

## POLICIES AND PROBLEMS IN FULFILLING THE RIGHTS OF CHILDREN WITH DISABILITIES IN INDONESIA

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### ABSTRACT

Procedural law courses are important components in legal education in all law schools in Malaysia. The courses include Civil Procedure, Criminal Procedure, Evidence as well as a more specific courses such as Bankruptcy and Winding-up. These are taught as compulsory courses in upper years in which students have already completed substantive areas of law. In law schools that include Syariah law (Islamic law) as part of their curriculum, Syariah procedural courses both for criminal and civil proceedings are also taught. Similar to many other professional courses, teaching and learning professional skills require special approach different from traditional approach of lecture and ...

**Keywords:** *Procedural, law courses, practice, malaysia*

### INTRODUCTION

According to the results of statistical data from the Direktorat Jendral Kependudukan dan Pencatatan Sipil Indonesia (Dukacapil) in June 2022 reported from [databooks.katadata.co.id](http://databooks.katadata.co.id) out of 275.36 million Indonesians, 23.61% of the Indonesian population are not in school / not yet in school and 11.41% who have not graduated from elementary school (Kusnandar, 2022). In other words, 23.61% of the Indonesian population has not received education while education in the eyes of Indonesian law is the right and obligation of both its citizens and the Indonesian government itself, including children with special needs. This is as stated in the 1945 Constitution Amendment Article 28C paragraph 1 that everyone has the right to develop themselves through the fulfilment of their basic needs, have the right to education and benefit from science and technology, arts and culture, in order to improve the quality of their lives and for the welfare of mankind. The 1945 Constitution Amended Article 31 paragraphs 1, 2 and 3 which state that (1) Every citizen has the right to education, (2) Every citizen is obliged to attend basic education and the government is obliged to pay for it, and (3) The government seeks and organizes a national education system, which increases faith and piety and noble character in order to educate the nation's life, which is regulated by law.

The government's efforts to provide opportunities for every citizen to receive education with all the diversity of characteristics and abilities, even for those who have physical, mental, linguistic and intellectual limitations. In fact, in the eyes of society, education is still considered something prestigious, luxurious, privilege, and is still a benchmark for describing a person's status or background, which in fact is the right of every citizen as well as a human need to improve one's quality. This is also what is felt and experienced by most people, especially for children with special needs with all the problems of diversity in levels of ability and more complex development. As stated in Law Number 23 of 2022 concerning Child Protection Article 9 points 1 and 2 where (1) Every child has the right to receive education and teaching in order to develop their personality and intelligence level according to their interests and talents, (2) In addition to the rights of children as referred to in paragraph (1), specifically for children with disabilities are also entitled to special education, while children who have excellence are also entitled to special education. Thus, every citizen has the same position in the acquisition of opportunities in any field as Allah and Islam view humans as equal to one another, what is different is their devotion as His Word in Q.S. Al-Hujurat Verse 13 which means that O mankind, indeed We created you from a male and a female and made you into nations and tribes that you may know one another. Verily, the noblest among you in the sight of Allah is the most pious among you. Verily, Allah knows best.

The implementation of inclusive education in Indonesia is a manifestation of the government's commitment to fulfilling the rights of children with special needs. Inclusive education itself is an educational innovation for children with special needs. The existence of inclusive education in Indonesia was born out of government policies contained in (1) Law No. 4 of 1997 Article 5 concerning disabled children, (2) Law No. 23 of 2002 articles 48 and 49 concerning child protection, (3) Law No. 20 of 2003 article 5, paragraphs 1 to 4 concerning the national education system, (4) Circular of the Directorate General of Basic and Secondary Education Management, National Education System, and (5) Circular of the Directorate General of Basic and Secondary Education Management, National Education System. (4) Circular Letter of the Director General of Primary and Secondary Education Management, Ministry of National Education No. 380/C.C6/MN/2007.380/C.C6/MN/2003, dated January 20, 2003, (5) Permendiknas No. 70 of 2009 concerning Inclusive Education, (6) Government Regulation No. 17 of 2010 articles 127 to 142, concerning the Management and Implementation of Education.

The long history of discrimination against children, both disabled and non-disabled, in the fields of education, health, etc., has resulted in regulations that are ultimately expected to protect children from such discrimination. These regulations include the Declaration of Human Rights (1948), The World Declaration on Education for All (1990), the UN Standards Directive on Equal Opportunities for Persons with Disabilities (1993), the Salamanca Statement and UNESCO Framework for Action (1994), the Persons with Disabilities Act (1997), the Dakar Framework for Action (2000), and the Declaration of the International Children's Congress (2004), while in Indonesia itself, it was formalized through Presidential Decree Number 36/1990 on August 28, 1990 there are 10 children's rights based on the Convention on the Rights of the Child by the UN, namely (1) The right to play, (2) Right to education, (3) Right to protection, (4) Right to a name, (5) Right to nationality status, (6) Right to food, (7) Right to access health, (8) Right to recreation, (9) Right to equality, (10) Right to a role in development. Law No. 19/2011 on the Ratification of the Rights of Persons with Disabilities states that persons with disabilities are people who have physical, mental, intellectual, or sensory limitations for a long period of time who in interacting with the environment and attitudes of the community can encounter obstacles that make it difficult to participate fully and effectively based on equal rights. Law No. 8/2016 on Persons with Disabilities provides opportunities for children with special needs and children in general to fulfil their rights and legal protection, namely the right to health, the right to education and the right to be free from discrimination.

(Tarmansyah, 2009) states that inclusive education is the placement of children with mild, moderate and severe disabilities in regular classes. The rights that must be fulfilled by schools for children with special needs are listed in Government Regulation of the Republic of Indonesia Number 72 of 1991 concerning Special Education which states that students with special needs have eight rights that must be fulfilled by inclusive education institutions, namely (1) obtaining treatment in accordance with their talents, interests, abilities and disorders; (2) obtaining religious education in accordance with the religion they adhere to; (3) following the relevant education program on the basis of continuing education, both to develop their abilities and to obtain recognition of certain standardized education levels; (4) obtain learning facility assistance, scholarships, or other assistance in accordance with the disorder and the applicable requirements; (5) transfer to a parallel school or continue to a higher level in accordance with the disorder and the admission requirements at the school to be entered; (6) obtain an assessment of learning outcomes; (7) complete the education program earlier than the specified time; and (8) obtain special services in accordance with the type of disorder; (8) obtain special services in accordance with the type of disorder; and (9) obtain special services in accordance with the type of disorder.

Inclusive education is one of the alternatives to education for children with disabilities, an innovation that is considered more child-friendly where children with disabilities can mingle, spend time with normal children and have the opportunity to optimize all their potential in the same place as other normal children (Allen & Cowdery, 2000). This spirit is actually in line with the real conditions that exist in the community where there are children with disabilities and normal children who have become inseparable social communities, this level of society actually provides a view that there is equality and involvement of the roles of both children with disabilities and normal children so that a more harmonious society is realized. Furthermore, Permendiknas No. 70 of 2009 concerning Inclusive Education presents an education delivery system by providing opportunities for all students with

disabilities, children with intelligence potential and/or special talents to be able to receive education together with children in general. It can be said that inclusive education promotes an attitude of anti-discrimination, equality of rights and opportunities, justice and accessibility of education for all so that the 9-year compulsory education can be completed and the stigma and attitudes of the community towards children with disabilities can change, this is a manifestation of the quality of education and civil society.

Komala formulated the main concepts related to inclusive education are (1) concepts about children; (a) All children have the right to education in schools, (b) All children can learn, and anyone can experience difficulties in learning, (c) All children need support to learn, (d) Child-focused teaching benefits all children. (2) Concepts about education and schooling systems; (a) Education is broader than formal schooling, (b) Education systems are flexible and responsive, (c) Educational environments foster skills and are welcoming, (d) Effective school improvement, (e) Whole-school approaches and collaboration between partners. (3) Concepts about diversity and discrimination; (a) Eradicating discrimination and pressure to practice exclusion, (b) Responding to/embracing diversity as a source of strength rather than a problem, (c) Inclusive education prepares students for a society that values and respects differences. (4) Concepts about processes to promote inclusion; (a) Identifying and overcoming barriers to inclusion, (b) Increasing real participation for all, (c) Collaboration and partnerships, (d) Participatory methodologies, action research, collaborative research. (5) Concepts of resources; (a) Opening pathways to local resources, (b) Redistribution of existing resources, (c) Viewing people (children, parents, members of marginalized groups, etc.) as key resources, (d) Appropriate resources within the school and at the local level are needed for various children, e.g. Braille, assistive devices (Komala, 2018).

Other principles of inclusive education according to Komala are (1) The principle of equalization and quality improvement, inclusive education is a strategy to equalize the opportunity to obtain education, and is also a strategy to improve the quality of education. to equalize the opportunity to get education, and is also a strategy to improve the quality of education. a strategy to improve the quality of education. (2) The principle of individual needs, each child has different needs and abilities, so that inclusive education must be oriented to the individual learning program (PPI). (PPI), education is based on the needs of children. (3) The principle of meaningfulness, inclusive education must maintain a classroom community that is classroom community, accepting diversity and respecting differences. (4) Sustainability, inclusive education must be sustainable at all levels of education. inclusive education must be sustainable at all levels of education. (5) The Principle of Involvement: inclusive education must involve all relevant education components (Komala, 2018).

Meanwhile, the rights of children with disabilities that must be fulfilled by the school are stated in Government Regulation of the Republic of Indonesia Number 72 of 1991 concerning Special Education which states that students with special needs have eight rights that must be fulfilled by inclusive education institutions, namely (1) obtaining treatment in accordance with their talents, interests, abilities, and disorders; (2) obtaining religious education in accordance with the religion they adhere to; (3) following the relevant education program on the basis of continuing education, both to develop their abilities and to obtain recognition of certain standardized educational levels; (4) obtain learning facility assistance, scholarships, or other assistance in accordance with the disorder and applicable requirements; (5) transfer to a parallel school or continue to a higher level in accordance with the disorder and the admission requirements at the school to be entered; (6) obtain an assessment of learning outcomes; (7) complete the education program earlier than the specified time; and (8) obtain special services according to the type of disorder.

In fact, there are problems faced in the implementation of inclusive education according to Achyar's view including (1) Understanding inclusion and its implications; (a) Inclusive education for children with special needs has not been understood as an effort to improve the quality of education services. The understanding is still as an effort to include disabled children in regular schools in the context of giving education rights and easy access to education, and against discrimination; (b) Inclusive education tends to be perceived by the community as the same as integration, so there is still an opinion that children must adjust to the school system; (c) In its implementation, teachers tend not to be able to be proactive and friendly to all children, causing complaints from parents, and making children with special needs a subject of ridicule. (2) School policies; (a) coordination with relevant professionals, organizations or institutions is not yet supported; (b) school policies are still inaccurate, with class

teachers not taking responsibility for the learning progress of children with disabilities and requiring parents to provide special teachers. (3) The learning process; (a) The implementation of learning is not yet done in the form of team teaching and is not done in a coordinated manner, (b) Teachers tend to still experience difficulties in formulating a flexible curriculum, making IEPs, and in determining learning objectives, materials and methods, (c) There is still a misconception that the curriculum targets for children with disabilities are the same as other students and the assumption that students with special needs do not have sufficient ability to master learning materials, (d) Due to limited school facilities, the implementation of learning has not used diverse media, resources and environments according to children's needs. (4) Teacher conditions; (a) Not yet supported by adequate teacher quality. Classroom teachers are still considered not sensitive and proactive yet to the special needs children, (b) The existence of special teachers is still considered not sensitive and proactive to the problems faced by children with disabilities. (5) Support system; (a) The support system is not yet adequate. The role of parents, special schools, experts, special education universities and the government is still considered minimal. (b) Parental involvement as one of the keys to success in inclusive education has not been well developed. As a result, parents are often less concerned and realistic about their children (bbgpjabar.kemdikbud.go.id)

Solutions that can be offered so that the implementation of inclusive education can run properly include: (1) Preparation of inclusive education guidelines, (2) formulation of inclusion models, (3) carrying out more massive socialization of inclusive education, (4) community assistance related to inclusive education programs, (5) carrying out teacher and therapist training, (6) fulfilling the needs of inclusive education learning infrastructure, (7) community involvement in inclusive education (K.H.Dewantara's Tripusat Pendidikan Concept), (7) involving various parties from both the government and other relevant agencies, (8) implementing monitoring and evaluation of the implementation of inclusive education

## CONCLUSION

Based on the above explanation, the existence of children with disabilities in the midst of society adds color to the education system in Indonesia, its existence brings the spirit of education reform where education is free from discrimination, equal rights and opportunities, justice, and protection. However, in its implementation, inclusive education experiences various obstacles, both in terms of the learning process, human resources, and school policies. In addition, the limitations of parties in fulfilling the rights of children with disabilities are also of particular concern, one of which is the stigma that still exists in society that children with disabilities are considered different, thus providing a barrier to children with disabilities and normal children in general. So that what needs to be pursued by various parties including socialization, assistance in the introduction and inclusive education in the wider community needs to be pursued.

## REFERENCES

- Allen, K. E., & Cowdery. (2000). *The Exceptional Child: Inclusion in Early Childhood Education* (4 ed.). USA: Delmar Cengage Learning.
- Komala. (2018). ANALISIS KEBIJAKAN PENDIDIKAN ANAK USIA DINI INKLUSIF.
- Kusnandar, V. (2022). Hanya 6% Warga Indonesia yang Berpendidikan Tinggi pada Juni 2022. Retrieved February 28, 2023, from <https://databoks.katadata.co.id/datapublish/2022/09/20/hanya-6-warga-indonesia-yang-berpendidikan-tinggi-pada-juni-2022>
- Peraturan Menteri Pendidikan Nasional RI – No.70 Tahun 2009 Pasal 1 Tentang Pendidikan Inklusif bagi Peserta Didik yang Memiliki Kelainan dan Memiliki Potensi Kecerdasan dan/atau Bakat Istimewa
- Tarmansyah. (2009). *Inklusi Pendidikan Untuk Semua*. Jakarta: Depdiknas.

Undang-Undang Dasar 1945 Amandemen Pasal 31

Undang-Undang Republik Indonesia Nomor 23 Tahun 2002 Tentang Perlindungan Anak