

Implementation of the Right to Education for People with Disabilities during the Covid-19 Pandemic in Pekanbaru City

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Abstract—The right to education is part of human rights, particularly within the first generation of civil rights and political rights. The government is heavily responsible for the accomplishment of that right as well as for the people of disability. During the covid 19 pandemic, the learning process was carried out at a considerable distance as an effort to suppress the rise of cases of exposure. But there are many obstacles to the implementation of remote learning, especially for students with disabilities, including the Riau Province. The Riau Province already has a special policy for protection of disability, which is the 18 Year 2013 Region Rule on The Protection And Empowerment Of Disability. The fact that funding for disability education is still lacking. The problem that will be addressed in this study is- How is the implementation of the right to education for those affected at the coequal of the covid 19th pandemic in the Province Of Riau, what is the preventive factor, how the relief of the right to education for those of the covid 19th pandemic in the Province Of Riau. This type of research is a sociological juridical or field study. Studies have concluded that the implementation of the right to education for persons of disability during the covid pandemic of 19 in the Province of Riau has not been fully implemented. The retard factor is- Lack of socialization over local rules on protection of education rights for people on disability, lack of tools and infrastructure, and lack of educational human resources. The effort to overcome the obstacles is to revise the rules of the region and to socialize them, to provide adequate tools and infrastructure, and to improve the number and skills of the educator.

Keywords—education, special school

I. INTRODUCTION

Humans are creatures created by God Almighty with the highest degree. As representatives of God on earth, humans have a duty to maintain the common good. Humans in carrying out their duties are given special rights, namely human rights, hereinafter abbreviated as HAM [1]. These rights are inherent in human nature, must be respected and protected whose purpose is to maintain human dignity.

The first thinker who systematically contemplated the problems of human life that was bound up in an organizational/state order was Aristotle from Greece who lived around the IV century BC who stated that to achieve the goals of human life, humans need other humans. Therefore, it is necessary for society so that individuals can have meaning as humans and only in society can humans develop as individuals [2]. The next development of the concept of human rights in Europe emerged "Dictatus Papae" in the second century which was then followed by "Magna Charta" (1215). While in the East, it is recorded that there has been a Medina Charter compiled by early Islamic countries which also contains the protection of human rights [3].

In the natural law school, the basic conception of human rights includes three things, namely: the right to life, the right to liberty, and the right to property [4]. Further developments, the conception of human rights continues to undergo transformation, Franklin D. Roosevelt on January 6, 1941, formalized four kinds of human rights (the four freedoms) in front of the United States congress, namely freedom of speech. Free to embrace religion (freedom of religion), free from fear (freedom of fear), and free from a desire/will (freedom of want).

Theoretically, the rights contained in The Universal Declaration of Human Rights can be grouped into three parts. The first part concerns political and juridical rights; the second part concerns the rights to human dignity and integrity; the third part concerns social, economic, and cultural rights. Human rights are also called basic human rights or human rights, namely basic human rights that cannot be separated (unalienable) from the body and are not reduced by anyone, for example the right to life, the right to freedom, the right to pursue happiness, etc.

Since the euphoria of human rights began to flow, people have only realized how important the protection of these rights is to ensure the welfare of life and equal rights as human beings. Slavery and oppression that occur in civilization is a

bad reflection of the neglect to protect these rights. Countries, both developed and developing countries, have begun to include human rights values in their constitutions. Indonesia is no exception. Indonesia as a state of law has included human rights values in the constitution. These universal human rights values are fused with cultural and religious values recognized in Indonesia.

Human rights must not conflict with the values/principles contained in Pancasila. Pancasila contains five precepts that must be used as the basis for the conception of human rights [5]. These values include the value of God Almighty, just and civilized human values, the value of Indonesian unity, democratic values led by wisdom in representative deliberation and social justice values. This conception of human rights seems to be different from the conception of human rights based on the principles of individualism and socialism-communism. The conception of human rights in the 1945 Constitution seeks to create a balance between individual rights and social/communal rights. However, what is important is social/communal rights which are reflected in Indonesia's right-side which aims to realize social justice and social welfare. Thus, individual rights that are egoistic in nature are embedded in the right of solidarity to achieve mutual prosperity [6].

Indonesia as a state of law, has included the protection of the right to education in various laws and regulations, starting from Article 31 of the 1945 Constitution which states that every citizen has the right to receive education and the government seeks and organizes a national teaching system, which regulated by law, also regulated in government regulations, ministerial regulations to regional regulations. The government also provides protection for the right to education for persons with disabilities as regulated in Law Number 8 of 2016 concerning Persons with Disabilities [7].

In article 5 paragraph (1) of Law Number 8 of 2016 concerning Persons with Disabilities it is stated that people with disabilities have the right to education. The government and local governments are obliged to organize and/or facilitate education for persons with disabilities in every path, type and level of education in accordance with their respective authorities. Law Number 23 of 2014 is a replacement for Law Number 32 of 2004 concerning Regional Government. One of the important changes of the Law is regarding the division of government affairs between the Central Government, Provincial Governments, and Regency/City Regional Governments, namely in matters of Education there has been a transfer of authority to manage secondary education and special education to the authority of the provincial government from before. the authority of the district/city government. Thus, the government and local governments, including the Riau Provincial Government

Obliged to fulfill the rights of persons with disabilities to education. In addition to these obligations, the Regional Government of Riau Province also has other obligations as stipulated in Article 40-43 of the Law of the Republic of

Indonesia Number 8 of 2016 concerning Persons with Disabilities.

Riau Province itself has Regional Regulation No. 18 of 2013 concerning the Protection and Empowerment of Persons with Disabilities [8]. In the context of protecting and empowering persons with disabilities, local governments have the following duties and authorities:

- Establish policies for the implementation of the protection and empowerment of persons with disabilities in a systematic, comprehensive, rational, consistent and imperative manner;
- Establish criteria, standards, procedures and requirements for the protection and empowerment of persons with disabilities in accordance with the provisions of laws and regulations;
- Develop and establish incentives and disincentives;
- Give awards to the community who participate in extraordinary ways in the protection and empowerment of persons with disabilities;
- Develop and strengthen cooperation with various parties in carrying out the protection and empowerment of persons with disabilities;
- Assist and facilitate District/City Regional Governments in overcoming problems in the implementation of protection and empowerment of persons with disabilities; and
- Conducting campaigns and socialization on the protection and empowerment of persons with disabilities.

Riau Province has several Special Schools or commonly abbreviated as SLB. Some of the SLBs in Riau Province include:

TABLE I. SPECIAL SCHOOLS IN RIAU PROVINCE

No	Areas	Public School	Private School
1	Kota Pekanbaru	1	14
2	Kab. Kampar	4	0
3	Kab. Rokan Hulu	1	2
4	Kab. Indragiri Hilir	1	1
5	Kab. Rokan Hilir	1	1
6	Kab. Bengkalis	2	5
7	Kab. Siak	1	2
8	Kab. Kuantan Singingi	1	0
9	Kab. Indragiri Hulu	1	0
10	Kab. Pelalawan	2	0
11	Kab. Kepulauan Meranti	1	3
12	Kota Dumai	1	2

Source : Dinas Pendidikan Provinsi Riau

Furthermore, specifically related to education, every person with disability has the same opportunity and treatment to obtain inclusive education in units, pathways, types and levels of education according to the type and degree of disability. In Article 34, Article 35 paragraph (1), Article 36 paragraph (1)

and Article 36 paragraph (5) of the Regional Regulation of Riau Province Number 18 of 2013 concerning the Protection and Empowerment of Persons with Disabilities, it is stated that:

- Article 34: "Educational rehabilitation is intended so that persons with disabilities can participate in education optimally according to their talents, interests and abilities."
- Article 35 paragraph (1): "Educational rehabilitation is carried out by providing complete and integrated educational services through the teaching and learning process."
- Article 36 paragraph (1): "All public schools from the Playgroup level to Higher Education to provide inclusive education services, at least in the early stages of providing integrated education, as this program progresses to inclusive education."
- Article 36 paragraph (5): "It is hoped that SLB will no longer exist and be replaced with the concept of inclusive education which provides more guarantees for persons with disabilities to obtain equality and togetherness."

The COVID-19 pandemic that has hit the world, including in Indonesia, has of course greatly affected the world of education. Various regulations have been issued by the government regarding prevention and health protocols. The 5M slogan, namely (wearing a mask, washing hands, maintaining distance, avoiding crowds, reducing mobility) in the teaching and learning process is also carried out online. This is in line with what the Head of the Education Office in Riau Province, Zul Ikram, said, "teaching and teaching activities for the new school year are starting today. In the early stages, all students began to conduct an online introduction to the school environment (MPLS) at the high school level. The current condition is still in the atmosphere of the COVID-19 pandemic. In accordance with the direction of the Governor of Riau, the teaching and learning process for the new school year continues to use the online system, without face-to-face".

Changes in learning patterns in the teaching and learning process of course raise new problems at this time. The learning process which is usually carried out face-to-face with children going to school is replaced by online or in a network, requires special preparation both from facilities and infrastructure, budget and human resources, both teachers, students and parents, moreover. for students with disabilities. Therefore, the author is interested in studying this problem with the title *Implementation of the Right to Education for Persons with Disabilities During the Covid 19 Pandemic in Riau Province*. The research locus is in Pekanbaru City which is still in the red zone area.

A. *Formulation of the problem*

- How is the implementation of the right to education for persons with disabilities during the COVID-19 pandemic in Pekanbaru City?

- What are the inhibiting factors for the implementation of the right to education for persons with disabilities during the COVID-19 pandemic in Pekanbaru City?

B. *Research Objectives*

- To find out the implementation of the right to education for persons with disabilities in Pekanbaru City during the covid 19 pandemic
- To find out the inhibiting factors for the implementation of the right to education for persons with disabilities during the COVID-19 pandemic in Pekanbaru City.

II. DISCUSSION

A. *Implementation of the Right to Education for Persons with Disabilities During the Covid 19 Pandemic in Pekanbaru City*

The substance of human rights in the Universal Declaration of Human Rights which is universal, its implementation is adjusted to the philosophy and culture of the people in a country (the theory of cultural relativism). Indonesia, whose state philosophy is Pancasila and the majority of its people are Muslim, of course cannot adopt all the points of human rights listed in the UDHR. But the human rights concept of equality and respect for human dignity is still being adopted.

One of the differences in the implementation of human rights is that universal human rights standards cannot cross cultural standards, especially religions that apply in the world, because every religion or culture has its own guidelines in its teaching norms. Western human rights view that human rights depart from individualistic principles that prioritize personal or individual interests above all else, while human rights in the view of Pancasila are to give freedom to individual interests as long as they do not intersect with common interests. Common or social interests take precedence over personal interests. The basic philosophy of the Indonesian state, which consists of five precepts, is the basic principle of the fundamental values of Pancasila, namely Divinity, Humanity, Unity, Democracy, and Justice. These five precepts serve as guidelines for the government and the entire community in the life of the nation and state. Every citizen's behavior must reflect the practice of the Pancasila precepts, including in making laws and regulations, Pancasila should be a source of law. The concept of human rights which is a gift from God which is natural and aims to respect human dignity, is in line with the first and second precepts of Pancasila. The first precept of Pancasila, namely Belief in One God, reflects the belief in the existence of God who rules the universe with its norms, is associated with human rights, there is equality where human rights are natural rights or natural rights given to humans by God and cannot be revoked. by anyone, including the state. Indirectly, the concept of human rights also acknowledges the existence of God who runs the universe by his decree. The second precept of Pancasila is just and civilized humanity, reflecting the equality of human rights and humane treatment of human

dignity. This precept is also in line with the purpose of human rights, namely respecting human dignity and recognizing the equal rights and obligations of every human being, regardless of gender, skin color, religion, race, and culture.

Groups with special needs or disabilities, in human rights theory, are included in groups vulnerable to human rights violations. The deficiency experienced by the disabled group is the responsibility of the state to protect it, both in the form of a legal structure, legal substance and in the form of a legal structure. The state must build a responsive legal system, because people with disabilities are also Indonesian citizens and have the same rights as other citizens.

The theory of natural rights, in English called the natural rights theory, is a theory that analyzes human rights from natural rights conceptualized based on God's gift through natural law. According to the theory of natural rights, human rights are rights that are owned by all people at all times and in all places because humans are born as humans.

This theory was developed by Thomas Hobbes, Jean Jacques Rousseau and John Locke. Thomas Hobbes (1588-1679) the main champion of the theory of natural rights. In this theory, Thomas Hobbes argues that:

- No individual is deprived of the right to life;
- All human beings are equal, regardless of any consideration.

Meanwhile, another developer of the theory of natural rights, Jean Jacques Rousseau (1712-1778). In this concept, "All humans are born free but everywhere they are in chains." He further argues that everyone is given the right to:

- Freedom;
- Equality; and
- Brotherhood.

Another developer of the theory of natural rights, namely John Locke (1632-1704). The essence of this theory is that every human being has the right to:

- Life;
- Personal freedom; and
- Have property rights.

The three main rights carry a moral necessity for every human being, as a natural right that is owned by every human being born in the world. A natural right is conceived based on God's gift through natural law.

These rights are natural in the sense that:

- Nature that creates and inspires human reason and opinion;
- Everyone is born with these natural rights; and

- These natural rights are owned by humans in a state of nature and then brought into social life.

Persons with disabilities are also included in the protection of human rights which in the law explains that human rights are rights that are innate, not rights given by the authorities and are universal. Human rights as a universal paradigm that every civilized, democratic and sovereign government must pay attention to, therefore every citizen who considers himself civilized must guarantee the protection of human rights. This shows that since birth humans have been given freedom and rights together with others without any exceptions and discrimination.

The implementation of the right to education for persons with disabilities in Riau province already has a legal basis, namely Regional Regulation Number 18 of 2013 concerning the Protection and Empowerment of Persons with Disabilities. This regional regulation has been implemented in several educational institutions in Riau Province, such as providing educational facilities for persons with disabilities, the implementation of inclusive schools, although not optimal, this is as stated by an employee of the Riau Province Education Office. During the COVID-19 pandemic, where the learning method is carried out online (on a network), it does cause problems for people with disabilities, but the government hopes that the closest family can become school partners in helping students learn from home.

The Pekanbaru City Regional Regulation as a follow-up to this Riau Province Regional Regulation does not yet exist, there is only the Pekanbaru Mayor's Decree Number 713 of 2017 concerning the Establishment of Pekanbaru City Inclusive Education Organizing Schools which are intended for elementary schools. This is because high school and special education are the responsibility of the province after a change in authority based on Law Number 23 of 2014 concerning Regional Government which is a substitute for Law Number 32 of 2004 concerning Regional Government.

There are 584 schools in Pekanbaru City from elementary, junior high, high school and vocational levels consisting of public and private schools. With details of 309 elementary schools, 150 junior high schools, 61 senior high schools and 64 vocational high schools. For the number of inclusive schools in Pekanbaru City itself there are seven schools, including five elementary schools, one high school and one vocational high school. The list of school names is as follows: SDN 22 Pekanbaru, SD Islam Plus YLPI, SDN 95 Pekanbaru, SDN 040 Rumbai, SD IT & Leadership Bintang Cendikia, SMK Telkom Pekanbaru, 1 and SMAN 4 Pekanbaru. For these schools, based on data from the Riau Provincial Education Office, there is still no data on students with special needs who attend these inclusive schools, there is only one male student but his disability is unknown because the data provided is incomplete, attending SMAN 4 Pekanbaru. This is indeed acknowledged by the Riau Provincial Education Office that the data is still lacking because there are still schools that have not confirmed it back to the Riau Provincial Education Office.

For special educators in these inclusive schools there is one special educator teacher in each inclusive school but there is also one special educator in two schools, namely at SMK Telkom Pekanbaru and SMAN 4 Pekanbaru, where both schools have the same special educator, namely Mrs. Neldita Sonya, S.Pd. This is considered inefficient because the special educator teacher should have at least one person per class in the inclusive class. However, the reality is that currently there is only one special educator teacher in an inclusive school. The Education Office itself admits that this is indeed one of the inhibiting factors for the implementation of inclusive education, but they have made efforts to increase special educators in inclusive schools every year.

B. Factors Inhibiting the Implementation of the Right to Education for Persons with Disabilities in Riau Province During the Covid 19 Pandemic

Education is the right of every citizen. The protection of the right to education has been regulated in the constitution in Indonesia. The concept of education, like a science, will continue to develop according to the progress of the times and the situation and conditions. So far, education for people with disabilities has been called special schools (SLB). Where children with special needs special schools for their groups. Then the next development, the concept of inclusive education emerged, in which persons with disabilities mingled in public schools according to the level of their special needs.

The oldest special education model or commonly known as the Extraordinary School (SLB) is considered to provide less space for children to interact optimally with their peers. Children with special needs in special schools, separated from their peers. These schools have curricula, teaching methods, learning tools, evaluation systems, and special teachers. From all management, it is profitable but in terms of children with special needs it is detrimental because it does not guarantee the opportunity for children to develop their potential optimally.

The birth of inclusive education stems from an observation in a special boarding school or boarding institution which shows that both children and adults who live in these dormitories have behavioral patterns that are usually shown by people who are in need. Their behavior includes passivity, self-stimulation, stereotyped repetitive behavior and sometimes self-destructive behavior. People are starting to realize the importance of interacting and communicating as a basis for learning. Public awareness is manifested in the concept of normalization which is guaranteed by legislation to meet the needs and quality of life of children with special needs. This is the starting point for reform in the field of education that leads to the inclusion process.

Inclusive education is a teaching method that provides access to education for persons with disabilities in public schools. One of its main goals is to gain the right to thrive in an environment that is similar to that of others. The concept of inclusion provides an understanding of the importance of accepting children with special needs who have obstacles into

the curriculum, environment, and social interaction in schools. The needs of every child with special needs can be achieved when the curriculum is appropriate, the process is good, the selection of appropriate teaching strategies, the maximum utilization of learning resources, and the harmonious cooperation with the family, the school environment and the surrounding community. The curriculum should be adapted to the needs of children, who have been forced to follow the curriculum. Therefore, it should provide opportunities to adapt the curriculum to the child. To achieve the potential of each child, the education system needs to be designed by considering the differences that exist in children with special needs.

In the last two years, since the world including Indonesia was hit by the Covid-19 pandemic, all life arrangements have changed due to the impact of the pandemic. One of them is the field or education sector. The learning system, which is usually done face-to-face, has changed to an online system (in the network), of course this brings changes both from the positive side and the negative side. Distance learning must be carried out to prevent the transmission of the virus, but this creates inconvenience for students, especially for students with disabilities.

The equipment needed includes: learning ability assessment tools, and learning/academic aids (difficulty learning to read, difficulty learning language, difficulty learning to write, difficulty learning math).

The special facilities needed for children with special needs based on their disabilities include the following:

- Blind children: Equipment needed includes vision assessment tools, orientation and mobility tools, learning/academic aids, visual aids, auditive aids, and physical exercise aids.
- Deaf child: The equipment needed includes assessment tools, hearing aids, training to build sound and rhythm perception, learning/academic aids, and physical training tools.
- Mentally retarded child: The equipment needed includes academic ability assessment tools and self-adjustment, self-development training tools, tools and development of number concepts and symbols, number symbol development tools, creativity development tools, thinking and concentration power, language teaching tools, and perceptual motor exercises.
- Children with disabilities: The equipment needed includes assessment tools, physical exercise equipment, self-development and movement development, orthotic and prothetic equipment, and learning/academic aids.
- Tunalaras: The equipment needed includes behavioral disorder assessment tools, behavioral therapy tools and game therapy tools.

- Talented kid: The equipment needed includes assessment tools, and learning/academic aids including: science laboratories, languages, computers.
- Children with learning difficulties: The equipment needed includes learning ability assessment tools, and learning/academic aids (difficulty learning to read, difficulty learning language, difficulty learning to write, difficulty learning math).

The special infrastructure needed for children with special needs based on their disabilities include the following:

- Blind Children: For blind students, space is needed to carry out assessment, consultation, orientation and mobility activities, remedial teaching, braille writing, listening exercises, physical exercises, skills, and tool storage.
- Deaf Children/ Communication Disorders: For students with hearing impairment/communication disorders, space is needed to carry out assessment activities, consultations, speech development exercises, sound and rhythm perception development, remedial teaching, physical skills training, and tool storage.
- Children with mental retardation / children who are slow to learn: For mentally retarded students / slow learners, space is needed to carry out assessment activities, consultations, sensory exercises, self-development, remedial teaching, perceptual training, skills, and tool storage.
- Children with disabilities: For students with disabilities, space is needed to carry out assessment activities, consultations, physical exercises, self-development, remedial teaching, skills and tool storage.
- Tunalaras: For students with disabilities, space is needed to carry out assessment activities, consultations, behavioral exercises, game therapy, physical therapy, remedial teaching, and storage of tools.
- Talented kid: In addition to empowering or optimizing the use of existing infrastructure if in inclusive schools there are talented students, special infrastructure that needs to be provided is an assessment room.
- Children with Learning Difficulties: For students who have learning difficulties, space is needed to carry out assessment and remedial activities.

The inhibiting factor for the implementation of the right to education for persons with disabilities during the Covid 19 pandemic in Pekanbaru City is the culture of the people who

are less concerned or less sensitive to the education rights of persons with disabilities. Education for them is still considered less important and is only a formality so that it is considered a school. So it is not intended to fulfill the rights of persons with disabilities and is not intended as a guide for their future. So that their rights are getting neglected during this covid 19 pandemic

III. CONCLUSION

- The implementation of the right to education for persons with disabilities during the COVID-19 pandemic in Pekanbaru City has not run optimally. This is because the status of the pandemic continues to change so that it requires dynamic policies, the city of Pekanbaru which is currently still in the red zone and applies distance learning.
- The inhibiting factors for the implementation of the right to education for persons with disabilities during the COVID-19 pandemic in Pekanbaru City, namely the lack of regulations or policies that support persons with disabilities in the implementation of learning, the lack of facilities and infrastructure in learning, and the lack of public awareness or culture of the importance of education. for the future of persons with disabilities.

REFERENCES

- [1] M.D. Mahfud, "Hukum Dan Pilar-Pilar Demokrasi," Yogyakarta: Gama Media, 1999.
- [2] P. Jarvis, *Learning to be a person in society*. Routledge, 2012.
- [3] D.E. Arzt, "The Application of International Human Rights Law in Islamic States," *Hum. Rts. Q.*, vol. 12, p. 202, 1990.
- [4] O.F. Afori, "Human Rights and Copyright: The Introduction of Natural Law Considerations into American Copyright Law," *Fordham Intell. Prop. Media Ent. LJ*, vol. 14, p. 497, 2003.
- [5] J.A. Dewantara, I.F. Suhendar, R. Rosyid, and T.S. Atmaja, "Pancasila as Ideology and Characteristics Civic Education in Indonesia," *Int. J. Educ. Vocat. Stud.*, vol. 1, no. 5, pp. 400–405, 2019.
- [6] A. Pabst, "Prosperity and Justice For All: Why Solidarity and Fraternity Are Key to an Efficient, Ethical Economy," in *Conference of the Fondazione Centesimus Annus Pro Pontifice, "The Good Society and the Future of Jobs: Can Solidarity and Fraternity Be Part of Business Decisions*, 2015, pp. 8–10.
- [7] Undang-Undang Republik Indonesia Nomor 8 tahun 2016 tentang Penyandang Disabilitas,
- [8] Peraturan Daerah Nomor 18 Tahun 2013 tentang Pemberdayaan dan Perlindungan Penyandang Disabilitas.