufacturing industry. The practice is carried out by official and unofficial labor supply agencies. The amount of extortion ranges from IDR 500 thousand to IDR 15 million. (see, Arifin, 2019)

POLICY ON EMPLOYMENT OPPORTUNITIES FOR PERSONS WITH DISABILITIES IN THE MANUFACTURING AND SERVICE INDUSTRIES

This section will discuss the policy of providing employment opportunities for Persons with Disabilities in the manufacturer and services industry,[12] with case examples of PT Hino Motor Manufacturing Indonesia (HMMI), PT Aerofood Indonesia and PT Sumber Alfaria Trijaya.

1. PT Hino Motor Manufacturing Indonesia

PT Hino Motors Manufacturing Indonesia, is a subsidiary of PT Hino Motor Japan. PT Hino began operations in 1982 in Jakarta.

Hino currently has three business units, namely PT Hino Motors Sales Indonesia (HMSI), which is in charge of distributing goods made by PT Hino; PT Hino Motors Manufacturing Indonesia, which is a diesel motor manufacturer, four/more-wheel motor vehicle assembly and four/more-wheel motor vehicle components and equipment industry; and PT Hino Finance Indonesia, which is a commercial truck financing company.

Of the three business units, this research focuses on PT Hino Manufacturing Indonesia (PT HMMI).

PT HMMI started operations in 2003 in Kota Bukit Indah Industrial Estate Purwakarta, West Java, employing approximately 2,496 people. PT Hino shareholders are Hino Motor 90 percent and PT Indomobil 10 percent. In relation to Persons with Disabilities, through Hino Motor Sales, PT HMMI distributes corporate social responsibility funds to YPAC (Yayasan Pembina Anak Cacat/ Yayasan Pembina Anak Cacat) Autism Center in the form of one unit of Hino Dutro MDBL vehicle for school transportation of Persons with Disabilities (*Kompas.com*, 17 February 2021).

12 Industry classification is a complex term. There are industrial classifications based on raw materials, the amount of capital, the amount of labour and market orientation. This paper uses industry classification based on its business activities, namely the processing industry and the service industry. The processing industry is a production activity that processes raw materials into finished or semi-finished goods. Categories of processing industries, such as motor vehicle assembly. The service industry is a production activity that supports the processing industry both in providing raw materials and marketing production results. Service industry categories such as retail, trading and food supply. (lihat, Klasifikasi Baku Lapangan Usaha Indonesia (KBLI) 2020. Available: *https://oss.go.id/informasi/kbli-berbasis-risiko*.

PT HMMI does not have a special policy for recruiting Persons with Disabilities.[13] PT HMMI job vacancies are distributed through vocational schools and through social media.[14]

The job qualifications set by PT HMMI, which are distributed through the Vocational High School Special Job Exchange or through social media, stipulate 9 requirements, namely male/female gender, minimum age of 18 years and maximum 25 years, minimum education of SMK (vocational high school) or equivalent, not wearing glasses, minimum height of 165 centimeters with proportional body weight, physically and mentally healthy, and no color blindness, willing to work shift, willing to work in teams and under pressure and have work experience.

In 2018 to 2020 there were 10 work accidents. Accidents that included being cut, pinched and crushed by materials. As an automotive company, potential hazards arise from heavy and slippery raw materials, noise and hot working room air temperature (Halimah, 2022; Pratama and Kusnadi, 2024).

According to PT HMMI's worker, workers who experienced work accidents and became a Persons with Disabilities were not fired. They are employed with the type of work that is adjusted to their body condition. However, this policy is not stated in the Collective Labour Agreement.[15]

2. PT Aerofood Indonesia

PT Aerofood Indonesia is a business unit of state-owned enterprises Garuda Indonesia Group, which does business in in-flight catering service, in-flight logistics, industrial service and commercial service.

PT Aerofood job vacancies are distributed through websites, social media and in collaboration with schools. Job qualifications only include experience and willingness to be placed in areas determined by the company, minimum education requirements and a maximum age of 27 and 35 years. PT Aerofood does not include gender and physical and mental health requirements.[16]

Among the policies related to Persons with Disabilities is to collaborate with Rumah Yatim to provide iftar packages for persons with disabilities. (*rumah-yatim.org*, March 29. 2024).

The number of workers employed at PT Aerofood is approximately 2332 people with 1269 outsourced workers, 239 short-term contract workers and 824 permanent workers. Despite the inclusive job vacancies at PT Aerofood, there are no workers with disabilities.[17]

3. PT Sumber Alfaria Trijaya

PT Sumber Alfaria Trijaya is a national private company. Since 2016, Alfaria has had an Alfability programme, which provides employment opportunities for Persons with Disabilities. Because of this policy, PT Sumber Alfaria Trijaya received an award from the Ministry of Manpower (*alfamart.co.id*, July 28, 2020) and Fortune Indonesia (*Detik.com*, March 11, 2024).

As of 2023, out of 130,000 PT Alfaria workers, 1,200 are people with disabilities (*Detik.com*, March 11, 2024). They are employed in store, warehouse and branch offices, spread across 49 warehouses, 20,798 retail outlets and stock points in Indonesia.

In addition to opening job vacancies for Persons with Disabilities, PT Alfaria Trijaya Tbk also built a Disability Job Training and Apprenticeship Centre in the retail sector in Yogyakarta in December 2016 (*alfamart.co.id*, July 28, 2020).



PT Alfaria announces job vacancies through its official website (*https://alfakarir.alfamart.co.id/*), government websites as well as through vocational high schools.

In September 2024 PT Alfaria opened job vacancies for three positions, namely crew barista, store crew and helper in the Tangerang Banten area.

Of the three positions, only the helper position mentioned, 'open for Persons with Disabilities. However, the position also mentioned mandatory requirements, namely male gender, vocational high school graduate, single, minimum height of 165 centimetres for men and 155 for women, minimum age of 18 years and maximum age of 24 years. The gender and height requirements are also listed for the store crew and barista crew positions.[18]

13 Interviewed Ad, Agustus 22, 2024.
14 See, for example, bkkbisa's Instagram account (*https://www.instagram.com/bkkbisa/*), which provides information on job vacancies from various companies in Indonesia. The account is one of the accounts that is a reference for job seekers.
15 Ibid.
16 See for example job vacancies on Aerofood's Instagram. Available: *https://www.instagram.com/p/BykTKS6niwr/?hl=en*
17 Interviewed Is, Juni 2024
18 Interviewed ZR, September 28, 2024

TOWARDS A HUMAN RIGHTS MODEL

PwDA reaffirms the basic human rights since birth and the principle of equal opportunity for all citizens to get a job, get a living wage, get equal treatment and get decent accommodation in the world of work. The state is obliged to respect, fulfill, protect and promote the rights of Persons with Disabilities to be able to access work since applying, while working and after working.

However, respect, protection, fulfillment and promotion of the rights of persons with disabilities face serious challenges. The rights of Persons with Disabilities are often neglected. The causes of neglect of the employment rights of Persons with Disabilities arise from complex situations, namely types of work that do not match the skills and educational background of Persons with Disabilities, the absence of social support, the character of the industry that measures the human body and mind from production productivity and flexible labor policies.

This section will discuss the fulfilment of the right to work of persons with disabilities, trade union perspectives on the right to work of Persons with Disabilities and the working conditions of Persons with Disabilities in the world of work.

1. Right to Work for Persons with Disabilities

It is not easy to find out the implementation of the 1 percent quota obligation in private companies and 2 percent in government institutions and state-owned enterprises. This is due to the unavailability and asynchronization of data provided by the government plus conflicting government policies.

When this article was written, there was no official single data available regarding the number of Persons with Disabilities who had been employed.

Government institutions still use the term disability rather than PwD and issue regulations that are not friendly to Persons with Disabilities. For example, Regulation of the Minister of Manpower and Transmigration (Permenakertrans) No. 25 of 2008 on Guidelines for the Diagnosis and Evaluation of Disabilities Resulting from Workplace Accidents and Occupational Diseases. The title of the regulation explicitly uses the term disabled.

Permenakertrans 25 is a guideline for the assessment of occupational accidents and diseases that are converted into compensation amounts instead of job security protection for workers who experience work accidents. There is also the Regulation of the State Personnel Agency of the Republic of Indonesia Number 14 of 2018 concerning Technical Guidelines for the Procurement of Civil Servants (PNS), which still lists 'physically and mentally healthy' and 'height' as one of the requirements to become a civil servant.

Various studies show that the level of compliance of private companies, state institutions and state-owned enterprises in employing Persons with disabilities is very low.

From 2016-2021, state institutions provided special formations for job vacancies to make it easier for Persons with Disabilities to apply for jobs. Apparently, special formations are a new form of discrimination against Persons with Disabilities. State institutions interpret the special formations as the only opportunity for Persons with Disabilities to apply for jobs, thus closing the possibility for Persons with Disabilities to apply for general formations (Formasi Disabilitas, 2021).

Other studies state that FHCI (Indonesian Human Capital Forum), State-Owned enterprises (SOEs) and Regional-Owned Enterprises (ROEs) have not fulfilled the rights of Persons with Disabilities in terms of providing job opportunities, not providing skills training and still discriminating against Persons with Disabilities (Hidayatullah, 2022; Delfina, et al., 2022). They argued that Persons with Disabilities do not have the job skills that match the type of work required by SOEs and ROEs. But, in fact, even SOE and ROE managers do not have the knowledge and efforts to place workers with disabilities in the right work units.

In Yogyakarta City and Semarang City, the implementation of the 1 percent quota policy for people with disabilities is not running optimally. Private companies are reluctant to employ people with disabilities because that their work skills do not support them to work (Dewi, 2015; Shaleh, 2018).

In Tangerang City, out of 7 companies employing more than 3000 workers, only 144 workers with disabilities were employed.

Pratiwi, et al (2023) stated that the quota for people with disabilities was not fulfilled due to the non-implementation of sanctions against SOEs, state institutions and private companies that violated the regulation. The non-implementation of sanctions is related to less-than-optimal labor inspectors, reporting of data on workers with disabilities has not been integrated, and the absence of an institution that oversees the implementation of the regulation.

Meanwhile, the representative of APINDO (Indonesian Employers Association), Susanto admitted that the socialization of the rights of Persons with Disabilities was not running optimally, because not all companies are members of APINDO. Susanto also revealed that the provision of accommodation for Persons with Disabilities often clashes with permits and production costs (Mahardika.org, October 3, 2022).

No.	Factory	Total (Ppl)
1.	Panarub	17
2.	Panca Prima dan Pan Brothers	13
3.	Adhi Chandra	3
4.	Dynaplast	3
5.	Alfaria Trijaya	46
6.	Midi Utama Indonesia	59
7.	BKPSDM	3
	Total	144 Ppl

Source: Monitoring Disnaker, 2021 in Susanto dan MZ (2023)

One of the giant retail companies, PT Sumber Alfaria Trijaya, opens up opportunities for Persons with Disabilities to apply for jobs. PT Sumber Alfaria Trijaya is one of the companies that received an award from the Ministry of Manpower as a company that actively employs Persons with Disabilities in Indonesia. However, the number of workers with disabilities does not reach 1 percent. The company manager of PT Sumber Alfaria argued that workers with disabilities did not meet the job qualifications according to the company's needs (Khaeruman, April 2021).

Research by Adioetomo, et al. (2014) and Putri (2019) states that people with disabilities have worse health outcomes, lower educational

achievement, less economic participation, and higher poverty rates than people without disabilities.

The above studies show that one of the problems of companies' difficulties in employing Persons with Disabilities is related to skills and educational background. Persons with disabilities are often hidden from Family Card,[19] do not have an identity, are not prioritized to get an education, experience marginalization from the social environment, live in shelters or become victims of syndicates that direct Persons with Disabilities to become beggars on the streets.[20]

In a patriarchal social and family environment, woman without disabilities are not prioritized to get an education. Therefore, women suffer double marginalization as women and as Persons with Disabilities (United Nations-ESCAP, 2015).[21] Of the total productive age of Persons with Disabilities, only 19.7 percent of Persons with Disabilities have graduated from high school and only 17.6 percent have graduated from college.

Another difficulty for Persons with Disabilities in getting jobs is related to administrative requirements, such as having to have a Certificate of Disability.[22] The experience of Persons with Disabilities states that getting Certificate of Disability is complicated and requires paying. [23]

A deeper look at employment opportunities for Person with Disabilities, especially women with disabilities, is historical and related to the character of the industry. Persons with Disabilities is a term that was introduced in the last twenty years. Previously, the dominant terms were 'cacat/disbled', mentally ill, and other exclusionary labels. Therefore, strong and continuous efforts are needed to campaign for the rights of Persons with Disabilities.

Persons with Disabilities are marginalized, because of the nature of the foreign-based light manufacturing industry relies on manual labor and is vulnerable to moving its industrial base to other countries (See, Winters, 1999; Russell, 2010). State institutions are reluctant to impose sanctions on private companies, the state and government institutions on the grounds of 'fear that investors will flee' which will result in increased unemployment (Arifin and Ichsan, 2024). However, as often expressed by trade union activists, violations of laws and regulations by companies are because they are given the example of state administrators. State institutions and state companies always have reasons not to implement the right to work for Persons with Disabilities.

19 Family Card is a family identity card that contains data on the composition, relationships and number of family members. Also, it contains information about the Family Card number column, full name of the head of the family and family members, identity number of each family member, gender, address, place of birth, date of birth, religion, education, occupation, marital status, family relationship status, citizenship, immigration documents, parents' names.
Family Card is the basis for issuing an Identity Card. If someone is not registered on the Family Card, it means they do not have an Identity Card, do not have a passport, cannot register as a health insurance participant, and cannot apply for work.

20 Interviewed Mm. Ibid. Interviewed FT, 2 September 2024

21 Interviewed NA, 1 September 2024; FGD, 5 September 2024.

22 A Person with a Disability Card is an identity card for Persons with Disabilities issued by a hospital or health center. Persons with Disabilities are required to include a disability certificate when applying for a job. To obtain a disability card, Persons with Disabilities must have an identity card. According to the Regulation of the Minister of Social Affairs Number 21 of 2017, making a Disability Certificate is free. In practice, health centers and hospitals require Persons with Disabilities to pay an administration fee ranging from IDR 100,000 to IDR 400,000.

23 Ibid.

2. Lack of Knowledge, Power and Marginalization

"If Persons with Disabilities are accepted to work, how do they work?!" "Do they have to have a work accident to become a permanent worker?" This was the comment of one of the workers who works in an automotive factory.[24] Two paradoxical statements, which come from the environment of ableism.

One of the workers who works in an electronics factory said that the company where he works employs workers with disabilities. Of the total 800 workers who work, the number of workers with disabilities is around 10 people. However, the workers with physical disabilities are not recruited from people with disabilities. They are workers who have had work accidents and become Persons with Disabilities.[25]

One of the workers working in a retail warehouse said that he was aware of the vacancy policy for Persons with Disabilities in his workplace. However, as far as he knows, the number of workers with disabilities is not more than ten people. In his workplace, although there is no requirement for physical and mental health, each applicant must be at least a high school graduate and female. Persons with Disabilities are employed in the helper section.[26]

On the one hand, although the law recognizes that Persons with Disabilities have equal rights with Persons without Disabilities, the informants in this study assume that Persons with Disabilities have an individual problem and created in misfortune. Persons with disabilities are considered to have no ability to adapt to the 'normality' of in the world of work.

On the other hand, trade unions have also witnessed that unsafe working environments and exposure to hazardous chemicals can cause workers without disabilities to become workers with disabilities. On the other hand, the situation of flexible labour relations in the form of short-term contract labour relations is an ongoing problem faced by trade unions.

The interviewees in this study mentioned that they did not know about the laws and regulations on the rights of persons with disabilities.[27] Two basic indicators to look at the rights perspective of Persons with Disabilities in trade unions is the use of the term disabled to Persons with Disabilities. And, the absence of disability rights campaigns in trade union demonstrations (LIPS, n.d).

The historical explanation of the depoliticisation of trade unions over three decades is the main explanation that trade unions in Indonesia have no understanding beyond the issue of wages and labour relations (See, Hadiz, 1997). However, the above statement shows that an unfriendly work environment for Persons with Disabilities and the absence of education on the rights of PwDs for trade union officials are the main problems of trade union officials' ignorance of the rights of PwDs. Because of this, union leaders have never negotiated job vacancies to be more inclusive.

Commonly known, job vacancy qualifications set requirements for job applicants that are not inclusive, even in the garment, textile, shoe and electronics industries there are widespread practices of labor brokers who trade job vacancies. To get a job, job seekers are required to pay between IDR 500.000 thousand and IDR 15.000.000 (Arifin, August 22, 2019).

24 Interviewed, Ad. July 2024

25 Interviewed Sd August 2024

26 Interviewed Is June 2024

27 Of all the interviewees, only one trade union had an understanding of Persons with Disbilities despite never being involved in the struggle of Persons with Disabilities. Throughout the interviews, trade union leaders welcomed the idea of integrating the rights perspective of Persons with Disabilities into the trade union's struggle.

State institutions, state-owned enterprises and private companies open job vacancies by determining the type of work and work requirements such as maximum age, height, minimum education, physical and mental health.[28] For example, on the state-owned enterprises job vacancy site PT Jasa Raharja, it states: Maximum age 27 years, minimum height 165 cm, and women at least 160 centimeters. In the cabin crew aviation sector, the requirements for job applicants are accompanied by the requirement to have an attractive appearance.[29]

These requirements have marginalized Persons with Disabilities from getting jobs, even discriminating against job applicants based on age and gender. The determination of height closes the possibility for 'little people' disabilities, where the body condition is shorter than the body in general. While the determination of the maximum age closes the opportunity for other productive age applicants. In fact, the law only sets the minimum working age, 18 years, not the maximum age for working.

Nevertheless, the trade union officials have experience advocating for workers who become Persons with Disabilities due to workplace accidents. They ensure that workers who become Persons with Disabilities can continue working. However, these efforts have not been accompanied by changes in workplace regulations or the Collective Labor Agreement (CLA) to make them more inclusive. According to labor union officials, they negotiate with the company by arguing that workers who become Persons with Disabilities due to workplace accidents are unlikely to find new employment elsewhere.[30] Other trade union officials commented that the company's willingness to employ workers who become Persons with Disabilities due to workplace accidents is merely to meet the 1 percent and 2 percent quotas as regulated in the PwDA.[31]

The above approach is an advocacy based on charity. This approach is a manifestation of the medical model and charity model. In this approach, there is also an understanding that accidents and occupational diseases are the result of carelessness, not a dangerous work environment.

In addition to the work environment and company policies, discrimination against Persons with Disabilities is found in the provisions regarding prolonged illness. Article 81 number 43 of the Regulation in Lieu of the Job Creation Law which amends Article 153 paragraph (1) letter a of the Manpower Law Number 13 of 2003 states that workers who experience continuous 'illness' for a year will have their wages automatically reduced and will eventually be fired. The 'prolonged illness' regulation is one of the articles that is a reason to fire workers with disabilities who are considered a burden on the company and unproductive (Arifin and Nurhajati, 2023).

28 See, sample job application in the attachment
29 Interviewed Is, 16 August 2024.
30 Interviewed Ad, 21 August 2024 dan FGD, 5 September 2024.
31 Interviewed Is, 16 August 2024.

3. Intersectional Discrimination Against Women with Disabilities

NA (female, 35 years old), a Person with Disabilities with small and crooked legs. NA has difficulty walking quickly, let alone climbing stairs. NA lives her life happily and enthusiastically; her family also supports her activities. NA was also able to complete her schooling to university level, majoring in management at As-Safi'iyyah Islamic University (UIA), in Jatiwaringin Bekasi.

Currently, NA works as a worker with a fixed-term work agreement at the DKI Jakarta Social Service's Other Individual Service Provider (PJLP). NA works as a data verifier for field officers. She has worked at the office for five years. Every year, her agreement is renewed.

Every day, using public transportation, NA goes from home to workplace for briefings, filling out attendance lists, and inputting data. Her office is on the 3rd floor. However, her workplace does not provide decent accommodation. NA has to climb manual stairs with difficulty, like other workers without disabilities.

NA experienced discrimination in the work environment. According to the law, a fixed-term employment relationship can only be applied to certain jobs, the type and duration of which are temporary, which are temporary, such as seasonal work, temporary, experimental products, or similar kind of work no longer than period of 5 years.[32] If observed, NA jobs are not temporary jobs and will be continuously employed from five years onwards. Taking into account this type of work, NA's employment relationship should be an indefinite employment relationship.

However, NA has many reasons to stay in her workplace. Although no special accommodation is provided, NA works with a variety of people with disabilities, as many as 20 people. That's what keeps her going. Often, NA and her friends are bullied by workers without disabilities.

Workers without disabilities do not have a better understanding of reasonable accommodation for disability and therefore perceive support for Persons with Disabilities as favouritism from the company. Conversely, the unavailability of reasonable accommodation is perceived as normal.[33]

In addition, by working, NA has an income so that she can manage her finances. By working, NA can also help finance the family economy. NA is the third child of six siblings. She lives with her family. NA gets wages according to the DKI Jakarta UMP (Provincial Minimum Wage), BPJS (Social Security Agency) for Employment and Health and KPDJ (Jakarta Disability Card), to access free public transportation.

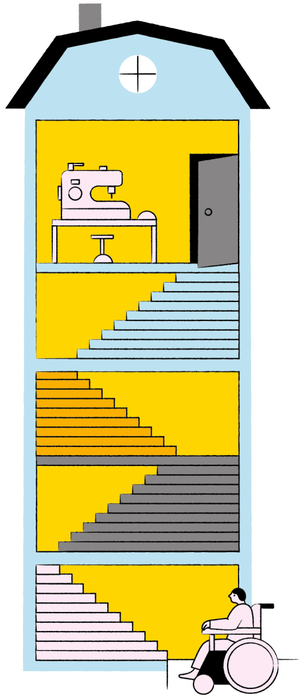
When hired, Workers with Disabilities are faced with flexible employment relationships and poor working conditions. The situation is even worse for women with disabilities.

32 See, Government Regulation No. 35 of 2021 on Fixed-Term Employment Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment.
33 Interviewed NA. Ibid.

With their vulnerable position of being excluded in the workplace, having no access to trade unions and having difficulty finding other jobs, Persons with Disabilities tend to resign themselves to injustice in the workplace. This attitude of resignation to unfair working conditions is often expressed with the word loyalty (see, Alizah, et al., 2023).

One woman with a visual disability mentioned that she was accepted for a job at a SOEs with a wage below the minimum wage.[34] Meanwhile, another woman with a visual disability said that her work relationship was outsourced unilaterally. Other findings show that female workers with physical disabilities who are pregnant receive discriminatory treatment from superiors by not being placed in a special line for pregnant women like pregnant female workers without disabilities, being restricted from urinating because it is considered to slow down production targets, and being made uncomfortable by supervisors. Similar conditions were experienced by female workers with physical disabilities who did not receive proper accommodation when working. They worked standing all day without getting tables and chairs that were adjusted to their physical condition.[35] People with disabilities are one of the first groups to be laid off when companies make cuts or relocate industries.[36]

The picture above shows that people with disabilities who are already working face a similar situation to workers without disabilities. They are vulnerable to being fired, trapped in a continuous contractual work relationship environment, and forced to work beyond capacity. However, people with disabilities experience other discrimination, namely the lack of adequate accommodation. Women with disabilities face greater vulnerability; they experience discrimination as people with disabilities and as women.



34 FGD, September 5, 2024.
35 Perempuan Mahardika. 2017. Pelecehan Seksual dan Pengabaian Hak Maternitas pada Buruh Garmen: Kajian Kekerasan Berbasis Gender di KBN Cakung. Jakarta.
36 FGD, ibid.

CONCLUSIONS AND RECOMMENDATIONS

1. Conclusion

The right to employment, reasonable accommodation and a living wage are basic human rights of Persons with Disabilities that are inherent from birth. As citizens, the state is obliged to respect, protect and promote the rights of Persons with Disabilities.

The rights of persons with disabilities have been recognised in PwDA No. 8/2016 which requires state, private companies and state institutions to provide employment opportunities, equal pay and reasonable accommodation support.

This research shows that private companies, state-owned enterprises and government institutions have not yet fulfilled their obligation to employ Persons with Disabilities. According to data from the Ministry of Manpower in 2023, the total number of workers with disabilities who have worked is only 702 people out of a total of 55.29 million formal workers. This figure is far from the proportion of 1 per cent to 2 per cent as mandated by law.

Worker absorption figures in other government agencies show different figures. This shows that the unavailability and unsynchronised data on People with Disabilities provided by the government is a problem.

In the workplace, Persons with Disabilities, especially women, experience wage discrimination, lack of reasonable accommodation and are vulnerable to dismissal.

The right to employment, reasonable accommodation and a living wage for Persons with Disabilities is hindered by job applications, employment, flexible labour market policies, biased-understanding from employers, government employers and trade unions. The government, employers, trade union officials at various levels do not have an adequate understanding of the rights of Persons with Disabilities. As a result, trade unions do not negotiate job requirements to be more inclusive.

Barriers when applying for jobs, because government agencies, state companies and private companies set biased requirements for Persons with Disabilities so that they directly or indirectly discriminate against Persons with Disabilities to access jobs.

Other barriers relate to the support of the social and family environment that considers Persons with Disabilities as abnormal, so they are ostracised from the environment by not being recognised in the Family Card and not getting the right to education.

With flexible labour market policies, women with disabilities experience discrimination as Persons with disabilities and as women both when applying for jobs and when working.

2. Recommendation

This research found the connection between the trade union movement, the women's movement and the Persons with Disabilities movement to promote an inclusive world of work that is free from discrimination and gender-based violence. Therefore, it is important to connect the struggle for an inclusive world of work with the demands of the struggle for the ratification of ILO Convention 190 regarding a world of work free from harassment and gender-based violence.

TRADE UNIONS

Trade unions are important actors in encouraging changes in employment policies at the national, regional and workplace levels to be more inclusive and free from gender-based violence and harassment. In addition to strengthening understanding of the rights of Persons with Disabilities, trade unions also need to equip themselves with an understanding of the world of work that is free from gender-based violence and harassment in accordance with ILO Convention 190.

- Factory-level trade unions encourage the elimination of non-inclusive and gender-biased recruitment policies. Encourage companies to employ people with disabilities and not to fire workers who become persons without disabilities due to accidents and occupational diseases.
- Factory-level trade unions negotiate with company management to ensure a safe, inclusive and gender-equal work environment.
- Factory-level and branch trade unions organize and provide support for skills and knowledge training for workers with disabilities.
- Factory-level trade unions encourage changes to Collective Labor Agreement policies that support the existence of Persons with Disabilities.
- Branch-level trade unions work together with organizations of persons with disabilities and disability service units of regional labor offices to provide training on the rights of Persons with Disabilities and monitor the implementation of an inclusive world of work that is free from gender-based violence and harassment.
- National-level trade unions work together with national-level organizations of Persons with Disabilities and the National Commission on Disabilities to encourage the synchronization of laws and regulations to be more friendly to Persons with Disabilities, such as the elimination of the article on 'prolonged illness', contained in the Manpower Law Number 13 Article 153 in conjunction with the Regulation in Lieu of Law Article 81.
- Trade unions at various levels campaign for the rights of persons with disabilities, including providing training for workers with disabilities

CIVIL SOCIETY ORGANISATIONS (ORGANISATIONS OF AND FOR PERSONS WITH DISABILITIES)

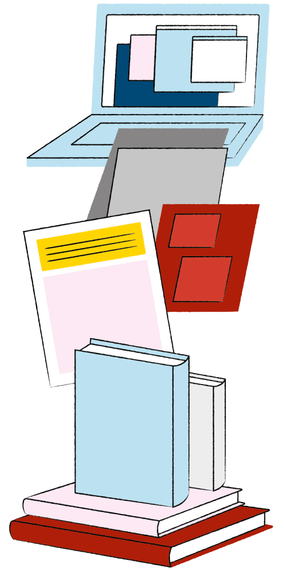
- Campaign for the rights of Persons with Disabilities through offline open discussions, online platforms, and publication of research results to raise awareness of the rights of Persons with Disabilities. Campaigns are provided in various inclusive formats.
- Connect organizations of persons with disabilities with branch-level trade unions through regular training.
- Assist trade unions by providing training so that they have the capacity to organise and campaign for the rights of Persons with Disabilities

GOVERNMENT

- Collaborate with civil society groups and trade unions to promote governance that is friendly to Persons with Disabilities.
- Provide training for state officials so that they have a better understanding of the rights of Persons with Disabilities
- Demonstrate a strong commitment to the business world to implement the PwDA by employing and providing decent accommodation for Persons with Disabilities in government institutions, state-owned enterprises and private companies.
- Promote the rights of Persons with Disabilities in government institutions, state-owned enterprises, and private companies.
- Ratify ILO Convention 190 on a world of work free from gender-based violence dan harassment.
- Provide information on the world of work in a format that is accessible to all parties.
- Encourage the business world to create jobs that meet the provisions of the PwDA. The notification must be provided in a format that is accessible to all parties.
- Increase labour inspector of the implementation of the PwDA by increasing the number of personnel and the budget for labor inspection.
- Involve trade unions to improve the implementation of the PwDA.
- Maximize the function of the NCD as an independent institution that is not subordinate to the Ministry of Social Affairs.

EMPLOYERS

- Business owners need to realize that prioritizing human rights by opening job vacancies for Persons with Disabilities, providing decent accommodation for workers with disabilities and a safe working environment from fatal accidents can improve the positive image of the company and contribute to greater profits in the future.
- Employers' associations should provide training to their members on the rights of Persons with Disabilities.
- Open up to dialogue with trade unions and civil society to discuss an inclusive world of work free from gender-based violence dan harassment.



ATTACHMENTS

Attachment I: PwDA and Implementation Regulations

LEGISLATION ON THE RIGHTS OF PERSONS WITH DISABILITIES

No	Laws and Regulations
a.	Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities
b.	Government Regulation of the Republic of Indonesia Number 70 of 2019 concerning Planning, Implementation, and Evaluation of Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities
c.	Government Regulation of the Republic of Indonesia Number 13 of 2020 concerning Appropriate Accommodation for Students with Disabilities
d.	Government Regulation of the Republic of Indonesia Number 39 of 2020 concerning Appropriate Accommodation for Persons with Disabilities in the Judicial Process
e.	Government Regulation of the Republic of Indonesia Number 42 of 2020 concerning Accessibility to Settlements, Public Services, and Disaster Protection for Persons with Disabilities
f.	Government Regulation of the Republic of Indonesia Number 60 of 2020 Concerning Disability Service Units in the Employment Sector
g.	Government Regulation of the Republic of Indonesia Number 75 of 2020 concerning Habilitation and Rehabilitation Services for Persons with Disabilities
h.	Government Regulation of the Republic of Indonesia Number 52 of 2019 concerning the Implementation of Social Welfare for Persons with Disabilities
i.	Presidential Regulation of the Republic of Indonesia Number 62 of 2019 Concerning the National Strategy for the Acceleration of Population Administration for the Development of Vital Statistics
j.	Presidential Regulation of the Republic of Indonesia Number 67 of 2020 concerning the Requirements and Procedures for Granting Awards in Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities

No	Laws and Regulations
k.	Presidential Regulation of the Republic of Indonesia Number 68 of 2020 concerning the National Commission on Disabilities
l.	Presidential Regulation of the Republic of Indonesia Number 114 of 2020 concerning the National Strategy for Inclusive Finance
m.	Regulation of the Minister of Manpower of the Republic of Indonesia Number 21 of 2020 concerning Guidelines for the Implementation of Disability Service Units in the Manpower Sector
n.	Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 98 of 2017 Concerning the Provision of Accessibility in Public Transportation Services for Service Users with Special Needs
o.	Regional regulations at the city, district and provincial levels, such as Pasuruan Regency, Yogyakarta City, Belitung Regency, Pati Regency, North Hulu Sungai Regency, Aceh Besar Regency, Surakarta City, Magelang Regency, Bandung City, Southeast Sulawesi Province, Special Region of Yogyakarta Province, Tangerang City, Jambi Province, West Sulawesi Province, West Nusa Tenggara Province, West Sumatra Province, Bali Province, Bangka Belitung Province, Banten Province, DKI Jakarta Province, and so on.
p.	Regulation with the term diffable. In 2008 the term disabled emerged. Disabled is a term used in several regions in regional regulations, especially on the island of Java. • Regional Regulation Number 11 of 2002 concerning the Provision of Facilities in Public Buildings and the Environment for the diffable in Sleman Regency, DIY • Regional Regulation No. 2 of 2008 concerning Equality for the diffable in Surakarta City • Regional Regulation Number 2 of 2011 concerning Equality of Independence and Welfare of the diffable in Klaten

Attachment II: Types of Disabilities in PwDA

CHAPTER II
TYPES OF DISABILITIES

Article 4
(1) Types of Disabilities include:
a. Physical Disabilities;
b. Intellectual Disabilities;
c. Mental Disabilities; and/or
d. Sensory Disabilities.

2) The types of disabilities referred to in paragraph (1) can be experienced singly, multiply or multiple times over a long period of time as determined by medical personnel in accordance with the provisions of statutory regulations.

Explanation of Article 4
a. Persons with physical disabilities;
What is meant by "Persons with physical disabilities" is impaired motor function, including amputation, paralysis or stiffness, paraplegia, cerebral palsy (CP), due to stroke, due to leprosy, and little people.

b. People with intellectual disabilities;
What is meant by "People with intellectual disabilities" is a disturbance in thinking function due to below average intelligence levels, including slow learning, mental disabilities and Down syndrome.

c. People with mental disabilities; and/or What is meant by "People with mental disabilities" is a disturbance in the function of thinking, emotions, and behavior, including:

a. psychosocial including schizophrenia, bipolar, depression, anxiety, and personality disorders; and
b. developmental disabilities that affect the ability to interact socially including autism and hyperactivity.

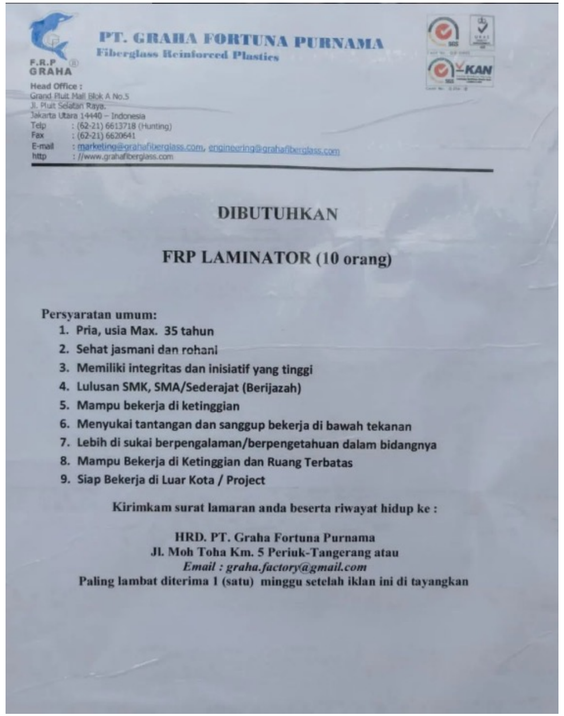
d. Persons with sensory disabilities.
What is meant by "Persons with sensory disabilities" is a disruption of one of the functions of the five senses, including blindness, Deafness, and/or speech disabilities.

What is meant by "Multiple or Multiple Disabilities" is a Person with Disabilities who has two or more types of disabilities, including deaf-mute disabilities and deaf-blind disabilities.

What is meant by "in the long term" is a minimum period of 6 (six) months and/or is permanent

Attachment III: Ableism Job Vacancy

Example of ableism of job vacancy in fiberglass company In this job vacancy, the company requires applicants with a maximum age of 35 years old and physically and mentally healthy.



PT. GRAHA FORTUNA PURNAMA
Fiberglass Reinforced Plastics

F.R.P GRAHA

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Jakarta Utara 14440 – Indonesia
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Fax : (62-21) 6620641
E-mail : marketing@grahafiberglass.com, engineering@grahafiberglass.com
http : //www.grahafiberglass.com

DIBUTUHKAN

FRP LAMINATOR (10 orang)

Persyaratan umum:
1. Pria, usia Max. 35 tahun
2. Sehat jasmani dan rohani
3. Memiliki integritas dan inisiatif yang tinggi
4. Lulusan SMK, SMA/Sederajat (Berijazah)
5. Mampu bekerja di ketinggian
6. Menyukai tantangan dan sanggup bekerja di bawah tekanan
7. Lebih di sukai berpengalaman/berpengetahuan dalam bidangnya
8. Mampu Bekerja di Ketinggian dan Ruang Terbatas
9. Siap Bekerja di Luar Kota / Project

Kirimkam surat lamaran anda beserta riwayat hidup ke :

HRD. PT. Graha Fortuna Purnama
Jl. Moh Toha Km. 5 Periuk-Tangerang atau
Email : graha.factory@gmail.com
Paling lambat diterima 1 (satu) minggu setelah iklan ini di tayangkan

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