

Equality Analysis of The Right Education for Disabilities: A Juridical and Factual Study Implementation of Management Inclusion Education

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Abstract: Education is a human right, everyone has the right to get educational services as a manifestation to achieve a better life. This study tries to analyze the guarantee of disability rights and inclusive school policies in a juridical and implementing way. Education guarantees for disabilities are contained in Law No. 8 of 2016 concerning Persons with Disabilities, Government Regulation No. 13 of 2020 concerning Adequate Accommodation for Students with Disabilities and Permendikbud No 70 of 2009 concerning Inclusive Education. Malang City has designated 57 public/private elementary schools, and 16 public/private junior high schools as inclusive schools. The City of Probolinggo has designated 16 public/private elementary schools and 6 public/private junior high schools as inclusive schools. The policies in these two areas are based on the principle that schools should not refuse students with disabilities, after a prospective student registers, the school prepares for inclusive classroom learning. The weakness of the implementation of inclusive education in these two areas is the unavailability of adequate learning facilities and the availability of qualified special assistant teachers. So that to achieve the success of inclusive education policies, it is necessary to support infrastructure and human resources of educators that match the educational background with the required competencies.

Keywords: Education Equality; Education for Disabilities; Human Rights

INTRODUCTION

Recognition of education as a human right was declared in the Universal Declaration of Human Rights dated December 10, 1948, one of the points emphasized that everyone has the right to a proper education, and free basic education (Andesta, 2018). The right to education is not only reserved for children who are born normally but also for those who experience optimal organ dysfunction (disability). History has recorded the struggle of Helen Keller (born in 1880 in the United States) as a person with eye and ear problems and then became a world figure and defended the human rights of people with disabilities.

In the 20th century, the world also recorded a disability who became a world figure, namely Stephen Hawking who was born in England in 1942. Stephen Hawking was diagnosed with Amyotrophic Lateral Sclerosis (ALS). Amyotrophic Lateral Sclerosis (ALS) is a motor neuron disease that attacks the nerves that control spontaneous movement. Hawking is a genius physicist, analyzing the Big Bang theory of the formation of the earth and creating a

theory of the destruction of the earth in the future (Clark, 2018). Long before the birth of Helen Keller and Stephen Hawking, recognition and equality of disability also occurred in 600 AD, at the time of the Prophet Muhammad's apostolate, he gave equal rights to Abdullah bin Ummi Maktum, a blind person to become a muezzin, and even became a prayer priest several times (Sholeh, 2016).

The Indonesian government has provided strong legality to the process of implementing education for persons with disabilities. Law Number 20 of 2003 concerning the National Education System Article 32 Paragraph 1 which states that special education is education for students who have a level of difficulty in participating in the learning process due to physical, emotional, mental social disorders and or have the potential for intelligence and special talents (Indonesia, 2003). Therefore, the implementation of special education for students who have learning difficulties must also be considered by educational institutions as education providers.

In addition, the Indonesian government also issued Law Number 8 of 2016 concerning Persons with Disabilities. According to Riyadi (2021) in the regulation it is explained that disability has the same rights as Indonesian citizens in general, such as respect for dignity, autonomy for individual life, without discrimination, full participation, human and humanitarian diversity, equality of opportunity, equality of accessibility, and so on. other. The protection contained in the legislation shows that there is full and equal respect, protection and fulfillment of human rights and basic freedoms for persons with disabilities in the context of realizing a more decent and prosperous life for persons with disabilities (Yulianto, 2014).

The Indonesian government's attention is very high on the process of disability education services, the government issued PP Number 13 of 2020 concerning Adequate Accommodation for Students with Disabilities. Yuliantini (2021) stated that the regulation emphasizes that it is necessary to provide adequate accommodation for persons with disabilities by modifying and adapting the requirements to ensure all human rights and fundamental freedoms for persons with disabilities on an equal basis. Following up on the PP, the Minister of Education and Culture issued Regulation of the Minister of Education and Culture Number 16 of 2019 concerning Linearity Arrangements for Certified Educators. This confirms that the government guarantees the fulfillment of the needs of teachers in schools relevant to the field of study being studied.

The guarantee for the implementation of special education in East Java Province is stipulated in Regional Regulation Number 11 of 2017 concerning the Implementation of Education in East Java Province, including article 19 which states that "the implementation of special education is carried out through special education units and inclusive education. Various affirmations of these regulations state that the education process for persons with disabilities is a fulfillment of rights. The human rights of persons with disabilities to receive the best education services ranging from basic education, secondary education to higher education (Hamidi, 2016).

According to Aji & Haryani (2017) Basically, the Indonesian government has accommodated disabilities in various job formations, both within the government itself (ASN), BUMN employees, and private companies. In the formation of civil servants, there is a special path for people with disabilities (Regulation of the Minister of PAN-RB No. 23 of 2019 concerning Civil Servant Admission). Government agencies and state-owned enterprises are required to accept a minimum of 2% of disabled workers. The government's policy in accepting civil servants, which opens a special pathway for disability, provides a great opportunity for people with disabilities to be accepted as civil servants. The regulation provides opportunities for people with disabilities because they no longer compete with all applicants, which normally they compete with other people with disabilities (Ramadhan et al., 2021). Therefore, this policy has provided wide space and opportunities for people with disabilities to have careers as Civil Servants.

The description of the struggle for the recognition and granting of the right to education for persons with disabilities, emphasizes that education is the right of all human beings. Furthermore, Saputri (2019) stated that this condition also triggered educators and also higher education providers to develop science and human resources, namely teachers or educators with disabilities with qualified abilities. A good teacher will be able to develop the potential of children, as exemplified by Anne Mansfield Sullivan. Without a competent teacher, great figures such as Helen Keller, Stephen Hawking, or even Steve Job would not be born. The role of teachers for children with disabilities is very important, they not only transfer knowledge but teachers must be able to understand students and transform them (Yulianto, 2014). Thus, the education process for teachers with disabilities must be carried out in a quality manner so that the implementation of education for persons with disabilities is also carried out properly.

METHOD

This research uses normative legal research methods. The normative legal research method is a method that examines the rule of law from an internal perspective whose object is legal norms (Diantha, 2016). This study uses a legal approach (statute approach), and a conceptual approach (conceptual approach). The statutory or juridical approach is used by the author to examine or examine all applicable statutory policies in the government of the Republic of Indonesia towards the implementation of equalization and fulfillment of the right to disability education. The conceptual approach used in this research is to examine the doctrines, principles, and concepts in legal science related to legal issues which are the main issues that the researchers examine, namely equal rights to education for people with disabilities, especially in Malang City and Probolinggo City.

The data collection process was carried out using interview, observation and assessment techniques for students with disabilities. The data collected was then analyzed using descriptive techniques, while the data collected using qualitative techniques were analyzed using cross-case techniques. Data analysis is a description of the methods of analysis, namely how to utilize the collected data to be used in solving research problems. Primary and secondary legal materials obtained from the results of library research are analyzed and studied for their legal relevance and are used to describe the conceptions and theories used in this research. The data in this study were analyzed qualitatively, which means that the analysis carried out was intended to find the truth based on the value or quality of the data obtained, namely equal rights to education for people with disabilities in Malang City and Probolinggo City.

RESULT AND DISCUSSION

Result(S)

The results of the analysis or juridical studies carried out by taking into account the discussion of equal rights to education for persons with disabilities are presented in the Table 1. The results of a descriptive study of the three regulations, namely Permendikbud Number 70 of 2009 Government Regulation Number 13 of 2020 and Law Number 8 of 2016, in the aspect of the purpose of the three regulations have the same spirit, namely to provide services and fulfill human rights for citizens. Indonesia for persons with disabilities. The Indonesian government has explicitly determined the categorization of the disabled, their needs and the rights that must be fulfilled.

Table 1. Data Analysis of Juridical Studies

Aspects of Study	Permendikbud No 70 Tahun 2009	PP No 13 Tahun 2020	UU No 8 Tahun 2016
Purposes	<p>Article 2. a. provide the widest opportunity for all students who have physical, emotional, mental, and social disorders, or have the potential for intelligence and/or special talents to obtain quality education according to their needs and abilities;</p> <p>b. realize the implementation of education that respects diversity, and is not discriminatory for all students as referred to in letter a</p>	<p>Article 2 (1) Provision of Adequate Accommodation in the field of education aims to ensure the implementation and/or facilitation of education for Students with Disabilities by the Central Government and Regional Governments.</p> <p>(2) Provision of Adequate Accommodation as referred to in paragraph (1) is carried out in all lines, levels, and types of education, both inclusively and specifically.</p>	<p>Article 3 Implementation and fulfillment of the rights of Persons with Disabilities aims to: a. realize full and equal respect, promotion, protection and fulfillment of human rights and basic freedoms for Persons with Disabilities; b. ensure efforts to respect, promote, protect, and fulfill rights as inherent dignity for Persons with Disabilities; c. realize the standard of living of Persons with Disabilities that are more qualified, fair, physically and mentally prosperous, independent, and dignified; d. protect Persons with Disabilities from neglect and exploitation, harassment and all discriminatory actions, as well as violations of human rights; and e. ensure the implementation of efforts to respect, promote, protect, and fulfill the rights of Persons with Disabilities to develop themselves and utilize all abilities according to their talents and interests to enjoy, participate in and contribute in an optimal, safe, free, and dignified manner in all aspects of life as a nation, state, and socialize.</p>
Disabled accommodation	<p>Article 4 (1) The district/city government appoints at least 1 (one) elementary school, and 1 (one) junior high school in each sub-district and 1 (one) secondary education unit to provide inclusive education which is obliged to accept students as referred to in Article 4 (1). Article 3 paragraph (1). (2) Educational units other than those appointed by the district/city may accept students as referred to in Article 3 paragraph (1).</p> <p>Article 6 (1) The district/city government guarantees the implementation of inclusive education in accordance with the needs of students. (2) The district/city government guarantees the availability of inclusive education resources at the designated education unit. (3) The government and provincial governments assist the availability of inclusive education resources.</p>	<p>Article 3 (1) The Central Government and Regional Governments are obligated to facilitate Education Organizing Institutions in providing Decent Accommodation. (2) The facilitation of the provision of adequate accommodation by the Central Government as referred to in paragraph (1) is carried out by the Minister and the minister who carries out government affairs in the field of religion in accordance with their respective authorities. (3) The facilitation of the provision of adequate accommodation by the Regional Government as referred to in paragraph (1) is carried out by the governor and regent/mayor in accordance with their respective authorities..</p>	<p>Article 2 Implementation and fulfillment of the rights of Persons with Disabilities is based on: a. Respect for dignity; b. individual autonomy; c. without discrimination; d. full participation; e. human diversity and humanity; f. Equal Opportunity; g. equality; h. Accessibility; i. developing capacities and identities of children; j. inclusive; and K. special treatment and more protection.</p>

Aspects of Study	Permendikbud No 70 Tahun 2009	PP No 13 Tahun 2020	UU No 8 Tahun 2016
Policy implementation	<p>Article 10 (1) The district/city government is obliged to provide at least 1 (one) special supervisor teacher in the education unit designated to provide inclusive education. (2) Educational units providing inclusive education that are not appointed by the district/city government are required to provide at least 1 (one) special supervising teacher. (3) The district/city government is obliged to improve competence in the field of special education for educators and education personnel in the education unit providing inclusive education. (4) The government and the provincial government shall assist in the provision of special supervisors for inclusive education providing education units that require them in accordance with their respective authorities. (5) The government and provincial governments help improve competence in the field of special education for educators and education staff in inclusive education providers</p>	<p>Article 10 (1) Adequate forms of accommodation for Students with Disabilities are provided based on the variety of Persons with Disabilities as referred to in Article 9 paragraph (3). (2) Adequate forms of accommodation for Students with Disabilities are provided by taking into account: a. National Education Standards; and b. National Higher Education Standards. Article 11 Forms of Adequate Accommodation based on the variety of Persons with Disabilities as referred to in Article 9 paragraph (3) letter a for Students with Physical Disabilities in the form of: a. availability of accessibility to go to a higher place in the form of: 1. Inclined plane; 2. Elevator; and/or 3. Other forms. b. giving affirmation of admission selection at Education Organizing Institutions in accordance with the physical condition of Students with Disabilities based on the statement of doctors and/or specialist doctors in accordance with the provisions of laws and regulations; c. flexibility of the learning process; d. flexibility in the form of learning materials, according to needs; e. flexibility in the formulation of graduate competencies and f or learning outcomes; f. flexibility in the evaluation and assessment of competencies; g. flexibility of task completion time and evaluation; h. assistance in the learning and evaluation process; danf or i. other forms that can guarantee Students with Physical Disabilities to receive educational services.</p>	<p>Article 5 (1) Persons with Disabilities have the right: a. life; b. free from stigma; c. privacy; d. justice and legal protection; e. education; f. employment, entrepreneurship, and cooperatives; g. health; h. political; i. religious; j. sport; k. culture and tourism; l. social welfare; m. Accessibility; n. Public service; o. Protection from disasters; p. habilitation and rehabilitation; q. Concession; r. data collection; s. live independently and be involved in society; t. express, communicate, and obtain information; u. change place and nationality; and v. free from acts of discrimination, neglect, torture, and exploitation. (2) In addition to the rights of Persons with Disabilities as referred to in paragraph (1), women with disabilities have the following rights: a. on reproductive health; b. accept or refuse the use of contraceptives; c. get more Protection from layered Discrimination treatment; and D. to obtain more protection from violence, including sexual violence and exploitation. (3) In addition to the rights of Persons with Disabilities as referred to in paragraph (1), children with disabilities have the following rights: a. get special protection from discrimination, neglect, harassment, exploitation, and sexual violence and crime; b. get care and care for a substitute family or family for optimal growth and development; c. protect their interests in decision-making; d. humane treatment of children in accordance with the dignity and rights of the child; e. Meeting special needs; f. equal treatment with other children to achieve social integration and individual development; and g. receive social assistance.</p>

In the aspect of implementing the recognition and equalization of services for disability, the three regulations regulate the role of the central government, provincial governments and district/city governments in implementing inclusive education programs and facilitation for persons with disabilities. The government also makes every effort to meet the needs of people with disabilities, both in terms of access to public facilities and special service facilities needed. For example, in the case of building public facilities, the Indonesian government has set criteria that must be met by a building so that it is easily accessible to persons with disabilities.

In implementing education for disabilities, the Indonesian government has made a policy, namely that district/city governments are required to provide at least 1 special assistant teacher, provide facilities that are suitable for students with disabilities, provide educational services ranging from basic education to higher education without discriminating between conditions, and stipulates 22 rights that must be fulfilled by the government for persons with disabilities. Implementatively, the policy of inclusive education has been implemented by two areas that are the object of research, namely Malang City and Probolinggo City. The following present's data related to the implementation of inclusive education in the two cities:

Table 2. Data on Implementation of Elementary Inclusive Education

Regional	Inclusive School Level		Number of GPK		Number of Students with Disabilities	
	Primary school		Primary school		Primary school	
	SDN	SDS	SDN	SDS	SDN	SDS
Malang City	43	14	48	46	245	161
Probolinggo City	13	3	55	28	60	26

Tabel 3. Data Implementasi Pendidikan inklusif SMP

Regional	Inclusive School Level		Number of GPK		Number of Students with Disabilities	
	Junior high school		Junior high school		Junior high school	
	SMPN	SMPS	SMPN	SMPS	SMPN	SMPS
Malang City	3	6	8	16	35	54
Probolinggo City	3	3	20	12	18	10

Data from interviews with officials responsible for the implementation of inclusive education in the two regions state that regional heads have great attention to the realization of inclusive education. This was marked by the declaration of Malang City and Probolinggo City as child-friendly and inclusive cities. Local governments also set budgets and appoint special assistant teachers to facilitate a better education process for students with disabilities. The next policy regarding the selection process for new students at the elementary and junior high school levels is that schools are required to accept students with disabilities, meaning that there is no discrimination or different treatment for students with disabilities. In the PPDB process, the government also conducts an assessment, this is an effort from the local government to prepare learning facilities and learning tools according to the needs and disabilities of students with disabilities. The next supporting policy is to modify the curriculum according to the child's condition or what is called a functional curriculum. The learning evaluation process is also designed in line with the conditions of students so that students with disabilities can be optimally facilitated through inclusive education programs.

Discussion(s)

Talking about the fulfilment of rights for people with disabilities, especially for children with disabilities, means talking about the State's obligations in fulfilling the rights of people with

disabilities (Hästbacka & Nygård, 2019). In carrying out these obligations, the State of Indonesia refers to general principles, namely: respect for human dignity, non-discrimination, participation, respect for differences and acceptance of persons with disabilities, access, equality of opportunity, and equality of men and women. The elaboration of the 1945 Constitution that has been carried out by the state for persons with disabilities in terms of education for persons with disabilities and also regarding the basic policies for the implementation of national education can of course be seen in the fourth paragraph of the Preamble to the 1945 Constitution, which is included in an integral unit of state objectives, namely the intellectual life of the nation.

Efforts to educate the nation's life have been taken by educational institutions in Malang City and Probolinggo City by formulating laws governing education for persons with disabilities. The stipulation of laws and regulations regarding education for persons with disabilities is an acknowledgment of the human right to education without limiting who gets an education, the most important thing is that they are citizens and domiciled in Indonesia (Setiawan & Apsari, 2019).

In addition, the Malang City Government and Probolinggo City Government also set a budget and appointed special assistant teachers to facilitate a better education process for students with disabilities. The determination of a special budget for the implementation of inclusive education is able to support the conduciveness of the implementation of education for persons with disabilities in the area (Marzuki, 2017). Furthermore, Andriani (2017) stated that so far, children with disabilities often experience rejection when enrolling in public schools, and are asked to attend special schools (SLB). Therefore, budget allocation for the implementation of inclusive education is considered very important and able to support equal rights to education for persons with disabilities.

The inclusive education model was discussed at the World Conference on Special Needs Education, which was held in June 1994. The Ministers of Education worldwide declared the Salamanca Statement which recognized the special characteristics of every child, guaranteed the right of every child to obtain an education, and recommended that the education system be designed to accommodate the needs of all children and very varied characteristics of children. Sapon-Shevin in (Heräjärvi et al., 2020) explains that inclusive education is an educational service system that allows all children with disabilities to get services in nearby schools and in regular classes, so that the special needs of children with disabilities can be met.

However, based on the juridical studies that have been carried out, the implementation of education for persons with disabilities in Malang City and Probolinggo City still has weaknesses. The first weakness is that parents tend to choose schools that are close to their homes, even though it could be that the targeted school does not yet have facilities for the disabled according to their child. Haryono et al., (2015) Stated that mistakes in choosing schools for people with disabilities will have an impact on interest in learning and readiness to learn. So that it is very important to pay attention to the understanding of the schools chosen by parents to improve their children's abilities (Setiawan & Apsari, 2019). His condition becomes an obstacle for their children not to get a good and maximum education.

The second weakness is that the assessment process is carried out late and not on time during PPDB so that sometimes student placement is not appropriate. One example is that students who should be included in the mental category are included or considered autistic or vice versa. Errors in the assessment process according to Agustin (2019) can be a barrier to children's development, especially in the process of receiving the learning delivered by the teacher. Therefore, the assessment process carried out by educational institutions providing inclusive education must be carried out properly and at the right time so that the mapping of children with special needs can run optimally.

The third weakness is about the fulfilment of learning facilities and special assistant teachers. Teachers are generally taken from general teachers or teachers who do not have experience dealing with students with disabilities so that they do not prepare learning tools that are in line with the situation. According to Ningrum, (2016) Improving the quality of teachers in preparing learning tools is the responsibility of the implementing educational institutions, in this case the Malang City Government and Probolinggo City Government. The design or development of learning tools is one of the determining factors for success in learning, especially for people with disabilities (Thapliyal & Ahuja, 2021).

Based on the weakness in the provision of education for persons with disabilities, it is hoped that the Government of Malang City and Probolinggo City can determine a policy regulation that aims to overcome it. Thus, the process of handling life cycle education for students with disabilities in regular schools does require proper preparation and management. The uniqueness of students with disabilities who need special services needs to be designed starting from the student assessment process to placing students in class. The making of learning devices, design of learning models, and evaluation of learning and student counseling must be prepared in line with the circumstances of the students, so that learning is able to encourage or increase the learning motivation of students with disabilities. Through careful preparation, it is hoped that inclusive education services can really improve the quality of education for people with disabilities.

CONCLUSSION

The reality of fulfilling the right to education for children with mental disabilities, especially in Malang City and Probolinggo City, can be said to be adequate and fulfilled. Efforts to fulfill the right to education for children with disabilities are especially seen from the efforts of local governments to provide equal and comprehensive rights to education to all persons with disabilities by implementing Permendikbud No. 70 of 2009, Government Regulation No. 13 of 2020, and Law No. 8 2016. Aspects of the study carried out include aspects of objectives, disability accommodation and policy implementation.

However, in its implementation there are several things that need to be evaluated because it is felt to be a weakness in the implementation of inclusive education for persons with disabilities. Some of these weaknesses are the tendency of parents to choose schools that are close to home, the less than optimal assessment process for children with special needs and the lack of improving the quality of human resources for accompanying teachers in terms of developing learning tools. Therefore, it is hoped that the Government of Malang City and Probolinggo City can formulate a policy regulation that is able to overcome these weaknesses so that the process of providing education for people with disabilities can be carried out optimally.

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