

The Indonesian National Commission
on Violence Against Women
(Komnas Perempuan)'s Submission to

Call for Inputs on Mental Health and Human Rights – OHCHR

HRC Resolution 52/12 – Mental Health



NATIONAL COMMISSION ON
VIOLENCE AGAINST WOMEN
KOMISI NASIONAL ANTI KEKERASAN TERHADAP PEREMPUAN

KOMNAS PEREMPUAN

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1. Existing enabling normative and policy measures at the local, national and regional level applied for the realization of the human rights of persons with psychosocial disabilities and current or potential users of mental health services

Policies at the local level are generally implementations or derivative policies of national policies. Several regions in Indonesia have developed regulations in the form of Regional Regulations and regional programs related to “mental health alertness” in the context of protection for persons with psychosocial disabilities and their prevention, including in the Aceh Province, several districts/cities of the East Java Province, the Special Region of Yogyakarta, the West Java Province, the Central Java Province, and the Sanggau Regency in West Kalimantan. In addition, several Provinces/Districts/Cities in Indonesia have established a Community Mental Health Steering/Implementation Team (TPKJM) which regulates the protection and fulfillment of the rights of persons with psychosocial disabilities. This TPKJM issues agreements that regulate the accessibility of health services including for mental health.

Meanwhile, policies that protect the rights of persons with psychosocial disabilities at the national level in Indonesia consist of a broad legal and regulatory framework, including:

- ❖ **Law No. 19 of 2011 on the Ratification of the Convention on the Rights of Persons with Disabilities.**
- ❖ **Law No. 8 of 2016 on Persons with Disabilities:** This law affirms the rights of persons with disabilities, including the rights to health, education, employment, and independent living, and requires the government to provide special protection for persons with psychosocial disabilities.
- ❖ **Law No. 17 of 2023 on Health:** Articles 74-85 of this law regulate mental health including the rights of persons with psychosocial disabilities and the access to mental health services.
- ❖ **In regard to protection for persons with psychosocial disabilities from shackling, neglect, violence, and suicide prevention, Law No. 17 of 2023 on Health also criminalizes the perpetrators of these acts as violators of the law that is subject to legal sanctions and fines.**
- ❖ **Government Regulation No. 28 of 2024 on the Implementation of Law No. 17 of 2023 on Health:** Articles 145-177 regulate mental health starting from promotive, preventive, curative, to rehabilitative efforts.
- ❖ **National Action Plan for Persons with Disabilities (RAN PD):** The Indonesian government through the **Ministry of Social Affairs** and the **Ministry of Health** has established a RAN PD that regulates national strategies for improving the quality of life of persons with disabilities, including access to mental health services.
- ❖ **Government Regulation No. 60 of 2020 on Disability Service Units in the Employment Sector.** This regulation stipulates the obligation of regional governments to establish Disability Service Units (ULD) for employment, which are implemented by the government agencies responsible for regional employment affairs at the provincial and regency/city levels. The Employment ULD is a service unit integrated within the agency that manages regional employment affairs. Furthermore, this regulation addresses the resources, responsibilities, monitoring and evaluation, reporting, guidance, supervision, and funding of the Employment ULD. The presence of the Employment ULD ensures that the rights and needs of individuals with psychosocial disabilities within the employment sector are adequately safeguarded.
- ❖ **Regulation of the Minister of Health No. 59 of 2016 on the Handling of Patients with Mental Disorders without Family:** provides guidance for mental health hospitals and other health facilities in handling special cases for persons with psychosocial disabilities who require intensive care.
- ❖ **Government Regulation No. 75 of 2020 on Habilitation and Rehabilitation Services for Persons with Disabilities:** regulates habilitation and rehabilitation services which include handling, institutions, service standards, guidance and supervision, complaints, and funding.
- ❖ **Presidential Regulation No. 53 of 2021 on the National Action Plan for Human Rights (RANHAM) 2021-2025**
- ❖ **Regulation of the Minister of Law and Human Rights No. 23 of 2022 on the Handling of Alleged Human Rights Violations.**
- ❖ **Regulation of the Minister of Health No. 54 of 2017 on the Handling of Shackling of Persons with**

Mental Disorders. However, this policy has not criminalized the perpetrators of shackling as a human rights violation that includes the deprivation of liberty which is not in line with the principles of the Convention on the Rights of Persons with Disabilities (CRPD).

- ❖ **Regulation of the Minister of Social Affairs No. 12 of 2018 on Guidelines for the Prevention and Handling of Shackling of Persons with Mental Disabilities.** This regulation also has not criminalize perpetrators of shackling persons with psychosocial disabilities.
- ❖ **Decree of the Minister of Law and Human Rights No. M.HH-01.HA.04.02 of 2021 on the Working Group on Respect, Protection, Fulfillment, Enforcement, and Promotion of Human Rights for Persons with Mental Disabilities:** more commonly referred to as the P5 Human Rights Working Group (Pokja P5 HAM), its duties include monitoring, evaluating, and advocating for protection from violence, torture, and inhumane treatment of persons with psychosocial disabilities.

In addition, regional policies regarding the protection of the rights of persons with psychosocial disabilities include:

- ❖ **ASEAN Declaration on Disability-Inclusive Development and Partnership for a Resilient ASEAN Community:** the member states commit to protect the rights of persons with disabilities and support the integration of persons with disabilities into society, including those with psychosocial disabilities.
- ❖ **The 2030 Agenda and Sustainable Development Goals (SDGs):** The SDGs Agenda adopted regionally in Southeast Asia recognizes the importance of mental health in **Goal 3 (Good Health and Well-being)** and encourages strengthening inclusive mental health services and the fulfillment of other rights related to aspects of good health and well-being.
- ❖ **ASEAN Disability Forum:** provides a number of normative instruments related to the protection and fulfillment of the rights of persons with mental disabilities that are integrated with other types of disabilities.

2. Challenges encountered and good practices in the implementation of enabling normative and policy measures

Challenges:

- ❖ **Limited access to services:** Access to mental health services is still limited, especially in remote areas. Lack of mental health service facilities, resources, and trained health workers are major barriers.
- ❖ **Layered violence against women with disabilities:** Persons with disabilities, especially women and children, are vulnerable to violence, exploitation, and inhuman treatment in various settings, including in care institutions. Women with disabilities are vulnerable to facing layered discrimination and gender-based violence. The National Commission on Violence Against Women (Komnas Perempuan)'s monitoring of women with mental disabilities in psychiatric hospitals in Papua (2021) found that women with mental disabilities experience layered discrimination, with the majority being victims of domestic violence and coming from underprivileged families. Negligence and stigma against women with disabilities has caused the deterioration of their living conditions and deprivation of their basic human rights.
- ❖ **Indonesia already has Government Regulation No. 39 of 2020 on Appropriate Accommodation for Persons with Disabilities in the Judicial Process, which includes the provision of services and facilities and infrastructure, but in practice there are still many obstacles.** Komnas Perempuan documented a case encountered in the 2023 Public Hearing regarding the obstruction of access to justice for a girl with intellectual disabilities who was a victim of sexual violence. The sexual violence case was not processed because police officer had difficulty obtaining information from the victim. It said that the testimony from the victim is not reliable due to the inconsistent information about the number of the perpetrators. On the other hand, Law No. 12 of 2022 on the Criminal Act of Sexual Violence has regulated special assistance including experts in providing testimony or evidence. The burden of proof is not solely on the victim.

- ❖ **There are still cases of gender-based violence and inhuman/degrading treatment by fellow residents and staff against women with psychosocial disabilities in Mental Health Hospitals/Rehabilitation Centers.**¹ These include violation to the right of body autonomy in the form of forced contraception, lack of reproductive rights health care, lack of clean water, and loss of the child custody if the women with psychosocial disabilities give birth in the rehab center. In addition, although the government has issued Government Regulation No. 39 of 2020 on Appropriate Accommodation for Persons with Disabilities in the Judicial Process, its implementation is still very limited.²
- ❖ **Lack of resources:** Lack of financial and logistical resources for rehabilitation and support programs for persons with psychosocial disabilities is a major constraint. The budget allocated for mental health services is still inadequate. These include limited trained mental health workers,³ and lack of facilities and infrastructure including the availability of mental disorder drugs (psychopharmacological drugs).
- ❖ **Cross-sector coordination:** Coordination between various related cross-sectors is often suboptimal. Weak cross-sector coordination often results in fragmented and unintegrated programs.
- ❖ **Lack of disaggregated data:** Lack of specific and disaggregated data on disability hampers the formulation of appropriate policies. More comprehensive data is needed to improve program effectiveness.
- ❖ **Geographical barriers:** The provision of services for persons with disabilities is generally concentrated in large cities, resulting in disparities in access in rural and remote areas.
- ❖ **Lack of commitment from local governments:** The implementation of national policies at the local level regarding persons with psychosocial disabilities has not been optimized. Existing policies and programs often fail to provide comprehensive support that is in line with the principles of the CRPD and Law No. 8/2016 on Persons with Disabilities for people with psychosocial disabilities, such as access to mental health services, skills training, and employment opportunities.
- ❖ **Lack of understanding and law enforcement:** Although there are norms and policies that protect the rights of persons with psychosocial disabilities, their implementation is often weak. Most implementers in the field, including medical personnel, state officials, employers, and the general public, do not fully understand the rights stipulated in the Law on Persons with Disabilities. This creates a gap between existing policies and the reality in the field. Many people with mental disabilities do not receive guaranteed rights, such as access to inclusive education or equal employment.
- ❖ **Stigma due to lack of public awareness:** There is still a lot of stigma and discrimination against persons with psychosocial disabilities. This causes them to be ostracized or treated inhumanly in everyday life, including in access to health services, education, and employment. The stigma attached to persons with psychosocial disabilities makes people reluctant to seek help or talk about their condition, even perpetuating stigma and discrimination based on myths, such as that the cause of mental disorders is witchcraft, lack of faith, or the sins of parents. This also makes society reluctant to accept persons with psychosocial

1 The results of Komnas Perempuan's monitoring concluded that, in addition to various forms of gender-based violence, there were also indications of forms of torture and other cruel and inhuman treatment in detention-like spaces, in this case mental health hospitals and rehabilitation centers, in forms of restraint with cloth ropes and iron chains, deprivation of liberty with solitary confinement, inadequate inpatient rooms, forced to treatment/medical facilities with violence, use of drugs that risk organ damage, and shackling placed outside of rehabilitation centers. (Background Study Report on the Implementation of 25 Years of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) Ratification, Komnas Perempuan, 2022)

2 Komnas Perempuan noted that the obstacles experienced by women victims with disabilities in accessing justice were: (1) Law Enforcement Officers (APH) do not have a disability perspective and doubt the testimony of women victims with disabilities, especially if the victim has an intellectual disability or psychosocial disability; (2) Evidence because sexual violence generally occurs in quiet, invisible, isolated spaces, and women victims with intellectual disabilities or psychosocial disabilities often do not understand what is happening. Even unwanted pregnancies due to sexual violence are only discovered after the victim's body has changed; (3) Minimal availability of special companions; (4) Resolving cases of sexual violence with social mechanisms in the form of customary and family methods and paying fines because persons with disabilities are considered unfit to face the law. (Komnas Perempuan's Report to the Committee on Economic, Social and Cultural Rights (CESCR) in response to the List of Issues and the Response of the Government of Indonesia, 2024).

3 Based on Komnas Perempuan's monitoring (2022) of the Pidie District Hospital (RSUD), Aceh, there is only 1 psychiatrist and 1 psychologist for 4000 patients with psychosocial disabilities. Meanwhile, referring to the results of the Focus Group Discussion, there are only 9 psychiatric specialists throughout all of Papua.

disabilities in social or professional environments, and families neglect or shackle them. Stigma is also directed at mental health hospitals as places for “crazy people”.

- ❖ **From a legal perspective, there is still discrimination against persons with psychosocial disabilities in terms of equality before the law.** Indonesian law still recognizes the *curatele* or guardianship system for persons with disabilities, in addition to the term “handicapped people”.

Good Practices

- ❖ **Law No. 8 of 2016 on Persons with Disabilities.** The adoption of this law is an effort by the government to ensure that the rights of persons with disabilities are legally guaranteed, with provisions in accordance with the CRPD.
- ❖ **Government Regulation No. 52 of 2019 on the Implementation of Social Welfare for Persons with Disabilities.**
- ❖ **Government Regulation No. 70 of 2019 on the Planning, Implementation, and Evaluation of the Respect, Protection, and Fulfillment of the Rights of Persons with Disabilities.**
- ❖ **Government Regulation No. 13 of 2020 on Reasonable Accommodation for Students with Disabilities.**
- ❖ **Government Regulation No. 39 of 2020 on Reasonable Accommodation for Persons with Disabilities in the Judicial Process.**
- ❖ **Government Regulation No. 42 of 2020 on Accessibility to Housing, Public Services, and Disaster Protection for Persons with Disabilities.**
- ❖ **Government Regulation No. 60 of 2020 on Disability Service Units in the Employment Sector.**
- ❖ **Mainstreaming disability in policy.** The government has integrated the rights of persons with disabilities in planning and budgeting through RANHAM and the National Medium-Term Development Plan (RPJMN). Mainstreaming disability is also a policy of Komnas Perempuan as a National Human Rights Institution (NHRI) with a specific mandate to develop conditions conducive to the elimination violence against women and the promotion women’s rights, including women with psychosocial disabilities and their protection.
- ❖ **Collaboration with Organizations for Persons with Disabilities (OPD).** The government has involved OPD in policy formulation, which can strengthen the rights-based approach and empower persons with disabilities.
- ❖ **Some areas have clinical psychologists and psychologists working in the Community Health Center (Puskesmas).** This greatly supports efforts to prevent and treat mental disorders (such as in the Sleman Regency of Yogyakarta, Jakarta, Surabaya, etc.). In some areas, the community health center is strengthened by the availability of mental health services that can be accessed by local residents including women victims of violence who need psychological recovery.
- ❖ **The establishment of integrated Mental Health Service Posts (Posyandu)** in several areas as a form of public empowerment in mental health efforts in the community (such as in Central Java, East Java, South Kalimantan, Aceh). Unfortunately, not all community health centers provide mental health polyclinics yet.
- ❖ **The establishment of initiative programs** in several regions, including Aceh, as an effort to improve the fulfillment of the rights of persons with disabilities, such as the Mental Health Alert Village (DSSJ) program.
- ❖ **The inclusion of mental health as one of the focuses in the healthy school movement.**
- ❖ **Health human resources trained in the management of persons with psychosocial disabilities** such as CMHN (Community Mental Health Nurses), Psychiatric Doctors, Mental Health Cadres, and Continuing Education for General Practitioners to Psychiatric Specialists and for Nurses to Psychiatric Specialist Nurses at Mental Health Hospitals/Regency/City Hospitals.
- ❖ **Mental Health Services:** Establishing Community Health Centers that provide comprehensive mental health services (Promotion, Preventive, Curative, and Rehabilitation) and aftercare services such as

home visits, home care; establishing Psychosocial Rehabilitation Centers in sub-districts and Mental Health Alert Village in villages, Regional Public Hospitals in Districts/Cities with outpatient and inpatient mental health services; Mental Health Hospitals developing Integrated Post-Hospital/Mental Health Hospital Treatment Rehabilitation Services; Mental Health Hospitals as Supporting Hospitals provide opportunities for Regional Public Hospitals and Community Health Centers that are supported to become a place for practicing Doctors and Nurses and other health workers, a place for training, both on the job training and in-house training, as well as work study and consultation, mentoring and facilitative supervision.

- ❖ **Mental health service facilities for persons at risk and persons with psychosocial disabilities continue to develop** with regular efforts, innovation and development based on the needs of mental health services in line with mental health cases that develop in the community in providing holistic and comprehensive services.
- ❖ **The Law on the Criminal Act of Sexual Violence which integrates special assistance and evidence for women with psychosocial disabilities who are victims of sexual violence and the Integrated Criminal Justice System Handling Cases of Violence Against Women (SPPT-PKKTP) which integrates special needs for women victims of gender-based violence.**
- ❖ **The advocacy movement by organizations of persons with disabilities to remove the criteria of “physically and mentally healthy” in job vacancy advertisements for job applicants.**
- ❖ **The existence of a shackle-free regional policy** in several districts/cities that has been running for a relatively long time. **Nationally, the 2023 Health Law has criminalized perpetrators of shackling.**
- ❖ **The existence of a deinstitutionalization advocacy movement**, including community-based rehabilitation for persons with psychosocial disabilities, is in line with the CRPD inclusion principle.
- ❖ **The existence of a Roadmap for the Protection, Advancement, and Fulfillment of Human Rights**, including standard setting and elimination of violence and torture and other cruel, inhuman, or degrading treatment or punishment, including gender-based, for persons with psychosocial disabilities in rehabilitation centers and mental health hospitals.
- ❖ **The establishment of the National Commission on Disabilities**, whose mandate includes advancing the human rights of persons with psychosocial disabilities as mandated by the CRPD and Law No. 8/2016 on Persons with Disabilities.

3. Whether and if so, how, the OHCHR’s Mental Health Guide (Mental health, human rights and legislation: guidance and practice) was used and any feedback on the Guide itself

The United Nations (UN) Mental Health Guidelines serve as a reference in the preparation of regulations/policies related to mental health involving relevant stakeholders including communities and survivors with psychosocial disabilities as people with lived experience (PWLE). Meanwhile, at the local level, which has limited mental health resources or in more remote communities, knowledge of these guidelines is lower. This is due to the lack of socialization of these guidelines and language barriers considering that the guidelines are in English.

Komnas Perempuan noted that deinstitutionalization regulated in the guidelines has now begun to be integrated into policies, particularly in the roadmap of the P5 Human Rights Working Group to resolve the inequality experienced by persons with mental disabilities. The P5 Human Rights Working Group consists of the government, civil society organizations, and various national human rights institutions that are involved in monitoring and providing input on the preparation of the roadmap.

For community-based care programs, some of the obstacles are: (a) The unpreparedness of families and basic communities to provide protection and care for persons with psychosocial disabilities; (b) The lack of optimal understanding of persons with psychosocial disabilities, their obstacles and special needs that have an impact

on the lack of care and discipline in providing medication, in addition to economic factors, and stigma from the surrounding community, hampering the inclusion or integration process. Komnas Perempuan found one district in Aceh that had carried out community care processes. The supporting factors are the existence of an aftercare rehabilitation program with qualified nursing staff. In addition, there are community organizations that provide assistance and policies from village heads who also help ensure a conducive situation in the community if there is a relapse from the persons with disabilities.

In general, the challenges in implementing these guidelines include ensuring the availability of adequate, accessible and standardized mental health services set by the UN guidelines. Implementation in the field also frequently faces obstacles in terms of cross-sectoral coordination and the availability of adequate budgets. Often, mental health policies are not coordinated with other sectors such as education, employment, and social welfare, which should work together to support the rights of persons with psychosocial disabilities. Other obstacles include the lack of training for mental health professionals and the lack of awareness of the rights of persons with psychosocial disabilities.

4. Suggestions of other policy tools for the implementation of a human rights perspective to mental health mindful of the centrality of mental health for the full realization of the right to health

The following are some suggestions for policy tools for the implementation of mental health services from a Human Rights perspective:

- ❖ **Mainstream the rights of women and girls with disabilities in gender-related legislation and policies, and mainstream a gender perspective in disability-related legislation and policies, in close consultation with and with the active involvement of women and girls with disabilities.**
- ❖ **Include an intersectional analysis for women and girls with disabilities, including those from indigenous groups, ethnic and religious minorities, and rural areas and remote islands, across all policy areas, including education, family, employment, justice and health.**
- ❖ **Strengthening specific policies on mental health**, one of which is by strengthening technical policies for implementing laws related to mental health such as the Preparation of the National Action Plan for Mental Health. Also, there needs to be a legal mechanism that guarantees protection for mental health patients from torture and other cruel, inhuman or degrading treatment or punishment. Existing policies must also support the active participation of individuals with mental health problems.
- ❖ **Strengthening advocacy and multi-sector collaboration**, mental health services need to be integrated with other sectors such as education, employment, and social. This ensures a holistic approach that fulfills the social, economic, and cultural rights of persons with psychosocial disabilities.
- ❖ **Capacity building of human resources**, especially mental health workers. Mental health workers can be trained to provide human rights-based services, including the importance of respecting patient dignity, the right to privacy, informed consent, and freedom from torture and other cruel, inhuman or degrading treatment or punishment.
- ❖ **Strengthening community-based services**, by increasing public awareness and community involvement in human rights-compliant mental health efforts including inclusive, culturally respectful approaches, and strengthening social support. Basic community-based mental health services also need to be expanded, reducing reliance on institutional care, and ensuring access for all, including in remote areas.
- ❖ **Public socialization and education**, conducting public campaigns aimed at reducing stigma and discrimination against persons with psychosocial disabilities. Education about mental health rights and the role of human rights in mental health services must be part of a structured and sustainable national program.
- ❖ **Human rights-based monitoring and evaluation**, with the development of a framework and evaluation

instruments for mental health services and the implementation of ongoing monitoring and evaluation. The government needs to establish an independent monitoring system to monitor the implementation of mental health services, ensure that services provided are in accordance with human rights principles, and follow up on violations that occur.

- ❖ **Develop database** on a) disaggregated data on persons with disabilities according to sex, geographical location, types of disabilities, education and other relevant information necessary to better prevent violence and layered discrimination against women with disabilities, and on b) sex segregated data on cases of discrimination and violence experience by persons with disabilities, the process of addressing the cases, sanctions for perpetrators as well as remedies and redress accessed by the victims as a basis of information to have better policy on handling the cases.

5. Disaggregated data on persons with psychosocial disabilities and current or potential users of mental health service, as well as mental health services, including community-based services

Referring to the results of a focus group discussion held by Komnas Perempuan, the Ministry of Health estimates that the number of people with psychosocial disabilities in Indonesia is 2,003,978 people, of which 493,872 people are with severe psychosocial disabilities. The number of people with psychosocial disabilities who received services at health care facilities until June 2024 was 708,525 people. As many as 2% of the population aged ≥ 15 years in Indonesia have mental health problems. Furthermore, 0.25% of them have thoughts of ending their lives (Ministry of Health of the Republic of Indonesia, 2023).

However, this data is limited to those who report their mental health to health service centers. In reality, many persons with psychosocial disabilities do not come to health services. Therefore, disaggregated data is still a challenge for the government to provide. The 2018 Basic Health Research (Riskesdas) showed that the prevalence of mental disorders, such as schizophrenia, increased from 1.7 per thousand to 7 per thousand. In addition, emotional mental disorders in children under 15 years also increased from 6.1% to 9.8%, which is equivalent to around 20 million children.

Access to mental health services in Indonesia still faces various challenges. The prevalence of persons with psychosocial disabilities in Indonesia is around 20% of the 250 million population, but overall Indonesia does not yet have accessible mental health services at the provincial level, which shows that not all persons with psychosocial disabilities receive the treatment they should. Even the number of psychiatrists as professionals for mental health services is only 1,053 people, which means that one psychiatrist serves around 250,000 people. This is data from the Director of Prevention and Control of Mental Health and Drug Problems, Ministry of Health, Dr. Celestinus Eigya Munthe.

Director General of Public Health of the Ministry of Health Maria Endang Sumiwi said that mental health service facilities in Indonesia are still uneven. Only about 50% of the 10,321 Community Health Centers in Indonesia are able to provide mental health services, while only 40% of general hospitals have mental health service facilities. There are around 1,053 psychiatrists in Indonesia, which means one psychiatrist must serve around 250,000 residents. This is far below the WHO standard which recommends a ratio of 1 psychiatrist for every 30,000 residents (Liputan6, 2022).

