



**INDONESIAN  
MENTAL HEALTH  
ASSOCIATION**

**SUPPORTED BY**



# The Forgotten Women

**Alternative Report to the CEDAW  
Committee on the Situation of Women  
with Psychosocial Disabilities in  
Indonesia  
2021**

## **Submitting Organization**

This alternative report is compiled and submitted by:

Perhimpunan Jiwa Sehat (PJS)-Indonesian Mental Health Association (IMHA)

PJS was founded in 2008 as the first organization in Indonesia to be initiated and run by women with psychosocial disabilities with the purpose of advocating for the fulfillment of rights of person with psychosocial disability. PJS has succeeded in pushing the issue of psychosocial disability, which was previously a very marginal issue, to become one of the main issues in the human rights movement in Indonesia.

PJS is a member of Pokja Koalisi Nasional Disabilitas, a national coalition of seven disability organizations representing different disabilities in Indonesia that advocated for the new Indonesian Disability Act and monitoring its implementation.

PJS is also a founding member and steering committee member of TCI (Transforming Communities for Inclusion), a global organization of people with psychosocial disabilities. In carrying out its work, apart from disability organizations PJS also works closely with national human rights institutions as well as women organizations in Indonesia.

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## **Acknowledgement:**

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## **Methodology**

This alternative report was compiled based on data collected since 2012 through field visits and investigation, interviews with various parties especially

women with lived experiences as well as government officials, institution managers, family members and other related parties, case studies, observation and research on specific topics, documenting and analysis of court decisions, documenting and analysis of mass media report, documenting and analysis of laws and regulations, reports from partner organizations especially Human Rights Watch, Indonesian National Commission of Human Rights, Indonesian Commission on Violence against Women.

## **Introduction**

When Indonesian government submitted their report to the CEDAW Committee in 2012 and the previous years, organizations of people with disabilities (OPDs) in Indonesia, especially those of psychosocial disabilities, were not very active in advocating for their rights.

Therefore, even though there are many problems faced by women with disabilities, especially women with psychosocial disabilities, Indonesian OPDs did not actively contribute to the writing of the previous CEDAW alternative shadow reports. This causes various cases of serious discrimination and violence against women with disabilities, especially women with psychosocial disabilities have not been reported to the Committee.

This time we consider it necessary to compile a CEDAW alternative report to convey various problems faced by women with psychosocial disabilities that have not been reported and included in the previous concluding observations. In this report we applied CEDAW articles and previous concluding observations to review the cases of discrimination and violence faced by women with psychosocial disabilities.

We hope that our input can be used as material for the CEDAW committee in formulating the next concluding observation.

## **Overview**

**Women with psychosocial disabilities are women who face various obstacles as a result of the interaction between unsupported environment and the mental disorders they experience.**

Currently, there is no definite data on the number of people with psychosocial disabilities in Indonesia. Based on the 2018 Basic Health Research of the Ministry of Health, the number of people with some form of mental health problems in Indonesia is approximately 15 million. Although not all people with mental health problems fall into the disability category, this indicates that the number is significant.

In general, women with disabilities are among the most disadvantaged groups of society, resulting from social norms and cultural bias intersectionality of gender and disability. Accordingly, within the group of women with disabilities, women with psychosocial disabilities can be considered as the most

marginalized entity. There is lack of protection to this group, where violence and ill-treatment against them remain unaddressed. As a result, many women with psychosocial disabilities have very limited or no participation in social life at all.

The notion of inclusion to all women against discrimination as the ultimate spirit of CEDAW were not apply to the group of women with psychosocial disabilities. In fact, the equality for women is still leaving women with psychosocial disability far behind.

The most serious violence against women with psychosocial disabilities is the confinement in prison-like social care mental institutions. In these institutions they experience various violence and abuses.

One of the main causes of this confinement is the lack of legal capacity which makes them unable to refuse any action taken against them or to report violence against them. The absent of legal capacity implies no free will and preference nor informed consent. This condition further adds to the complexity of the problems faced by women with psychosocial disabilities.

Moreover, the absence of regulations, programs and actions that guarantee and protect the rights of women with psychosocial disabilities who are victims of violence plays a significant role in making this condition worse.

Another issue that many women with psychosocial disabilities face is the right to work. Until now, both government and private institutions still require a mental health certificate as one of the in the requirements for job recruitment. This requirement prevents women with disabilities from getting jobs. Even for women with psychosocial disabilities who manage to get jobs, they have to hide their disability and hinder their rights for reasonable accommodation.

Women migrant workers are also one of the groups discussed in this report. Many women migrant workers experience various forms of violence while working abroad. As a result, many of them return home with disabilities, including psychosocial disabilities.

In this alternative report, we compose the above issues thematically into 5 topics, namely: Discrimination of legal capacity, violence against women with psychosocial disabilities in mental institutions, protection against sexual violence, rights to work and women migrant workers who returned home with mental illness. We review each topic using CEDAW articles and previous concluding observations.

## Abbreviations

CEDAW	:	<i>Convention on the Elimination of All Forms of Discrimination Against Women</i>
DPR	:	People's Representative Council
HRWG	:	Human Rights Working Group
LBHM	:	Lembaga Bantuan Hukum Masyarakat (Community Legal Aid Institution)
IMHA	:	Indonesian Mental Health Association
KGBO	:	Online Gender-Based Violence
Komnas Perempuan	:	The National Commission on Violence Against Women
PJS	:	Perhimpunan Jiwa sehat
Satpol PP	:	Public Order Agency
UDHR	:	The Universal Declaration of Human Rights

## **Table of Contents**

Submitting Organization.....	1
Introduction .....	4
Overview .....	4
Abbreviations .....	6
Table of Contents.....	7
<b>I. Deprivation of Legal Capacity and the Problem of Guardianship</b>	<b>9</b>
A. Difficulty Reporting When Experiencing Violence.....	10
B. The Right to Raise Children .....	11
C. The Right to Inheritance .....	11
D. Involuntary Admission in Social Care Institutions and Mental Hospital.	11
E. Involuntary Medical and Non-Medical Treatment.....	12
F. Political Rights.....	12
Recommendations.....	13
<b>II. Violence Against Women with Psychosocial Disabilities in Indonesian Social Care Institutions</b>	<b>14</b>
A. Women with Psychosocial Disabilities are Committed to Institutions Without Their Consent .....	15
B. There Are no Provisions and Certainty when They Can Be Released ..	15
C. Restrained with Iron Chains .....	16
D. Vulnerability to Sexual Violence.....	16
E. No Complaint and Protection Mechanism Related to Violence .....	17
F. Forced Sterilization.....	18
G. Forced Treatment.....	19
H. Lack of Support for Reproductive Health .....	19
I. Lack of Medical Services.....	20
J. Female Residents were forced to Bath in the Open, Female Residents were Bathed by Male Staff.....	21
K. Forced Head Shaving .....	21
L. Starvation .....	22
Recommendation .....	22
<b>III. Protection Against Sexual Violence</b>	<b>24</b>

Recommendation: ..... 25

**IV. The Right to Work**..... 26

A. Requirement of Mental Health Certificate ..... 26

B. Dismissed from Employment Due to Psychosocial Disabilities ..... 27

C. Lack of Reasonable Accommodation ..... 27

**V. Migrant Workers who Returned Home with Mental Illness** ..... 29

Recommendation: ..... 31

**References** ..... 33

## **I. Deprivation of Legal Capacity and the Problem of Guardianship**

Violate CEDAW article 15 and related to concluding observation violence against women para 25 and point multiple discrimination para 47

1. A major issue faced by women with psychosocial disabilities in Indonesia is the lack of recognition of their legal capacity. The absent of legal capacity implies no free will and preference nor informed consent.
2. There is one major provision in Indonesian law that removes the legal capacity of persons with psychosocial disabilities and hinders persons with psychosocial disabilities from enjoying their rights on equal basis with others:
3. Article 433 Indonesian Civil Code states: "Setiap orang dewasa yang selalu dalam keadaan dungu, sakit otak atau mata gelap harus ditaruh di bawah pengampuan, bahkan ketika ia kadang-kadang cakap menggunakan pikirannya". (An adult, who is always in a state of simple-mindedness, mental illness or rage, shall be placed under guardianship , even when he is capable of using his mind at times. An adult individual may be placed under guardianship as a result of improvidence).
4. His provision places leave women with psychosocial disabilities with no legal capacity and loses all civil rights as adults. Even more this provision is use as a legal basis of other laws and regulations related to psychosocial disability which eventually leads to misleading in outlining human rights perspective.
5. Removal of legal capacity and placement under guardianship for women with psychosocial disability, most of the time involves no legal process. It is a long established cultural tradition that remains unchanged until the present.<sup>1</sup>
6. Average Indonesians regard women with psychosocial disability as automatically losing their legal capacity whereby they should be placed under the guardianship of their family or other parties. No legalization is required nor is the need for such questions. This situation is regarded as normal.<sup>2</sup>

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<sup>1</sup> Damayanti, YR and others. (2020). *The Forgotten People: Alternative Report to UN CRPD Committe on the Situation of People with Psychosocial Disability in Indonesia 2020*. Indonesian Mental Health Association (IMHA), Community Legal Aid Institution and Human Rights Working Group (HRWG). p. 13.

<sup>2</sup> *Ibid*, p. 13.

7. As a result, women with psychosocial disabilities lose their legal rights easily and arbitrarily in the absence of any protective rules and regulations.<sup>3</sup>
8. This situation gets even worse because it is not only applied as common practice among community but also accepted as a legitimate truth among government institutions, ministries and agencies, law enforcement and various private bodies. These include health services, community and social welfare support services, education and social care institutions, job providers, police and public order officers.<sup>4</sup>
9. While most of the loss of legal capacity and guardianship of women with psychosocial disabilities in Indonesia occurs without due process, there are cases where guardianship is pursued through legal procedures and court decisions.<sup>5</sup> Compared to other countries, the legal process in Indonesia for guardianship applications is poor. This is because the court process is very short, the evidence is very easy, there are no defenders from the side of women with psychosocial disabilities.
10. The consequences of the absence of legal capacity are very serious, including:

### **A. Difficulty Reporting When Experiencing Violence**

11. The assumption that women with psychosocial disabilities do not have legal capacity makes it difficult for them to report when there is violence against themselves, including sexual violence.
12. Their reports are often not trusted and are not considered to have the same legal weight as others. As a result, cases of violence including sexual violence experienced by women with psychosocial disabilities are often not legally processed. There are quite a number of cases reported in the mass media where women with psychosocial disabilities who are held in restrained/schackling have been raped and become pregnant many times, but there is no meaningful effort to punish the perpetrators.<sup>6</sup>

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<sup>3</sup> *Ibid*, p. 13.

<sup>4</sup> *Ibid*, p. 13.

<sup>5</sup> *Ibid*, p. 16.

<sup>6</sup> *Ibid*, p. 40.

## **B. The Right to Raise Children**

13. There are many women with psychosocial disabilities who lose their right to raise children because of their disability. Women with psychosocial disabilities are often considered incapable and incompetent to raise their children, so they are usually not allowed to raise their children or are separated without their consent.<sup>7</sup>
14. A more severe condition even occurs in women with psychosocial disabilities who live in social institutions. On a visit to an institution not far from Jakarta, interviewed staff reported how if a resident gave birth while in the facility, the child would be given to someone else for adoption without the mother's formal consent.<sup>8</sup>
15. Ignoring the preferences and decisions of women with psychosocial disabilities is a form of not recognizing their legal capacity; so that they are considered unable to make decisions that have legal consequences.<sup>9</sup>

## **C. The Right to Inheritance**

16. Women with psychosocial disabilities are generally considered not to have the right to receive or manage inheritance. There are many cases of legal inheritance of women with psychosocial disabilities that fall arbitrarily into the hands of siblings or other family members without due process.<sup>10</sup>

## **D. Involuntary Admission in Social Care Institutions and Mental Hospital**

17. In Indonesia, family members can place women with psychosocial disabilities in mental hospitals or social care mental institutions without their consent. Women with psychosocial disabilities are considered incapable of giving consent; even without any court ruling of guardianship on the respective women.<sup>11</sup>
18. Social care mental institutions, particularly those owned by private parties, do not function as rehabilitation centers as it supposed to be, but more like

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<sup>7</sup> *Ibid*, p. 79.

<sup>8</sup> *Ibid*, p. 79.

<sup>9</sup> *Ibid*, p. 79. 79.

<sup>10</sup> *Ibid*, p. 79. 15.

<sup>11</sup> *Ibid*, p. 79. 13.

custodial care facilities or even prison, in which the residents are not allowed to leave the facilities during their stay. Even worse, there is no provision that limits the time a person can be detained in social care institutions, especially private ones.<sup>12</sup>

19. In other words, a person can be detained as long as the fees are met. Therefore, many women with psychosocial disabilities remain confined to social care institution even though they are stable enough or there is no longer any reason to hold them. Women with psychosocial disabilities cannot leave the hospital nor institution until their families consent.
20. This is a result of the notion that persons with psychosocial disabilities are legally incompetent and need to be placed under guardianship.

### **E. Involuntary Medical and Non-Medical Treatment**

21. Medical and non-medical interventions for women with psychosocial disabilities are also conducted without the consent, sometimes even the medical intervention related to their reproductive rights. Here we see how the whole process from admission to a rehabilitation center/hospital and through treatment and other interventions is conducted without reference to a woman with psychosocial disability's right to exercise her own will or preferences.<sup>13</sup>

### **F. Political Rights**

22. People with psychosocial disabilities, including women, in Indonesia are also considered incompetent to vote in elections without a legal process. The disclaimer of this right has been determined without due process of law.<sup>14</sup>
23. In addition, they are also considered incompetent to run as legislative candidates or regional heads.

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<sup>12</sup> *Ibid*, p. 79. 15.

<sup>13</sup> *Ibid*, p. 78 -79.

<sup>14</sup> *Ibid*, p. 11.

## **Recommendations**

1. The state must guarantee the rights of women with psychosocial disabilities to have legal capacity on an equal basis with others and as a person before the law.
2. All laws and regulations declaring that women with psychosocial disabilities do not have legal capacity must be revised. This includes the Indonesian Civil Code and other legal products, Indonesian Disability Act, Mental Health Act.
3. The state must strictly forbid all discriminatory practices and costumes that put women with psychosocial disabilities as persons without any legal capacity and incompetent to undertake actions on their own behalf.
4. The government must ensure that reports of women with psychosocial disabilities who are victims of violence are trusted and have the same legal weight with other people.
5. The government must ensure that cases of violence against women with psychosocial disabilities are taken seriously and that the perpetrators receive appropriate punishments.

## **II. Violence Against Women with Psychosocial Disabilities in Indonesian Social Care Institutions**

Violate CEDAW Article 2, Article 3, Article 15, Article 16 and related to concluding observation point Positive Aspect para 4, point Visibility of the Convention para 12, Constitutional and legislative framework para 16, National machinery for the advancement of women para 20, Violence against women para 25 and 26, Participation in political and public life para 32, Health para 41, Women facing multiple forms of discriminations para 45, Marriage and family relations para 47.

24. Social care mental institutions for people with psychosocial disabilities are facilities to accommodate people with psychosocial disabilities outside mental hospitals. These facilities can be owned by the government or privately owned and are under the authority of the Ministry of Social affairs and social services.

25. Officially, social care institutions is a place for rehabilitation purposes, but in practice it is more of a dumping place to isolate and dispose people with psychosocial disabilities so as “not to disturb the community”.

26. Currently, there are at least 6000 women with psychosocial disabilities in Indonesia imprisoned in social care institutions.<sup>15</sup>

27. There are apparent serious issues in the social/mental care institutions which reflect abusive treatment to women with psychosocial disability including:

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<sup>15</sup> Data of Indonesian Mental Health Association (IMHA-PJS) until 14 September 2021.

## **A. Women with Psychosocial Disabilities are Committed to Institutions Without Their Consent**

28. Women with psychosocial disabilities can easily be committed to social care mental institution, even without medical assessment, without a diagnosis, and without legal determination from a court stating that they do not have legal capacity admitted to a mental hospital based only on the assumption that she has a mental disorder



Women are confined at Bina Lestari Mandiri private institution, Brebes (2017) taken by Andrea Star Reese

29. Nearly all women whom we met during visits were detained without their free and informed consent.

## **B. There Are no Provisions and Certainty when They Can Be Released**

30. Residents of an institution cannot decide by themselves when they will leave an institution. A discharge decision can only be issued by the management with family consent.

31. Essentially, someone who is placed in an institution can be detained indefinitely. During field visits, IMHA and HRWG met women who had been detained from a few months to 10 years.

32. All women interviewed stated a strong wish to leave the facilities. However, they were unable to leave as their family were yet to provide consent or because they no longer had family who would accept them.

33. The other main reason is because there are no facilities from the government that enable them to leave the institutions.

### **C. Restrained with Iron Chains**



A Woman resident chained in Padepokan Mbah Marsiyo private institution, taken by IMHA (2020)

34. In some institutions, women are not only detained but also chained by binding their hands, feet or both using iron chains.

35. There were three institutions in Central Java that we visited where nearly all the residents were chained, namely: Padepokan Mbah Marsiyo (Kebumen District); Bina Lestari Foundation (Brebes District); Kyai Syamsul Ma'arif Healing Center (Brebes District).

36. Of the 25 institutions visited by IMHA network photographer, Andrea Star Reese, 17 of them used chains to detain residents.

### **D. Vulnerability to Sexual Violence**

37. Women with psychosocial disabilities who are detained in social institutions are also vulnerable to sexual violence.<sup>16</sup>

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<sup>16</sup> Damayanti, YR and others, *Op.Cit*, p. 53.

38. When visiting Panti Galuh we encountered a female resident who admitted that her breasts were often touched by an officer at the institution.<sup>17</sup> She was afraid and unable to report these occurrences because she had to live in the institution. She also stated that a number of other female residents had experienced the same thing.
39. The perpetrator is a person who has provided health services even though they are not a health worker. This sexual harassment can occur in a health clinic room. As a result, female residents were afraid to attend the clinic when they fell sick.
40. The Human Rights Watch report also highlights similar cases of sexual violence in various institutions in Indonesia. For example, a resident at an institution in Brebes stated that a staff member at the institution had touched her vagina.<sup>18</sup>
41. The risk of sexual violence in social institutions is also a result of the limited number of female officers.<sup>19</sup> In a number of institutions and psychiatric hospitals observed by National Commission on Violence Against Women, the number of female staff is very few compared to the number of the female residents.
42. Many female residents are cared for by male staff. Male staff also easily enter women's rooms including in the evenings.
43. All the women we interviewed claimed to be too afraid to report this, especially since most of the perpetrators were institution's staff.

## **E. No Complaint and Protection Mechanism Related to Violence**

44. In all the institutions visited there were no complaint mechanisms that could be used by the residents to report violence experienced. There are many institutions where residents do not even have access to use the telephone. Everything that happens inside the institution takes place in a closed manner with almost no outsiders knowing what takes place inside.<sup>20</sup>
45. In interviews with institution residents, we often heard complaints about violence, sexual harassment, and so forth. However, the residents were

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<sup>17</sup> Interview with Galuh social care institution's residents on June 1, 2018.

<sup>18</sup> Human Rights Watch. (2016). *Living in Hell: Abuses against People with Psychosocial Disabilities in Indonesia*. USA: Human Rights Watch, p. 13.

<sup>19</sup> Chuzafah et al. (2019). *Hukuman tanpa Kejahatan (Punishment without Mistake)*. Jakarta: The National Commission on Violence against Women, p.49.

<sup>20</sup> Damayanti, YR and others, *Op.Cit*, p. 29 - 30.

too afraid to report these incidents, mainly because many of the perpetrators were institution officials. This places residents in a very vulnerable and helpless position.<sup>21</sup>

46. Protection mechanisms available to women victims of sexual violence outside of the institutions are not available for them.
47. While female victims of violence who do not live in such facilities are relatively more "free" to seek help and report their cases, female residents do not have any means to report the violence.
48. They are not allowed to leave the facilities, while visits from outsiders to social institutions are also rare and difficult.
49. There are no regular monitoring activities by the authorities that can be used by women to report violence that has happened to them.
50. As a result they do not have access to fill complaints to the police, assistance from lawyers, access for counselling.
51. No access to shelter or save house. The women who live in the mental institutions are forced to stay in the same place where the perpetrator is.

## **F. Forced Sterilization**

52. Women with psychosocial disabilities who are arbitrarily detained in social institutions and psychiatric hospitals are also vulnerable to forced contraception and forced sterilisation.<sup>22</sup>
53. The administrators of social institutions and psychiatric hospitals hold the view that women with psychosocial disabilities do not have the mental capacity to participate in sexual intercourse and therefore each case of pregnancy is assumed to be the result of rape, even though forced sterilisation is itself a form of sexual violence.<sup>23</sup>
54. According to observations made by National Commission on Violence against Women (Komnas Perempuan) at the Margo Widodo Social Institution, Semarang, Central Java, the institution inserted contraceptive implants into female residents of childbearing age.<sup>24</sup> Meanwhile, the Dr Amino Regional Psychiatric Hospital performs tubectomies on female patients.

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<sup>21</sup> Damayanti, YR and others, *Op.Cit*, p. 30.

<sup>22</sup> Damayanti, YR and others, *Op.Cit*, p. 54.

<sup>23</sup> Damayanti, YR and others, *Op.Cit*, p. 138.

<sup>24</sup> Damayanti, YR and others, *Op.Cit*, p. 55.

55. These contraceptive methods are conducted based on the family's consent if the patient is dropped off by their family. However, if the patient is dropped off by the Public Order Agency (Satpol PP) after a raid on the streets, the contraceptive procedure is conducted without the informed consent of the person involved.<sup>25</sup>

## **G. Forced Treatment**

56. Anti-psychotic drugs are given arbitrarily without adequate examination and without informed consent.

57. IMHA' observations at the Galuh social care institution in October 2018 found that all residents in Galuh social care institution were injected with anti-psychotic drugs without examination and determination of the individual diagnosis.

58. All women residents of Galuh social care institution, numbering around 180, regardless as to whether they were adult or minors, having psychotic diagnose or not, were all injected with the same drug at the same dosage.

59. The residents could not refuse the injection which was given once every two weeks.

60. Some women even said they did not know what drugs were injected into their body.

## **H. Lack of Support for Reproductive Health**

61. Many female residents do not have sanitation equipment during menstruation. For example, Yayasan Galuh, female residents said they had to use rags and pieces of cloth during menstruation.

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<sup>25</sup> Damayanti, YR and others, *Op.Cit*, p. 138.



Left: pictures of Fajar Berseri’s women residents giving birth asisted only by the institution’s staff  
 Right: Photo of a Fajar Berseri’s women resident and her baby, both died during delivery in the institution without medical assitance.

62. Some female residents who were pregnant did not get adequate health checks. Sometimes they did not even get maternal health services at all, including during childbirth. There was a case in an institution in Bekasi where a female resident and infant died in childbirth. The institution managers said this occurred because there was no medical service support for them.<sup>26</sup>

### **I. Lack of Medical Services**

63. Mortality rates in institutions are quite high. Based on IMHA observations and interviews with residents in several social care institutions in Bekasi it was found that every month someone dies. There were even three residents in Aura Welas Asih institution, Sukabumi, West Java who died on the same day at the institution.<sup>27</sup>

64. The high mortality rate in institutions is never discussed among policy makers including within the ministry of social affairs and local social service. Institution residents die quietly without anyone making a fuss.

<sup>26</sup> IMHA interview with institution management in Bekasi, October 2018.

<sup>27</sup> Damayanti, YR and others, *Op.Cit*, p. 24 - 25.

## J. Female Residents were forced to Bath in the Open, Female Residents were Bathed by Male Staff



© 2012 Andrea Star Reese  
Syamsul Healing Center  
Brebes

A woman resident being bathed by male staff members while naked and in chains at the Syamsul Healing Center, Brebes District, Central Java, 2012. Photo by Andrea Star Reese



Most of bathroom in social institutions do not have doors. Picture taken in Fajar Berseri, Bekasi (2018) taken by Andrea Star Reese

65. Another form of degrading treatment is being bathed or forced to bath in the open. This has happened to both male and female residents. During a visit to an institution, IMHA found female residents bathing in an open place while male staff passed by. There was an institution where female residents were bathed by male staff.<sup>28</sup>

## K. Forced Head Shaving

66. The staff of the institutions often shave the hair of women resident without their consent, leave their head completely bald. The staff argues that this practice is to get rid of lice or other skin problems on the resident's head.

67. One female resident we interviewed said that she was shaved twice during her stay and felt very humiliated at being mistreated. This is clearly a form of violence against body integrity.

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<sup>28</sup> Damayanti, YR and others, *Op.Cit*, p. 28.

## L. Starvation

68. There were several institutions where residents have been left to starve, including Padepokan Mbah Marsiyo in Kebumen. At another institution in Sragen District, Sehat Waras Sejahtera Foundation, the residents appeared to be hungry and subdued.<sup>29</sup>



A woman who shows sign of malnutrition was shackled at Padepokan Mbah Marsiyo, Kebumen taken by Andrea Star Reese at 2018

## Recommendation

1. The Indonesian government must immediately take steps to prevent and stop all forms of violence against women with psychosocial disabilities who live in social care mental institutions as described above.
2. The Indonesian government must revise all laws and regulations that legalized forced institutionalization of women with psychosocial disabilities.
3. The Indonesian government must release all women with psychosocial disabilities confined in social care mental institutions.
4. The Indonesian government must provide all forms of support required so that women with psychosocial disabilities released from institutions shall live well, safely, independently, inclusively in society. These facilities include housing, work/livelihood support, social protection, health, transportation, and other necessary support.

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<sup>29</sup> Andrea Star's observations in Sehat Waras Foundation, Sragen District, Central Java on 20 October 2018.

5. The Indonesian government must ensure that there is a specific budget for all supports needed.

### III. Protection Against Sexual Violence

Violate CEDAW Article 2 and concluding observation point violence against women para 26

69. Data collected by LBHM on the decisions of district courts throughout Indonesia from 2011 to 2018 shows that in 7 years, only thirteen cases of sexual violence against women with psychosocial disabilities were taken to court. Three of these cases were committed against minors.<sup>30</sup>
70. The number of cases that go to court does not compare to the actual number of cases that occur on the street, at home, or in social institutions, and this highlights the state's failure to provide optimal legal protection for women with psychosocial disabilities.
71. Law enforcement institutions, such as the police, the public prosecutor's office and the courts are not adequately accessible to victims seeking justice and protection from possible retaliation from perpetrators.
72. Currently, the Indonesian House of Representatives (DPR) is processing of drafting a law on the elimination of sexual violence (originally titled "Bill on the Elimination of Sexual Violence") which is urgently needed by women in Indonesia, including women with psychosocial disabilities.
73. This is a continuation of the previous process which was halt due to changes of members of the House after the general election. However, the new draft of this bill made by the new House members is changed completely from the previous draft proposed by women activists, including women with disabilities.
74. There are fundamental things that are changed or deleted in the new draft. Among them are changes in title that have an impact on efforts to eliminate sexual violence, reducing 9 forms of various of sexual violence into only 5 forms, lack of protection to the victims, destructing meaning by putting euphemism on the term "rape," lack of provision of Online Gender-Based Violence.
75. Women with disabilities in Indonesia have high hopes for the original draft. During the drafting of the previous draft, representatives of women with disabilities were directly involved in ensuring that their special interests were accommodated in the draft of the Bill on the Elimination of Sexual Violence.

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<sup>30</sup> Octavian, Y and Wirya, A (2018). *The state of human rights protection for the mentally disabled in the criminal justice system*. LBH Masyarakat.

76. In that initial draft, there were many provisions that provided more protection for persons with disabilities including adequate accommodation during the trial, accessibility, ease of reporting, flexibility of evidences, accesible shelters, and additional penalties for perpetrators if the victim was a child or person with a disabilities. This protection also regulates that testimonies from victims with disabilities (including persons with psychosocial disabilities) have the same weight as those from non-disabled victims.

77. However, in the latest version, special protection for persons with disabilities is missing. As a result, it will be very difficult for women with disabilities who are victims of violence to find a safe space or resolve cases of violence they experience.

### **Recommendation:**

1. The state must ensure that violence against women with psychosocial disabilities is legally processed like the cases faced by other citizens.
2. Restore the titles and crucial articles that have been changed or deleted in the new draft bill.
3. Restore the provisions on special protection for women with disabilities who are victims of violence.
4. Ensure that the testimony of women with disabilities who are victims of violence has the same legal value as that of non-disabled victims.
5. Ensure that cases of sexual violence against women with disabilities are taken seriously.
6. Involve representatives of women with disabilities during the process of drafting the Bill.

## IV. The Right to Work

78. Women with psychosocial disabilities face many barriers to finding work.
79. Likewise, when they have worked, women with psychosocial disabilities often experience discrimination and also find it difficult to get accommodation for their disabilities at work.
80. As a result, they are vulnerable to being dismissed or resigned due to an unsupportive work environment.
81. The obstacles faced by women with psychosocial disabilities in the world of work include the following:

## A. Requirement of Mental Health Certificate



Left: Mental Health Certificate released by a psychiatrist from M.Djamil Hospital in Padang, West Sumatra 2015. The letter stated that based on psychiatric examination, there was no mental disorder in the person examined. It is also stated that the certificate was made as administrative requirements for civil servants application.

Right: Advertisement of best health examination packages available at Duren Sawit Hospital in Jakarta. One of them is psychiatric examination, including MMPI test, for Mental Health Certificate, 2019.

82. All job seekers, both persons with disabilities and non-disabled persons, must submit a certificate which declares that they do not have any mental health problem. This certificate is obtained after a series of test to detect

any mental illness through psychiatric examinations that assess personality traits and psychopathology.

83. This requirement has been applied in almost all sectors, both government (civil servants), the formal sector, to the informal. As a result, it is increasingly difficult for women with psychosocial disabilities to find work, even when they have sufficient skills to do the job.
84. Therefore, many women with psychosocial disabilities are trapped in the informal sector of work, with a lack of social protection and fulfillment of workers' rights. This condition places women with psychosocial disabilities at risk of falling into poverty.

## **B. Dismissed from Employment Due to Psychosocial Disabilities**

85. We found cases of women with psychosocial disabilities being dismissed from work after it was discovered that they had psychosocial health problems.
86. One woman was dismissed after she submitted a letter from a doctor explaining that she couldn't go to work due to illness. The company found out that she had mental health problems because of a doctor's certificate issued by the psychiatric ward.<sup>31</sup>

## **C. Lack of Reasonable Accommodation**

87. After hearing unpleasant stories from those who were laid off from their jobs due to mental illnesses, most women with psychosocial disabilities did not dare to tell the company about their mental health problems. As a result, they cannot access any accommodation for their disability.
88. A woman with a psychosocial disability who works in an IT company is not brave enough to ask for regular breaks. She is also afraid to ask for permission from the employer when she went for her regular psychiatric treatment because she is afraid the employer will know that she went to see a psychiatrist.
89. As a result, she is considered to be absent from work many times that resulted in her termination from work.<sup>32</sup>

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<sup>31</sup> IMHA's interview with Women with Psychosocial Disability, 2020.

<sup>32</sup> IMHA's interview with Some Women with Psychosocial Disability, 2020.

**Recommendation:**

1. The government must eliminate all forms of discrimination in the recruitment of workers, including by removing the certificate of spiritual health in the requirements for seeking work, both in the government and in the private sector.
2. The government must ensure decent working conditions for all women, including women with mental disabilities.
3. The government must ensure that employers are not allowed to terminate employment on the grounds of psychosocial disability.
4. The government must ensure that regulations related to proper accommodation are complied with by employers.
5. The government should ensure that the quota of 2 percent of workers with disabilities also applies to women with psychosocial disabilities.

## V. Migrant Workers who Returned Home with Mental Illness

Violate CEDAW Article 11 and related to concluding observation point Women migrant workers para 44

90. One of the big problems but not getting attention from the government is that women migrant workers return to Indonesia with disabilities, including psychosocial disabilities.
91. There is an iceberg phenomenon which shows that many women migrant workers return to Indonesia in a state of mental disorder. Every year there are women migrant workers who return to Indonesia with mental illness.
92. This is caused by many factors, including receiving inhumane treatment, sexual harassment, rape, unpaid wages, long working hours, and so on.
93. Veriani from Sukabumi, West Java, returned to Indonesia in 2013, pregnant and with mental illness. She experienced violence and sexual harassment while working in Malaysia.
94. In 2015, Ela Kurniati from Majalengka, West Java returned to Indonesia with a psychosocial disability after 20 months of working in Dubai as a household assistant. She was physically abused and received inadequate wages while working there.<sup>33</sup>
95. In 2016, Khoirul Nisa returned to Indonesia in a depressed condition and brought a child who was raped by her employer in Saudi Arabia. During his work he did not get a salary.
96. In 2017, Fadila Rahmatika from Ponorogo was found abandoned at the Port of Batam, Riau in an injured condition. Her family took him to a mental hospital due to a mental disorder.<sup>34</sup>

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<sup>33</sup> Purwanti, T. (2016, April 12). *TKI Majalengka Pulang dengan Gangguan Jiwa (Migrant Worker from Majalengka Returns with Mental Disorders)*. Retrived from Pikiran Rakyat.com: <https://www.pikiran-rakyat.com/jawa-barat/pr-01217697/tki-majalengka-pulang-dengan-gangguan-jiwa>

<sup>34</sup> Aljawad, J. (2015, January 10), *20 Tahun Tanpa Kabar, TKW Asal Kendal Pulang Membawa Anak dan Depresi (20 Years Without News, Women Migrant Worker from Kendal Returns Home with Her Children and Depression)*. Retrived from liputanbmi.com: <https://www.liputanbmi.com/baca/954/20-tahun-tanpa-kabar-tkw-asal-kendal-pulang-membawa-anak-dan-depresi>



Nur Siyam (45), a former woman migrant worker, who was shackled after returning from Hong Kong in a state of mentally ill. (photo taken at her house on 23 Februari 2017.

97. In the same year there were also other female migrant workers who experienced mental disorders such as Nur Siyam who had worked in Hong Kong and Ernawati from Sukabumi due to the same thing.<sup>35</sup>
98. In 2018, Sumira from Yogyakarta also experienced severe depression after working for 2 years in Malaysia.<sup>36</sup>
99. At the same time, Reni from Sukabumi, West Java, who was a victim of human trafficking, returned home in a state of memory loss due to being abused by her employer while working.<sup>37</sup>

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<sup>35</sup> Tohari, Inam. (2017, Februari 23) *Pulang dari Hongkong, TKW asal Madiun dipasung karena sakit jiwa. Returning from Hongkong, women migran worker from Madiun, East Java was shackled due to mental illness.* <https://news.detik.com/berita-jawa-timur/d-3430290/pulang-dari-hongkong-tkw-asal-madiun-dipasung-karena-sakit-jiwa>

<sup>36</sup> (no name). *Seorang TKW Asal Sleman Dikabarkan Mengalami Depresi di Malaysia (A Migrant Worker from Sleman Reportedly Has Depression in Malaysia)*; Retrived from HarianJigja.com:

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<sup>37</sup> Wis (2018, May 8). *TKI Asal Sukabumi Alami Gangguan Jiwa Usai Pulang dari Dubai (Migrant Worker from Sukabumi Having a Mental Disorders After Returning from Dubai).* Retrived from CNNIndonesia.com:

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100. In the following years, there were also many women migrant workers who returned home with mental disabilities such as Kulsum (2020) and Liih (2021) due to torture by their employers.
101. Women migrant workers who return home with mental disorders face many further problems.
102. They do not get support for their disability, have difficulty accessing health services and social protection programs for persons with disabilities.
103. Many of these women, who used to be the bread winner for the family, are no longer able to earn a living and has to live in adversity due to the lack of support.
104. Some of them even in shackles and in social institutions.
105. Until now there has been no serious effort from the government to address the above problems.
106. Women migrant workers who return home disabled are actually the result of the government's negligence in protecting them while they are working abroad, with no adequate preparation before departure.
107. Consequently, the government should take all necessary steps to prepare and provide protection to migrant workers before and during work and provide all support when they return home.

### **Recommendation:**

We specifically recommend to the government the following:

1. The government is obliged to take concrete and significant steps to resolve various problems experienced by women migrant workers who return home disabled, especially problems with employers.
2. The government is obliged to provide compensation to migrant workers who return home with a disability.
3. Women migrant workers who return home disabled should be a priority in obtaining all available social security for persons with disabilities.
4. The government must prevent women migrant workers who return home disabled from being shackled or not put in a mental institution.
5. The government is obliged to facilitate the best treatment with low side effects by taking into account informed consent and all necessary counseling to Women migrant workers who return home disabled.

6. The government is obliged to facilitate rehabilitation and return to work programs for women migrant workers who return home disabled.

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