

Protection of Workers with Disabilities in Indonesia and Malaysia: A Comparative Legal Policy Analysis from a Human Rights Perspective

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Received: 2026, 05, 26 Accepted: 2026, 09, 19

Available online: 2026, 09, 22

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KEYWORDS	ABSTRACT
Keywords: Disability Employment; Human Rights; Legal Policy. Conflict of Interest Statement: . Copyright © 2026 Vifada Assumption Journal of Law. All rights reserved.	Purpose: This study aims to analyze the comparison of legal policies on the protection of workers with disabilities in Indonesia and Malaysia from a human rights perspective, as well as to identify key implementation challenges. Research Design and Methodology: The research employs a normative juridical approach by examining statutory regulations, legal doctrines, and international instruments such as the Convention on the Rights of Persons with Disabilities (CRPD). Findings and Discussion: Indonesia adopts a quota-based mandatory approach under Law Number 8 of 2016, while Malaysia applies an incentive-based model under the Persons with Disabilities Act 2008. Although Indonesia provides a stronger normative legal framework, its implementation remains weak due to inadequate supervision, ineffective sanctions, limited workplace accessibility, and low employer awareness. In contrast, Malaysia's incentive-based approach lacks binding legal obligations and effective enforcement, resulting in limited employment opportunities for persons with disabilities. This study contributes a comparative analysis of quota-based obligations and incentive-based employment models from a human rights perspective, demonstrating how different legal policies influence the realization of substantive equality and the right to work. Implications: Strengthening law enforcement, monitoring mechanisms, workplace accessibility, and employer awareness is essential to achieving an inclusive labor market consistent with human rights principles.

Introduction

Human Rights (HR) are equal rights possessed by every individual, without exception, and are not differentiated by physical differences, skin color, race, ethnicity, or religion.¹ One key aspect of fulfilling human rights is the protection of the rights of workers with disabilities, which is an integral part of efforts to ensure equality, employment opportunities, and non-discriminatory treatment in the workplace.² In meeting their livelihood needs, work is generally recognized as a legally protected activity. In this context, Article 28D, paragraph (2) of the 1945 Constitution states, "Every person has

¹ Febri Jaya and Andy Sanjaya, "Perbandingan Perlindungan Hukum Tenaga Kerja Perempuan Di Indonesia Dan Singapura," *Supremasi Hukum : Jurnal Penelitian Hukum* 31, no. 2 (2022): 85-98.

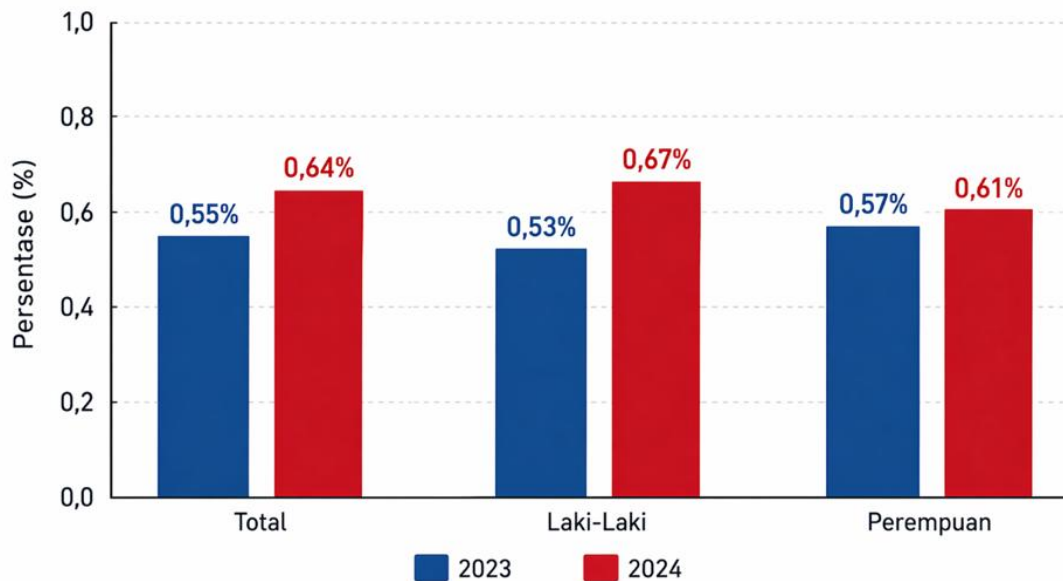
² Winsherly Tan, "Kondisi Tenaga Kerja Penyandang Disabilitas : Tantangan Dalam Mewujudkan Sustainable Development Goals," *Rechtidee* 16, no. 1 (June 2021): 18-36, <https://doi.org/10.21107/ri.v16i1.8896>.

the right to work and receive fair and appropriate remuneration and treatment in employment relations".³

In developing countries, particularly Indonesia and Malaysia, this issue not only concerns social dimensions but also has complex legal implications, especially regarding the effectiveness of regulations and the implementation of affirmative policies.⁴ Normatively, both countries have demonstrated their commitment to protecting the rights of persons with disabilities through both national and international legal instruments. Indonesia, through Law No. 8 of 2016 on Persons with Disabilities, explicitly guarantees the right to employment, including the employer's obligation to provide equal job opportunities and implement quota policies.⁵ Meanwhile, Malaysia regulates similar protections through the Persons with Disabilities Act 2008, supported by incentive policies for companies that hire persons with disabilities.⁶

Despite the significant progress reflected in these normative frameworks, the empirical reality on the ground reveals a gap between legal norms and their implementation. Data from the Central Bureau of Statistics shows that the labor force participation rate of persons with disabilities in Indonesia remains relatively low, with higher unemployment rates compared to non-disabled groups.

Figure 1.
Percentage of workers with disabilities by gender in 2023-2024.



Source : Badan Pusat Statistik (BPS)

According to the Bureau's data, the proportion of individuals aged 15 and above with disabilities who are employed stands at 0.64%, a slight increase of 0.09 percentage points compared to 2023. However, this figure still indicates limited involvement of persons with disabilities in the workforce. When broken down by gender, male workers with disabilities have a higher employment rate at 0.67%, compared to 0.61% for women. This disparity suggests that structural barriers are more pronounced for women with disabilities, reflecting in both legal and human rights perspectives that the

³ Wulan Purnamasari, Elza Syarieff, and Rina S. Shahrullah, "The Conflict of Trade Secret Protection and Workers' Rights in Non-Competition Clauses," *SIGn Jurnal Hukum* 5, no. 1 (July 2023): 168-181, <https://doi.org/10.37276/sjh.v5i1.273>.

⁴ Winsherry Tan et al., "Human Rights Protection in Business Practices: Between Social Responsibility and Legal Compliance," *Lex Publica* 12, no. 1 (2025): 147-72, <https://doi.org/10.58829/lp.12.1.2025.293>.

⁵ Natasya Juni Anggi Hutagalung, "Upaya Perlindungan Hukum Dalam Hak Pekerja Difabel Dalam Bekerja Ditinjau Dari Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disabilitas Jo Undang Undang Nomor 13 Tahun 2003 Ketenagakerjaan," *Jurnal Pengabdian Masyarakat Dan Riset Pendidikan* 2, no. 4 (2024): 515-518, <https://doi.org/10.31004/jerkin.v2i4.4130>; Dewi Ayu Rahayu et al., "Implementasi Undang-Undang Disabilitas Dalam Pemenuhan Hak Kerja Penyandang Disabilitas," *Bhirawa Law Journal* 6, no. 1 (May 2025): 25-34, <https://doi.org/10.26905/blj.v6i1.15565>.

⁶ Aji Widya Firmansyah and Yesika Suryani, "Kebijakan Fiskal Inklusif: Menggagas Insentif Pajak Bagi Penyandang Disabilitas Di Indonesia," *Journal Of Tax Policy, Economics, And Accounting* 3, no. 2 (November 2025): 134-50, <https://doi.org/10.61261/taxpedia.v3i2.120>.

implementation of equality and non-discrimination principles in access to employment is not yet optimal.⁷

A comparable gap between norms and practice is evident in Malaysia. Under Section 29 of the Persons with Disabilities Act 2008 (Act 685), persons with disabilities are guaranteed the right to access employment on an equal basis with other workers, and government agencies are expressly treated as employers bound by this obligation. Official DOSM data on public-sector employment of persons with disabilities, however, show only modest and uneven progress over the past three years:

Table 1.
Public Sector Employment of Persons with Disabilities in Malaysia (2022-2024)

Year	Civil servants with disabilities	YoY change
2022	3,724	—
2023	3,901	+3.5%
2024	4,209	+7.9%

Source: Department of Statistics Malaysia, Person With Disability Statistics, Malaysia, 2023 and 2024.

As for employment, there were 3,856 civil servants with disabilities serving in 2023, an increase of 3.5 per cent as compared to 3,724 persons in 2022 and There were 4,209 civil servants with disabilities in 2024, representing an increase of 7.9 per cent as compared to 3,901 persons in 2023.⁸ A 2025 DOSM employer survey further found that only around 22% of employers currently employ persons with disabilities, despite 81% of them rating the work performance of disabled employees as comparable to that of other workers.⁹ These figures confirm that, notwithstanding an explicit statutory right of access to employment, Malaysia's incentive-based regulatory model which relies on tax deductions and financial support rather than binding quotas or sanctions has not yet translated into a substantially larger share of persons with disabilities in the formal labor market.

Unlike Indonesia's mandatory quota system, Malaysia adopts a predominantly administrative and incentive-driven approach to encourage the employment of persons with disabilities, complemented by a non-binding target requiring at least 1% of public-sector positions to be allocated to persons with disabilities. The absence of a legally binding private-sector quota, coupled with limited enforcement capacity, means that employer participation remains largely voluntary a structural feature that helps explain the persistently low uptake reported above.

In the context of Indonesia, the legal issues arising are not only related to the substance of the regulations but also to the implementation and enforcement aspects.¹⁰ Law No. 8 of 2016 has established the quota obligation for both government and private institutions to employ persons with disabilities. However, in practice, these provisions have not been optimally implemented. Weak oversight mechanisms, unclear penalties for violations, and low legal awareness among employers are the main factors hindering the effectiveness of this policy. In labor recruitment practices, discriminatory requirements, such as physical criteria irrelevant to the job role, still exist, indirectly limiting access for persons with disabilities.¹¹

Moreover, structural barriers such as limited accessibility in workplaces, insufficient supporting facilities, and a lack of inclusive skills training¹² exacerbate these conditions. In some cases, persons with disabilities also face unilateral termination of employment due to physical limitations, without adequate accommodation efforts from the employer¹³ This shows that the existing legal protection has not fully achieved substantive justice as mandated by HR principles, particularly the non -

⁷ Badan Pusat Statistik, "Statistik Ketenagakerjaan," Badan Pusat Statistik, 2018, <https://www.bps.go.id/id/publication/2018/07/03/5a963c1ea9b0fed6497d0845/statistik-indonesia-2018>.

⁸ Department Of Statistics Malaysia, "Person With Disability Statistics, Malaysia, 2023," Department Of Statistics Malaysia, 2024, <https://www.dosm.gov.my/portal-main/release-content/person-with-disability-statistics-malaysia-2023>; Department Of Statistics Malaysia, "Person With Disability Statistics, Malaysia, 2024," Department Of Statistics Malaysia, 2025, <https://www.dosm.gov.my/portal-main/release-content/person-with-disability-statistics-malaysia-2024>.

⁹ Free Malaysia Today, "81% of Bosses Find Disabled Workers Perform on Par with Others," Free Malaysia Today, 2026, <https://www.freemalaysiatoday.com/category/nation/2026/05/28/81-of-bosses-find-disabled-workers-perform-on-par-with-others>.

¹⁰ Luthdia Nur Fitriani W, "Keabsahan Perjanjian Jual Beli Tanah Yang Mengandung Aib Kesepakatan Dalam Hukum Islam Dan Hukum Perdata Serta Implikasi Hukumnya (Studi Putusan Mahkamah Agung Nomor 466 K/Pdt/2020)" (Universitas Islam Indonesia, 2023).

¹¹ Hilma Harmen et al., "Analisis Diskriminasi Penyandang Disabilitas Pada Proses Rekrutmen (Studi Kasus Pada PT Grab)," *Growth* 22, no. 1 (June 2024): 209, <https://doi.org/10.36841/growth-journal.v22i1.4517>.

¹² Clarissa Windy Aulia, Adi Soesiantoro, and Ghulam Maulana Ilman, "Collaborative Governance Dalam Program Millenial Job Center Untuk Penyerapan Tenaga Kerja Bagi Penyandang Disabilitas Di Provinsi Jawa Timur," *PRAJA Observer: Jurnal Penelitian Administrasi Publik* 5, no. 1 (2025): 104-117, <https://doi.org/10.69957/paob.v5i01.2146>.

¹³ Fany Rahmasari, "Perlindungan Hukum Bagi Penyandang Disabilitas Mental Dalam Lingkungan Kerja Sebagai Upaya Pencegahan Pemutusan Hubungan Kerja" (Universitas Islam Indonesia, 2024); I Made Ode Subawa and Kadek Apriliani, "Perlindungan Hukum Pekerja Difabel Dalam Perspektif Hukum Ketenagakerjaan Dan Hak Asasi Manusia," *Jurnal Hukum Mahasiswa* 5, no. 2 (2025): 168-86.

discrimination and equal opportunity principles. Meanwhile, Malaysia emphasizes an incentive-based approach to encourage the inclusion of disabled workers, such as tax reductions and financial support for companies.¹⁴ While this approach provides positive stimuli, its effectiveness remains questionable if not accompanied by binding legal obligations and strong enforcement mechanisms. Taken together, these patterns in both countries show that a comparison between Indonesia and Malaysia is relevant for identifying the strengths and weaknesses of each legal system in protecting disabled workers.

The urgency of this research lies in evaluating the extent to which the legal policies of both countries effectively guarantee the labor rights of persons with disabilities from a human rights perspective, a question made more pressing by the fact that Indonesia and Malaysia have both ratified the Convention on the Rights of Persons with Disabilities (CRPD), which obligates state parties to ensure equal access to employment and eliminate discrimination in the labor market. Thus, the analysis of national policies should be framed within the context of binding international obligations. The developing legal phenomenon shows a mismatch between norms and practices, which could lead to systematic human rights violations¹⁵, through discriminatory recruitment, limited reasonable accommodation, and weak enforcement indicates that protection in both jurisdictions remains largely formalistic rather than substantive, underscoring the need to examine legal policy not only from a normative standpoint but also from the standpoint of implementation and impact.

Existing studies on this issue have concentrated mainly on social and economic dimensions, with comparatively limited legal analysis. Damanik and Andriyani examined the protection of the right to decent work for persons with disabilities under Presidential Regulation No. 60 of 2023¹⁶; Karinina Anggita Farrisqi and Farid Pribadi analyzed conflicts and weaknesses in Indonesian regulations guaranteeing legal protection for citizens, including persons with disabilities¹⁷; Likewise, Nurul Putri Fajrianty, Fence M. Wantu, Weny Almoravid Dungga discussed the protection of disabled workers through the provision of workplace facilities.¹⁸ Comparative legal research examining Indonesia and Malaysia jointly from a human rights perspective one that also assesses implementation barriers and policy effectiveness remains scarce. This gap constitutes the novelty of the present study: rather than comparing legal norms alone, it evaluates both the normative frameworks and their implementation and impact on the labor rights of persons with disabilities in the two countries, offering a more comprehensive account of policy effectiveness than prior single-country or purely normative studies.

Building on this gap, the study is guided by two research questions: (1) how do disability labor protection policies in Indonesia and Malaysia compare, and (2) what are the main challenges in implementing these policies in both countries from a human rights perspective? Correspondingly, this research aims to analyze and compare the legal policies of Indonesia and Malaysia in protecting the labor rights of persons with disabilities, evaluate the effectiveness of their implementation, and formulate recommendations to strengthen protection and inclusion for disabled workers in both countries. Academically, the study is expected to contribute to the literature on labor law and human rights concerning vulnerable groups in developing countries through an integrative comparative legal analysis¹⁹; practically, its findings are intended to inform policymakers and other stakeholders in designing more effective, implementable, and just regulations.²⁰ The study is limited to legal policy in the labor sector in Indonesia and Malaysia and does not extend to other countries or to non-legal dimensions such as education, culture, and socio-economic conditions limitations that open avenues for broader, multidisciplinary research in the future.

Literature Review

The concept of legal protection, as developed in Indonesian legal theory, describes the state's obligation to guarantee both preventive protection through generally binding regulation designed to forestall violations and repressive protection through remedial mechanisms once a violation has

¹⁴ Firmansyah and Suryani, "Kebijakan Fiskal Inklusif: Menggagas Insentif Pajak Bagi Penyandang Disabilitas Di Indonesia."

¹⁵ Muh. Ramli Ramli, Ahmadin Ahmadin, and Bakhtiar Bakhtiar, "Hak Asasi Manusia (HAM): Hakikat, Prinsip, Dan Pelanggaran," *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 4, no. 4 (June 2025): 6423-6434, <https://doi.org/10.56799/peshum.v4i4.9456>.

¹⁶ Vania Andari Damanik and Dinda Dwi Andriyani, "Analisis Perlindungan Hak Pekerjaan Penyandang Disabilitas Dalam Perpres Nomor 60 Tahun 2023," *Milthree Law Journal* 1, no. 2 (2024): 238-65, <https://doi.org/10.70565/mlj.v1i2.9>.

¹⁷ Karinina Anggita Farrisqi and Farid Pribadi, "Perlindungan Hak Penyandang Disabilitas Untuk Memperoleh Pekerjaan Dan Penghidupan Yang Layak," *Focus: Jurnal Pekerjaan Sosial* 4, no. 2 (February 2022): 149, <https://doi.org/10.24198/focus.v4i2.36862>.

¹⁸ Nurul Putri Fajrianty, Fence M. Wantu, and Weny Almoravid Dungga, "Perlindungan Terhadap Pekerja Disabilitas Berupa Penyediaan Fasilitas Kerja Pada Perusahaan," *The Juris* 7, no. 2 (December 2023): 411-17, <https://doi.org/10.56301/juris.v7i2.1044>.

¹⁹ Abid Fatur Rahman Ritonga and Faisal Faisal, "Pengaruh Digitalisasi Proses Hukum Acara Pidana: Studi Komparatif Hukum Indonesia Dan Thailand (Criminal Procedure Code)," *Law Jurnal* 5, no. 1 (December 2024): 83-94, <https://doi.org/10.46576/lj.v5i1.5772>.

²⁰ Kaharuddin Muhammad, Sunny Ummul Firdaus, and Muhammad Hasrul La Aci, "Kebijakan Publik Dan Politik Hukum: Membangun Demokrasi Berkelanjutan Untuk Masyarakat," *Sovereignty: Jurnal Demokrasi Dan Ketahanan Nasional* 2, no. 4 (2023): 354-68.

occurred.²¹ Within disability employment scholarship, this protective function is increasingly understood not through formal non-discrimination provisions alone, but through the extent to which substantive equality is operationalized by way of affirmative measures. Previous studies converge on this point from different angles: research on Indonesia's quota-based model finds that legal protection remains largely formalistic where technical accommodation, sanctions, and enforcement mechanisms are left underspecified,²² while global comparative reviews confirm that non-discrimination and reasonable accommodation, although conceptually paired under the CRPD, are rarely codified together into a single, enforceable domestic obligation.²³ Read together, these findings indicate that the mere existence of anti-discrimination or quota provisions is an insufficient measure of legal protection; what matters is whether the underlying protective architecture is substantively, not merely formally, realized.

Building on this protective foundation, the right to work for persons with disabilities is most fully elaborated under Article 27 of the CRPD, which frames work as a fundamental human right comprising three interlocking guarantees: equal opportunity in access to employment, freedom from discrimination throughout the employment relationship, and reasonable accommodation in the workplace itself. Rosdianti's analysis of Article 27 emphasizes that these three elements function cumulatively rather than independently, so that a state guaranteeing equal opportunity and non-discrimination while omitting reasonable accommodation still falls short of the Convention's inclusive-employment standard.²⁴ This tripartite reading provides the doctrinal benchmark against which the quota-based and incentive-based regulatory models discussed below are evaluated.

Comparative literature on regulatory design converges on the observation that neither mandatory quotas nor incentive-based schemes reliably translate legal entitlement into employment outcomes on their own. Lee and Lee's comparison of Korea's and Japan's mandatory quota systems attributes limited employment gains to weak delivery systems and employment services rather than to the quota mechanism itself,²⁵ while Suberi et al.'s comparison of Malaysia's voluntary "One Percent Policy" against Japan's enforceable, sanction-backed quota reaches a parallel conclusion from the opposite direction: incentive schemes without binding compliance mechanisms consistently underperform mandatory models.²⁶ Read against each other, these studies suggest that the coercive-versus-voluntary distinction matters less than the strength of the enforcement and delivery architecture surrounding either model a proposition this study tests directly through the Indonesia-Malaysia comparison.

Despite this growing body of literature, three gaps remain unaddressed. First, none of the reviewed studies evaluates disability employment regulation explicitly through substantive equality that refers to the principle that states must adopt positive measures to eliminate structural barriers preventing persons with disabilities from enjoying equal employment opportunities as a unifying analytical framework, treating quota, incentive, and accommodation provisions instead as discrete regulatory instruments. Second, no study directly compares Indonesia's mandatory quota obligation against Malaysia's incentive-based scheme; existing comparisons benchmark each country separately against third jurisdictions such as Japan, Korea, or the United Kingdom rather than against one another. Third, existing comparative studies remain largely doctrinal or policy-descriptive, without situating the quota-versus-incentive debate within an explicit human rights framework grounded in the CRPD. This research addresses all three gaps by positioning its contribution as a human rights-based comparative analysis that evaluates Indonesia's quota-based obligation and Malaysia's incentive-

²¹ M. Hadjon Philipus, *Perlindungan Hukum Bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 1987).

²² Arika Rachmah et al., "Synchronization of Labor Protection Norms Through a Reasonable Accommodation Approach," *Disability: Law Review* 2, no. 1 (2026): 65-91, <https://doi.org/10.26740/dlr.v2i1.52160>.

²³ Jody Heymann, Elizabeth Wong, and Willetta Waisat, "A Comparative Overview of Disability-Related Employment Laws and Policies in 193 Countries," *Journal of Disability Policy Studies* 33, no. 1 (2022): 25-34, <https://doi.org/10.1177/10442073211006396>.

²⁴ Yeni Rosdianti, "The Right to Work in Article 27 Of The UN Convention on The Rights of Persons With Disabilities: Towards an Inclusive Employment1 Hak Atas Pekerjaan Pada Pasal 27 Konvensi Perserikatan Bangsa-Bangsa Tentang Hak-Hak Penyandang Disabilitas: Menuju Dunia Ker," *Negara Hukum* 9, no. 2 (2018): 235-52, <https://doi.org/10.22212/jnh.v9i2.1024>.

²⁵ Sunwoo Lee and Sookyoung Lee, "Comparing Employment Quota Systems for Disabled People Between Korea and Japan," *Asian Journal of Human Services* 10 (2016): 83-92, <https://doi.org/10.14391/ajhs.10.83>.

²⁶ Auni Syamimi Mohamad Suberi et al., "Advancing Equality: A Comparative Analysis of Employment Rights for Disabled Individuals in Malaysia and Japan," *International Journal of Research and Innovation in Social Science* 8, no. 12 (2025): 3753-60, <https://doi.org/10.47772/IJRISS.2024.8120313>.

based scheme against the unifying benchmark of substantive equality, affirmative action, and reasonable accommodation.

Affirmative action refers to temporary special measures adopted by states to eliminate structural disadvantages experienced by marginalized groups, on the premise that identical treatment of unequally situated groups perpetuates rather than corrects existing inequality. Within disability employment, quota obligations and employment incentives constitute two distinct forms of affirmative action, both designed to promote substantive equality rather than merely formal equality, though differing in whether compliance is compelled or induced. After identifying the research gap above, This study adopts substantive equality as its analytical framework. One influential normative justification for differential treatment is John Rawls' difference principle, which supports unequal treatment where it benefits the least advantaged.²⁷ Applied to disability employment, this principle justifies both quota obligations and fiscal incentives as legitimate departures from formal equality, provided they demonstrably improve outcomes for persons with disabilities as the least-advantaged group in the labor market. The application of substantive equality theory in this research therefore serves to assess the extent to which Indonesia's quota obligation and Malaysia's incentive scheme genuinely operationalize the right to work established under Article 27 of the CRPD, rather than remaining formalistic guarantees.

Research Design and Methodology

This research uses a normative juridical approach, which is a legal research method that focuses on the study of legal norms outlined in statutes and relevant legal doctrines.²⁸ The type of research is prescriptive, meaning it not only describes the applicable legal provisions but also provides arguments regarding the ideal application of the law in protecting the labor rights of persons with disabilities.²⁹ The research adopts statutory and comparative approaches by analyzing Law Number 8 of 2016 concerning Persons with Disabilities in Indonesia, the Persons with Disabilities Act 2008 (Act 685) in Malaysia, and relevant international human rights instruments, particularly the Convention on the Rights of Persons with Disabilities (CRPD). The comparative analysis is conducted using clearly defined indicators, namely: (1) legal framework; (2) employment quota and affirmative action policies; (3) employer incentives; (4) supervision and enforcement mechanisms; (5) sanctions for non-compliance; (6) workplace accessibility and reasonable accommodation; and (7) protection against discrimination in employment. The analysis is grounded in a human rights framework, emphasizing the principles of equality, non-discrimination, reasonable accommodation, and the State's obligations to respect, protect, and fulfill the rights of persons with disabilities. The sources of legal materials consist of primary legal materials, which include statutes and international instruments; secondary legal materials, such as books, academic journals, and previous research; and tertiary legal materials, such as dictionaries and legal encyclopedias.³⁰ The assessment of legal implementation is limited to accountable secondary evidence derived from official government publications, reports and documents related to the Convention on the Rights of Persons with Disabilities (CRPD), and peer-reviewed academic literature, rather than primary empirical data. All legal materials are analyzed qualitatively using descriptive-analytical and comparative methods to evaluate the consistency, effectiveness, and relevance of the legal policies of both countries from a human rights perspective.

²⁷ John Rawls, *A Theory of Justice: Revised Edition* (Cambridge: Harvard University Press, 1971).

²⁸ Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289-304, <https://doi.org/10.37253/jjr.v24i2.7280>.

²⁹ Delfina Gusman, Didi Nazmi, and Yunita Syofyan, "Pemenuhan Hak Memperoleh Pekerjaan Bagi Penyandang Disabilitas Berdasarkan Undang-Undang Nomor 8 Tahun 2016 Tentang Penyandang Disab," *Riau Law Journal* 6, no. 2 (November 2022): 231-45, <https://doi.org/10.30652/rlj.6.2.231-245>.

³⁰ Alice Angela Marici, Ampuan Situmeang, and Hari Sutra Disemadi, "Towards a Human Rights-Based Legal Framework for Genetic Technology in Indonesia," *Jurnal Mediasas: Media Ilmu Syari'ah Dan Ahwal Al-Syakhsyiyah* 8, no. 4 (December 2025): 917-931, <https://doi.org/10.58824/mediasas.v8i4.466>.

Findings and Discussion

Findings Comparison of Disability Labor Protection Policies in Indonesia and Malaysia

Protection of labor rights for persons with disabilities fundamentally reflects a country's commitment to realizing the principle of substantive equality within the framework of Human Rights (HR).³¹ Unlike formal equality, which places individuals in an equal position before the law, substantive equality demands special treatment for vulnerable groups to address entrenched structural inequalities. In this context, persons with disabilities require not only equal access to employment but also affirmative policies capable of overcoming the social, economic, and cultural barriers they face in the labor market.³²

Rather than re-elaborating this theoretical foundation, the Findings apply it analytically: consistent with Rawls' difference principle and the theory of affirmative action already discussed in the Literature Review,³³ Indonesia's quota obligation and Malaysia's incentive scheme are legitimate departures from formal equality only insofar as they demonstrably improve outcomes for persons with disabilities as the least-advantaged group in the labor market; the CRPD's Article 27 and its reasonable-accommodation standard supply the doctrinal benchmark against which that empirical showing is tested in the analysis below.³⁴

In the Indonesian context, the guarantee of the right to work for persons with disabilities has a strong constitutional basis. Article 27, paragraph (2) of the 1945 Constitution of the Republic of Indonesia emphasizes that every citizen has the right to work and live decently. This principle is reinforced by Law No. 39 of 1999 on Human Rights, which explicitly prohibits discrimination in various aspects of life, including employment.³⁵ Furthermore, Law No. 8 of 2016 on Persons with Disabilities provides more specific regulations by affirming the right of persons with disabilities to work and the obligation of both the government and private sector to provide equal opportunities. One of the most progressive instruments in Law No. 8 of 2016 is the provision on job quotas, as stipulated in Article 53, which requires government agencies and state-owned enterprises to employ at least 2% of disabled workers, while the private sector is required to employ at least 1%.³⁶ This policy reflects a coercive approach based on legal obligations aimed at redistributing employment opportunities. From the perspective of welfare state theory, this policy is an example of the state's responsibility to ensure the well-being of vulnerable groups through direct intervention.³⁷

However, the effectiveness of this policy still faces serious challenges in implementation. In practice, many companies have not fulfilled their quota obligations, and the enforcement mechanisms for violations remain weak. This condition reveals a gap between legal norms and reality (law in books vs. law in action). According to the theory of legal effectiveness (Soerjono Soekanto), this implementation failure may be attributed to weak law enforcement, lack of supporting facilities, and a legal culture that is not inclusive of persons with disabilities.³⁸ As an empirical example, many job vacancies in Indonesia still list "good health" as a requirement, without considering its relevance to the job itself. This practice is essentially a form of indirect discrimination, as it implicitly closes access for persons with disabilities, even though it does not explicitly exclude them. Additionally, there are

³¹ Ana Riana and Latifah Setyawati, "Perlindungan Hukum Bagi Pekerja Disabilitas Di Indonesia: Perspektif Perlindungan Hukum Satjipto Rahardjo," *Staatsrecht: Jurnal Hukum Kenegaraan Dan Politik Islam* 5, no. 2 (2025): 482-510, <https://doi.org/10.14421/bzxqst12>.

³² Rasyid Musdin, "Tindakan Afirmatif Terhadap Aksesibilitas Penyandang Disabilitas Dalam Memperoleh Bantuan Hukum (Studi Peraturan Daerah Bantuan Hukum Di Provinsi Jawa Timur)" (Universitas Islam Negeri Maulana Malik Ibrahim Malang, 2022).

³³ Husam El Haq Al Maslul et al., "Afirmasi Hukum Bagi Kelompok Disabilitas Di Indonesia," n.d.

³⁴ Eta Yuni Lestari, "Kajian Normatif Terhadap Hak Pendidikan Penyandang Disabilitas Dalam Sistem Hukum," *Indonesian Journal of SDGs* 1, no. 1 (2025): 1-10.

³⁵ N. Isnaini, SH Rusdiana, and W. Tan, "Mitigating Human Rights Violations: A Critical Examination of Excessive Overtime Practices in the Workplace," *Journal of Judicial Review: Universitas Internasional Batam* 26, no. 2 (2025): 193-208.

³⁶ Deah Ajeng Pramudita, Indriani Vicky Kartikasari, and Angeline Irene Santoso, "Manifestasi Kesejahteraan Sosial Dalam Reformulasi Kuota Pekerja Disabilitas Sebagai Perwujudan Pemerintahan Inklusif: Penerapan Employed Access Program," *Anthology: Inside Intellectual Property Rights* 1, no. 1 (2024): 1-23.

³⁷ Marsudi Dedi Putra, "Negara Kesejahteraan (Welfare State) Dalam Perspektif Pancasila," *Likhitaprajna Jurnal Ilmiah* 23, no. 2 (December 2021): 139-51, <https://doi.org/10.37303/likhitaprajna.v23i2.199>.

³⁸ Fadila Hilma Mawaddah and Abdul Haris, "Implementasi Layanan Peradilan Bagi Penyandang Disabilitas Perspektif Teori Efektivitas Hukum Soerjono Soekanto," *Sakina: Journal of Family Studies* 6, no. 2 (2022): 1-16, <https://doi.org/10.18860/jfs.v6i2.1326>.

cases where disabled workers experience termination of employment due to physical limitations without any accommodation efforts from the employer. This clearly contradicts the principle of reasonable accommodation as outlined in the CRPD.

On the other hand, Malaysia adopts a different approach through the Persons with Disabilities Act 2008. This regulation provides a legal basis for the protection of persons with disabilities but does not mandate job quotas. Instead, the Malaysian government implements incentive policies, such as tax reductions and financial support for companies that employ persons with disabilities. This approach reflects an incentive-based regulatory strategy, aiming to encourage voluntary compliance.

Table 2.
Comparison of Disability Labor Policies Between Indonesia and Malaysia

Aspect	Indonesia (Law No. 8/2016)	Malaysia (Persons with Disabilities Act 2008)
Disability Quota	Mandatory: minimum 2% for government agencies/state-owned enterprises; minimum 1% for private companies (Art. 53, Law No. 8/2016)	No mandatory quota
Incentives for Employers	Recognition for industries is currently limited to award-based achievements.	Tax incentives for companies
Monitoring	Strict government supervision required	Limited effective monitoring
Right to Access Employment	Equal access in both public and private sectors	Opportunities in both private and public sectors
Role of Government Institutions	Ministry of Manpower	Ministry of Human Resources
Enforcement Mechanism	Supervisory authority formally vested in the Ministry of Manpower (Kemnaker) and provincial labor offices, but field-level inspection and follow-up remain infrequent	Administered by the Ministry of Human Resources on a largely advisory basis; no coercive enforcement instrument accompanies the incentive scheme
Sanctions for Non-Compliance	Administrative sanctions are stipulated in Law No. 8/2016, but implementing regulations on their application remain underdeveloped, producing a low deterrent effect and persistent employer non-compliance	No statutory sanction exists for employers who fail to hire persons with disabilities; the absence of a penalty structure weakens the incentive model's coercive force
Reasonable Accommodation	Recognized in principle, but workplace accessibility and accommodation standards are not consistently enforced, and terminations without accommodation still occur	Not codified as a binding employer obligation; the extent of accommodation is left largely to individual employer discretion
State's Human Rights Obligation (Respect/Protect/Fulfill)	Satisfies the obligation to respect through non-discriminatory legislation, and partially the obligation to protect through the quota mandate, but falls short of fulfill owing to weak monitoring and low compliance	Satisfies the obligation to respect through non-discrimination provisions, but falls short of protect and fulfill because incentives are not paired with binding compliance mechanisms
Implementation Outcome	Employment rate among persons with disabilities aged 15+ stands at only 0.64%, well below the statutory quota target (BPS, 2024)	Only around 22% of employers currently employ persons with disabilities, despite 81% rating their work performance as comparable to other employees (DOSM employer survey, 2025)

Source: Authors' compilation based on Law No. 8 of 2016 and the Persons with Disabilities Act 2008.

Based on the comparison table, a descriptive analysis can be conducted on the differences in policy approaches between Indonesia and Malaysia in providing protection for disability labor, reflecting the characteristics of each country's legal system and policy orientation.

In the aspect of disability quotas, Indonesia, through Law No. 8 of 2016, adopts an imperative approach by establishing a quantitative obligation for employers. The provision regarding the minimum 2% quota for government agencies and state-owned enterprises, as well as 1% for private companies,³⁹ reflects strong state intervention to create a more equitable distribution of employment opportunities. This approach represents a form of affirmative action aimed at correcting the structural imbalances faced by persons with disabilities in the labor market. In contrast, Malaysia, through the Persons with Disabilities Act 2008, does not explicitly mandate a quota system. The absence of such a provision indicates that Malaysia tends to prioritize a non-coercive approach, allowing market mechanisms and voluntary participation by the private sector in providing employment opportunities for persons with disabilities.⁴⁰

Regarding incentives for employers, both countries recognize the important role of the private sector, but with different strategies. Indonesia offers incentives in the form of facilities and training, focused on improving the capacity and employability of persons with disabilities. This approach not only encourages companies to employ disabled workers but also strengthens the quality of the available human resources. Meanwhile, Malaysia emphasizes fiscal incentives, such as tax reductions for companies.⁴¹ This approach is based on economic considerations, where the government seeks to create financial incentives for companies to hire persons with disabilities. This difference shows that Indonesia focuses more on empowerment, while Malaysia emphasizes economic stimuli.

In terms of monitoring, a significant difference is evident. Indonesia normatively demands strict government oversight to ensure compliance with quota obligations. This indicates that the effectiveness of the policy heavily depends on the active role of the state in monitoring and enforcing the law. However, the need for strict supervision also signals that voluntary compliance has not yet been fully established. On the other hand, Malaysia is seen to have weaknesses in the monitoring aspect, as reflected by the ineffectiveness of control mechanisms in policy implementation.⁴² This condition results in a low regulatory enforcement capacity, meaning the existing policies may not have a significant impact in practice.

In the aspect of employment access rights, both countries have, in principle, recognized the right of persons with disabilities to work in both the public and private sectors. Indonesia explicitly guarantees equal access in both sectors, reflecting its commitment to the principle of non-discrimination in labor law.⁴³ Meanwhile, Malaysia also provides employment opportunities for persons with disabilities in both public and private sectors, but its implementation is more dependent on sectoral policies and initiatives by each institution.⁴⁴

In the role of government institutions, Indonesia places the Ministry of Manpower as the main actor in formulating and implementing policies related to disability labor (*Kementerian Ketenagakerjaan RI*). This shows institutional specialization in handling labor issues. In Malaysia, this role is under the Ministry of Human Resources, which has a similar function in managing labor policies, including those for persons with disabilities (BHEPA, 2024). Although both countries have institutions responsible for this role, the effectiveness of their work greatly depends on cross-sectoral coordination and institutional capacity in carrying out monitoring and development functions.

³⁹ Ferdiansyah Wikaksono, "Analisis Implementasi Kebijakan Pemenuhan Kuota 1% Pekerja Penyandang Disabilitas Melalui Unit Layanan Disabilitas Ketenagakerjaan Kota Bandung," *Professional: Jurnal Komunikasi Dan Administrasi Publik* 10, no. 1 (June 2023): 279-288, <https://doi.org/10.37676/professional.v10i1.3894>.

⁴⁰ Harlida Abdul Wahab and Zainal Amin Ayub, "Persons with Disabilities Act 2008: The Economic Promises for People with Disabilities?," *International Journal of Economics and Financial* 6, no. 7 (2016): 313-319.

⁴¹ Wahab and Ayub.

⁴² Zulazhar Tahir et al., "Undang-Undang Berkenaan Orang Kurang Upaya: Satu Analisis Perkembangan Perundangan Di Malaysia," *The Malaysian Journal of Social Administration* 14, no. 1 (2020): 96-114.

⁴³ Subawa and Apriliani, "Perlindungan Hukum Pekerja Difabel Dalam Perspektif Hukum Ketenagakerjaan Dan Hak Asasi Manusia."

⁴⁴ May Sapura Mohd Shazilli et al., "Assessing Employer Preparedness in Hiring PwCD: Evidence from Trade, Manufacturing, Services and Hospitality Sectors in Klang Valley, Malaysia," *Environment-Behaviour Proceedings Journal* 10, no. SI38 (December 2025): 211-17, <https://doi.org/10.21834/e-bpj.v10iSI38.7659>.

Overall, this comparison shows that Indonesia adopts a more normative approach based on legal obligations, while Malaysia tends to use a more flexible, incentive-based approach. Each approach has its strengths and limitations. Indonesia's approach has the potential to create structural changes more quickly but faces challenges in law enforcement. On the other hand, Malaysia's approach is more adaptive to market dynamics but lacks the enforcement power needed to address systemic discrimination. Therefore, the effectiveness of disability labor protection ultimately depends on the ability of the state to integrate normative policies with effective and sustainable implementation mechanisms. From a human rights perspective, states have three main obligations: to respect, protect, and fulfill.⁴⁵ Indonesia has met the normative aspects of all three obligations but remains weak in the implementation aspect. Malaysia, on the other hand, has made efforts to fulfill these obligations, but it has not fully optimized them due to the lack of binding instruments.

Explaining why Indonesia's quota obligation has not translated into substantive equality requires disaggregating the causes of implementation failure into three interrelated factors. The legal factor: Law No. 8/2016 establishes the 2%/1% quota under Article 53 but the sanction mechanism for non-compliance appears under-specified, which may limit the practical consequences of violation.⁴⁶ Second, implementation remains uneven: supervision by the Ministry of Manpower and the Disability Service Units (Unit Layanan Disabilitas, ULD), which are intended to connect job seekers and employers, does not yet appear systematic or data-driven, and ULD coverage varies across regions.⁴⁷ The institutional factor: recent field research on employer compliance with the statutory hiring obligation finds that companies continue to under-report or avoid the quota with limited consequence, reflecting weak coordination between labor inspectorates and local government.⁴⁸ These compounding factors are consistent with the national labor-force data cited earlier, in which only 0.64% of persons with disabilities aged 15 and above are in employment despite the statutory obligation.⁴⁹ Taken together, these factors help explain why the employment rate of persons with disabilities remains far below the statutory aspiration. Against the state's tripartite human rights obligations, Indonesia appears to have discharged the duty to respect through non-discriminatory legislation, but its duties to protect and fulfill remain only partially realized because weak oversight leaves the quota weakly enforced in practice.⁵⁰

Malaysia's incentive-based model faces a different but related problem. The Persons with Disabilities Act 2008 does not appear to create a binding quota or meaningful penalty for non-compliance, so tax deductions and financial support function mainly as incentives rather than enforceable obligations. As a result, employers who see limited commercial benefit in hiring persons with disabilities may still opt not to do so.⁵¹ This structural weakness is reflected in Malaysia's own official data: a 2025 DOSM employer survey found that only around 22% of employers currently employ persons with disabilities despite 81% rating the work performance of disabled employees as comparable to that of other workers, which indicates that the barrier to employment is not productivity concerns but the absence of a binding obligation to hire.⁵² This is consistent with official data and the literature, which suggest that employer participation remains limited despite generally

⁴⁵ Maria Natasha Rudijanto, Rasji Rasji, and Jessica Aurelia, "Pemikiran Filsafat Hukum Tentang Keseimbangan Kebebasan Individu Dan Keamanan Nasional Dalam Hak Asasi Manusia," *Jurnal Ilmiah Wahana Pendidikan* 10, no. 8 (2024): 832-37, <https://doi.org/10.5281/zenodo.11118716>.

⁴⁶ Muhammad Azka Sirajulakbar, Rina Yulianti, and Tiwi Rizkiyani, "Analisis Implementasi Pemenuhan Hak Ketenagakerjaan Bagi Penyandang Disabilitas Di Kota Serang," *JANE (Jurnal Administrasi Negara)* 17, no. 2 (2026): 376-89, <https://doi.org/10.24198/jane.v17i2.66441>.

⁴⁷ Zairusi Zairusi, "Dari Regulasi Ke Realisasi: Implementasi Unit Layanan Disabilitas Dalam Ketenagakerjaan Inklusif Di Kabupaten Bandung Barat," *Moderat: Jurnal Ilmiah Ilmu Pemerintahan* 12, no. 1 (2026): 317-31, <https://doi.org/10.25157/moderat.v12i1.6038>.

⁴⁸ Ferren Fearl, Christiani Prasetiasari, and Wan Darmayana Achmayu, "Kepatuhan Perusahaan Atas Kewajiban Untuk Memberikan Pekerjaan Kepada Penyandang Disabilitas Sebagaimana Yang Diatur Dalam Undang - Undang (Studi Penelitian Dinas Ketenagakerjaan Provinsi Kepulauan Riau)," *Zona Keadilan: Program Studi Ilmu Hukum (S1) Universitas Batam* 15, no. 3 (2025): 149-64, <https://doi.org/10.37776/zkih.v15i3.2150>.

⁴⁹ Badan Pusat Statistik, "Statistik Ketenagakerjaan."

⁵⁰ Arlene S Kanter, "A Comparative View of Equality under the UN Convention on the Rights of Persons with Disabilities and the Disability Laws of the United States and Canada," *Windsor YB Access Just* 32, no. 2 (2015), <https://doi.org/10.22329/wyaj.v32i2.4682>.

⁵¹ Hirwan Jasbir Jaafar, Harlida Abdul Wahab, and Nurli Yaacob, "Amalan Pengurusan Pekerja Kurang Upaya Dalam Sesebuah Organisasi Berdasarkan Undang-Undang Di Malaysia," *Jurnal Pengurusan* 51, no. 1 (2017): 135-46, <https://doi.org/10.17576/pengurusan-2018-51-12>.

⁵² Free Malaysia Today, "81% of Bosses Find Disabled Workers Perform on Par with Others."

positive attitudes toward the work performance of disabled employees. More broadly, Malaysian disability-law scholarship tends to describe the problem as one of weak enforcement and insufficient support structures rather than the absence of formal legal recognition. Under the same tripartite framework, Malaysia appears to satisfy the duty to respect, but its duty to fulfill remains only weakly discharged because incentives alone have not yet generated substantial labour-market inclusion.

Challenges in Policy Implementation from a Human Rights Perspective

Despite having relatively adequate legal frameworks, Indonesia and Malaysia still face complex challenges in implementing disability labor protection policies challenges that are juridical as well as social, economic, and institutional in nature, and that manifest differently in each jurisdiction given their contrasting regulatory models, as set out below.

Challenges in Indonesia

Three challenges dominate in the Indonesian context. First, discrimination and social stigma persist in recruitment practice: persons with disabilities are frequently perceived as less productive individuals not meeting labor-market standards.⁵³ a structural bias that produces indirect as well as direct discrimination through facially neutral requirements. Second, although the quota system under Law No. 8/2016 is formally in place, oversight and enforcement mechanisms remain weak. Although monitoring responsibilities formally exist, the absence of an integrated, data-driven compliance system and the limited practical application of sanctions have contributed to persistently low compliance.⁵⁴ Third, workplace accessibility remains inadequate many companies still do not provide disability-friendly facilities such as physical access, assistive technologies, or adaptive work environments⁵⁵, so that the CRPD's reasonable accommodation standard is not optimally implemented; from a human rights perspective, this omission itself can be classified as a form of discrimination. Taken together, these challenges indicate that Indonesia has made significant progress in recognizing and respecting the employment rights of persons with disabilities through its legislative framework. Nevertheless, it continues to face substantial challenges in fully meeting its obligations to protect and fulfill those rights, as weak enforcement, limited monitoring, and inadequate workplace accessibility prevent the effective implementation of its legal commitments.

Challenges in Malaysia

Malaysia's challenges are structurally distinct. Although the Persons with Disabilities Act 2008 formally recognizes the right of persons with disabilities to work on an equal basis with others and provides a legal basis for affirmative measures, the framework relies largely on promotional and facilitative mechanisms rather than legally enforceable obligations imposed on private employers. Consequently, implementation has lagged behind its normative commitments, particularly in relation to employer accountability, reasonable accommodation, and labour market inclusion. First, the incentive-based approach lacks strong enforcement mechanisms: absent a binding quota or penalty, employer participation depends entirely on voluntary uptake of tax incentives, which the data discussed above show has limited reach. Second, accessibility and reasonable accommodation remain inadequately implemented. Although the Persons with Disabilities Act 2008 recognizes the employment rights of persons with disabilities, it does not expressly impose an enforceable duty on private employers to provide reasonable accommodation.⁵⁶ As noted by the CRPD Committee, this weakens protection against disability-based discrimination in employment. Third, discrimination and

⁵³ Silvy Novianty et al., "Kekerasan Berbasis Gender Terhadap Perempuan Penyandang Disabilitas Dalam Dunia Kerja: Tinjauan Kebijakan Publik Di Indonesia," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 3, no. 5 (2025): 431-39, <https://doi.org/10.5281/zenodo.18017595>.

⁵⁴ Muhammad Dahlan and Syahriza Alkohir Anggoro, "Hak Atas Pekerjaan Bagi Penyandang Disabilitas Di Sektor Publik: Antara Model Disabilitas Sosial Dan Medis," *Undang: Jurnal Hukum* 4, no. 1 (2021): 1-48, <https://doi.org/10.22437/ujh.4.1.1-48>.

⁵⁵ Rosta Rosalina and Ninik Setyowati, "Stigma Penyandang Disabilitas Dalam Bekerja Di Indonesia: Literature Review," *Jurnal Kolaboratif Sains* 7, no. 3 (2024): 1076-86, <https://doi.org/10.56338/jks.v7i3.4669>.

⁵⁶ Wahab and Ayub, "Persons with Disabilities Act 2008: The Economic Promises for People with Disabilities?"

stigma persist through employers' perceptions that persons with disabilities are less productive, reinforcing employers' reluctance to recruit them despite available policy incentives.⁵⁷ These patterns indicate that Malaysia has taken important legislative steps to recognize the rights of persons with disabilities through the Persons with Disabilities Act 2008 and its ratification of the CRPD. However, significant gaps remain in fulfilling its obligations to protect and fulfill those rights because the current legal framework relies primarily on voluntary compliance rather than enforceable duties.

Beyond these country-specific patterns, both countries share cross-cutting structural barriers common to the region: limited access to education and vocational training for persons with disabilities reduces their competitiveness in the labor market and reinforces the cycle of exclusion⁵⁸, while weak coordination between government, the private sector, and civil society organizations continues to hamper the cross-sectoral, integrated approach that effective disability labor protection requires.

Addressing these challenges cannot be achieved through a partial approach; it requires a comprehensive and integrated strategy that combines normative, institutional, and cultural aspects. Strengthening law enforcement becomes a crucial starting point, as the existence of norms without effective enforcement mechanisms will only make the law symbolic. In Indonesia, although the quota obligation is clearly regulated under Law No. 8 of 2016, the absence of a structured monitoring system and implementable sanctions results in low compliance.⁵⁹ Therefore, there is a need to establish a data-driven, transparent, and accountable monitoring mechanism, along with the application of administrative sanctions and real disincentives that have a tangible force against businesses. On the other hand, Malaysia also needs to strengthen the enforcement dimension, not relying solely on voluntary compliance, but moving towards more binding regulatory instruments.

In addition, the design of incentives must be more strategic, ensuring that they are not merely formalities but truly capable of influencing the behavior of the private sector. Fiscal incentives, training subsidies, and administrative facilitation should be specifically directed towards companies that consistently employ and retain disabled workers,⁶⁰ accompanied by a strict evaluation mechanism to prevent misuse. Furthermore, providing adequate accessibility facilities is a fundamental prerequisite for creating an inclusive work environment, which includes not only physical infrastructure but also technology, work systems, and communication patterns that are adaptive to the needs of persons with disabilities.⁶¹ From a human rights perspective, failing to provide accessibility can be classified as a form of structural discrimination, so the state needs to set minimum accessibility standards that employers must meet, accompanied by clear technical guidelines to ensure that implementation is not sporadic. Moreover, increasing education and vocational training for persons with disabilities is a strategic step to strengthen individual capabilities, given that the low participation of disabled workers is not only influenced by discrimination but also by limited access to inclusive education and vocational training relevant to the labor market needs.⁶²

Equally important, changing societal culture through education and anti-discrimination campaigns is a key factor for long-term success, as stigma against persons with disabilities is still deeply rooted, indicating that this issue is not merely juridical but also sociological. Therefore, systematic efforts are required to build public awareness about the importance of inclusivity through formal education, mass media, and corporate policies, so that persons with disabilities are no longer viewed as burdens but as human resources with potential and contributions. Furthermore, strengthening coordination

⁵⁷ M. Omar et al., "Examining Hindrance Factors for Hiring People with Disabilities (PWDs) in Malaysia: Employer's Perspectives," *INTERNATIONAL JOURNAL OF RESEARCH* 8, no. 11 (2024): 1800-1817, <https://doi.org/10.47772/IJRISS.2024.8110140>.

⁵⁸ Dhea Erissa and Dini Widinarsih, "Akses Penyandang Disabilitas Terhadap Pekerjaan: Kajian Literatur," *Jurnal Pembangunan Manusia* 3, no. 1 (February 2022): 1-14, <https://doi.org/10.7454/jpm.v3i1.1027>.

⁵⁹ Muhammad Azka Sirajulakbar, Rina Yulianti, and Tiwi Rizkiyanti, "Analisis Implementasi Pemenuhan Hak Ketenagakerjaan Bagi Penyandang Disabilitas Di Kota Serang," *Jurnal Jane* 17, no. 2 (2026): 376-389, <https://doi.org/10.24198/jane.v17i2.66441>.

⁶⁰ Firmansyah and Suryani, "Kebijakan Fiskal Inklusif: Menggagas Insentif Pajak Bagi Penyandang Disabilitas Di Indonesia."

⁶¹ Moh Prajamuda Sudirman, "Tinjauan Perlindungan Hukum Bagi Kesetaraan Penyandang Disabilitas: Review of Legal Protection for Equality of Persons with Disabilities," *PESOLAH: Jurnal Pendidikan, Sosial Dan Humaniora* 1, no. 1 (2025): 33-41, <https://doi.org/10.59896/pesolah.v1i1.151>.

⁶² Lanita Enggarati and Meilanny Budiarti Santoso, "Penguatan Self-Efficacy Penyandang Disabilitas Melalui Pemberdayaan," *Share Social Work Journal* 15, no. 1 (2025): 22-34, <https://doi.org/10.24198/share.v15i1.63692>; Novi Hidayat and Ziyadi Ali Ikromi, "Pemberdayaan Masyarakat Melalui Pelatihan Keterampilan Digital Bagi Penyandang Disabilitas," *JPPKh Lectura: Jurnal Pengabdian Pendidikan Khusus* 3, no. 1 (2025): 1-10.

between institutions, both at the national and sectoral levels, is crucial given that policy fragmentation has caused disability labor protection programs to be ineffective. Synergy between relevant ministries, the private sector, and civil society organizations needs to be enhanced through an integrated policy framework so that every policy is not pursued in isolation but rather in mutual support. Thus, it can be emphasized that the main challenges in the implementation of disability labor protection policies in Indonesia and Malaysia lie in the gap between legal norms and practices, influenced by weak law enforcement, discriminatory culture, limited accessibility, and low human resource capabilities.⁶³ Therefore, a more comprehensive approach is needed, integrating social, economic, and cultural aspects simultaneously to drive systemic transformation towards creating an inclusive and equitable labor market for persons with disabilities.

Conclusion

This study demonstrates that Indonesia and Malaysia adopt fundamentally different approaches to protecting the employment rights of persons with disabilities. Indonesia relies on a mandatory quota system under Law No. 8 of 2016, whereas Malaysia primarily adopts an incentive-based model through the Persons with Disabilities Act 2008. Despite these different regulatory approaches, both countries experience a similar implementation gap because neither has developed an enforcement mechanism capable of ensuring effective employer compliance. From a human rights perspective, both countries have fulfilled the obligation to respect by recognizing the right to work in their legal frameworks, but significant shortcomings remain in fulfilling the obligations to protect and fulfill due to weak supervision, ineffective enforcement, and the absence of fully enforceable reasonable accommodation standards. The principal contribution of this study is the application of a human rights framework based on the CRPD's tripartite state obligations together with a broader comparative framework encompassing legal design, implementation, enforcement, sanctions, reasonable accommodation, and state obligations. The findings demonstrate that the effectiveness of disability employment policies depends less on whether a country adopts mandatory quotas or voluntary incentives than on the existence of a credible enforcement architecture capable of translating legal commitments into practical employment outcomes.

Accordingly, several policy measures are recommended. Indonesia should strengthen quota supervision by expanding the role of Disability Service Units (ULD) and ensuring effective administrative sanctions for non-compliance. Malaysia should complement its incentive-based approach with more binding legal obligations to improve employer accountability. In both countries, legally enforceable reasonable accommodation standards should be introduced alongside stronger monitoring mechanisms to ensure that the right to work guaranteed under Article 27 of the CRPD is realized in practice rather than remaining a formal legal commitment.

Acknowledgment

The authors extend their sincere gratitude to the editors and anonymous reviewers for their invaluable feedback, insightful critiques, and constructive comments, all of which have substantially enhanced the rigor and quality of this manuscript. Appreciation is also expressed to the foundational scholars whose prior research provided the theoretical framework for this study. Additionally, the authors gratefully acknowledge the Faculty of Law and the Institute for Research and Community Service (LPPM) at Universitas Internasional Batam for their indispensable institutional and financial support throughout this research.

Statement on the Use of Generative Artificial Intelligence (AI)

The authors explicitly declare that no generative artificial intelligence (AI) or AI-assisted technologies were utilized in the preparation or writing of this manuscript. All conceptualization,

⁶³ Fearl, Prasetyasari, and Achmayu, "Kepatuhan Perusahaan Atas Kewajiban Untuk Memberikan Pekerjaan Kepada Penyandang Disabilitas Sebagaimana Yang Diatur Dalam Undang - Undang (Studi Penelitian Dinas Ketenagakerjaan Provinsi Kepulauan Riau)."

analysis, data interpretation, and composition were conducted independently by the authors, who maintain complete accountability for the originality, accuracy, and integrity of the final work.

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