

Universal Periodic Review Indonesia

4th Cycle, 41st session



Human Rights Situation in Indonesia
With a specific focus on youth with psychosocial disabilities

Prepared by:

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Introduction

1. Indonesia Revolution and Education for Social Inclusion (REMISI) is an Organization for Persons with Disabilities focused on the rights of Persons with Psychosocial Disabilities in Indonesia. Remisi believes that it is obligatory to provide a report to highlight the situation in Indonesia, where Persons with Psychosocial Disabilities experience a lot of discrimination and violence from various parties.
2. In this report, we describe nine significant issues faced by persons with psychosocial disabilities, especially in youth with disabilities in their lives, and the most crucial points that must be implemented by state parties to be able to protect, fulfill and respect the rights of youth with psychosocial disabilities.
3. Indonesia implemented several recommendations on strengthening the protection of persons with disabilities groups in general from discriminatory practices and violence, including legislation and policies regarding the rights of persons with disabilities from the previous universal periodic review recommendations. However, there are many regulations and policies that the government has not yet been able to perfect and finalize.

The Regulations

4. From 2017 to 2021, there are several legal products and policies in Indonesia made by the government. However, some of these laws and regulations are still not following the wishes of people with psychosocial disabilities, especially youth with disabilities, including:
5. Government Regulation No. 75 of 2020 concerning Habilitation and Rehabilitation Services for Persons with Disabilities still refers to the handling of Persons with Disabilities in the form of social care institutions. This Government regulation is not entirely compliance with the CRPD and Law no. 8/2016. In addition, this government regulation does not regulate the complaint mechanism and supervision of institutions that often violate human rights principles. Various proposals from organizations of Persons with Disabilities (OPDs) were not included in the Government Regulation.

6. In Article 6 of the draft law on the elimination of sexual violence in 2021, forced contraception, in the Elucidation of the Bill on forced contraception, is still allowed to prevent pregnancy and infectious diseases. Although it is not directed to persons with psychosocial disabilities, it will impact people with psychosocial disabilities, which often occur as a solution in families and social care institutions and are carried out without informed consent.
7. Due to a refusal from the Ministry of Finance, the proposed Government Regulation on Concessions until 2021 has also not been ratified. To date, it has not shown any further significant progress on the endorsement.
8. The existing social protection programs do not favor the rights of persons with disabilities, especially people with psychosocial disabilities. In addition, the existing programs are still based on family programs and automatically place youth with psychosocial disabilities in a low position because social assistance programs are not directed directly to people with psychosocial disabilities.
9. Law No. 1 of 1974 concerning Marriage discriminated against persons with disabilities, related to the reason for divorce because one of the partners became disabled. Until 2021, there will be no revision and improvement efforts from the government or the parliament.
10. Government Regulation No. 15 of 2019 concerning the Implementation of Social Welfare allows social welfare services to take coercive actions, which are finally used as justification for forcing psychosocial disabilities to be forced to place them in social care institutions. This Government Regulation is also a reference for regions to make regional legal products. There are at least 26 policies that also allow forced treatment.

The situation during the Covid-19 Pandemic

11. An experience by youth with psychosocial disabilities who were victims of sexual violence during the pandemic was the accessibility and reasonable accommodation. The sexual violence center still does not know the condition of youth with psychosocial disabilities due to preconceived notions and stigma regarding their capabilities, which worsens their mental health conditions.
12. Access to medicines is one of the problems experienced by psychosocial disabilities. Where previously they could get medicine for one month, now it is only two weeks or less, so they have to spend more to redeem the medicine. This condition, of course, has an impact on their mental health, which often worries them for their safety and health.

Legal Capacity

13. Elimination of legal capacity and placement in care for Persons with Psychosocial Disabilities in Indonesia is legalized in Article 443 of the Civil Code. This problem causes various violations of the rights of persons with psychosocial disabilities, including the loss of civil rights. This resulted in forced treatment in mental hospitals and social rehabilitation centers without consent. In Indonesia, the loss of legal capacity by empowering people with disabilities is often carried out without any legal process.
14. In addition to civil rights, people with psychosocial disabilities also lose their right to equality before the law, where when they become victims of violence and report their cases to law enforcement officials, it is not uncommon for cases of violence they experience cannot be processed because of their mental health condition. They do not believe in what they are experiencing, even considered incompetent before the law.
15. The practice of eliminating legal capacity has been adopted under other laws in Indonesia. In the Mental Health Law No. 18 2014 in Article 21 paragraphs 3 and 4, it is

stated that in the event that persons with psychosocial disabilities are judged to be incapable of making decisions by doctors, then the approval of medical action can be carried out by the family and caregiver.

Right to work and employment

16. Persons with psychosocial disabilities are discriminated against in the right to get a job. In applying for a job, there is a mental health certificate needed as a requirement that must be fulfilled by every job seeker who wants to work as a civil servant, a state-owned enterprise, or in a private company. The mental health certificate as a requirement also applies to running for public office or applying as a candidate for a member of parliament.
17. The government systematically and structurally discriminates against persons with psychosocial disabilities regarding their right to work. The mental health certificate as a requirement is based on Government Regulation Number 11/2017 concerning the Management of Civil Servants. All ministries and agencies in Indonesia adopted the regulation.
18. Although Law No. 8/2016 regarding Disabilities stipulates a quota of two percent in the government and one percent in the private sector, all application processes require a Mental Health Certificate, which becomes a barrier for persons with psychosocial disabilities, especially the youth. In employment recruitment for the disability pathway for the government, there are requirements for applications for people with disabilities that are difficult to fulfill. For instance, disability certificates and uploading videos related to their disabilities. Various positions are not intended for people with psychosocial disabilities.

Right to Health

19. Remisi highlights several laws and regulations in the health sector that discriminate against people with psychosocial disabilities. First, the financing of morbidity and

mortality due to self-harm or self-harm and attempted suicide by the National Health Insurance insurance system is not covered by Presidential Regulation No. 28 of 2018 in Article 52 Paragraph 1 Letters i and j, while these behaviors constitute one of the signs and symptoms caused by people with psychosocial disabilities. Remisi documents 5 cases that occurred in 2019.

20. Many WHPDs were forcibly taken to rehabilitation centers using handcuffs, chains, ropes, and tranquilizers. This is regulated in Government Regulation No. 52 of 2019 concerning the implementation of social welfare in article 8, paragraph 1, stating that social welfare can be carried out coercively or coercively, which is usually carried out by the SATPOL PP. Many regions in Indonesia adopted this Government Regulation. Remisi recorded 26 regional regulations, including governor regulations, mayor regulations, and regent regulations in various regions in Indonesia.
21. During this pandemic and lockdown, the discrimination has been further compounded. The lack of access to health care for YWPD has been exacerbated. Many YWPDs who live within the social care institutions owned by people are neglected and forgotten from COVID response, including their access to healthcare, vaccine, and preventive information.
22. In several social institutions that we visited in 2021 in rural areas, it was difficult for PWDs to access health services, vaccinations, and health education. Covid is considered not to have entered the social institutions by the social care institution manager because the family is not allowed to visit YWPDs inside the social care institution.
23. Additionally, the local government lack interest in entering the social institution to provide medical and non-medical services. There is no special attention and intervention from the government, such as the health office, to provide access to proper health, including vaccines, health services, and education on clean and healthy living behaviors.
24. When we visited social care institutions, we did not see any implementation of health protocols, including cleanliness and sanitation of rooms in the institutions, hand washing

habits, wearing masks, limiting the capacity of the institutions, and social distancing between the residents of the social care institutions.

25. For PWDs who do not live in nursing homes, they find it difficult to access medical and non-medical services in both urban and rural areas, especially if they are affected by covid because some hospitals do not have COVID isolation rooms specifically for psychiatric patients.
26. YWPDs in private social care institutions are ignored in response to the covid response program, especially for covid vaccines, in some areas the caretakers did block access to outside parties, for example from organization of persons with disabilities, so it is not known whether the residents get the vaccine or not. In addition, some social care institutions use traditional methods, so they do not provide various options for residents to get access to health care in Tasikmalaya, Demak, Brebes, Bangkalan, Sidoarjo and Sumenep.
27. The owner and caretakers in some private social institutions in several social institutions in these areas expressly refuse vaccines. They believe that residents have not contracted the Coronavirus, even though, based on our investigations, there has never been an examination, socialization of health protocols specifically for institutions, and even special assistance from the government. Some private social care institutions' residents did not even know there was a pandemic due to limited information and confinement. Chaining practices still occur during the pandemic.

National Commission for Disabilities

28. Indonesia established the National Commission for Disabilities (KND) in December 2021 to implement the Persons with Disabilities Law through Presidential Decree (Perpres) No. 68 of 2020. This shows the commitment of the Indonesian government to strengthen, promote, and protect the rights of persons with disabilities. However, the OPDs regret that this KND is under the Ministry of Social Affairs and is not an independent state body similar to a national human rights institution (NHRI) in

accordance with Articles 131 and 132 of the Persons with Disabilities Law.

Recommendations:

- 1) The state has to abolish the guardianship system in the civil code, deprivation of liberty, arbitrary detention, and the abolition of physical and mental health requirements that discriminate against workers with psychosocial disabilities.
- 2) The state must recognize the Legal Capacity for persons with psychosocial disabilities and make a supportive decision-making program.
- 3) Revise Laws: on Marriage, mental health, disability, and all regulations legalizing forced institutionalization.
- 4) To enact the law on the elimination of sexual violence. To eliminate the violence that occurs in institutions.
- 5) To progressively implement the deinstitutionalization program by designing social protection programs for persons with disabilities to live independently and return to the community.
- 6) To Ratify: OP CEDAW, OP CAT, OP CRPD, ILO Convention no.190, and recommendation 206.
- 7) The state should conduct training for all levels of government officials regarding the rights of persons with disabilities, including psychosocial disabilities.
- 8) Revoke provisions or articles in legal instruments or draft laws that are still discriminatory against people with disabilities
- 9) Involve youth with psychosocial disabilities, DPOs through a meaningful consultation process in designing legal instruments in various sectors and affairs that have a direct or indirect impact on the lives of persons with psychosocial

disabilities

- 10) Strengthen the position of the National Disability Commission as a national human rights institution (NHRI) to be an independent institution and not put the secretariat under the Ministry of Social Affairs