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Transformation of health law: Legal protection for persons with mental disorders

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ABSTRACT

The legal protection for individuals with mental disorders in Indonesia is governed by various laws; however, there are still significant challenges in their implementation. This research uses a normative juridical method to analyze and study existing laws and regulations, focusing on their application in the legal protection of individuals with mentally disorders. The research aims to provide a thorough analysis that highlights existing regulations and reflects the practical realities, ultimately offering relevant recommendations to improve the legal system and mental health policies in Indonesia. The results indicate that despite having a robust legal framework, the challenges in its application indicate the need for transformation and improvement of the health law system in Indonesia so that the protection of individual rights can be more optimal and sustainable. In addition, healthcare professionals, including doctors, nurses, and counselors, need to receive specialized training on sensitive approaches to mental health so they can provide better and more humane care for patients with mental disorder. Additionally, despite the efforts and regulations that have been established, the implementation of mental health laws and policies has not yet demonstrated the expected effectiveness. This work provides valuable insights for policymakers, practitioners, and advocates, ultimately advancing the legal discourse surrounding mental health in Indonesia, laying the groundwork for future research and enriching legal scholarship.

Keywords:

legal protection

legal transformation

mental disorders

mental health

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INTRODUCTION

Mental disorders, often referred to as mental health disorders, refer to various conditions that affect a person's thinking, feelings, and behavior (Fadhilah & Kuswoyo, 2022; Kring & Johnson, 2022; Logeshwaran et al., 2022; Taschereau-Dumouchel et al., 2022; Wulandari & Samanik, 2023). These disorders can lead to difficulties in daily life, interacting with others, and managing emotions (Laraia, 2013). In medical terms, mental disorders are recognized as illnesses that require appropriate diagnosis and treatment (Blackmore et al., 2020; Li et al., 2022; McGorry et al., 2022). According to the World Health Organization (WHO), mental disorders can include a range of conditions such as depression, anxiety, bipolar disorder, schizophrenia, and post-traumatic stress disorder (PTSD). Each of these disorders has distinct symptoms and impacts, yet all can pose significant challenges for the individuals who experience them (Keliat & Wiyono, 2010).

Various types of mental disorders can be categorized into several groups, including affective disorders, anxiety disorders, psychotic disorders, and personality disorders. Affective disorders, such as depression and bipolar disorder, are characterized by extreme mood swings that can disrupt daily functioning. Meanwhile, anxiety disorders, such as panic disorder and phobias, cause excessive feelings of fear or anxiety. Psychotic disorders, such as schizophrenia, are marked by distortions in thinking, perception, and behavior, often causing individuals to lose touch with reality. Personality disorders encompass patterns of behavior that deviate from social norms and can affect how individuals interact with others (Nasir & Muhith, 2011)

The impacts of mental disorders are not only felt by the individuals experiencing them but also by society as a whole. Individuals with mental disorders often face stigma and discrimination, which can exacerbate their condition and hinder their access to necessary treatment. This stigma often stems from ignorance and fear within the community regarding mental health conditions, leading to social isolation and ostracism. On a

societal level, mental disorders can result in increased economic burden due to healthcare costs, loss of productivity, and the need for social support. Additionally, families and close friends of individuals with mental disorders can also experience significant emotional and financial impacts, making it essential to develop a comprehensive approach to addressing this issue (Semiun, 2010).

Guardianship for individuals with mental disorders can be petitioned through the Religious Court and the District Court, as both institutions have the authority to address matters related to guardianship. In the perspective of Islamic Law, guardianship refers to someone who is hindered or limited in self-control, including in terms of managing their property. Specifically, the term "*mahjur*" refers to individuals who are restricted from managing their assets due to certain conditions they possess, necessitating supervision from others (Gulo et al., 2022). Although individuals with mental disorders may often struggle to function optimally in society, they still have the right to participate in cultural activities and interact, even if the ways and forms of their interactions may not fully align with the norms applicable to mentally healthy individuals (Dixon et al., 2016).

In the Civil Code (KUH Perdata), the regulations regarding guardianship are outlined in Articles 433 to 461, including articles related to representation that are also relevant in the context of guardianship. Article 433 of the Civil Code states that any adult who is in a state of mental incapacity, insanity, or suffering from a severe cognitive impairment must be placed under guardianship, even if they are sometimes capable of using their reasoning effectively. Additionally, an adult may also be placed under guardianship due to their prodigal nature (Windajani, 2008). However, the explanation above does not adequately emphasize the rights of individuals with mental disorders (ODGJ) as heirs and the portions they are entitled to receive.

For many individuals experiencing mental disorders, independence in daily life presents a significant challenge, making them often unable to seek employment or meet their economic needs independently. In such situations, ODGJ typically relies heavily on their families, such as siblings or parents, for support and the fulfillment of basic needs. Therefore, the role of the family becomes crucial, not only in terms of educating, caring for, and supervising but also in assisting ODGJ in socializing with the broader community. However, the social stigma surrounding individuals with mental disorders remains strong, often leading to their perception as strange or frightening individuals. This negative view not only creates discomfort for those affected but also hinders government efforts to implement effective mental health programs.

One common type of mental disorder found in Indonesia is schizophrenia, which has a high prevalence rate and is classified as severe. This condition is known for its progressive course, tends toward chronicity, and frequently experiences relapses (Gulo et al., 2022). Therefore, appropriate interventions and ongoing social support are essential to assist individuals with mental disorders (ODGJ), enabling them to achieve a better quality of life and contribute to society. Raising awareness and fostering a better understanding of mental disorders among the public is also an important step in reducing stigma and increasing support for those in need.

The healthcare legal system in Indonesia is built upon various regulations and laws that govern public health aspects, including mental health. The primary legal foundation in the field of health in Indonesia is Law No. 36 of 2009 concerning Health, which emphasizes the right of every individual to receive quality healthcare services. Additionally, Law No. 18 of 2014 concerning Mental Health provides a specific legal basis for the protection, promotion, and recovery of mental health. This law regulates the rights of individuals with mental disorders, including the right to receive care, rehabilitation, and social reintegration, as well as protecting them from stigma and discrimination (Windajani, 2008).

Although there are clear regulations in place, practices on the ground often reveal gaps and inconsistencies in the implementation of health laws, particularly in the protection of individuals with mental disorders. Many individuals with mental disorders still face difficulties in accessing adequate health services and obtaining sufficient legal protection. A lack of resources, both human and financial, at mental health facilities often results in suboptimal care. Additionally, social stigma and public misunderstanding about mental health hinder individuals with mental disorders from seeking the necessary help, causing them to become isolated and marginalized.

Legal protection for individuals with mental disorders in Indonesia is governed by various laws; however, there are still significant challenges in their implementation. Law No. 18 of 2014 emphasizes the importance of protecting the rights of individuals with mental disorders, including the right to receive appropriate care and the right to be involved in decision-making regarding their treatment. However, the implementation of this law is often obstructed by various factors, such as a lack of understanding among healthcare providers and law enforcement regarding the rights of individuals with mental disorders, as well as insufficient dissemination of information about existing legal protections.

Another challenge is the strong stigma against individuals with mental disorders, which often leads to unfair treatment. A society that does not fully understand mental health conditions tends to view them as dangerous or unreliable individuals. This not only affects their quality of life but also obstructs their access to the healthcare services they should receive. On the other hand, despite efforts to provide rehabilitation services and social support, many mental health facilities still lack adequate expertise and necessary resources.

From a legal perspective, the legal gaps in the health sector in Indonesia can be seen in several aspects that directly affect the protection of individual rights, particularly for individuals with mental disorders. Although there are several laws regulating mental health, such as Law No. 18 of 2014 concerning Mental Health, its implementation is often not supported by concrete implementing regulations. The ambiguity in these regulations makes the implementation of mental health policies ineffective, often neglecting the rights of individuals with mental disorders.

One area where legal gaps are most apparent is in access to adequate health services. Although the law recognizes the right of every individual to receive healthcare, including mental health care, there is no clear mechanism to ensure that all individuals, especially the most vulnerable, can access these services. This is compounded by a lack of specific regulations regarding mental health service standards, which should guide healthcare providers. Without clear guidelines, many health facilities are unable to provide services that meet patient needs, often resulting in discriminatory experiences and denial of assistance for those in need.

Furthermore, in terms of legal protection for individuals with mental disorders, there is also a gap concerning their rights when faced with legal processes. Many individuals with mental disorders do not receive adequate legal defense in situations involving courts or other judicial bodies. The law often does not take into account the mental condition of these individuals, which can lead to decisions that are detrimental to them. In many cases, individuals with mental disorders are viewed as subjects lacking legal capacity, without considering that they may still have the right to participate in legal processes, albeit with appropriate support.

This research discusses the importance of transforming health law to enhance legal protection for persons with mental disorders in Indonesia. This research significantly contributes to the field of health law and mental health advocacy in Indonesia by identifying gaps in the current legal framework protecting individuals with mental disorders and advocating for necessary legislative reforms. It emphasizes the importance of transforming health law to enhance legal protections, offering a framework for potential reforms that address the unique needs of this population. Additionally, the study raises awareness about the legal rights of persons with mental disorders, encouraging public discourse on mental health issues. By laying the groundwork for future research and enriching legal scholarship, this work provides valuable insights for policymakers, practitioners, and advocates, ultimately advancing the legal discourse surrounding mental health in Indonesia.

METHOD

The research employs a normative juridical method to analyze and study existing laws and regulations, focusing on their application in the legal protection of individuals with mental disorders. This approach allows for the exploration and evaluation of current legal rules, identifying gaps, uncertainties, or conflicts that may impact the implementation of mental health policies. Additionally, the research includes an examination of other legal documents, such as court decisions and government policies, to provide a comprehensive overview of the prevailing legal situation.

A legislative approach is utilized to analyze various laws related to mental health, including Law No. 36 of 2009 concerning Health and Law No. 18 of 2014 concerning Mental Health. This analysis aims to understand the legal context that governs the protection of individuals with mental disorders and assess whether these regulations adequately cover necessary aspects for effective protection. An analytical approach further evaluates how legal norms are interpreted and applied in practice, identifying factors that influence the realization of individual rights within the existing legal framework. By combining these approaches, the research aims to provide a thorough analysis that highlights existing regulations and reflects the practical realities, ultimately offering relevant recommendations to improve the legal system and mental health policies in Indonesia.

RESULTS AND DISCUSSION

Effectiveness of Health Law in Providing Legal Protection for Individuals with Mental Disorders in Indonesia

In the realm of mental health, legal protection for individuals with mental disorders in Indonesia has become increasingly important as public awareness of mental health issues rises. The prevailing health laws, particularly Law No. 18 of 2014 concerning Mental Health, are designed to provide a strong legal foundation for the protection of the rights of individuals experiencing mental disorders. However, the effectiveness of the implementation of this law is often questioned due to the numerous challenges and obstacles encountered in practice. Various factors, ranging from social stigma, resource limitations, to a lack of understanding among medical professionals and the general public, can influence the extent to which the rights of individuals with mental disorders are guaranteed.

The importance of addressing the rights of heirs of individuals with mental disorders in Indonesia is often overlooked. The general public tends to regard this issue as unnecessary for discussion, stemming from

the belief that individuals with mental disorders do not possess adequate understanding regarding inheritance. As a result, families, especially siblings who do not have mental disorders, often feel entitled to unilaterally manage the inheritance. They argue that the costs incurred for the daily care of the individuals should be compensated by the inheritance that is rightfully theirs. This situation creates injustice and presents challenges for the legal protection they should receive.

The government has a responsibility to protect and fulfill the rights of its citizens, in accordance with the principles outlined in the 1945 Constitution, which states the obligation to protect all Indonesians. Therefore, the protection and fulfillment of the rights of every individual, including those with mental disorders, must be regulated through clear legal norms. This reflects a legal state grounded in written legal certainty. In striving to realize the principle of "the rule of law," respect for human rights and equality should form the basis for legislative drafting. Individuals with mental disorders, as those needing special attention, should receive adequate legal support.

It is not enough to rely solely on normative actions; proper treatment and appropriate legal counseling must also be provided to individuals with mental disorders. This is essential to demonstrate recognition by the state and society of their existence, as well as to honor the rights they should enjoy. Through good practices, it is hoped that justice can be realized for individuals with mental disorders and society at large. Providing true justice is part of our concern and responsibility as members of society. Therefore, it is important not only to rely on words or statements but also to implement tangible actions that reflect a sense of solidarity and responsibility towards others.

Legal gaps in the protection of the inheritance rights of individuals with mental disorders necessitate serious attention. The legal process must ensure that their rights are guaranteed through a fair judicial mechanism. For instance, judges should decide cases while considering the interests of individuals with mental disorders so that they can benefit from the justice provided. In line with Jeremy Bentham's thoughts, the common good should be the primary goal of law-making, which should be interpreted as efforts to create benefits for all, including individuals with mental disorders.

The implementation of laws and mental health policies in Indonesia, including Law No. 17 of 2023 concerning Health, showcases significant progress and challenges. As a legal basis for health regulation, this law aims to strengthen the health system and ensure better access for the public, including those experiencing mental disorders. The most notable achievement is the increasing awareness among the public and health professionals regarding the importance of mental health, along with the government's efforts to provide more integrated mental health services within the overall health system. Through programs such as mental health education, training for healthcare providers, and the establishment of mental health service centers, there are positive steps towards improving mental health services in Indonesia.

However, despite these achievements, the challenges faced in implementing mental health policies remain significant. One of the main challenges is the stigma attached to individuals with mental disorders. Society often continues to hold prejudiced views towards those with mental disorders, resulting in their powerlessness in accessing the healthcare services they should receive. This stigma also affects the willingness of healthcare professionals to provide quality care, as there remains an assumption that patients with mental disorders cannot be treated or do not deserve to receive the same services as other patients. This creates a gap in the application of the law, where the rights of individuals with mental disorders to receive equitable care are often overlooked.

Additionally, there are also structural constraints and resource limitations affecting the effectiveness of implementation. In many regions, especially in remote areas, mental health facilities are still extremely limited. The lack of trained healthcare providers in the field of mental health, along with inadequate rehabilitation facilities, poses significant obstacles to providing sufficient services. Moreover, inadequate funding for mental health programs often leads to a lack of innovation and development in services. Although laws have established a clear framework, their implementation on the ground is frequently hampered by a lack of commitment from various parties, both at the central and regional government levels.

From the analysis conducted, it can be concluded that despite the efforts and regulations that have been established, the implementation of mental health laws and policies in Indonesia has not yet demonstrated the expected effectiveness. Although Law No. 17 of 2023 concerning Health and related mental health policies provide a clear legal framework for the protection and provision of mental health services, various challenges faced on the ground often hinder the achievement of these goals. For instance, the persistent social stigma in society discourages many individuals with mental disorders from seeking help, forcing them to confront deteriorating health conditions. Additionally, limitations in health facilities and human resources in the mental health sector also contribute to the lack of service accessibility for those in need. The effectiveness of these regulations is hindered by the lack of synergy between central and regional governments in implementing mental health programs. Many regions lack adequate infrastructure to support mental health services, while existing policies are often not translated into concrete actions at the local level. This results in disparities in the

quality of mental health services across various regions, with communities in remote areas often not receiving the same level of attention as those in urban areas.

The Transformation of Health Law to Enhance Legal Protection for Individuals with Mental Disorders in Indonesia.

The transformation of health law in the context of protection for individuals with mental disorders is crucial to ensure that the rights of these vulnerable individuals are effectively recognized and protected within the existing legal system. In many cases, individuals with mental disorders often face stigma and discrimination, leading to their marginalization in society and hindering their access to adequate and quality healthcare services. With the implementation of health law transformation that focuses on the special needs of individuals with mental disorders, it is hoped that more inclusive and responsive regulations can be created, which not only provide legal protection but also guarantee access to appropriate care and the fulfillment of human rights. Additionally, this transformation can encourage greater awareness among the public and healthcare professionals about the importance of humane treatment and social support for individuals with mental disorders.

Currently, the legal framework for health in Indonesia is supported by several important laws and policies aimed at providing optimal protection and healthcare services for the entire population, including those experiencing mental disorders. One of the key regulations is Law No. 17 of 2023 concerning Health, which emphasizes the provision of quality and affordable healthcare services for all citizens. This law highlights the importance of integrating health services and strengthening the health system to ensure fairer access and distribution of resources. Furthermore, Law No. 18 of 2014 concerning Mental Health specifically regulates the protection and fulfillment of rights for individuals with mental disorders, focusing on the provision of rehabilitation services, legal protection, and social support. Together, these two regulations create a legal foundation expected to address challenges in mental health, reduce stigma, and promote social inclusion for individuals with mental disorders.

Despite having a fairly comprehensive legal framework, the implementation of these two laws still encounters various obstacles. One of the main challenges is the lack of socialization and understanding among the public and healthcare professionals regarding the content and objectives of these laws. This contributes to a low level of public awareness about their rights, especially for individuals with mental disorders. Additionally, resource limitations, both in terms of infrastructure and trained healthcare professionals in mental health, present significant barriers to providing appropriate and quality services.

In analyzing the strengths and weaknesses of the current health law system, several key points can be identified. A notable strength is the government's commitment to improving and developing mental health services through existing regulations. The prevailing laws reflect greater attention to mental health issues and efforts to reduce stigma as well as protect human rights for individuals with mental disorders. For instance, Law No. 18 of 2014 guarantees access to better mental health services and imposes obligations on the government to provide appropriate care for individuals with mental disorders.

However, there are significant weaknesses in this system. First, although the laws have been established, their implementation on the ground often fails to reflect the intended goals. Many regions still lack adequate mental health facilities and medically trained personnel to handle patients with mental disorders. Second, the stigma attached to individuals with mental disorders continues to be a major challenge. This stigma arises not only from society but also from healthcare providers themselves, who often harbor negative views towards patients with mental disorders. The misunderstandings and stereotypes that exist lead to a low quality of care for these individuals.

Moreover, the processes of oversight and evaluation of the implementation of these laws are also still lacking, making it difficult to assess the effectiveness of these regulations. In many cases, individuals with mental disorders still face difficulties in accessing their rights, including their right to quality healthcare. Therefore, despite having a robust legal framework, the challenges in its application indicate the need for transformation and improvement of the health law system in Indonesia so that the protection of individuals with mental disorders can be more optimal and sustainable.

The urgent need for a legal transformation in the context of protecting individuals with mental disorders is clearly evident, particularly given the challenges faced in implementing existing regulations. Although there are Laws No. 18 of 2014 concerning Mental Health and No. 17 of 2023 concerning Health, many human rights aspects remain unmet, especially regarding access to quality mental health services. Numerous individuals with mental disorders encounter difficulties in obtaining adequate treatment, whether due to social stigma or insufficient facilities and healthcare personnel. Therefore, a comprehensive legal transformation is essential to create a more inclusive legal framework that not only safeguards the rights of individuals with mental disorders but also ensures they receive appropriate and dignified care.

This transformation is also crucial to ensure that human rights for individuals with mental disorders are recognized and respected. This includes fulfilling the right to receive healthcare that is not only medically appropriate but also honors their dignity and autonomy. Involvement of individuals with mental disorders in decision-making related to their care must be prioritized, allowing them to feel valued and considered in every aspect of service provision. Without appropriate legal transformation, individuals with mental disorders will continue to be marginalized and not receive the protection they deserve within the healthcare system.

To achieve effective legal transformation, several steps need to be taken:

1. Creation of Specific Laws: The enactment of special legislation specifically governing the rights of individuals with mental disorders should be prioritized. This law should include regulations regarding access to mental health services, protection against discrimination, and guarantees for individuals with mental disorders to receive care that meets their needs. Additionally, it is important to establish monitoring and evaluation mechanisms to assess the effectiveness of the law after its implementation.
2. Increasing Training for Healthcare Personnel: Enhanced training for healthcare workers is a crucial step in this legal transformation. Healthcare professionals, including doctors, nurses, and counselors, need to receive specialized training on sensitive approaches to mental health so they can provide better and more humane care for patients with mental disorders. This training should also include stigma reduction and a better understanding of patients' rights.
3. Development of Mental Health Service Infrastructure: Prioritizing the development of mental health service infrastructure is essential. This includes building adequate mental health facilities, providing necessary tools and resources, and improving access to services for the community, particularly in remote areas. With good infrastructure, individuals with mental disorders will find it easier to access the healthcare services they need.

In order to achieve effective legal transformation, collaboration between the government and society is crucial. The government has a responsibility to create policies that support the protection and fulfillment of the rights of individuals with mental disorders. This includes allocating sufficient budgets for mental health programs and raising awareness about the rights of individuals with mental disorders among the general public. On the other hand, society also plays a vital role in this transformation. Non-governmental organizations (NGOs) and civil society groups can contribute by providing advocacy support, raising public awareness about mental health issues, and advocating for the rights of individuals with mental disorders. Through educational campaigns and training, NGOs can help reduce the stigma present in society, thereby creating a more inclusive environment for individuals with mental disorders.

CONCLUSION

Legal protection for individuals with mental disorders in Indonesia necessitates significant transformation within the existing health law system, despite the presence of laws such as Law No. 18 of 2014 concerning Mental Health and Law No. 17 of 2023 concerning Health. Implementation challenges persist, including social stigma, inadequate mental health facilities, and a shortage of trained professionals. To address these issues, legal reform and the development of inclusive policies are essential for ensuring the rights of individuals with mental disorders and improving their access to quality services. Suggested steps for transformation include drafting more comprehensive laws, enhancing healthcare training, improving mental health infrastructure, and fostering collaboration among government, communities, and NGOs. Future research avenues include assessing the effectiveness of existing laws, investigating the impact of social stigma, evaluating mental health infrastructure, exploring healthcare training programs, studying collaborative models from other countries, developing inclusive policies, and conducting longitudinal studies on mental health outcomes.

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