

# Indonesia's Disability Policy: An Overview of the Quota System in Civil Servant Recruitment

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インドネシアの障害者政策  
— 公務員募集におけるクォータ制の概要 —

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## Abstract

Disability has become one of the most important issues on human rights. After the adoption of the Convention on the Rights of Persons with Disability (CRPD), approaches regarding this issue change significantly towards right-based approach. Indonesia is one of the signatory states and ratified the convention in 2011. The ratification then led to the introduction of a new disability law which directly adopt the provisions of CRPD. One of the prominent aspects of the provisions is quota system which is used to employ more persons with disability into labour market. This quota system has been used for decades by many developed countries including Japan, the United States, China and within Europe. However, the studies on the quota system within developing countries, especially Indonesia, remain understudied and overlooked. This paper explores the disability quota system of civil servant recruitment in Indonesia. After the adoption of the Disability Law, public services are obliged to recruit minimum 2% of the total positions. Furthermore, this paper contributes to filling the gap in the existing disability literature by in-depth analysis on how the quota system works in Indonesia regarding the persons with disabilities employed in public service. This paper also outlines the recommendations for future tasks in employing more persons with disabilities in public service roles.

**Key Words** : Disability Policy, Quota System, Civil Servant Recruitment, Indonesia

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## **1. Introduction**

*“Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others”* (CRPD 2006, p. 4).

To realize a globally inclusive society where persons with disabilities can participate fully, a strong non-discrimination employment policy must be enforced at any cost. There are an estimated 785 million persons with disabilities in the world who are of a working age. They are often classified as a vulnerable group because they are inactive economically, mostly unemployed (even if they have a job, they are likely to be paid poorly) and in most underdeveloped countries they are socially secluded.

To address these issues relating to disabilities, many governments have adopted legislation to employ a certain number of persons with disabilities, known as a quota system. Quota systems are one of the most prominent approaches in disability policy studies, as well as a useful tool to promote equal access to labor market for persons with disabilities. The quota usually ranges from 1% to 10% depending on the specific countries' policy.

In Indonesia, the quota system, mandated in the Disability Law 2016 article 53 states that the government of Indonesia must employ persons with disabilities in public sectors roles at a minimum of 2% of the total vacancies or formations. The goal is to provide accessible employment and create an inclusive workplace, especially in the governmental departments. This gesture demonstrates that Indonesia is committed to promoting an inclusive society by providing persons with disabilities with employment.

It is important to explore and develop a clear understanding of the quota system in Indonesia and how it is carried out. It is essential to note that Indonesia does not levy a financial penalty for governmental departments that do not meet the quota or provide the required condition for persons with disabilities. Therefore, the commitment of all governmental departments to recruit persons with disabilities also needs to be explored.

Current existing literature mainly focuses on the application of quota systems in developed countries in Europe and some Asian countries, such as Japan and South Korea. Furthermore, those works mostly discuss the quota system in private enterprises with studies on the quota system in public service being limited. Studies focusing on developing countries, especially Indonesia, regarding this issue are still largely overlooked. Therefore, this paper can shed light on the studies of the quota system within Indonesia by providing in-depth information of its implementation. Furthermore, this paper outlines recommendations for future tasks so more persons with disabilities are able to be engaged in public service.

### **1.1 Relevant Literature**

“Quota system is a quota legislation which requires both public and private sector employers to employ a certain minimum number of workers and have a proportion of employees consist of designated persons with disabilities” (Thornton 1998, p. 4). Thornton also added that legislating

quotas may stop negative discrimination towards persons with disabilities by encouraging companies or employers to hire capable individuals that have been secluded because of their disabilities.

Jones argued that the quota system ensures persons with disabilities can claim their rights to work and are potentially no longer subjected to discriminatory or unequal treatment, as this system works closely with anti-discrimination laws (Jones 2006, p. 33). Furthermore, the quota also plays an important role in reminding employers to give a fair share of the available employment to persons with disabilities (Barnes 1991, p. 7; Townsend 1981, p. 70).

Although the quota system has many supporters, there are some that remain skeptical of the system. Waddington gave two explanations towards why the quota system is not effective: one is that the employers are forced to recruit persons with disabilities, giving them the incentive to hire the least disabled people; two is that persons with disabilities cannot compete fairly in the employment market (Waddington 1996, p. 71).<sup>1</sup> Therefore, the quota system should not exist in the first place because it gives the signal that persons with disabilities are given jobs out of pity and the companies hire them, not on merit, but because they are forced to do so. Lonsdale and Walker argued that quota systems can be classified as positive discrimination that can be denigrated since any kind of impairments or disabilities must be settled by special measures (Lonsdale and Walker 1984, p. 78). It is assumed that without the provision, the employers are likely to turn their back and neglect persons with disabilities as they are seen as less productive than persons without disabilities (Mont 2004, p. 20).

Given these situations, without taking proactive measures, it is doubtful that discriminatory recruitment practices vis a vis persons with disabilities will be remedied. In as much as it is the government that passed the law, one would assume that the government could exhibit model practices in public servant recruitment and in enforcing inclusive employment policy in order for private industry to follow suit. The committee of the Convention on the Rights of Persons with Disabilities (CRPD) receives reports annually from the state's parties concerning disability issues in each respective country and then they review them. According to the review, there are 103 state parties that have adopted a quota system shown in the breakdown: 33 countries apply the quota through levies or financial penalty, 64 countries apply the quota with unclear guidance on enforcement, and 6 countries have the quota, but it is not legally binding. This report has shown that in some countries, the quota is effective in hiring more persons with disabilities in public service.

In the UK, the number of persons with disabilities hired by the government showed balance because the target number was achieved. However, it still needs improvement in the hiring practices, job satisfaction and talent retention (UK Institute for Government 2019). In 1988, civil servants with disabilities accounted for only around 1.3% of the workforce, but this number jumped more than 9% in 2018, and even included senior civil servants.<sup>2</sup>

Similar to the UK, Ireland also reported successfully hiring more than the mandated quota of persons with disabilities. According to the Ireland's Disability Act of 2005, the government must employ at a minimum 3% of persons with disabilities, and by 2024 they target to hire rises to at least 6% of total vacancies in the public service sector. In 2011, the Irish government succeeded in

meeting the quota by 3% by having 205,068 total employees with disabilities, and from 2012 to 2019, they exceeded the 3% target and hitting the highest percentage at 3.6% in 2015 (NDA 2019, p. 13).

Germany's quota system and other measures also brought success in hiring more persons with disabilities to become civil servants. Germany has set a 5% quota of available positions in public service. And in 2003 the government exceeded the quota by 5.4% and even increased it to 6.3% in 2009 (ILO 2019, p. 23).

Unlike the aforementioned countries, France was slightly unable to exceed the targeted quota. France set the minimum quota of persons with disabilities to 6% for public agencies that have 20 or more employees. And in 2016, the French government could reach 5.49% (ILO 2019, p. 20).

In Japan, quota system was introduced together with levy, where the private company which fails to meet the target will be financially penalized. Based on Japan Act on Employment Promotion of Persons with Disabilities, the mandated quota for government and local authorities, including special public corporations is 2.1%, prefectural board is 2% and private companies is 1.8% (Hasegawa 2010, p. 35). While the achievement for fulfilling the quota in public service is still unclear, the employment rate for persons with disabilities in private enterprises is increasing from 22.7% in 2003 to 41.9% in 2011 (Lee and Lee 2016, p. 89).

Meanwhile in South Korea, the current mandated quota for public service is 3% and for private company is 2.9%. The employment rate for persons with disabilities in public service is increasing from 1.6% in 2007 to 2.86% in 2019 (Statistica 2021).

Some countries or areas decided not to introduce a quota system legally because they do not want to give discriminatory (even if it is positive) treatment by providing a special quota. Hong Kong does not employ a quota system but committedly hires persons with disabilities in public service roles. In a press release on October 30<sup>th</sup>, 2019, the Hong Kong secretary for the civil service stated that while Hongkong does not have a quota system, annually at least 1.5% of the hired civil servants have declared disabilities.<sup>3</sup>

In Indonesia, papers, works, or reports on how the quota system is applied in civil service for persons with disabilities are relatively rare. Most of the journals with empirical data discussed what factors influence the low employment rate of persons with disabilities. Additionally, there are also some works which evaluate how civil servant recruitment for persons with disabilities were carried out in specific provinces.

One study by Muchtar *et. al.* in 2020 discussed civil servant recruitment for persons with disabilities in South Kalimantan province. It evaluated the civil servant recruitment process which concluded that persons with disabilities are not actively involved in the process because of lack of socialization, educational degree, and inability of local government to carry the process.

Another study by Michael *et.al.* in 2020 briefly discussed the 2% quota in civil servant recruitment. They argued that there is an obscurity about what the meaning of 2% is, either it is 2% of the current total employees, 2% of the total vacancies in the year of recruitment takes place, or 2% of one formation of the recruitment year (Michael *et.al.* 2020, p. 392). They also evaluated the recruitment

process from administration screening to interview stages and found it to still have many shortcomings.

## **1.2 Knowledge Gap and Contributions**

As mentioned in the abstract, that it is difficult to find academic literatures on disability policies in developing countries, especially regarding how the quota systems are carried out in public service. Most academic literature focuses more on quota systems in private enterprises. Meanwhile, data of quota systems in public service is obtained mostly through reports.

Additionally, disability policies in Indonesia are also mostly documented on annual reports by relevant organizations both international and domestic. The study of the quota system in Indonesia is almost totally overlooked because most researchers wrote only on the employment of persons with disability in general. Furthermore, these works discussed and evaluated the factors of why the employment rate of persons with disabilities is low, including the recruitment process and disability law misinterpretation.

In this respect, this study on Indonesia's application of the quota system in public service can fill the gap and add more values and perspectives in the relevant literature. This study also tries to give recommendations on how to encourage persons with disabilities to be more assertive in applying to become civil servants.

## **2. Indonesia's Regulations Regarding Civil Servants Employment for Persons with Disabilities**

Before Disability Law 2016 was enacted, Indonesia had the Handicapped Law<sup>4</sup> which was introduced in 1997. The full name of the law was *Undang-Undang Penyandang Cacat Nomor 4 Tahun 1997* (further referred to as the Handicapped Law). In the Handicapped Law article 13, it was stated that all handicapped people have the same opportunity to get jobs based on their kind and degree of impairment. In this law, it was not stated clearly what impairments are suitable for which jobs. There was no quota, or financial penalty for employers who failed to employ handicapped people. Furthermore, handicapped people are regarded as subject to social charity and viewed as dependent individuals.

After the UN adopted CRPD on December 13<sup>th</sup>, 2006, Indonesia signed the convention in the following year. On October 18<sup>th</sup>, 2011, through a plenary session in the House of Representatives, Indonesia ratified CRPD and became the 107<sup>th</sup> country to do so. On April 15<sup>th</sup>, 2016, Indonesia introduced the Disability Law in which the quota provision is clearly stated.

During the deliberation process of the law in 2015, there were 31 persons with disabilities who became civil servants in 10 ministries; 19 people in the Ministry of Social Affairs, 1 person in the Coordinating Ministry for Human Development and Culture, 2 people in the Ministry of Law and Human Rights, 1 person in the Ministry of Finance, 1 person in the Ministry of Energy and Mineral Resources, 2 people in the Ministry of Education and Culture, 1 person in the Ministry

of Communication and Information, 2 people in the Ministry of Home Affairs, and 1 person in the Agency for Meteorology, Climatology and Geophysics (The Government of Indonesia 2016, p. 32).

Disability Law 2016 consists of 153 articles which comprehensively regulates the rights of persons with disabilities including rights to education, employment *et cetera*. Unlike the Handicapped Law 1997, the new law includes quota provisions in article 53 point 1 which states that employers in public sectors, including state-owned enterprises must provide a minimum 2% quota for persons with disabilities in employment. This law was then supported by *Permenpan*<sup>5</sup> no. 36 year 2018 which regulates that all employers in public service give civil servant employment the opportunity for special formation for persons with disabilities.

To become a civil servant in Indonesia, there are no different procedures between non-disabled and disabled persons. Generally, there are six steps which are needed to be done: online registration at <https://sscasn.bkn.go.id>, submitting required documents, passing administrative screening, passing basic competency test, passing field competency test, and final filing document for qualified applicants.<sup>6</sup>

### **3. Current Implementation of 2% Quota for Persons with Disabilities**

Before the quota was regulated by the law, there were a number of instances of prejudice in employing persons with disabilities in the civil service. In 2004, a young woman named Wuri Handayani, a university graduate with Cum laude, passed the test to become a civil servant in Surabaya.<sup>7</sup> However, she was not accepted by the Surabaya local government because she was evaluated as not eligible to become a civil servant due to one requirement being that an individual must be physically and mentally healthy (CNN Indonesia 2021). Wuri Handayani uses a wheelchair, and that was reason enough to block her from becoming a civil servant.

The same situation also happened after the quota was adopted. In 2018 Dr. Romi, a dentist who passed the final test to become a civil servant was rejected by the government of West Sumatra. She was regarded as not eligible because she was not physically healthy and needs a wheelchair for her mobility since 2016. This case successfully drew national attention and garnered many signatures on a petition to give justice to Dr. Romi. After quite long mediation process, the government of West Sumatra finally announced that Dr. Romi would be a civil servant and serve in a state-owned hospital in West Sumatra.

As Dr. Romi's case shows, it can be assumed that even though the right of persons with disabilities to work is guaranteed by the law, in practice, they are neglected. The following three sections outline the main causes as to why it is not easy to become a civil servant in Indonesia for persons with disabilities:

#### **3.1 General Requirements**

One of the main obstacles for persons with disabilities entering the civil service is the general requirements. One of the requirements is to be physically and mentally healthy. In *Undang-Undang*

*Aparatur Sipil Negara* (State Apparatus Law) article 65 point 1, it is stated that the physically healthy requirement for persons with disabilities must be adjusted to the job description and position.

There are also mandatory criteria of the job that persons with disabilities can apply for:

- Administrative work
- Jobs which do not need special requirements
- Jobs which are done routinely
- Jobs whose workplace do not have high risks.

Due to these criteria, many persons with disabilities are reluctant to apply. They want to be civil servants, but the available positions mostly do not match their abilities and education background (IDN Times 2019). For examples, many job positions require IT (information technology) related graduates, however the qualifications that persons with disabilities have are in economics *etc.* Additionally, for the last criteria that only allows persons with disabilities to only apply to low-risk jobs, it can be assumed that the government of Indonesia is not serious in providing a fully inclusive workplace.

In 2021, PermenPAN No. 27 year 2021 mandates that all persons with disabilities who want to apply to become civil servants must submit a video which shows their daily routines that related to the job in which they want to apply. This requirement is an additional burden that can be difficult to meet, moreover not all persons with disabilities in Indonesia are familiar with technology.

### **3.2 Lack of Understanding**

The rejection of some persons with disabilities who passed the exams to become civil servants leads to the second problem, the lack of understanding of the requirements both by the recruitment committee and the applicants. For the first one, this can happen because the committee might not have read the laws comprehensively and they possibly did not understand how to differentiate between general and special<sup>8</sup> recruitment for persons with disabilities. As for the second one, lack of socialization about the Disability Law, general and special requirements might lead to misunderstanding by the applicants.

### **3.3 Inconsistency in Carrying Out the Disability Law**

The final obstacle comes in the form of inconsistency by the Ministry of Administrative and Bureaucratic Reform (*KemenPANRB*) as the central committee of civil servant recruitment in carrying out the law. In the Disability law article 53, it is clearly stated that all government agencies including ministerial, provincial government and state-owned enterprises must employ persons with disabilities in at least 2% of the total formation. In the Ministerial Regulation No. 36 year 2018 concerning criteria for determining the need for civil servants and implementation of the selection of candidates for civil service, it is stated by alphabet F no. 2 point b that quota formation for persons with disabilities in central government is 2%, meanwhile in point c, it is stated that for the local government the quota formation is 1%.

Following the ministerial regulation, some local governments like Jogjakarta Province preferred to provide only a 1% quota for persons with disabilities to be civil servants. In 2018, Jogjakarta government opened 3,182 positions but only 35 positions or 1% of the total positions were opened for persons with disabilities (Media Indonesia 2018). Disparities between Disability Law and ministerial regulations might have occurred because there is no financial penalty or levy and administrative sanctions for governmental bodies which are not able to meet or provide the mandated quota. Furthermore, the decision to only provide 1% of the total formations by some local governments might be due to the perception that persons with disabilities are not suitable to bear some positions and workloads.

In contrast, while the local government in Jogjakarta could not comply with the mandated quota, other provincial governments have succeeded in meeting the quota. In Nusa Tenggara Barat Province, the government opened civil servant recruitment with a total of 422 positions. The quota for persons with disabilities were 8 positions, meaning that the quota was met. The same also happened in Bali, where the quota for persons with disabilities were 14 of 662 positions.

#### **4. Recommendations for the Future Tasks**

There is still a lot of improvement needed to engage more persons with disabilities into the civil service. Their right to work as civil servants is mandated in the Disability Law and no one can take it from them. Nevertheless, in practice there are still many problems needing to be solved both by the government as an employment provider and those with disabilities themselves.

Therefore, here are some recommendations which may help for the future civil servant recruitment for persons with disabilities:

a. Socialization on How to Apply

Socialization is much needed to reach an understanding not only by the applicants but also by the local committees. To reach the applicants, the local committee should make socializations periodically and more often when the recruitment date is approaching. They need to clearly explain what the differences are between general and special requirements. Also, they have to clarify which jobs and what kind of disabilities fit the conditions if the applicants want to apply for the general formation.

As for the local committee in doing the job well, training by the central committee (*KemenPANRB*) about how to carry out the law and how to mitigate future problems should occur. It is important to avoid cases like Wuri handayani and Dr. Romi where those involved had to resolve the issue in court.

b. Make A Clear Standard Operating Procedure (SOP)

Although the Laws stipulate persons with disabilities can also apply for general recruitment, a clear SOP is needed to arrange the steps in the recruitment process. The SOP would technically direct the committee during the recruitment process from document screening to the final steps.



c. Provide Access to Complaint Service

Looking at the two cases mentioned in this paper, providing a formal complaint service is important. Wuri Handayani and Dr. Romi must settle their problem through the court system which takes a large amount of time as well as effort. To avoid this kind of obstacle, KemenPANRB must provide a window either online or offline to accommodate the aspirations of all applicants. And the window must be posted and accessible in each local recruitment center.

d. Include Persons with Disabilities on the Recruitment Committee

To accommodate the needs of persons with disabilities during the recruitment process, the government must include qualified persons with disabilities not only during the recruitment process but also during the making of the SOP. By involving persons with disabilities in formulating the SOP, it is expected that the quality of the civil servant recruitment process will greatly improve (Muchtar 2020, p. 213).

## 5. Conclusion

Persons with disabilities' right to become civil servants is guaranteed by the Disability Law 2016 if they passed the tests. Although the law stipulates their rights, the recruitment process can be refined and improved so the needs of the applicants can be thoroughly accommodated.

The Disability Law regulates that all governmental agencies from the central to the local level, including state-owned enterprises, must employ at least 2% of total formations. However, the Ministerial Regulation by *KemenPANRB*No. 36 year 2018 alphabet F number 2 point C breaks the Disability Law by stating that the local government can employ at least 1% of the total formations for persons with disabilities. Nevertheless, many local governments decided to comply with the Disability Law by providing the 2% quota in their governance.

To avoid problems such as misunderstanding the general and special requirements, a lack of the understanding about the law, and inconsistency by the related committees, the solutions must be sought after. First by conducting socialization periodically and more frequently when the recruitment date is approaching. Second, by making a clear SOP to direct all the recruitment process smoothly. Third, by providing a window of access to formally complain during the recruitment process to accommodate the aspirations of all applicants. Finally, by involving more qualified persons with disabilities to formulate the law and SOP of the recruitment process.

As Indonesia is still trying to figure out how to carry out the quota system efficiently and effectively, it is important to appreciate the intention of the government to promote the right to work of persons with disabilities in public service.

(Received 25th October, 2021)

(Accepted 2nd February, 2022)

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## Notes

- <sup>1</sup> Employers' attitude plays important role in hiring persons with disabilities. Anti-discrimination law forces employers to hire certain number of persons with disability, however they either are reluctant to provide highly costed reasonable accommodation or do not know how to meet the needs of their disabled workers. The employers also worry that persons with disability cannot compete in labour market because they have lack of experiences and capabilities due to poor access to education.
- <sup>2</sup> The United Kingdom's Institute for Government in 2019 updated its website about "Disability in the Civil Service" and showed statistic about percentage of disabled staff. From June 2016 to September 2019, there are 35,000 persons with disabilities were recruited in civil service departments, in which the Ministry of Defense and the Home Office hired almost 85% of all recruited civil servants.
- <sup>3</sup> In the press release issued by The Government of the Hong Kong Special Administrative Region, there is a question-and-answer section regarding Hongkong's policy about employment of persons with disabilities as civil servants. The questions are about the low rate of disabled people employment in civil services for 5 consecutive years. The questions were responded by giving statement that the recruitment process was based on the bureau or departments. In other respects, the Government of Hong Kong actively provided skill training and support services for persons with disability to help them compete in job markets.
- <sup>4</sup> Before CRPD was signed and ratified by the Government of Indonesia, the term used was "*penyandang cacat*" or can be translated as handicap, impairments, *etc.* Persons or people with disabilities have been used after the CRPD was introduced, signed, and ratified. Term persons with disabilities was translated legally by law as *penyandang disabilitas*.
- <sup>5</sup> *Permenpan* stands for *peraturan Menteri pemberdayaan aparatur negara* (ministerial regulations issued by Ministry of Administrative and Bureaucratic Reform of the Republic of Indonesia).
- <sup>6</sup> Online registration is required by filing basic information including *selfie*. Submitting required documents such as academic certificates, competencies, and experiences. Administrative screening is done by Ministry of Education to verify all academic documents then announce the successful applicants. These successful applicants then must pass basic competency tests including national insights, general intelligence, and characteristic. After passing the test, the applicants must pass the field competency test which to examine applicants' expertise. Finally, the last procedure is filing final documents to complete the recruitment process.
- <sup>7</sup> Surabaya is the capital city of East Java province.
- <sup>8</sup> When civil servant recruitment occurs, the recruitment is usually divided by two categories: general and special recruitment. For general recruitment, everybody who are eligible, meet the basic requirements, and do not have any kind of disabilities are welcomed to apply. Meanwhile for the special recruitment, it is divided again by three categories; youth from Papua, persons with disabilities, and those who graduated with *cum laude*.

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