

RESEARCH WRITTEN REPORT  
**DESCRIPTION OF  
PSYCHOSOCIAL DISABILITY  
IN INDONESIA: MAPPING OF  
STRATEGIC ISSUES**





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PSYCHOSOCIAL DISABILITY  
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STRATEGIC ISSUES**

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# GLOSSARY

Evidence	:	Everything related to a legal act and can be used as evidence to raise the judge's belief that the act is true.
CRPD (Convention the Right of Person with Disability)	:	A multilateral agreement that regulates the protection of the rights and dignity of persons with disabilities. The member states of this treaty are obliged to protect, promote and guarantee the fulfillment of the rights of persons with disabilities, and also to ensure that they are equal to other human beings in the perspective of the law.
Cognitive Behavior Therapy	:	Therapy through conversation to help the recovery of ODP.
Family support	:	The support provided by the ODP family who cares for them; the support can be in the form of financial, moral, or emotional.
Peer support	:	Support provided by people who share a common identity or experience.
Mental Disability	:	Specific mental conditions experienced by a person that results in the person being prevented from carrying out certain activities temporarily (episodic).
Human Rights	:	Human Rights are a set of rights inherent in the nature and existence of humans that must be respected, upheld, and protected by the state, law, government, and everyone, for the sake of honor and protection of human dignity.
Judge	:	A person who acts presides over the trial.
HIR	:	<i>Herzien Inlandsch Reglement</i> (Book of Civil Procedure Code).
Card Towards Mental Health ( <i>Kartu Menjuju Sehat - "KMSJ"</i> )	:	A card that functions as a monitoring tool for the ODP treatment process by the family along with changes in ODP conditions.
Legal Capacity	:	The position of a person as a right holder and legal actor.
Mental Health Cadre	:	Volunteers (non-medical/psychological practitioners) who have been trained and mentored by experts in mental/mental health to help document, educate, and provide first aid for families of ODP and ODP in the community.
KUHAP	:	Criminal Procedure Code
Criminal Code	:	Indonesian Criminal Code

Civil Code	:	Indonesian Civil Code ( <i>Burgerlijk Wetboek voor Indonesie</i> )
Lifeskill	:	The ability to survive on a daily basis, especially from an economic point of view for living expenses (generating income).
ODP (People with Psychosocial Disabilities)	:	People who face rights restrictions and barriers to participation due to actual or perceived mental disorders, regardless of whether they identify themselves or are diagnosed with mental problems.
OPD (Organization of Persons with Disabilities)	:	Civil society organizations whose members and administrators are persons with disabilities, or the majority are persons with disabilities.
Shackles	:	A tool in the form of a wooden stick or other objects with a similar function that is attached to a person's neck/hands/legs to limit their activities and mobility.
Forgiveness	:	The mechanism for appointing a person is usually through a court process, to make decisions on behalf of other individuals.
ODP Assistance	:	ODP assistance is a medical and social effort in assisting ODP recovery from relapse or the onset of symptoms of mental disorders, as well as improving the quality of life of ODP.
Psychoeducation	:	Providing information and knowledge on mental/mental health by experts (doctors/nurses/psychiatrists/psychologists/cadres) to families of ODP and the general public
Relapse	:	Conditions in which the symptoms of mental health problems with ODP return after undergoing treatment and care
Family Resilience	:	Family's ability to adapt to ODP conditions
Social Rehabilitation	:	The ODP recovery process is based on the relational method between ODP, ODP families, and the community.
Mental Hospital	:	Mental Hospital which functions as a place for treatment and recovery of ODP by health workers.
Stigma	:	Negative prejudices are pinned on ODP by various parties such as the government, medical personnel, ODP families, communities, and even ODP themselves.
Disability Law	:	Law Number 8 of 2016 concerning Persons with Disabilities.
Mental Health Law	:	Law Number 18 of 2014 concerning Mental Health.

# AIPJ2 FOREWORD

Indonesia ratified the CPRD through Law Number 19 Year 2011. Further, in 2016, I was fortunate to witness the Parliament pass Law Number 8 Year 2016 Regarding Persons with Disabilities and the Minister of Law and Human Rights at the time acknowledged the contribution of AIPJ and partners. These laws set up a pattern of the government working together with civil society organisations to push forward more inclusive regulations and programs.

The justice system is adopting more disability inclusive policies. The Government of Indonesia has legalised Government Regulation Number 39 Year 2020 Regarding Reasonable Accommodation for Persons with Disabilities in Legal Process. This regulation becomes a reference for legal enforcement agencies, such as the Supreme Court, Attorney General's Office, and the Police, to create an inclusive system for people with disabilities when they enter the legal system.

However, there are still social and legal norms which prevent inclusion. People with disabilities are often seen as less than legal subjects, not capable of being recognised under the law. Article 12 of the CRPD has stated that disabilities should not be used as criteria to disqualify someone from being recognised as a person before the law. They should enjoy legal capacity on an equal basis with others in all aspects of life. This article is particularly relevant to people with psychosocial disabilities who are still being denied the right to make decisions as "legal persons".

This study helps us all understand better the issues of legal capacity and access to justice for people with psychosocial disabilities. It covers a lot of sectors: social, public policy, law and health. Inclusion of people with psychosocial disabilities has been a challenge in many countries, but just because it is complex does not mean

we don't work on it. AIPJ partners enjoy tough challenges and work together to solve difficult problems, so I applaud the initiative of LBH Masyarakat, and friends in Government and civil society who have contributed to this study. I hope that this report will help to inform all of our efforts to develop inclusive approaches to justice for persons with psychosocial disability.

We are delighted to have supported this study and look forward to our continuing work together.

Jakarta, 22 September 2021

**Craig Ewers**

Team Leader

Australia Indonesia Partnership for Justice (AIPJ2)





## A. BACKGROUNDS

Indonesia has ratified the Convention on the Rights of People with Disability (CRPD) in 2011 and adopted it into Law Number 8 of 2016 concerning Persons with Disabilities (Law on Disabilities). This is a milestone in the effort of upholding human rights for people with disabilities. However, there are many improvements yet to be implemented in order to uphold human rights for people with disabilities in Indonesia. One disability group that is often overlooked in policy considerations is people with psychosocial disabilities (PWD), who face limited rights and barriers to participation due to actual or perceived mental disorders, regardless of whether they identify themselves or are diagnosed with mental problems (Human Rights Council, 2017).

The issue of disability contains complex problems and involves multi-disciplinary sciences. Efforts to protect, fulfill, and respect the rights of persons with disabilities, especially PWD, need to be at a comprehensive level and involve various scientific fields such as health, law, economics, and socio-culture as stated in the CRPD points. From the social perspective, problems such as stigma and discrimination are still obstacles to fair and effective participation of PWD. Various studies show that there is still a lot of stigma aimed at people who have mental problems, such as schizophrenia and major depression (Thornicroft et al., 2009; Lasalvia et al., 2013). One of the implications of the negative stigma faced by PWD is that the use of shackles is very detrimental to PWD because it limits their mobility and is inhumane by nature. In 2018, there were still 12,800 PWD who were subject to shackling. Although this number has decreased significantly from the previous year which was 18,000 people (Human Rights Watch, 2018).

From a legal perspective, PWD is still discriminated against by not being recognized as a legal subject or being able to perform legal actions such as contracting, making trade agreements, and so on. Law in Indonesia still has discriminatory policies against PWD as stated in article 433<sup>1</sup> of Civil Code of Law which regulates Curatorship. The article transfers the decision-making authority of PWD to someone else (Albert Wirya, et al., 2020). The practice of amplification that transfers decision-making power from PWD to another person is a denial of the right to equality outlined in law in article 12 of the CRPD. As a basic right, the denial of equality before the law has the potential to affect the guarantee of other basic rights, which are also stated in the CRDP. There are other interrelated rights such as the right to access justice; right to work; the right to political participation; right to health; the right to be free from arbitrary exploitation, violence and coercion; and the right to express opinions and access to information. In the Indonesian context, violations of human rights for PWD was depicted in the chaotic implementation of the 2019 General Election (Pemilu)<sup>2</sup>, especially regarding the presence or absence of voting rights for PWD. This occurrence is a clear example of the vulnerability of PWD's basic rights being violated in Indonesia.

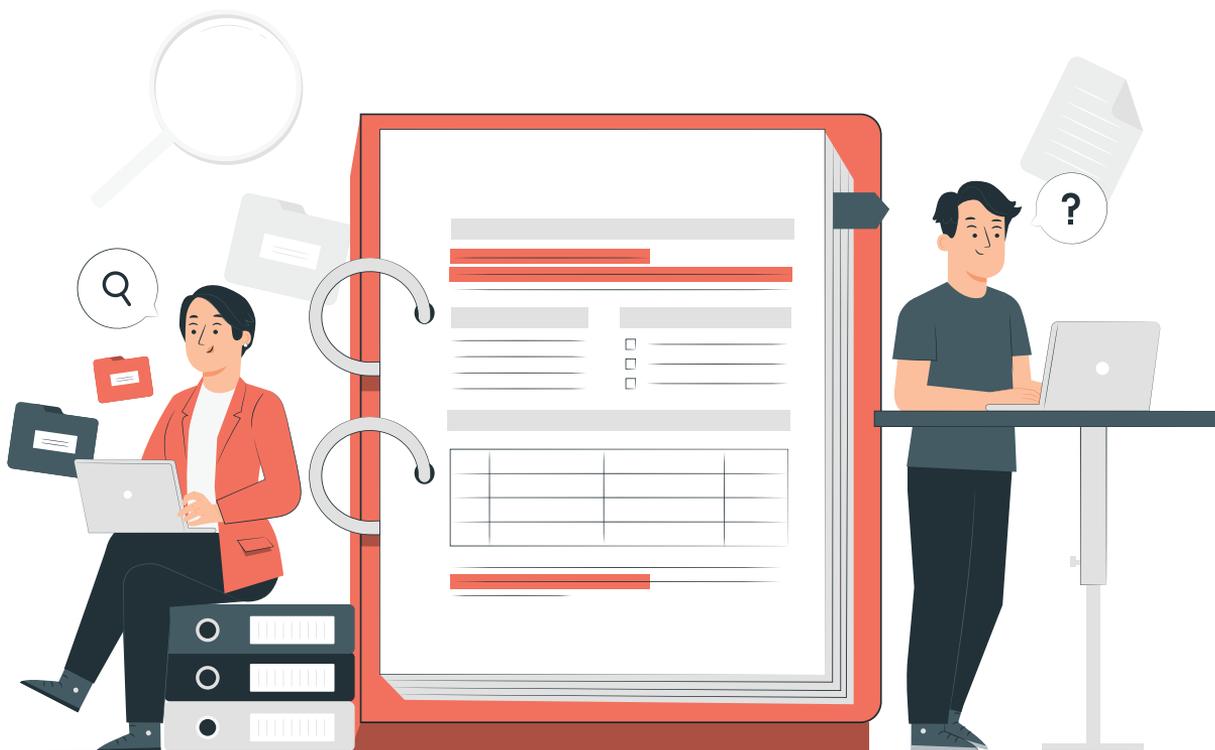
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1 Article 433 of the Civil Code states that "Every adult, who is always in a state of stupidity, madness, or dark eyes, must be placed under guardianship even though he is sometimes able to use his mind. An adult may also be placed under custody for extravagance."

2 In 2019, ahead of the general election in Indonesia, there was chaos regarding the right to vote for the PWD, several parties opposed, even the chairman of the Indonesian KPU, Arief Budiman, had stated that "people with psychiatric disorder may not vote (in elections)." As quoted in the news article <https://www.tribunnews.com/nasional/2019/02/12/kpu-orang-gila-tidak-punya-hak-pilih-di-pemilu-2019>, although in the end it was revised.

The number of unresolved problems indicates that mental health issues have generally not received much attention from the Government, academic groups, and society. In fact, the Government views mental health issues as a burden that costs health services and requires social rehabilitation (Mulia Astuti, 2017). This illustrates the dominance of the medical perspective in viewing mental health problems and prescribing solutions such as sending PWD to social institutions or other mental hospitals. This is very unfortunate because the real problems experienced by PWD are more than just mental health issues, there are other issues such as legal, political participation, economic issues, and so on.

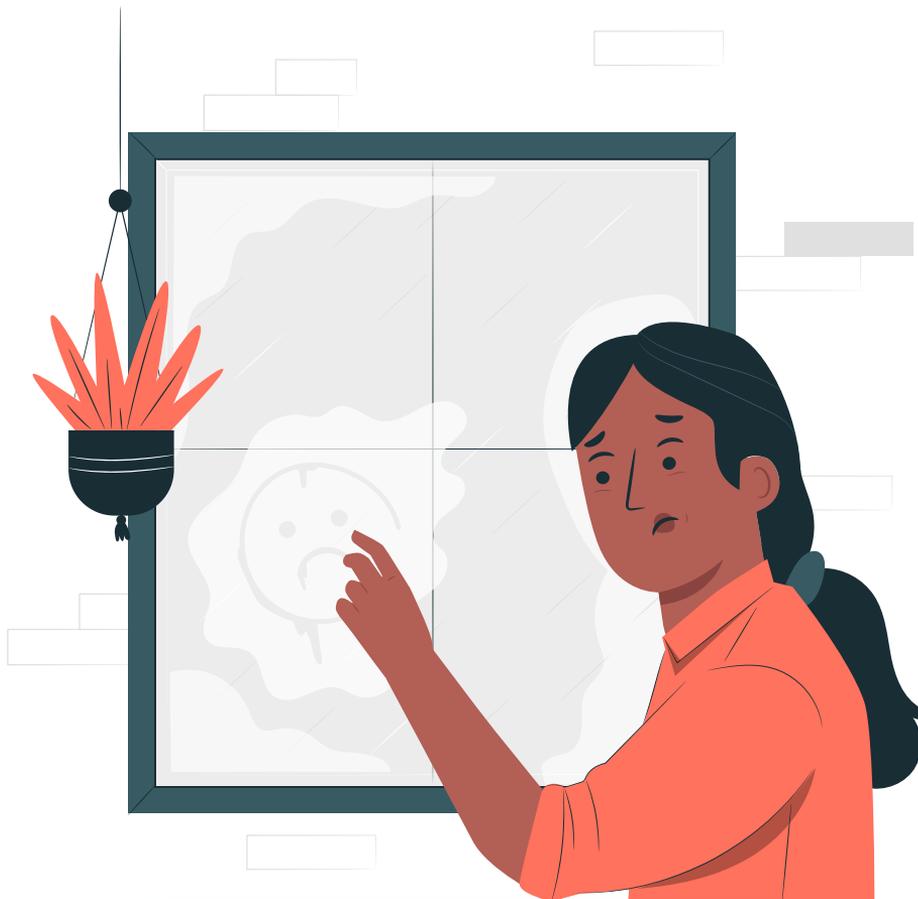
Therefore, research is required to map out what research and programs have been carried out in Indonesia related to mental health issues in general, as well as specifically PWD. Researchers consider this important to understand to what extent the the Government and civil society organizations prioritise this issue in various scientific fields, especially those related to CRPD recommendations. The gathering of information and research can form the basis for Organizations of Persons with Disabilities (PWD) and civil society organizations to promote evidence-based policy formation.



## B. FORMULATION OF PROBLEM

Based on this background, this study seeks to answer the following three questions:

- 1** How is the issue of Mental Health and Psychosocial Disabilities in Indonesia in various scientific fields such as law, health, social, and public policy?
- 2** What aspects of these five scientific fields above have discussed the issue of psychosocial disability?
- 3** What are the obstacles and achievements of fulfilling, protecting, and respecting Human Rights for PWD in Indonesia?



## C. PURPOSE OF RESEARCH

- 1** Mapping a picture of mental health and psychosocial disability issues in Indonesia within the scope of research and programs to fulfill human rights for PWD based on findings or related to the four scientific fields.
- 2** Identifying scientific areas where the issue of psychosocial disability is yet to be widely explored or there is still room for improvement.
- 3** What are the obstacles and achievements of fulfilling, protecting, and respecting Human Rights for PWD in Indonesia?





## D. METHOD

This study uses a literature study method by collecting data and information through search engines such as Google Scholar, Research Gate, neliti.com, and journals from several universities in Indonesia. Literature studies are needed to sort out previous studies on related issues (Hannah Snyder, 2019). Literature study serves to group existing studies based on themes or scientific aspects such as law, human rights, health, and social. Therefore, aspects that have been studied would be identified.

In addition, the researchers held three focus group discussions (FGD) with each target, namely (1) DPO organizations in Jakarta, Yogyakarta, Bali, East Java, and Central Java; (2) Academics in fields related to Mental Health issues from educational institutions such as universities or colleges and mental health practitioners such as psychiatrists or psychiatric specialists from Health Institutions that specialize in mental health; and (3) the Government and relevant

stakeholders who have conducted research or have special programs related to this issue, such as the Ministry of Social Affairs, Ministry of Health, Ministry of Law and Human Rights, and the National Commission on Violence Against Women (Komnas Perempuan). The FGD was carried out to explore and confirm research and activities related to psychosocial disability issues that have been carried out by each party.

The researcher acknowledges that there are certain limitations in writing the research results in this article. Researchers can only describe research results in accordance with the indexation of search engines and journals available on the websites of several universities in Indonesia. In addition, there are limitations in the process of inviting FGDs because researchers only invite parties that are considered most relevant, and within the researchers' grasp. Moreover, the government invited agencies that have direct relevance to the issue of mental health or psychosocial disability, or at least have a role in the formation and implementation of policies that are directly related to these issues.

The issue of psychosocial disability contains various aspects that require multi-disciplinary roles to explore, explain, and find solutions to existing problems. There are at least several scientific fields, namely health, social, law, and public policy, which are important and urgent to touch aspects of psychosocial disability issues. This is because the issue of psychosocial disability also has non-health aspects such as protection of rights, legal capacity, social participation, and guaranteeing freedom from discrimination, as stated in the CRPD.



## E. DISCUSSION

Mental health discourse is an important consideration in the development of the contemporary medical world. For example, in a treatment study for female patients with major depression with psychotic symptoms, which presents some interesting findings, for example depression occurs 70% more often in women than men. Another fact is that an antidepressant drug called sertraline works to treat symptoms of depression accompanied by a slowdown in actions and thoughts. The study revealed that 1x50 milligrams of sertraline therapy plus psychotherapy for women with severe depression accompanied by psychotic symptoms proved to be quite effective. From these findings, there appears to be an urgency in research on psychosocial disability issues as one aspect of the medical field, namely the development of drugs that help treat episodes of mental disorders in people with mental disabilities, as well as exploring factors that can help or hinder the recovery of PWD from relapse, also referred to as recurrent episodes of disturbance (Christian, Jasmine, Nyoman Ratep dan Wayan Westa, 2014).

Broadly speaking, research on the issue of medically psychosocial disability will improve the quality of treatment and quality of life for PWD through the discovery of drugs, variants of mental disability, to appropriate treatment methods. In short, medical research contributes to helping PWD when symptoms of disability appear, during recovery, to improving the quality of life of PWD after recovery, so that the frequency of relapse decreases and PWD can move independently. At the same time, the medical world will gain rapid development through continuous research and experimentation. Thus, medical research on the issue of psychosocial disability creates mutual benefits for both PWD and practitioners or researchers in the medical world.

In addition, the issue of psychosocial disability has a social aspect with considerable urgency. Social research serves to describe, explain, and refute the myths that hinder the development of the issue of psychosocial disability itself. For example, the myth that mental illness is related to magical disorders or spiritual problems causes people to be reluctant to access medical treatment. The reason is that Indonesian people tend to perceive psychosocial disability or mental disorders as a form of spiritual disorder, are not close to God, and lack alms, so the first treatment of choice is traditional treatment, such as going to a shaman or religious leader ((Devika dan Gaby Gabriela Langi, 2020).

The outline of research on psychosocial disability issues in the social field is closely related to the stigma and discrimination of PWD. Some of the topics that will be discussed range from the scope of the relationship between PWD and their family, empowerment of PWD in the community, the role of the community, to the problem of self-stigma and stigmatization. Research on psychosocial disability issues with studies of social aspects places a lot of emphasis on the concept of caring for PWD by involving the family, dismantling the stigma against PWD through psychoeducation, so there are several issues related to PWD and their families—namely the importance of accepting, caring for, and empowerment of PWD by their family. In addition, the social aspect of the family caring for PWD is also important to discuss, especially regarding the assistance or contribution of health workers and the surrounding community to families who care for PWD. This discourse will also observe the implementation of laws by the Government as the bearer of human rights responsibilities.

On the other hand, studies on the topic of psychosocial disability and mental health are still minimal in the fields of law and human rights. Researchers found nine studies on legal and human rights aspects related to psychosocial disability issues. One of the debates that has surfaced is the issue of whether PWD can be criminally indicted. The debate is indeed complicated considering that PWD has long been the subject of stigmatization, that they are unable to think like normal people in general. People tend to associate PWD with violent behavior without a clear reasoning, as illustrated in a study titled “Stigma, Stigmatization, Violent Behavior and Fear among People with Mental Disorders in Indonesia: Constructivist Grounded Theory Research” written by Tilawaty Aprina, et al in 2018. Thus, there exists a stigmatic assumption that it is impossible for PWD to be criminally responsible. This assumption is reinforced by the existence of Article 44 paragraph (1) of the Criminal Code, which states that a person is not punished if his “psyche is flawed”, because they are considered unable to account for their own actions. As a party who believes in the principle of equality before the law, the researcher views that PWD are still criminally responsible, unless proven unable to account for criminal acts because at the time of the incident they were experiencing a relapse or symptoms of mental disorders had emerged. Thus, the assessment of criminal responsibility is not only based on the history of mental disorders of the PWD, but it is also necessary to assess the condition of the PWD when the crime was committed.

In addition, the issue of legal capacity has not been widely discussed. In addition to the LBHM research, researchers can only find one study that discusses the problem of custodialism, and focuses on reviewing the juridical aspects of a case. In addition, there are several studies that discuss the rights of PWD in terms of their capacity and equality. For example, there has been a study on voting rights for PWD which concluded that they have the same right to vote as other people because they are protected by the Constitution and other laws (Tony Yuri Rahmanto, 2019).

In addition to legal capacity issues in general and specifically in the criminal context, there are studies that discuss the implementation of Law Number 18 of 2014 concerning Mental Health (UU Keswa), and how to protect the rights to health of PWD according to the Law on Health. Both of them concluded that the implementation of the Personal Health Law and the protection of the right to health for PWDs in

the Yogyakarta area are not yet optimal.<sup>3</sup> Unfortunately, there are not many similar studies that examine the implementation and fulfillment, protection, and respect for the rights of PWD based on the Law on Health and that of Disability.

Dissa Syakina Ahdannisa's research in 2019 titled "Where are we now? The State of Self-employment and Entrepreneurship for People with Disabilities in Indonesia" revealed several reasons why it is difficult for people with disabilities to access formal jobs, including the stigma or assumption that people with disabilities are objects of pity, with low education level, along with weak policy implementation. The lack of PWD's access to jobs is a real implication of acts of discrimination against them. Unfortunately, things like that have not received the attention of various parties. There have not been many efforts to promote equality and provide opportunities for PWD to participate effectively in society, nor comprehensive programs from the Government to make life more comfortable for PWD in the midst of society.

However, there are several policies on psychosocial disability issues that should be appreciated, such as the shackle-free program and the disability-friendly court program. In fact, efforts to liberate from pasung have been going on since the publication of Letter of the Minister of Home Affairs Number PEM.29/6/15 concerning the Order of the Governor of the Head of Level I Regions in 1977 throughout Indonesia in which the public is requested to stop the practice of shackling PWD. However, the program has not yet been completed, and data from the Ministry of Health's Data and Information Center in 2019 stated that as of 2018, around 31.5% of PWD in Indonesia were still in shackles.<sup>4</sup> In addition, the disability-friendly court program<sup>5</sup> is yet to be optimized, especially for PWD as the beneficiary. The reason is, awareness of the problems in the judicial system in Indonesia is still not widely realized by law enforcement agencies such as the Supreme Court (MA), which can be seen from the unpopularity of the issue of recognizing the legal capacity of PWD among MA's internal circles. In fact, throughout 2020, 18 out of a total of 24 curatorship

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3 The first research was written by Yunita Arisanti; Wijaya Andi Saputra; and Putut Wisnu Nugroho, (2018) who reviewed the implementation of Law no. 18 of 2014 concerning Mental Health in the form of regional regulations in the Special Region of Yogyakarta. The second research was written by Odilia Esem (2019) which reviewed the protection of the right to health services for PWD based on the mental health law in the same area. Both concluded that the implementation of the Mental Health Law are not yet optimal.

4 Data from the Indonesian Ministry of Health's Data Center released in 2019 which contains a survey/data collection related to mental health in Indonesia 2018 only mentions the prevalence of PWD shackling, but does not mention the real number of shackled PWD.

5 The Supreme Court issued Guidelines for the Implementation of Services for Persons with Disabilities in High Courts and District Courts through the Decree of the Director General of the General Courts Agency Number 1692/DJU/SK/PS.00/12/2020. Unfortunately, there has been no definitive test of the effectiveness of this regulation, especially in the context of its impact on PWD.

applications submitted and not revoked (around 75%) have been terminated within a year.<sup>6</sup> On the other hand, the minimum service standard in the health sector does contain a clause on mental health, but unfortunately the phrase used is only limited to health services for people with severe mental disorders.<sup>7</sup>

Among the collected research, researchers still find documents linking religiosity with mental health issues. A study by Sutinah in 2019 stated that religious activities such as remembrance, prayer, and listening to lectures that were carried out repeatedly (repetitively) and scheduled helped PWD recovery from relapse (Sutinah, 2019). Contemporary psychological discourse has indeed attempted to consider religious values as part of the therapy itself, as Bergin began to argue in the 1980s (Ventis, W. Larry, 1995). However, a study in China's Ningxia Province found that people with relatively high levels of religiosity tended to have negative attitudes toward PWD (Zhizhong Wang, et al, 2019). Therefore, instead of being a solution, the domain of religiosity is feared to actually create a stigma against PWD.

In fact there are still many areas that can be explored from the above fields of science above. In health issues, for example, it is necessary to understand that the health sector is very important in identifying, explaining, and providing better treatment solutions from time to time for various diversified psychosocial disabilities. However, the issue of promoting the facts that PWD can still contribute and live in the community is also an equally important part. For example, emphasizing that a psychosocial disability or mental disorder is an episodic or transient period. That is, the onset of symptoms of mental disorders is not permanent, but can arise for certain reasons and within a certain period of time as well. In addition, the social sector can also develop more research that refutes the stigma that PWD cannot continue to act like normal people on the long term. Efforts to identify the existence of stigma are indeed very important, but those conducted to prove that stigma against PWD is wrong is no less important. In addition, efforts are required to create a PWD-friendly society.

Furthermore, in the field of Law and Human Rights, research on legal norms related to the issue of psychosocial disability is very important. In this case, research will

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6 In the 2020 Supreme Court Annual Report, it was noted that there were 745 pardon requests, of which 739 were revoked and there were 18 cases remaining from 2019.

7 Types of health services contained in Government Regulation Number 2 of 2018 concerning Minimum Service Standards only covers people with severe mental disorders as stated in the type of health service, to be precise Article 6 Paragraph (3) point J.

be more progressive if it dares to challenge existing legal norms with the latest developments in values and norms. This is because it is important for the law to continue to develop according to the needs of the latest society and adapt to the development of science and technology. In the issue of PWD's legal capacity, for example, not many people support that legal capacity is inherent in every individual and cannot be reduced. Instead of supporting legal capacity as an inalienable right, several studies still contrast the condition of PWD who have mental disabilities with legal norms stating that PWD cannot be held responsible because of their status. There is a need for more studies of legal norms that are no longer adequate to accommodate current needs, especially those related to psychosocial disabilities and mental health in general.

In addition, the effort to link religiosity with mental health seems to be still a debate. Some experts such as Sigmund Freud and Albert Ellis argue that religiosity is pathological to mental health discourse, while Gordon Allport and Carl Jung argue otherwise (Larry, 1995). Regardless of the debate, the linkage between the two issues tends to create stigma against PWD, instead of improving the existing conditions to be more inclusive of PWD.



## F. FINDING

### F.1. Health-Themed Findings

Recognition that the issue of mental health and psychosocial disability is part of the world of health is the first step in improving the human approach to these issues. For example, a medical study that tested the interaction of a combination of antidepressant drugs for schizophrenic patients (Atika Wahyu Puspitasari and Loranda Angeline, 2019), which found that fluoxetine and risperidone were the most frequently interacting combinations, resulting in the conclusion that the use of drugs in combination in schizophrenic patients needs to be strictly supervised. In addition, testing the effectiveness of drugs and proper administering of drugs is also important, as research conducted by Mohammad Fatkhul Mubin and Livana PH which states that the regularity of taking medication is inversely proportional to

the frequency of relapse of paranoid schizophrenia patients at the Regional Mental Hospital (RSJD). Dr. Amino Gondohutomo, Central Java Province (Mohammad Fatkhul Mubin and Livana PH, 2019). Research related to drug use has also been carried out by Fina Aryani and Oelan Sari at the Tampan Pekanbaru Mental Hospital (RSJ) who saw an overview of the use of antipsychotics in schizophrenic patients (Fina Aryani and Oelan Sari, 2015). In addition, there are studies that reveal that treatment with sertraline 1x50 mg plus psychotherapy can reduce psychotic symptoms in 31-year-old female patients with major depression (Jasmine S. Christian; Nyoman Ratep; and Wayan Westa, 2014).

In addition to the discovery and testing of drugs to help PWD, the world of health also plays a role in finding non-drug methods to help PWD. For example, research conducted by Sri Eka Wahyuni, Budi Anna Keliat, Yusron, and Herni Susanti has proven that cognitive behavior therapy as a specialist nursing action can help reduce hallucinatory symptoms in PWD (Sri Eka Wahyuni; Budi Anna Keliat; Yusron; and Herni Susanti, 2011). A similar study was also conducted by Ibrahim Rahmat who proved that cognitive therapy in PWD patients at the Grhasia Hospital in Yogyakarta can help reduce PWD's anxiety levels and meet their daily needs independently (Ibrahim Rahmat, 2016). Furthermore, research conducted by Dwi Handayani, Aat Sriati, and Efri Widiанти proved that group activity therapy can increase the independence of PWD in controlling hallucinations (Dwi Handayani; Aat Sriati; and Efri Widiанти, 2017). The form of care for PWD can also be in the form of scheduling repetitive activities such as self-care activities that can help PWD take care of themselves on a regular basis, as illustrated in Retno Yuli Hastuti and Basuki Rohmat's research on PWD patients of RSJD Dr. RM Soedjarwadi in Central Java (Retno Yuli Hastuti and Basuki Rohmat, 2018). Although the research showed positive results, Retno said that in practice, efforts to guide PWD to self-care experience obstacles, for example, families who lack information so that they do not routinely schedule PWD to take care of themselves after hospitalization, as well as the difficulty of making commitments with PWD and their families to continue caring for PWD at home (Focus group discussion (FGD) with Academics, 2021)

Retno Yuli Hastuti explained that there was a follow-up program from their two studies in 2017 and 2018 (FGD with Academics, 2021). Broadly speaking, the implementation of mental health efforts in Klaten Regency, Central Java, has several programs, such

as the Card Towards Mental Health (KMSJ) as a monitoring tool for PWD self-care programs in terms of personal hygiene, drug compliance, and the frequency of relapses after hospitalization. KMSJ will contain notes regarding the commitment of PWD to take care of themselves under the supervision and support of the family accompanied by a Mental Health Cadre with a ratio of 1:1. KMSJ will be brought when the PWD reports to the mental health post to record whether the commitments are fulfilled or not. In addition, cadres also play a role in reporting the condition of PWD, especially if they continue to relapse despite taking medication regularly, to the midwife in charge of the village. The report is then forwarded to nurses in community mental health nursing (CMHN) and general practitioners who have been provided with psychiatric knowledge.

Other health efforts already exist in Malang, East Java. RSJ Lawang often conducts screening through the disability posyandu to find PWD who need assistance, and are then directed to RSJ Lawang for treatment. RSJ Lawang also accepts forensic examinations for suspects or accused of crimes, which are generally related to cases of violence. Daisy Prawitasari Poegoeh, a clinical psychologist at the Lawang Hospital, said that there were quite a number of incoming cases, around 5-6 cases per month. The massive number of similar cases raises the stigma that PWD tends to behave violently (FGD with Academics, 2021)

Although there have been health care efforts for PWD, there are still obstacles in the form of a lack of trained Human Resources (HR), scarcity or empty stock of medicines in health facilities, documentation and reporting of cases that have not been systematic, as well as governance issues related to mental health policies such as Gaby's narrative from the Atma Jaya Unika HIV Research Center. In addition, the stigma against PWD in the community also hinders mental health efforts because it affects the preferences of families who tend to choose traditional care over medical (FGD with Academics, 2021).

In codified health research and efforts, there is a tendency to explore tools or methods that are effective, efficient, and safe in assisting PWD. It should be acknowledged that the studies above tend to limit themselves to the scope of assistance for the recovery of PWD from a relapse. Although there are health efforts related to legal issues, they are only limited to certain areas and have a very specific role, namely

forensic psychology. This does not only contain problems in the health dimension, so it is important to map out other dimensions, for example the social dimension which includes problems with family relations, PWD, and society; as well as the economic dimension, empowerment, and guarantee of opportunities for PWD to self-actualize. Efforts to fulfill the right to concrete health, as found in research articles and statements of researchers or practitioners in FGDs, are still very limited at the village level or limited to certain districts. There has not been seen adequate support from the Government and provincial governments in the form of policies, empowerment of health workers, other assistants, as well as funding.

## **F.2. Social-Themed Findings**

Research by Surya Mulya Fadli and Mitra revealed that the level of knowledge and emotional expression of PWD's family affects their relapse frequency (Surya Mulya Fadli and Mitra, 2013). In line with that, Tutut Pujiyanto and Retno Ardanari Agustin stated that there needs to be an effort to increase the knowledge and willingness of families to care for PWD so that they can be helped (Tutut Pujiyanto and Retno Ardanari Agustin, 2017). Another study by Shermina Oruh and Andi Agustang stated that the frequency of PWD relapses was influenced by family roles and support, medication adherence, and community stigma (Shermina Oruh and Andi Agustang, 2017). Livana PH, Hermanto, and Nanda Putra Pratama in their research results state that family support is positively correlated with PWD's independence in taking care of themselves (Livana PH, Hermanto, and Nanda Putra Pratama, 2018). In addition, Dilfera Hermiati and Resnia Madona Harahap also explained that genetic, psychosocial, and environmental factors affect a person suffering from schizophrenia (Dilfera Hermiati and Resnia Madona Harahap, 2018). Dilfera also stated that the absence of support from family and the surrounding environment could lead to a relapse in PWD (FGD with Academics, 2021). Furthermore, research by Kadek Yah Eni and Yohanes Kartika Herdiyanto suggests several types of support that families can provide to PWD, including mentoring, emotional support, instrumental support, group or friendship support, and information support (Kadek Yah Eni and Yohanes Kartika Herdiyanto, 2018).

Although there is ample evidence that family support plays an important role, research by Husmiati, Irmayani, Sugiyanto and Habibullah states that family and

community support for PWD is still relatively low and there are still many people and families who are reluctant to take responsibility for PWD after being released from shackles (Husmiati, Irmayani, Sugiyanto and Habibullah, 2017). In another study, Isti Harkomah showed that there are still families who do not provide support to PWD, families only ensure that the PWD takes medication, even locking them in a room on the grounds of relapse (Isti Harkomah, 2019). On the other hand, there are also families who return to PWD after seeking health care, arguing that PWD has relapsed, cannot speak coherently, and cannot control emotional expression (Aldani Putri Wijayanti and Achmad Mujab Masykur, 2016). However, a study by Stephanie Cindy and Shanty Sudarji describes the process of acceptance of family members with mental-intellectual disabilities (Stephanie Cindy and Shanty Sudarji, 2020). The study revealed that there were five stages of family acceptance of PWD, namely denial, anger, bargaining, depression, and acceptance. This indicates that although the process is quite long, there is still the possibility of creating PWD acceptance by other family members. In addition, Faida Annisa's research states that it takes a long time for PWD's families in Indonesia, especially East Java to start being positive about their family members who are PWD, and support them (Faida Annisa, 2018).

As mentioned earlier, the relationship between PWD and family has many obstacles, for example, the family is burdened financially and emotionally when supervising and assisting PWD in interacting with the community (Nawang Wulandari, 2016). A study from Mulia Astuti illustrates that in addition to the lack of family knowledge in caring for PWD, the community also lacks knowledge in providing social support in the form of social rehabilitation to PWD (Mulia Astuti, 2017). It must be acknowledged that there is a financial burden on families whose members suffer from schizophrenia as described by Betriz Melva Manao and Jek Amidos Pardede in their research (Betriz Melva Manao and Jek Amidos Pardede, 2019). Similar problems were also revealed in Susanti Niman's research which states that families who are caregivers have a financial burden in caring for PWD, as well as the relational burden between caregivers and PWD who often behave not according to the norms prevailing in society (Susanti Niman, 2019).

In addition to problems that arise during treatment for PWD during the recovery period, other problems also arise during post-sharing. Research by Hanik Endang Nihayati, Dwi Adinda Mukhalladah, and Ilya Krisnana stated that the family burden in caring for PWD after shackles lies in the need for supervision to take medication regularly and

regular assistance that requires attention, patience, and adequate knowledge (Hanik Endang Nihayati, Dwi Adinda Mukhalladah, and Ilya Krisnana, 2016). In addition, research by Daisy Prawitasari Poegoeh and Hamidah Hamidah revealed that PWD's families need social support in order to increase resilience to PWD's disability conditions (Daisy Prawitasari Poegoeh and Hamidah Hamidah, 2016). Meanwhile, research by Sulastri Sulastri and Yeyen Kartika stated that psychoeducation for PWD's families can improve the quality of family care for PWD, especially in terms of drug consumption compliance (Sulastri Sulastri and Yeyen Kartika, 2016). In addition, research by Ruaida Murni and Mulia Astuti, 2015 explains that social rehabilitation has a positive impact on PWD and their families (Ruaida Murni and Mulia Astuti, 2015). The study explains that social rehabilitation improves the ability of PWD to socialize while increasing the family's understanding of the condition of PWD, so that good communication is established between PWD and their family, through which families shall be willing to help PWD.

Social efforts in the issue of mental health or psychosocial disability are also inseparable from social barriers such as stigma and stigmatization. There is a stigma that says that PWD tend to be perceived as having spiritual problems, demonic disturbances, possessions, or depression (Devika and Gaby Gabriela Langi, 2020). Stigma and stigmatization also come from families, communities, and even health workers who have the view that PWD tend to behave violently and dangerously (M Arsyad Subu, et al, 2018). In fact, the study also found that the process of stigmatization gave birth to self-stigma in PWD. The self-stigma that occurs among PWD has an impact on their quality of life, as revealed by Ice Yulia Wardani and Fajar Apriliana Dewi that the higher the PWD's self-stigma, the lower the quality of life of the PWD (Ice Yulia Wardani and Fajar Apriliana Dewi, 2018).

Despite the stigma and lack of family support, efforts to support PWD socially actually exist. For example, research by Tantri Widyarti Utami, Budi Anna Keliat, Dewi Gayatri, and Ria Utami revealed the role of self-help groups in improving the cognitive and psychomotor abilities of families in caring for PWD (Tantri Widyarti Utami, Budi Anna Keliat, Dewi Gayatri, and Ria Utami, 2011). In addition, Dahlia Novarianing Asri and Dian Ratnaningtyas Afifah have conducted research on provention efforts; consisting of promotion, prevention, curation, and rehabilitation in Kreet village, Ponorogo, where some of the population suffer from mental retardation. The verification efforts are carried out through counseling, social guidance for physically and mentally healthy living, life skills training for PWD and surrounding communities

to improve economic welfare, as well as training PWD to take care of themselves in daily life (Dahlia Novarianing Asri and Dian Ratnaningtyas Afifah, 2017). In addition, research by Husmiati, Irmayani, Sugiyanto and Habibullah, 2017 revealed that the Government has also carried out a “stop pasung” (stop shackling) program for PWD, whose implementation seeks to involve the community and families. The results of the study stated that the province of NTB had Governor Regulation No. 22 of 2013 concerning the Prevention of Pasung in West Nusa Tenggara Province which regulates the prevention and handling of shackles. In addition, Yuni Rahmawati’s research mentions that there are efforts to handle PWD shackling in East Java by the East Java Provincial Government Health Office by forming and training mental health cadres accompanied by nurse training (Yuni Rahmawati, 2017). Research by Retno Yuli Hastuti and Adik Kristin Varlinda in Klaten Regency, Central Java, explained that the level of family knowledge affects the ability of families to care for PWD, especially in terms of self-care (Retno Yuli Hastuti and Adik Kristin Varlinda, 2017).

There are several good practices in social efforts, such as the existence of Mental Health Cadres, the Association of Mental Health as a forum for PWD after hospitalization, the establishment of a Mental Health Alert Village (DSSJ) which provides knowledge and understanding to residents about mental health, so that they can respond quickly and provide support to PWD. In addition, Daisy Prawitasari Poegoeh, a doctor from the Lawang Hospital, also explained the efforts to be free from shackles in East Java. This was done by going to PWD one by one to release them from shackles. It must be admitted that there are obstacles in its implementation, such as family trauma because some PWD often vent their anger on the family, so it is necessary to educate the family first and the process takes about three months for one PWD. RSJ Lawang also has a program to strengthen PWD’s families through the role of Hospital Health Counselors (PKRS) who assist in shackle-free activities by approaching and providing mental health knowledge to PWD’s families (FGD with Academics, 2021).

RSJ Lawang also collaborates with Non-Governmental Organizations (NGOs) such as Omah Bedali to reach people with disabilities through the disability integrated service posts (posyandu). In addition, the Lawang Hospital also launched a health card program with the Indonesian Schizophrenia Care Community (KPSI). In addition, the Lawang Hospital provides space for communities such as Bipolar Care Indonesia to convey their problems and needs, including when they are stigmatized from the surrounding environment. The PKRS also evaluates whether their services can answer the needs of PWD colleagues, especially those from the community.

In addition to social assistance, the fulfillment of economic rights and self-actualization of PWD are also important topics to be explored. Dissa Syakina Ahdanisa revealed that the opportunity for people with disabilities in Indonesia to work in the formal sector is still low (Dissa Syakina Ahdanisa, 2019). In fact, the announcement of the State Civil Service Agency Number: 01/PANPEL.BKN/CPNS 2019 concerning the Selection of Candidates for Civil Servants of the State Personnel Agency for the 2019 Fiscal Year, excludes persons with mental disabilities from the criteria for disability formation.<sup>8</sup> This is very unfortunate, considering that the provisions of the CRPD and the Disability Law have mandated the elimination of all forms of discrimination against persons with disabilities, including PWD. On the other hand, Petra WB Prakosa explained the condition of PWD in the Semin community, Yogyakarta, which showed that some PWD with mild and moderate categories were still able to carry out activities such as interacting with the surrounding community or working as woodcutters or helping neighbors in exchange for wages (Petra WB Prakosa, 2015). However, the research also mentions that the surrounding community still continues to stigmatize PWD, such as viewing disability as a curse. A study by Zuraida revealed that PWD with schizophrenia had a positive self-concept after undergoing rehabilitation thanks to the support of their family and surrounding community (Zuraida, 2017). In addition, research by Athi' Linda Yani, Abdul Ghofar, and Wiwiek Wididatie revealed several ways to improve the living standards of PWD in Bongkot village, Purworejo, namely by forming a self-help group or self-help group for PWD, providing psychoeducation for PWD families, and train mental health cadres from the local community (Athi' Linda Yani, Abdul Ghofar, and Wiwiek Wididatie, 2018). Community-based mental health efforts in Bogor are also documented in the research of Indri Yunita Suryaputri, Nur Handayani Utami, and Rofiningul Mubasyiroh which states that the local government through the Health Office has a mental health cadre program that originates from and reaches the local community (Indri Yunita Suryaputri, Nur Handayani Utami, and Rofiningul Mubasyiroh, 2019). They play a role in preventive efforts through early detection.

The existence of PWD communities such as KPSI and Bipolar Care Indonesia is quite important, because they can work together with health institutions and other institutions to help PWD. Not only that, the community can also play a role in policy advocacy, as has been done by the Indonesian Mental Health Association (PJS). So

<sup>8</sup> State Personnel Agency of the Republic of Indonesia, Announcement Number 01/PANPEL.BKN/CPNS 2019 Regarding the Selection of Candidates for Civil Servants of the State Civil Service Agency for Fiscal Year 2019, (State Personnel Agency, Jakarta: 2019), p. 2

far, PJS has been advocating, especially regarding the openness of Rehabilitation Centers for People with Mental Disabilities. In addition, PJS also conducted research and documentation of the condition of PWD during the tsunami disaster in Palu in 2018 (FGD with Civil Society Organizations, 2021). Meanwhile, Purwanti from the Difabel Inclusion and Advocacy Center (SIGAB) explained that they are currently conducting research on the civil legal capacity of persons with disabilities. In addition, KPSI, represented by Bagus Utomo, explained that his agency is working with the Jakarta Legal Aid Institute (LBH Jakarta) to form disability paralegals. KPSI has an educational program for PWD and their families, especially those related to legal and human rights issues. Another organization, namely the Yakkum Rehabilitation Center (PR Yakkum), Yogyakarta, regularly provides assistance and empowerment of PWD in three districts and one city in Yogyakarta. The assistance was carried out from house to house with the aim of assisting the recovery of PWD while surveying the needs of their assisted members. PR Yakkum also advocates for stakeholders in local villages to provide support such as budgeting for social rehabilitation services. PR Yakkum also advocated for RAD Keswa in Kulonprogo Regency (FGD with Civil Society Organizations, 2021).

### **F.3. Law and Human Rights-Themed Findings**

One of the legal problems, both criminal and civil, is that mental health issues are still tied to evidence. In criminal law, Article 44 of the Criminal Code regulates the element of forgiveness, namely when a person is proven to have committed a crime, but because of their mental condition when committing a crime, they are considered unable to account for their own actions. To be able to prove that someone can or cannot be responsible, a means of testing evidence is needed. In criminal procedural law, there are five pieces of evidence that can be used to conclude whether a person can be said to be responsible for a criminal act he has committed, which is regulated in Article 184 of the Criminal Procedure Code. Likewise with Herzien Inlandsch Regulation Article 164 which regulates 5 pieces of evidence, namely letter evidence, witness statements, suspicions, confessions, and oaths to be able to explain the civil condition of a person committing/not taking legal actions, as regulated in article 295 HIR.

In assessing whether a person can be held responsible for his actions or not, at least two pieces of evidence are needed that can explain whether a legal subject is in a mentally-disturbed condition. However, the problem is when there is no intervention of evidence at the level of investigation by the Police, or when no effort is made at all. For example, when a person with a psychosocial disability is prosecuted for allegedly committing a criminal act, documentary evidence can be the main thing to be able to prove that the legal subject undergoing the legal process is a person who can be responsible or not.

The Regulation of the Head of the Indonesian National Police Number 12 of 2009 concerning Supervision and Control of the Handling of Criminal Cases within the Police (Perkap 12/2009) has accommodated this, but the health examination process carried out on suspects, victims, or witnesses only targets physical health, not for mental and physical health. The results of the study written in the *Andalas Health Journal* stated that during 2008-2012, of the 41 suspects of violent crimes requested by *Visum et Repertum Psychiatry (VeRP)*, 75.6% experienced mental disorders, namely schizophrenia among the top 34.15% (Bikrulmal, et al; 2015). From the results of this study, it can be concluded that there are still many criminal suspects who come from groups of psychosocial disabilities, but are still undergoing the judicial process.

The police agency claims that routine health checks on detainees are carried out as a basis for fulfilling the suspect's right to health at the investigation level.<sup>9</sup> However, there are several cases that contradict this claim. One of them is the case of Rodrigo Gularte in 2004 who was arrested for carrying heroin. Rodrigo was a person with Schizophrenia who was ultimately executed in 2014. This explains that from the beginning there was no good health intervention, considering that before the execution a mental health certificate appeared from the Cilacap Hospital explaining that Rodrigo had suffered from a mental disorder since 1982.<sup>10</sup> In addition, several other information also explained that Rodrigo during his detention suffered from severe depression and had wanted to commit suicide. However, the Attorney General of the Republic of Indonesia at that time argued that Rodrigo did not have

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9 Jon, Banten Regional Police Biddokkes Routinely Conducts Health Checks & Physical Development for Detainees (2020), <https://www.jurnalline.com/2020/02/biddokkes-polda-banten-rutin-lakukan-pemeriksaan-kesehatan-pembinaan-jasmani-kepada-tahanan/> [26 April 2021]

10 Utami Diah, Rodrigo Gularte: Peselancar Pesakitan yang Menanti Mati (2015) <<https://www.cnnindonesia.com/nasion-al/20150428191742-12-49841/rodrigo-gularte-peselancar-pesakitan-yang-menanti-mati>>[26 April 2021]

schizophrenia. It was even stated that Rodrigo had pretended to have a mental disorder so that the execution of him could be postponed or canceled.

Similar to Rodrigo's case, Wendra's case in the Tangerang area is also evidence that the police agency routinely conducts health checks on detainees. As an illustration, Wendra is a person with a psychosocial disability who was framed by his friend to accept meth drugs. In short, Wendra and his friends were arrested by the police, even though Wendra did not realize what he had done. When the investigation process was ongoing there was no health intervention, thus making the case continue to progress to the Court. The legal advisor who was accompanying Wendra at the court level succeeded in proving that Wendra was a person with a psychosocial disability, and therefore could not be held responsible for his actions. The judge who tried Wendra's case considered all the evidence presented by the legal counsel. As a result, Wendra was released from all charges against him.

Reflecting on the two cases mentioned above, it can be concluded that to judge a person can, or cannot, be responsible for his actions, it depends solely on the authority of the Judge in the case. However, this issue should not need to go to court, considering that almost all criminal suspects have been detained since the investigation. The process that continues up to the trial level cannot be separated from the provisions of Article 109 of the Criminal Procedure Code concerning the termination of investigation. According to the article, mental health factors are not the basis for terminating an investigation. Therefore, if there is a suspected perpetrator of a crime who has explained from the beginning that his psychological condition cannot be held accountable for his actions, the investigator cannot terminate the investigation on the basis of Article 109 of the Criminal Procedure Code.

Judges have a strategic role in using Article 44 of the Criminal Code in deciding on whether a person can be criminally responsible. In the trial process, the act of proving and convincing the judge that the defendant has a mental disorder or not is carried out by submitting evidence. If the defendant is a person who does not understand the law and does not have legal assistance, it will be difficult for him to prove the presence or absence of a mental disorder. The majority of the defendants were detained and only minor crimes were allowed non-detainment. According to the records of LBH Masyarakat, during 2011-2017, there were 79 criminal defendants

with mental disorders with criminal and narcotics cases detained (Albert Wirya, 2018). This also confirms that the conditions of the investigation only extend to the dismissal of detention for treatment, not dismissal of the case. Still from the same record, of the 79 defendants who underwent the investigation and trial process, 58 received a guilty verdict and were subject to criminal sanctions. These findings indicate two things, namely the lack of awareness of a person's psychosocial disability condition, and that judicial institutions have not yet maximally implemented Article 44 of the Criminal Code.

This high number occurred because of the lack of consideration of supporting evidence which explained that the defendant suffers from a mental disorder. In fact, of the 79 defendants of the crime, 50 presented experts consisting of psychiatrists, psychologists, general practitioners, and criminal lecturers. The data also illustrates that the presence of experts still does not significantly influence the judge's decision in exercising his/her authority. In this context, expert opinion tends not to have an impact on the leniency of criminal sanctions against PWD which is decided by the judge.

In making decisions in criminal cases, judges still tend to view that the mental disorder condition of the defendant is not included in the element of mitigation, let alone the element of forgiveness (Adristi Herdaetha; 2017). There are even court decisions that simply release suspected perpetrators with mental disorders without ordering them to participate in rehabilitation activities, as stated in Article 44 of the Criminal Code. In determining the application of the element of forgiveness, judges need to understand that in principle the nature of psychosocial disability, whether it is episodic or impermanent. This means that if a PWD commits a crime during a relapse, they cannot be held responsible for the act. On the other hand, that if PWD commits a crime while not in relapse, they can be held responsible for the act. However, the mental health condition of a defendant needs to be a consideration for the judge in providing relief in a court judgment. In assessing the mental health condition of the defendant when committing the crime, the judge needs to listen to information from a health expert, so that he/she can see whether criminal liability can be imposed (Bilqis Rihadatul, et al; 2019).

The legal practice that is still gray in protecting the right to justice for people with psychosocial disabilities is reflected in the laws and regulations that are not yet

mature enough. Based on research, up to 2018, only West Java Province had a Regional Regulation on the Implementation of Mental Health. Programs related to the implementation of mental health are essential, considering that there are still many neglected rights of psychosocial disability groups, one of which is in the form of shackling (Yunita Arisanti, et al; 2018). Based on the records, not all provinces and cities/districts in Indonesia have special regulations regarding shackling (pasung), even though the Law on Health has regulated criminal sanctions for such act. DI Yogyakarta Province has become one of the leaders in mental health issues, for establishing guidelines regarding the prevention of shackles since 2014 through the Regulation of the Governor of the Special Region of Yogyakarta Number 81 of 2014 (Odilia Esem; 2019). In addition to the prohibition on shackling, other regulations or policies are needed, for example those that regulate mental health service procedures in healthcare facilities.

The anti-shackle movement has been started since the Minister of Home Affairs (Mendagri) issued a regulation back in 1977. In the regulation, the Minister of Home Affairs instructs all regional heads to prohibit shackling, but in practice it looks like a mere lip service.<sup>11</sup> So far, no sanctions have been found for local governments that do not form regulations or special policies related to the prohibition of shackling. Until now, the government has only called for shackling to be classified as a criminal act, so that anyone who commits such act can be reported and prosecuted. However, the call was not accompanied by the establishment of regulations related to the prohibition of pasung accompanied by criminal penalties for perpetrators. This has an impact on law enforcement processes that have never been carried out, and law enforcement agencies do not carry out the function of escorting and supervising the practice of shackling/pasung that still occurs today. This condition is an illustration that mental health problems have not become a priority issue in the field of justice. Without a strong policy implementation, the practice of shackling those with psychosocial disabilities can continue or recur, due to the lack of information and knowledge conveyed to families about how to care for people with disabilities (Mulia Astuti; 2017).

The big impact when mental health issues have not become a priority in legal and policy aspects is that psychosocial disability groups will continue to be victims.

11 Ministry of Health Republic of Indonesia (2015), <<https://mediakom.sehatnegeriku.com/penuhi-hak-warga-negara-dengan-bebas-pasung/>>[26 April 2021]

Based on LBH Masyarakat's records, during 2011-2017 there were 36 PWD victims of criminal cases that entered the realm of justice, of which 26 were women. Cases that often involve groups of psychosocial disabilities are domestic violence and sexual violence, which amounted to 20 cases. The same was also found by the Institute for Inclusion and Advocacy Movement for Disabilities (SIGAB) which stated that the number of women with disabilities who experienced sexual violence was higher than women without disabilities, amounting to 37.3%.<sup>12</sup> In fact, a number of victims only realized that they were victims of sexual violence after 6-8 months of pregnancy, when their stomach has enlarged.

Groups with psychosocial disabilities have not received legal attention, either in the form of assistance for victims, support for health services for victims and suspected perpetrators, or even legal intervention so that the cases experienced can be resolved as the rights guaranteed by the Criminal Procedure Code. Law enforcement on cases involving persons with psychosocial disabilities must be carried out, especially with the increasing number of victims against persons with disabilities, specifically cases of violence.<sup>13</sup> If there is a violation of the rights of the psychosocial disability group, law enforcers should immediately intervene. Don't let the settlement process be hampered because victims do not report, no evidence is found, or present-day ethical issues in the medical world. Various other schemes can be used to prevent violations of the rights of psychosocial disability groups. For example, violations that occur in the medical sphere should be handled with the provisions of Law Number 44 of 2009 concerning Hospitals, Law Number 36 of 2009 concerning Health, Law Number 29 of 2004 concerning Medical Practices, and Law Number 8 of 1999 concerning Consumer Protection to address violations of the rights of disabled people (Basuni; 2014). It is also necessary to pay attention to and echo the fulfillment of accessibility for psychosocial disability groups with the status as justice seekers in order to know their rights, considering that this is also a form of inclusion in the judiciary (Siska Naomi Panggabean; 2019).

Although there are many regulations governing the rights of psychosocial disability group, there are still regulations that describe the legalization of depriving the rights of persons with disabilities. As stipulated in Chapter 17 of the Civil Code Article

12 Ade Nashudin Al Ansori (2021), <<https://www.liputan6.com/disabilitas/read/4448207/perempuan-dengan-gangguan-jiwa-lebih-rentan-mengalami-kekerasan-seksual-ketimbang-non-disabilitas#>>[26 April 2021]

13 Dewanto Samodro (2021), <https://www.antaraneews.com/berita/1875580/komnas-perempuan-disabilitas-rentan-menjadi-korban-kekerasan>

433-460. In the chapter that regulates the curatorship, it is not clearly regulated in the formal and material provisions in the process of applying for curatorship. The biggest impact of the under-curatorship status is the legal capacity status of the respondents, who come from psychosocial disability groups, which are revoked or not recognized. The position of the competent person is no longer equal as a human being because their civil rights are lost through court decisions. In addition, a polemic arose regarding the validity period of the curatorship based on the judge's ruling. Based on the 49 Judges rulings collected by LBH Masyarakat, 46 applications were granted. This means that only three applications were rejected by the Judge. Of the 46 applications that were granted, 10 respondents were from psychosocial disability groups, whose legal capacity was revoked (Albert Wirya, et al; 2020). 49 of the Judge's ruling document did not involve a direct examination of the Petitioner. A study of the decision of the Supreme Court of the Republic of Indonesia Number: 2221 K/PDT/2010 shows that the consideration made by the Supreme Court still resulted in the grant of petition for curatorship by the Petitioner in 2009, although the Respondent was never present during the process. This was not disputed in the Supreme Court's Decision because of the consideration that the Petitioner had not harmed the Respondent, and the examination process of the application was considered good because it had seen evidence regarding the Respondent's condition (Rima Paramita Sita; 2018).

The constitution mandates that every human being has equal rights in recognition, guarantees, recognition, and legal certainty, including people with disability. However, people still think that people with disability are different from other individuals. This view has an impact on disability groups, especially people with psychosocial disabilities, about 75% of whom still experience stigma and discrimination.<sup>14</sup> People with psychosocial disabilities receive stigma in various forms, ranging from the nickname "disabled person" to "crazy person", who is not considered a human being, is shackled, or even subject to criminal act. Meanwhile, the form of discrimination inherent in the disabled group is considered as an object to be pitied and not given the opportunity to work and work like other human beings (Dissa Syakina; 2019).

In addition, the issue of psychosocial disability often becomes political ammunition during general elections. Many people find it funny if a group of psychosocial

14 Dian Afrillia (2018), <<https://beritagar.id/artikel/gaya-hidup/hentikan-stigma-terhadap-orang-dengan-gangguan-jiwa>> [26 April 2021]

disabilities participates in voting. The government also still seems to be hesitant to respond to public opinion. As if giving a step out, but the way it is done seems to have not explained the importance of an equal existence between groups of psychosocial disabilities and other people. In 2018, the KPU issued Circular Letter Number 1401/PL.02.1-SD/01/KPU/CI/2018, which requires psychosocial disabled groups to bring a letter/certificate from a doctor during the election stating they are able to exercise their right to vote. This policy shows that the KPU as the organizer of the general election in Indonesia still does not understand that participating in government is a right, so that all people can choose to exercise their rights. The use of the right to vote is not an obligation that requires that a person who participates must be in a healthy mental state and knows who and what they are voting for. From a human rights perspective, the granting of voting rights for psychosocially disabled groups is absolute because part of the citizens who are given the right by the state to be able to participate in the democratic process procedurally (Tony Yuri Rahmanto; 2019).

## **F.4. Public Policy-Themed Findings**

Public policy can be defined as the relationship between government units and their environment (Leo Agustino; 2008). There need to be certain characteristics to explain public policy, which must be easy to understand as well as easy to measure. So, public policy is a government activity to solve problems in the community, either directly or through various institutions, to realize certain goals in society (Taufiqurokhman; 2014).

In the issue of human rights, attention to the rights mandated in the constitution of a country still raises a lot of polemics. For example, in the last three decades, the global world has made mental health a central issue in health development. The World Health Organization (WHO) on “Basic Document, forty-eighth edition” has emphasized that the definition of healthy is integral, meaning that it is not only free from disease, but also the condition of a person to achieve complete physical, psychological and social well-being. The WHO policy line has important implications for the entire body of health policy implemented by WHO member countries. Based on this condition, mental health is no longer seen as a peripheral issue in health development, given the seriousness of the impact caused by weak mental health conditions. A study from The Global Burden of Disease conducted by The Institute

for Health Metrics and Evaluation (IMHE) in 2015 revealed that 6 out of 20 types of diseases that are considered the most responsible for causing disability are mental disorders.<sup>15</sup>

The implementation of policies, especially in Indonesia, still seems indifferent to various research results issued by other countries on mental health issues. In Indonesia, the issue of mental health is still attached to the stigma, which has resulted in many policies that have not succeeded in solving the problem. The policy instrument that oversees efforts to improve the quality of mental health in Indonesia is through the Keswa Law, but until now the Government has been slow to form implementing regulations for the Act. Substantially, the direction of mental health policies in Indonesia is still in the curative area, not yet at the preventive, promotive or rehabilitative stages (Mental Health System National Strategy; 2015).

The real evidence of mental health policies that are not based on research results is that the number of mental hospitals is still relatively low, namely only 48 hospitals are available, and there are still 8 out of 34 provinces in Indonesia where mental hospitals are not yet available. In the general hospital sector, out of a total of 1,678 hospitals recorded, only about 2% provide mental health services. Likewise with hospitals in Indonesia, out of a total of 441 hospitals owned by district/city governments, only 15 hospitals have psychiatric services.<sup>16</sup> This is because the health budget in Indonesia is inadequate, even low when compared to a number of other low-income countries in the world. Low-income countries such as Rwanda, Tanzania, and Liberia are even able to allocate funds for the health sector up to 15% of their APBN, while Indonesia only allocates 2.1% of the APBN.<sup>17</sup> The total budget allocation is quite low because it is only about 10% of the total education budget in Indonesia, while what is guaranteed in Article 31 paragraph (4) of the 1945 Constitution is at least 20% of the APBN.

An evidence-based mental health policy certainly cannot be formulated if quality epidemiological data is not available, so the first step that must be taken by the Government and local governments is to try to photograph the mental health condition of the Indonesian people through comprehensive research. With comprehensive

15 The Institute for Health Metrics and Evaluation (2015), <<http://www.healthdata.org/briefs/global-burden-disease-2015-factsheet>> [26 April 2021]

16 Social Ministry of Republic of Indonesia (2017), <<https://intelresos.kemensos.go.id/new/?module=Program+Gsp&view=fakta>> [26 April 2021]

17 Indonesian Health Policy, <<https://kebijakankesehatanindonesia.net/25-berita/berita/98-alokasi-anggaran-untuk-kesehatan-ri-ka-lah-dari-negara-miskin>> [26 April 2021]

data, the design of key programs and budget allocations will be proportionally regulated. The issue of budget politics is the next issue that must be resolved by the Government and local governments. Without the political commitment shown by the Government and local governments to allocate sufficient budgets in opening access to mental health services, the issue of treatment gaps will certainly never be resolved. The government must start prioritizing to build units that are able to provide quality mental health services, accompanied by the availability of professional health workers (Ilham Akhsanu Ridlo; 2018).

PPH Unika Atma Jaya in 2019 evaluated the implementation of mental health services at health centers in the Palu, Jakarta, Yogyakarta and Denpasar areas. The purpose of this research is to see a description of the implementation of comprehensive mental health services. In addition, this research is also to look at the factors that influence the implementation of mental health services provided to groups of psychosocial disabilities (FGD with Academics, 2021). The findings of mental health service problems in the report are as follows: First, services that have not been standardized, for example some puskesmas are only able to provide medical services and can even only refer patients to hospitals, while other puskesmas do not have a Mental Health Steering Team at all. Community (TPKJM); Second, the unavailability of technical guidelines and standards for mental health services at the Puskesmas, such as the unavailability of technical guidelines for the provision of comprehensive mental health services. This situation has caused several persons in charge of mental health programs to independently develop guidelines; Third, limited human resources for mental health services, for example there are puskesmas that do not yet have trained health personnel, resulting in a lack of uniformity in the service efforts that can be offered to patients; Fourth, drug shortages often occur, because there is no derivative policy that regulates in detail the list of standard psychopharmaceutical drugs that must be available at the puskesmas. As a result, the number of patient referrals to hospitals is high because they cannot be completely handled at the puskesmas; Fifth, the financing is only focused on handling groups of severe psychosocial disabilities; and Sixth, the recording and reporting system is not yet optimal, resulting in limited monitoring and evaluation activities that are only focused on curative efforts for groups of severe psychosocial disabilities, making it difficult to formulate evidence-based policies and regulations for patients with psychosocial disabilities (Made Diah Negara; 2019).

As a further illustration, Indonesia has a mental health service policy in the form of government regulations, one of which is Government Regulation (PP) Number 2 of 2018. The PP does cover one aspect of mental health, but only services for people with severe mental disorders are contained in this PP as one type of basic service, specifically Article 6 paragraph (3) letter J. Unfortunately, in the same year the government issued Presidential Regulation (Perpres) Number 82 of 2018 concerning National Health Insurance which excludes people with a tendency to self-harm and narcotics users from the national health insurance system as stated in article 52 letters J and I. Meanwhile, Regulation of the Minister of Health (Permenkes) Number 4 of 2019 concerning Technical Standards for SPM in the Health Sector, is still unable to provide comprehensive regulations related to technical mental health services because it only regulates services for people with severe mental disorders.

The illustration above indicates that mental health services at puskesmas facilities and other health institutions require a more comprehensive policy. The government needs to make regulations on technical guidelines for mental health facilities from the primary level by the Ministry of Health, Provincial Health Offices, District/City Health Offices, and Community Health Centers. In addition, policies related to mental health services must apply to all PWD, not just limited to people with severe mental disorders.

As an illustration, there are several efforts that can be made to present a more comprehensive policy; The first is to encourage the issuance of Government Regulations (PP) related to comprehensive mental health efforts and Presidential Regulations (Perpres) related to coordination of mental health efforts that regulate cross-sectoral involvement in handling psychosocial disability groups, as proclaimed in the 2020-2024 Strategic Plan of the Ministry of Health; The second is to provide technical guidance on mental health management on a regular basis to those in charge of mental health in the area of the Health Service and Puskesmas and ensure the availability of essential mental health medicines; The third is to ensure and standardize mental health service planning and budgeting for promotive and preventive activities at the Puskesmas level; Fourth is to collaborate with the pharmacy department of the puskesmas in designing mental health drug needs; Fifth is to conduct rehabilitation efforts for patients, such as: establishing a peer support group involving survivors and caregivers, or collaborating with social institutions to

facilitate skills training for stable psychosocial disability groups; and Sixth is to recruit the surrounding community as mental health cadres and to increase the capacity of cadres on a regular basis, and to monitor and evaluate the performance of cadres.

Given the points mentioned above, public policy in the issue of mental health services can be a good momentum for change in protecting the right to health for groups with psychosocial disabilities. As a basic policy, it is also necessary to encourage policies that are able to target other issues such as eliminating stigma and discrimination for groups with psychosocial disabilities, recognition and equality as humans, prohibitions and sanctions against pasung, and also making inclusive services for disabled groups, particularly for groups psychosocial disability status as a seeker of justice.



## G. CONCLUSION

The issue of psychosocial disability is multidisciplinary in nature with a unique position and urgency in each scientific field. Based on the results of discussions and research documents found, here are some summaries and conclusions obtained:

1. Research from the health sciences revolves around assistance for PWD, both at the time of experiencing certain symptoms until after treatment. The assistance provided is in the form of administering drugs such as sertraline 1x50 mg to psychotherapy. From 2011 to 2021, there were at least four studies that reviewed the assistance of PWD through drug administering. In addition, four other studies reviewed the psychotherapy-based assistance supervised by medical personnel. There has even been a program related to mental health that is quite comprehensive in Klaten Regency, Central Java, which involves medical

personnel, PWD's family, and the community. In addition, health practitioners from the Lawang Hospital stated that they were involved in assisting PWD to recover from relapse, psychoeducation of families and communities, to forensic psychology investigations in order to assist law enforcement. On the other hand, there are also studies that reveal the lack of stock of drugs is an obstacle in PWD's efforts of self-recovery.

2. In addition to the health sector, social problems related to mental health have also been widely studied. There are seven studies that discuss how the level of knowledge and family support for PWD is directly proportional to their quality of life. However, three studies show that family support for PWD is still relatively low in Indonesia, which results in a lower quality of life for PWD and even increases the frequency of relapses. In addition, two studies review family acceptance of the relatively long and multi-staged condition of PWD. In addition, there were three studies that discussed the issue of stigma and stigmatization of PWD. Meanwhile, eight studies revealed that there are financial and social burdens for families who care for PWD family members. On the other hand, five studies discuss the practice of synergizing medical personnel, the government, families, and the community in providing support to PWD to improve their quality of life. There are also programs that involve these parties to assist and improve the quality of life of PWD in several areas in Indonesia.
3. There are several laws and regulations related to the issue of psychosocial disability in Indonesia. Unfortunately, these laws and regulations have not been able to optimally protect and support PWD. In fact, the issue of PWD's right to political participation has often been a hot debate during general elections, even though the right to political participation has been guaranteed in the 1945 Constitution and even the CRPD.
4. Public policies related to the issue of psychosocial disabilities still leave many gaps for improvement. Although there has been a Law on Health as a regulation that covers the issue of psychosocial disabilities, in practice several obstacles were found, such as: First, the lack of health budget in the APBN; Second, there are no technical guidelines and comprehensive mental health service standards; Third, the lack of trained and capable human resources; Fourth, there are frequent drug vacancies or uneven distribution; Fifth, financing that is only focused on handling groups of severe psychosocial disabilities; and Sixth, the recording and reporting system is not yet optimal.

5. It should be acknowledged that stigma and discrimination are separate barriers to mental health issues. Stigma and discrimination can hinder efforts to fulfill the right to health. In addition, stigma and discrimination also hinder other rights such as the right to political participation, the right to work, to the right to equality before the law. Moreover, the stigmatization process can create a self-stigma for PWD, which can hinder the recovery process for PWD itself.

## H. RECOMMENDATIONS

As a continuation of this research, the researchers urge the Government, local governments, academics, health practitioners and the public to create a national scale mental health program that is measurable and well-documented. The mental health program can apply good examples such as community-based or community-based programs that have been carried out in Klaten Regency, Central Java, plus more structured and accessible documentation. There are several efforts that can be done, namely:

1. Detailed and comprehensive data collection of PWD on a national scale which includes the type of mental disorder, its duration, and the type of treatment or care that has been given;
2. Optimizing the role of community health centres (puskesmas) in preventive and promotive mental health efforts through mental health cards, establishment of mental health posts, increasing knowledge of PWD's families, and training and monitoring mental health cadres in every region in Indonesia;
3. Equitable availability and access of drugs for PWD throughout Indonesia;
4. Establishment of a monitoring and evaluation system for policy implementation related to psychosocial disability issues;
5. Harmonization and optimization of laws and regulations and policies related to issues of psychosocial disability and mental health that are supportive and friendly to PWD; and
6. Abolish discriminatory regulations and policies that violate the rights of PWD.

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