

Knitting Legislative Meaning: A Review of Disability Education Policy in the Law on the National Education System and Disabilities

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Abstract

This study set out to address the question, "How is the future legal construction of the pattern of implementing inclusive, specialized, and equal Education for Persons with Disabilities in Indonesia?" The normative issue of how disabled people in Indonesia are often managed inspired this study. The Law on the Education System and the Law on Disabilities both include ambiguous principles on inclusive and special (segregated) education. The Statute Approach method was used to conduct this normative assessment of the law. The study's findings suggest that moving forward, Indonesia will revise legal norms in both laws and the integration of special schools and regular schools by establishing special units in regular schools to accommodate students with disabilities, all with the goal of achieving full inclusive education for people with disabilities. This may be done in increments, on a continuous basis, and using metrics based on the state of Indonesia's infrastructure right now.

1. Introduction

Founding parents' This nation has big aspirations as set forth in the Preamble to the 1945 Constitution of the Republic of Indonesia as the goal of educating the life of the nation. The Founding parents have strong reasons why the ideals of educating the nation's life are so important that it has become one of the goals of this country as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia. They are aware that this nation was created as a plural nation. This plurality is dangerous for the integrity of the nation not because of the plurality itself, but because of what people think about this plurality. If plurality is thought of as a threat, or those who are different are seen as the others who are marginalized, then the integrity of this nation is threatened (Nalle, 2011).

Education is considered as more than just an attempt to transform people, such as from ignoramus to experts. The pursuit of knowledge is also considered as a means of freeing people from tyranny. The oppressed may gain insight into the global oppression system via education and become more dedicated to changing it. From that point on, complete autonomy was within reach (Murtiningsih, 2004). There are four tiers to Indonesia's educational system: primary (grades 1-6), secondary (grades 9-12), tertiary (grades 13+), and higher. In Indonesia, "basic education" refers to the first two years of school. At the elementary and secondary school levels, state-run schools are far and away the norm. The private sector, however, plays a significant role as well, enrolling around 31% of all students and employing about 38% of all instructors. It's responsible for 97% of all universities and colleges and 63% of all college students (Dethier et al., 2010).

It is written that "Every citizen has the right to education" in Article 31 paragraph 1 of the 1945 Constitution of the Republic of Indonesia. Therefore, it is the responsibility of the state, both nationally and locally, to ensure that all people, including those with special needs, have equal access to quality education.

An umbrella word, "disability" encompasses a wide range of disorders characterized by impaired bodily function or structure (including physical, sensory, intellectual, and mental impairments), restricted engagement in certain activities, and other obstacles to full involvement in society. These restrictions are the result of a dynamic interplay between an individual's health status (including disease or disorder), their immediate surroundings (including behavior, physical access, and the availability of technology), and the individual's own psychological characteristics (including self-confidence and motivation). Disabled people are disproportionately likely to be left out of economic growth, according to global patterns. Those left out miss out on more than just the fruits of progress; they are also denied the chance to actively shape it. Because of this, handicapped persons have a lesser quality of life than the general population, including lower educational and health attainment, fewer career options, and restricted access to public amenities (Yang et al., 2016).

It is estimated that more than a billion people, or roughly 15% of the world's population, identify as a person with a disability; this makes the issue of disability itself a global one, as evidenced by the 2011 World Disability Report compiled by the World Health Organization (WHO) in collaboration with the World Bank. This is more than the 10% that the World Health Organization has estimated the global prevalence of disability to be since the 1970s (Angeloni, 2013). Convention on the Rights of Persons with Disabilities (CRPD) of 2008 is a human rights instrument meant to protect the dignity and rights of persons with disabilities. Indonesia ratified the CRPD in 2011 with Law of the Republic of Indonesia Number 19 of 2011 Concerning the Ratification of the Convention On The Rights Of Persons With Disabilities.

Disability is not seen as a medical condition requiring special care under the CRPD, but rather as a facet of social variety. Therefore, professionals claim that the convention promotes new paradigms and models for people with disabilities and adopts a social model for them (Ahdanisa, 2019). Discrimination on the basis of disability is a violation of human rights, as stated by the CRPD itself in its introductory paragraph (h). The right of people with disabilities to an education is guaranteed by Article 24 of the United Nations Convention on the Rights of Persons with Disabilities, which also defines the term "inclusive education" and lays out the procedures that must be followed to realize this right. Article 24 of the CRPD not only forbids discrimination on the basis of disability, but also requires that people with disabilities have full say in shaping the way schools are organized.

Including people with disabilities in schooling is a certain way to show that inclusive education is one of the sustainable development objectives' top priorities. The government should prioritize making sure people with disabilities have access to high-quality education that meets or exceeds national standards (Grace et al., 2020). When applied, the notion of inclusive development seeks to redress the imbalance of power, voice, and influence that may arise throughout the development process between people and groups (including those with disabilities). Sustainable development, which includes inclusive development, is thought to improve not just the economic order but also the social and environmental orders. In the absence of concerted measures to achieve inclusive development, people with disabilities would be further sidelined, worsening the already dire poverty and inequality statistics.

While the Law for People with Disabilities has done a good job of addressing accessibility concerns, there are still major obstacles to be resolved in the classroom. People with disabilities are valued as a part of diversity, having the same human rights and equal status as any other person. Among the many rights of people with disabilities that the new Law on Persons with Disabilities clarifies is the right to participate in inclusive development. This legislation recognizes the rights of people with disabilities to things like welfare, access to a variety of public services, access to employment, self-empowerment, and participation in development. It follows that only when these rights are met can

inclusive growth be achieved. Article 10 letter of the Law on Persons with Disabilities governs disabled people's access to education.

“The right to education for Persons with Disabilities includes the right to:
a. get quality education in education units at all types, pathways, and levels of education in an inclusive and special manner”

Legislative rules are ambiguous, as seen by the difficulty in interpreting Article 10 point an of Law Number 8 of 2016 respecting Persons with Disabilities. The term "inclusive education" refers to a program that allows students with special needs to attend the neighborhood public school on the same campus as their typically developing classmates. The goal of implementing inclusive education is to ensure that all students, regardless of their background or ability, have equitable access to a high-quality education that is tailored to their specific requirements (Ineu Herawati, 2016).

The pattern of providing education in Law Number 8 of 2016 Concerning Persons with Disabilities is still segregative in nature due to the inclusion of the phrase "inclusive and special division," which is defined as separation (one group from another group); exile; exclusion, and is not yet inclusive. The Indonesian legal system actively promotes the spread of stigma by upholding regulations that are still based on discrimination. Disabilities Act and National Education System meaning of "special": "special" refers to special education or special schools (SLB) that are tailored to the individual requirements of students with disabilities in both settings.

Experts and practitioners in the field of education, for instance, may take the term "special" to mean special education rather than inclusive education. "Special education is a system designed to address the individual needs of students with disabilities, so that they can achieve optimal educational outcomes," explains Thomas Hehir, a professor at the Harvard Graduate School of Education and former director of the Bureau of Special Education in the Department of Education AS (Hehir, 2005). Furthermore, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) defines special education as an approach to teaching and learning that is tailored to the unique requirements of students with disabilities (Mitchell, 2004).

Expert interpretation and legislative references indicate that the term "special" in both legislation refers to special education or special education programs tailored to the requirements of students with disabilities. Therefore, it is possible to see inclusive education and special education as two distinct educational paths for people with disabilities, each with its own set of benefits and drawbacks. When it comes to educating students with disabilities, special education and inclusive education take quite different approaches. People with special needs are segregated into classrooms that are modified to accommodate them under the special education model. In contrast, the goal of inclusive education is to include kids with and without impairments in the same classroom setting.

Human rights and educational professionals agree that special education has the potential to further marginalization and prejudice. They worry that

special education programs will promote bias and prejudice by dividing pupils up according to their aptitudes. University of Edinburgh inclusive education expert Professor Lani Florian argues that this method is preferable because it enables all students, including those with disabilities, to learn together in the same setting, where they can benefit from social interaction and diverse learning. He contends that inclusive education may facilitate greater student awareness of and tolerance for individual diversity (Florian, 2015).

Disabled communities feel isolated because they are kept apart from the general population. Disabled people believe that both their own special surroundings and the "normal" world outside it are inaccessible to them. This line of thinking gave rise to the inclusive education paradigm, which aimed to eliminate segregation in the classroom by include all students, regardless of ability.

Even while it's easy to see how segregated classrooms can help meet the requirements of kids with disabilities, the resulting inequalities in how these students are treated in pursuit of their right to an education provide fertile ground for discrimination. The state provides options for those with impairments, while those without disabilities have educational freedom. In other words, conventional schools may refuse to admit students with impairments on the grounds that they already have access to specialized education elsewhere, even when the situation is reversed for students without disabilities.

In contrast to the National education system's article 5 paragraph 2, which reads, "Citizens who have physical, emotional, mental, intellectual, and/or social disabilities, have the right to obtain inclusive education is the combination of regular education and special education into one school system that is unified to meet the different needs of students." Article 15 of the same legislation goes on to specify that "Types of education include general, vocational, academic, professional, vocational, religious, and special education." Education for pupils who have some difficulties following the learning process due to physical anomalies is what article 32 defines as special education.

The content and provisions of the aforementioned Articles 5, 15, and 32 of the Law on the National Education System demonstrate the existence of distinct populations, namely persons with anomalies and remarkable intellect who need specialized instruction. Since the word "inclusive education" is not defined in the Law on the National Education System, this indicates a trend toward a more "segregative" rather than "inclusively" oriented approach to schooling. The principles of inclusive education go counter to those of segregation.

Because the pattern of implementing inclusive education accommodates the specificities of students and special needs, it is possible to interpret the term "special education" as not coming from the terminology of inclusive education, as it is used in the cited section of article 32, paragraph 1 of the Law on the National Education System. The paradigm of inclusive education is not yet fully embedded in our national education system, but its importance is growing. The inclusive education program that is currently in place,

Plans for students with disabilities in Government Regulation of the Republic of Indonesia Number 17 of 2010 concerning the Management and Implementation of Education (PP/17/2010) and the Regulation of the Minister of National Education of the Republic of Indonesia Number 70 of the Year 2009 Concerning: Inclusive Edu. show the ambiguity between the pattern of implementing inclusive education and the pattern of implementing special education. This is because the pattern of implementing inclusive and special education, which have distinct meanings but govern the same thing, is not yet established in law, creating uncertainty about how to best organize education for people with disabilities.

There seems to be a need for additional elucidation in legislation on how to ensure and enforce the right to education of people with disabilities in this setting. Given the present state of affairs, this ambiguity may open the door to discrimination, leading some schools to exclude children with disabilities on the grounds that they don't have the funds to provide them with an inclusive education. It is crucial to remember that the overarching goal of these rules and legislation is to guarantee that everyone, including those with disabilities, has access to an excellent education.

Several of the aforementioned statutes have substance concerns with their legal standards, which has consequences for field application. There is still room for improvement in the government's and the state's involvement in financing and facilitating special education for people with disabilities. This occurs because those with impairments who wish to further their education often do so in the company of others who share their condition. It seems that the state permits the adoption of measures that help people with impairments escape human life. The name "School for Special Needs (SLB)" implies a kind of discrimination since it singles out a subset of students for special treatment. Furthermore, individuals with impairments are often excluded from mainstream schooling (Jogja, 2019). They may be denied access to education and the general school curriculum if no special schools are made available to them. That ordinary or public schools must be ready to accommodate prospective students with physical and non-physical limitations is connected to the socialization of inclusive education that has not been emphasized.

So far, many people with disabilities have been "forced" to enter special schools. School in SLB is actually not a choice. There are several factors that cause this, namely:

- a. First, many people, including members of the general public, parents of children with disabilities, and even some ordinary school officials, continue to believe the myth that students with disabilities can only learn in specialized institutions. It's no secret that the government and schools haven't done enough to inform people with disabilities about their options in special education programs. Perhaps their approach to families of PWD is not successful and is not backed by advocacy activities if PWD

- suffer issues, even though government officials are calling for PWD to attend conventional schools.
- b. Inadequate initial assessments have not been made by people with disabilities who intend to pursue basic education, for example to determine if people with disabilities can only attend special schools and if there is interest and ability to continue on to tertiary education in the future. Disabled students are not placed in appropriate educational programs.
 - c. Third, PWD are placed in Special Schools because mainstream institutions are ill-equipped to meet their educational needs (due to acts of refusal against PWD, unsupportive facilities/infrastructure, and a hostile social environment).

Indonesia still faces significant challenges in implementing inclusive education due to a lack of robust evaluation conditions and a number of forums dealing with government policies regarding people with disabilities and the education sector in particular. Resources, such as accompanying instructors, and classroom instruction methods are two common limitations.

The majority of people with disabilities have lower levels of education, according to the 2019 Education Statistics Education Portrait in Indonesia from the Central Bureau of Statistics; for example, only 25.83% of people with disabilities are SD/equivalent, 30.54% do not finish SD, and as many as 21.22 percent do not and have never attended school. However, just 2.8% of adults have earned a bachelor's degree or above. Furthermore, there is still the issue of low literacy among those who are disabled. Disabled Indonesians between the ages of 15 and 44 had a literacy rate of just 90.06 percent in 2018. This translates to about 10% of people with impairments in this age range being completely illiterate. Meanwhile, the illiteracy issue among the non-disabled is almost solved, with around 99.24% of the non-disabled population aged 15-44 being literate. People aged 7-24 who are impaired have a lower net enrolment rate (APM) than people without impairments at all educational levels. People with disabilities have a smaller proportion of the population in school who are of the legal age to be enrolled at that level of education, as shown by the lower APM. Among the disabled working-age population (15 years), 53.78 percent do not have a high school diploma, and 24.31 percent have just a high school diploma. This indicates that over 78.09 percent of disabled people in this age range have not completed the mandatory nine years of schooling. The corresponding number for those who are not impaired was 52.41 percent. (Dewi et al., 2020).

According to the data, people with disabilities are less likely to have equal access to higher education than those without impairments. As education levels rise, the chasm deepens. The segregative pattern that has been implemented so far has had a significant influence on each educational stratum, and there is evidence that involvement of people with disabilities decreases with higher strata of education.

Law No. 8 of 2016 about Disabled Persons still uses the term "grouping," which might be regarded as "separation" (one group from another). The International Convention on the protection of the educational rights of persons with disabilities requires that all children have equal access to education regardless of their disability. However, Law Number 20 of 2003 concerning the National Education System does not reflect this principle. Therefore, the authors contend, discriminatory procedures have been made for educating people with impairments.

As we can see from the preceding discussion, there are still ambiguous norms and legal loopholes for discrimination against students with disabilities, making it crucial to investigate or rebuild the pattern of arranging disability education. Disabled persons face social isolation inside the educational system, as seen by the segregation of existing institutions. For those with physical limitations, one option is to use an SLB. People with impairments do not need to attend separate schools, but rather need modifications to the current curriculum. Because it has not cut them off from the rest of society to the point where they feel completely alone.

The importance of disability education research has been previously highlighted. Akhmad Soleh's studies, for instance, address the topic of disabled students' access to higher education. According to the study's findings, many universities and colleges do provide services for people with impairments, but such services are underutilized (AKHMAD SOLEH, 2014). This is due to the fact that prospective students with disabilities continue to face constraints that bind them to certain fields of study and other limitations that limit their options. In contrast to previous studies, which have focused primarily on the physical accessibility of schools for students with disabilities, this study will analyze the broader pattern of accommodating students with disabilities across all levels and types of education.

Sujarwanro's studies also address the role of institutional culture and policy in delivering inclusive higher education. Academic and non-academic assistance for kids with disabilities were shown to be significantly impacted by organizational behavior. The organizational nuances of universities are where the study diverges. Where thorough explanations of accessibility are lacking, this research provides them by gradually recreating the pattern of arranging education for people with disabilities in accordance with relevant laws and legislation.

2. Research Methods

The concerns and/or concepts that were chosen as the basis for this study classify it as normative legal research. Normative case studies, in the form of legal behavior products like reviews of legislation, are used in normative legal research. Normative legal research focuses on a stocktaking of positive law, legal principles and doctrine, legal discovery in cases in concreto (concrete), systematic law, level synchronization, comparative law, and legal history

because law is the subject of study and is conceived of as a norm or rule that applies in society and becomes a reference for everyone's behavior (Muhammad, 2004). Literature, often known as secondary legal material, is the backbone of normative legal studies (Soerjono Soekanto and Sri Mamudji, 2007). When it comes to the law, more specifically fundamental legal materials such as disability laws and the country's educational system.

Additional secondary legal resources include all non-official legal writings (Mundir, 2013). Books, national and international law journals, and writings, especially those discussing just and equitable patterns of inclusive education for people with disabilities, served as secondary sources for this paper's legal research. In addition, this study used descriptive analytic analysis, a subfield of research analysis grounded in the fields of law and jurisprudence.

3. Results and Dscussion

There is not a single language in the whole Universal Declaration of Human Rights (UDHR) from 1948 that suggests any kind of distinction between human beings. When describing universal human rights, we use terms like "men and women" and "everyone" and "everyone" and "no one." Convention on the Rights of the Child (1989), World Declaration on Education for All (1989), UN Standard Rules on Equal Opportunities for Persons with Disabilities (1993), Salamanca Declaration and Unesco Framework for Action (1994), Law Persons with Disabilities (1997) (Replaced by the Disabilities Act (2016)), National Education System Act (2003), and Dakar Framework for Action (2000) all recast the right to inclusive education."(Dawam & Alafsana, 2003)" (Dawam & Alafsana, 2003).

Individuals with disabilities who opt for special education programs are not afforded the same opportunity for integration into mainstream society as their typically developing peers. By focusing on the deficits that already exist in disabled people, segregated education stresses delivering educational services. However, behind these deficits lie many potentials that need to be accommodated and have not been addressed properly (Masitoh, 2008).

Since the model of segregative education patterns inherently engages in arranging discriminatory education by segregating children, it is reasonable to conclude that it violates human rights. The CRPD declaration's claim that education that welcomes all students is a fundamental human right lends more credence to this idea. The social model of disability is valued by the CRPD's human rights disability model because it acknowledges that disability is a social construction rather than a result of a person's biological impairments (Düwell et al., 2008).

The human rights pattern goes beyond this approach by asserting that persons with disabilities do have human rights that can be enforced. Persons with disabilities do not depend on charities that discriminate; conversely, persons with disabilities have legal rights such as proper welfare services and

inclusive education. The CRPD requires the global community to fight all forms of discrimination against persons with disabilities (Gordon, 2013). As Mona Montakef convincingly says, the right to education has become a human right. In this case, the human right to education is seen as a right to empowerment not only as a specific human right but also as a fundamental instrument for advancing other human rights. In fact, this view makes education the fundamental anchor of the entire human rights agenda (Motakef, 2006).

This definition replaces the previous understanding of the existence of people who have partial organ dysfunction or mental disorders by using the term disabled. As stated in Law No. 4 of 1997 concerning persons with disabilities article 1 paragraph 1 explains the term disabled as follows "everyone who has physical and/or mental disorders, which can interfere with or constitute obstacles and obstacles for him to carry out properly" .

Disabilities were classified as abnormalities by Law No. 4 of 1997. Disabled persons are considered strange and different from the rest of society. This comprehension, of course, is based on the experiences of persons who, since their organs are whole and fully working, report feeling well. Being born with a disability or developing a disability as a kid or an adult is a devastating experience. Having a handicap is a tragedy in and of itself since it means giving up on the possibility of a happy, healthy, and prosperous existence in which one goes to class, works, and raises a family. Medical and social therapy are the sole means of curing the disease. This therapy attempts to restore damaged organs to as near a normal state as possible so that they can continue to perform their functions. This theoretical framework is often known as the medical model. Disabilities, according to the medical explanation model, are the result of organic dysfunctions in the patient's body or mind.

Using this reasoning, schools are similarly biased towards those with impairments. Because of the polarization of opinion that disabled persons are barriers. In 2018, there were still instances of children with impairments being denied enrollment in public schools. Various groups have engaged in advocacy work, and it has been widely covered in the media. A pupil from Rangkasbelitung State Middle School in Lebak, Banten, was involved in one of the RF instances. His infirmity prevented him from completing his schooling at any of the SMKs in Rangkasbitung. Also, two visually impaired children from Makassar who registered for New Student Admissions (PPDB) to SMA and SMK in South Sulawesi were turned away, as was the situation with BKR, a kid with mobility disabilities, at various elementary schools in Pekanbaru (Syafi'ie, 2018).

What happened in those three areas is a matter of public record at this point. There are numerous instances of discrimination against people who have disabilities if you look closely enough. The explanations are consistent: Firstly, children with special needs do not attend regular schools but rather SLBs. Every time he enrolled at a university, he was told to go to the PLB (Special Education) department. Second, schools and universities perpetually insist that they lack the resources to make their buildings and grounds accessible to people with disabilities and that there are no accompanying instructors who are themselves

disabled. Third, many in the education sector believe that there is not enough space in public schools for students with disabilities. Several kids with disabilities have been kicked out of school because of this because teachers and administrators see them as a challenge to the established curriculum and evaluation procedures.

This is shown by the fact that the National Selection to Enter State Universities (SNMPTN) system has been shown to discriminate against people with disabilities. There are a wide variety of prerequisites for enrolling pupils, including but not limited to not being colorblind, not being deaf, not being mute, not being quadriplegic, and not being entirely or partly colorblind. Here's an example from Indonesia's prestigious university. There are special criteria for students majoring in architecture, such as code 1 (blindness), 2 (deafness), and 5 (partial color blindness). Code requirements 1 (blind), 2 (deaf), 3 (speechless), 4 (paradise), 5 (partial color blind), and 6 (total or partial color blind) are also in place for students majoring in medicine. It's interesting to note that not all scientific majors rely on these norms. They both made it clear that having a disability would not prevent a student from enrolling in the Department of Nutrition and Public Health Sciences. Several schools have made accommodations for students with special needs. However, there is a disproportionately low percentage of people with disabilities enrolled in and completing postsecondary programs. This is due to a combination of factors, including the high expense of higher education and the difficulty in modifying curriculum to accommodate students with impairments. Many initiatives are still under way to expand civil liberties and economic possibilities for individuals with disabilities. Law No. 8 of 2016 Relating to Disabled Persons requires the government to prioritize the needs of disabled citizens (Lessy, 2020).

One of the many faces of discrimination that people with disabilities see in schools is the refusal to let them in for reasons that are fundamentally against the law. When persons with disabilities are not allowed to attend mainstream educational institutions, they often end up living on their own and missing out on opportunities for personal and professional growth. People with disabilities are disproportionately represented among those with social welfare issues, and their exclusion from the workforce is exacerbated by the lack of educational opportunities they formerly had.

Inaccessible school buildings, inappropriate teaching methods for teachers due to a lack of adequate profile assessment, curriculum that is not carried out according to the assessment profile, and designations and negative stigma are often raised by parties in the educational environment are just a few of the problems that arise when people with disabilities are accepted into educational institutions. As a result, disabled students' rights and the dignity that comes with them are routinely violated, and they have become used to being victims of abuse.

The first goal of inclusive education is to ensure that all students, regardless of their cognitive ability, social skills, or other factors, have access to a high-quality education that is tailored to their individual needs and strengths. Second,

making concrete the realization of an inclusive and diverse educational system for all pupils (Baihaqi & Sugiarmmin, 2006).

By outlining the meaning and aims of inclusive education in rules, the government explains its efforts to end the marginalization of persons with disabilities, who have traditionally been sent to Special Schools (SLB) for their education. The government mandates that districts/cities designate at least 1 (one) elementary school, 1 (one) junior high school in each sub-district, and 1 (one) secondary education unit to organize inclusive education, which is obligated to accept students who are deemed to have abnormalities, per Minister of National Education Regulation No. 70 of 2009.

People with disabilities have a fundamental right to an education that is accessible to them, but this right is not always protected by government legislation. This rule nevertheless requires schools to consider their available resources when deciding which pupils to admit. Several Indonesian educational institutions have shown a reluctance to enroll or have already expelled students with disabilities due to a lack of funding and support services. This antiquated regulatory framework continues to label people with disabilities as abnormal, abnormal, and handicapped. A strategy that has been roundly attacked by members of the community for its violation of the rights of people with disabilities, who should be free from stigma.

Support from all relevant parties should be directed toward enacting legislation that is responsive to the pattern of organizing education for people with disabilities that does not discriminate, which is one of the steps towards a form of regulation that is responsive to education for people with disabilities and avoids neutral provisions for education for people with disabilities. The author will explore the following table in further detail to show how the pattern of delivering education for people with disabilities is still segregative and discriminatory at the legislative and educational institution levels.

Table 1 : Reconstruction of Legal Issues Patterns of Education Implementation for Persons with Disabilities

Legal Issues in the Implementation Pattern of Education for Persons with Disabilities	Legal Construction Issues	Legal Reconstruction
There is still a lack of understanding about inclusive education and academic segregation.	Because special education is really a notion of segregation between typically developing kids and those with impairments, its usage as though the law permits soft	The Law on the National Education System has to be brought into harmony with the current practice of educating people with disabilities and embrace the notion of special and inclusive education. Doing so is crucial, since the

Legal Issues in the Implementation Pattern of Education for Persons with Disabilities	Legal Construction Issues	Legal Reconstruction
	discrimination by educational institutions to reject the enrollment of people with disabilities is misleading.	National Education System Law serves as a point of reference for other laws that control analogous standards or impose corresponding rules.
Disharmonization of regulations implementing education for persons with disabilities	When it comes to defining the categories of people who are eligible for accommodations at school, the Government Regulation of the Republic of Indonesia No. 17 of 2010 on the Management and Implementation of Education (PP/17/2010) and the Regulation of the Minister of National Education of the Republic of Indonesia No. 70 of 2009 on Inclusive Education for Students with Disabilities and Potential Intelligence and/or Special Talents (Permendiknas/70/2009) are both clearly ambiguous. This is so because the same kind of handicap is regulated in two distinct ways in the two implementing rules. The opposite argument is that kids with disabilities may still be referred to SLB even if they meet the requirements to join inclusive schools. This is because SLB can still	Convergence of rules on this topic must be carried out in inclusive education institutions. The purpose of this is to provide legal clarity at the implementation stage.

Legal Issues in the Implementation Pattern of Education for Persons with Disabilities	Legal Construction Issues	Legal Reconstruction
	accommodate this sort of handicap.	
Discriminatory Education Institutions	Since the Law on the National Education System and the Law on Disabilities both codify a segregative structure of education, there is a propensity for discrimination against people with disabilities inside the educational system. This is due to the fact that there are valid grounds for regular schools to reject students with impairments, including the existence of specialized facilities. Since this kind of prejudice is permitted by law, it is sometimes called "soft discrimination" or "invisible discrimination." People with disabilities are "given the choice to go to school," which is similar to how "free choice of schools" applies to typical pupils.	When it comes to Indonesia's regular schools, which include all schools in the country, the pattern of implementing inclusive education has to be reconstructed. To achieve this goal, separate units designed to accommodate students with impairments who cannot be educated in general education courses should be established in all schools. This is a crucial compromise because, although students in this group may need the assistance of specialized instructors later on in their education, they will still be able to participate in mainstream classrooms.
Dualism Pattern of providing education for Persons with Disabilities	The dualism of providing education for persons with disabilities, namely special and inclusive education patterns, presents	It is imperative that all schools in Indonesia adopt a "integration" design of education that is totally inclusive. The goal of this integration approach pattern is to provide equal access to education

Legal Issues in the Implementation Pattern of Education for Persons with Disabilities	Legal Construction Issues	Legal Reconstruction
	discrimination and legal indifference	for people with disabilities, regardless of their ability to pay or where they live. That "everyone can go to school regardless of mental or physical deficiencies" is central to the integrated education paradigm. The Italian government has successfully implemented this idea, despite the fact that it will be extremely difficult to accomplish since it must fit all schools. In Italy, almost all students with impairments are now enrolled in mainstream classrooms.

Source: Analysis Results

Based on the data in the table above, it seems that there are still loopholes in the rules and regulations that control the structure of delivering special education for people with disabilities. As a result, this is bad news for those who are disabled and want to go to college. The concept and nature of schooling for people with impairments are prime examples of this.

The author concludes that reform was employed in the reconstruction of Education for Persons with Disabilities because the changes made referred to the study of concepts and the interrelationships of regulations and several international legal instruments that became the basis for establishing regulations regarding Education for Persons with Disabilities. The proper response to this legal implication is to treat it as an error that needs to be fixed. Nonet-Selznick's idea of responsive law sees the law as a tool for addressing social guarantees and public hopes and dreams. In keeping with its inclusive character, this style of legislation places a premium on adaptability in order to embrace societal developments in pursuit of justice and public liberation. In times of change, it's important to have a law that can adapt to the new circumstances. The social objectives to be attained and the consequences ensuing from the operation of the law must take precedence over any other considerations for a law to be considered "responsive," hence it must be an open system and depend on the primacy of purpose (the sovereignty of purpose) (Atmadja & Budiarta, 2018).

According to Satjipto Rahardjo, who made the aforementioned claim, law-based reasoning has to go back to its humanist roots. In this view, human beings take center stage as the ultimate arbiters of right and wrong. Humans are the primary focus of the law, not the other way around. Therefore, the law is not an apolitical institution. Humans are the focus of the progressive legal paradigm (Ibrahim, 2007). In order to organize the educational rights of people with disabilities, the education system must ultimately foster inclusive education by giving everyone a chance to shine in a variety of roles that highlight their unique qualities.

This suggests that the existing Law on Disabilities and the existing Law on the National Education System, both of which have flaws, should be revised. Subjects of the law who are offended might request a rewrite of the law, or they can ask for a judicial review of the Law on Disabilities or the Law on the National Education System.

4. Conclusion

Segregation and a failure to properly represent concepts of fairness persist in Indonesia's educational arrangements for people with disabilities at the present time. Individuals with disabilities may be less free to choose their own educational route due to the educational system's apparent dual focus on special education and inclusive education. This policy seems to lean toward allowing people with disabilities a degree of autonomy over their educational decisions but not total autonomy. There is a chain reaction of negative effects caused by the legal consequences of regulating segregative methods of education delivery on the educational rights of people with disabilities. This setup normalizes prejudice, discourages people with impairments from furthering their education, and stigmatizes their loved ones. This leads to an inequity in who gets to take part in and shape society's progress. Furthermore, because of this discrimination, people with disabilities are not afforded the same educational opportunities as their non-disabled peers. As a result, the system further widens the gap between able-bodied students and those with impairments.

Reconstructing the pattern of educating people with disabilities in Indonesia requires a law reform strategy appropriate to the country's specific setting. This pattern guarantees that all students, regardless of disability, have access to an appropriate and comprehensive education that allows each individual to reach his or her full potential. This agrees with the thoughts of renowned disability researcher Professor Tom Shakespeare, who has long advocated for the equal treatment of people with disabilities in all walks of life, including the classroom. As a result, when Indonesia restructures its approach to educating people with disabilities, it must take into account the pattern of integration of inclusive education. Social, economic, and legal safeguards are all part of this pattern, as is the provision of required support, full integration, and

functioning preventative and recovery measures for people with disabilities and their families.

Reference

- Ahdanisa, D. S. (2019). Where are we now? The State of Self-employment and Entrepreneurship for People with Disabilities in Indonesia. *Indonesian Journal of Disability Studies*, 6(2), Article 2. <https://ijds.ub.ac.id/index.php/ijds/article/view/178>
- AKHMAD SOLEH, M. S. (2014). *Aksesibilitas penyandang disabilitas terhadap perguruan tinggi (Studi Kasus Empat Perguruan Tinggi Negeri Di Daerah Istimewa Yogyakarta)* [Doctoral, Universitas Islam Negeri Sunan Kalijaga]. <http://digilib.uin-suka.ac.id/id/eprint/14704/>
- Ali, S. K. (2013). Cultural and Educational Rights of Minorities: A Human Right and Constitutional Law Perspective. *Indian Journal for Social Studies and Humanities*, 1(2). <https://doi.org/10.2139/ssrn.2208559>
- Angeloni, S. (2013). Integrated Disability Management: An Interdisciplinary and Holistic Approach. *SAGE Journals*, 3(4). <https://doi.org/10.1177/2158244013510303>
- Atmadja, I. D. G., & Budiarta, I. N. P. (2018). *TEORI-TEORI HUKUM*. Setara Press.
- Baihaqi, M. I. F., & Sugiartmin, M. (2006). *Memahami dan membantu anak ADHD*. Refika Aditama.
- Dawam, A., & Alafsana, S. (2003). "Emoh" sekolah: Menolak "komersialisasi pendidikan" dan "kanibalisme intelektual", menuju pendidikan multikultural. Inspeal Ahimsakarya Press.
- Dethier, J.-J., Ghanem, H., & Zoli, E. (2010). *Indonesia-Education in Indonesia: From crisis to recovery*. The World Bank.
- Dewi, R. K., Pramana, R. P., Sadaly, H., Dewi, R. K., Pramana, R. P., & Sadaly, H. (2020). *Kendala Mewujudkan Pembangunan Inklusif Penyandang Disabilitas*. Smeru Research Institute.
- Düwell, M., Rehmann-Sutter, C., & Mieth, D. (2008). *The Contingent Nature of Life: Bioethics and the Limits of Human Existence*. Springer Science & Business Media.
- Florian, L. (2015). Inclusive Pedagogy: A transformative approach to individual differences but can it help reduce educational inequalities? *Scottish Educational Review*, 47(1), 5–14. <https://doi.org/10.1163/27730840-04701003>

- Gordon, J.-S. (2013). Is Inclusive Education a Human Right? *The Journal of Law, Medicine & Ethics*, 41(4), 754–767. <https://doi.org/10.1111/jlme.12087>
- Hehir, T. (2005). *New Directions in Special Education: Eliminating Ableism in Policy and Practice*. Harvard Education Press.
- Ibrahim, I. (2007). *Merekonstruksi Keilmuan Ilmu Hukum dan Hukum Millenium Ketiga*. In-TRANS.
- Ineu Herawati, N. (2016). Pendidikan Inklusif,“. *Edu Humaniora: Jurnal*.
- Jogja, R. (2019). Calon Siswa Ditolak karena Difabel – Radar Jogja. <https://radarjogja.jawapos.com/sleman/65736404/calon-siswa-ditolak-karena-difabel>
- Lessy, M. (2020). Diskriminasi Atas Hak Belajar Anak Difabel Dan Marginal. *Jurnal Ilmiah Mara Christy*, 10(1), Article 1. <https://doi.org/10.37196/mc.v10i1.67>
- Masitoh, S. (2008). Pendidikan Inklusi Alternatif Pendidikan untuk Semua. *Seminar Pendidikan Inklusi sebagai Solusi Hak Pendidikan Penyandang Cacat*. Seminar Pendidikan Inklusi sebagai Solusi Hak Pendidikan Penyandang Cacat, Surabaya.
- Mitchell, D. R. (2004). *Special Educational Needs and Inclusive Education: Systems and contexts*. Taylor & Francis.
- Motakef, M. (2006). *Das Menschenrecht auf Bildung und der Schutz vor Diskriminierung: Exklusionsrisiken und Inklusionschancen*. Deutsches Institut für Menschenrechte.
- Muhammad, A. (2004). *Hukum dan penelitian hukum*. Citra Aditya Bakti.
- Mundir, M. (2013). *Metode penelitian kualitatif dan kuantitatif*. Graha Ilmu.
- Murtiningsih, S. (2004). *Pendidikan Alat Perlawanan: Teori Pendidikan Radikal Paulo Freire*. Resist Book.
- Nalle, V. N. W. (2011). Mengembalikan Tanggung Jawab Negara dalam Pendidikan: Kritik Terhadap Liberalisasi Pendidikan dalam Uu Sisdiknas dan Uu Bhp. *Jurnal Konstitusi*, 8(4), Article 4. <https://doi.org/10.31078/jk846>
- Rahmat, A. F., Purnomo, E. P., Mutiarin, D., & Malawani, A. D. (2020). Education Budget Politics: Is It Pro-Disabilities? Case of Yogyakarta Municipality, Indonesia. *Indonesian Journal of Disability Studies*, 7(2), Article 2. <https://ijds.ub.ac.id/index.php/ijds/article/view/232>
- Rubaie, A. (2015). *Putusan Ultra Petita Mahkamah Konstitusi Republik Indonesia* [Doctor, Universitas Brawijaya]. <http://repository.ub.ac.id/id/eprint/160466/>
- Soerjono Soekanto dan Sri Mamudji. (2007). Penelitian Hukum Normatif Suatu Tinjauan Umum. Dalam *Rajawali Pers, Jakarta*.

Syafi'ie, S. (2018, November 13). Menyoal Hak Pendidikan Bagi Difabel oleh M. Syafi'ie, S.H., M.H. *Fakultas Hukum - Universitas Islam Indonesia*. <https://law.uii.ac.id/blog/2018/11/13/menyoal-hak-pendidikan-bagi-difabel-oleh-m-syafiie-s-h-m-h/>

Yang, W., Roig, M., Jimenez, M., Perry, J., & Shepherd, A. (2016). *Leaving no one behind: The imperative of inclusive development*. United Nations.