

The Legal Status of Persons with Disabilities in Rehabilitation, Training, and Sheltered Employment Programmes

Achmad Kemal¹

¹ Fakultas Hukum, Universitas Balikpapan, Indonesia

Correspondence: achmadkemalk@gmail.com

Article Info

Article history:

Received Aug 16th, 2026

Revised Sept 4th, 2026

Accepted Sept 13th, 2026

Keyword:

Disability employment;
Employment status; Rehabilitation;
Sheltered employment; Vocational
training.

ABSTRACT

Rehabilitation, vocational training, and sheltered employment were examined as settings that can support persons with disabilities while creating uncertainty about the legal status of productive activity. The problem arose when a programme was formally described as training or rehabilitation although participants performed recurring work under organisational direction and received payment connected to that work. This study used normative legal research with Indonesian employment and disability law as its principal legal materials. Article 27 of the Convention on the Rights of Persons with Disabilities and General Comment No. 8 provided the international disability rights framework. Peer reviewed research was used as secondary material to clarify the institutional features of sheltered work, vocational rehabilitation, and supported employment. The analysis found that programme terminology should not operate as a preliminary exemption from employment status review. Under Indonesian law, work, wages, orders, and the existence of a work agreement remained central. Regular scheduling, productive integration, and economic benefit were relevant only when they assisted interpretation of those legal elements. A substance based review was proposed to distinguish genuine rehabilitation or training from arrangements in which ordinary labour protection may already be legally relevant.



© 2026 The Authors. Published by Punggawa Legacy Center. This is an open access article under the CC BY license (<https://creativecommons.org/licenses/by/4.0/>)

PENDAHULUAN

Work performed by persons with disabilities is often divided by institutional labels that do not correspond neatly with legal status. A person may be called a trainee, rehabilitation participant, workshop beneficiary, or sheltered worker while the daily routine still includes production, supervision, and payment. The distinction matters because wage protection, social security, collective rights, and employment remedies usually depend on recognition as a worker. Bend and Priola (2023) identify this tension in sheltered employment. Ruppel (2024) shows how productive labour can become institutionally recast as a service received by a disabled person rather than work performed by that person. The difficulty is sharper when the institution provides support and also depends on the participant's output.

Article 27 of the Convention on the Rights of Persons with Disabilities places work within an open, inclusive, and accessible labour market. General Comment No. 8 adds concern about unequal remuneration, weak transition to open employment, absent regular contracts, and exclusion from social security. A rehabilitation orientation may also accompany segregation. Yet vocational guidance, training, rehabilitation, job retention, and return to work remain legitimate forms of support. The legal difficulty is not whether rehabilitation should exist. It is whether support terminology still explains a relationship once productive work begins to carry features ordinarily associated with employment. That distinction preserves legitimate assistance without allowing assistance by itself to settle legal status in advance.

Research on employment pathways confirms that similar labels can cover different practices. Competitive integrated employment is associated with stronger economic outcomes than segregated work for many persons with intellectual and developmental disabilities (Taylor et al., 2022). Systematic review evidence also questions any employment outcome advantage from segregated vocational services (Taylor et al., 2023). Supported employment can improve access to competitive work (Sundermann et al., 2023), while vocational training may improve later employment depending on programme design (Reims and Tisch, 2022). These findings do not determine legal status, but they make institutional labels a poor substitute for legal analysis.

Indonesian law makes the classification problem concrete. Article 1 point 15 of Law No. 13 of 2003 defines an employment relationship through a work agreement containing work, wages, and orders. Article 50 makes the work agreement the basis of the relationship, while Article 51 recognises written and oral agreements. The inquiry is broader than a three element checklist. The absence of a document called an employment contract does not by itself settle whether a work agreement and an employment relationship exist in the relationship actually performed. An oral or otherwise evidenced agreement may still require attention to the parties' conduct and the legal function of the arrangement rather than its formal title.

Law No. 8 of 2016 on Persons with Disabilities adds another layer. It regulates inclusive vocational training while separately protecting equal remuneration, reasonable accommodation, associational rights, and employment related social security. Training and employment may overlap, but the statute does not treat them as interchangeable. Indonesian scholarship has concentrated on access, discrimination, quotas, and barriers to the right to work (Dahlan and Anggoro, 2021). Rohanawati et al. (2023) reach a similar concern. The prior question of when productive activity inside a disability programme should be examined as employment remains less developed.

The recognition problem also appears elsewhere in Indonesian labour law. Decision No. 75/PUU-XX/2022 concerned homeworkers who argued that the statutory definition of the employment relationship left them outside ordinary protection. The Court rejected the challenge and maintained Article 1 point 15 and Article 50, although it acknowledged the need for specific regulatory attention. The facts are different from disability programmes. The narrower relevance is that Indonesian law already encounters productive work that does not fit comfortably within formal employment categories. A similar recognition problem can arise when rehabilitative language coexists with legally relevant work.

The issue is whether rehabilitation, vocational training, or sheltered employment remains an adequate legal description once the activity begins to resemble an employment relationship. Status must be tested under Indonesian disability and employment law without presuming that sheltered work is employment or that rehabilitation is used to evade protection. A disability specific label cannot end the inquiry when work, remuneration, direction, and the contractual context point toward a relationship that labour law may recognise. The aim is classification rather than a presumption of wrongdoing.

RESEARCH METHODS

This research uses a normative legal method. The principal legal materials are Law No. 13 of 2003 on Manpower as amended, Law No. 8 of 2016 on Persons with Disabilities, Decision No. 75/PUU-XX/2022 of the Constitutional Court, the Convention on the Rights of Persons with Disabilities, and General Comment No. 8. These materials are read together to examine how Indonesian law distinguishes training and rehabilitation from an employment relationship and how disability rights affect that classification.

The analysis is qualitative. Statutory provisions and the Constitutional Court decision are interpreted against the disability rights framework, while secondary literature is used to test whether the institutional label adequately describes the activity under review. The study makes no claim that rehabilitation or sheltered employment programmes are generally exploitative. It also does not treat any single contextual feature as proof of employment. The conclusion remains a legal classification question that depends on the applicable elements of work, wages, orders, and the existence of a work agreement.

RESULTS AND DISCUSSION

Legal Status Beyond Programme Labels

Rehabilitation and vocational training can involve work like activity without creating an employment relationship. A training programme may use simulated production, supervised practice, assessment, and repetitive tasks because those methods develop competence. Rehabilitation can also include structured activity intended to restore functioning or support participation. Productive output may appear in either setting without becoming their governing legal purpose. The distinction becomes harder when the organisation regularly relies on participants to produce goods or services that enter its ordinary operations. At that point, the activity is no longer explained adequately by the fact that learning or rehabilitation also occurs.

The overlap is visible in supported employment. Support does not displace employee status merely because coaching or accommodation continues after placement. Blanck (2020) treats accommodation as part of inclusive employment rather than an exception from it. Studies of workplace supports likewise show that assistance, job fit, and sustained support can help employees with intellectual disabilities remain in work (Carlson et al., 2020). Employment sustainability therefore cannot be inferred from the absence of support. A person may require substantial assistance and still be performing ordinary paid work under ordinary labour protection.

Sheltered employment is harder because productive work and disability specific support are often fused. Gill (2005) questioned the assumption that workshops operate mainly as transitional spaces. Friedman (2019) and Tang and Strauser (2025) show how low or subminimum remuneration remains tied to disability and productivity. The category is still heterogeneous. Work integration social enterprises may provide meaningful work and tailored support when conditions are organised around worker development rather than permanent segregation (Fischer, 2026). Legal status therefore cannot be inferred from the social mission of the institution or from the mere presence of specialised support.

General Comment No. 8 is useful at this point because it does not define employee status under Indonesian law. Its contribution is different. It identifies conditions under which disability specific work conflicts with the right to work on an equal basis with others. The absence of regular contracts, unequal remuneration, exclusion from social security, and ineffective transition to an open labour market are treated as markers of segregated employment. These features do not automatically create an Indonesian employment relationship. They do make it difficult to justify a lower tier of productive work merely by referring to rehabilitation or protection.

Employment Status Under Indonesian Law

The domestic inquiry begins with the employment relationship itself. Article 1 point 15 of the Manpower Law connects work, wages, and orders with a work agreement. Article 50 then makes that agreement the basis of the employment relationship. Article 51 is important because a work agreement need not always be written. A programme document describing someone as a trainee or beneficiary cannot therefore be treated as conclusive merely because no separate employment contract has been signed. The legal issue is whether the relationship that is actually performed contains the statutory elements and whether the parties have, in substance, entered a work agreement recognised by law. Formal programme documents remain relevant, but they do not displace the statutory inquiry.

The element of work requires more than the presence of activity. Practice exercises that exist for learning do not carry the same meaning as recurring tasks performed for the organisation. The distinction is functional. If output is discarded, simulated, or incidental to assessment, its employment significance is weak. The position changes when the participant fills routine production needs or provides services on which the organisation depends. Economic benefit is not a separate statutory test, but it can help show whether the activity is being performed for the organisation rather than only for the participant's education or rehabilitation.

Remuneration requires the same restraint. A wage cannot be identified simply because money changes hands. Training allowances and rehabilitation benefits can serve purposes unrelated to payment for work. The label attached to a payment is also insufficient. Where an allowance is calculated by output, paid at regular work intervals, or withheld when assigned tasks are not performed, its function may require closer analysis. Law No. 8 of 2016 strengthens the importance of that inquiry because Article 49 requires equal wages for workers with disabilities who perform the same type of work with the same responsibility as workers without disabilities.

Orders are more difficult because instruction exists in both training and employment. A trainer can tell a participant how to complete an exercise without becoming an employer. Managerial direction has a different character when it organises productive activity for the institution. Fixed shifts, production deadlines, task allocation, discipline, and rules governing how services are delivered may give content to the statutory element of orders. None of these indicators replaces the legal requirement. Their role is interpretive. They help distinguish educational supervision from direction exercised within productive work.

Law No. 8 of 2016 makes the boundary more visible because it treats vocational training and employment as connected but distinct fields of protection. Inclusive training is required, yet the law separately regulates workplace adaptation, equal remuneration, reasonable accommodation, associational rights, and access to employment related social security. Those protections would lose force if an institution could place productive workers outside labour law simply by maintaining a training or rehabilitation label. The opposite error also matters. Genuine vocational education should not become employment merely because realistic tasks are used for learning. Classification therefore depends on how the arrangement actually operates and which function dominates the productive activity in the particular case.

Decision No. 75/PUU-XX/2022 illustrates why formal recognition matters even though the case concerned homeworkers. The petitioners argued that the legal definition of the employment relationship failed to capture work performed through intermediated arrangements. The Court did not expand the statutory definition and found the challenged provisions constitutional. It nevertheless acknowledged the distinct position of homeworkers and the need for specific regulatory attention. The decision does not authorise a broad substance over form doctrine. It shows something more modest and more useful here. Productive activity can fall into a protection gap when legal categories and work organisation do not align easily.

Employment status scholarship reaches a similar conclusion without supplying a ready made Indonesian test. Davidov (2005) treats worker status as a problem of identifying the persons for whom labour law protection is justified. Deakin (2020) shows how legal classification converts complex social relations into formal status. Davidov (2022) later demonstrates that status tests differ because legal systems choose different proxies for dependency and control. The value of that literature lies in its warning against formal labels. It does not justify importing a foreign test into Indonesian law. The statutory structure remains controlling.

A Substance Based Review of Employment Status

Table 1 presents the distinction as an analytical aid rather than a taxonomy. Genuine rehabilitation is normally organised around functional participation or therapeutic goals. Vocational training is organised around learning and competence. Sheltered employment often combines productive work with disability specific support and may remain segregated from the open labour market. Ordinary employment is organised around work performed within the labour law framework. The boundaries remain porous because a single institution can perform more than one function at the same time.

Table 1 Analytical Characteristics of Rehabilitation, Training, Sheltered Employment, and Ordinary Employment

Dimension	Rehabilitation	Vocational training	Sheltered employment	Ordinary employment
Main function	Functional participation	Learning and competence	Productive work with disability specific support	Work within the labour law framework
Productive activity	May be incidental	Usually subordinate learning	Often recurring and to economically relevant	Central to the relationship
Payment	May be unrelated to productive output	May be absent or limited	May involve wages or allowances	Remuneration governed by applicable labour law

Dimension	Rehabilitation	Vocational training	Sheltered employment	Ordinary employment
Direction	Therapeutic supervision	Instructional supervision	May resemble managerial direction	Orders exercised within an employment relationship
Continuity	Linked to rehabilitative need	Normally bounded by curriculum or training purpose	Can become long term	Governed by work agreement and labour law
Legal concern	Avoid treating therapeutic activity as employment without legal basis	Avoid turning genuine learning into employment	Examine whether support obscures employment status	Apply ordinary labour and disability rights

Hybrid arrangements are where legal review becomes necessary. A workshop may teach skills while selling participants' output. A social enterprise may pursue a protective mission while employing workers under ordinary contracts. A training centre may gradually rely on trainees to meet recurring production targets. No one fact determines the outcome. The programme purpose matters, but so do the contractual context and the way work is organised. When those features begin to resemble the statutory employment relationship, the label becomes an inadequate answer rather than proof of misclassification.

The proposed review starts with the statutory elements rather than a list of social indicators. Work asks whether productive activity is performed for the organisation. Wages ask whether payment operates as consideration for that work. Orders ask whether productive activity is directed by the organisation in a manner that goes beyond teaching or therapy. The work agreement remains the legal basis that links those elements. Continuity, regular scheduling, operational integration, and economic benefit can strengthen the need for scrutiny, but they have no autonomous status in the test. Their value lies in explaining the statutory relationship, not in creating a parallel employment test.

Table 2 Questions for a Substance Based Review of Employment Status

Question	Legal relevance	Limit
Is productive work performed for the organisation	May support the statutory element of work	Practice or therapeutic tasks may remain outside employment
Is payment connected to the productive activity	May support the wage element	An allowance or stipend is not automatically a wage
Does the organisation direct productive activity	May support the element of orders	Instruction and coaching are not automatically managerial orders
Does the relationship rest on an express or implied work agreement	Links the statutory elements to the employment relationship	No written contract does not resolve the issue
Is activity recurring and integrated into ordinary operations	Can strengthen the need for direct status review	Contextual indicators are not independent tests
Is there a genuine curriculum, therapeutic plan, or transition objective	May support a training or rehabilitation classification	A stated objective is weak if productive work dominates actual practice
Are ordinary labour protections absent	May reveal consequences of classification	Absence of protection does not itself prove employee status

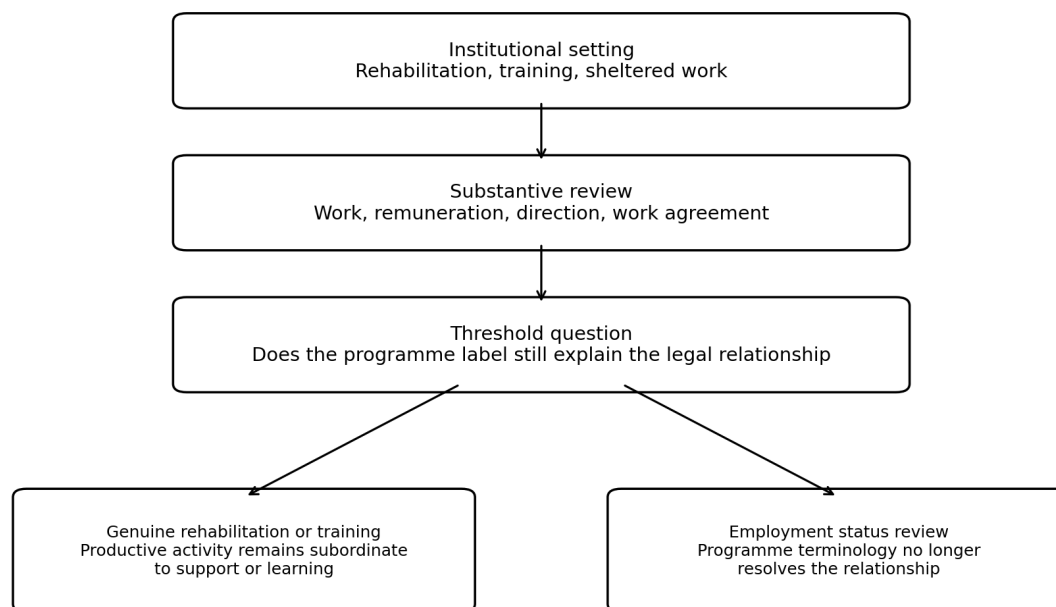


Figure 1 Substance Based Framework for Reviewing Employment Status

Table 2 turns that reasoning into questions that can be used without converting legal judgment into a score. A recurring task performed for the organisation may support the work element. Payment tied to performance may support the wage element. Direction over productive tasks may support the element of orders. A credible curriculum, therapeutic plan, or transition objective can point the other way when productive activity remains subordinate to those aims. The questions are deliberately asymmetrical because employment status is not produced by counting indicators. Their purpose is to identify when the programme description, rather than merely its stated purpose, is no longer sufficient and direct labour law analysis becomes necessary in practice.

Employment quality research supports the same caution. Mostafa and Wang (2023) show that competitive integrated employment cannot be reduced to participation. Patmisari et al. (2024) find support for supported employment among people with severe mental illness. These are outcome studies, not legal status studies. Their relevance is limited but useful. Placement in a work related setting does not itself establish the quality or enforceability of employment rights, and outcome evidence cannot replace domestic legal classification.

Studies of sustainability and organisational transition point in the same direction. Taubner et al. (2022) identify continuing support and workplace conditions as relevant to sustainable employment. Avellone et al. (2025) examine agencies that moved from subminimum wage models toward competitive integrated employment. Wehman et al. (2018) had already documented the unfinished transition toward competitive work. These studies do not determine Indonesian legal status, but they show why continuing support should not freeze a person into a non worker category.

Open labour market research also complicates the assumption that disability specific assistance belongs outside ordinary employment. Ximba et al. (2026) identify employer practices, accommodation, and organisational conditions as recurring determinants of labour market inclusion. Colella and Boehm (2026) place disability employment within changing organisational practices rather than a simple divide between support and independence. Productive work can coexist with adjustment, coaching, or flexible scheduling. The legal question is therefore not whether support is present. It is whether the person receiving support is also performing work within a relationship that attracts labour protection.

A substance based review avoids two symmetrical errors. Treating all rehabilitation activity as employment would undermine legitimate therapeutic and educational programmes. Treating all activity inside such programmes as non employment would allow institutional vocabulary to decide legal status before the statutory elements are considered. The better position is narrower. Programme classification

remains relevant until the actual organisation of work creates a serious question about work, remuneration, direction, and contractual commitment. At that point, the relationship should be examined directly under labour law rather than insulated by the social purpose of the programme.

That approach also changes how potential misclassification should be described. The term should not be used merely because participants with disabilities perform useful tasks. Misclassification becomes plausible only when a non employment label is maintained despite a relationship that may satisfy the legal conditions of employment. The distinction matters for both accuracy and fairness. It prevents normative analysis from turning criticism of segregated work into an unsupported allegation of exploitation, while preserving a route to ordinary wage, social security, grievance, and collective rights where labour law is actually engaged.

CONCLUSION

Rehabilitation, vocational training, and sheltered employment cannot be classified by institutional name alone. Indonesian law already supplies a legal centre of gravity through the employment relationship, the work agreement, and the elements of work, wages, and orders. Disability law adds a parallel requirement that employment, training, remuneration, accommodation, collective rights, and social security be organised on an equal basis. Read together, these rules leave room for genuine rehabilitation and training while rejecting the idea that programme terminology can operate as an automatic exemption from labour law review.

The proposed substance based review is deliberately modest. It does not create a new statutory test and does not assume that sheltered work is disguised employment. It identifies the point at which the programme label stops being sufficient. Recurring productive work, payment connected to that work, organisational direction, and a contractual relationship may require direct examination under employment law. Other features can help interpret those elements but should not replace them. The practical consequence is significant. A disability specific programme may continue to provide specialised support without deciding in advance whether the people who perform its productive work are workers in law.

REFERENCES

- Avellone, L., Rounds, R., Temple, P., & Claude, C. (2025). Increasing quality employment outcomes for people with disabilities: Insight from agencies who have successfully transformed from subminimum wage to competitive integrated employment. *Journal of Vocational Rehabilitation*, 62(3), 209–217. <https://doi.org/10.1177/10522263251326016>
- Bend, G. L., & Priola, V. (2023). ‘There is nothing wrong with me’: The materialisation of disability in sheltered employment. *Work, Employment and Society*, 37(3), 645–664. <https://doi.org/10.1177/09500170211034762>
- Blanck, P. (2020). Disability inclusive employment and the accommodation principle: Emerging issues in research, policy, and law. *Journal of Occupational Rehabilitation*, 30, 505–510. <https://doi.org/10.1007/s10926-020-09940-9>
- Carlson, S. R., Morningstar, M. E., & Munandar, V. (2020). Workplace supports for employees with intellectual disability: A systematic review of the intervention literature. *Journal of Vocational Rehabilitation*, 52(3), 251–265. <https://doi.org/10.3233/JVR-201075>
- Colella, A., & Boehm, S. A. (2026). Disability and employment in transition: Challenges, innovations, and opportunities. *Annual Review of Organizational Psychology and Organizational Behavior*, 13, 277–307. <https://doi.org/10.1146/annurev-orgpsych-110622-055845>
- Committee on the Rights of Persons with Disabilities. (2022). General comment No. 8 (2022) on the right of persons with disabilities to work and employment (CRPD/C/GC/8). United Nations.
- Constitutional Court of the Republic of Indonesia. (2023). Decision No. 75/PUU-XX/2022 on judicial review of Law No. 13 of 2003 on Manpower.
- Dahlan, M., & Anggoro, S. A. (2021). Hak atas pekerjaan bagi penyandang disabilitas di sektor publik: Antara model disabilitas sosial dan medis. *Undang: Jurnal Hukum*, 4(1), 1–48. <https://doi.org/10.22437/ujh.4.1.1-48>
- Davidov, G. (2005). Who is a worker? *Industrial Law Journal*, 34(1), 57–71. <https://doi.org/10.1093/ilj/34.1.57>

- Davidov, G. (2022). The ABC test: A new model for employment status determination? *Industrial Law Journal*, 51(2), 235–276. <https://doi.org/10.1093/indlaw/dwac004>
- Davidov, G. (2025). Using AI to mitigate the employee misclassification problem. *The Modern Law Review*, 88(2), 267–299. <https://doi.org/10.1111/1468-2230.12919>
- Deakin, S. (2020). Decoding employment status. *King's Law Journal*, 31(2), 180–193. <https://doi.org/10.1080/09615768.2020.1789432>
- Fischer, D. (2026). What shapes quality of working life in work integration social enterprises? Insights from employees with intellectual disabilities. *Qualitative Social Work*. Advance online publication. <https://doi.org/10.1177/14733250261451974>
- Friedman, C. (2019). Ableism, racism, and subminimum wage in the United States. *Disability Studies Quarterly*, 39(4). <https://doi.org/10.18061/dsq.v39i4.6604>
- Gill, M. (2005). The myth of transition: Contractualizing disability in the sheltered workshop. *Disability & Society*, 20(6), 613–623. <https://doi.org/10.1080/09687590500248399>
- Mostafa, S., & Wang, Y. C. (2023). Competitive integrated employment for youth with disabilities: Aligning measurement with conceptualization using latent growth curve modeling. *PLOS ONE*, 18(11), e0290573. <https://doi.org/10.1371/journal.pone.0290573>
- Patmisari, E., Huang, Y., Orr, M., Govindasamy, S., Hielscher, E., & McLaren, H. (2024). Supported employment interventions with people who have severe mental illness: Systematic mixed-methods umbrella review. *PLOS ONE*, 19(6), e0304527. <https://doi.org/10.1371/journal.pone.0304527>
- Reims, N., & Tisch, A. (2022). Employment effects for people with disabilities after participation in vocational training programmes: A cohort analysis using propensity score matching. *Work*, 72(2), 611–625. <https://doi.org/10.3233/WOR-205046>
- Republic of Indonesia. (2003). Law No. 13 of 2003 on Manpower, as amended.
- Republic of Indonesia. (2016). Law No. 8 of 2016 on Persons with Disabilities.
- Rohanawati, A. N., Hadi, S., & Rahman, T. (2023). A legal barrier to the enjoyment of the right to work for workers with disabilities. *Jurnal HAM*, 14, 155–168. <https://doi.org/10.30641/ham.2023.14.155-168>
- Ruppel, E. H. (2024). How work becomes invisible: The erosion of the wage floor for workers with disabilities. *American Sociological Review*, 89(5), 907–936. <https://doi.org/10.1177/00031224241268201>
- Sundermann, L. M., Haunberger, S., Gisler, F., & Kita, Z. (2023). How do supported employment programs work? Answers from a systematic literature review. *International Journal for Educational and Vocational Guidance*, 23, 659–679. <https://doi.org/10.1007/s10775-022-09533-3>
- Tang, X., & Strauser, D. R. (2025). Subminimum wage employment and sheltered workshops: Overview and recommendations. *Inclusive Practices*, 4(4), 73–81. <https://doi.org/10.1177/27324745251338209>
- Taubner, H., Tideman, M., & Staland Nyman, C. (2022). Employment sustainability for people with intellectual disability: A systematic review. *Journal of Occupational Rehabilitation*, 32, 353–364. <https://doi.org/10.1007/s10926-021-10020-9>
- Taylor, J. P., Avellone, L., Wehman, P., & Brooke, V. (2023). The efficacy of competitive integrated employment versus segregated employment for persons with disabilities: A systematic review. *Journal of Vocational Rehabilitation*, 58(1), 63–78. <https://doi.org/10.3233/JVR-221225>
- Taylor, J., Avellone, L., Brooke, V., Wehman, P., Inge, K., Schall, C., & Iwanaga, K. (2022). The impact of competitive integrated employment on economic, psychological, and physical health outcomes for individuals with intellectual and developmental disabilities. *Journal of Applied Research in Intellectual Disabilities*, 35(2), 448–459. <https://doi.org/10.1111/jar.12974>
- United Nations. (2006). Convention on the Rights of Persons with Disabilities.
- Wehman, P., Taylor, J., Brooke, V., Avellone, L., Whittenburg, H., Ham, W., Brooke, A. M., & Carr, S. (2018). Toward competitive employment for persons with intellectual and developmental disabilities: What progress have we made and where do we need to go? *Research and Practice for Persons with Severe Disabilities*, 43(3), 131–144. <https://doi.org/10.1177/1540796918777730>
- Ximba, T. M., van Biljon, H. M., Adams, F., & van Niekerk, L. (2026). Employment of persons with disabilities in the open labour market: A scoping review. *African Journal of Disability*, 15, a1873. <https://doi.org/10.4102/ajod.v15i0.1873>