

CHAPTER I

INTRODUCTION

A. Background

In March 2020, a blind man, Muhammad Baihaqi, was eliminated without any clear and basic reasons in the CPNS selection process.¹ Baihaqi had initially passed the selection of administrative requirements, the rejection period, and even had the highest score in the disability group selection. Eventually, Baihaqi filed a lawsuit at the State Administrative Court to fight for his disability rights. However, the Semarang Administrative Court rejected his lawsuit. Not giving up, Baihaqi appealed but lost again. Finally, accompanied by LBH Semarang activists, Baihaqi filed an appeal and was granted by the Supreme Court.²

Approximately 470 million of people in working age around the world have some kind of disability. Human rights have become one of the most important issues in the development of a nation in this era of globalization and modernization. Human rights are rights given by God to every human being from birth so that in principle humans have these rights not because of gifts from society in general or based on positive law, but solely based on their dignity as human beings.³ Human rights are universal, unlimited, and apply to all people without exception, regardless of race, religion, gender, nationality, social status.⁴

Human rights are not only universal, meaning everyone possesses them, but they are also inalienable. This means that these rights cannot be taken away or surrendered, no matter how poorly someone is treated. Even in the worst circumstances, a person's fundamental human rights remain because they are intrinsic to their being human.⁵ The recognition and protection of human rights is the basis of a just, peaceful and prosperous society. French jurist Karel Vasak conceptualized the evolution of human rights in three generations, inspired by the French Revolution's principles of liberty, equality, and fraternity.

The first generation is concerned with civil and political rights, including the freedoms of thought, religion, assembly, and protection from torture and arbitrary detention, as well as the rights to life, freedom of movement, asylum, and property

¹ *Hak Kerja Disabilitas Di Instansi Pemerintahan Harus Dipenuhi | Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan*. (n.d.-c). <https://www.kemendiknas.go.id/hak-kerja-disabilitas-arus-dipenuhi>



Muhammad Baihaqi, Difabel Netra yang Digugurkan dalam Seleksi CPNS. vapos.com/features/721392441/kisah-muhammad-baihaqi-difabel-netra-yang-cpns

2017). *HUKUM HAK ASASI MANUSIA* (Puguh Windrawan, Ed.). Pusat Studi sitas Islam Indonesia, p. 43.

3. *Hak Asasi Manusia: Pengertian, Sejarah, dan Prinsipnya*. Klinik Hukumonline. [com/klinik/a/hak-asasi-manusia-pengertian-sejarah-dan-prinsipnya](https://www.klinik.a/hak-asasi-manusia-pengertian-sejarah-dan-prinsipnya)

protection. These are known as "negative rights," because their main requirement is that the state not interfere with people's freedoms.

Economic, social, and cultural rights, such as the rights to employment, equitable pay, social security, education, health, food, housing, land, a healthy environment, and intellectual property protection, are all included in the second generation. To guarantee that these "positive rights" are fulfilled, the state must take action, such as by enacting laws promoting job creation.

Lastly, the third generation addresses solidarity or collective rights, such as the rights to development, peace, control over natural resources, a healthy environment, and cultural heritage. These rights emerged from developing countries' aspirations for a more equitable global order.⁶

Humans are born equal in nature, physical form, body, and spirit. However, people often create distinctions based on attitudes, behaviors, and treatment, making it crucial for everyone to respect and uphold each other's human rights to foster a just and humane world. People with disabilities are a vulnerable group frequently subjected to discrimination in words and actions, despite being integral members of society with the same rights and needs as others.

The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD) characterizes individuals with disabilities as those experiencing enduring physical, mental, intellectual, or sensory impairments. These impairments, when coupled with external barriers, can hinder their full and equal involvement in societal life.

Work is essential for human life, enabling individuals to live properly by fulfilling daily needs, channeling skills, exploring potential, connecting with others, learning, and achieving goals. The right to decent work for everyone, including persons with disabilities, is a fundamental economic and social right, and no one should restrict it.⁷

The State is obligated to protect the well-being of all its citizens without discriminating against people with disabilities. However, in practice, people with disabilities often face discrimination in employment, making it challenging for them to find job opportunities. Job opportunities refer to available employment that job seekers can apply for.⁸

The reality today is that people with disabilities still experience various acts of discrimination, especially constrained by the requirement of "physical and which has always been one of the general requirements that ed by every person. In the acceptance of employment, the



general conditions commonly required in the acceptance of prospective workers are also "physically and mentally healthy". In fact, in the requirement to register to become a people's representative, a candidate must also be "physically and mentally healthy".

People with disabilities are viewed as sick individuals who require constant assistance and are unable to work like regular people because society's perception of them is frequently compared to a person's medical incapacity. Conservative groups even say that the state of disability is God's will, therefore humans should only surrender in the face of these conditions. People with disabilities are often referred to as unlucky. Disability should be seen as a social inability, so that everyone can participate in efforts to protect these minorities. Therefore, in this case it is very clear that legal structures are needed to provide protection and absolute legal guarantees so that everyone has the same opportunity to have a job. To achieve this mandate, a very important strategy that must be implemented is to create legal protection for the fulfillment of these rights.

Talking about the law, the law referred to here is all kinds of rules that must be obeyed in order to achieve goals. If not obeyed, then sanctions will be imposed for violators. Basically, there are two types of law, namely the basic law as the source of all laws and regulations and all types of laws and regulations as a form of elaboration of the constitution. Constitutions can be written and can also be unwritten. Written constitutions are usually set out in the State constitution while unwritten ones implicitly and naturally live in society in the form of customs, beliefs, and religious life.

The Convention on the Rights of Persons with Disabilities (CRPD) was adopted by the UN on December 13, 2006, and it went into effect on May 3, 2008. The principle of equality and nondiscrimination against individuals with disabilities is the cornerstone of international law. According to the Convention, states must establish laws that promote people with disabilities' equal and complete participation in all facets of life, including the workplace. The CRPD's Article 27 declares:

"States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, legislation, to, inter alia:"



emphasizes that countries signing the treaty must acknowledge the right of individuals with disabilities to work on an equal basis, free from discrimination. This entails ensuring equal access to job opportunities, the freedom to choose or accept work that aligns with their preferences in the labor market. Furthermore, workplaces should be designed

to be welcoming, inclusive, and accessible to everyone, including individuals with special needs. States that commit to this agreement have a responsibility to protect the rights of workers with disabilities and promote conditions that enable them to participate fully in the world of work. This includes taking the necessary measures to create laws that prohibit discrimination based on disability, promote policies that favour inclusion, and provide adequate facilities and adaptations in the workplace.

Furthermore, it is important to recognise that this right to work does not only apply to people with congenital disabilities but also to individuals who develop a disability during the course of their employment. States need to ensure that such individuals are adequately protected, whether through retraining, workplace adjustments, or other measures that enable them to continue to participate productively in the labour market. As such, countries should endeavour to create a fair and inclusive work environment for all, where everyone, regardless of their disability, can reach their full potential and contribute to society.

Indonesia, as a country with 22.97 million people with disabilities, or about 8.5% of the total population of Indonesia, is one of the countries with the highest number of people with disabilities⁹. Indonesia's Law No. 8 of 2016 safeguards the legal rights of people with disabilities, defining them as individuals with long-term physical, mental, intellectual, or sensory impairments who may face obstacles to full and effective participation in society due to their environment and societal attitudes. This law addresses various aspects of their lives, including the right to equal and non-discriminatory employment. Indonesia has also adopted the Convention on the Rights of Persons with Disabilities (CRPD), enacted as Law No. 19 of 2011.¹⁰ The ratification of the UNCRPD by the Government of Indonesia is an act that provides a fundamental shift in looking at disability issues, namely by using a human rights approach and affirming that persons with disabilities enjoy the same human rights as other people in the civil, cultural, economic, political and social domains.

Meanwhile, According to *Jabatan Kebajikan Masyarakat* (Department of Social Welfare, JKM) which manages the Persons with Disabilities (OKU) registry, as of January 31, 2023 Malaysia is estimated to have 637,537 people with disabilities,¹¹ and about 11% of the population above 18 years are PWDs.¹²

⁹T. H. Supanji. 2023. Pemerintah Penuhi Hak Penyandang Disabilitas di Indonesia. *Kementerian Pembangunan Manusia Dan Kebudayaan Republik Indonesia*. Available at go.id/pemerintah-penuhi-hak-penyandang-disabilitas-di-indonesia [Accessed



2023. Malaysian Disability Data. Available at https://okurightsmatter-jian-disability-data/?x_tr_sl=en&x_tr_tl=id&x_tr_hl=id&x_tr_pto=tc [Accessed on 2 September 2024].

¹²23. MEF Urges Employers to Establish Enabling Environment at to Increase nities for Persons with Disabilities. Available at ws/pr_article.aspx?@ID=197 [Accessed on 2 September 2024].

Through the Persons with Disabilities Act of 2008, Malaysia has established a legislative framework that upholds the rights of individuals with disabilities. Individuals experiencing persistent physical, mental, intellectual, or sensory impairments, which, when coupled with societal barriers, hinder their complete and meaningful participation in society, are recognized as persons with disabilities. Furthermore, Malaysia signed the Convention on the Rights of Persons with Disabilities (CRPD) on April 7, 2008, and subsequently ratified it on July 19, 2010, prior to Indonesia's ratification.¹³

Although it has been regulated in the Convention on the Rights of Persons with Disabilities (CRPD) as well as both Indonesia and Malaysia have regulations that aim to protect the rights of persons with disabilities, implementation often faces challenges especially in access to employment.

Despite numerous international agreements and efforts, the Convention on the Rights of Persons with Disabilities (CRPD) acknowledges that people with disabilities worldwide still encounter obstacles to equal participation in society and experience human rights violations. Similarly, Indonesian Law No. 8/2016 recognizes that most Indonesians with disabilities live in vulnerable, underdeveloped, or impoverished circumstances due to limitations, barriers, and the denial or loss of their rights. In Malaysia, even though there are 637,537 people with disabilities, fewer than 12,000 are formally registered as employed.¹⁴

Therefore, it is important to do a comparison between these two countries, given that Indonesia and Malaysia are countries that are very close to each other and have a lot of similarities and find out if there are differences in implementing regulations regarding the right to work for people with disabilities between Indonesia and Malaysia. Based on the descriptions above, this research tries to analyze the comparison on the regulation of disability employment rights under equality principle between Indonesia and Malaysia.

B. Research Questions and Objectives

Based on the background description above, the authors draw the problem formulation of this research, namely as follows:

1. How is the legal comparison of the implementation of the rights of persons with disabilities in accessing employment based on equality principle in Indonesia and Malaysia?



and Khailir Azmin Mokhtar, 2016. Malaysia's Ratification Of The UN Convention with Disabilities (UN CRPD). International Journal of Business, Economics and .). doi: ISSN 2289-1552, p. 85.
.Cit.

2. How effective is the implementation of right to work regulations for persons with disabilities in Indonesia and Malaysia?

Based on this background, the objectives of this study are as follows:

1. To know the comparative legal implementation of the rights of persons with disabilities in accessing employment based on the equality principle in Indonesia and Malaysia.
2. To know the effectiveness of the implementation of right to work regulations for persons with disabilities in Indonesia and Malaysia.

C. Research Benefits

The results of this study are expected to make a positive contribution to the efforts to realize equality and social inclusion for persons with disabilities in Indonesia and Malaysia. In addition, this research is expected to contribute to the development of policies that are more inclusive and responsive to the needs of persons with disabilities, as well as encouraging public awareness of the importance of equal rights in the workplace.

D. Research Originality


The author conducted this research in looking at legal issues regarding the Comparative Legal Analysis on the Implementation of Disabilities Person's Right to Access Employment based on the Equality Principle in Indonesia and Malaysia. Based on the author's analysis to provide an overview of the comparison, presented with previous research on regulation pertain to the rights of persons with disabilities in accessing employment, the author attaches previous research as a comparison for the current author:

Table 1. 1 Research Originality 1

Author Name	: Muh. Fajrin Maramis Fauzi
Title of the article	: IMPLEMENTASI UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD) TERHADAP PEMENUHAN HAK AKSESIBILITAS BAGI PENYANDANG DISABILITAS DI INDONESIA
	: Skripsi
	: 2017
	: Universitas Hasanuddin
Previous Research	Research Plan

Issues and Problems: <ol style="list-style-type: none"> 1. How is the implementation of UNCRPD 2006 towards the fulfilment of accessibility rights for persons with disabilities in Indonesia? 2. How are the government's efforts in fulfilling accessibility rights for persons with disabilities in Makassar City? 	<ol style="list-style-type: none"> 1. How is the legal comparison of the implementation of the rights of persons with disabilities in accessing employment based on equality principle in Indonesia and Malaysia? 2. How effective is the implementation of right to work regulations for persons with disabilities in Indonesia and Malaysia?
Research Methods: Normative	Research Methods: Normative
<p>The author explains the extent of the implementation of the UNCRPD on the fulfilment of accessibility rights for persons with disabilities in Indonesia as well as the government's efforts in fulfilling the right to physical accessibility of public transport in Makassar City. Here, the author found that Indonesia need to improve its regulation on protecting right for person with disabilities.</p>	


Table 1. 2 Research Originality 2

Author Name	: Annisya Syida
Title of the article	: IMPLEMENTASI UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (UNCRPD) TERHADAP PEMENUHAN HAK AKSESIBILITAS BAGI PENYANDANG DISABILITAS DI INDONESIA KEBIJAKAN INDONESIA MENGIMPLEMENTASIKAN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES DALAM MEMENUHI HAK-HAK DISABILITAS FISIK PADA DUNIA KERJA DI INDONESIA (2008-2022).
Category	: Skripsi
Year	: 2023
University	: Universitas Muhammadiyah Yogyakarta
Description of Previous Research	Research Plan
 <p>s: government policy of n implementing the Rights of Persons with rights of physical</p>	<ol style="list-style-type: none"> 1. How is the legal comparison of the implementation of the rights of persons with disabilities in accessing employment based on equality principle in Indonesia and Malaysia?

disabilities in the world of work (2008-2022)?	2. How effective is the implementation of right to work regulations for persons with disabilities in Indonesia and Malaysia?
Research Methods: Normative	Research Methods: Normative
Here the authors try to analyze the comparison of regulation of labor with disabilities comparing to Australia and Malaysia. The author found that Indonesia's regulation on labor with disabilities is still give legal loophole that creates discrimination of the labor with disabilities.	

Table 1. 3 Research Originality 3

Author Name	: Sofiatul Jannah
Title of the article	: PERLINDUNGAN HUKUM TENAGA KERJA PENYANDANG DISABILITAS PERSPEKTIF UNDANG-UNDANG NOMOR 13 TAHUN 2003 TENTANG KETENAGAKERJAAN (Studi Kasus di PT Soerabaja Printing Indonesia)
Category	: Skripsi
Year	: 2021
University	: INSTITUT AGAMA ISLAM NEGERI JEMBER
Description of Previous Research	
Issues and Problems:	
<div><div><div>1. How is the implementation of legal protection for workers with disabilities at PT Soerabaja Printing Indonesia?</div><div>2. How is legal protection for workers with disabilities at PT Soerabaja Printing Indonesia from the perspective of Law Number 13 Year 2003 concerning Labour?</div></div></div>	
Research Plan	
<div><div><div>1. How is the legal comparison of the implementation of the rights of persons with disabilities in accessing employment based on equality principle in Indonesia and Malaysia?</div><div>2. How effective is the implementation of right to work regulations for persons with disabilities in Indonesia and Malaysia?</div></div></div>	
Normative	Research Methods: Normative
es to compare protection against person with disabilities rights in 1 East Asia. The author found that Indonesia and several other states ost state members on conventions on person with disabilities.	



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E. Theoretical Background

1. Theory of Equality

The principle of equality dictates that all individuals, irrespective of their circumstances, background, or identity, deserve equitable treatment and access to identical opportunities and rights. This fundamental concept underpins the eradication of discriminatory practices and the promotion of just treatment, serving as the bedrock for numerous legal, social, and ethical frameworks. It underscores the necessity of a society devoid of unjust prejudices that can restrict individuals' access to essential freedoms and resources, or hinder their potential, thereby affirming intrinsic human dignity.¹⁵

Equality to access job is also subjected to the PWDs. The seemingly straightforward concept of "Equality of Opportunity," despite its widespread appeal, is riddled with complexities and disagreements.¹⁶ So much so, that scholars like Westen (1985) have questioned if it even possesses a consistent, underlying meaning, while Radcliffe Richards (1997) has suggested abandoning the term altogether. Consequently, much philosophical discourse, as seen in the works of Arneson (2018), Green (1989), and Riva (2015), focuses on dissecting and categorizing the diverse interpretations associated with it. However, a common thread emerges that the belief that a justifiable hierarchy exists, where certain factors should *not* unfairly influence an individual's success. The core of the contention lies in identifying which factors constitute unacceptable barriers to opportunity. Conceptions of Equality of Opportunity can be broadly classified along a spectrum, ranging from formal to substantive, based on the breadth of factors considered obstacles to equitable opportunities.¹⁷

Within the legal system, the theory of equality before the law, specifically as it pertains to persons with disabilities, transcends the simplistic notion of uniform treatment. It recognizes the imperative of tailored accommodations and support to guarantee authentic equality. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) provides a critical framework for this understanding. A core tenet, articulated in Article 12, affirms the universal right of persons with disabilities to legal recognition. This principle demands the respect of their legal capacity on par with others, thereby challenging historical practices that unjustly denied their legal agency based on perceived mental incapacity. Furthermore, the concept of "reasonable accommodation" is indispensable, acknowledging that achieving true equality may necessitate adjustments to legal procedures,



on Equality, The Equal Rights Trust, London 2008, Principle 5, p. 6
ky concept of 'Educational equity' – in search of conceptual clarity. *Scottish*
. <https://doi.org/10.1163/27730840-54010002>, p. 3–25.
tunity (Stanford Encyclopedia of Philosophy). 2023, August 3.
ntries/equal-
ent%20conceptions%20of%20Equality%20of,range%20of%20factors%20that

environments, and communication methods, such as accessible courtrooms, sign language interpreters, and alternative document formats.

Reinforcing this, Article 5 of the CRPD ensures that persons with disabilities are entitled to equal protection and benefit of the law, free from any discriminatory distinctions, exclusions, or restrictions that compromise their human rights. This approach necessitates a transition from formal equality, which advocates for identical treatment, to substantive equality, which prioritizes equitable outcomes. Ultimately, the theory of equality before the law for persons with disabilities mandates a proactive and inclusive legal system that actively dismantles barriers, provides essential support, and ensures the full exercise of their legal rights.¹⁸

2. Human Rights on Persons with Disability Theory

The human rights framework for persons with disabilities (PWD) is predicated on the understanding that disability is a social construct, rather than a purely medical condition. This perspective, codified in the United Nations Convention on the Rights of Persons with Disabilities (CRPD), redirects attention from attempting to "fix" individuals to addressing the societal barriers that marginalize them. The foundational theory of this framework asserts that PWD are rights-holders, possessing an inherent entitlement to the full spectrum of human rights and fundamental freedoms.¹⁹

A central tenet is the repudiation of the medical model, which historically portrayed disability as a personal misfortune or flaw. Instead, the CRPD champions the social model, which recognizes that disability emerges from the interplay between individuals with impairments and the obstacles erected by society. These barriers, whether physical, attitudinal, or systemic, impede the full and equitable participation of PWD in all facets of life. Consequently, there is a crucial need to dismantle these barriers through accessibility initiatives, inclusive policies, and public awareness campaigns.

Moreover, the CRPD advocates for "reasonable accommodation," mandating adjustments to environments, procedures, and communication methods to facilitate the exercise of rights by PWD. This principle acknowledges that uniform treatment does not ensure equality; rather, differentiated measures are often necessary to achieve equitable outcomes. Furthermore, the theory underscores the significance of participation and inclusion. PWD possess the right to be involved in their lives, and their perspectives must be valued. This



eri-Zahra, & United Nations. (2017). 'NOTHING ABOUT US WITHOUT US':
ERMINING THEIR HUMAN RIGHTS THROUGH THE UNCRPD. *Mediterranean
of Human Rights*, 1.
ary/oar/bitstream/123456789/32954/1/Nothing_about_us_without_us.pdf, p.

Mar'atussholihah, N. A. Quilo, & J. R. Yasir, (2024). Disability Law and Human
Disability & Society. <https://doi.org/10.1080/09687599.2024.2411148>, p. 1–3.

necessitates the promotion of their autonomy and self-determination, empowering them to lead independent lives.

Disability law theory is a multifaceted field, significantly shaped by the contributions of numerous scholars. Dr. Anna Arstein-Kerslake examine the disability law through a human rights perspective. Her work on legal capacity, particularly in relation to the UN Convention on the Rights of Persons with Disabilities (CRPD), underscores the importance of acknowledging the personhood and autonomy of individuals with disabilities. Furthermore, she expertly integrates critical social theory, including critical race theory, to illuminate the intersectional nature of oppression faced by disabled people.²⁰

Katherine Pérez contributes a crucial perspective to disability law theory by employing a Disability Studies and Critical Race (Dis/Crit) Legal Analysis framework. Her research reveals the intricate ways in which race and disability intersect within the legal system, illustrating how these overlapping identities result in unique experiences of discrimination. By highlighting the disconnect between disability law theory and its practical implementation, Pérez underscores the need for a more nuanced and inclusive approach to legal scholarship and practice.²¹

In essence, the human rights theory concerning PWD aims to dismantle discriminatory structures and cultivate an inclusive society where all individuals, regardless of disability, can fully exercise their rights and contribute to their communities. This requires a fundamental paradigm shift, transitioning from viewing disability as a problem to be rectified to recognizing it as an inherent aspect of human diversity.

3. Effective Theory

Effective theory dives into how laws and legal norms actually make a difference in the real world. It looks at how well these rules are put into action, followed, and enforced, rather than just existing on paper. This theory shifts the focus to the practical functioning of laws within society. Several factors come into play when it comes to how effective a law is, including how it's enforced, whether the public complies, cultural attitudes, and the political climate. Effectivity theory is especially handy for assessing whether laws succeed or fail in tackling social issues and delivering justice. However, it does face some pushback for possibly putting results



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²⁰ Ehrlich, & E. Kendall, 2023. Dignity and the importance of acknowledgement people with disability. *Qualitative Health Research*, 34(1–2). 97323231204562, p. 141.
²¹ Disability Law Stories: A Disability Studies and Critical Race (Dis/Crit) Legal analysis. 25417/uic.27152436.v1, p. 17

ahead of justice or fairness, as it often gauges success based on practical outcomes instead of ideal principles.²²

In both Indonesia and Malaysia, there are legal frameworks in place that aim to protect the employment rights of individuals with disabilities. However, several challenges stand in the way of making these laws truly effective. Issues like poor enforcement, a lack of awareness among employers, and deep-rooted societal biases often get in the way. For example, in Indonesia, the 1945 Constitution and related laws lay the groundwork for safeguarding these rights, but gaps in implementation like inadequate infrastructure and enforcement diminish their effectiveness. Likewise, in Malaysia, even though there are policies that align with international standards such as the UN Convention on the Rights of Persons with Disabilities (CRPD), societal attitudes and weak enforcement mechanisms still pose significant barriers to compliance and positive outcomes.

To tackle these challenges, we can apply effectiveness theory, which involves looking at whether the laws are well-crafted to meet their goals, if their content matches the realities on the ground, and whether there are sufficient enforcement strategies in place. By utilizing tools like the "effectiveness test," policymakers can pinpoint flaws in legislative design or execution and suggest reforms that could enhance the situation for individuals with disabilities in both countries.²³

F. Framework of Thought

The framework of this research is designed to explain the legal comparison between Indonesia and Malaysia regarding Persons with Disabilities. Legal protection for persons with disabilities is granted and guaranteed as a fundamental human right. This protection within human rights encompasses safeguards against discrimination and ensures accessibility, enabling persons with disabilities to access employment opportunities. In both Indonesia and Malaysia, the protection of persons with disabilities stems from the ratification of the Convention on the Rights of Persons with Disabilities. Subsequently, this convention has led both Indonesia and Malaysia to adopt its principles into their respective constitutions.

To further support the protection of Persons with Disabilities, both Indonesia and Malaysia have specific protections and regulations. In Indonesia, the government implements policies such as special recruitment for persons with disabilities. In Malaysia, the government provides assistance in the form of action plans where



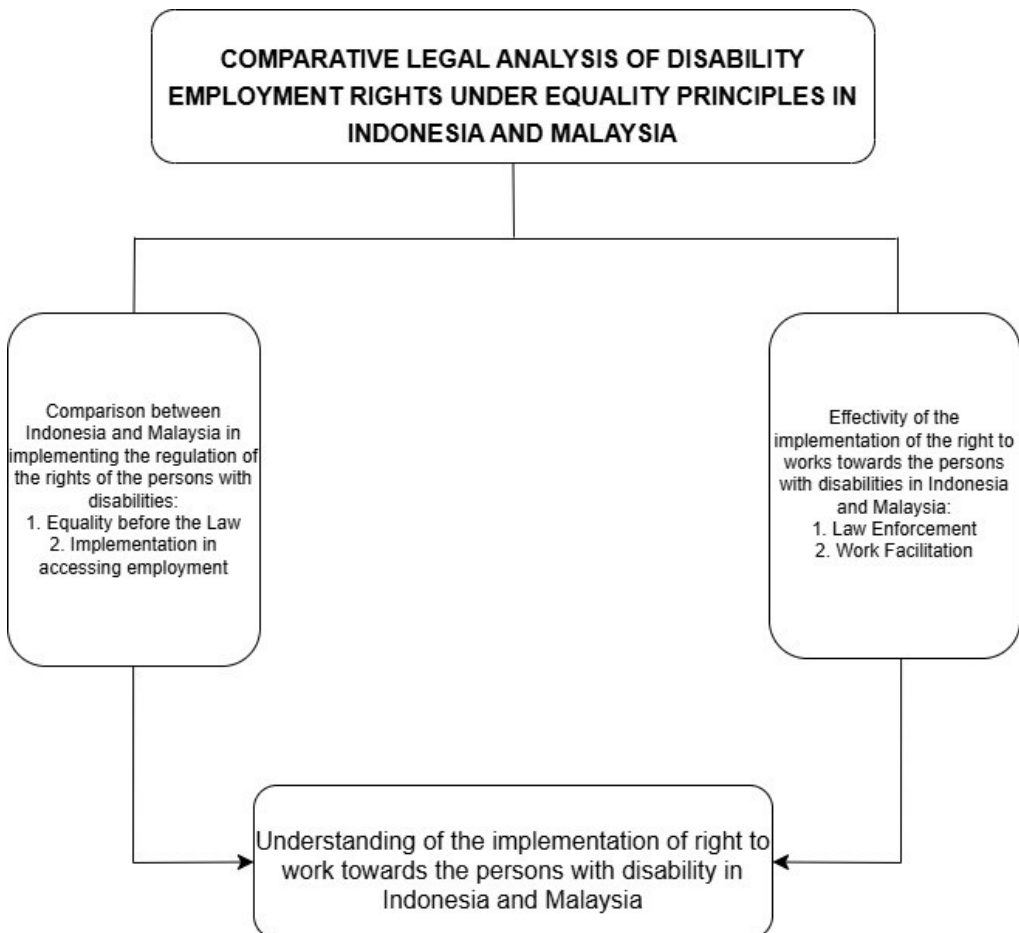
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²² The "Effectiveness Test" as a Tool for Law Reform. *IALS Student Law Review*, <https://www.ials.ac.uk/5752/1/2116-3099-1-SM.pdf>, p. 4.

²³ "Legislative Policy and Effectiveness: A Contribution from Legal Theory." *Regulation*, 9(3). <https://www.cambridge.org/core/journals/european-journal-of-legislation/policy-and-effectiveness-a-small-contribution-from-legal-theory/C9E2EDD51A4B823DA4>, p. 416.

persons with disabilities can enhance their skills to be employed within companies. Both Indonesia and Malaysia have established standards regarding the ratio of employees to persons with disabilities within a company. The work environment includes easy accessibility for persons with disabilities and specialized jobs tailored to their expertise or skills. Thus, the work environment significantly influences work facilitation within the company.

Figure 1. 1 Framework Chart



CHAPTER II

RESEARCH METHOD

A. Research Location

The author decided on the Faculty of Law Library at Hasanuddin University as the research location in order to gather data and information to address the research's issues.

B. Research Type and Approach

This study uses normative juridical methodologies. Normative research is research that aimed at analyzing primary, secondary, and tertiary legal materials²⁴ found in libraries.

The research was carried out using the following research approaches:

a. Statute Approach

Statute approach is an approach taken by reviewing all existing legislation related to the legal issues to be answered. The result of the review is an argument to answer the problems that arise.²⁵ As the primary source of reference for this research, the statute approach will concentrate on legal sources derived from legislation, such as laws, conventions, statutes, etc.

b. Comparative Approach

Comparative approach is an approach that compares the law of one country with the laws of other countries regarding the same legal issues.²⁶ The comparative approach can be applied by using elements of the legal system as a starting point for comparison. Comparisons can be made on each element of the legal system or cumulatively. The legal system includes legal structure, legal substance and legal culture.

c. Conceptual Approach

Conceptual approach is a type of approach in legal research that provides an analytical point of view of solving problems in legal research from the aspect of the legal concepts behind it, or it can even be seen from the values contained in the enactment of a regulation in relation to the concepts used.²⁷ Conceptual approach in this research will center on providing insight and research question from the standpoint of the legal concept



tian Hukum Pilihan Metode & Praktik Penulisan Artikel (Edisi Revisi).
edia. p. 134.

or from the principles embodied in the enactment of a regulation concerning the concepts employed.

C. Types and Sources of Legal Materials

Since research materials for legal studies, particularly normative ones, are gathered from the literature, they are unknown. In normative legal research, Library source materials are included in secondary legal materials.

a. Primary Legal Materials

Primary legal materials are legal materials that are authoritative.²⁸ The primary legal materials used in this research include statutes, conventions, laws and regulations, and other fundamental resources for conducting legal research.

b. Secondary Legal Materials

Secondary legal materials include jurisprudence, legal cases, textbooks authored by eminent legal scholars or experts, journals, and proceedings from recent symposia on the subject of the research.²⁹ The secondary legal materials used in this study include pertinent journals, reference books, court decisions, jurisprudence, and symposium proceedings.

c. Tertiary Legal Materials

Tertiary legal materials are legal materials that offer guidance on primary and secondary legal materials³⁰ through online dictionaries, articles, and explanations accessed via internet.

D. Legal Material Collection Technique

The legal material collection technique in this research was carried out using 2 (two) methods of legal material search techniques, namely:

1. Literature Study

Using gathered, examined primary, secondary, and tertiary legal materials to get answers and clarifications regarding the case being studied.

of the data collection method is to gather scientific data for the discussing theories and concepts that are pertinent to this



Furthermore, the author examines and cites legal materials from sources that include relevant literature, laws, and regulations. The author's collection, the Hasanuddin University Faculty of Law library collection, and the central library collection of Hasanuddin University will all provide legal materials for this project.

2. Internet Access

Websites and journals that are relevant to the legal issues in this research are accessed through internet media in order to gather legal materials. After that, the legal materials were methodically examined and developed in line with the research's formulation of the problem.

Literature study and internet access were conducted to gather relevant information, as well as to assist the author in interpreting and comparing the regulations about the disability employment right in Indonesia and Malaysia.

E. Analysis of Legal Materials

Grammatical interpretation techniques of laws and regulations are employed in the descriptive method of analysis of the legal materials used in this research. The descriptive method of analysis is used to enable the author to fully and in-depthly explain and compare Indonesia and Malaysia regulations regarding the disability employment right.

Laws and regulations are interpreted in order to determine and apply the understanding of the arguments made in the law in conformity with its common meaning. The author will first conduct research using previously published findings, and then proceed to systematically describe, adhering to the flow of systematic discussion. Then an in-depth analysis is carried out related to comparative legal analysis of disability employment rights under equality principles in Indonesia and Malaysia.

