

ANALYSIS OF THE PATTERN OF EDUCATION FOR PERSONS WITH DISABILITIES IN LAW NUMBER 20 OF 2003 CONCERNING THE NATIONAL EDUCATION SYSTEM

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Volume: 3

Number: 3

Page: 751 – 755

Article History:

Received: 2022-06-24

Revised: 2022-05-10

Accepted: 2022-11-11

Abstract:

Inclusive education has many different meanings and interpretations. There is still some uncertainty about the difference between inclusive and special education for individuals with disabilities, sometimes known as special schools (SLB). Meanwhile, the term inclusive education is not known in the National Education System Law, which uses the term "special education and special services," which is explained in Article 32 of Law No. 20 of 2003 concerning the National Education System: (i) Special education is education for students who have difficulty levels. Participating in the learning process due to physical, emotional, mental, social, intellectual potential and special talents. (ii) Special service education is education for students in remote or underdeveloped areas, remote indigenous peoples, and experiencing natural disasters, social disasters, and economically disadvantaged. This research's problem approaches are conceptual, statutory, and case approaches. Based on this, we found that the ambiguity of norms affects the pattern of providing education for persons with disabilities, namely the dualism of providing education for persons with disabilities with a special and inclusive approach which has an impact on legal uncertainty in norms, concepts and implementation.

Keywords: Disabilities, Education, Inclusive.

Cite this as: ABDUSSAMAD, Z., SUDARDONO, KOESWAHYONO, I., ISTISLAM. (2022) "Analysis of The Pattern of Education for Persons with Disabilities in Law Number 20 of 2003 Concerning the National Education System". *International Journal of Environmental, Sustainability, and Social Sciences*, 3 (3), 751 – 755.



INTRODUCTION

Indonesia has always had laws governing individuals with disabilities. Even two years after Indonesia's independence, in 1947, legislation for individuals with disabilities was enacted. The presence of this rule demonstrates that the Indonesian government has long been concerned about people with disabilities. The vocabulary employed by the Indonesian government about disability has also evolved in response to the passage of new laws and regulations. Starting with the terms "disabled" in 1947, "those who are physically or mentally defective" in 1954, "Tuna" in 1974, "People with disabilities" in 1992, "Disabled Persons" in 1991 and 2003, and most recently "children with special needs" and "people with disabilities" in 2016 (Wibowo & Muin, 2018).

Changes in vocabulary about the notion of disability demonstrate that the knowledge and definition of disability in Indonesia are evolving. First, the concept of disability contains physical defects, then widens to include non-physical deficits. Lastly, the definition of disability includes deficiencies and advantages above normal in children with special needs. The way people with disabilities are treated in Indonesian schools has also changed. The implementation of Special Education in Indonesia is regulated by Government Regulation 72 of 1991, issued in 1991.

Individuals with disabilities have the option to attend school, but they are isolated from non-disabled people, thanks to the construction of special schools (SLB). SLB deployment in Indonesia has various flaws. According to Karwono's research, parents are hesitant to send their children to special schools since they would be stigmatized in society if their children attend special schools. SLB is also exceedingly rare at the primary and secondary levels of schooling. According to statistics, there are 1,924 special schools in Indonesia, much less than the 146,826 primary schools. Parents are hesitant to send their children to special schools since there are none near their houses, as opposed to primary schools, which are available in every district in Indonesia (Adioetomo et al., 2017).

According to the above statement, people with disabilities have the right to an education, which the Government of Indonesia has a duty to fulfill. As a result, this research will examine how people with disabilities have the right to an education. It will be beneficial to understand this. Researched what policies the Government of Indonesia has adopted and will take to uphold. Based on the background above, the problems that will be studied in the research are: What is the Pattern of Education for Persons with Disabilities in Law Number 20 of 2003 concerning the National Education System?

METHODS

This research is normative juridical research, namely, the method or procedure used to solve the problem in this research by collecting and processing legal material. This research's problem approaches are conceptual, statutory, and case approaches. A conceptual approach is an approach to studying and analyzing the framework of thought or conceptual framework as well as the theoretical basis of the objectives of this study. The approach to legislation (statute approach) is an approach taken to various related legal rules to the problem in this research (Ibrahim, 2005).

RESULT AND DISCUSSION

After Indonesia ratified the Salamanca Charter in 1994, government rules for students with disabilities altered. The Indonesian government passed Law No. 20 of 2003, establishing the National Education System. According to Law Number 20 of 2003, education for kids with special needs or exceptional intellect can be provided in public elementary schools. Since the law's passage, Indonesia has begun to construct inclusive schools. It began in 2004 with the staging of a national conference that culminated in the Bandung Declaration of Indonesia's commitment to "inclusive education". Then, in 2005, an international conference was convened in Singapore, which resulted in the Bukit Tinggi Recommendation, which underlined the need to continue to improve the Inclusive Education program as a strategy to ensure that all individuals with disabilities get a quality education (Rudiyanti, 2011).

Inclusive education has many different meanings and interpretations. There is still some uncertainty about the difference between inclusive and special education for individuals with disabilities, sometimes known as special schools (SLB). In other words, many still believe that inclusive education only applies to people with disabilities. It is still incorrect because inclusive education is designed for everyone with varied learning requirements, not only persons with disabilities (Handayani & Rahardian, 2013). As a result of inclusive education, every kid may get an education without fear of discrimination. Given this, what should be noted in implementing inclusive education is a system capable of accommodating the demands of persons with disabilities.

Unesco developed the definition of inclusive education in its Guidelines for Inclusion: Ensuring Access to Education for All, that: *"Inclusion is seen as a process of responding to the diverse needs of all learners through increasing participation in learning, culture, and society, and reducing exclusion in and from education. It involves changes and modifications in content, approaches, structures and strategies, with a shared vision that includes all children of the right age range and the importance of responsibilities and arrangements for educating all children"* (Opertti, Brady & Duncombe, 2009).

In Indonesia, inclusive education is officially defined as: *"a system of educational services that include children with special needs, to study together with their peers in regular schools closest to their place of residence"*. The implementation of inclusive education requires schools to make adjustments both in terms of curriculum, educational facilities and infrastructure, as well as learning systems tailored to students' individual needs (Penyusun, 2012).

Article 1 Regulation of the Minister of National Education of the Republic of Indonesia No. 70 of 2009 concerning "Inclusive Education for Students with Disabilities and Potential Intelligence and Special Talents": *"Inclusive education is an education system that provides opportunities for all students with disabilities and potential intelligence and special talents to participate in education or learning in an educational environment together with students in general"*.

Meanwhile, the term inclusive education is not known in the National Education System Law, which uses the term "special education and special services," which is explained in Article 32 of Law No. 20 of 2003 concerning the National Education System: (i) Special education is education for students who have difficulty levels. Participating in the learning process due to physical, emotional, mental, social, intellectual potential and special talents. (ii) Special service education is education for students in remote or underdeveloped areas, remote indigenous peoples, and experiencing natural disasters, social disasters, and economically disadvantaged.

Based on this, both "special education" and "special service education" have the same students. That is, "inclusive education" has a very different nature from "special education" and "special service education" because the two education services are carried out separately from regular education for children who are not "special needs". Meanwhile, inclusive education for persons with disabilities with special needs is carried out in an integrated manner together with non-disabled persons in regular education.

Therefore, if inclusive education is defined as education for all, and includes all persons with disabilities without exception, by including persons with disabilities in general classes with non-disabled persons, then persons with disabilities who have special services in the National Education System Law must be interpreted more broadly, not only who have physical (blind, deaf) and non-physical (intellectual) barriers, but also persons with disabilities with learning disabilities due to geography, socio-economic and cultural factors (Sukadari, 2020).

It is a significant problem, especially in the National Education System Law. As previously stated in the background, article 5, paragraph 2, article 15 and article 32 still use the term special education/special services, which are philosophically and have very different goals from inclusive education. Special education is directed at the exclusiveness of persons with disabilities in a separate school, while inclusive education is directed at the heterogeneity of persons with disabilities and regular students. This norming problem is substantial. After all, educational institutions have a legal basis for rejecting students with disabilities because people with disabilities have special schools. It indicates that the polarization of disability education in Indonesia is still segregative and discriminatory (Sutarya, 2019).

Inclusive education is the latest development of an education model for children with disabilities, which was formally later confirmed in the 1994 Salamanca declaration statement at the

World Conference on Education with Disabilities that *"the fundamental principle of inclusive education is: as long as it is possible, all children should learn together regardless of difficulties. nor the differences they may have"*.

The oldest pattern of special education is the segregation pattern that places children with disabilities in special schools, separated from their peers. This school has a curriculum, teaching methods, learning facilities, an evaluation system, and special teachers. In terms of management, the segregation model is beneficial because it is easy for teachers and administrators. However, from the student's point of view, the segregation pattern is detrimental. Reynolds and Birch argue that the segregative pattern does not guarantee opportunities for children with disabilities to develop their potential optimally because the curriculum is designed differently from the regular school curriculum. Apart from that, philosophically, the segregation model is not logical because it prepares students to integrate with normal society in the future, but they are separated from normal society (Stainback & Stainback, 1990).

In this regard, the segregation of education, which is a pattern of education by separating disabled and regular students, is increasingly unclear with the explanation of Article 15 of the National Education System Law, which states: *"Special education is the provision of education for students with disabilities or students who have extraordinary intelligence which is held inclusively or in the form of special education units at the primary and secondary education levels."*

Suppose you look at the definition of special education in the explanation of Article 15 of the National Education System Law. In that case, there is a lack of clarity on legal norms because inclusive education is considered part of special education by using the phrase "organized inclusively," as it is known that inclusive education is the development of segregative special education, which was manifested in the 1994 Salamanca declaration. It became antithetical when the elaboration of inclusive education was divided into two main points in the Disability Law with two different meanings, explicitly normalization. The law on inclusive education in disability law does not depart from the National Education System Law, which does not define inclusive education but is a mandate from the CRPD, ratified in 2011. Therefore, it can be said that the ratio legis argument in the disability law related to the pattern of providing disability education does not immediately depart from the National Education System Law as the umbrella norm. It impacts the uncertainty of the standard on what inclusive education means, as also regulated in Minister of Education Regulation Number 70 of 2009 concerning inclusive education. Explicitly the norms in this implementing regulation have no legal basis in the National Education System Law regarding inclusive education.

It also has an impact on the formulation of derivative/implementing regulations such as in Permendiknas No. 70 of 2009 concerning inclusive education, Article 3 Paragraph 2, which states:

"a. blind; b. deaf; c. speech impaired; d. mentally disabled; e. quadriplegic; f. tunalaras; g. learning difficulties; h. slow learner; i. autism; j. have motor impairments; k. become a victim of drug abuse, illegal drugs, and other addictive substances; l. have other disorders; m. double disability"

The unclear legal norms for inclusive and special education patterns can also be seen in the regulation of students with disabilities in the Government Regulation of the Republic of Indonesia Number 17 of 2010 concerning Management and Implementation of Education (PP/17/2010), which emphasizes special education for students with disabilities in Article 129 paragraph (3) mentions that: *"Students with disabilities consist of students who: a. blind; b. deaf; c. speech impaired; d. mentally disabled; e. quadriplegic; f. tunalaras; g. learning difficulties; h. slow learner; i. autism; j. have motor impairments; k. become a victim of abuse of narcotics, illegal drugs, and other addictive substances; and l. have other disorders"*.

CONCLUSION

The two implementing regulations above regulate the same thing on the concept, which is entirely different between special education and inclusive education due to the unclear norms in the National Education System Law. Special education implemented with SLB has a limited reach because it only serves students with visual, hearing, physical limitations, or a combination thereof, thus discriminating against other types of disabilities such as mental limitations, learning difficulties, and developmental delays. In addition, this same norm makes all the characteristics and identification of students with disabilities have no legal certainty whether to attend special or inclusive education institutions, and the educational institutions have reasons for refusing on the basis that it has been regulated that persons with disabilities have special schools that explicitly lead to discriminatory actions. Based on this, the ambiguity of norms affects the pattern of providing education for persons with disabilities, namely the dualism of providing education for persons with disabilities with a special and inclusive approach which has an impact on legal uncertainty in norms, concepts and implementation.

REFERENCE

- Adioetomo, S. M., Mont, D., & Irwanto, I. (2014). *Persons With Disabilities in Indonesia: Empirical Facts and Implications for Social Protection Policies*. Jakarta Pusat: TNP2K.
- Handayani, T., & Rahadian, A. S. (2013). Peraturan Perundangan dan Implementasi Pendidikan Inklusif. *Masyarakat Indonesia*, 39(1), 149701.
- Ibrahim, J. (2005). *Teori dan Metode Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.
- Opertti, R., Brady, J., & Duncombe, L. (2009). Moving Forward: Inclusive Education as the Core of Education for All. *Prospects*, 39(3), 205-214. <https://doi.org/10.1007/s11125-009-9112-3>
- Penyusun, T. (2012). Laporan Pencapaian Tujuan Pembangunan Milenium di Indonesia 2011. Kementerian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional.
- Rudiyati, S. (2011). Potret Sekolah Inklusif di Indonesia. In *Makalah Seminar Umum AKESWARI*.
- Stainback, W., & Stainback, S. (1990). *Support Networks for Inclusive Schooling: Interdependent Integrated Education*. Baltimore: PH Brookes Pub. Co.
- Sukadari, S. (2020). Pelayanan Anak Berkebutuhan Khusus Melalui Pendidikan Inklusi. *Elementary School: Jurnal Pendidikan dan Pembelajaran ke-SD-an*, 7(2). <https://doi.org/10.31316/esjurnal.v7i2.829>
- Sutarya, M. (2019). *Pendidikan Inklusi di Perguruan Tinggi: Studi Pada Pusat Kajian dan Layanan Mahasiswa Berkebutuhan Khusus Politeknik Negeri Jakarta*. Doctoral dissertation, Institut PTIQ Jakarta.
- Wibowo, S. B., & Muin, J. A. (2018). Inclusive Education in Indonesia: Equality Education Access for Disabilities. *KnE Social Sciences*, 484-493. <https://doi.org/10.18502/kss.v3i5.2351>