

## Shackling Persons with Mental Disability in International Human Rights Law and its Implementation in Indonesia

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Article Info	Abstract
<p><b>Keywords:</b> CRPD, Human Rights Law, Indonesia, Mental Disability, Shackling.</p> <p><b>DOI:</b> <a href="https://doi.org/10.25041/lajil.v5i1.2895">10.25041/lajil.v5i1.2895</a></p>	<p><i>This article investigates the implementation of human rights protection for persons with a mental disability who are being shackled and its challenges in Indonesia. Using a doctrinal and empirical approach, this article found that laws and regulations concerning persons with mental disabilities are yet not fully in line with international human rights law, and governments' efforts to free persons with mental disabilities from shackling eventually have succeeded in reducing the number of shackling cases, however, have not been fully effective. Other obstacles in their community and family, such as stigma, discrimination, and lack of public knowledge about mental health, can hinder fulfilling the rights of persons with mental disabilities. It is recommended to revise articles or laws and regulations which infringe international law and scale up efforts, whether in funds allocation or human resources, facilities, and access to affordable, adequate rights-based mental health services.</i></p>

### A. Introduction

Disabilities People are one of Indonesia's most marginalized groups and even the world. Paul Hunt, the first Special Rapporteur on the Right to Health, dedicated his 2005 report on mental health. His report described people with mental disabilities as "the most neglected, marginalized, and vulnerable group." They experience human rights violations in various aspects of life and within their community. One of the human rights violations experienced by people with mental disabilities is shackling. In Indonesia, this practice has been banned since 1977. However, shackling is still can be found today in various regions of Indonesia, including in Aceh Province, particularly in Aceh Besar District.

Families and villagers sometimes treat people with mental illness inhumanely for various reasons. Pasung usually occurs in the local community. According to Article 1 point 3 of the Regulation of the Minister of Health of the Republic of Indonesia Number 54, the Year 2017, concerning The Handling of Shackling in People with Mental Disorders:

*"Shackling is any form of restriction of movement of People with Mental Disorders (ODGJ) by their families or communities results in the loss of freedom of ODGJ, including the loss of the right to health services to assist recovery."*<sup>1</sup>

Human Rights Watch (HRW) focuses on the global issue of shackling in its most recent study published in honor of World Mental Health Day. The use of shackles on people with mental disorders was observed in 60 of the 110 countries HRW surveyed. In other words, according to the report, HRW stated that shackling is described as the most egregious, old-fashioned, and primitive form of physical restraint.<sup>2</sup> It is primarily used in non-medical settings and is a global issue for which there have been no international or regional efforts to eradicate the practice. It is challenging to pinpoint the exact scope of this practice without comprehensive global data. Still, according to Human Rights Watch, at least 100,000 people worldwide with mental health disorders have ever been shackled, chained, or confined in a small space.<sup>3</sup>

According to Aceh Provincial Health Office, data, 21,414 people have mental illness in Aceh, and around 142 people have been shackled until 2019. In Aceh Besar 2,880 people have mental illness as of 2019, and 8 cases of shackling were found until 2019.<sup>4</sup>

To eradicate the practice of shackling, the Government of Aceh launched the Aceh Free *Pasung* (*Aceh Bebas Pasung*) program in 2010 as part of a broad mental health service community development program, which means that the Aceh government has shifted its attention to protecting the human rights of persons with mental disabilities and become a pioneer in Indonesia.<sup>5</sup> Governor Irwandi Yusuf then continued this program as one of the programs in his second term as Governor of Aceh with the target that by 2022 Aceh will be free from the practice of shackling.<sup>6</sup>

Inspired by the program initiated by the Government of Aceh, the Ministry of Health of the Republic of Indonesia initiated a similar program at the national level, which was carried out in 2014 with the target that Indonesia will be free from shackling by 2019. However, this program was considered less successful and received a lot of criticism from various parties because it only focuses on the efforts to release the shackling victim and does not take further action by providing guarantees of access to adequate mental health services. As a result, people with mental disabilities are being shackled again by their families and community.<sup>7</sup>

An international human rights law that particularly governs people with disabilities, including those with mental disorders, is the Convention on People with Disabilities. Indonesia is responsible for defending people with mental disabilities at the national and regional levels as a state party to the CRPD. Also, Indonesia must enact laws, policies, and practices that discriminate against people with mental disabilities and alter or abolish them. Local governments are encouraged to create disability rules so that the Convention's obligations are understood and followed in Indonesia's 34 provinces. However, until now, only 28 regions in Indonesia have regulations governing the rights of persons with disabilities.<sup>8</sup> Meanwhile, in Aceh, the draft *qanun* concerning disability rights is still being drafted.

<sup>1</sup> Human Rights Watch, "Living in Chains: Shackling of People with Psychosocial Disabilities Worldwide", (2020).

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

<sup>5</sup> Ibrahim Puteh, M Marthoenis and Harry Minas, "Aceh Free Pasung: "Releasing the mentally ill from physical restraint", *International Journal of Mental Health System*, (2011), 5:10. doi: [10.1186/1752-4458-5-10](https://doi.org/10.1186/1752-4458-5-10)

<sup>6</sup> Waspadaaceh.com "Tahun 2022, Penderita Gangguan Jiwa di Aceh Bebas dari Belenggu Pasung", August, 31, 2018, Available online <https://waspadaaceh.com/tahun-2022-penderita-gangguan-jiwa-di-aceh-bebas-dari-belenggu-pasung/>

<sup>7</sup> Felani, Isneningtyas, *HAM Penyandang Disabilitas Mental di Panti Rehabilitasi Sosial*, Komisi Nasional Hak Asasi Manusia, (2018), p. 33.

<sup>8</sup> First Report of the Republic of Indonesia on the Implementation of the United Nations Convention on the Rights of Persons with Disabilities, (2016., p. 7.

Based on the above facts, the problem is formulated as follows: (1) How is the regulation regarding the human rights of persons with mental disabilities according to international and national law? (2) What is the Indonesian government's responsibility in protecting the rights of persons with mental disabilities? (3) What factors hinder the fulfillment of the human rights of persons with mental disabilities in Indonesia?

The research method refers to normative juridical accompanied by empirical research by analyzing a legal fact by looking at the reality of implementation in the field and applying laws and regulations as positive legal provisions, then connected with facts found in a certain area as the object of research.<sup>9</sup> The data from this study were obtained through library research and field research. Data were obtained by studying international agreements, laws and regulations, literature, and other official documents, then by obtaining direct data from the research object through direct and online interviews with informants and respondents.

The novelty of this research is to investigate the implementation of human rights protection for persons with a mental disability who are being shackled and its challenges in Indonesia. The research contributes to the finding that implementing laws and regulations in Indonesia and Aceh Province relating to disability and mental health are not yet fully in line with the CRPD, despite Indonesia's unconditional ratification of the CRPD Convention. However, no international, regional, or local cooperation has been aimed at eliminating the practice of shackling, particularly in Aceh Province, Indonesia. There has been some progress, although it is not yet fully maximized and in line with the CRPD.

## **B. Discussion**

### **1. Regulations Regarding the Human Rights of Persons with Mental Disabilities According to International Law and National Law**

#### **a. Convention on the Rights of Persons with Disabilities**

Concerning the shackling issue, the CRPD does not have a provision related directly to the shackling issue, but it does contain provisions that relate to the rights that potentially be violated concerning shackling, for instance, the right to health, right to liberty, and security of the person, freedom from torture or cruel, inhuman or degrading treatment or punishment, and the right to live in the community.<sup>10</sup>

The lack of language specifically relating to people with mental illness in the International Bill of Rights and other conventions has long hindered the application of these instruments to people with mental disabilities.<sup>11</sup> But, none of them were binding, and none adopted a human rights approach to disabilities.<sup>12</sup> This prompted the international community to issue a specific convention to protect the rights of persons with disabilities, including persons with mental disabilities, after going through a long process. The Convention protects the rights of the world's fastest-growing minority, estimated at over one billion people with disabilities.<sup>13</sup>

The definition is based on the strong notion that there is nothing wrong with persons with disabilities and that the configuration of society needs to be restructured to enable them to participate in society effectively, have equal access to rights and manage their impairments. The Committee then issued its observations regarding developments made by state parties. In implementing the Convention, states must fully involve the representatives of civil society, especially persons with disabilities, to monitor the implementation process of the Convention. States parties that ratified the Optional Protocol to the CRPD recognized the competence of

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<sup>9</sup> Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, Bandung: PT. Citra Aditya Bakti, (2004), p.134.

<sup>10</sup> Op.cit, Human Rights Watch.

<sup>11</sup> Carla A. Arena Ventura, "International Law, Mental Health and Human Rights", *The Center for Civil & Human Rights*, University of Notre Dame, (2014).

<sup>12</sup> Arlene S. Kanter, *The Development of Disability Rights under International Law: From Charity to Human Rights*, Routledge, (2015), p. 21.

<sup>13</sup> *Ibid.*

the Committee to examine complaints from individuals and the decisions of the Committee will be published. So far, CRPD Committee has issued seven General Comments on several articles in the CRPD.<sup>14</sup>

### **b. Laws and Regulations Regarding Shackling and the Protection of the Human Rights of Persons with Mental Disabilities in Indonesia**

Indonesia's obligation to protect, respect, and promote the rights of persons with disabilities since ratifying the CRPD is stated in several relevant laws and regulations to protect the human rights of persons with mental disabilities, both at the national and regional levels.

#### **1. Law Number 18 the Year 2014 Concerning Mental Health**

Based on Law No. 18 of 2014, which regulates mental health, it positions the responsibility of the central government within the national scope to provide facilities for mental health to remote areas through systemic integration of the health of a person's soul in public services regarding health with care services at affordable prices and distances as a maximum availability for people with disabilities who have mental disorders. There is also a requirement for training a sufficient number of professionals in mental health. This provision also focuses on a community-based facility many people can access. Its implementation still refers to government monitoring regarding the standardization of treatment and licensing of health services. The guarantee fulfilled by this regulation is to provide a person with complete information related to mental health or also referred to as transparency, as a form of protection against exploitation, violence, and threats of abandonment. This regulation is merely part of strengthening a person's awareness and eliminating labeling that leads to discrimination against people with disabilities, with the hope of building a positive impact on the mass media to frame the good things about people with disabilities. Then this law also has the threat of sanctions in the criminal realm imposed on intentional acts committed by someone to commit violence, neglect, or confinement, as well as acts that are not in line with the substance of human rights that are upheld as contained in Article 86 of the Mental Health Law for persons with mental disabilities.

#### **2. Law Number 8 the Year 2016 Concerning Persons with Disabilities**

According to Article 1 Point 1 of Law No.8, based On section Persons with Disabilities (from now on referred to as Disability Law), a disabled person is anyone who has long-term physical, intellectual, psychical, or sensory restrictions and who may encounter barriers and difficulties in their interactions with others while exercising equal rights. This Rule's definition of people with disabilities is consistent with the one used by the CRPD. In contrast, "individuals with mental problems" are defined in the clarification of Article 4 paragraph (1) point c as individuals who have disruptions in the function of cognition, emotion, and behavior.

The law also contained criminal provisions to protect persons with disabilities from human rights violations in Article 145. Regarding shackling, The Law includes the provision in Article 6 on the right to life, which includes the right to be free from neglect and shackles. Thus, shackling violates the right to live according to Law Number 8 of 2016. In addition to shackling issue, the elucidation of Article 9 point g of the Disability Law also states that one form of pressure, violence, persecution, discrimination, and/or confiscation or expropriation of property is shackling.

#### **3. Regulation of the Minister of Health Number 54 the Year 2017 concerning The Handling of Shackling for Persons With Mental Disorders**

This Ministerial regulation issued by the Minister of Health is a derivative rule of the Mental Health Law, specifically regulating shackling. In the considerations contained in the

<sup>14</sup> Committee on the Rights of Persons with Disabilities, <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

Regulation of the Minister of Health Number 54 the Year 2017, concerning the Handling of Shackling for Persons with Mental Disorders, it is stated that shackles carried out on people with mental disorders are actions contrary to human values and are also gross violations of human rights.

#### 4. Regulation of the Minister of Social Affairs Number 12 the Year 2018 concerning Guidelines for Prevention and Handling of Shackling for Persons with Mental Disabilities

This regulation is addressed to ministries/agencies, district/city local governments, and the public to serve as guidelines in preventing and dealing with the shackling issue. Prevention is carried out through socialization and education, advocating on shackling, and ensuring that persons with mental disabilities are registered in the National Health Insurance, independently registered, as wage earners, or as Contribution Assistance Recipients. Regarding handling shackling for persons with mental disabilities, the government, local governments, and the community carry out handling by doing outreach and social rehabilitation.

## **2. The Government of Indonesia's Responsibility in Providing Protection for the Human Rights of Persons with Mental Disabilities**

Indonesia has ratified the CRPD through Law Number 19 the Year 2011 concerning the Ratification of the Convention on the Rights of Persons with Disabilities. Thus, Indonesia has a legal obligation and the CRPD also applies within Indonesian jurisdictions to protect, promote and fulfill the rights of persons with disabilities. In addition, Indonesia is also obliged to make regulations that are in line with the CRPD.

Apart from the protection provided in the Mental Health Law, the Law is not fully in line with CRPD and contains several provisions that can potentially cause problems. For example, allowing others to consent to medical treatment in the capacity of persons with mental disabilities if they are deemed "incapable of making decisions" without going through a judicial process as outlined in Article 21 paragraph (3) in Mental Health Law. Suppose another person decides based solely on the perception that the individual cannot make a decision. In that case, this is considered discrimination against persons with mental disabilities and thus against the CRPD. However, it is impossible to determine the individual's views when deciding. In that case, decisions are made using a supported decision-making system based on the best considerations of will and preference and the best interest of the individual, both as to what services are appropriate to provide and how the wills and preferences of the individual are determined. Then Article 22 of the Mental Health Law also allows medical personnel to force treatment on persons with mental disabilities whose thoughts and/or behaviors indicated as dangerous can endanger themselves and others. These two articles contradict the CRPD.

The definition is found in Article 1 Point 3 of the Mental Health Law. The definition of ODGJ in this Law does not include environmental causes that hinder persons with mental disabilities. At the same time, the CRPD considers disability as a concept that develops and results from limited abilities, interactions, and behavioral barriers from the environment that hinder the full and effective participation of persons with mental disabilities. In other words, in terms of CRPD, there is nothing wrong with people with mental disabilities, but the problem lies in the environment that prevents people with mental disabilities from developing and fully participating, which often makes people with mental disabilities excluded and their rights neglected.

The National Commission for Disabilities (KND) was formed through Presidential Decree Number 68 of 2020. The presidential regulation regulates the selection, composition, and function of the National Commission for Disabilities as mandated in the Disability Law. However, this raises problems because, in Disability Law, KND is directly responsible to the President. At the same time, Presidential Decree Number 68, the Year 2020, places KND

under the auspices of the Ministry of Social Affairs. This is contrary to what is mandated by the Disability Law and can interfere with the institution's independence in carrying out its functions.

#### a. Government Responsibilities Relating Shackling

Indonesia's government and local governments have tried to eradicate this practice, one of which is through the Aceh Free Pasung program. It is not advanced or sophisticated. This program releases persons with mental disabilities from *pasung*, takes them to the hospital, takes good care of them, and returns them. However, this program's underlying factors and consequences make it special. This program is the first program in Indonesia to release many people from shackling.<sup>15</sup> Although the number of shackling victims has decreased, this practice still exists in Indonesia, especially in Aceh.

However, Kimberly Clair asserts that recent efforts in Indonesia to safeguard the human rights of people who are chained, shackled, or imprisoned due to their mental illness offer a crystal-clear illustration of the disaggregated strategy.<sup>16</sup> During his visit in March 2017, UN health expert, Dainius Puras, urged the Indonesian government to "step up" its campaign against *pasung* and ensure that shackles are not "replaced by other forms of restraint and confinement." which violate human rights.<sup>17</sup>

Currently, Aceh does not have a specific legal regulation to deal with the issue of shackling, both at the provincial and district/city levels, as is in West Nusa Tenggara Province, which has the Regulation of the Governor of West Nusa Tenggara Number 22 the Year 2013 concerning the Handling of Pasung in West Nusa Tenggara Province. Aceh province also does not have a *qanun* that specifically regulates mental health and a *qanun* that regulates persons with disabilities. However, there is a provision regarding mental health in Qanun Number 4 in the Year 2010 concerning health. An example of a province with a Regional Regulation (Perda) on mental health in West Java. It is also the first province to have a regional regulation on mental health in Indonesia. Regarding the regulation regarding persons with mental disabilities, there is a provision concerning Social Welfare in Aceh *Qanun* Number 11 2013.

In this *Qanun*, the Aceh government focuses on providing social assistance to several groups, including persons with mental disabilities. However, until now, there has been no government regulation for implementing social welfare services for persons with disabilities as mandated in Article 37 of Qanun Number 11 of the Year 2013. The definition of persons with disabilities adopted in this Qanun is:

*"Every person with a physical and/or mental disorder that can interfere with or is an obstacle for him to perform properly, consisting of persons with physical disabilities, persons with mental disabilities, and people with physical and mental disabilities."*

The definition of persons with disabilities in this *Qanun* is not clear. It still uses the offensive term "handicapped" and views that a person's disability causes them to be hindered from doing things or activities as they should. This is contrary to the view of the CRPD, which sees disability as a problem that arises due to the environment and society's treatment of persons with disabilities, not on their disability. As for the rules regarding shackling, Article 75 paragraph (1) of the Qanun Number 4, the Year 2010, concerning health, imposes an obligation on the Aceh Government to eradicate the practice of shackling and eliminate public stigma against persons with mental disabilities. This is lamentable because Aceh is the first province in Indonesia to have a Free Shackling

<sup>15</sup> Marthoenis, Marion Aichberger, Ibrahim Puteh, Roslaini, Meryam Schouler-Ocak, "Releasing the mentally ill from physical restraint: An experience from a developing country", Conference Paper, (2012): 293-295.

<sup>16</sup> James Gomez & Robin Ramcharan. (2019). *National Human Rights Institution in Southeast Asia*, Palgrave Macmillan, (2019), p. 234-235.

<sup>17</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his mission to Indonesia. (2018). A/HRC/38/36/Add.1.

program. This policy should be poured into a separate legal rule to make its implementation more effective.

In dealing with shackling in Aceh, especially in Aceh Besar District, through an interview via WhatsApp with Dr. Deni Yaneva, M.Kes, for the case of shackling in Aceh Besar District, precisely in Kuta Baro, there are human rights-based programs such as Day Care for persons with mental disabilities, through which families can entrust their family members with mental disabilities. With this program, it is hoped that there will be no reason to shackle their family members because there is no one to look after them. This program is similar to the concept of *Pendidikan Anak Usia Dini* (PAUD), where persons with mental disabilities can also carry out activities with other persons with mental disabilities.<sup>18</sup>

### **3. Factors Hindered to the Fulfillment of the Rights of Persons with Mental Disability**

Shackling is considered an iceberg phenomenon. Although it has been banned since 1977, this inhumane practice is still common today and is carried out in different ways. From the interviews through the WhatsApp application with Dr. Deni Yaneva, and M. Kes, a few factors led to shackling, especially in Aceh Besar, were:

- a. Economic constraints faced by the patient's family.
- b. Violent behavior.
- c. Sometimes, the patient does not want to take medication.
- d. Relapse, after being declared cured by the Mental Hospital and sent back home again, the patient does not want to take medicine and thus has a relapse.
- e. The patient's family lacks knowledge about mental health and how to deal with patients when they relapse.

Apart from the incompatibility of the law with the CRPD and the absence of legal regulations or regulations regarding mental health and the rights of persons with disabilities, especially in Aceh, according to the results of an interview with Dr. Deni Yaneva, M.Kes and Robby Mulia Manurung from the National Human Rights Commission (Komnas HAM) of the Republic of Indonesia Aceh Representative Office, there are several obstacles in fulfilling people with mental disabilities, especially in the handling of shackling. First, the lack of coordination and cooperation in the community is due to the view that health workers can only handle psychiatric problems or those related to people with a mental health conditions. Then the stigma strongly attached to persons with mental disabilities is also a big challenge for handling the practice of shackling and fulfilling the rights of persons with mental disabilities.

This stigma tends to be high and then becomes the cause of discrimination which is also part of the issue faced by persons with mental disabilities in Indonesia, especially in Aceh. They are considered dangerous and different from other human beings. They must be shackled, isolated, discarded, or concentrated in specific places to be accommodated so they do not disturb other people.<sup>19</sup> This also creates a dilemma between protecting the patient himself and the community due to his behavior or protecting the rights of the person with a mental disability.

Then the lack of knowledge about mental health and how to deal with persons with mental disabilities. This is important because not a few have experienced pasung again by their families after they have been treated and recovered due to their families' lack of knowledge about handling the behavior of persons with mental disabilities. Severe mental disorders such

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<sup>18</sup> dr. Deni Yaneva, M.Kes, Kepala Seksi Pencegahan dan Pengendalian Penyakit Tidak Menular dan Kesehatan Jiwa Dinas Kesehatan Kabupaten Aceh Besar, Interview on September 26th 2020 by WhatsApp Call.

<sup>19</sup> Mulia Robby Manurung, Subkoordinator Bidang Pelayanan Pengaduan Komisi Nasional Hak Asasi Manusia Kantor Perwakilan Aceh, interview by email on October 1 2020.

as schizophrenia, bipolar, and depression are common but are often ignored as health problems by the public due to the lack of public awareness of mental health.<sup>20</sup> Other obstacles also exist in human resources. Many of those who treat people with mental health conditions in pasung are elderly, another thing also lies in the patient's trust in them, and some patients do not want to be treated by someone other than the one who usually treats them.<sup>21</sup> Facilities, infrastructure, and mental health workers are not proportional to the number of people with mental disabilities. Currently, the Indonesian government allocates about 1 percent of the total health budget to mental health. Total health spending is about 3 percent of GDP.<sup>22</sup>

In Aceh Besar, dr. Deni Yeneva added that Obstacles related to the Covid-19 pandemic generally do not exist. Health workers still carry out home visits to monitor the condition of shackling and provide treatment. However, this pandemic has hindered community treatment which cannot be carried out as usual due to the prohibition on mass gatherings.<sup>23</sup> In dealing with shackling in Aceh Besar, the Aceh Besar District Health Office ensures that although shackling still can be found in Aceh Besar, the government ensures that no one is held in shackling in extreme ways such as being tied up, chained, placed outside the house or in huts and cages, but shackled by being locked up in the house.<sup>24</sup>

However, shackling is a practice that cannot be justified, is inhumane, and violates human rights. Shackling will not solve any problem used as an excuse by families of persons with mental disabilities to put them in shackling. It also only increases the suffering of people with mental disabilities, both mentally and physically, as a result arising from the practice.

Because Indonesia has not ratified the Optional Protocol to the CRPD, relevant individuals or organizations cannot directly report allegations of human rights violations against them. Regarding complaints regarding alleged human rights violations Komnas HAM Aceh Representative received a complaint regarding alleged human rights violations against persons with disabilities. This case is the case of a person with a mental disability with the initials MA, a resident of Gampong Tibang, Subdistrict of Syiah Kuala, Banda Aceh City, who was shot to death by a suspected member of the Syiah Kuala Police because of endangering the safety of residents and members of the police who wanted to secure him on January 28, 2020. Previously, on the same date, MA had slashed a motorcyclist with a machete who happened to pass him on the road. MA also often walks around with a machete on the streets around the Tibang and Alue Naga villages.<sup>25</sup>

According to Drew et al., one of the reasons why human rights violations continue to occur is that these violations are not reported.<sup>26</sup> The lack of reports on allegations of human rights violations against persons with mental disabilities, although many cases are found in the field, shows no awareness or concern from concerned parties to report alleged human rights violations. Drew et al. also stated that the complaint mechanism must be accessible, encouraging and enabling persons with mental disabilities, their relatives, and human rights activists to report human rights violations freely and safely. This lack of reporting also indicates that there are still many people and concerned parties who do not have awareness about mental health, human rights, and persons with mental disabilities. Regulations not fully in line with the CRPD and its paradigm shift are also obstacles to fulfilling the rights of persons with mental disabilities. The absence of legal rules or qanuns that specifically regulate mental health and the rights of persons with disabilities in Aceh is also an obstacle to

<sup>20</sup> Harry Minas, *ASEAN Mental Health System*, The ASEAN Secretariat, (2016), p. 42.

<sup>21</sup> dr. Deni Yeneva, M. Kes, Op. cit.

<sup>22</sup> Insideindonesia.org "The Future of Mental Health Care in Indonesia" July, 24, 2020, Available online <https://www.insideindonesia.org/the-future-of-mental-health-care-in-indonesia-6>.

<sup>23</sup> dr. Deni Yeneva, M. Kes, Op. cit.

<sup>24</sup> dr. Deni Yeneva, M. Kes, Op. cit.

<sup>25</sup> Mulia Robby Manurung, Op. cit.

<sup>26</sup> Natalie Drew et al., "Human rights violations of people with mental and psychosocial disabilities: An unresolved global crisis", *The Lancet*, (2011), Vol, 378, 1664:1675. doi: 10.1016/S0140-6736(11)61458-X



fulfilling the rights of persons with mental disabilities so that their implementation can be clearer, more effective, and more efficient.

### **C. Conclusion**

Laws and regulations in Indonesia and Aceh Province relating to disability and mental health have not been fully in line with CRPD, even though Indonesia has ratified the CRPD Convention without any reservation. However, no international, regional, or local cooperation has been aimed at eradicating the practice of shackling, particularly in Aceh province, Indonesia. There has been some progress, despite not being fully maximized and in line with the CRPD. The CRPD, with its paradigm shift, should be a guideline to promote, protect, and fulfill people with mental disabilities in Indonesia, especially in Aceh province. Regarding handling shackling in Indonesia, especially in Aceh, the government has successfully reduced the number of cases of this practice. However, releasing the victims from shackling is insufficient because they can still be found after treatment.

There is still a lack of funds and human resources for the mental health sector. Other obstacles are found in the community and family environment, such as stigma, discrimination, and inhumane behavior of the community, family, and environment around persons with mental disabilities. Lack of public knowledge and awareness about mental health is also an obstacle to fulfilling the rights of persons with mental disabilities.

### **D. Suggestion**

Several suggestions can be made related to the subject matter of the discussion. Revise provisions in current laws concerning persons with mental disabilities which are not in line with CRPD, regarding the definition of persons with mental disorders (ODGJ) in Article 1 point 3 of the Mental Health Law, and Article 21 paragraph (3) of Law Number 18 of 2014 concerning Mental Health, as well as Article 22, comply with the CRPD. There is a need for separate legal regulations governing mental health, the rights of persons with disabilities and shackling in Aceh following the CRPD. Ratify the CRPD Protocol as an effort to maximize the fulfillment of Indonesia's responsibility to protect the rights of persons with disabilities by providing a means to convey allegations of human rights violations against persons with disabilities at the international level. Greater attention is needed than what has been sought for mental health issues, whether in the form of funds, increased human resources, facilities, or access to health that is affordable, accessible, adequate, and human rights-based.

Good and collective coordination is also needed between various parties, such as professionals in the mental health field, advocacy organizations working in human rights and persons with disabilities, and the community to protect the rights of persons with mental disabilities. In addition, under international law, involving persons with mental disabilities directly in making decisions for themselves is mandatory. Central and local governments must commit to protecting the rights of persons with mental disabilities and eliminate a practice that violates the human rights of persons with mental disabilities, particularly the practice of shackling.

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