Discrimination of Persons with Mental Illness: Testing the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care in Indonesia

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1 Background

Populations in most countries, including Indonesia, are facing mental illness struggles [35]. Nearly one billion people worldwide suffer from mental illnesses, and more than 75% of them do not receive adequate treatment [24]. According to [46], suicide is the leading cause of death among people with mental illness because they do not receive timely and appropriate treatment. According to Hartini et al. [16], 1.7% of Indonesia's total population suffers from mental illness, which is often stigmatized by society. The proportion of people suffering from mental illness in 2022 was 3.7%, or 9.162,886 people, making Indonesia one of the countries with the highest number of people suffering from mental illness in the world [59], and it is expected to rise by 3.24 million before 2024 [54]. According to the Ministry of Health of the Republic of Indonesia's Basic Health Research [28], more than 19 and 12 million people over the age of 15 experience mental and emotional disorders, and depression, respectively. Furthermore, data on suicide show that 1,800 people per year, five per day commit suicide, and 47.7% of suicide victims are aged 10–39 years, a group comprising teenagers and adults of productive age. This figure may be correct if no early efforts are made to slow the growth rate.

Globally, Ukraine has the highest number of depressed people according to their population at 6.30% followed by the United States and Australia at 5.90% each and Brazil at 5.80%; Laos and Nepal have the lowest proportion at 3.20% each [59]. Further, Sweden, Germany, and Finland provide some of the best healthcare in the

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world because their governments promote psychological wellbeing including work-life balance and healthy work environments and allocate government spending to mental health care (Porter 2022). Indonesia has the worst ratio of general medical practitioners to people worldwide, with only 0.22 medical practitioners for every 1,000 people [11]. To overcome this problem, the Indonesian government imposed the National Mental Health Act (MHA). This act intends to provide mental health services for everyone and guarantee the rights of people with psychiatric problems (ODMK) and mental disorders (ODGJ). However, it cannot be realized optimally. The rights of ODMK and ODGJ people are often neglected both socially and legally. Socially, there remains stigma among communities, so families hide the existence of family members suffering from mental disorders. This limits ODMK and ODGJ peoples' access to health services. Legally, existing laws and regulations cannot comprehensively support the fulfillment of ODMK and ODGJ rights.

Although Indonesia has ratified the United Nations Convention on the Rights of Persons with Disabilities, and has rules that guarantee the rights of citizens with mental illness such as Act No. 18 of 2014 concerning Mental Disease, Act No. 19 of 2011 concerning the Ratification of Convention on the Rights of Persons with Disabilities, Act Number 18 of 2016 concerning Persons with Disabilities, the Regulation of the Minister of Health of the Republic of Indonesia No. 54 of 2017 concerning the Completion of Increase in People with Mental Disorders (ODGJ), it often violates the rights of patients with mental illness [14, 16, 45, 53, 54], (Nurjannah et al. 2014). Further, Indonesia must respect inherent dignity, individual autonomy including the freedom to make one's own choices, and people's independence [50]; further, there shall be no discrimination on the grounds of mental illness [51].

However, problems arise when mental disorders are considered taboo, as they are in Indonesia [33, 41–43]. In India, Kate et al. [18] mentioned that mental disorders reflect abstract metaphysical entities, supernatural agents; witchcraft; disrespect for gods, teachers, or others; and excessive fear or excitement that causes mental shock and wrong bodily activity. These disorders are treated using herbs, ointments, mantras, prayers, and moral or emotional persuasion. In such situations, discrimination continues, causing the mental condition of the patient to worsen. To avoid the community's taboo perception, previous practice in Indonesia stipulates that sufferers of mental diseases must be shackled by their feet so they cannot roam freely [12, 13, 17, 55]. To avoid being seen and so as not to disturb others, *pasung* (shackling) is enforced for sufferers of mental illnesses. Because of this method and inadequate health facilities, people's health worsens and they experience feelings of isolation and loneliness [4, 5, 26, 27, 52].

In the context of guaranteeing the rights of people with mental illness, the Indonesian government seems to be more focused on avoiding the practice of *pasung* than on treating people with mental illness by issuing regulations to eliminate the shackles that are so often used [37]. This has resulted in priorities that are detrimental to the rights of mentally ill individuals. In addition, the government's lack of attention to building mental hospitals and the lack of psychiatrists available to treat patients with mental illnesses [22] result in increasing feelings of isolation among patients and high suicide rates. This policy, which is not pro-mental health, not only hinders the

right to access health facilities for people with mental illness but also causes them to lose their right to live due to depression and suicide.

Based on these facts, this study focuses on a new problem with two driving questions: Is there a policy protecting the rights of persons with mental disabilities in accordance with the Convention on the Rights of Persons with Disabilities? What is the impact of discrimination on the rights of people with mental disabilities? The answer to the first question is no. Second, the protection of the rights of people with mental disabilities, misaligned with the Convention of the Rights of Persons with Disabilities (CRPD), is increasingly suffering and resulting in the harming of other rights.

2 Method

This study critically evaluates the discrimination against people with mental illnesses in Indonesia and the inconsistency between mental health laws and the principles in the CRPD. Secondary research has been considered. It conceptually approaches human rights and legal studies approaches to overcome these issues and considers the fulfillment of human rights related to mental illness in Indonesia.

For this qualitative research, the author uses related national legal, social sciences, and health literature in its full context, including international legal norms adopted by regulations. Primary sources such as MHA and CRDP documents and secondary data sources, such as legal instruments, national and international books and reports by international organizations were necessary to analyze the problem. Such a combination of approaches is desirable as it provides a strong foundation for exploring existing problems and finding more creative and liberating solutions.

This study begins with the MHA and the difficulties in its implementation as it has not fulfilled all the principles for the protection of persons with mental illness and the improvement of mental health care stipulated in the CRPD. The thematic analysis focuses on answering the research questions: Does the MHA, which regulates the treatment of people with mental illnesses, fulfill their fundamental freedom and rights, and the provisions of the principles for the protection of persons with mental illness and the improvement of mental health care? Second, what is the impact on the other rights of people with mental illnesses?

We have limited the scope of this study to two areas. First, this study only focuses on whether the MHA meets the standards set by the CDRP principles of non-discrimination; therefore, no information is provided if the MHA is similar to other studies. Second, we used qualitative research to address the research problems, meaning that research on the same topic using quantitative analysis is outside the scope of this study.

3 Finding and Analysis

3.1 National Mental Health Act

The Mental Health Act (*Undang-Undang Kesehatan Jiwa*) is intended to provide better protection for People with Mental Disorders (ODGJ), protect the human resources involved in handling ODGJ, and provide clarity regarding the authority and duties of each party that organizes health efforts. As stated in Article 3 of Act No. 18, 2014, the objectives of mental health efforts include the following:

(a) Guarantee that everyone can achieve a good quality of life; enjoy a healthy mental life; and be free from fear, pressure, and other disturbances that can interfere with mental health
(b) Guarantee that everyone can develop various intelligence potential
(c) Provide protection and guaranteed mental health services for ODMK and ODGJ based on human rights
(d) Provide comprehensive and sustainable integrated health services through promotive, preventive, curative, and rehabilitative efforts for ODMK and ODGJ.
(e) Ensure the availability and availability of resources power in Mental Health Efforts
(f) Improving the quality of Mental Health Efforts in accordance with developments in science and technology
(g) Provide opportunities for ODMK and ODGJ to obtain rights as Indonesian citizens.

However, this law cannot be properly implemented owing to several factors. First, psychiatrists and patients have different perspectives on mental illness and disorders [7]. Indonesian people with mental illnesses (ODMK) are those who have physical, mental, social, growth, and developmental problems, and/or reduced quality of life, so they are at risk of experiencing mental disorders. Meanwhile, people with mental disorders (ODGJ) experience disturbances in thoughts, behavior, and feelings that manifest in the form of a set of symptoms and/or significant behavioral changes and can cause suffering and obstacles in carrying out people's functions as human beings. What distinguishes the two disorders above is that mental illness is included in mental disorders; in other words, people who suffer from mental illness do not automatically suffer from mental disorders, whereas people who suffer from mental disorders definitely suffer from mental illness.

It is undeniable that the Mental Health Law does not provide protection for people with mental disorders. This is due to the high number of ODGJ who are homeless or neglected because they do not have a place to live. The Central Bureau of Statistics (2021) noted that in big cities in Indonesia, the number of homeless people with psychosis has increased by approximately 70%. In addition, the condition of individuals who have nothing, no one, or no support ultimately results in them living neglected or abandoned on the streets.

Second, mental illness is still socially stigmatized, leading families to hide the existence of family members who suffer from mental disorders. Furthermore, mental disorders and mental health in Indonesia are considered cursed diseases, so it is not unusual for family members who experience these problems to be hidden and placed in shackles. As such, some families choose to remain silent or hide, isolate, or shackle people with mental disorders (ODGJ). Many ODGJs wander the streets because they were abandoned by their families. This phenomenon occurs because of the stigma and discrimination that exists in society [31]. Not only are ODGJs abandoned, but their families are ostracized by the surrounding social environment. This kind of behavior occurs because of a lack of access and information provided to the public; therefore, mental disorders are considered terrible.

A lack of public awareness and knowledge about people with mental illness and mental retardation leads to the poor treatment of and attitudes towards them. This is due to culturally different perceptions of mental health [9]. In most developed countries, people voluntarily seek help from professionals to treat mental health disorders. On the other hand, in other places such as Indonesia, mental disorders tend to be ignored; so, people are less enthusiastic about treating mental disorders.

Third, mental illness is seen as a shameful family disgrace. Indonesian people think that mental disorders cannot be cured; so, suffering people deserve to be ostracized. The lack of knowledge about mental health disorders means that Indonesians believe that people with mental health disorders are different from those with physical illnesses that are also difficult to cure. Thus, labeling people with mental illness or mental health disorders as "strange creatures" can threaten their safety [3].

The Western health model views mental disorders as problems that need to be cured. Thus, mental health services tend to be oriented only toward mental disorders that afflict the person and often ignore aspects related to the lives and welfare of the mentally ill [10]. Therefore, in the Western world, those who suffer from mental illness receive special treatment without isolating them or putting them in shackles, as is the case in many areas of Indonesia.

Fourth, sanctuaries and shamans are considered treatments for mental illnesses. Indonesian society has several types of traditional and alternative medical practices, such as "smart people," including shamans, Islamic religious leaders, religious teachers (*kiyai* or clerics), psychics, priests, and traditional Chinese medicine. In practice, "smart people" use herbs, incantations, spells, inanimate objects, communication or spiritual guidance, and prayers as forms of healing. In contrast, the Western health model often ignores aspects related to religion while overcoming the impact of the mental health illness on one's life [15, 25].

However, Indonesians are still not as concerned about the handling and treatment of people with mental illness or mental retardation. According to a 2019 Human Rights Watch (HRW) report in Indonesia, 57,000 people with certain mental health conditions have been in *pasung* at least once in their lifetime, and about 15,000 of them are still living in *pasung*. This difference in the perception of mental illness between Indonesians and Westerners is shown in Table 1.

Table 1 Indonesian and world health organization perception on mental illness and treatment

Difference	World health organization	Indonesia
Mental illness	A clinically significant disturbance in an individual's cognition, emotional regulation, or behavior [58]	People with mental problems (ODMK) People with mental disorders (ODGJ) Law of the Republic of Indonesia No. 8, Year 2004
Social perception	Normal stress of life [30]	– Embarrassing (Brogna et al. 2022) – Shameful (Ruesh 2021) – Taboo (The Jakarta Post 2021) – Negative perception [33]
Causes	Biological [6], Neural pathology [37]	Mostly by being exposed to magic, possessed by evil spirits, lack of faith, and violating customary prohibitions [8]
Treatment model	1. Psychological and medication [59] 2. Limit the number of mental hospitals, build community mental health services, develop mental health services in general hospitals, integrate mental health services into primary health care, build informal community mental health services and promote self-care [56]	1. Medical treatment (Law No. 18 Year 2004) 2. Shaman (Paranormal), blackmagic 3. Spiritual healing [1, 44] 4. Shackling (Pasung), [55]

3.2 Ineffective Law and Projection of People with Mental Illness in Indonesia

Indonesia's death rate due to ineffective mental health treatment is among the highest worldwide. According to the Village Potential Data (Podes) of the Central Statistics Agency (BPS), there were 5,787 suicide victims and suicide attempts in 2021. A reason for this, according to Yulianto (2021) is that people with mental problems' needs, such as receiving help from psychologists, are neglected. The government pays little attention to health facilities and psychiatric staff for people with mental illness; thus, the system struggles to cope with the increasing number of suicide victims among people with mental illness. Until 2021, the only available health facilities for people with mental illness are psychiatrists and, at most, 33 mental hospitals in

Indonesia. This means that the state does not implement policies that can provide protection for people with mental illnesses and their struggles continue.

The Indonesian government's minimal efforts to save the lives of people with mental illness have catastrophic consequences for young people. These consequences are heightened in rural areas because they do not have access to healthcare. People are also reluctant to take those with mental illnesses to hospital because of the shame, exacerbating the situation. Data (2021) notes that 19 million children under the age of 15 years suffer from mental illnesses and most live in rural areas far from medical facilities. Consequently, many people with mental illnesses die by suicide because they do not receive adequate treatment. Therefore, villagers are those most affected by government inattention. Apart from having minimal mental health facilities, they cannot afford the high cost of medical treatment.

The counter-shackle policy, the Issuance of Regulation of the Minister of Health Number 54 of 2017 Concerning Handling Detachment for People with Mental Disorders, instead of saving the lives of people with mental illness, wreaks havoc on them because it is not supported by health facilities. A recent independent survey by Statista [39] predicts the number of people suffering from mental illness and related deaths will increase from 2,99 million in 2020 to 3, 24 million in 2024.

Additionally, the public's reaction to mental illness impacts those struggling with mental health issues because it brings attention to their rights as human beings, including their rights to access treatment, obtain information, live, and be free from shackles. After the enactment of the Mental Health Law, the Indonesian government was deemed unable to protect the rights of people with mental illnesses. Further, the rights of people with mental disabilities are regulated under Article 42 of the Human Rights Law, which states:

> Every citizen who is elderly, physically disabled and or mentally disabled has the right to receive special care, education, training and assistance at the expense of the state, to ensure a decent life in accordance with his human dignity, increase self-confidence, and the ability to participate in social life, nation and state.

Thus, the confinement of people with mental illness, even if carried out by their families with the aim of keeping themselves and those around them safe, clearly violates human rights and can be categorized as the deprivation of the right to live properly. Although they may not be locked or shackled, the family cannot let someone suffering from mental illness roam freely. They might be charged under Article 491, point 1 of the Indonesian Criminal Code:

> Threatened by a maximum fine of seven hundred and fifty rupiahs whoever is obliged to guard a mentally ill person who is dangerous to himself or to others, let that person roam unattended.

Finally, Article 10 of the Regulation concerning the insane in the State Gazette 97/54, February 4, 1897, stipulates that the immediate family of a mentally ill person has the authority to request the head of the district court to treat them in a mental care institution for the sake of peace and public order or for the sake of healing of the mentally ill person themselves. However, in practice, it is difficult to trust the government's ability to treat mentally ill persons.

3.3 Implementing Principles of Treatment of People with Mental Illness and the Improvement of Health Mental Care in Indonesia

To guarantee and fulfill the rights of people with mental illness, it is necessary to follow the principles of the treatment of people with mental illness and the improvement of health care, as stipulated by the United Nations Human Rights Office of the High Commissioner 1991. The question here is whether the system of treating people with mental illness and the improvement of mental healthcare in Indonesia meets these principles (Table 2).

4 Conclusion

Discrimination against people with mental illness occurs in Indonesia and the treatment offered does not align with the principles for the protection of people with mental illness and the improvement of mental health care. This policy discriminates against people with mental illnesses; not only are they shackled but they do not have adequate treatment facilities, resulting in a high mortality rates. This is because treatment methods contradict these principles. In Indonesia, the recovery model for people with mental illnesses is a discriminatory policy that does not meet their needs and, further, violates human rights, especially the rights to life and health.

Therefore, the government must provide adequate facilities for people with mental illnesses by referring to the principles of protecting them and improving their mental health services. To realize the effective and conducive recovery of people with mental disorders and the fulfillment of the rights of people with mental disorders, Law No. 18 of 2014 on Mental Health (Mental Health Law) must fulfill the principles and elements stipulated in the instrument for treatment of people with mental disorders and improvement of health services.

Table 2 Comparison between international principles of treatment of people with mental illness and application in Indonesia

Universal instrument for the treatment of people with mental illness and the improvement of health care	Indonesian treatment based on Law No. 18 Year 2014 on mental illness (*Undang-Undang Kesehatan Jiwa*)
Fundamental freedoms and basic rights	Partially implemented
Protection of minors	Partially implemented
Life in the community	Partially implemented
Determination of mental illness	Partially implemented
Medical examination	Partially implemented
Confidentiality	Partially implemented
Role of community and culture	Discriminatory, Taboo
Standard of care	Lack of standard of care
Treatment	Lack of treatment
Medication	Partially implemented
Consent to treatment	Partially implemented
Notice of rights	Partially implemented
Rights and conditions in mental health facilities	Lack of facilities
Resources for mental health facilities	Partially implemented
Admission principles	Discriminatory
Involuntary admission	Discriminatory
Body review	Discriminatory
Procedural safeguards	Lack of safeguards
Access to information	Partially implemented
Criminal offenders	Discriminatory
Complaints	Partially implemented
Monitoring and remedies	Partially implemented
Scope of principles relating to mental health facilities	Partially implemented
Saving of existing rights	Discriminatory
Fundamental freedoms and basic rights	Partially implemented

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