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Pemangkin Idea

Protecting Educational Rights of Children with Disabilities

Through a Comprehensive Legal Framework of Special Education



EDUCATION



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ducation is vital to everyone, including children with disabilities. Children with disabilities are defined as "children

with developmental problems such as visual impairment, hearing impairment, autism spectrum conditions, behavioural disorders and learning difficulties". By providing education to them, these children will be able to make decisions affecting their lives and thus enabling them to participate in society.

Even though the Malaysian government provides educational rights for children with disabilities through several laws and regulations, such as Article 8 and Article 12 of the Federal Constitution, Section 28 of the Persons with Disabilities Act 2008, Section 40 and Section 41 of the Education Act 1996, and the Education (Special Education) Regulations 2013, their educational rights are still not sufficiently protected.

There are a few factors why the educational rights of children with disabilities in Malaysia are not sufficiently protected. Firstly, the current laws relating to their educational rights are scattered and very general in nature,



leading to poor implementation of the laws. Article 8 of the Federal Constitution provides for equality among Malaysian citizens. However, it does not directly prohibit discrimination against children with disabilities. Furthermore, Article 12 of the Federal Constitution gives every citizen the right to education. However, it does not prohibit discrimination regarding children's enrolment in the Special Education Programme.

Section 28 of the Persons with Disabilities Act 2008 specifically provides educational rights for persons with disabilities (PwDs) and children with disabilities. However, the Act has been regarded as a 'toothless tiger' since it lacks enforcement provisions and monitoring mechanisms and is non-remedial in nature. Thus, the educational rights of children with disabilities cannot be sufficiently protected by Section 28 of the Act.

Furthermore, Section 40 and Section 41 of the Education Act 1996 only stipulate the power of the Minister to provide special schools as he deems expedient, as well as the duration and curriculum of special education for children with



Therefore, to sufficiently protect the educational rights of children with disabilities in Malaysia, there are a few recommendations. Firstly, the current laws relating to the educational rights of children with disabilities in Malaysia must be amended. Article 8 and Article 12 of the Federal Constitution must insert 'disability' as

disabilities. On the other hand, the Education (Special Education) Regulations 2013 requires a three-month probationary period for children with disabilities to be enrolled on the Special Education Programme. This requirement has been argued as a violation of the educational rights of children with disabilities since it restricts the fair and equal education opportunities for all Malaysian citizens as provided by Article 8 and Article 12 of the Federal Constitution and Section 28 of the Persons with Disabilities Act 2008.

The second factor why the educational rights of children with disabilities in Malaysia are not sufficiently protected is the lack of human capital in the special education sector. The special education sector in Malaysia currently faces an acute shortage of qualified special education teachers and specialists. In addition, there are special education teachers who do not have a background or qualification in special education. These teachers are mainstream teachers who are given a short course in special education and have been placed to teach children with disabilities without any comprehensive and continuing training to enhance their skills and knowledge in special education. Plus, there are mismatched qualifications in the special education sector. For example, some teachers with a background in learning disabilities have been tasked to teach children with hearing impairments. These problems affect the teaching and learning process of children with disabilities in the Special Education Programme. Thus, the quality of education given to them is lower as compared to other normal children.

Thirdly, there is a lack of school facilities. The physical environment is the main obstacle for children with disabilities in school. Their movements and activities will be restricted if their school lacks disabled-friendly facilities such as accessible toilets, handrails, ramps and lifts. Their academic performance will be affected if their school lacks disabled-friendly facilities since children with disabilities are demotivated due to the restriction on their movement and activities.

a ground for non-discrimination. Thus, children with disabilities will not be discriminated against because of their disability, especially in terms of education. Furthermore, the Persons with Disabilities Act 2008 must also be amended to allow PWDs, especially children with disabilities, to be treated equally and to prevent any violation of the Act. The government must impose punishment provisions under the Act for non-compliance or violating the Persons with Disabilities Act 2008. The requirement of a probationary period under the Education (Special Education) Regulations 2013 must be repealed to allow children with disabilities to be given an equal opportunity as other normal children to access education.

Secondly, it is recommended that the government enact a specific Act regarding special education for children with disabilities in Malaysia. Currently, no specific Act or law governs their educational rights. Hence, their educational rights cannot be sufficiently protected due to the problems mentioned earlier. The proposed Special Education Act should consist of matters relating to the National Council for Special Education, educational rights for children with disabilities, the curriculum of special education, the requirement of the schools to provide disabled-friendly facilities, disabled-friendly facilities, qualification of

special education teachers, promotion and development of special education, and special education tribunal. This proposed Act will not only govern the educational rights of children with disabilities but also the qualifications and welfare of special education teachers to allow children to receive the same quality of education as other normal children.

Thirdly, the facilities in schools must be upgraded to be more disabled-friendly. All schools must be equipped with disabled-friendly facilities such as accessible toilets, ramps, handrails and lifts. Therefore, the physical environment will not be an obstacle for children with disabilities to move freely in the school. Plus, the children will not be demotivated to study because of the restriction of movement in their school. Lastly, it is recommended that the government provide sufficient qualified special education teachers. The teachers that are placed to teach children with disabilities must be based on their qualifications, and the special education teachers must also have a background in special education. Hence, the teachers can handle and manage children with disabilities. Plus, the teaching and learning process will run smoothly if the teachers have a special education background.

In conclusion, the educational rights of children with disabilities in Malaysia are not sufficiently protected due to the ineffectiveness of current laws, the lack of human capital in the special education sector and the lack of disabled-friendly facilities in schools. The government must sufficiently protect their educational rights by amending current laws, enacting a specific Act on special education, providing more special education teachers and requiring all schools to be equipped with disabled-friendly facilities. Hence, children with disabilities can access education on an equal basis as other normal children, and their future will be secured.



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