

THE LOCAL GOVERNMENT POLICY IN BORDER AREA ON THE EDUCATION RIGHTS FULFILMENT FOR PERSON WITH DISABILITIES IN NORTH KALIMANTAN PROVINCE

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ABSTRACT

The research problems are; first, how is local government authority within human rights fulfilment for person with disabilities? Second, how is legal policy on human rights for person with disabilities?. Third, how is law protection from local government related to education rights fulfilment for person with disabilities in North Kalimantan?. The method of this research uses normative method be equipped by field research. This research is important considering the obligation of state to protect, to recognize and to fulfil of human rights for citizens in its region without discrimination particularly for person with disabilities in border area. Within an effort to implementation, Indonesia Government regulates some legal instrument of human rights, one of the newest is Law No 8 of 2016 on Person with Disabilities. North Kalimantan is youngest province in Indonesia, some local regulation on human rights has been regulated, but the human rights instrument particularly for person with disabilities has not been set up. The research urgency becomes one of the goals to regulate the local government policy on education rights particularly the rights of person with disabilities in North Kalimantan Province, its expected to be a solution against regulation plan in Indonesia on fulfilment of human rights degree for person with disabilities especially education rights for them in North Kalimantan Province. The methodology of this paper is normative that equipped by field research. The conclusion of this paper is in regulation, authority, and legal protection.

Keywords: local government policy, border area of north kalimantan, education rights for person with disabilities.

INTRODUCTION

Human Rights is an universal concept, first appeared in the 17th century. The concept of human rights has been gradually developed, one of its important developments occurred in the 20th century, which was the first draft of the Universal Declaration of Human Rights (UDHR), which was announced on December 10, 1948. The declaration was then added to the Convention of Civil and Political Rights as well as Economic, Social and Cultural Rights.

Essentially, Civil and Political Rights (SIPOL) aims to protect everyone against abuse of power by the authorities. Franklin. D. Roosevelt (1941) proposed four freedom speeches in SIPOL Rights, namely: 1. Freedom of speech; 2. Freedom of worship; 3. Freedom from fear; 4. Freedom from want. While, International Covenant on Economic, Social and Cultural Rights (ECOSOC) includes: Labor Rights, the right to decent working conditions; the right to form trade unions; the right to social security; the right to family life; the right to an adequate standard of living, including the right to food, clothing and housing; the right to free education; and the right to participation in cultural life. Economic, Social and Cultural Rights are designed to ensure the protection of entire human

race based on the principal that human beings are entitled to enjoy their rights, freedom and social justice simultaneously.

In connection with the three international legal instruments above, Indonesia added the concept of UDHR into its national law, that is Law No 39 of 1999 on Human Rights. ECOSOC Conventions were also ratified by the Indonesian government, and its set out as Law No 12 of 2005 concerning on the Ratification of the International Covenant on Civil and Political Rights and Law No.11 of 2005 on the Ratification of the International Covenant on Economic, Social and Cultural Rights. Hence, all those rights should be enjoyed by everyone without discrimination or restrictions that are not based on morality, religion, customs, and public order. The disabled people are no different, they could enjoy these rights as it is recognized by the government.

Leonard of the United Nations in "Monitoring The Convention on the Rights of Persons with Disabilities, Guidance for Human Rights Monitors-Professional Training Series No. 17" estimated that there are 650 million disabled people or 10% of the total population in the world. Many adults and children with disabilities are able to mingle within the society, however the majority of them still face discrimination, exclusion,

isolation and harassment. In addition, many disabled people live very poor and do not have access to good education therefore they should stay in the shelter home and did not get a chance to work. Even in some countries, disabled people are not allowed to have any ownership on anything.

To respect, to protect and to fulfill the disabled people's rights, The Government of the Republic of Indonesia has established a variety of laws and regulations. Start with the Government's commitment to sign the Convention on the rights of persons with disabilities on March 30, 2007 in New York. Then, the convention ratified by Act Number 19 of 2011 on the Ratification of the Convention on the rights of persons with disabilities.

The Indonesian government increasingly showing concern for the fulfillment of rights for persons with disabilities, on April 15 the enactment of Act Number 8 of 2016 on Persons with Disabilities was ratified. Act Number 8 of 2016 stated the definition of Disabled as person who have physical limitations, intellectual, mental, and/or sensory in long periods which in interaction with the environment may experience obstacles and difficulties to participate fully and effectively with others based on equality.

The principles of its implementation and fulfillment of the rights of disabled people: Respect for dignity; individual autonomy; no discrimination; full participation; human diversity and humanity; Equal Opportunity; equality; accessibility; the evolving capacity and child identity; inclusive; Protection and special treatment and so on. These principles are included in the Law on Disability as a series of basic rights that must be obtained by disabled people. The duties of both central and local government are to ensure, to respect and to fulfill the implementation of these rights. Some parts of Indonesia put the regulations on disabled people into its local regulations, while others are still working on it. The rights listed as a fundamental right for disabled people is the right to education.

Right to education for disabled people has to be fulfilled by both the government and local governments. Government and Local Government are obliged to implement and / or facilitate education for Disability on any level of education in accordance with their authority. Implementation includes: the implementation of inclusive educational system and specific; 12-year compulsory education program; School location near to their homes; scholarship; skills training; and facilitate the basic skills.

Kalimantan Utara is the youngest province in Indonesia. It was formed as a New Autonomous Regions based on Act Number 20 of 2012 on October 25, 2012. Kalimantan Utara has a total area of 72.567.49 km² (28,018.46 sq mi) with a

total population of 738. 163 inhabitants (2013). Kalimantan Utara territory is divided into five administrative region. They are City of Tarakan, population 239. 973, the capital city of Tarakan; Bulungan, population 226 322, capital Tanjung Selor; Malinau, population 62 460, the capital of Malinau; Nunukan, populasi 140.567, capital of Nunukan; Tana Tidung, populasi 22.841, Tideng Pale. The fulfillment of the right to education for disabled people in the province of Kalimantan Utara are currently scattered in several areas, namely in Malinau, Nunukan, Tanjung Selor, and Tarakan. The regulations governing disabled people are accommodated in education and children regulations by local governments. There are no specific regulations yet in regards to disabled people.

MATERIALS AND METHODS

Based on the problem, this research method is normative that equipped by field research. The character of the research is participatory which is combined the data and the interview result with competent people (local government, special school teacher, and the family of person with disabilities) as a key informant.

The resource of the Data

The characteristic of the data are primary and subsidiary. The primary data is the various of regulation, local government policy, interview result with informant, and also person with disabilities as a main target in local government policy. Meanwhile, the subsidiary data is the result of literature research. The data consist of primary legal resources such as regulation, and subsidiary data such as proceeding of conference, a result of research, documents, journals, and books related to the title of this research; and addition resources such as dictionary, encyclopedia, brochure and map.

The aggregation technique of the data

The data in this research gained by two research instruments are interview and document study. The technique of interview refer to a unstructured model, meanwhile the technique of document study collected the data by legal document and literature was available.

Analysis of the Data

Related to the type of data has gained, this research integrated qualitative and quantitative analysis model. Qualitative used for analyze the data of congruence of policy and local regulation related with human rights standard. Quantitative used for analyze some statistic data was relevant

and local budget allocation with the fulfilment of rights that reserached.

The Location of Research

Related to the title of research is boarder area, then the location of this research be implemented in Nunukan which is border area between Indonesia and Malaysia.

RESULTS AND DISCUSSION

The Regulation on Person With Disabilities in Indonesia

Within Indonesia Constitution of 1944 stated affirmatively that "Indonesia is a state-law", according with it Indonesian people very understand the meaning and the essence of human rights. As evidence, the first express within preamble of Indonesia Constitution of 1954 be determined that all colonialism must be abolished in this world as it is not in conformity with humanity and justice. These commitment sourced from *Pancasila*, Particularly the second principle is just and civilized humanity.

Human rights regulation be accomodated within Indonesia Constitution 1945 till special regulation in order to fulfil human rights. Article 28I Paragraph (2) of Indonesia Constitution 1945 stated that "Every person shall have the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment". Meanwhile, Article 3 Paragraph (1) Act Number 39 of 1999 on Human Rigths affirms that "Everyone is born equal in dignity and human rights, and is bestowed with the intellect and reason to live with others in a spirit of brotherhood". This provision is a legal basis underlying principle of non-discrimination in Indonesia.

Indonesia is a party of some human rights conventions, a commitment as a party within the advancement of human rights should be pursued by government as an organ representing the state.¹ The basic rights particularly rights within ECOSOC covenant by the expert of law and human rights interpreted as positive rights because the state should be have a role actively to implementation that rights.² The main provision is Article 2 ECOSOC covenant stated that "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available

resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures". The party states have obligation to take a steps without considering their economic progress, as well as ensuring to respect against human rights for all people.³

The consideration of Indonesia to be a party of ECOSOC covenant, since its independent on 1945 upholds human rights. Indonesian attitude can be seen from the fact that although made before the proclamation of the Universal Declaration, the Constitution of the Republic of Indonesia of 1945 already contains some provisions on respect for human rights is very important.

Within law and international human rights, Equality struggle by a group of persons with disabilities has been started since 1970s.⁴ In an effort to respect, protect and fulfill the rights of persons with disabilities, the Government of the Republic of Indonesia established a variety of laws and regulations governing the protection of persons with disabilities.⁵ Broadly speaking some regulations related to the rights of persons with disabilities are as follows:

Act Number 19 of 2011 on Ratification of the Convention on the Rights of Persons with Disabilities

The Indonesia Government has signed the Convention on the Rights of Persons with Disabilities / CRPD on March 30, 2007 in New York. The signing shows the seriousness of the Indonesian State to respect, protect, fulfill and promote the rights of persons with disabilities, which is ultimately expected to provide for the welfare of persons with disabilities. At the time of signed the Convention on the Rights of Persons with Disabilities, Indonesia signed the Convention without reservation. However, doesn't sign the Optional Protocol to the Convention on the Rights of Persons with Disabilities. As a signatory state, Indonesia has a commitment to ratify the Convention.

The convention was ratified by Act Number 19 of 2011 on the Ratification of the Convention on the rights of persons with disabilities. Related to education rights for persons with disabilities in the

1 Boer Mauna, 2005, Hukum Internasional (Pengertian, peranan, dan fungsi dalam dinamika global), Alumni, Bandung, hlm 699.

2 DJ. Haris, 2004, Cases and materials on International Law (sixth edition), Sweet and Maxwell, London, hlm 659

3 Ifdhal Kasim, JOhanes Da Masenus Arus, 2001, Hak EKonomi, Sosial dan Budaya (esai-esai pilihan), Elsam, Jakarta, hlm 1

4 Peter Blanck, U.S Society and Laws Protect The Rights of Person with Disabilities, E-Journal USA; Society and Values Vol 11 Number 11 November 2006, hlm 6.

5 Marha Scaaf, Negotiating Sexuality In The Convention on The Rights Of Persons With Disabilities, International Journal On Human Rights Vol 8 No 14 Juni 2011, hlm 114.

prembule of the this convention that the state should be "Recognizing the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms"

Moreover, the party state have obligation to take steps in the field of legislative, administrative, social, education, etc to prevent the person with disabilities from exploitation, violation, and mistreatment, including gender-based aspects, both within inside and outside the home.

Specifically related to education rights for persons with disabilities in the Convention on the Rights of Persons with Disabilities stipulated in Article 24 that:

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:
 - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
 - b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
 - c. Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
 - a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
 - b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
 - c. Reasonable accommodation of the individual's requirements is provided;
 - d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
 - e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal

participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

- a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
- b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
- c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
- d. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

Act Number 20 of 2003 on National Education System

In this Education Law explained that regarding to the education rights for persons with disabilities described explicitly, that: Every citizen have the same right to obtain a quality education, and for citizens who have physical, emotional, mental, intellectual, and / or social entitled to special education. Thus, in principle, the Education Law has been oriented to fulfil of the education rights for persons with disabilities, although it's only one chapter regulates the Rights and Duties of Citizens.

Act Number 35 of 2014 on the Amendment of Act Number 23 of 2002 on Protection of Children

Related to children with disabilities particularly Article 1 paragraph 7 of Act Number 35 of 2014 explains that the Children with Disabilities is a child who has a physical disability, mental, intellectual or sensory impairments which is in the long term to interact with the environment and the attitude of the community can get obstacles makes difficult to participate fully and effectively based on equality. The education rights for person with disabilities especially for children

regulates in detail of Article 9 Paragraf (1), (1,a) and (2), that:

1. Every child has the right to education and teaching in order to develop his personality and his intelligence level in accordance with the interests and talents.
2. Every child has the right to protection in the educational unit of sexual crimes and violence committed by educators, staff, fellow students, and / or other parties
3. Beside the rights to children as mentioned, children with disabilities has the right to get special education and Children with excellence eligible for special education.

Related to the accessibility, furthermore the law of children protection also explains that the Children with Disabilities has opportunities and accessibility to inclusive education and / or special education.

Act Number 08 of 2016 On Person With Disabilities.

The Indonesia government increasingly taking a concern for the fulfillment of rights for persons with disabilities, on April 15 regulated the Act Number 8 of 2016 on Persons with Disabilities defined that "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others"

Furthermore, related to education rights for person with disabilities within Article 5 stated that one of some their rights is education rights. Based on the data's UNICEF (2013) that children with disabilities are disproportionately often ignored their right to an education, which reduces their ability to enjoy their citizenship rights, getting a job and take a valuable role in society. Household survey data from 13 countries and middle-income vulnerable showed that children with disabilities between 6-17 years old were significantly less to put into school than their peers who are not persons with disabilities.

Furthermore, the right to education for persons with disabilities provided in Article 10, which include: getting a quality education in the educational unit in all types, lines and levels of education in inclusive and special; Equal Opportunities have to be an educator or educational personnel in the educational unit in all types, lines and levels of education; Equal Opportunities as the organizers have quality education in the educational unit in all types, lines and levels of education; and get the Decent accommodation as learners; Exercise and enjoy of these rights with principle are: Respect for dignity; individual autonomy; without discrimination; full

participation; human diversity and humanity; Equal Opportunity; equality; accessibility; the evolving capacity and identity of the child; inclusive; special treatment and more protection. Those principles concretely poured into the Law on Disability in the form of a basic rights that must be obtained by persons with disabilities, it was the duty of central and local government to ensure, respect and fulfill the implementation of these rights.

The Authority of Local Government to fulfil human rights for person with disabilities

In the stateness practice in Indonesia, after legalization of Act Number 32 of 2004, afterwards has changed some provisions by Act Number 12 of 2008, and then revised by Act Number 23 of 2014 About Local Government, known as the principle of decentralization. Decentralizaion based on Article 1 Paragraph 8 Law No 23 of 2014 on Local Government is penyerahan Urusan Pemerintahan oleh Pemerintah Pusat kepada daerah otonom berdasarkan Asas Otonomi. Deconcentration is the delegation while the majority of Government Affairs under the authority of the Central Government to the governor as a representative of the Central Government, the vertical institutions in certain areas, and / or to the governor and regent / mayor in charge of government affairs public. governmental delegation of authority by the Government to the Governor as representatives of governments and / or the vertical institutions in a particular region (Article 1, paragraph 9 of Act Number 23 of 2014).

the practices in decentralization and deconcentration policy is the result of Rationality 'subjective' actors or policy actor. When the policy actors changing their views in accordance with the value or interest that would be achieved at a certain time, then the action or implementation of the policy will be changed also, conclusion such as these also supported widely by many studies in developing countries.⁶

Article 18A paragraph (1) of the 1945 Constitution provides direction of arrangement relationship of authority between the central government and the provinces, districts and cities must be made regard to the specificity and diversity of the area. If the reference to provisions of Article 18A Paragraph (5) of Indonesia Constitution 1945 which determines that the scope of regional autonomy is the broadest exception of governmental affairs determined by law as affairs of the Central Government, the scope of local

⁶ Yahya Ahmad Zein, 2016, Hak Warga Negara di Wilayah Perbatasan (Perlindungan Hukum Hak Atas Pebndidikan dan Kesehatan), Liberty, Yogyakarta, hlm 23.

government affairs are all matters except the matters specified as the affairs of the Central Government. All Government Law reform era determine the six (6) matters under the authority of the Central Government, which is based on Law 23/2014, referred to as absolute affairs, namely (1) foreign policy; (2) defense; (3) security; (4) judicial; (5) monetary and national fiscal; and (6) religion. Thus in essence beyond the sixth affairs, including matters of education, is part of a regional government affairs, also called concurrent government affairs within the framework of the widest possible autonomy.

Act Number 23 of 2014 on Local in principle gives priority to balance the principle of centralization and decentralization. Didik Sukriono stated principles of local governance is the use of the principle of decentralization, deconcentration and assistance. Decentralization is the delegation of authority by the government to local government autonomy within the framework of the Unitary Republic of Indonesia. Thus, the authority to regulate and organize the administration not solely by the central government, but also by government units lower, both territorial and functional. The lower unit of government (provincial and district / city) entrusted and allowed to regulate and organize their own government affairs.

In Article 11 on Local Government law stated that "(1) Affairs concurrent administration as referred to in Article 9 paragraph (3) which is composed of the Regional authority of Government Affairs and Government Affairs Mandatory Options. (2) Mandatory Government Affairs referred to in paragraph (1) shall consist of Government Affairs relating to Basic Services and Government Affairs that is not related to the Basic Services". Furthermore, In Article 12 Paragraph (1) states Government Affairs related to the Compulsory Basic Service includes:

- a. Education;
- b. Health;
- c. public works and spatial planning;
- d. housing and residential areas;
- e. peace, public order, and the protection of society; and
- f. social.

Based on the description of Article 12 Paragraph (1), it can be concluded that education matters included into the mandatory government affairs relating to basic services, so that, the educational affairs is Government Affairs who shall be convened by all Regions including by local government of north kalimantan province. The local autonomy era and distribution of authority between the central government, provincial government and district / city government is an opportunity for the Government to improve

people's welfare. Regional authority in the administration of educational affairs, further elaborated in Government Regulation Number 38 of 2007 on the Division of Government Affairs between the Government, Provincial Government, and the Government of Regency / City.

in order to determine the scale of government affairs between the affairs under the authority of the Government, Provincial Government and Local Government City District, which is based on the criteria of externality, accountability and efficiency, Government Regulation Number 38 of 2007, has set the details in the field of government affairs as intent the provisions of Article 2 paragraph (3) of Government Regulation Number 38 of 2007. Details of the government affairs, listed in the annex and inseparable part from the Government Regulation Number 38 of 2007. Specifically for government affairs Education, listed in the annex section A (Government Affairs Division of Education), which consists of sub-areas: Policy, Financing, curriculum, Infrastructures, Education and educators, and Quality Control of Education. Apart from the scope of the broadest possible autonomy, education also be seen in terms of the constitutional rights fulfillment and constitutional obligation of the state in education. Article 31 of Indonesia Constitution of 1945 affirmed that Every citizen has the right to receive education. The education rights is a part of human rights in the category of social rights which requires the activeness of the state for its fulfillment. Article 28I of Indonesia Constitution of 1945 affirmed that The protection, advancement, upholding and fulfilment of human rights are the responsibility of the state, especially the government.

Legal Protection of Local Government regarding to education rights for Persons with Disabilities in North Kalimantan Province

North Kalimantan Province is the latest province in Indonesia was formed as a New Autonomous Regions pursuant to Act Number 20 of 2012 on October 25, 2012. North kalimantan have a total area of 72.567.49 km² with a total population of 738 163 inhabitants (2013). North Borneo territory divided into five administrative region, which is consist of one city and four districts. One of the five administrative regions immediately adjacent to the neighbour country namely Malaysia is Nunukan which is the location of the present research.

Nunukan formed as an autonomous region through Act Number 7 of 2000 on the Amendment of the Act Number 47 of 1999 on the Establishment of Nunukan district, Malinau district, West Kutai, East Kutai and Bontang. Population in Nunukan

amounted to 140 567 inhabitants. In an effort to fulfil human rights particularly education rights for person with disabilities, the local government of Nunukan makes some program programs that the authority granted to related agencies namely the Education Department of Nunukan. In addition the role of the Institution, the fulfillment of Human Rights has also pursued by the Regional Representatives Council (DPRD) Nunukan through Local Legislation Program which produces regional included in those program.

Here in this part will be presented some local government program and institutions related to fulfilment of education rights for person with disabilities that gained by interview result of research team in the field.

Dissemination program of Human rights

This program follow up by local government of Nunukan. The program specifically invited the regional work units to develop a National Action Plan for Human Rights (RANHAM). This annual program hasn't been optimally due to the units haven't yet understand about that plan. The legal basis of the implementation of this program refers to the Presidential Decree Number 75 of 2015 About the National Action Plan on Human Rights 2015-2019. That plan is a document including the goals, strategies, and focus on priority activities national action plan for human rights Indonesia and using as a reference for the ministries, agencies and local governments to implement the respect, protection, compliance, enforcement, and promotion of human rights in Indonesia (Article 1 Paragraph 2) Furthermore, Article 6 stated that to implementation of that plan as referred to in Article 2, ministries, agencies, and regional governments must draw up Action on Human Rights determined every 1 (one) year. Its mandate trying to be implemented by the local government of Nunukan.

The program of district and city cares human right.

According to Sherwin Evran SH, LL.M (Head of Documentation and Legal Aid), the program requires every SKPD reporting an annual report of human rights issues and reporting the progress to fulfil of human rights in every institution, but this program also has not been optimal due to unconsciousness to report in ever year as well as required, particularly to report the problem about person with disabilities. So that, government assumes that there is no significantly problem about person with disabilities in human rights. Whereas, based on the observation of research team that infrastructure in Nunukan has not reached as a friendly territory for person with disabilities. Furthermore, the reason of hasn't been

optimal the fulfilment of education rights for them caused by the spread of area in Nunukan so that government becomes difficulty to gain the data of person with disabilities.

Local Legislation Program

This program is clearly the authority of the legislature to formulate local regulations. Based on the interview team with Herwin, S.H Public Relations Section at the Secretariat Nunukan Regency. Currently in Nunukan has not entered a regulation of persons with disability in local legislation program of Nunukan. However, the rights of persons with disabilities have been included in the regulation of education stipulated in Local Regulation of Nunukan Number 05 of 2012 on Management and Implementation of Education. This regulation specifically stipulated clauses pertaining to special education programs. In Article 48 Paragraph (1) stated that: "Special education is an education for Students who have difficulty in following the learning process because of physical, emotional, mental, social, and / or have the intelligence and special talents".

Special education is the rights for every citizen who have physical, mental, emotional, and social obstacles, as set forth in Article 66 of the regulations of education. Based on the mandate of this regulation, local government shall appoint elementary, junior high, high school, or equivalent inclusive to facilitate students with special needs. Related to the education fund set forth in this regulation, local governments are required to provide education budget at least 20% (twenty percent) of the budget excluding salaries of teachers, educators and educational training gradually. Furthermore, under Article 53 paragraph (4) stated that the components are funded include activities relating to the welfare of teachers, staff and the provision of education, infrastructure, teaching and learning, supervisory, coaching, monitoring, etc.

The Special School

Currently, the government of Nunukan has a Special School located in the village of Binusan, Nunukan. The school is starting from elementary, junior high school and high school by the number of elementary school students were 51 students, junior high school were 15 students, and high school were 15 students, meanwhile the educators were 9 teachers. Based on the interview team with Mr. Jet Simon, SP.d as the headmaster, so far the local government has endeavored to fulfill the rights of education for students with disabilities, such as the procurement of school bus and children's nutrition carried out three times per week, but there are still many obstacles have been

faced not only by local government but also the by the school, due to several things, namely:

1. The ration between students and teachers hasn't ideal
2. The School located in the village Binusan which is the last village in Nunukan, it is quite far from the city, it makes difficult for parents to drop off their children to school.
3. Facilities / infrastructure hasn't adequate, such as school buildings and learning tools to support vocational education for students with disabilities.
4. There are no official data of the children aged compulsory school in District of Nunukan, so this time the students in this school are the children who come from city of Nunukan, meanwhile the district of Nunukan scattered areas such as Sebatik, Sebuku, Krayan, etc.

CONCLUSION

1. Regulation on the rights of persons with disabilities in Indonesia is a mandate of the constitution which is the obligation of the state to fulfill the rights of citizens, especially the rights of persons with disabilities. That mandate completed by various regulations, such as Act Number 20 of 2003 on National Education System, Act Number 35 of 2014 on on the Amendment of Act Number 23 of 2002 on the Protection of Children, and specifically regulated in Act Number 8 of 2016 About persons with Disabilities.
2. The authority of Local Government to fulfil of Education rights for persons with disabilities described in Article 12 Paragraph (1) of Act Number 23 of 2014 on local government where education included into the mandatory government affairs related to basic services, so that the educational affairs particularly for people with disabilities in the border region is a Government Affairs that should be convened by the Provincial Government of North Kalimantan.
3. The legal protection from Local Government related to the fulfillment of education rights for persons with disabilities in North Kalimantan Province pursued through several programs by relevant institutions. The program expected to encourage the desire of persons with disabilities to attend school as well as the responsibility of countries / regions in order to fulfill of human rights. It recognized that there are still obstacles to these efforts, one of these because of unavailability of regulations related to the fulfillment of rights for persons with disabilities.

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