



RESEARCH ARTICLE

Improving Legal Protection for People with Mental Illness: Addressing Confinement Practices and Promoting Human Rights Protections

Edi Sutikno¹, Sigit Irianto², Anggraeni Endah Kusumaningrum³, Afif Noor^{4*}¹ Doctoral Program Universitas 17 Agustus 1945, Semarang, Indonesia² Faculty of Law Universitas 17 Agustus 1945, Semarang, Indonesia³ Faculty of Law Universitas 17 Agustus 1945, Semarang, Indonesia⁴ Universitas Islam Negeri Walisongo, Semarang, Indonesia**ARTICLE INFO****ABSTRACT**

Received: Jul 22, 2024

Accepted: Sep 28, 2024

Keywords

Legal Protection

Mental Illness

Confinement Practices

Human Rights

The confinement of people with mental illness (PwMI) in Indonesia is a severe violation of human rights. This practice often occurs due to a lack of public understanding and adequate support for legal protection for PwMI. This research aims to explore strategic steps that can be taken to improve legal protection for PwMI and address the practice of confinement. The research method used is a qualitative approach with document analysis of legal documents and related literature. The data collected was analyzed qualitatively, emphasizing interpretation and understanding of the applicable legal rules. The results show that although there is a regulation prohibiting confinement, its implementation in the field still needs to improve. Influencing factors include social stigma, lack of training for health workers, and lack of access to quality mental health services. This study recommends strengthening regulations and policies, increasing public education on mental health, and improving adequate mental health facilities. However, it also emphasizes the crucial role of community involvement in handling PwMI. By actively participating in the solution, the community can create a more inclusive environment and support the successful protection of PwMI, making them an integral part of the process.

***Corresponding Author**

afif_noor@walisongo.ac.id

INTRODUCTION

Mental health is an integral aspect of public health that must receive serious attention from a medical perspective and a legal and social perspective (Bhugra, 2016). In Indonesia, mental health issues are often still taboo, and the stigma attached to people with mental illness (PwMI) causes them to receive inhumane treatment (Putri et al., 2021; Subu et al., 2021). One form of discrimination and rights violation that PwMI often faces is the practice of confinement (Ulya, 2019). Confinement, which refers to the act of binding or restraining someone in a confined space to "control" them, is a clear violation of human rights and a significant problem in this country.

Although the government has banned the practice of confinement through regulations and public awareness campaigns, there are still many reports of continuing this practice, especially in remote areas. Data shows that confinement still occurs for many PwMI who are considered dangerous or difficult to control by their families due to the lack of access to adequate medical care and limited public understanding of mental illness. Quoting data from the Ministry of Health, PwMI, who experienced confinement in stocks in Indonesia in 2019, reached 4,989 people. Then, in 2020, there was an increase where the number of PwMI who were shackled reached 6,452 people. Meanwhile, in

2021, the number of PwMI experiencing confinement in stocks dropped to 2,332 people but rose again to 4,304 in the second quarter of 2022 (Firdaus, 2022). This fact shows that the current legal protection is not strong enough to stop the practice of confinement.

The situation demands immediate action to strengthen legal protection for PwMI, particularly in the context of human rights (Salama & Lesmana, 2023). The practice of confinement not only infringes on the rights of PwMI as individuals but also violates the universally recognized basic principles of humanity. Therefore, a more comprehensive and inclusive legal approach is imperative to ensure that PwMI is afforded the same rights and protection as other citizens.

Despite regulations prohibiting confinement in stocks, implementation in the field still faces many obstacles. One of the main reasons is the low awareness of the rights of PwMI and the limited mental health facilities that can be accessed quickly, especially in rural areas. In addition, existing regulations are often not effectively implemented by local governments and relevant health institutions. In addition, discriminatory treatment of PwMI reflects the state's failure to fulfill their human rights (Szmukler, 2019). The right to live with dignity, freedom from torture, and access to proper health services are some of the fundamental rights that are often ignored in the handling of PwMI in Indonesia. Therefore, a firmer legal framework and a systematic, well-organized implementation are needed to address this issue (Trinidad & Protacio-De Castro, 2020).

This research examines the efforts to increase legal protection for PwMI and overcome the practice of shackling. The focus of this research is to analyze existing regulations, examine obstacles in the implementation of the law, and propose solutions that can be implemented to strengthen human rights protection for PwMI. This research also underscores the crucial role of public awareness and relevant parties in treating PwMI humanely, considering their rights stipulated in national and international law. It's a collective responsibility to ensure the rights of PwMI are respected and upheld.

This research has important significance in the legal and social context of Indonesia. First, this research is expected to strengthen the legal framework that protects PwMI from inhumane practices, including confinement. Secondly, the results of this study can be used as a basis to encourage improvements in public policy in the mental health field. Thus, it is hoped that the public can better understand the rights of PwMI and that the government can be more responsible in protecting them as an implementation of Article 28G paragraph 2 and Article 28I paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that everyone has the right to be free from degrading acts, including cruel treatment such as confinement and the right to life, the right not to be tortured, freedom of thought and conscience, religious rights, the right not to be enslaved, the right to be recognized as a person before the law.

Protection and attention to PwMI are critical in the context of the welfare of society (Ningsih & Shinta, 2023). Poorly managed mental health can lead to a variety of problems, including negative impacts on the individual concerned, such as decreased quality of life and the risk of confinement. In addition, families also often experience heavy emotional and economic burdens when their family members do not receive appropriate care. Therefore, attention to mental health, provision of adequate services, and implementation of appropriate legal protections are crucial steps in creating a more inclusive and prosperous society.

RESEARCH METHOD

This research, which rigorously employs a qualitative method with a normative juridical approach, aims to analyze the rules of law pertaining to the legal protection of individuals with mental illness. It also seeks to advocate for the elimination of the practice of confinement, which is a violation of human rights. The focus of this research will be on the application of legal norms, both nationally and internationally, in the context of protecting individuals with mental disorders in Indonesia.

The data in this research is sourced from secondary data consisting of primary and secondary legal materials (Noor, 2023). Primary legal materials include legislation protecting human rights and

mental health, such as Law No. 17 of 2023 on Health, and relevant government regulations. In addition, primary legal materials also include international conventions, such as the Convention on the Rights of Persons with Disabilities (CRPD) and the Universal Declaration of Human Rights.

Secondary legal materials, such as various literature, scientific articles, and previous research results, will be selected based on their relevance to the theme of this research and their credibility as scholarly sources. A literature review or document study will be the main technique in data collection. This comprehensive approach to data collection from credible sources will provide a detailed picture of the situation of confinement in Indonesia, as well as how existing legal regulations can be used to protect the rights of people with mental disorders. The data collected will be analyzed qualitatively, with an emphasis on interpretation and understanding of the applicable laws. This analysis will help identify weaknesses in the current legal framework and recommend policy changes that are more inclusive and supportive of human rights.

RESULT AND DISCUSSION

Confinement people with mental illness in the perspective of human rights and legislation

Confinement is the practice of restraining or limiting a person's freedom in an inhumane way, which has historically been used to "secure" people with mental illness (American Civil Liberties Union, 2014). In Indonesia, confinement has become a chronic problem, especially in rural areas or areas with limited access to mental health facilities (Hidayat et al., 2020). From a human rights perspective, confinement is a severe violation of human freedom, dignity, and fundamental rights (Mahdanian et al., 2023). Human rights are inherent in every individual from birth and apply universally to everyone, regardless of place and background. These rights cover various aspects of life, such as the right to free speech, the right to live free from discrimination, the right to education, and protection against torture. In addition, human rights also include economic, social, and cultural rights, which ensure that everyone has access to the necessities for a dignified life (Tasioulas, 2017). These rights are not just legal concepts; they reflect fundamental human values recognized as essential for dignity.

Various international human rights instruments include the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of Persons with Disabilities (CRPD). The Universal Declaration of Human Rights by the United Nations begins by affirming all people's equal dignity and rights. It warns that ignoring human rights will lead to acts against human conscience. It emphasizes the need for the protection of the law, the promotion of friendly relations among nations, and equal rights between men and women. It highlights the importance of respecting and applying these rights and freedoms universally.

Human rights are inherent in all individuals from birth, regardless of status, race, gender, religion, or background. These rights are granted by the fact of being human, not by the state or any other entity. Therefore, human rights are universal, applying to everyone worldwide. The concept reinforces the idea that everyone has a dignity that must be respected and protected to live freely according to universally valued principles. The origins of the concept of human rights can be traced to natural rights theory, which developed from natural law theory. The concept gained strength through the European reform movement, led by thinkers such as Thomas Aquinas and Hugo Grotius, who emphasized the importance of individual rights under the authority of God (Rahmat, 2020; Shestack, 1998). These thinkers emphasized that every human being, regardless of status, has God-given natural rights, and the state's authority cannot ignore these rights.

Referring to the universality of human rights and the concept that individual rights are the authority of God, it is clear and unequivocal that all individuals, including people with mental illness (PwMI), have the same rights to legal protection and humane treatment. For this reason, the act of confinement in stocks is a stark contradiction to human rights principles. The confinement of PwMI is a direct violation of the fundamental principle of human rights, which states that every individual has the right to respect their dignity. When a person is shackled, they are deprived of the right to live in freedom and security and are subjected to degrading treatment. This practice creates an

environment where PwMI are treated as objects rather than subjects with fundamental rights, a moral obligation that we must address.

The confinement of PwMI also violates the right to freedom and security, as mentioned in Article 3 of the Universal Declaration of Human Rights, which states that everyone has the right to liberty and security. Confinement is a form of arbitrary detention that is not regulated by law, which deprives PwMIs of their right to choose and make decisions about their own lives. More importantly, it demonstrates a systemic injustice in the legal protection of PwMI, a pressing issue that requires immediate attention and action.

From a human rights perspective, confinement is also an act of violence and ill-treatment. In Indonesia, there have been numerous cases where PwMIs have been shackled, often involving physical and psychological abuse. This contradicts Article 5 of the Universal Declaration of Human Rights, which prohibits torture and cruel, inhuman, or degrading treatment or punishment. By practicing confinement, not only are the rights of PwMI violated, but also their desire for protection from inhumane treatment. Confinement is also a discriminatory act that creates a negative stigma. This discrimination contradicts the principle of equality stated in various human rights instruments. The stigma attached to PwMI makes it difficult for them to get fair access to health services and social support and worsens their condition.

In Indonesia, the human rights discourse is readily accepted, understood, and actualized within the framework of policy and socio-political developments. To strengthen the protection of human rights, the amendment of the 1945 Constitution is a historical fact that is believed to be an essential point for strengthening democracy in Indonesia based on the protection of human rights as stated in Article 28A to Article 28J. To follow up on these constitutional provisions; the government issued Law Number 39 of 1999 concerning Human Rights. Article 69, paragraph (2) states that every human right of a person gives rise to a primary obligation and responsibility to respect the human rights of others reciprocally, and the government must respect, protect, uphold, and promote them. From this article, it can be interpreted that every human right has a primary obligation in the form of responsibility as an essential obligation to implement human rights entirely. Indonesia has made significant strides in the protection of human rights, but the issue of shackling PwMDs remains a challenge that needs to be addressed.

In addition to the provisions of this article, Article 9 of the Human Rights Law states that every person has the right to live, survive, and improve their standard of living, to live in peace, security, peace, happiness, and physical and mental prosperity. Based on the provisions of this article, the government is obliged to guarantee the right of PwMI not to be treated arbitrarily by others, including the act of confinement that their families generally carry out. Article 42 of the Human Rights Law also states that every citizen who is elderly, physically disabled, and or mentally disabled has the right to receive care, education, training, and unique assistance at the expense of the state to ensure a decent life by his human dignity, increase self-confidence, and the ability to participate in the life of society, nation, and state. The provisions of this article clearly state that PwMI is protected by law and are entitled to treatment and decent life by their human dignity. It is not appropriate for the family to treat the insane person by confining or shackling them.

In addition to the Human Rights Law, the act of confinement PwMI is also contrary to Law No. 17 of 2023 concerning Health, whose implementing provisions are regulated by Government Regulation Number 28 of 2024. Article 161 of PP 28 of 2024 states that everyone is prohibited from committing confinement, neglect, violence, and or ordering others to commit confinement, neglect, and violence against People at Risk or PwMI or other actions that violate the human rights of People at Risk and PwMI. For perpetrators of confinement, neglect, and violence against people with mental disorders, they are threatened with imprisonment of up to 2 years and six months or a fine of up to IDR 10,000,000, as stated in Article 434. In addition to Article 161, Article 162 paragraph (1) also states the protection of PwMI, the elimination of the practice of confinement and handling of confinement cases is carried out in the form of ensuring continuity of treatment, empowering PwMI after

rehabilitation, providing housing for PwMI who do not have families and providing a social environment that supports the recovery of PwMI.

The prohibition of confinement PwMI is also contained in the Minister of Health Regulation Number 54 of 2017 concerning Overcoming Confinement in People with Mental Illness. Article 3 of this regulation emphasizes that overcoming confinement is the responsibility of the central and regional governments. This implementation is carried out comprehensively and sustainably by involving community participation. The regulation regulates the steps to overcome confinement and includes three main stages: prevention of confinement, handling confinement, and rehabilitation. The prevention stage aims to reduce confinement through community education, improving mental health services, and empowering the families of PwMI. Treatment of confinement involves efforts to release PwMI who are experiencing confinement through medical and social interventions. Meanwhile, rehabilitation is carried out to restore the physical, mental, and social conditions of PwMI after confinement in stocks so that they can return to life in the community with dignity.

The laws and regulations mentioned above provide a legal basis to protect PwMI from the deplorable practice of confinement, a clear violation of human rights. They also stress the crucial role of the community in supporting comprehensive efforts to eliminate confinement. The community's involvement in preventing confinement, through education, understanding, and social support to families and individuals with mental disorders, is vital. The community's role in aiding the rehabilitation process of PwMI, ensuring they receive proper care, and facilitating their return to everyday social life is equally significant. These laws and regulations also provide a comprehensive foundation for government and community collaboration in preventing, treating, and rehabilitating PwMI who have been subjected to confinement, thereby ensuring their human rights are respected and protected.

Improving legal protection for people with mental illness: strategies and implementation to end confinement

Improving legal protection for people with mental illness (PwMI) in Indonesia is an urgent issue that requires a comprehensive and integrated approach. Legal protection is a fundamental right that every individual has without exception (El Haque et al., 2023). It affirms that everyone, regardless of background, social status, or nationality, is entitled to recognition and protection under the law. This concept underpins the principle of justice in the legal system, which aims to ensure that the rights of every individual are respected and protected. This legal protection ensures that everyone, including those with mental disorders, has the same rights to be protected and treated well.

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law (Noor et al., 2023). This provision emphasizes the importance of justice and equality before the law, where no one should be treated discriminatively. This article also guarantees that the law should not be used as a tool of oppression but rather should serve as a protector for every individual, including PwMI.

PwMI are often victims of discrimination, social stigma, and inhumane treatment such as forced confinement (Simanjuntak et al., 2024). While the government has implemented various regulations, including Law No. 17 of 2023 on Health, and conducted public awareness campaigns, challenges in implementation and law enforcement remain great. Limited access to mental health services, lack of public education, and lack of coordination between the government and various sectors exacerbate the situation.

To effectively protect the rights of PwMI, a comprehensive strategy with a multidimensional approach involving various stakeholders is needed (Hall et al., 2019; Leyns et al., 2018). The government, community, health workers, families of PwMI, and related institutions must collaborate in creating an environment that supports freedom, security, and a life of dignity for PwMI. This approach includes legal, medical, social, economic, and educational aspects that are interrelated to

ensure that the rights of PwMI are protected and not violated, including their right to be free from confinement in stocks.

The first step is to strengthen legal protection. Although regulations prohibiting confinement already exist, as stipulated in Article 76 paragraph (2) of the Health Law, implementation in the field is often not optimal due to [specific challenges such as lack of resources, inadequate training, or cultural barriers]. It shows the need for improvement and strengthening in implementing existing laws. Clear and firmer regulations must be accompanied by increased supervision and enforcement of sanctions for violating parties (Herianto et al., 2024; Indriyanto et al., 2023). Strengthening these regulations could include developing a more effective mechanism for reporting violations, including cases of shackling so that they can be dealt with more quickly and appropriately.

In addition to the legal aspect, one of the main factors that trigger confinement is the lack of access to proper mental health services, especially in remote areas. To address this issue, it is necessary to strengthen mental health services by improving the quality and quantity of facilities and health workers who handle PwMI. The government should ensure that each region has adequate mental health facilities, such as mental hospitals, clinics, and rehabilitation centers (Ceprudin et al., 2023). These facilities should be able to provide comprehensive services for PwMI, from diagnosis and treatment to rehabilitation. In addition, it is essential to provide specialized training for health workers who treat PwMI, instilling confidence in the system's ability to handle PwMI. Medical personnel must be equipped with an in-depth understanding of human rights and treatment methods that respect the dignity of PwMI so that confinement can be avoided.

To ensure this strategy is successful, strong coordination between government agencies and related institutions is required (Ceprudin et al., 2023). Institutions such as the Ministry of Health, Social Affairs, and the Regional Health Office must work together to address confinement. This cross-sectoral cooperation is crucial, as mental health issues are not only related to physical health but also impact on the social, economic and well-being of individuals (Macintyre et al., 2018). Good coordination can help ensure that mental health-related programs are integrated and run effectively at different levels of government. For example, in dealing with cases of confinement, the health office can work with the social office to provide support to the families of PwMI in the form of rehabilitation assistance and social services. Thus, the intervention can be more thorough and comprehensive. Moreover, public awareness and education campaigns, which are key to fostering a culture of respect for the rights of PwMI and reducing the stigma associated with mental health issues, should be conducted.

In addition, to ensure the protection of PwMI, it is necessary to increase public education and awareness (O'Reilly et al., 2018). One of the main obstacles in ending confinement in stocks is the stigma attached to PwMI. Many people still think that confinement in stocks is the best solution for PwMI who experience severe mental disorders. Therefore, one of the crucial strategies is to increase public education and awareness about the importance of the humane treatment of PwMI. Public education programs must be intensified to change people's views on PwMI. Anti-stigma and anti-hunger campaigns need to be organized continuously through various media and at various levels of society, including in rural and more remote areas. In addition, influential community and religious leaders can also be engaged to help spread positive messages about mental health and the rights of PwMI. This approach is expected to reduce stigma and discrimination, often the main reasons for confinement.

Equally crucial in improving protection for PwMI is providing social and economic support for them and their families (Purba et al., 2020). Families caring for PwMI often face severe economic and emotional pressures, so confinement is considered a practical solution due to limited resources for more appropriate care. Therefore, the government needs to provide assistance programs to the families of PwMI, both in the form of financial support, psychological services, and rehabilitation, to help PwMI return to functioning in the community.

Economic empowerment for PwMI through skills training and business support is also essential to increase their financial independence so they are no longer a burden to their families (Noor et al., 2023). The government can work with social and private institutions to provide job training programs and employment opportunities for recovering PwMI. With this economic support, it is hoped that PwMI can live productively and independently without facing confinement.

Once confinement has been successfully ended, it is essential to ensure that PwMI receives comprehensive medical and social rehabilitation (Lamb & Weinberger, 2017). This rehabilitation not only focuses on recovering from mental disorders but also helps PwMI to return to functioning as productive members of society. Rehabilitation programs should be designed according to the individual needs of the PwMI, including medical therapy and social and vocational skills training. Social reintegration of PwMI should be done gradually with support from family and community (Ebrahimi et al., 2018). The government and social agencies can also collaborate to provide mentoring programs for PwMI who have just been discharged from treatment facilities. This program should include skills training, psychological support, and social assistance to help PwMI participate in social and economic activities in the community.

Improving the protection of PwMI is an urgent matter that demands specific strategies and measures. This requires joint commitment from various parties, including the government, communities, and health institutions. Strengthening legal protection, improving access to mental health services, inter-agency coordination, community education, and social and economic support can create a more inclusive and welcoming environment for PwMI. This comprehensive effort is expected to eliminate the practice of shackling and provide PwMI with the right to freedom and a life of dignity by human rights principles.

CONCLUSION

Legal protection for Persons with Mental Illness (PwMI) is a crucial aspect of efforts to end the practice of confinement, which violates human rights. Although regulations prohibiting confinement are in place, their implementation in the field is still far from optimal and requires strengthening from various sides. This effort must be carried out comprehensively and involve all stakeholders, including the government, health workers, families, and communities. A multidimensional approach that includes legal, health, social, and educational aspects is needed to create an inclusive environment that respects PwMI's rights to freedom, security, and a life of dignity. Community support, continuous education, and better access to adequate mental health services are critical factors in strengthening protection for PwMI. With the implementation of coordinated and comprehensive measures, we can look forward to a future where confinement is ended and the human rights of PwMI are better upheld and respected by constitutionally protected humanitarian standards.

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