

CHAPTER ONE

INTRODUCTION

A. Background of Research

In today's era, human rights is one of the topics that steals the spotlight. It is discussed a lot in every platform, starting from the international world such as international organizations, national level like in the government institutions, journalism world and even in the society. The attention of people to human rights issues nowadays is a sign that society is very aware of the importance of human rights.

Disability is an issue that touches many lives in Indonesia. Based on the data from Bulletin of Persons with Disabilities in Indonesia released by the Ministry of Health of Indonesia in 2014, there are 6.008.661 persons with disabilities or 2.45% from the total of citizens in Indonesia. This amount consists of various disabilities from the vision, hearing, speech, physical and intellectual impairment and many others.¹ This means that there are more than 5 million households, or 10,3 percent of the total, that includes at least one person with a disability.² From the data of the census above it can be seen that the number of persons with disabilities in Indonesia

¹ Ministry of Health of Indonesia, "Bulletin of Persons with Disabilities in Indonesia", Indonesia, 2014, <http://www.depkes.go.id/download.php?file=download/pusdatin/buletin/buletin-disabilitas.pdf> accessed on April 3rd, 2018 at 10 AM

² Satu Data Indonesia V, "Infografis Hari Disabilitas", March 8th 2017, <https://data.go.id/konten/visualization/infografis-hari-disabilitas/> accessed on April 10th, 2018 at 9 PM

is pretty high, it is based on the census that was held in 2014, and it is possible the number is getting higher.

A dignified country is a country that respects, fulfil and provide protection for all its citizens without exception. The issue of persons with disability or those who have the distinction of the ability as known as “diffable” (differently abled people) or now known as “disability” is a problem that doesn’t get enough attention from the government and the society. Indonesia, as a state based on the rule of law, has the obligation to protect and provide the needs of the citizens of Indonesia. It is based on the 1945 Constitution, as the fourth paragraph of the Preamble of 1945 Constitution states that:

“...state of Indonesia which shall protect all the people of Indonesia and their entire native land, and in order to improve the public welfare, to advance the intellectual life of the people and to contribute to the establishment of a world order based on freedom, abiding peace and social justice...”³

The duty of respecting human rights is reflected in the Preamble of the 1945 Constitution which represents the entire chapter in its body, especially with respect to equality of citizenship in law and government, right to work and decent living, freedom of association and assembly, freedom of speech through spoken and written forms, freedom of religion and to worship according to their religion and belief, and the right to receive education. Every human being deserves to get their rights without any

³ Paragraph 4 the Preamble of the 1945 Constitution

exception. Their level, position, rank, wealth and even education level should not be used to distinguish human rights among the citizens.⁴

It is also clearly stated on the Law Number 39 of 1999 on Human Rights that the state must protect persons with disability as it is their right as a human, stated in Article 42 that:

“In the event of old age, physical and/or mental disability, every citizen has the right to special care, education, training and assistance at the expense of the state, ensuring an existence worthy of human dignity, and building his self-confidence and capacity to participate in the life of nation, state, and society.”⁵

It can be implied that what this article means is that every citizen of the Republic of Indonesia, whether they are physically disabled or mentally disabled also have the rights to get a proper education. In addition to their rights to get care, assistance and special training from the country and there should be no discrimination against persons with disabilities.

Intellectual disability is formerly known as mental retardation. It is defined as the disruption during the period of development.⁶ Intellectual disability is characterized by a lack of general mental abilities like reasoning, problem-solving, abstract thinking, planning, academic, and learning from the experience. The result of the lack of this ability is impaired in adapting so that the individual fails to meet the standards of personal independence and social responsibility in one or more aspects of daily life, including

⁴ Masyur Effendi, 1993, *Hak Asasi Manusia dalam Hukum Nasional dan Internasional*, Bogor, Ghalia Indonesia, p. 47

⁵ Article 42 of the Law Number 39 of 1999 on Human Rights

⁶ Medina J, “Intellectual Disability (Mental Retardation) Symptoms”, *PsychCentral*, 2016, <https://psychcentral.com/disorders/mental-retardation-symptoms/> accessed on July 10th, 2018 at 8 PM

communication, social participation, academic or employment, or self-reliance.⁷ The most common causes of intellectual disability are a genetic condition, problems during pregnancy, birth, and common health problems.⁸

In the historical development of social change in the presence of special needs persons or persons with disabilities, there are two conceptions of disability:

1. Medical or individual perspective, that places disability as an individual issue. This definition places physical or mental impairment as the cause of obstacles to do normal activities or the life that they deserve.
2. Human rights perspective, that places the issue of disability as an integral of human rights that places guarantee on equality, equal rights and full participation that is also attached to persons with disabilities.⁹

The Province of Special Region of Yogyakarta is known as one of the provinces in Indonesia that gives great attention to disabilities. It is proven by the fact that the Province of Special Region of Yogyakarta has its own regulations concerning disabilities, which is the Regional Regulation of Special Region of Yogyakarta Province Number 4 of 2012 on the Protection and the Fulfilment of the Rights of Persons with Disabilities.

⁷ American Psychiatric Association (APA), 2013, *Diagnostic and Statistical Manual of Mental Disorders (5th Edition)*, Washington, American Psychiatric Publishing, p. 33.

⁸ Algozzine B, Ysseldyke J, 2006, *Teaching Students with Mental Retardation: A Practical Guide for Every Teacher*, California, Corwin Press, p. 25.

⁹ Muhammad Joni Yulianto, 2014, *Hak-Hak Penyandang Disabilitas dalam Buku Panduan Bantuan Hukum Indonesia: Pedoman Anda Memahami dan Menyelesaikan Masalah Hukum*, Jakarta, Yayasan Obor Indonesia, p. 254-256.

The Province of Special Region of Yogyakarta is divided into 4 regencies and 1 city, and almost every administrative region has its own regional regulations regarding disabilities. For instance, Bantul Regency has the Regional Regulation of Bantul Regency Number 11 of 2015 on the Fulfilment of the Rights of Persons with Disabilities, Gunungkidul Regency has the Regional Regulation of Gunungkidul Regency Number 9 of 2016 on the Implementation of the Protection and Fulfilment of Persons with Disabilities, Kulon Progo Regency has the Regional Regulation of Kulon Progo Regency Number 3 of 2016 on the Implementation of the Protection of Persons with Disabilities, and Sleman Regency also has the Regional Regulation of Sleman Regency Number 1 of 2018 on the Implementation of the Protection and Fulfilment of the Rights of Persons with Disabilities.

The government of the Special Region of Yogyakarta Province has already conducted a lot of things to accommodate and protect the needs of persons with disabilities. As reported by Republika.co.id, the government of the Special Region of Yogyakarta is actually starting to develop some facilities in the hope to accommodate the needs of persons with disability. Some of the things that the government did to accommodate the needs of persons with disabilities in Special Region of Yogyakarta is giving extra focus on providing access for persons with disability in order to increase the

independence of persons with disability in order to make Special Region of Yogyakarta become an inclusive city.¹⁰

Sadly, the effort of the government to accommodate the needs of persons with physical disability is not well implemented, let alone for persons with intellectual disability. When discussing issues like accessibility for persons with disability, the policy or the inclusivity often appear to just merely focus on only certain disabilities, for instance, physical disability. Other types of disabilities are often forgotten.¹¹ In fact, discrimination against persons with intellectual disability is still happening a lot.

As reported by VOA, with the rising of the number of sexual assaults against persons with disability, especially women, there are still institutions, schools or even families who forcibly give contraception and even worse, sterilization to women with disability. The institution, school or the family are usually afraid if these women are sexually assaulted because they will get pregnant and thus give the school or family extra work.¹²

For the fulfilment of the persons with disabilities, it is not only the duty of the government, but the whole society must also support and believe that the rights of persons with disability are also a part of human rights. The

¹⁰ Ratna Puspita, “Yogyakarta Tingkatkan Akses Penyandang Disabilitas”, December 5th 2017, <https://www.republika.co.id/berita/nasional/daerah/17/12/05/p0hjar428-yogyakarta-tingkatkan-akses-penyandang-disabilitas> accessed on August 1st, 2018 at 3 PM

¹¹ Tio Tegar, “Mengenal yang Kerap Terlupakan: Difabel Mental Intelektual”, November 13th 2017, <https://www.solider.id/baca/3995-mengenal-kerap-terlupakan-difabel-mental-intelektual> accessed on August 10th, 2018 at 3 PM

¹² Nurhadi Suchayo, “Pemaksaan Pemasangan Alat Kontrasepsi Bagi Difabel Tidak Dibenarkan”, January 30th 2018, <https://www.voaindonesia.com/a/pemaksaan-pemasangan-alat-kontrasepsi-bagi-difabel-tidak-dibenarkan/4230938.html> accessed on August 8th, 2018 at 7 PM

problem is nowadays there is still a paradigm in the society that persons with disabilities do not only have limitations, but are also considered as persons who are unable to do anything, need special assistance, so they pity the persons with disabilities. This paradigm is obviously incorrect, as all the persons with disabilities need is not pity, but access to make it easier for them to get the same opportunities as people who do not have disabilities. Thus, it is not uncommon if people only give them pity.¹³

From the background of research above, it is interesting to further discuss on how is the actual implementation of the protection of persons with intellectual disability in Special Region of Yogyakarta Province, which is the reason why this research has the title of “**The Protection of Persons with Intellectual Disabilities in the Special Region of Yogyakarta**”.

B. Research Problem

Considering the research background above, the author formulated a question to be answered, which is, how is the protection of persons with intellectual disabilities in the Special Region of Yogyakarta?

C. Objectives of Research

From the research problem above, the author can formulate the objectives of this research, which are:

¹³ Rahayu Repindowaty Harahap, Bustanuddin, “Perlindungan Hukum Terhadap Penyandang Disabilitas menurut Convention on the Rights of Persons with Disabilities (CRPD)”, Indonesia, 2015, see <https://online-journal.unja.ac.id/index.php/jimih/article/view/2191/1530> accessed on April 7th, 2018 at 11 PM

1. To understand the rights of persons with intellectual disability that are regulated in laws and regulations.
2. To evaluate the implementation of protection of persons with intellectual disability in the Special Region of Yogyakarta.
3. To suggest better recommendation on protecting and accommodating persons with intellectual disability in the Special Region of Yogyakarta.

D. Benefits of Research

Based on the research problem and objectives of research as mentioned above, the benefits of the research are expected as follows:

1. Theoretical Benefit

This research would give benefit to find out about the protection of persons with intellectual disability in the Special Region of Yogyakarta based on the regulations.

2. Practical Benefit

This research would evaluate the implementation of the regulations regarding the protection of persons with intellectual disability in the Special Region of Yogyakarta and also giving suggestion to fully protecting and accommodating the rights of persons with disability.