

CHAPTER III

THE CONDITIONS AND THE PROBLEMS OF CHILDREN WITH DISABILITIES IN INDONESIA DURING 2016-2017

Indonesia is the largest archipelagic country in the world. Indonesia has more than 17,000 islands, of which only about 7,000 islands are inhabited. Kalimantan, Java, Sulawesi, Sumatra and Papua are the main islands in Indonesia. Besides that, Indonesia also has small islands like Bali, Karimunjawa, Gili and Lombok which are local and international tourist destinations. The capital of Indonesia is Jakarta, which is located on Java.

The majority of the Indonesian population embraced Islam, while in Bali Hinduism became more dominant. Whereas in areas such as Minahasa in North Sulawesi, the Toraja plateau in South Sulawesi, on the island of East Nusa Tenggara and in most of Papua, in the Batak highlands and on the island of Nias in North Sumatra, the majority are Catholic or Protestant. Overall, the Indonesian people basically have their own religion. The Indonesian people are also open-minded and remain tolerant of religion, customs and traditions with each other. While, faithfully adhering to their own religion. The Indonesian symbol further holds the motto: Unity in Diversity.

Then, *Special Region of Yogyakarta* is the second oldest province in Indonesia after East Java, which was formed by the Indonesian state government. The province also has special status or special autonomy. This status is a heritage from before independence. The Yogyakarta Sultanate and also the Pakualaman Duchy, as the forerunner or origin of Yogyakarta.

In Jakarta on August 19, 1945 a serious discussion took place in the *Preparatory Committee for Indonesian Independence* (PPKI) session to discuss the position of *Kooti*

Hookookai. Kooti Hookookai is the status of a vassal kingdom or dependent state. In the trial Prince Purbaya, a representative from Yogyakarta Kooti Hookookai, asked the central government to make Kooti 100% autonomous. Then, the position of Kooti was determined by the status quo until the establishment of the Law on Regional Government. On that day Soekarno issued a charter stipulating the position of the two rulers of the throne of the Sultanate of Yogyakarta and the Pakualaman Duchy. The Charter was only submitted on 6 September 1945 after the official stance of the monarch rulers was issued.

On September 1, 1945, the *Yogyakarta Regional Indonesian National Committee* (KNID) was formed by overhauling Yogyakarta's Kooti Hookookai membership. After learning about the attitude of the people of Yogyakarta towards the Proclamation, Sultan Hamengkubuwono IX issued a royal decree known as the Mandate of September 5, 1945. The contents of the decree were the integration of the Yogyakarta monarchy into the Republic of Indonesia. Decrees with similar contents were also issued by Sri Paduka PA VIII on the same day. (DPPM, 2016) Special Region of Yogyakarta consists of 5 parts, namely Yogyakarta City, Bantul Regency, Sleman Regency, Kulon Progo Regency, and Gunung Kidul Regency.

A. The Rights of Children With Disabilities

Disability is a condition of a person with a number of disorders, such as limited activities faced in carrying out tasks or actions. In addition, people with disabilities are difficult to engage in social life.

The variety of persons with disabilities is regulated in Article 4 of Law No. 8 of 2016 (UU Republik Indonesia No. 8, 2016) concerning Persons with Disabilities, namely:

1. Persons with physical disabilities are disrupted movements, including amputation, paralysis or

stiffness, paralysis, cerebral palsy, stroke, due to leprosy, and stunted people.

2. Persons with intellectual disabilities are disrupted thinking functions because the level of intelligence is below average, including slow learning, disability *grahita* and down syndrome.
3. Persons with mental disabilities are disrupted thinking, emotions, and behavioral functions, including:
 - a. Psychosocial include schizophrenia, bipolar, depression, anxiety, and personality disorders.
 - b. Developmental disabilities that affect the ability of social interactions include autism and hyperactivity.
4. People with sensory disability are disrupted by one of the five sensory functions, including net disability, deaf disability, and speech disability.

There are multiple persons with disabilities, namely persons with disabilities who have two or more different types of disabilities, including speech disability and blind deafness. Both persons with physical, mental or multiple disabilities have the same rights. Regarding the rights of persons with disabilities, it is necessary to pay attention to the meaning of rights. Rights began to become conversations as national countries arose that questioned the relationship between the state and citizens. Theories based on rights justify the priority of personal interests rather than the interests of society. The law is designed to protect as much as possible the interests of individuals as stated by Jeremy Bentham through his utilitarianism. Rights are also inseparable from the essence of humanity itself.

The definition of persons with disabilities is found in various legal instruments. As stated in the International Convention on the Rights of Persons, "persons with disabilities include those who have long-term physical, mental,

intellectual or sensory suffering where interactions with various obstacles can make it difficult for full and effective participation in society based on equality with others.

Indonesia has ratified the Convention on the Rights of Persons with Disabilities (Convention on the Rights of Persons with Disabilities) in 2011 through Law No. 19 of 2011. In the CRPD UN, one of the state's obligations is to guarantee and advance the fulfillment of the rights of persons with disabilities through legislative (regulatory) and administrative (supporting procedures) and harmonize regulations including abolishing rules and culture that violate the rights of persons with disabilities.

The Government's commitment is realized by the enactment of Law Number 8 of 2016 (UU Republik Indonesia No. 8, 2016) concerning Persons with Disabilities to respect, protect, fulfill and advance the rights of persons with disabilities. The following are the rights of persons with disabilities, namely:

1. The right to get special protection from discrimination, neglect, harassment, exploitation and violence and sexual crimes.
2. The right to get care and care for the family or substitute family for optimal growth and development.
3. The right to protect their interests in decision making.
4. The treatment of children is human in accordance with the dignity and rights of children.
5. The right of their special needs.
6. The same treatment with other children to achieve social integration and individual development.
7. The right of getting social assistance.

The birth of Law Number 8 of 2016 concerning Disabled Persons is the first step in the good faith of the Government to respect, protect and fulfill the rights of persons with

disabilities. Furthermore, the Government must prepare facilities, infrastructure and prepare human resources that will carry out the implementation of the implementation of this Law with the aim of ensuring the fulfillment of the rights of persons with disabilities is fulfilled; so that the fulfillment of the rights of persons with disabilities not only wins on paper but is carried out in accordance with the purpose of the Convention on Persons with Disabilities, namely promoting, protecting and guaranteeing the fundamental equality of rights and freedoms for all persons with disabilities and respect for the dignity of persons with disabilities.

The Convention on the Rights of Persons with Disabilities (CRPD) as currently an important international human rights instrument governing persons with disabilities (Iskandar, 2012). The outlines of thinking in the CRPD, they are:

1. The practice of discrimination is an object that CRPD supports is removed.
2. The objective to eradicate discriminatory practices, it is logical that the CRPD be expanded to eliminate discriminatory practices based on disability.

There are eight principles that guide the participating countries in fulfilling the rights of persons with disabilities in CRPD (Nations, 2006), namely:

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices and independence of person.
2. Non-discrimination.
3. Full and effective participation and inclusion in society.
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity.
5. Equality of opportunity.
6. Accessibility.

7. Equality between men and women.
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The rights of persons with disabilities say that the Convention on the Rights of Persons with Disabilities states that every person with disabilities must be free from torture or cruel, inhuman, degrading treatment, free from exploitation, violence and abuse, and has the right to respect for his mental and physical integrity based on similarity with others. This includes the right to obtain protection and social services in the context of independence, as well as in emergencies (UU Republik Indonesia No. 19, 2011). Even the state party ratifying this convention has the obligation to be able to implement the provisions of the Convention in addition to that the state party must also report to the committee on monitoring the rights of persons with disabilities through the UN Secretary General.

B. Conditions and Problems of Children with Disabilities in Indonesia

Children with disabilities have some disruption to body functions or structure. These disorders are physical, cognitive, mental, sensory, emotional, developmental, or some other complications. The condition of the disorder is permanent and lifelong. They often look 'different' than most other people.

This disability condition can certainly affect growth and learning processes, especially when children enter school age. If not handled properly and effectively, children with disabilities will lose the opportunity to maximize their potential. Unfortunately, government policy programs for people with disabilities are only limited to mercy, so they do not empower people with disabilities to be involved in various

problems, especially social problems. In fact, many of them have even greater potential than most children who are normal.

Indonesia itself has laws that ensure the right to education for all children, including persons with disabilities. It also states that every person with disabilities has equal opportunities in all aspects of life. However, the World Report on Disability published by WHO and the World Bank in 2011 stated that there were still gaps in the level of school activity for children with disabilities in Indonesia, which was 60 percent lower than other children. In fact, many children with disabilities still experience discrimination in many ways.

An adequate education system for persons with disabilities and support from community elements can certainly help hone their potential. Later, children with disabilities can become part of an independent society and contribute to the social environment.

Even people with disabilities are not explicitly mentioned in the 1945 Constitution of the Republic of Indonesia, but are part of a human being whose position is the same. The principles of universal human rights, non-discrimination, cannot be denied, cannot be divided and cannot be reduced. The fulfillment of the right to the need for a legal umbrella, this is in line with the objectives of the formation of the state stated in the Preamble of the 1945 Constitution of the Republic of Indonesia "to promote public welfare, educate the nation's life, realize social justice for all Indonesian people". In essence, the realization for all Indonesian people indiscriminately. Both humans are born "normal" and are born with "physical or mental imperfection".

Disabled children are provided with the same education so that when they grow up they become independent individuals, and able to adapt to the environment. The absorption of persons with disabilities in working age on employment both as civil servants and private jobs. The companies to employ

persons with disabilities also contributes to the number of disabilities that are not absorbed in the world of work. Given the opportunity for people with disabilities to be active in politics.

There were also cases of violence against children with disabilities experienced by Denis Aprilian, children who were ironed by his stepmothers. This case was an example of the fact that children with disabilities were still considered trivial. This case attracted public attention because of the cruel behavior of the stepmother towards Denis. Because Denis is a child with a disabilities, he is often treated arbitrarily including physical violence (Gultom, 2016).

Angela Kearney, as the Chief of Representative of UNICEF, said in the Aceh Tribun, that families and communities are still ashamed if their children have disabilities. Even these children are often locked up, ostracized from school and society rather than supported. The lack of community support for the integration of children with disabilities has added discrimination. Indonesia has invested in strengthening the legal framework and increasing opportunities for children with disabilities so that they can grow and develop their potential. However, there is still a lack of support from families and the community towards people with disabilities (Wintah, 2015).

Prior to the ratification of the CRPD many instruments related to persons with disabilities. From the Act, related Ministerial Regulations to Regional Regulations. The laws which also pertain to persons with disabilities include employment, national education, health, social welfare, traffic and road transportation, railways, shipping, aviation and customs. This condition proves that the suitability of Indonesia has enough instruments to protect and fulfill the rights of persons with disabilities but is hampered at the level of implementation. Indonesia also has a disability organization, one of which is the Indonesian Disabled Persons Association, which has representative offices in various regions, one of

which it does is advocacy for persons with disabilities so that their rights can be fulfilled by the government, as well as raising funds and activities involving people with disabilities.

C. Conditions and Problems of Children with Disabilities in Yogyakarta

The children with disabilities as one of the community communities sometimes do not get their rights and tend to be marginalized. Not surprisingly, then the paradigm of society has already given a negative label that has a negative impact on the social development of persons with disabilities. The social implications of disability can be seen from various community treatments and policies regarding disability. Unwittingly, people tend to view disability in a negative way so that the social needs of persons with disabilities involving participation and social acceptance are not met.

Although the city of Yogyakarta is well-known for its hospitality, they still have a discriminatory attitude towards children with disabilities. The Yogyakarta city government also has barriers to dealing with children with disabilities, due to the lack of initiative from the community to treat them well. The treatments are not friendly or discriminatory by the community due to cultural factors, government regulations / policies and implementation. Persons with disabilities or self-limitations can be physical, cognitive, mental, and sensory (Hidayah, 2018).

The education is one of the rights possessed by persons with disabilities who are obliged to be protected and implemented by the government. The government programs to bring people with disabilities into regular education are known as inclusive education.

Although the city of Yogyakarta has been named the City of Inclusion, which means there is no discrimination, it turns out that the accessibility and educational facilities in the city

of Yogyakarta are still considered not optimal and have not fulfilled the rights of people with disabilities.

As the Coordinator of the Disability Strengthening Rights Forum (FPHPD), Arni Surwanti, said in the *Tribun Jogja* daily news, various problems of education for persons with disabilities such as school infrastructure that have not all supported inclusion schools, teaching staff for persons with disabilities who have not been met, and curriculum that supports students with disabilities (Prasetya, 2019).

There are still many people with disabilities who experience problems, especially formal education. The formal education in public schools has difficulty entering public schools. They also indicated that they were unprepared from school when they had to meet deaf, blind or other disabilities.

There are a number of educational problems, for example in terms of educational facilities, many people with disabilities who have difficulty accessing schools due to unsupportive infrastructure, such as the absence of assisting access for children with disabilities whose classrooms are located on the second floor of the school. Then, from the perspective of Human Resources, namely the instructors and special assisting teachers for students with disabilities from a number of them are still lacking, while from competency they are still not ready. For example, teachers with disability assistance for public schools only come at certain times because they have to accompany students in Special Schools.

Another problem is the learning method that does not support persons with disabilities. Disability students have difficulty accessing learning materials without any graphic or picture explanations for hearing impairments, computer speech or learning materials with a braille model for eye disability.