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Nada Sakinah

Ministry of Energy and Mineral Resources, Jakarta, Indonesia; Indonesia

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Implementation of Public Servant Recruitment Towards Disabilities in Jakarta and East Java

NADA SAKINAH

Ministry of Energy and Mineral Resources, Jakarta, Indonesia
nadasakinah@yahoo.com

Abstract. The Constitution of Republic of Indonesia guarantees every citizen – without exception – to have the equal right to get a proper occupation and a decent living, for humanity, this means citizens with disabilities have the same right along with others; this research describes the implementation of policies related to recruitment of civil servants, especially where disabled people are involved as applicants. By applying qualitative method, data collection of this research is done through an in-depth interview and supporting data on recruitment process from related institutions. This research had captured problems within recruitment process for disabled people in every aspect of recruitment such as human resources (HR) planning, job analysis, HR formation, HR procurement and portrayed problems that government agencies face to implement the non-discrimination and affirmative action principles to disabled people in their recruitment processes.

Keywords: implementation of policy, disabled people, recruitment, affirmative action

Abstrak. UUD RI 1945 menjamin semua warga negara, tanpa terkecuali, memiliki hak yang sama untuk mendapatkan pekerjaan yang layak dan hidup karena kemanusiaan, termasuk warga penyandang cacat; penelitian ini menggambarkan pelaksanaan kebijakan yang berkaitan dengan perekrutan pegawai negeri, terutama dalam kasus penyandang cacat. Dengan menggunakan metode kualitatif, pengumpulan data dalam penelitian ini dilakukan dengan wawancara mendalam dan data pendukung dari proses perekrutan instansi terkait. Penelitian ini telah menangkap masalah dalam perekrutan penyandang cacat dalam setiap aspek dari proses perekrutan seperti perencanaan kebutuhan sumber daya manusia (SDM), analisis jabatan, formasi SDM, pengadaan SDM dan menggambarkan masalah yang dihadapi instansi pemerintah untuk menerapkan prinsip-prinsip non-diskriminasi dan tindakan afirmatif kepada penyandang cacat dalam proses perekrutan mereka.

Kata Kunci: kebijakan implementasi, penyandang cacat, perekrutan, tindakan afirmatif

INTRODUCTION

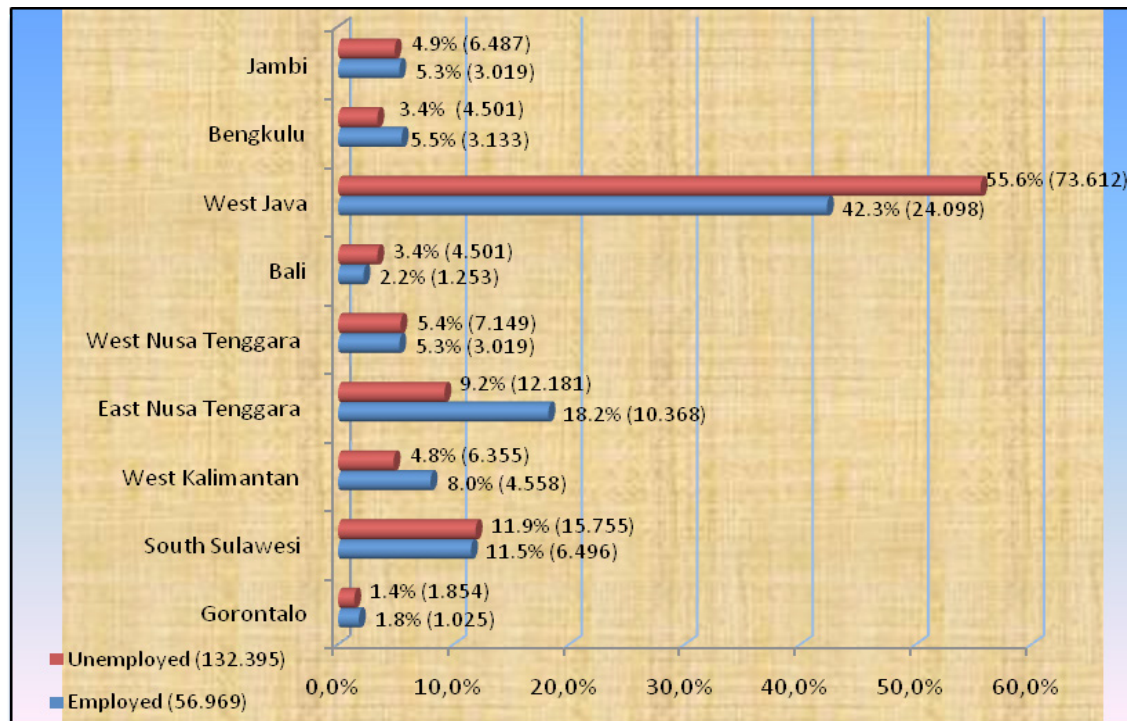
No one is perfect, physically or non-physically (ability, attitude, habit). This is not the rationale to everyone who is lack of normal physical condition to live and survive as a normal human being. A disabled person has the same rights—and duties—as other “normal” human. One of these rights is have an equal position to get an employment.

Numbers of countries have stipulated in their constitutions the same right and equal opportunity for the disabled people to have jobs. The German Law on Severely Disabled People stated: “Every employer with at least 20 posts must set aside five percent of their jobs and training places for severely disabled persons as a priority”. Such matter was regulated by British government since 1944, in such policy “Disabled People (Employment)” mandated that every institution has to employ 3% of disabled people (Maharramova, 2001). Like countries already mentioned above, Indonesia also has a robust constitution towards which supports the disabled people in order to apply any kind of jobs, as stated in chapter 27 verse (2) of The 1945 Constitution: “Every citizen has the right for a proper occupation and a decent living, for humanity”. In reality, this statement

serves only as a maxim.

In Indonesian context, there are still discriminations of rights towards disabled people to access available jobs, like Wuri Handayani has experienced. She was declined by the City Government of Surabaya to participate in Civil Servant Selection for the reason of her disabled condition (Hukumonline, 2006). Instead of considering the aspects of her quality or capability in making a decision, the City Government based their judgement on the physical appearance. They assumed that the physical limitation would hamper the mobility of a disabled person to work, and this circumstance would eventually affect the organization’s performance. Coleridge (1997: 282) contended what is called as “the matter” for the disabled people is the result of ‘normal’ people’s creation, and then the world’s attitudes towards the disabled, who refuse to accept them. So someone is labeled as disabled because of other’s perspectives who see them as disabled. The consequence is prejudice and discrimination”.

Other than Wuri, there are many disabled people who also still receive similar treatment. Atung Yunarto was also declined when he applied in the City of Surabaya, but luckily he was able to register, and finally employed, in Sidoarjo, a neighboring city of Surabaya. Abdul Syakur



**Figure 1. Percentage of the Number of Disabilities in Productive Ages (18-60 year)
Based on Employment Status**
Source: www.ptsi.go.id (2008)

applied and was accepted as a candidate of Public Servant in the government of East Java Province. Isnawati also had the same experience, she was employed as candidate of Civil Servant at YPAC Surabaya since 1986 (Menko Kesra, 2007). The reason was that the prevailing law, has clearly regulated that all institutions around the country should contribute to eradication of discrimination towards the disabled when applying for employments.

Based on the data from Ministry of Social Affairs, in 2008 the number of people with disabilities in Indonesia reached 1.544.184. Based on the survey from Indonesia Surveyor in collaboration with Ministry of Social Affairs of Republic of Indonesia in nine provinces (Jambi, Bengkulu, Bali, West Nusa Tenggara, East Nusa Tenggara, West Kalimantan, South Sulawesi, Gorontalo and West Java) there were 299.203 people with disabilities. Out of 299.203 persons, 189.364 of them are in the productive age of 18-60 years old (www.ptsi.go.id, 2008).

Declining number of disabled people in the selection process to be public servants, is something that contravene the Human Rights for applying for jobs and employment. Besides the violation of the constitution, it also denies the conventions of the United Nations which the Government of Indonesia has ratified, they are International Covenant On Economics, Social and Cultural Rights (Constitution Number 11/2005) and International Covenant On Civil and Political Rights (Constitution Number 12/2005), (Hukumonline, 2006). Besides, the rejection of an

institution to employ disabled people is also the violation of the Law Number 4, year 1997 chapter 5 about Disabilities, which clearly stated that: "Each person with disabilities has the same right and opportunity in every aspect of life and work." While chapter 6 stated "a point of the right for a person with disabilities is that every disabled person can access available jobs and works according to the level of disability, education, and capability". This chapter becomes the fundamental point of the law in order to keep the person with disabilities in the workforce.

Related to Government Regulation Number 43 Year 1998 which stated that the effort to increase social welfare of the disabled people, Chapter 28 mandated that "Employer has to employ at least one disabled person who fulfilled the requirements and job qualification as an employee for every one hundred employees hired by the company". If the discrimination is kept going, then the future of persons with disabilities would become hazy as nobody wants to be born with physical disabilities. As a matter of fact, as proverb says 'jauh panggang dari api' which means, that the attention given to the fate of people with disabilities to apply for jobs is too scarce.

The decision of 1% quota towards these disabled people should also be regulated in Management of Civil Servant. This is like what Maharramova (2001) suggested: "The civil service should be the leader of promoting the equal employment opportunities towards people with disabilities

– only in this case it can be viewed as truly representative, diverse and trustworthy”. People with disabilities will not feel discriminated if government institutions, as well as private agencies, develop appropriate management, starting from recruitment process until retirement. Even the accessibilities for people with disabilities, in order to adapt with their work place environment, must be planned well in a proper manner.

The study applied by Research Development Center of National Public Servant Board required three things in the process of civil servant selection at government institutions which were not fulfilled yet. They are transparency, objectivity and consistency of selection (Herman, 2006). Therefore the principle of professionalism has to be improved in public servant management of all institutions, specifically in the recruitment process where it involves dissemination of job opportunities to people with disabilities. There is no discrimination in civil servant management in terms of gender, ethnics, religion, race, and other communities as well as discrimination towards the disabled.

Disclosure II related to the Regulation from the Head of National Public Servant Board Number 30 Year 2007 stated that facilities for disabled people must suit their needs, for example there must be an assistant or a reader for a person with visual impairment. Based on the interview with a visually-impaired person, Made Adigunawan, who said that out of seven attendance in civil servant selection, there were only two departments that provided a contributor as a reader namely Ministry of Social Affairs and Ministry of Religious Affairs. Based on this testimony, there is still a discrepancy of treatments provided among government institutions during civil servant selection, whereas the regulation stated that the policy must be implemented in every department / institution.

In order to view the principle of non-discrimination in civil servant management, there must be a careful attention given towards the related constitutions. Chapter 16 Article (2) of Law Number 43 year 1999 strongly emphasized this principle of non-discrimination: “Every citizen of the Republic of Indonesia has the equal opportunity to apply for a job as public servant after fulfilling the requirements”. Whereas, the Constitution Number 4 Year 1997 about Disabilities Chapter 5 and 6 has already been mentioned above. The entire chapter is the strong legal foundation for people with disabilities to have the same opportunity in applying jobs even as civil servant. If there were government institutions who refuse to share opportunities to people with disabilities to apply for job in that institution, then those institution has clearly violated Indonesian laws.

According to Armstrong (2003), Human Resource Management (HRM) is a strategic and coherent approach to the management of an organization’s most valued assets: the people working there who individually and collectively contribute to the achievement of its objectives. Recruitment process is one of the management activities in the Human Resource Management (HRM). Prior to recruitment, there must be an organizational planning step which must be done first. This planning step consists of Human Resource Planning, Job Analysis, and Job Arrangement. Armstrong (2003) also mentioned Human Resource Planning as a prediction of Human Resource needs and interests of an organization at a period of time. The targets of recruitment and selection process are to satisfy the need of Human Resources based on the capability and competence, and formulated according to the need analysis of the organization.

Public management is an interdisciplinary study of common aspects of an organization and the integration among different management functions such as, planning, organizing, and controlling aspects in one part, using human resource, financial, physical, information and political aspects in another part (Pasolong, 2008:38). Sedarmayanti (2007) stated that Public Servant Management is the total efforts to increase the efficiency, effectiveness, and the quality of professionalism in doing the task, function and the duty as public servant that consists of planning, organizing, quality development, placement, promotion, payoff, welfare, and retirement. One aspect in civil servant management is recruitment process.

In this study, the definition of policy implementation in relation to civil servant recruitment process, starting from public servant needs analysis up to public servant provision. McKenna (1995) mentioned that recruitment is the process of having a number of applicants to change the vacancy. Recruitment process is aimed to provide a large number of applicants in order that the organization would be able to select the available candidates based on the need of the organization (Stoner and Freeman, 1994). Employee recruitment process covers civil servant planning, job analysis, formation, and civil servant / employee provision (Yullyanti, 2009).

Recruitment is an important function of Human Resource Management (HRM) and it is interesting because practically it is affected by three key important points which are different and even contrasting each other, namely: (1) social equity, include in affirmative action, (2) Managerial efficiency, and (3) political responsiveness (Gomes, 1995). Practically, in Human Resource Management, there are some certain groups in civil society, like minority groups, seen from aspects

Table 1. Public Servant with Disabilities at Ministry of Social, Republic of Indonesia

Num	Types of Disabilities	Sum
1	Deaf and Mute	1
2	Mental Disabled	1
3	Unsociable	1
4	Physical Disabled	23
5	Blind	33
Total		59

like religious beliefs, race, ethnicity/local community, disability status, or women, who is lack of equal treatments in Human Resource Management. The affirmative action is a conscious movement and improvement over these suppressions/shortcomings. Affirmative action has a function as mediator that affects towards procurement process and as a way of a public institution to recruit, select, decide, promote, and place a public employee to work. Affirmative action is also public measurement to propose the appropriateness of organization's decision over the proportion of delegation related to the percentage of the community from each part of society at large (Gomes,1995).

RESEARCH METHODS

This research is categorized as a descriptive study, using field research and the technique being employed for data collection is in-depth interview; and research of supporting data on recruitment process from related institutions based on the study. The study took place in two provinces namely DKI Jakarta and East Java, and the sample was taken from four cities, they are Surabaya, Sidoarjo, Bekasi, and DKI Jakarta. These cities are chosen as samples because they encountered big problems in civil servant recruitment in the relation with the people with disabilities in these four cities. One limitation of the study is that the informants being interviewed at this study were not the representatives of disabled people from all regions in Indonesia. Therefore the informants who were chosen, in this case disabled people, reported only general overview/performance over the problem found by researcher.

RESULT AND DISCUSSION

Civil Servant recruitment process consists of four steps, they are: Needs Analysis, Job Analysis, Employee Formation, and Employee Provision. The regulation which set out these four steps is the Regulation of the Head of National Public Servant Board (Perka BKN) Number 26 Year 2004. Another regulation set out Civil Servant

Formation and Regulation of the Head of National Public Servant Board Number 30 Year 2007 about The Guideline of Civil Servant provision. There is no detail regulation about the steps of planning in Needs Analysis and Job Analysis of Civil Servant. These two steps are implicitly regulated in the Regulation of the Head of National Public Servant Board Number 26 Year 2004.

Public employee planning need is related to the process of job analysis encountered by certain organizations. The Regulation of the Head of National Public Servant Board Number 26 Year 2004 stated that: "Job Analysis is a process, method, and technique of getting data about job, and then proceeds to become job information. Job Information in this case is the result of job analysis in form of job description and job/task mapping." According to Mondy (2008) Job analysis is the systematic process to decide certain skills, tasks, and knowledge needed to apply a job in any organization. In job analysis it is called as job description and job specification. A Job description is a document which shares information in relation with tasks, duties, and responsibilities of a certain job, while job specification is the required minimum qualification that belongs to everyone in order to get a certain job (Mondy, 2008). In job specification, job requirements or the requirements of qualifications from anyone who would like to apply certain job are developed. In job analysis there has to be an opportunity for the disabled people to apply for the job. The actual and accurate job information dissemination should consider a chance for disabled candidates. The standardized composition of a job description is the set of activities being used (tools / facilities to work). Through a job description, these facilities can be classified, so it is possible for people with disabilities to evaluate their personal competence to work in that job.

National Public Servant Board can play a role in delegating the process of job analysis in public institutions, both at the central and local government. By delegating this process, National Public Servant Board is expected to give suggestions to other institutions in relation with what facilities should be used by disabled persons in the workplace. Therefore, there are some actions which can

be done from National Public Servant Board to enable and empower people with disabilities to work as public servants. However, in current reality, National Public Servant Board has not applied this policy yet. The Director of Standardization and Job Competence of National Public Servant Board argued that the proposition through delegation process can be used as an effort to address the issue of disabled people's rights. However, the policy is still a possibility which needs further exploration because it is still very much related to competence aspect of the candidates. The function of the National Public Servant Board's is as an adviser, not a decision maker.

It is stipulated in the regulation of the Head of National Public Servant Board Number 26 year 2004, that formation is the amount of job and the grade component of civil servants, who will then be deployed to public institutions, to be able to do the primary task for a certain period of time. Formation is stated as the duration of time needed to perform a job based on the type, characteristics and capacity. From job analysis to employee formation, there is a process to measure job capacity. The accuracy of job measurement's capacity would enable the persons with various disabilities to able to apply for a job.

Job capacity measurement is defined as an effort based on the rational and systematic accounting in order to determine the quantity and the quality of prospective employee(s) needed to fulfil the need of the organization. There are four approaches commonly applied to count the job capacity, as follows: Job Result, Job Object, Job Equipment, and Job Tasks. Out of these four approaches, Job Equipment is the only one that cannot be used to measure the job capacity for the disabled, because this approach applies to jobs which capacity depends on the working equipments. People with disabilities lack the ability in using tools on conditions where they have not been trained. Most of trainings given to them are aimed to use heavy tools directed to production process, like training to operate sewing machine, production machine, packing and ordering goods. On the other hand, public institutions mostly do not use these kinds of machinery. Therefore, the Job Equipment approach could not be applied to measure job capacity for the disabled while the other three could be used to measure it.

In the job formation step, the arrangement of employee job formation is classified into two points as, central formation arrangement regional/local formation arrangement. Every year, National Public Servant Board directs the outline for the arrangement of civil servant job formation whether in central or regional/local institutions /organizations. Two public institutions/organizations that have provided job formation specified for the people with disabilities are Ministry of Social Welfare and

Ministry of Religious Affairs. Both ministries admitted that there was no policy to regulate in details about this specific formation; nevertheless they kept compiling that formation based on their own considerations. In the Ministry of Religious Affairs, the basic point of making formation towards people with visual impairment is that there are propositions from Indonesian Muslim Association for the Blind in Bandung. This specific formation is directed to vacancies of religious teacher that would be placed at Special Schools which need them. So far, there are 50 visually-impaired persons who have been recruited by Ministry of Religious Affairs and deployed all around Indonesia.

The region with the most visually-impaired civil servants is the West Java Province. This is because of the proposition from the Indonesian Muslim Association for the Blind headquartered in Bandung, West Java. The proposition for this special formation for Blind people in Ministry of Social Welfare is based on the Law Number 4 Year 1997 about Disabilities Article 13 and 14, and in relation with the Government Regulation Number 43 Year 1998 about the Efforts to Enhance Social Welfare of the Disabled Article 26 and 28, and based on Government Regulation Number 11 Year 2002 about Public Servant Provision. So far, the Ministry of Social Welfare has 59 civil servants who have one or more disabilities.

From the data above, it can be observed that from types of disabilities, Visual impairment is the most common disabilities in disabled people who work as public servants. Based on the proposition over the consideration of special formation for the disabled people, Ministry of Social Welfare issued a Letter of Admittance Number 001/PRS/XII-04/SE.MS. This letter was addressed to Ministries of "Indonesia Bersatu" Cabinet, Governors of Indonesia, and Regents/Mayors of Indonesia. The letter contains instructions to employers in order to fulfill employee quota for disabilities as stipulated in Government Regulation Number 43 Year 1998.

In reality, the implementation of the instruction is not as hoped for in the first place. There are still many public institutions/organizations which do not fulfill the quota for the reason of competence of applicants from disabled communities. From 603 Departments which are in central or local area, as admitted by the Head of Formation Planning Agency of National Public Servant Board that there were only two Departments reported about special formation provision towards Disabilities, like stated above, they are the Ministry of Social Welfare and the Ministry of Religious Affairs. The Head of Formation Provision Board from Ministry for Public Apparatus Empowerment and Bureaucratic Reform admits that both departments / institutions specialize in the formation

towards the disabled people. However, just recently, the Ministry of National Education has also formulated a formation for the disabled people, even-though it is not to be seen as a special formation.

The procurement process of Public Servant has been stipulated in the Regulation of the Head of National Public Servant Board Number 30 year 2007 about the Guideline of Procurement for Public Servant Applicants. Procurement for Public Servant Applicants, both for honorarium employee or general applicants, has the same basic principle for execution. Public Servant Procurement is the process of the activity to apply the vacancy, from the stage of planning, announcement, application, selection, up to placement stage (Widjaja, 1986).

The Public Servant Procurement regulation, both for honorarium employees and general applicants, stated that the main objective of public servant procurement is that every citizen in Indonesia who meet the requirements can attend the selection regardless of gender, ethnicity, religion, race, communities or regions. This becomes the fundamental for disabled candidates who meet the requirements to claim their rights to attend public servant selection, as long as they are Indonesian citizens.

In reality, Wuri Handayani (38, unskilled) and Atung Yunarto (37, visually impaired) experienced the discrimination as when they tried to apply for a public servant position. Both of them were declined by the City Government of Surabaya to attend the public servant selection, under the reason that they did not meet the physical and mental requirements, merely because they were disabled despite the fact that they are legal Indonesian citizen. This indicates that there are still discriminations towards disabled people to have an equal opportunity in becoming public servants. The Regulation of the Head of National Public Servant Board Number 30 year 2007 also stated the task of Central Executive Team for Public Servant Procurement (National Level) in relation with the opportunity of the disabled people to work.

First, Central Executive Team has the task to set out a guideline related to public servant procurement which would explain in detail the mechanisms of the process in public servant procurement. This compilation of guidelines for public servant procurement has to consider terminologies which might be multi-interpretive. Multi-interpretations might happen in the implementation stage, which may negatively affect some people because for irrelevance. For example, the use of term “physical and mental health” as a requirement to apply for a public servant position may be used against people with disabilities. Applicants with disabilities may feel discriminated with this terminology; because this becomes the reason of the executive committee to decline the disabled candidate

when applying for jobs as public servants.

In addition, in the at the administrative selection stage for both honorarium employee and general applicants, the guidance stated that Curriculum Vitae are “to be hand written”. This requirement is aimed to asses the psychological side of the applicant through hand writing. It is very difficult for people with visual impairment, for example, to meet this requirement. Therefore, there are still many multi-interpretive clauses in the compilation guideline for public servant procurement.

Second, the Central Executive Team has to disseminate information and delegate the work of public servant procurement; hopefully it will be held by the Head of National Public Servant Board as the leader of Central Executive Team. The socialization efforts are also hoped to eliminate the multi-interpretation which sometimes happen in the implementation stage. The socialization process is done by assembling representatives from every public institution/department both from central or regional. Multi-interpretations happen because there is lack of common understanding from those representatives about the process of public servant procurement during the socialization process. Human resource procurement process of public servants is not uniformed among institutions, either in the central or regional level. These inconsistencies happen because representatives who attended the socialization sessions are different. So besides socialization, the Central Committee Team also mandates delegation.

According to the Head of Sub-Administrative Equipments of National Public Servant Board, the function of socialization, as well as the delegation gathered by Central Committee Team, is merely to fulfill the instruction but it is not clear that every department or institution needs to really fulfill the regulation. Therefore in the implementation stage, this guideline is often cannot be applied appropriately in accordance with the instruction. This is because the Public Servant Supervisor himself who knows the servant’s needs in his institution as well. The National Public Servant Board has regulations to be followed; however the implementation is in the discretion of the people of the respective area/region.

Third, Central Executive Team also develops monitoring and controlling process and corrective action towards deviations of civil servant recruitments based on the regulation of constitutions. Based on the statement from the Central Executive Team (Public Servant monitoring in National Public Servant Board), like the case experienced by Wuri Handayani is a deviation from the guidance of civil servant recruitments. This is classified as discrimination towards a person with disabilities in applying in public servant selection

process. For Wuri's case, the Central Executive Team (Public Servant monitoring of National Public Servant Board) could not decide the sanction towards the member of committee who declined her. So far the Public Servant Monitoring of National Public Servant Board had not received a report/complaint. Besides, a sanction cannot imposed be merely on assumption, as it needs further analysis through field investigation.

Besides the three things above, an implementation related to the recruitment process for the disabled is related with equipments provided for them at the administrative selection stage and during the examinations stage. The implementation which helps in accommodating the needs of the disabled applicants is regulated in the Regulation of National Public Servant Board Number 30 year 2007 which stipuated the provision of registration place for candidates with physical difficulties. In practice, Made Adigunawan (32, visually impaired) followed public servant selection at Ministry of Social Welfare in 2007. He reported that the registrar had a special registration place for the disabled which is separated from other applicants. In 2009, Made Adigunawan applied for seven public institutions. Two of these institutions provided special registration place, namely the Ministry of Social Welfare and ministry of Religious Affairs, while five others did not provide a special registration table, they are the National Archives, South Tangerang City Government, Coordination Board of National Family Planing, and General Election Commission.

From this illustration, there are still different treatments from every institution for people with disabilities who apply at public institutions. The provision of special registration place for disabled candidates should be considered by institution which will exercise public servant recruitment. Moreover there has been socializations about Regulation from the Head of National Public Servant Board Number 30 year 2007 to every department/organization both at the central and regional/local levels. However, in reality there are still many institutions that do not provide special facilities, and also there are no robust sanctions for violations, which becomes the rationale of the implementor to disregard that regulation.

According to Head of Sub-Administrative Provision of Equipment, National Public Servant Board, that everthing which is related to technical things about public servant recruitment is delegated to the institution/department. It all started from the formation arrangement of the entire institution. In deciding the formation, every institution has to settle specific formation towards disabled candidates and this automatically would provide special equipments / facilities for them in the registration process, vice-versa. Provision of these special equipments is not an obligation which must be fulfilled/obtained by departments but

it must be in line with the need and interest of the organization.

Besides that, there is also a special facility for people with visual impairment, such as a reader during the examination. Made Adigunawan received these facilities, like a special place for registration and a reading tool in the examination. In 2007, he received a reading facility from the Ministry of Social Welfare. In 2009, he received reading facilities from the Ministry of Social Welfare and Ministry of Religion Affairs, but did not get a reading facility from five other departments. Finally, he brought his own reader. The Coordination Board of National Family Planning and the Government of South Tangerang City obligated a letter of admittance from the Blind Association in order for him to bring a reader / guide while having the exam.

There are some problems encountered by people with visual impairment who are not accustomed to someone reading for them. First, when Made Adigunawan was doing written test at Ministry of Social Welfare, there was only one reader who had to read for 40 applicants. It also happened in Ministry of Religious Affairs, where there was only one reader for several applicants. This is difficult for some applicants for completing the test because of the difference of attention span of applicants. There was an applicant who always asked for to be read repeatedly so pending much time of the other applicants who had already answered the question.

Second, both the Ministry of Social Welfare and the Ministry of Religious Affairs provided braille answer sheet. The visually-impaired candidates answered the questions themselves by using the bralile answer sheet and then their answers were transferred by the executive committee into the computer asnwer sheet. Worry and fear of the committee in transffering the answers into computer answer sheets were also felt by them. If those committee members were not careful in transferring the answers, then it would disadvangtage the applicants.

Third, the readers' professionalism to dictate questions was also a problem to them. Made Adigunawan felt that reader was not professional while dictating English questions because their pronunciation was not clear enough, so it was difficult to the applicants to grasp the meaning of the questions. The same point was also brought forwarf by Atung Yunarto while having the test in Sidoarjo City Government. At that time Atung applied as a math teacher so he had to answer some particular questions related to math, however the reader didn't know signs / symbols usedin maths so sometimes he was misleading. This is truly was disantageous for the the applicants because it could affect the calculations. For example, the integral symbols (\int) which could not be read by the reader because of their inability this would

Table 2. Jobs in Public Service for Disabilities

Types of Disabilities	Job Profession	Description
Blind	<ol style="list-style-type: none"> 1. Special teacher of extraordinary school for related instructional towards blind. 2. Instructor, specifically to train public servant and community who are prepared to develop the job of blind people. 3. Social worker, to be placed in social orphans. 4. Telephone Operator, to set of telephone hunting system and so on. 	Blind with the characteristics does not have visual ability and there is no mobility so that there must be in the work place without any movements and then this is not appropriate to the job with facial interaction with others.
Deaf and Mute	<ol style="list-style-type: none"> 1. Social job, to be put in social orphans 2. Agendaries or Archivists 3. Computer Operator 4. Other jobs like writings, translations, delivering goods or other physical activities that do not need oral communication. 	Deaf could not communicate orally in proper way because it is also happened to mute. The appropriate job to be put does not need oral communication.
Disabled Arm	<ol style="list-style-type: none"> 1. To secondary school level is administrative job such as Agendary, Archivist, General Administration, Telepon Operator, Human Relation, etc. 2. For graduate level is almost all jobs dominantly need open minded towards disabilities like Analysis and so forth. 	This is implied as single disabled arm not both of them. Basically single disabled arm is not the crucial obstacle to do the tasks because it could be helped using tools like artificial/ false- arm.
Disabled Leg	<ol style="list-style-type: none"> 1. All Administrative Jobs and technical formation of non-field job 	Disabled leg cannot move freely so lack of mobility, so that formation to be put is the formation that does not need any movements to much here and there.

Source: Ministry of Social, Republic of Indonesia (2009)

cause miscalculations of the applicant. These three problems should be put into attention in order to keep away discrimination towards blind people in getting the facilities.

Another policy that gives opportunity for the disabled to become civil servant is the Central Team for Public Servant Procurement's effort to develop monitoring and controlling scheme related to public servant procurement. One form of monitoring and controlling being done is acquiring formal information or reaction/complaint from society at large about selection for civil servants. The problem with this is, the information from the society about the existence of Directorate of Public Servant Monitoring in National Public Servant Board as an agent of retaining kinds of information/complain form the public, was not made public.

From all the disabled candidates who become informants at this study admit that they do not know that employee controlling function as the agent for public complaint/reaction. So far as they concerned, the discrimination towards the disabled for becoming public servants were just accepted as a common practice, except for Wuri Handayani's case. Wuri reported her experience about the discrimination from legal aspect. It was started

from State Administrative Law Court (PTUN) until Supreme Court. Wuri won in every court, which stated that the Surabaya City Government's decision to refuse to Wuri Handayani in participating in public servant selection due to her physical disability was illegal.

There are some problems faced in implementing the principles of non discrimination towards the disabled are described as follows: First, the regulation of Head of National Public Servant Board Number 30 year 2007 mentioned that the announcement of Civil Servant selection at least should contain the requirements of applicants, number of vacancies, educational qualification, timeline, address where applications should be directed to and principal of each institution. However it does not mention the qualifications of capability that should be fulfilled by the applicants. This becomes a barrier for candidates who have limitations to perform the work. A disabled person could measure the ability and competence of him/herself. So when a disabled person applied for certain jobs, they would make it suitable according to his/her own personal competence.

For example, the announcement of civil servant selection recently done by Ministry of Finance which opened from 10 May 2010 until 16 May 2010. The

announcement only specified the education qualification for Graduate (S1) and Postgraduate (S2) candidates and unit of echelon I that needs graduate/postgraduate scholar, however there's no requirements about qualification of competence needed. According to Director of Standardization and Job Competence of National Public Servant Board, the specification of competence qualification would be spread by the website of the related institution/department. The civil servant selection advertised by the Ministry of Finance provided facilities for candidates to register online on www.ppcpns.depkeu.go.id, however this website did not specify the number of vacant jobs. Even it did not specify the competence needed for the prospective employees to perform at certain jobs.

Second, the administrative process of public servant procurement for honorarium employee and general applicants required the candidates to submit their Curriculum Vitae in hand-writing using capital letter. The requirement to write Curriculum Vitae using hand writing is a problem for candidates with visual impairment.

Third, the administrative process of public servant procurement for honorarium employee and general applicants required the candidates to submit a Letter of Approval about physical and mental health from a physician. This requirement to submit the letter was interpreted as too much, and therefore disabled candidates could not meet that category as well. The concept of physical and mental health must be implied comprehensively that is physical and mental health that enables whoever to be productive in social and economical life context. The concept productive should be respected to involve somebody's health, following the statement from Deputy Secretary General of the Ministry of Health:

"But it's just a simple problem. Central of intelligence investigated three words which are lacking. These words are productive, economics, and welfare. If we don't consider separately these words separately, then disabled people would not be discriminated. Because disabled people could also be productive as a result of training. For example, attending central rehabilitation and work, then sent to garment factory. They will automatically be productive. Economics, if he worked they would get income so that they can improve their welfare". (Interview 6th April 2010)

In the Health Constitution, there is no term of physical and mental health. Health in general such as mentioned above. There is no real indicator to assess someone's health. Everyone's health could not be counted quantitatively, only in qualitative way. It means that, there is no standardized measurement that states a person is

healthy physically and mentally. Everyone's health could be counted in qualitative way based on the classification such as, life style, environment, domicile, and so on.

Letter of Approval about physical and mental health of a doctor only shows a patient condition during the period of the medical check-up. There is no indicator or standardized thing compiled to indicate someone's health, except, in medical profession. These general requirements have been settled in medical profession in this case Standard of Medical Service. Through this Standard of Medical Service could be examined the level of blood pressure, cholesterol, and so forth at the time the medical check up is taken. Therefore, the dynamics of human being could not be claimed as having physical and mental health for long time duration. It is just a prejudice. Judging disabled people as persons who suffer from illness is a discriminative action.

In Wuri Handayani's thesis, she mentioned that since 1945-2008 there were more than twenty regulations which stated physical and mental health, however there's no description about the criteria of that term of "physical and mental health". In support of this notion, there's only attachment to the letter of approval of physical and mental health from the doctor. Whereas theoretically, to absolutely judge people's health condition in the health status spectrum is very difficult (Britten and Goddard, 1932; Widiatmoko, 2004a, in Handayani, 2008). The authority of the doctor in Indonesia is exaggerated. Doctor has authority to approve the health condition of someone. This thesis also mentioned that there's no real descriptive regulations which regulate someone's health indicator.

Fourth, lack of readiness from executive committee of civil servant selection to obey the prevailing regulation, so that the implementations differ among institutions. For example, the discrimination happened towards the disabled people when the administrative selection applied to become public servant applicant as experienced by Wuri Handayani and Atung Yunarto in Surabaya Governmental City. Abdul Syakur who enrolled himself in East Java Province received a different treatment from the committee, who accepted his documents and even allowed him to follow the written test. Whereas, the process of public servant provision in both places were held at the same time. It shoes that there was a different perception about the term "physical and mental health" among the committee which then caused different treatment towards the three disable candidates. Abdul Syakur was permitted to follow the process of public servant selection, while Wuri Handayani and Atung Yunarto were not permitted because of their conditions.

Fifth, there is no real legal protection if the discrimination happened towards the disabled candidates.

In the Government Regulation Number 43 year 1998 about the Efforts to Enhance Social Welfare for the disabled article 26 stated that employer is obligated to share the equal opportunity towards employee as disabled people to fulfil the requirements of job formation and qualification in order to have job, related to the type and level of disability. However the related requirements about job and its qualification is not clearly stated. The equal chance towards Disabilities to apply for certain job has been stipulated in the constitution, eventhough there is no detail explanation about the types of job formations and job qualifications which will facilitate the disabled to apply. The following data about types of jobs towards Disabilities was obtained from the Ministry of Social Welfare.

If an institution had a detailed job analysis to develop job specification and qualification needed, then there would be a way to keep the equal rights towards the disabled to apply for certain jobs. The legal foundation for the disabled is also stressed on the law Number 4 year 1997: Article 28: Violation to chapter 14 would be punished in prison for maximum of 6 months and/or a fine for maximum of Rp. 200.000.000,- fine (two hundred million Rupiah); Chapter 14: Public and private companies share the same opportunity and the same treatment for the disabled by employing them in the company according to their performance, and the degree of disability, education and capability background, related to the number of employees and qualification required by the company.

The above- mentioned article 28 does not explain types of violation, whether the violation is due to unequal chance for the disabled to work or there lack of accessibility provided for them. There is a research report by Romlah Sartono, lecturer at Law Faculty, University of Airlangga about the right of the disabled to access jobs, which mentioned that criminal sanction (article 28) is subjected to public or private company that does not fulfill the target amount of employee in that company (one disabled employee out of one hundred total employees).

Sixth, there is no harmonized implementation of the policy between Labor law, Disabilities law , and Public Employee law. This disharmonization could be viewed from use of the term of “training” in Labor law and the term “rehabilitation” used in Disabilities law. In the sense that, rehabilitation is the process of re-functionalism and development to create the possibility of disabled to be able to develop their social function normally in community’s life. From these terms, implicitly, rehabilitation is a training or re-functionalism for the disabled in order to be able to develop their social functions as well. According to the Head of Disabilities Research Center FISIP - Universitas Indonesia, there is a negative

impression which implies from the word “rehabilitation”. Rehabilitation is acknowledged by large public as improving broken things, whereas people with disabilities are not broken things to be fixed. This could reduce affect the self esteem of the disabled in participating in training at the rehabilitation centers.

The Government Regulation Number 43 year 1998 about the Effort to Develop Social Welfare of Disabilities article 28 stated that: “Employer has to employ at least one disabled person, who fulfils the job requirements and job qualifications, as an employee at the company for every one hundred employees.” This means that the number of employees from disabilities in a company at is least 1% from the total employees. In reality, the quota of 1% could not be implemented in public sector. It is because the supported statement of the Head of Formation Decision of Ministry of Empowering National Apparatus & Bureaucratic Reform).

“But for the affirmative action (quota 1% for disabilities). We cannot afford it. This is because principally, all Indonesian Citizens have the same right. We cannot differentiate people based on races, ethnics, able or disabled person. We cannot do that. Everyone has the same right.” (Interview, 29th April 2010).

The main reason for not doing the affirmative actions, like giving quota for disabilities, is that every citizen of Indonesia has the same right to become civil servant without differentiating races, ethnic groups and local backgrounds, and so on. If this policy of giving quota to disabled people is decided as well then there would not discriminate the right of other Indonesia citizens. Besides, according to the Head of Department of Formation Decision of the Ministry of Empowering Civil Apparatus & Bureaucratic Reform and Director of Standardized and Competence Level of National Civil Servant Board, there is no affirmative action because of the consideration of work competence. A disabled person has shortcomings in doing activities; therefore, it is worried that this matter will affect his/her performance as public servant. On the contrary, not every disabled people do not possess the competence to work. Ananto Prasetyo, a disabled man with polio, has worked as civil servant in Ministry of Finance in DKI Jakarta since 2002. He performs better as compared to his co-workers.

CONCLUSION

Civil performing public services need to dedicate their loyalty. Loyalty in their service can only be dedicated if public workers are competent. Physical disabilities are not obstacles for disabled people to develop the competency to work-hard. Using the technology advancement nowadays, the obstacles of disabled people could be altered so that

they can perform like other people. For example, the use of artificial limbs (arm or leg). These matters influenced affirmative action towards disabled people.

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