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Beyond Barriers: Optimizing Legal Protection and Inclusive Business Policies for Disability Participation

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Abstract

Government Regulation Number 13 of 2020 has provided a strong foundation for fulfilling the right to work for persons with disabilities, the participation rate of persons with disabilities in formal employment remains low. This condition highlights a gap between the legal norm (das sollen) and the reality of implementation on the ground (das sein). This study employs a qualitative approach using empirical policy and legal analysis to identify implementation barriers and formulate solutions based on a collaborative model. The findings indicate that most companies still view inclusive policies as a mere administrative obligation, rather than a sustainable business strategy. Consequently, inclusive employment policies have not fully functioned as instruments of social transformation capable of achieving equality in job opportunities. Therefore, efforts are needed to optimize legal protection and develop an inclusive business policy model that not only strengthens compliance with regulations but also cultivates the value of sustainability and social justice in business practices. In this context, the research proposes the Three-Pillar Inclusive Business Policy Model, which includes: Regulation and Incentives, Internal Corporate Transformation, Collaboration and Inclusive Capacity this model is a collaborative approach based on inclusive governance that emphasizes the synergy between law, public policy, and corporate practice to reinforce an inclusive, human-value-oriented employment ecosystem.

INTRODUCTION

The development of the economy and the business world in the era of globalization demands an inclusive and equitable labor system. The "no one left behind" principle in the Sustainable Development Goals (SDGs) agenda emphasizes that persons with disabilities are an integral part of economic and social development who must not be marginalized. However, in Indonesia, the participation of persons with disabilities in the workforce is still far from ideal. Based on 2022 data from the Central Statistics Agency (BPS), there are 22.97 million

persons with disabilities, but only 7.48% are actively engaged in formal employment.¹ This means that over 90% of working-age persons with disabilities have not been absorbed into the formal workforce, which has implications for the loss of potential national productivity and welfare.

The Law of the Republic of Indonesia Number 8 of 2016 concerning Persons with Disabilities explicitly guarantees the right to work and mandates a minimum employment quota of 2% for the public sector and 1% for the private sector.² However, the implementation on the ground reveals a significant gap between *das sollen* (what ought to be) and *das sein* (what is happening). Normatively (*das sollen*), Indonesia possesses a strong legal framework to ensure equal rights for persons with disabilities. Yet, empirically (*das sein*), policy implementation remains weak and often merely administrative. The International Labour Organization (ILO) notes that the chance for persons with disabilities to gain employment is 76% lower than for non-disabled individuals. This indicates the persistence of structural, social, and cultural barriers that have yet to be systematically addressed.³

From the regulatory perspective, derivative regulations of Law No. 8 of 2016, such as Government Regulation (PP) No. 13 of 2020 on Reasonable Accommodation for Persons with Disabilities in the Workplace, have not fully answered the technical needs of companies.⁴ Many businesses lack a guideline on how to implement reasonable accommodation, adapt recruitment processes, or build a universal design system in the workplace. This condition indicates that the biggest challenge is not the lack of regulation, but the weakness of implementation instruments and institutional awareness.

Various prior studies have highlighted the inhibiting factors and opportunities in implementing inclusive labor policies. Schur, Kruse, and Blanck (2005) demonstrated that an organizational culture supporting diversity is a key factor in the successful recruitment of workers with disabilities in developed countries.⁵ Bonaccio et al. (2020) affirmed that the success of disability participation depends on positive perceptions and organizational

¹ Badan Pusat Statistik (BPS). 2022. *Data Penyandang Disabilitas di Indonesia*. Jakarta: BPS.

² Undang-Undang Nomor 8 Tahun 2016 tentang Penyandang Disabilitas. *Lembaran Negara Republik Indonesia Tahun 2016 Nomor 69*.

³ International Labour Organization (ILO). 2021. *Employment and Disability: Inclusive Labour Market in ASEAN*. Geneva: ILO.

⁴ Peraturan Pemerintah Nomor 13 Tahun 2020 tentang Akomodasi yang Layak di Tempat Kerja. *Lembaran Negara Republik Indonesia Tahun 2020 Nomor 23*.

⁵ Schur, L., D. Kruse, and P. Blanck. "Corporate Culture and Employment of Persons with Disabilities." *Behavioral Sciences & the Law* 23, no. 1 (2005): 3–20.

readiness toward the value of inclusion.⁶ A cross-country study by Morwane, Dada, and Bornman (2021) found that the greatest obstacles in developing countries lie in weak cross-sector coordination and minimal law enforcement.⁷ In the context of Indonesia, Dahlan and Anggoro (2021) identified that the implementation of the right to work for persons with disabilities in the public sector is still hampered by the medical paradigm, which has not yet fully shifted to the social paradigm.⁸

Nevertheless, previous research has tended to focus on either the normative legal aspects or the socio-cultural dimensions without simultaneously integrating policy approaches and business practices. This is where the state of the art of the present study lies. This paper provides a new contribution through the development of a Three-Pillar Inclusive Business Policy Model comprising: Regulation and Incentives, Internal Corporate Transformation, Collaboration and Inclusive Capacity this serves as a conceptual model that merges legal aspects, public policy, and corporate practice within a single framework of inclusive governance. In contrast to previous studies that often position inclusion as an administrative obligation, this model views inclusivity as a strategic value and a social investment that can simultaneously strengthen social justice and national economic growth.

Starting from the above discussion, this research attempts to answer the main question: how can the optimization of legal protection and an inclusive business policy model strengthen the participation of persons with disabilities in the business world in Indonesia? To answer this question, the research uses a qualitative method with a policy study approach and empirical legal analysis. Data was collected through in-depth interviews with various stakeholders, ranging from government representatives (Ministry of Manpower), HRD managers of companies, to organizations of persons with disabilities (OPDs), and labor law academics. Additionally, the research also employs thematic analysis to identify major patterns in policy implementation and connect them with international standards.⁹

The main argument of this research asserts that legal regulations without an inclusive business strategy will not result in meaningful social transformation. Legal protection needs

⁶ Bonaccio, S., C. E. Connelly, I. R. Gellatly, A. Jetha, and K. A. Martin Ginis. "The Participation of People with Disabilities in the Workplace Across the Employment Cycle." *Journal of Business and Psychology* 35, no. 2 (2020): 135–158.

Morwane, R. E., S. Dada, and J. Bornman. "Barriers to and Facilitators of Employment of Persons with Disabilities in Low-and Middle-Income Countries." *African Journal of Disability* 10, no. 833 (2021): 1–10

⁸ Dahlan, M., and S. A. Anggoro. "Hak atas Pekerjaan bagi Penyandang Disabilitas di Sektor Publik." *Undang Jurnal Hukum* 4, no. 1 (2021): 20–37.

⁹ Braun, V., and Clarke, V. *Thematic Analysis: A Practical Guide*. Berlin: Springer, (2024): 1–32.

to be accompanied by economic incentives, accessibility audits, and cross-actor collaboration to create an equal working world. Therefore, a new approach based on inclusive governance is required through the **Three-Pillar Inclusive Business Policy Model**: 10

- 1. **Pillar of Regulation and Incentives**, which involves strengthening technical policies and providing fiscal incentives for companies that exceed the quota.
- 2. **Pillar of Internal Corporate Transformation**, which encourages universal accessibility audits, implementation of inclusive work design, and a zero tolerance policy against discrimination.
- 3. **Pillar of Collaboration and Inclusive Capacity**, which involves building strategic partnerships among the government, the private sector, and organizations of persons with disabilities (OPDs) in training, recruitment, and mentoring of disabled workers.

Through the application of the **Three-Pillar Inclusive Business Policy Model**, this research seeks to change the paradigm from compliance-based inclusion (merely fulfilling quotas) toward value-based inclusion (making inclusivity a core company value). Consequently, persons with disabilities can act as a strategic asset for national economic development, not merely a formally protected group.

GENERAL FRAMEWORK AND EMPIRICAL FINDINGS

This research finds that although the legal framework for the protection of persons with disabilities in Indonesia has been comprehensively regulated through Law Number 8 of 2016 concerning Persons with Disabilities and Government Regulation Number 13 of 2020 concerning Reasonable Accommodation in the Workplace, its implementation still faces various technical and structural obstacles. These regulations provide a clear normative basis regarding the right to work and the obligation of employers to provide an accessible work environment; however, in practice, many companies have not implemented the principles of inclusion in accordance with the mandate of the law.

Field findings through interviews with ten informants consisting of officials from the Ministry of Manpower, company HRD managers, disability organization activists, legal academics, and disabled workers indicate that most companies still view the fulfillment of the disability employment quota as merely an administrative obligation, and not as part of a

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¹⁰ Deswari, M.P. Policy Brief: Kebijakan Tiga Pilar Menuju Dunia Kerja Setara. Padang: Universitas Adzkia, 2025.

sustainable business strategy.¹¹ Only a small fraction of companies, especially in the technology and services sectors, have conducted regular accessibility audits and prepared a universal design plan in their work environment.

Data from the Central Statistics Agency (BPS) in 2022 reveals that out of a total of 22.97 million persons with disabilities in Indonesia, only 7.48% participate in the formal workforce. This fact demonstrates a gap between *das sollen* (the normative necessity regulated in law) and *das sein* (the empirical reality in the field). The majority of persons with disabilities work in the informal sector without adequate social security and legal protection.

JURIDICAL ANALYSIS: THE IMPLEMENTATION GAP

Legal analysis indicates a structural gap between the legal norms and their implementation (law in the book vs law in action). 12 Technical derivative regulations, such as the Minister of Manpower Regulation, should provide operational guidelines related to the implementation of reasonable accommodation, inclusive recruitment mechanisms, and accessibility audit standards. However, to date, there is no uniform and binding legal instrument that can be used by the business world to ensure compliance. 13

Another obstacle identified is the weak mechanism for supervision and law enforcement.¹⁴ Based on interviews with Social Service officials, as of 2023, no administrative sanctions have been applied to companies that violate the disability employment quota provisions.¹⁵ This reflects the low effectiveness of legal norms in achieving the goals of protection and empowerment. In the context of Soerjono Soekanto's theory of legal effectiveness, a regulation that lacks coercive power will find it difficult to create changes in social behavior.¹⁶

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¹¹ Soekanto, Soerjono. *Efektivitas Hukum dan Penerapan dalam Masyarakat*. Jakarta: Raja Grafindo Persada, (2019): 15-60.

¹² Itasari, Eka Rahayu. "Perlindungan Hukum terhadap Penyandang Disabilitas di Kalimantan Barat." *Jurnal Integralistik* 31, no. 2 (2020): 125–138.

¹³ Pinilla-Roncancio, M., and N. Rodríguez Caicedo. "Legislation on Disability and Employment." *International Journal of Environmental Research and Public Health* 19, no. 9 (2022): 5460–5475.

¹⁴ Organisation for Economic Co-operation and Development (OECD). *Disability, Inclusion and Labour Markets*. Paris: OECD Publishing, 2021.

¹⁵ World Bank. *Inclusive Growth and Labour Participation Report*. Washington, D.C.: The World Bank, 2023.

¹⁶ Eldiva, F. T., R. A. Jofipasi, and R. Annisa. "Peningkatan Kesadaran dan Penerimaan terhadap Individu Disabilitas." *JPPKh Lectura* 1, no. 2 (2023).

Aside from regulatory aspects, non-legal constraints such as strong social stigma against persons with disabilities among business actors were also found.¹⁷ The majority of HRD managers perceive persons with disabilities as unproductive and requiring additional costs in the work adaptation process.¹⁸ In contrast, research by Bonaccio et al. (2020) shows that disabled workers have higher levels of loyalty and retention compared to non-disabled workers when the work environment supports their needs.¹⁹

THE THREE-PILLAR INCLUSIVE BUSINESS POLICY MODEL AND ITS LEGAL IMPLICATIONS

Following the empirical findings and juridical analysis, this research formulates the Three-Pillar Inclusive Business Policy Model as a conceptual framework that integrates the roles of the state, the business world, and organizations of persons with disabilities (OPDs). This Model emphasizes that achieving inclusive employment cannot rely solely on normative regulation but must be strengthened through cross-actor strategies that are implementative, participatory, and sustainable. This approach reflects the paradigm of inclusive governance, where the success of public policy is determined by the extent to which non-state actors participate in the process of policy formulation and implementation.

The first pillar, Regulation and Incentives, focuses on strengthening the legal basis and providing stimulus for business actors. The government needs to issue technical derivative regulations of Government Regulation Number 13 of 2020 that govern the mechanisms for reasonable accommodation, accessibility audits, and procedures for reporting the disability employment quota. Furthermore, the government can implement a reward system in the form of fiscal incentives, tax reductions, or "inclusive company" certification for entities that exceed the quota target. This step aligns with international best practices, such as the Disability Confident Scheme in the UK and the Inclusive Employer Program in Australia, which have been proven to increase business compliance with inclusive employment policies.²⁰ From the perspective of state administrative law, such incentive

¹⁷ Hall, Dawn M., and Ruth Steiner. "Policy Content Analysis: Qualitative Method for Sub-National Legislation." *MethodsX* 7 (2020): 100787 (1–8).

¹⁸ Sheppard-Jones, Kathleen, Diana Hall, and Ruth Steiner. "Reframing Workplace Inclusion through Universal Design." *Journal of Vocational Rehabilitation* 54, no. 1 (2021): 11–22.

¹⁹ Arrivanissa, Dwi Septia. "Mewujudkan Hak dan Kesempatan Kerja bagi Penyandang Disabilitas." *El-Dusturie* 2, no. 1 (2023): 44–55.

²⁰ European Commission. Strategy for the Rights of Persons with Disabilities 2021–2030. Brussels: European Union, 2021.

policies strengthen the principles of rechtmatigheid (lawfulness) and doelmatigheid (effectiveness) in the implementation of employment legal norms.

The second pillar, Internal Corporate Transformation, positions corporate social responsibility (CSR) as an integral part of the employment legal system. Companies need to internalize the values of equality into their human resources policies, recruitment mechanisms, and work design. This includes conducting an accessibility audit, implementing universal design, and providing disability awareness training for all employees. Thus, inclusion is no longer understood as an external obligation originating from the state, but rather as a corporate value inherent in the company's governance. The implementation of this principle strengthens the principle of non-discrimination as stipulated in Articles 5 and 6 of Law Number 13 of 2003 concerning Manpower, and broadens the meaning of good corporate governance from mere legal compliance towards ethical business practices with social justice.²¹

The third pillar, Collaboration and Inclusive Capacity, affirms the importance of synergy among the government, the private sector, vocational training institutions, and OPDs in building an inclusive employment ecosystem. The government can facilitate joint training programs and a mentorship network involving disability experts, academics, and industry players. This collaboration not only increases the competency of disabled workers but also fosters the business world's trust in their capacity. From the legal aspect, this model strengthens the principle of meaningful participation as affirmed in Article 27 paragraph (1) of Law Number 8 of 2016, where persons with disabilities are recognized as subjects of development, not merely recipients of benefits.

Overall, this Three-Pillar Inclusive Business Policy Model has broad legal implications. First, the model expands the meaning of rechtstaat from merely a formal legal state to a legal state that guarantees substantive justice for vulnerable groups. Second, the model affirms the principle of shared responsibility between the government and the private sector in guaranteeing the constitutional right of citizens to work. Third, the model builds a collaborative framework that can be used as a reference in formulating derivative policies, such as the Minister of Manpower Regulation on Guidelines for the Implementation of Reasonable Accommodation and the National Accessibility Audit Instrument.

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²¹ Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan. Lembaran Negara RI No. 39 Tahun 2003.

By implementing these three pillars, inclusive employment policies in Indonesia can transform from a compliance-based inclusion approach to value-based inclusion, making inclusivity a strategic value in national economic development. This approach not only fulfills the mandate of positive law but also strengthens the ideal of social justice as contained in the fifth principle of Pancasila.

Table 1. Implementation Strategy of the Three-Pillar Model and Its Legal Instruments

Policy Pillar	Focus of Implementation Strategy	Legal Instruments and Normative Basis	Expected Output
I. Regulation and Incentives (Government)	Formulation of technical regulations for the implementation of reasonable accommodation and quota reporting mechanisms; implementation of fiscal incentives for inclusive companies.	Disabilities. Minister of	Formulation of operational derivative regulations and a digital-based quota reporting system; increased business compliance.
II. Internal Transformation (Company)	Integration of equality and inclusion principles into HR policies; disability awareness training and annual accessibility audits.	- OJK's Good Corporate Governance Guidelines (2015).	Establishment of an inclusive work culture and a non-discriminatory recruitment system in companies.
III. Collaboration and Inclusive Capacity (OPD– Private Sector– Government)	Development of joint training programs, mentorship networks, and disability talent pools; vocational and industrial collaboration.	2016 RPJMN 2025–2029 Inclusive Employment Sector Memorandum of	inclusive employment ecosystem;

Policy Pillar	Focus of Implementation Strategy	Legal Instruments and Normative Basis	Expected Output
		between institutions (cross-sectoral	
		MoUs).	

The table above shows that the success of inclusive employment policies highly depends on the synergy between regulation, internal corporate transformation, and cross-sectoral collaboration. The three pillars are mutually reinforcing: regulation provides legal certainty, internal transformation fosters a culture of equality, while collaboration creates a sustainable policy network. This Model affirms the principle of co-regulation between the government and the business world as stated in Articles 11 and 53 of Law Number 8 of 2016, while also supporting SDG 8 – Decent Work and Economic Growth which positions workforce inclusion as a key instrument for social justice and sustainable economic growth.

NORMATIVE AND SOCIOLOGICAL IMPLICATIONS

Normatively, inclusive employment policy for persons with disabilities in Indonesia is deeply rooted in constitutional principles as stipulated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that every citizen has the right to work and a livelihood worthy of human dignity.²⁴ This principle is reinforced by Law Number 8 of 2016 concerning Persons with Disabilities, which affirms the right of persons with disabilities to obtain employment opportunities without discrimination, as well as Government Regulation Number 13 of 2020 which regulates the obligation of employers to provide reasonable accommodation in the workplace. Thus, the state normatively has a legal obligation to ensure the fulfillment of this right through operational and enforceable policy instruments.

However, the effectiveness of legal norms often depends on the extent to which these regulations can be translated into institutional practice. In this context, the weak supervision and the lack of a clear sanction mechanism for violations of the disability employment quota

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²² Tarsidi, D. "Implementasi Akomodasi yang Layak di Tempat Kerja bagi Penyandang Disabilitas." *Jurnal Pendidikan Khusus* 16, no. 3 (2020): 200–215.

²³ United Nations ESCAP. Disability-Inclusive Employment Policies in Asia and the Pacific. Bangkok: UN ESCAP, 2022.

²⁴ Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 27 ayat (2).

indicate a gap between the legal norm (law in the book) and its implementation (law in action). The effectiveness of law is greatly determined by the balance between the substance, structure, and legal culture of society. If any one element weakens, the law only functions as a normative symbol without transformational power. Therefore, more concrete policy instruments are needed, such as a National Disability Employment Dashboard to strengthen data-based law enforcement and increase public transparency regarding corporate compliance.

From a sociological perspective, the implementation of inclusive business policies not only impacts the increase in the welfare of persons with disabilities but also has the potential to strengthen social cohesion and national productivity. This approach shifts the old paradigm from charity-based towards a rights-based approach, where persons with disabilities are recognized as subjects of development and economic actors with a real contribution. Thus, inclusive policy is not just fulfilling a moral or legal mandate, but also becomes a sustainable economic development strategy that expands the basis of national productivity.

Socio-culturally, the implementation of this policy can accelerate the normalization process of diversity in the workplace. When companies provide reasonable accommodation, remove physical and digital barriers, and conduct disability awareness training, an ecosystem is formed that respects differences and strengthens solidarity among workers. This aligns with the spirit of Pancasila, especially the second and fifth principles, which emphasize the values of humanity and social justice for all people of Indonesia. Therefore, inclusive policy has a dual value: strengthening the rule of law while deepening social justice as the foundation of a living and just legal state.

FINAL ANALYSIS

From all the findings above, it can be concluded that the main obstacle to the implementation of inclusive policy in Indonesia is not a lack of law, but the weakness of implementation and supervision instruments.²⁶ Therefore, the effectiveness of the law needs to be strengthened through a multi-level approach that includes the formation of technical regulations, the transformation of organizational culture, and cross-sectoral collaboration.

²⁵ Priyono, E., "Kebijakan Inklusif di Dunia Usaha: Perspektif Hukum dan Ekonomi," *Jurnal Transformasi Hukum* 5, no. 2 (2021): 55–70.

²⁶ Harahap, F. 2022. "Efektivitas Regulasi Ketenagakerjaan dalam Konteks Inklusi Disabilitas di Indonesia." Jurnal Hukum Progresif 10 (2): 66–80.

By adopting the Three-Pillar Inclusive Business Policy Model, the state can carry out its constitutional mandate in guaranteeing equal employment opportunities, while companies can practice legally-based social responsibility. Within the framework of modern law, this approach not only fulfills the aspect of the rule of law but also supports the principle of social justice as mandated in Pancasila.

CONCLUSION

This research concludes that the national legal framework governing the rights of persons with disabilities in the employment sector is adequately provided through Law Number 8 of 2016 concerning Persons with Disabilities and Government Regulation Number 13 of 2020 concerning Reasonable Accommodation in the Workplace. However, the effectiveness of its implementation still faces substantive and structural obstacles. The gap between the legal norm (das sollen) and the reality of implementation (das sein) is evident from weak technical instruments, minimal supervisory mechanisms, and the lack of an established inclusive culture within the business world. This condition indicates that the existence of sound legal norms does not automatically guarantee social change without the support of a strong implementation system.

From the results of the field research, it is known that most companies still treat inclusive policy as an administrative obligation, not as part of a sustainable business strategy. Yet, empirical data and literature show that persons with disabilities can make significant contributions to productivity provided they receive reasonable accommodation and adequate accessibility. Thus, the main issue lies not in the absence of law, but in the weak internalization of equality and diversity values within corporate policy and the lack of government intervention in promoting the enforcement of employment inclusion norms.

As a follow-up, the implementation of the Three-Pillar Inclusive Business Policy Model is required. This model encompasses strengthening regulations and incentives through operational technical regulations, internal corporate transformation so that the principle of equality is integrated into human resource policies and sustainability reports, and cross-sectoral collaboration between the government, the business world, and organizations of persons with disabilities. The implementation of this model will not only have implications for increasing legal compliance but also support sustainable economic growth and social

justice. Accordingly, inclusive employment policy should be viewed not as a regulative burden, but as a strategic investment toward equitable national development.

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